

Report on the Audit of Local Authority Food Law Service Delivery and Food Business Compliance

Cheshire East Borough Council
11-13 June 2013



Foreword

Audits of local authorities' feed and food law enforcement services are part of the Food Standards Agency's arrangements to improve consumer protection and confidence in relation to food and feed. These arrangements recognise that the enforcement of UK food and feed law relating to food safety, hygiene, composition, labelling, imported food and feeding stuffs is largely the responsibility of local authorities. These local authority regulatory functions are principally delivered through their Environmental Health and Trading Standards Services.

The attached audit report examines the Local Authority's Food Law Enforcement Service. The assessment includes the local arrangements in place for database management, inspections of food businesses and internal monitoring. It should be acknowledged that there will be considerable diversity in the way and manner in which local authorities may provide their food enforcement services reflecting local needs and priorities.

Agency audits assess local authorities' conformance against the Food Law Enforcement Standard ("The Standard"), which was published by the Agency as part of the Framework Agreement on Official Feed and Food Controls by Local Authorities and is available on the Agency's website at: www.food.gov.uk/enforcement/auditandmonitoring.

The main aim of the audit scheme is to maintain and improve consumer protection and confidence by ensuring that local authorities are providing an effective food law enforcement service. The scheme also provides the opportunity to identify and disseminate good practice and provide information to inform Agency policy on food safety, standards and feeding stuffs. Parallel local authority audit schemes are implemented by the Agency's offices in all devolved countries comprising the UK.

The report contains some statistical data, for example on the number of food premises inspections carried out annually. The Agency's website contains enforcement activity data for all UK local authorities and can be found at: www.food.gov.uk/enforcement/auditandmonitoring.

For assistance, a glossary of technical terms used within the audit report can be found at Annexe C.

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1.0 Introduction

- 1.1 This report records the results of an audit at Cheshire East Borough Council with regard to food hygiene enforcement, under relevant headings of the Food Standards Agency Food Law Enforcement Standard. The audit focused on the Authority's arrangements for the management of the food premises database, food premises interventions, and internal monitoring. The report has been made publicly available on the Agency's website at www.food.gov.uk/enforcement/auditandmonitoring/auditreports. Hard copies are available from the Food Standards Agency's Local Authority Audit and Liaison Division at Aviation House, 125 Kingsway, London WC2B 6NH, Tel: 020 7276 8428.

Reason for the Audit

- 1.2 The power to set standards, monitor and audit local authority food law enforcement services was conferred on the Food Standards Agency by the Food Standards Act 1999 and the Official Feed and Food Controls (England) Regulations 2009. This audit of Cheshire East Borough Council was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme.
- 1.3 Regulation (EC) No. 882/2004 on official controls performed to ensure the verification of compliance with feed and food law includes a requirement for competent authorities to carry out internal audits or to have external audits carried out. The purpose of these audits is to verify whether official controls relating to feed and food law are effectively implemented. To fulfil this requirement, the Food Standards Agency, as the central competent authority for feed and food law in the UK has established external audit arrangements. In developing these, the Agency has taken account of the European Commission guidance on how such audits should be conducted.¹
- 1.4 The Authority was selected for including in the Food Standards Agency's programme of audits of local authority food law enforcement services as it had not been audited in the past five years by the Agency and was representative of a geographical mix of five local authorities selected across England.

¹ Commission Decision of 29 September 2006 setting out the guidelines laying down criteria for the conduct of audits under Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls to verify compliance with feed and food law, animal health and animal welfare rules (2006/677/EC)

Scope of the Audit

- 1.5 The audit examined Cheshire East Borough Council's arrangements for the management of the food premises database, food premises interventions, and internal monitoring with regard to food hygiene law enforcement. This included a reality check at a food business to assess the effectiveness of official controls implemented by the Authority at the food establishment and, more specifically, the checks carried out by the Authority's officers to verify food business operator (FBO) compliance with legislative requirements. The scope of the audit also included an assessment of the Authority's overall organisation and management, and the internal monitoring of food hygiene law enforcement activities.
- 1.6 Assurance was sought that key Authority food hygiene law enforcement systems and arrangements were effective in supporting business compliance, and that local enforcement was managed and delivered effectively. The on-site element of the audit took place at the Authority's offices at the Municipal Buildings, Earle Street, Crewe, Cheshire on 11-13 June 2013.

Background

- 1.7 Cheshire East Borough Council is a new Unitary Borough Council in the north west of England with the main urban centres being Crewe, Congleton and Macclesfield. The Borough covers some 1,116 square kilometres, bounded by the authorities of Greater Manchester to the north, Derbyshire to the east, Staffordshire and Shropshire to the south and Cheshire West and Chester to the west. The Borough has a population of 363,800 and is mainly rural in character with industry located in the towns. The new Authority was created in 2009 which resulted from the amalgamation of part of the Cheshire County Council and three smaller pre-existing Borough Councils of Macclesfield, Congleton, and Crewe and Nantwich.
- 1.8 Food hygiene law enforcement was the responsibility of the Commercial Team within Public Protection and Health, which was part of the Regulatory Services Section within Communities of the Places and Organisational Development Directorate. The responsibility for the implementation of food law enforcement lay with the Commercial Services Team Leader reporting to the Public Protection and Health Manager. Cheshire East Borough Council was also responsible for the enforcement of food standards legislation.
- 1.9 The Commercial Services Team also undertook investigations of notifiable diseases, delivering health and safety enforcement, school business support through the Cheshire East Service to Schools (CHESS) agreement, and water sampling.

- 1.10 The Authority reported the profile of Cheshire East Borough Council's food businesses at 31 March 2013 as follows:

Type of Food Premises	Number
Primary Producers	15
Manufacturers/Packers	92
Importers/Exporters	7
Distributors/Transporters	41
Retailers	701
Restaurant/Caterers	2,296
Total Number of Food Premises	3,152

2.0 Executive Summary

2.1 Cheshire East Borough Council was selected for audit as it had not been audited by the Agency in the past five years. The Authority was formed in 2009 from three constituent Borough Councils and part of Cheshire County Council. This had presented challenges for the new organisation and the Authority had focused on embedding staff into the new culture of the Service and combining the various food premises databases. There was however an ongoing management review at the time of the audit, leading to further uncertainty on the future structure of the organisation.

2.2 Strengths:

Third Party and Peer Review: The Authority had participated in a robust inter-authority audit process in 2011 which focused on key areas of the Authority's food law enforcement service, as part of a rolling programme of focused audits organised by the Cheshire and Merseyside Food Liaison Group. There was high level support for the scheme within the Authority and the action plan had been progressed almost to completion.

Service and Business Plan Reviews: Comprehensive quarterly reviews were documented and regular updates provided to the Portfolio Holder and team.

Internal Monitoring of Interventions: It was evident that officers discussed day to day concerns on food law enforcement with managers. Routine documented peer reviews of all inspections were carried out, and good examples of internal monitoring noted.

2.3 Key areas for improvement:

Frequency of food premises interventions: The Authority was implementing a risk led interventions programme and focusing on inspections of higher risk establishments. There were however, a substantial number of overdue inspections at the time of the audit, which included some higher risk establishments. There were also a substantial number of unrated premises which required an initial inspection, some of which were likely to be of high risk. The Authority should ensure that they continue to carry out all interventions at higher risk establishments and those establishments which are not broadly compliant as a priority.

Officer Authorisations: Authorisation arrangements required review to ensure that officers have appropriately defined levels of authorisation in accordance with their individual qualifications, experience and training.

Database accuracy: Although proactive data cleansing of the food premises database had been undertaken, the Authority acknowledged that further action was required to improve accuracy. It could not be confirmed that the database was accurate. Substantial manual adjustments with validation checks had been required prior to upload for the submission of the most recent return to the Agency's Local Authority Enforcement Monitoring System (LAEMS) to ensure that the completed report was accurate.

Formal enforcement: Whilst enforcement actions were found to be appropriate in all cases examined, there were some improvements required to the drafting and administration of formal notices and to the documented enforcement procedures. Auditors also discussed the need for consideration of more formal enforcement at some establishments where repeated contraventions were noted.

Records: In general officers were making comprehensive notes of their inspection findings and assessments of Food Business Operators' progress in meeting requirements to operate effective food safety management systems. However, more detailed records were required to confirm key high risk activities at food businesses, and to confirm that all enforcement actions and the investigation of food complaints were taken in accordance with the Food Law Code of Practice.

3.0 Audit Findings

3.1 Organisations and Management

Strategic Framework, Policy and Service Planning

- 3.1.1 Cheshire East Borough Council was created as a new Unitary Authority in April 2009 and auditors were advised of an ongoing management review at the time of the audit.
- 3.1.2 The Authority had developed a Food Law Enforcement Plan 2012/13 covering both food and animal feed enforcement functions carried out by the Authority. The primary objective for the Service was, 'to strive to ensure that the food, drink and feedstuff which is produced, stored, distributed, handled or consumed within the Borough is without risk to the health, safety or economic well-being of the consumer.'
- 3.1.3 Generally, the Service Plan had been drafted in accordance with the Service Planning Guidance in the Framework Agreement and covered the key elements of food law enforcement activities although financial resource allocation for the service had not been included. Quarterly performance reviews were undertaken of a comprehensive Public Protection & Health Business Plan.
- 3.1.4 Staff vacancies and the impact caused by reductions in staff were highlighted in the Service Plan and also in the quarterly reviews. The figures used to estimate staff resources should be reviewed and expanded to include all enforcement activities to accurately quantify and further identify any resource shortfalls to senior managers and members. Interviews and recruitment of additional officers were about to take place.
- 3.1.5 The figures provided in the food hygiene premises profile, including the unrated premises, did not match those that had been uploaded to the Agency's local authority enforcement monitoring system (LAEMS) for 2011/12. The Authority advised that this was due to the amalgamation of the previous constituent databases during that year causing some inaccuracies in figures uploaded.
- 3.1.6 The Plan had been ratified and the approved version signed by the Head of Service and the Portfolio Holder.

Recommendation

3.1.7 The Authority should:

Ensure that future Service Plans are in full accordance with the Service Planning Guidance in the Framework Agreement, to include details of the breakdown of both staff and financial resources required to carry out the full range of statutory food law enforcement activities, and an accurate reflection of the premises profile and planned annual interventions programme. [The Standard – 3.1]

Documented Policies and Procedures

- 3.1.8 One of the performance indicator objectives in the Public Protection & Health Business Plan was that the Authority had 'a set of standardised procedures for the food safety function, which have regard to the Food Law Code of Practice'.
- 3.1.9 A robust inter-authority audit (IAA) had been undertaken of the Service in 2011 which identified some recommended areas for improvement. One of the recommendations noted in the IAA report was for documents and reviews to be dated and the name of the responsible officer included. This had been implemented and it was clear from the documents examined that there had been a regular review of policies and procedures undertaken.
- 3.1.10 Documented policies and procedures were available for all the areas covered by the Standard in the Framework Agreement, with the exception of a database procedure. These were stored in a communal folder on a shared computer drive for easy access by officers and were protected as 'read only' documents.

Officer Authorisations

- 3.1.11 The Authority had a documented procedure for the authorisation of officers, which outlined the process involved. Auditors were provided with a scheme of delegation which gave the Public Protection and Health Manager power to authorise officers to enforce various legislation including the Food Safety Act and 'any associated legislation or regulations made there under'.
- 3.1.12 The procedure generally discussed the need for the Authority to assess the qualifications and competency of officers, but lacked specific detail on how this assessment was made or recorded.

- 3.1.13 The Authority should ensure that the levels of qualifications, training and experience for all officers carrying out interventions at the different categories of risk rated food establishments match the authorisation and powers exercised in practice as required by the Food Law Code of Practice (FLCoP).
- 3.1.14 A generic list of legislation under which officers had been authorised had been produced. Officer authorisations omitted some legislative references including the General Food Regulations 2004 and the Official Feed and Food Controls (England) Regulations 2009. Powers under the Food Hygiene (England) Regulations 2006 had been conferred generally rather than reflecting the officers' individual level of authorisation.
- 3.1.15 The Authority had developed a learning and development training plan 2012-2014 to identify training needs. Auditors were advised that individual officer training needs were discussed during the annual appraisal process and were kept under review throughout the year by the Commercial Team Leader, and Public Protection and Health Manager. Officers were also responsible for highlighting any training that they thought would be beneficial to their personal development and also the team as a whole.
- 3.1.16 In all but one case examined, auditors were able to confirm that officers had achieved the minimum of 10 hours relevant training in accordance with the specified levels of Continuing Professional Development (CPD) training requirements in the FLCoP.
- 3.1.17 Records of training were not readily available for every officer. Auditors were advised of a new online performance development review programme which was being developed. This would include potential electronic storage of training certificates and qualifications, for easy retrievability.

Recommendations

3.1.18 The Authority should:

- (i) Develop the documented procedure for the authorisation of officers based on their competence and in accordance with the Food Law Code of Practice. [The Standard – 5.1]
- (ii) Review and update current authorisations as necessary to ensure that all officers are appropriately authorised under relevant legislation in accordance with their levels of qualification, experience and competency. [The Standard – 5.3]
- (iii) Ensure that all authorised officers receive the training needed to be competent to deliver their food law enforcement activities, in accordance with the Food Law Code of Practice. [The Standard – 5.4]
- (iv) Maintain records of qualifications and training of each authorised officer in accordance with the Food Law Code of Practice. [The Standard – 5.5]

3.2 Food Premises Database

- 3.2.1 The Authority had amalgamated the three previous constituent authorities' databases in November 2011. Proactive data cleansing had been undertaken but the Service was still experiencing some issues with data quality. The database was shared with trading standards and licensing teams which created significant issues of duplications and other anomalies in the system.
- 3.2.2 The Authority had developed a procedure for 'Change of FBO, Closing and Reopening Food Businesses' but had not developed a procedure for ensuring the accuracy of the food premises database.
- 3.2.3 The Authority was able to demonstrate its ability to produce a range of database reports performed during the audit to support and implement its intervention programme. The Team Leader also identified a programme during the audit to demonstrate those premises which were broadly compliant.
- 3.2.4 The Authority acknowledged that data cleansing of the unrated premises still needed to be undertaken to facilitate intervention planning and data accuracy. Some premises were known to be closed, and others needed to be rated as 'outside' the inspection programme. Auditors noted the high rate of business 'churn' of new premises from the Local Authority Enforcement Monitoring System (LAEMS) returns.
- 3.2.5 It could not be confirmed that the database was accurate. Auditors were advised the substantial manual adjustments required for the submission of the most recent return to the Agency's LAEMS had undergone significant validation checks to ensure that the completed report was accurate. Auditors also noted under reporting of formal enforcement action undertaken by the Authority.
- 3.2.6 Checks on premises in the area identified by internet searches confirmed that the majority were on the database and included within the Authority's intervention programme.
- 3.2.7 Internal monitoring of database entries was ad hoc and auditors discussed the benefits of undertaking more formal checks to ensure maintenance of database accuracy.

Recommendation

3.2.8 The Authority should:

Develop, maintain and implement procedures to ensure that the database is complete, accurate and up to date, and that accurate and comprehensive information on food law activity is reported to the Agency.
[The Standard – 11.2 and 6.3]

3.3 Food Premises Interventions

3.3.1 The Authority's Food Service Plan 2012/13 identified a total of 3,192 food businesses in the Borough, in the following risk categories:

Premises Risk Category	Number of Premises
A	17
B	254
C	1,281
D	451
E	1,055
Unrated	134
TOTAL	3,192

*The difference in the total figures between this table and the table in paragraph 1.10 may be attributed to change in numbers of businesses ('business churn'), as the figures were calculated at different times.

3.3.2 The Authority were prioritising higher risk establishments for their food hygiene inspection programme and generally were attaining the minimum frequency of interventions necessary at risk rated A and B premises. However, analysis of database reports indicated that there were approximately 750 inspections overdue at the time of the audit including some higher risk establishments.

3.3.3 The Authority should ensure that they continue to carry out interventions at higher risk establishments as a priority. Auditors discussed the benefit of identifying those premises which were not broadly compliant to prioritise these for interventions before lower risk establishments.

3.3.4 The Authority had inherited a legacy of a high number of unrated premises. The Service Plan suggested that unrated premises should receive an initial inspection within the programmed year and auditors discussed the FLCoP requirement to undertake inspections within 28 days of registration and to have regard to the flexibilities allowed by the Practice Guidance for lower risk establishments. The 'Registration of Food Businesses' procedure also needed to be amended to reflect this requirement. Inspections were allocated to officers quarterly to ensure higher risk establishments were inspected within 28 days of the due date.

3.3.5 The Food Hygiene Rating Scheme (FHRS) was implemented from April 2012 using a graduated approach. The Authority noted they had a high rate of rescore requests but had found the scheme had led to an improvement in compliance in many of their businesses. They advised that they had arranged for their officers to undergo risk rating

consistency training within both the team and the Food Liaison Group in the near future.

- 3.3.6 A review of the risk scores allocated by officers following interventions was carried out. It was noted that there were a number of instances where an additional score of 20 for 'significant risk of contamination' had been allocated following interventions at medium and lower risk establishments. Auditors recommended that the Authority further review these cases and amend risk scores where appropriate. The planned consistency exercises should confirm if officers are appropriately and consistently applying risk scores.
- 3.3.7 The Authority had developed useful procedures for interventions at general and approved food establishments for officer guidance. The interventions procedure also included information regarding internal monitoring checks. The procedure on approvals would benefit from expansion to include guidance for officers on surrender of approval.
- 3.3.8 Following one of the recommendations in the IAA report, an appropriate aide-memoire had been developed for officers to record inspection findings and this had undergone further reviews to ensure it provided suitable prompts for officers to record assessments of FBO compliance with the Agency's E.coli O157 cross-contamination guidance.
- 3.3.9 The files for five general food establishments were examined and in all cases records were easily retrievable, up to date, accurate and consistent with details recorded on the database. There was evidence of the assessment of compliance with general hygiene requirements, inspection and compliance with HACCP requirements, and food handler training in all cases.
- 3.3.10 There was a variable level of detail recorded by officers. In three files examined it was noted that additional details would have been helpful, for example on business compliance with the E.coli O157 guidance, and food business activities undertaken. This would better inform food safety management system (FSMS) verification, subsequent inspections, a graduated and consistent approach to enforcement, and effective internal monitoring.
- 3.3.11 Auditors noted in two of the files that more formal actions should have been considered as part of a graduated approach, where repeated contraventions of lack of a FSMS were noted. It was recommended that officers record details of the justification for their decision on follow-up action, with reference to the Authority's Enforcement Policy, centrally issued guidance and the FLCoP. The Authority was aware of some historical inconsistencies in follow-up actions and was taking steps to address this.

- 3.3.12 Reports of inspection and, in some cases, letters were sent to the FBO after each inspection and contained the details required by the FLCoP. Contraventions were clearly worded, and the measures needed to secure compliance and time for achieving compliance were provided. There was also a clear distinction between legal requirements and recommendations of good practice in letters.
- 3.3.13 The Service Plan stated that the Authority had responsibility for enforcement in 37 establishments which required approval under Regulation (EC) No. 853/2004. This figure did not match the Food Standards Agency central list required by the EU which is publically available and the Authority was advised to further inform the Agency of any required amendments.
- 3.3.14 The records of three approved establishments were examined. In all, there was sufficient evidence that the establishments required approval, and approval notification documentation was available.
- 3.3.15 Files contained detailed business information, including HACCP documentation and a useful synopsis of business activities, in accordance with Annexe 10 of the Food Law Practice Guidance. Details of company withdrawal plans, including product recall procedures should also be included, as these were not available in any of the files examined.
- 3.3.16 There was evidence that comprehensive inspections had recently taken place, using the appropriate aide-memoire for the type of approved business and at the required frequency. Auditors raised concerns regarding the potential need for more formal enforcement action, such as the service of notices at one of the approved establishments, in relation to an issue involving cleaning and disinfection of heat treatment equipment, and the development of the HACCP based FSMS.
- 3.3.17 The Authority had developed a useful 'peer review' form which was completed following inspections and then checked and signed by a senior officer. The form enabled a comparison to be made of key findings from previous inspections. This helped to inform future interventions; prompt consideration of a graduated approach to formal enforcement; and confirmed that internal monitoring had taken place and any downgrading of the risk rating had been agreed.

Recommendations

3.3.18 The Authority should:

- (i) Ensure that food premises interventions and inspections are carried out at a frequency which is not less than that determined under the intervention rating scheme set out in the Food Law Code of Practice. Newly registered premises should be inspected within 28 days of registration in accordance with the requirements of the Code, having regard to the flexibilities for lower risk premises set out in the Food Law Practice Guidance. [The Standard - 7.1]
- (ii) Assess the compliance of food premises to legally prescribed standards to confirm compliance with current legislation, the Food Law Code of Practice and centrally issued guidance. Take appropriate action, including follow-up action, on any non-compliances found in accordance with the Authority's enforcement policy. [The Standard - 7.3]
- (iii) Maintain up to date, accurate and comprehensive records for all food establishments. [The Standard – 16.1]

Verification Visit to a Food Premises

- 3.3.19 During the audit, a verification visit was undertaken to a public house with an officer from the Authority, who had carried out a previous food hygiene inspection of the premises. The main objective of the visit was to assess the effectiveness of the Authority's assessment of food business compliance with food law requirements.
- 3.3.20 The officer demonstrated good familiarity with the premises and an appropriate understanding of the food safety risks associated with the activities at the premises. The officer had effectively assessed food business compliance with food law requirements and highlighted key contraventions which required to be addressed.

3.4 Enforcement

- 3.4.1 The Authority had developed a corporate enforcement policy which was agreed for adoption by Cabinet in 2009. Auditors were advised that this policy was under review.
- 3.4.2 A documented procedure for formal enforcement actions had also been developed. This procedure outlined a graduated approach to achieving food business compliance, and set out the range of enforcement options available. The procedure should be updated and further expanded to give additional guidance to officers, for example on issuing and administration of simple cautions; withdrawal of Hygiene Improvement Notices (HIN), and actions following service of Hygiene Emergency Prohibition Notices (HEPN), in accordance with the FLCoP and centrally issued guidance.
- 3.4.3 The review of the Service Plan was supplemented by an 'Intervention and Enforcement Activities 2012-2013' report to the Head of Service and Portfolio Holder, which outlined approaches to achieving business compliance.
- 3.4.4 The Authority reported that there had been no HEPNs, Remedial Action Notices (RAN), voluntary closures or prosecutions in the two years preceding the audit.
- 3.4.5 Records of three HINs were examined. These were all found to be the appropriate course of action but auditors noted some issues about service of HINs, including FBO details, multiple contraventions within individual notices, lack of evidence of service of notices and the method of extending time allowed for compliance where notices should be withdrawn and new notices served. Timely checks on compliance had been made and letters sent to FBOs confirming compliance with the HINs.
- 3.4.6 Records of two voluntary surrenders of food were examined. Whilst it was apparent that in both cases this had been an appropriate course of action, more detailed records should be maintained of the legal process and necessary documentation completed to confirm actions were taken in accordance with the FLCoP.
- 3.4.7 Auditors also assessed records for three simple cautions. In all cases this had been an appropriate course of action in the circumstances. The Authority followed due process having regard to the enforcement policy and cautions were issued without undue delay.

Recommendations

3.4.8 The Authority should:

- (i) Review, maintain and implement the documented enforcement policy for food enforcement activities in accordance with the Food Law Code of Practice and other official guidance. [The Standard - 15.1]
- (ii) Expand the documented formal enforcement procedures to provide additional guidance to officers on enforcement activities. [The Standard - 15.2]
- (iii) Carry out food law enforcement in accordance with the Food Law Code of Practice and official guidance. [The Standard – 15.3]

3.5 Internal Monitoring, Third Party or Peer Review

Internal Monitoring

- 3.5.1 The Authority had developed an internal monitoring procedure outlining responsibility for formal and informal methods of monitoring, and included a section on the review of policies and procedures. More specific aspects of internal monitoring procedures were also contained within relevant documented procedures, such as the interventions and complaints procedures.
- 3.5.2 The Commercial Team Leader oversaw internal monitoring, and day-to-day supervisory monitoring was undertaken by the Senior Enforcement Officers (SEOs). The Team Leader was also responsible for FHRS rescoring queries and monitoring of SEOs. The Authority had a culture of working closely, adopting a 'hands on' approach to internal monitoring. Auditors discussed that internal monitoring should be carried out across all food law enforcement activities.
- 3.5.3 Auditors were advised that additional informal monitoring arrangements carried out at the Authority included:
- Regular one to one meetings by managers with staff.
 - An annual performance review.
 - Bi-monthly minuted team meetings.
 - Discussion and feedback on queries about enforcement raised during the working day.
 - Checking notices before service.
 - Feedback from external meetings such as the Food Liaison Group and Agency update seminars
 - Feedback from officers attending training courses.
 - Responses to business satisfaction cards sent to FBOs following visits.
- 3.5.4 Quantitative monitoring was also undertaken, with evidence of inspection numbers, complaints investigated, and sampling undertaken being reported in the quarterly business plan performance reviews.

Food and Food Premises Complaints

- 3.5.5 The Authority had developed a comprehensive documented food and food premises complaints procedure, which included a first response policy of 24 hours. The Service Plan stated that all complaints regarding unfit food, out of condition food, and condition of food premises were to be investigated.

- 3.5.6 Five records were examined for a range of complaints investigated by the Authority. Appropriate investigations and follow-up actions had generally been taken, including confirmation of the results with the complainant and home or primary authorities where applicable. Two of the file records examined would have benefitted from more detail being recorded.

Food Inspection and Sampling

- 3.5.7 The Authority had developed a policy and procedure for sampling. A programme had not yet been developed for the forthcoming year as information was still awaited from the Health Protection Agency about proposed surveys.
- 3.5.8 The Authority confirmed that there had been a recent overall reduction in sampling due to a reduction in staff resources. One officer in the team was dedicated to implementing the sampling programme.
- 3.5.9 Records of five sample results from approved establishments were examined. Where satisfactory results had been obtained, appropriate follow-up actions had been taken and recorded and businesses had been advised of their results. In one of the files, where an unsatisfactory result had been obtained, a file note stated that this had been followed up during an inspection but actions undertaken had not been recorded.

Third Party or Peer Review

- 3.5.10 The Authority had participated in a robust IAA exercise in 2011 which was part of a rolling programme of audits carried out by the Cheshire and Merseyside Food Safety Liaison Group. The audit programme was based on the Agency's IAA Toolkit, and authorities were audited against specific areas of the Standard in the Framework Agreement. The 2011 audit focused on:
- Food premises files
 - Inspections
 - Enforcement activity
 - Internal monitoring.
- 3.5.11 The IAA scheme had the full support of the Public Health and Protection Manager. A comprehensive IAA report had been produced and an action plan had been agreed and progressed almost to completion by the Authority at the time of the Agency audit.
- 3.5.12 The Commercial Team Leader was the current Chair of the Cheshire and Merseyside Food Liaison Group.

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Local Authority Audit and Liaison Division

ANNEXE A Action Plan for Cheshire East Borough Council

Audit date: 11-13 June 2013

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.1.7 Ensure that future Service Plans are in full accordance with the Service Planning Guidance in the Framework Agreement, to include details of the breakdown of both staff and financial resources required to carry out the full range of statutory food law enforcement activities, and an accurate reflection of the premises profile and planned annual interventions programme. [The Standard – 3.1]</p>	<p>31/08/13 and subsequent editions of the Service Plan</p>	<p>The 2013/14 and future Service Plans will, where possible, contain a breakdown of staff resources and financial allocation. The premises profile identified in the Service Plan will be cross referenced to the submitted LAEMS return.</p>	<p>The draft 2013/14 Service Plan identifies staff resources with cross reference to inspection programme.</p> <p>A complete breakdown of financial allocation just for food law enforcement may not be entirely accurate, the Commercial Team and its Officers also undertake other areas of work activities (H&S, Infectious Diseases, etc).</p>
<p>3.1.18 (i) Develop the documented procedure for the authorisation of officers based on their competence and in accordance with the Food Law Code of Practice. [The Standard – 5.1]</p>	<p>30/11/13</p>	<p>The existing documented Authorisation Procedure will be updated with cross referencing to individual Officer levels of competency and powers.</p>	<p>Officer training and qualifications are being audited and the existing Authorisation procedure has been audited to determine where cross referencing is required.</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.18 (ii) Review and update current authorisations as necessary to ensure that all officers are appropriately authorised under relevant legislation in accordance with their levels of qualification, experience and competency. [The Standard – 5.3]	30/11/13	Officer authorisations will be audited to ensure correct authorisation. The authorisation covering the Food and Environment Protection Act 1985 will be reviewed to ensure that Officers are correctly authorised.	Other LAs within the Cheshire and Merseyside group have been contacted to discuss their procedures. An example of a competency matrix has been obtained.
3.1.18 (iii) Ensure that all authorised officers receive the training needed to be competent to deliver their food law enforcement activities, in accordance with the Food Law Code of Practice. [The Standard – 5.4]	31/10/13	A matrix of Officer competency and authorisation levels will be devised and implemented to supplement the authorisation and training requirements.	As stated in the report, the Authority has developed a learning and development training plan 2012-2014 to identify training needs. A yearly performance and development interview is undertaken where training needs are discussed.
3.1.18 (iv) Maintain records of qualifications and training of each authorised officer in accordance with the Food Law Code of Practice. [The Standard – 5.5]	31/03/14	A new online performance development review programme will be implemented. This will include potential electronic storage of training certificates and qualifications.	Officers have been advised that they are required to keep copies of training certificates and course plans readily available until they can be stored electronically and maintained by the Service.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.2.8 Develop, maintain and implement procedures to ensure that the database is complete, accurate and up to date, and that accurate and comprehensive information on food law activity is reported to the Agency. [The Standard – 11.2 and 6.3]</p>	<p>31/03/14</p>	<p>The current procedures that demonstrate how Cheshire East registers new food businesses, and the procedure for dealing with non registered food business, will be reviewed and where necessary developed and implemented to improve the accuracy of the food premises database.</p>	<p>A meeting has been held with Licencing to discuss the implications that changing information may have on the overall database accuracy.</p> <p>The existence of duplicate premises is largely due to the combination of previous databases held with three different departments. Whilst some work has already taken place to minimise duplication, further collaboration work is required between the sections to produce a standard operating procedure to reduce these duplications.</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.3.18(i) Ensure that food premises interventions and inspections are carried out at a frequency which is not less than that determined under the intervention rating scheme set out in the Food Law Code of Practice. Newly registered premises should be inspected within 28 days of registration in accordance with the requirements of the Code, having regard to the flexibilities for lower risk premises set out in the Food Law Practice Guidance. [The Standard - 7.1]</p>	<p>30/11/13</p>	<p>The advice given during the audit, regarding alternative enforcement strategies, and the Food Law Code of Practice requirements to undertake inspections within 28 days of registration, having regard to the flexibilities for the newly registered lower risk premises, will be investigated.</p> <p>The Authority will continue to maintain a risk-based intervention programme which will ensure that the resource available to the service is targeted appropriately. Currently this includes 100% inspection at all higher risk premises including non-broadly compliant risk rated C establishments. In addition, interventions will be carried out at a sample of lower risk premises to ensure that they are still appropriately risked. Newly registered premises will be bench top risk assessed and will be prioritised for visits at the potentially higher risk establishments.</p>	<p>The audit report indicates some 750 overdue inspections including some higher risk premises. At the time of the feedback report (26/06/13) 2 Category A, 4 Category B, 50 Category C, 271 Category D and 397 Category E premises were outstanding (724). All high risk premises Cat A – C have been allocated for inspection in the next quarter. Low risk premises Cat D and Cat E premises will be visited when Officer resources become available.</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.3.18(i) Continued		Potentially lower risk establishments are currently subject to a self-assessment questionnaire, if this identifies a high risk activity or the FBO fails to return the questionnaire, the premises will be prioritised for visit.	
3.3.18(ii) Assess the compliance of food premises to legally prescribed standards to confirm compliance with current legislation, the Food Law Code of Practice and centrally issued guidance. Take appropriate action, including follow-up action, on any non-compliances found in accordance with the Authority's enforcement policy. [The Standard - 7.3]	31/12/13	<p>It was noticed that there was inconsistency regarding the quantity and quality of information recorded or provided on inspection reports, written warnings and notices. The existing procedures and Officer guidance will be reviewed and amended to ensure consistency. Officers will be advised on the new procedure.</p> <p>Consistency training regarding risk rating and documental evidence will be carried out both internally and as part of the Cheshire and Merseyside Technical Group.</p>	Discussed at Commercial Team Meeting 25/06/13.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.3.18(iii) Maintain up to date, accurate and comprehensive records for all food establishments. [The Standard – 16.1]	31/12/13	<p>The Approved Premises Inspection Aide-memoire will be revised to request more information from businesses regarding emergency withdrawal plans and recall procedures.</p> <p>It was identified that some of the inspection records could be improved by supplying more details especially records of verification of the business food safety management systems and adherence to the cross-contamination guide.</p>	Officers have been advised that detailed information should be recorded on the inspection aide-memoire including notes of any variances from the procedures.
3.4.8(i) Review, maintain and implement the documented enforcement policy for food enforcement activities in accordance with the Food Law Code of Practice and other official guidance. [The Standard -15.1]	31/12/13	The corporate enforcement policy is under review, and whilst this is being undertaken by a different Department, the recommendations identified by this audit will be fed to the lead review officer.	Officers have been reminded of our enforcement procedure and the requirement to take a stepped approach to enforcement

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.4.8(ii) Expand the documented formal enforcement procedures to provide additional guidance to officers on enforcement activities. [The Standard -15.2]	30/11/13	The Food Procedure, FS13 – Formal Action Procedure will be updated to include additional guidance regarding the withdrawal of Hygiene Improvement Notices and actions following the service of Notices. Officers will be trained on the new procedures.	Officers have been advised on the correct procedure regarding the extension of Food Hygiene Improvement Notices, in accordance with the Food Law Code of Practice.
3.4.8(iii) Carry out food law enforcement in accordance with the Food Law Code of Practice and official guidance. [The Standard – 15.3]	31/10/13	<p>Auditors identified a number of premises where follow-up action had not been taken in accordance with the Code of Practice.</p> <p>The internal monitoring procedure, FS11 will be amended to provide the requirement for detailed information on situations when enforcement action is not taken in line with the Code of Practice.</p> <p>The monitoring of Service Requests and Complaints will also be added to FS11.</p>	<p>The Team Leader and Senior Officers have discussed the premises identified in the audit. Following discussions with the inspecting Officers, it was agreed the reasoning why enforcement activity was not undertaken at that time was appropriate.</p> <p>All Officers have been advised to provide detailed records of the reasoning where enforcement action is not taken in line with the Code of Practice or the Enforcement Policy.</p>

ANNEXE B Audit Approach/Methodology

The audit was conducted using a variety of approaches and methodologies as follows:

(1) Examination of LA policies and procedures.

The following relevant LA policies, procedures and linked documents were examined before and during the audit:

- Regulatory Services Food Law Enforcement Plan 2012/13
- Public Protection and Health Business Plan Quarterly Performance Reviews. (Various)
- Report of the Inter Authority Audit of Cheshire East Council Food law Service Delivery and Food Business Compliance (July 2011)
- Authorisation of Officers Procedure
- Delegated Authority document (April 2009)
- Learning and Development Plan 2012-2014
- Computer Database procedure
- Interventions Procedure
- Registration of Food Businesses procedure
- Approvals Procedure
- Dealing with Complaints Procedure
- Sampling Procedure
- Public Protection and Health Intervention and Enforcement Activities Report 2012/13
- Cheshire East Borough Council Enforcement Policy
- Formal Action and Voluntary Surrender Procedures
- Internal Monitoring Procedure
- Minutes of recent meetings of Cheshire and Merseyside Food Safety Sub Group
- Minutes of recent meetings of Commercial Team
- Officer authorisation, training and qualification records

(2) File reviews

The following LA file records were reviewed during the audit:

- General food premises inspection records
- Approved establishment files
- Food and food premises complaint records
- Food sampling records
- Formal enforcement records.

(3) Review of Database records:

- To review and assess the completeness of database records of food hygiene inspections, food and food premises complaint investigations, samples taken by the authority, formal enforcement and other activities and to verify consistency with file records
- To assess the completeness and accuracy of the food premises database
- To assess the capability of the system to generate food law enforcement activity reports and the monitoring information required by the Food Standards Agency.

(4) Officer interviews

The following officers were interviewed:

- Public Protection and Health Manager
- Commercial Team Leader
- Enforcement Officer
- Technical Officer

Opinions and views raised during officer interviews remain confidential and are not referred to directly within the report.

(5) On-site verification check:

A verification visit was made with an officer to a local food business. The purpose of the visit was to verify the outcome of the last inspection carried out by the LA and to assess the extent to which enforcement activities and decisions met the requirements of relevant legislation, the FLCoP and official guidance, having particular regard to LA checks on FBO compliance with HACCP based food safety management systems.

ANNEXE C Glossary

Authorised officer	A suitably qualified officer who is authorised by the local authority to act on its behalf in, for example, the enforcement of legislation.
Broadly Compliant	An outcome measure which the Food Standard Agency has developed with local authorities to monitor the effectiveness of the regulatory service relating to food law. It is based on the risk rating scheme in the Food Law Code of Practice which is currently used by food law enforcement officers to assess premises which pose the greatest risk to consumers failing to comply with food law.
Codes of Practice	Government Codes of Practice issued under Section 40 of the Food Safety Act 1990 as guidance to local authorities on the enforcement of food legislation.
County Council	A local authority whose geographical area corresponds to the county and whose responsibilities include food standards and feeding stuffs enforcement.
District Council	A local authority of a smaller geographical area and situated within a County Council whose responsibilities include food hygiene enforcement.
E.coli O157	E.coli O157 belongs to the group of verotoxigenic E.coli (VTEC) bacteria which are a toxin-producing strain of Escherichia coli that occur naturally in the gastrointestinal tract of animals such as cattle and sheep, and are pathogenic to humans. E.coli O157 is the VTEC strain that has been most commonly implicated in human infection in the UK.
Enhanced Remote Transit Shed	A warehouse designated by HM Revenue and Customs (HMRC), where goods are temporarily stored pending clearance by HMRC, and prior to release into free circulation.
Environmental Health Officer (EHO)	Officer employed by the local authority to enforce food safety legislation.
Feeding stuffs	Term used in legislation on feed mixes for farm animals and pet food.

Food hygiene	The legal requirements covering the safety and wholesomeness of food.
Food Hygiene Rating Scheme (FHRS)	The Food Hygiene Rating Scheme provides information to the public about hygiene standards in catering and retail food establishments. It is run by local authorities in partnership with the Food Standards Agency. Businesses that fall within the scope of the scheme are given a 'hygiene rating' which shows how closely the business was meeting the requirements of food hygiene law at the time of inspection. The scheme also encourages businesses to improve hygiene standards.
Food Safety Management System	A written permanent procedure, or procedures, based on HACCP principles. It is structured so that this requirement can be applied flexibly and proportionately according to the size and nature of the food business.
Food standards	The legal requirements covering the quality, composition, labelling, presentation and advertising of food, and materials in contact with food.
Framework Agreement	<p>The Framework Agreement consists of:</p> <ul style="list-style-type: none"> • Food and Feed Law Enforcement Standard • Service Planning Guidance • Monitoring Scheme • Audit Scheme <p>The Standard and the Service Planning Guidance set out the Agency's expectations on the planning and delivery of food and feed law enforcement.</p> <p>The Monitoring Scheme requires local authorities to submit yearly returns via LAEMS to the Agency on their food enforcement activities i.e. numbers of inspections, samples and prosecutions.</p> <p>Under the Audit Scheme the Food Standards Agency will be conducting audits of the food and feed law enforcement services of local authorities against the criteria set out in the Standard.</p>
Full Time Equivalent (FTE)	A figure which represents that part of an individual officer's time available to a particular role or set of duties. It reflects the fact that individuals may work part-time, or may have other responsibilities within

the organisation not related to food and feed enforcement.

HACCP	Hazard Analysis and Critical Control Point – a food safety management system used within food businesses to identify points in the production process where it is critical for food safety that the control measure is carried out correctly, thereby eliminating or reducing the hazard to a safe level.
LAEMS	Local Authority Enforcement Monitoring System is an electronic system used by local authorities to report their food law enforcement activities to the Food Standards Agency.
Member forum	A local authority forum at which Council Members discuss and make decisions on food law enforcement services.
Metropolitan Authority	A local authority normally associated with a large urban conurbation in which the County and District Council functions are combined.
Risk rating	A system that rates food premises according to risk and determines how frequently those premises should be inspected. For example, high risk premises should be inspected at least every 6 months.
Safer food, better business (SFBB)	A food safety management system, developed by the Food Standards Agency to help small catering and retail businesses put in place food safety management procedures and comply with food hygiene regulations.
Service Plan	A document produced by a local authority setting out their plans on providing and delivering a food service to the local community.
Trading Standards	The Department within a local authority which carries out, amongst other responsibilities, the enforcement of food standards and feeding stuffs legislation.
Trading Standards Officer (TSO)	Officer employed by the local authority who, amongst other responsibilities, may enforce food standards and feeding stuffs legislation.
Unitary Authority	A local authority in which the County and District

Council functions are combined, examples being Metropolitan District/Borough Councils, and London Boroughs. A Unitary Authority's responsibilities will include food hygiene, food standards and feeding stuffs enforcement.