

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

London Borough of Ealing  
11-13 December 2013



## Foreword

Audits of local authorities' feed and food law enforcement services are part of the Food Standards Agency's (FSA) 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](http://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](http://www.food.gov.uk/enforcement/auditandmonitoring).

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

# Contents

<b>1.0</b>	<b>Introduction</b>	4
	Reason for the Audit	4
	Scope of the Audit	5
	Background	5
<b>2.0</b>	<b>Executive Summary</b>	7
<b>3.0</b>	<b>Audit Findings</b>	9
3.1	Organisations and Management	9
	Strategic Framework, Policy and Service Planning	9
	Documented Policies and Procedures	10
	Officer Authorisations	11
3.2	Food Premises Database	13
3.3	Food Premises Interventions	15
	Verification Visit to a Food Premises	19
3.4	Enforcement	20
3.5	Internal Monitoring, Third Party or Peer Review	21
	Internal Monitoring	21
	Food and Food Premises Complaints	21
	Food Inspection and Sampling	22
	Records	23
	Third Party or Peer Review	23
<b>ANNEX A</b>	<b>Action Plan for London Borough of Ealing</b>	24
<b>ANNEX B</b>	<b>Audit Approach/Methodology</b>	30
<b>ANNEX C</b>	<b>Glossary</b>	32

## 1.0 Introduction

1.1 This report records the results of an audit at the London Borough of Ealing 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 available on the Agency's website at:

[www.food.gov.uk/enforcement/auditandmonitoring/auditreports](http://www.food.gov.uk/enforcement/auditandmonitoring/auditreports).

Hard copies are available from the Food Standards Agency's Operations Assurance 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 the London Borough of Ealing 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.<sup>1</sup>
- 1.4 The Authority was selected for inclusion in the Food Standards Agency's programme of audits of local authority food law enforcement services because it had not been audited by the Agency in the previous five years and Local Authority Enforcement Monitoring Systems (LAEMS) data submitted by the Authority indicated an audit would be beneficial.

---

<sup>1</sup> 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 the London Borough of Ealing's arrangements for food premises database management, 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 business premises 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 Perceval House, 14-16 Uxbridge Road, Ealing on 11-13 December 2013.

## **Background**

- 1.7 The London Borough of Ealing is situated to the west of outer London. It is the third largest London borough covering an area of 55.53km<sup>2</sup>. The borough comprises the seven areas of Acton, Ealing, Greenford, Hanwell, Northolt, Perivale and Southall. The population of 338,449 is significantly diverse with 40% of its residents claiming a non white ethnic heritage, comprising particularly South Asian (about 20%), African and Caribbean (about 10%), and Chinese and other Asian backgrounds (about 5%). There are also well established Polish and Irish communities within the Borough.
- 1.8 The area contains a wide mix of food business establishments, including a significant number of large national manufacturers, many of which require approval under Regulation (EC) No. 853/2004. The borough also has a number of External Temporary Storage Facilities (ETSF, formerly known as ERTS), some of which handled food imported from outside the European Union.
- 1.9 Food hygiene law enforcement was the responsibility of the Food Safety Team, within Safer Communities, which formed part of Housing and Regeneration. The Service also had a wide range of other responsibilities, which included health and safety enforcement, some Environmental Protection Act functions and infectious disease control. Food standards enforcement also fell under the remit of the Service.

1.10 The Authority reported the profile of the London Borough of Ealing's food businesses as of 31 March 2013 as follows:

<b>Type of Food Premises</b>	<b>Number</b>
Primary Producers	4
Manufacturers/Packers	201
Importers/Exporters	48
Distributors/Transporters	112
Retailers	789
Restaurant/Caterers	1,848
<b>Total Number of Food Premises</b>	<b>3,002</b>

## 2.0 Executive Summary

2.1 The Authority was selected for audit as it had not received an audit in the previous five years and returns made to the Agency indicated that there was a high ratio of premises to full time equivalent officers (FTEs), a high number of unrated premises and a lower than average percentage of broadly compliant businesses. It was clear that the Authority had already identified these and other issues, and had implemented an action plan to address the areas that had been identified as requiring improvement. It was evident that significant progress had been made in a number of areas against the action plan, however the audit has confirmed that improvements still need to be made in some key areas.

### 2.2 Strengths:

**Service planning and review:** A comprehensive Food Service Plan had been produced for 2013/14 which was in accordance with the Service Planning Guidance in the Standard and provided helpful detail on the Service's planned work for the year and factors that may affect performance such as resourcing. It was evident that achievement against the Plan was being regularly reviewed throughout the year and comprehensive reports were being produced for senior management on a quarterly and annual basis. The Plan had identified some variances and areas for improvement which were being actively pursued as part of an agreed internal action plan.

**Quality Management System (QMS):** Significant resources had been placed into the development of a comprehensive manual of policies and procedures. These provided useful guidance for officers across the range of food law enforcement activities. The QMS also provided a comprehensive basis for effective internal monitoring activities that were taking place.

### 2.3 Key areas for improvement:

**Interventions and inspections:** There was a significant backlog of overdue food premises interventions and initial inspections of food premises awaiting a risk rating. Whilst the Authority had taken steps to address the backlog by prioritising inspections of higher risk establishments and by the employment of temporary contractors, the extent of the backlog was such that it would not be possible to complete the inspection programme by the end of the financial year with the current available resources.

**Records:** There was a notable inconsistency in the level of detail recorded by individual officers on interventions at general and approved establishments. There was a need to ensure that consistently comprehensive and retrievable records were maintained of all food law

enforcement activities. Reliable records are essential to inform future officer interventions and a graduated approach to enforcement, and to enable effective internal monitoring.

**Approved establishments:** The Authority had recognised that historically there had been an unsatisfactory level of enforcement in approved establishments and resources had been placed into reviewing all the approved establishments and ensuring that records were up to date and complete. This included file reviews and interventions, including re-approvals at premises. This process was ongoing at the time of the audit, and it is important that the Authority continues to carry out a robust review of activities in all of its approved establishments and keeps the Agency informed of any changes to the approval status of individual premises.



## **3.0 Audit Findings**

### **3.1 Organisations and Management**

#### Strategic Framework, Policy and Service Planning

- 3.1.1 The Authority had developed a comprehensive Food Service Plan for 2013/14 which followed the Service Planning Guidance in the Framework Agreement. The Plan would benefit from clearly setting out the Authority's food premises risk rating profile.
- 3.1.2 The Plan set out a number of aims and objectives for the Service. These included:
- To work with businesses to protect consumers from harm by ensuring that food produced, distributed and marketed in the borough is safe.
  - To deter, detect and investigate fraudulent activity involving food, including illegal importation of food.
  - To respond quickly and proportionately to food incidents and customer complaints.
- 3.1.3 The Plan also drew links with the Council's stated priorities of:
- Making Ealing Cleaner
  - Making Ealing Safer
  - Delivering Value for Money.
- 3.1.4 A comprehensive internal review of the Service had been carried out in the past year and the Food Service Plan made reference to an action plan that had been drawn up identifying a number of key areas for improvement of the Service. The Service Plan also highlighted a shortfall in resources and the impact this would have on the work of the team, in particular that there would be a significant shortfall in achieving due inspections of high risk premises. It had been estimated that 10-12 full time equivalent field officers (FTE) were required to deliver the service but there were just under 9 FTEs in post, including Team Leaders. The staffing situation was under continual review and auditors were advised that it is proposed to recruit to a new FTE post in the next financial year.
- 3.1.5 In addition the Plan stated that performance would be reported to senior management on a quarterly and annual basis, and evidence was provided of recent detailed quarterly performance reports. The Plan also detailed variances from achieving all of the planned work as being due to:
- Continued high level of formal enforcement
  - Involvement in a number of complex investigations
  - Continued high numbers of businesses not broadly compliant with food law

- Increased emphasis on quality rather than quantity of inspections.
- 3.1.6 Some areas for improvement had also been identified, including:
- Development and implementation of a comprehensive Quality Management System (QMS)
  - The quality of approved establishment files
  - The standard and quality of regulation at approved establishments, manufacturers, importers, distributors and similar establishments
  - Staff professional development.
- 3.1.7 A review of the 2012/13 Plan also highlighted some of the team's achievements, including a series of Punjabi radio broadcasts to promote the work of the team, events for local childminders and a successful project working with the Somali community.
- 3.1.8 Service planning arrangements included appropriate provision for out of hours contacts in case of a food related emergency. The internal review document noted that some improvements had been identified with regard to out of hours arrangements which had now been completed.

#### Documented Policies and Procedures

- 3.1.9 The Service had recently reviewed all of its documented policies and procedures, and had identified areas of the Service where procedures required development. Significant progress had been made in developing a comprehensive documented QMS. Procedures were found to be detailed and provided useful guidance for officers across all areas of food law enforcement, and reflected actual practice at the Authority. The procedures were organised into individual 'toolkits' for example on inspections, so that officers could easily locate and retrieve all relevant documentation including appropriate forms and notices. The set of procedures also formed a useful basis for qualitative internal monitoring activities. Some of the procedures were in draft format at the time of the audit, awaiting trial use prior to them being finalised and authorised by senior managers.
- 3.1.10 A document control system was in place to ensure that policies and procedures were routinely reviewed, and that any changes were appropriately authorised at senior level. A master list of documents had been produced which identified and prioritised those requiring development and set out the review status of existing documents.
- 3.1.11 A checklist had been produced as part of the QMS to document an evaluation of the impact of any new pieces of legislation including the need for authorisation documents and procedures to be reviewed or updated.

### **Good Practice – Regulatory Impact Assessment**

The Quality Management System included an Authorisation and Procedural Update checklist to detail the outcomes of evaluations by the Service on the impact of new or revised legislation including implications for resources, officer authorisations and documented policies and procedures.

#### Officer Authorisations

- 3.1.12 The Authority had developed a comprehensive draft authorisation procedure and associated documentation which provided guidance to ensure that officers were appropriately assessed and authorised in accordance with their qualifications, experience and competencies. This involved an assessment of the individual officer's qualifications, competence and experience by the team leader who then made a recommendation to a senior manager on the level of authorisation. This required final approval and auditors were advised that the procedure would be trialled with officers due to join the service before it was finalised and implemented.
- 3.1.13 The Service had been successful in securing some funding to employ contractors to temporarily address the identified shortfall in permanent officers. Whilst it was evident that thorough controls were in place to ensure that contractors were suitably qualified and experienced, auditors were advised that the arrangement presented challenges in terms of ensuring continuity of service. The Service was in the process of recruiting three permanent officers to replace those who had recently resigned or retired along with the additional post for the next financial year.
- 3.1.14 The internal action plan had identified some issues with regard to officer authorisations and work had taken place to resolve them. Current authorisation records confirmed that both permanent and contracted officers were authorised under relevant legislation at an appropriate level and checks on enforcement actions carried out throughout the audit verified that officers were acting within the limits of their authorisation. The Authority needed to advise the FSA of those officers to be authorised under the Food and Environmental Protection Act 1985.
- 3.1.15 Training records confirmed that officers, including the contractors, were in general receiving a broad range of food training and were meeting the minimum 10 hours relevant training per annum based on the principles of continuing professional development. Whilst it was evident that officers were actively encouraged to undergo relevant available training, auditors suggested that further training would be of

benefit in some areas to take account of the wide range of food processing activities carried out in the borough, including the inspection of specialist processes. Auditors were advised that further training is also planned for officers on taking formal enforcement actions and that the Service had subscribed to a reputable online training supplier to assist in officers maintaining their competence.

- 3.1.16 The Authority had appointed a Lead Officer for food, who could demonstrate that they had the necessary experience and qualifications for that role. An additional team leader had also been recently appointed to assist with the day to day management of the team in recognition of the work that was required to address the improvements identified in the internal action plan.

**Recommendation**

3.1.17 The Authority should:

Ensure that a sufficient number of authorised officers are appointed to carry out the work set out in the Food Service Plan. The level of authorisation and duties of officers should be consistent with their qualifications, training and experience in accordance with the Food Law Code of Practice.  
[The Standard – 5.3]

## **3.2 Food Premises Database**

- 3.2.1 The Service operated a food premises database system that was capable of providing Local Authority Enforcement Monitoring System (LAEMS) returns. The Authority needed to develop a documented procedure on ensuring the accuracy and security of the database, however in the interim a working document had been produced detailing measures that could be undertaken to ensure the database was accurate.
- 3.2.2 In practice various activities were carried out to ensure the database was accurate and complete, including the production of various exception reports and subsequent correction of data, and updating of premises details following intelligence received from officers or other council departments. The Authority also liaised with the management of various trading estates where many food businesses were based to obtain an up to date list of occupants.
- 3.2.3 A large data cleansing exercise had taken place as part of the Authority's preparation for the launch of the Food Hygiene Rating Scheme (FHRS) in June 2012. The Service reported that they had experienced inexplicable data losses in the past which had now been resolved. A contractor had been employed to assist in maintenance of the database and routine reports were run highlighting errors such as missing fields or inspection risk ratings. Identified issues were fed back as part of the team's internal monitoring procedures and corrective actions implemented. Checks carried out as part of the audit confirmed that the database was accurate and complete.
- 3.2.4 Auditors were advised that the Authority had recognised that improvements were required on the accuracy of future LAEMS returns made to the Agency. There were some anomalies and coding issues identified during the audit. These included:
- More clearly defined coding was required on service requests to ensure that only relevant complaints about food or food premises were reported.
  - It appeared that some desktop assessments as part of an alternative enforcement system (AES) had been wrongly reported as inspections.

## **Recommendations**

3.2.5 The Authority should:

- (i) Set up maintain and implement a documented procedure to ensure that its food premises database is accurate, reliable and up to date.  
[The Standard – 11.2]
- (ii) Ensure that its electronic food premises database is managed and operated in such a way as to enable the uploading of accurate information to the Local Authority Enforcement Monitoring System (LAEMS).  
[The Standard – 6.3]

### 3.3 Food Premises Interventions

- 3.3.1 Information provided in the Food Service Plan 2013/14 and figures submitted as part of the Authority's LAEMS return for 2012/13 indicated the following premises profile as of 31 March 2013:

<b>Premises Risk Category</b>	<b>Number of Premises (from LAEMS return)</b>	<b>Establishments due for inspection (from Service Plan)</b>
A	58	50
B	253	265
C	1,255	non-compliant 326 compliant 712
D	613	435
E	455	286
Unrated	353	332
Not in programme	15	-
<b>Total</b>	<b>3,002</b>	<b>2,406</b>

- 3.3.2 The proposed inspection programme in the Service Plan did not reflect the requirements of the current Food Law Code of Practice as the majority of category C, D and E establishments fell out of the proposed programme. The Plan stated that interventions would be prioritised on a risk basis with the aim of completing all due inspections of category A, B and non-compliant C rated establishments and unrated premises. In addition it was not intended to carry out inspections at any of the remaining broadly compliant category C premises unless intelligence was received indicating an intervention was necessary.
- 3.3.3 The Plan also stated that the team would aim to complete 100% of interventions at importers, food manufacturers (including approved establishments), distributors, cold stores and similar establishments irrespective of risk rating, on account of the regional and national distribution of food from these establishments.
- 3.3.4 The Plan calculated that with the current resources the team would fall short of completing 687 interventions. It was estimated that an additional 4 FTEs would be required to complete the programme and it was stated that there was no formal proposal to undertake surveillance or interventions at premises that could not be resourced unless valid intelligence was received. Category D and E rated premises would be subject to surveillance only and worked into the programme as appropriate. Auditors were advised that an alternative enforcement strategy (AES) would be introduced in the new financial year for lower risk establishments. In addition work had been carried

out with the borough's childminders including the delivery of food hygiene training courses.

- 3.3.5 The quarterly performance reports for senior managers set out progress against the interventions programme. Reports produced for the audit confirmed that there were over 1,000 overdue inspections. Whilst it was evident that the Authority had adopted a risk-based approach to inspection and the majority of overdue premises were lower risk, there were 202 higher risk, comprising 17 category A rated establishments, 35 category B and 150 non-compliant C businesses. In addition a database report indicated that at the time of the audit there were around 500 unrated premises, which included potentially high risk manufacturers and catering premises. Auditors were advised that it would be unlikely that the deficit could be made up in the final quarter due to some contractors departing and the necessary induction of new members of staff. It is important to ensure that there is a mechanism to assess any changes to business activities that may affect the risk profile of the business in the intervening period between inspections and that interventions at unrated premises are prioritised to ensure that those likely to be higher risk are inspected first.
- 3.3.6 One of the reasons the Authority was selected for audit was due to the relatively low levels of broad compliance of food businesses in the district. Auditors were advised that the nature and cultural diversity of the borough's food establishments was a significant factor with a higher than average number of food business operators (FBO) who do not have English as their first language. In addition, it was reported that historically there had been a lack of enforcement by the Service. In recognition of the issue, measures had been taken by the team to try and raise compliance. These included the introduction of the FHRS, uptake of Agency funded coaching for low rated establishments under FHRS, a project working with the Somali food business community and robust use of the range of available enforcement powers where necessary.
- 3.3.7 Procedures had been developed as part of the QMS on general food hygiene interventions, and specific procedures on the inspection and approval of establishments under Regulation (EC) No. 853/2004. An AES procedure had also been produced. These all provided thorough and useful guidance for officers.
- 3.3.8 Records of a sample of inspections carried out at five food businesses were examined during the audit. In general these had been inspected at the correct minimum intervals prescribed in the Food Law Code of Practice.
- 3.3.9 One of the key issues arising from the internal action plan produced by the Service was a need to improve the quality of inspections, recognising the additional time required would have an impact on achieving the interventions programme. An inspection aide-memoire



had been developed to provide prompts for officers to ensure that thorough inspections were carried out. Inspection findings were recorded in officers' notebooks and/or an inspection record form, on the food premises database and on the report of inspection form, a copy of which was left with the FBO. It was discussed that in general the records lacked sufficient narrative to support the findings, particularly in areas such as officers' assessments of the businesses compliance with the requirement to provide a food safety management system based on HACCP, and adherence to FSA guidance on the prevention of contamination by E.coli O157.

- 3.3.10 In general the report of inspection forms left with the FBO contained the standard information required by the Food Law Code of Practice, highlighted issues that needed to be addressed by the FBO, and made a clear distinction between legal requirements and recommendations of good practice. The forms also detailed the follow-up action to be taken by the Authority and provided reasonable timescales for compliance. Letters were also sent to the FBO where appropriate, providing thorough and helpful advice on compliance.
- 3.3.11 Records for four establishments confirmed that in general appropriate risk scores were being allocated, although on one file the score appeared high for the type of food activities that were taking place. On two premises there was an anomaly between the recorded score on paperwork and that on the database. This had been identified and addressed as part of internal monitoring activities carried out by managers.
- 3.3.12 From the issues noted on inspection records it was evident that in some cases follow-up action was required by the Service to ensure that significant contraventions had been satisfactorily addressed by the FBO. These included failures to implement a satisfactory food safety management system (FSMS), poor cleaning and cross-contamination issues. In four records it was not evident that timely and effective revisits had been taken where necessary including where the issue had been previously identified on a preceding intervention. The Service had identified this as an issue but advised that they had not always been able to take follow-up action where appropriate due to a lack of resources.
- 3.3.13 The Authority had over 40 establishments subject to approval under the requirements of Regulation (EC) No. 853/2004. The Service's action plan had identified a number of areas of improvement with regard to their enforcement in such establishments and a fundamental review had been undertaken of the files and approval status of all establishments subject to approval. Whilst it was clear that significant progress had been made, action to improve the quality of records and enforcement was still ongoing and there were some issues raised on the audit that required immediate attention.

- 3.3.14 These included ensuring that all relevant information detailed in annex 10 of the Food Law Practice Guidance is retained on the establishment files, that the approval status of a number of establishments is confirmed, and that timely and effective interventions are carried out. In recognition of the importance of effective enforcement at approved establishments and other manufacturers in the borough a team of suitably qualified and experienced officers had been set up concentrating on manufacturing premises and this had been effective in improving enforcement in such establishments, however due to staff changes the composition of the team needed to be reviewed once new officers were in post.
- 3.3.15 Checks were made on a selection of approved establishment files. These confirmed that there was considerable variation in the quality of information retained. One file had scant information on the establishment and the approval, whilst in contrast another file that had been reviewed was found to be particularly comprehensive and well organised, containing the information recommended in annex 10 of the Food Law Practice Guidance and provided detailed inspection notes. It was suggested that this file could be used as an exemplar as part of the ongoing review of the other approved establishment files.
- 3.3.16 There was some variation between lists held by the Authority and those publically available from the FSA website and the current review of this information should be continued by the Authority and updates provided to the Agency once the approval status of the remaining establishments has been confirmed.
- 3.3.17 Auditors were advised that there was an expectation that imported food checks would now be routinely incorporated into all inspections and documentation had been amended to prompt officers to carry out such checks and to record the findings. The borough had a number of ETSFs, of which the Service was aware that three of them routinely handled imported food. The team had established liaison arrangements with relevant local authorities and HMRC with regard to food consignments being held at the sheds. Auditors discussed the importance of regular contact with other ETSFs in the borough to confirm they had not begun to handle any food products.

## **Recommendations**

3.3.18 The Authority should:

- (i) Carry out food hygiene interventions/inspections at a frequency which is not less than that determined by the Food Law Code of Practice. [The Standard – 7.1]
- (ii) Ensure that inspections of general and approved establishments are carried out in accordance with the relevant legislation, the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.2]
- (iii) Assess the compliance of establishments and systems including those in approved establishments to the legally prescribed standards and take appropriate and timely action on any non-compliance found in accordance with the Authority's enforcement policy. [The Standard – 7.3]
- (iv) Ensure that observations made and data obtained during interventions are stored in such a way that they are retrievable. [The Standard – 7.5]

### Verification Visit to a Food Premises

3.3.19 During the audit, a verification visit was undertaken to a local catering establishment with the officer who had carried out the last 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. The specific assessments included the conduct of the preliminary interview of the FBO by the officer, the general hygiene checks to verify compliance with the structure and hygiene practice requirements, and checks carried out by the officer to verify compliance with HACCP based procedures.

3.3.20 It was evident that the officer was familiar with the premises, had assessed the business' compliance with legal requirements, and was providing helpful advice and guidance to the FBO. It was not clear however that based on the type of food operation and inspection findings that the risk rating was consistent with the Food Law Code of Practice.

### **3.4 Enforcement**

- 3.4.1 The Authority had developed a new corporate enforcement policy which had been approved by Members. The policy included a separate section that referred to the specific powers relevant to food law enforcement.
- 3.4.2 Documented procedures had been developed as part of the QMS and these provided comprehensive guidance for officers across the range of food law enforcement activities including the specific legislative options for approved establishments.
- 3.4.3 It was evident that the Authority was appropriately using the full range of enforcement powers available as part of a robust graduated approach to enforcement.
- 3.4.4 Audit checks were carried out on records of:
- Hygiene improvement notices (HIN)
  - A remedial action notice
  - Hygiene emergency prohibitions and orders
  - Voluntary closures
  - Voluntary surrenders
  - Seizure and detention procedures
  - Prosecutions
  - Simple cautions.
- 3.4.5 All the formal procedures were found to be appropriate in the circumstances and had been administered by a suitably authorised officer. Formal notices had been drafted in accordance with the Food Law Code of Practice and with relevant centrally issued guidance. Whilst in general there had been timely checks following expiry of the notices, it was not always clearly evident that these had confirmed that the notices had been satisfactorily complied with. In addition evidence of service was not always easy to retrieve, particularly where it had been recorded in an officer's notebook. Where it had been agreed that an extension to the time limit on a HIN had been granted there was no evidence to confirm that a written request had been received, the original notice withdrawn and a new notice issued with a revised compliance date.

#### **Recommendation**

3.4.6 The Authority should:

Carry out food law enforcement in accordance with the Food Law Code of Practice and centrally issued guidance.  
[The Standard – 15.3]

### 3.5 Internal Monitoring, Third Party or Peer Review

#### Internal Monitoring

- 3.5.1 A comprehensive documented procedure had been developed on internal monitoring across the range of food law enforcement activities. This was supplemented by references to internal monitoring in some of the individual procedures. Whilst the procedure had yet to be fully implemented there was evidence of a considerable amount of detailed, structured and thorough quantitative and qualitative internal monitoring being undertaken of interventions, paperwork, data entry and food complaint investigations. There was clear documented evidence of corrective action being taken when issues had been identified, both with individual officers and the team as a whole.

#### **Recommendation**

- 3.5.2 The Authority should:

Expand on the current internal monitoring activities carried out to verify the conformance of the Service across the whole of the Standard in the Framework Agreement, the Food Law Code of Practice, relevant centrally issued guidance and the Authority's own documented policies and procedures. [The Standard – 19.2]

#### Food and Food Premises Complaints

- 3.5.3 The Service had produced a policy and procedures on the investigation of both food and food premises complaints. In addition there were references to the Service's policy on food complaint investigations in the Food Service Plan, which stated that priority would be given to complaints where there was evidence of serious risk to health or the suggestion of fraudulent practices. The procedures set out clear criteria and prioritisation for action to assist officers in adopting a consistent and appropriate response to both food and food premises complaints.
- 3.5.4 The Service had introduced a duty officer system which was undertaken in rotation on a monthly basis. This included site visits where necessary with the intention of releasing more time for other members of the team to concentrate on inspections rather than reactive work taking priority.

- 3.5.5 Checks were made on records for five food and food premises complaints received by the Authority in the last six months. Complete information was provided on the complaint and there was evidence that appropriate contact had been made with interested parties. Records confirmed that appropriate investigations had been made in four of the five complaints, however on the remaining complaint regarding the hygiene of a food establishment, further follow-up had not been taken to ensure that appropriate action had been taken by the food business operator (FBO).

**Recommendation**

3.5.6 The Authority should:

Ensure that timely investigations are made on receipt of food and food premises complaints in accordance with the Authority's own service standards and policies.  
[The Standard – 8.2]

Food Inspection and Sampling

- 3.5.7 The Authority had produced a sampling policy and detailed procedures and some sampling policy issues were also included in the Food Service Plan. The Authority had recognised that there had been limited food sampling activities in previous years, however a programme had been developed for the current year.
- 3.5.8 There was evidence that sampling activities had taken place against the programme and this had concentrated on the sandwich makers in the borough. Extensive and detailed follow-up on adverse results had been required, involving liaison with a number of other local authorities across the country including those that had made referrals to the team with regard to adverse results they had received. This had impacted on the ability of the team to complete other anticipated sampling activities in the programme although auditors were advised that further sampling was planned before the end of the financial year.
- 3.5.9 Records of seven food samples were checked where unsatisfactory results had been received. These included samples taken as part of the sandwich project and as part of an investigation of a large alleged food poisoning incident. It was clear that in all cases appropriate and thorough follow-up had been taken, including further sampling, and there was evidence of appropriate advice being given to the FBO, along with formal enforcement actions being pursued as necessary.

## Records

- 3.5.10 Records of food law enforcement activities were maintained electronically on the food premises database system with paper files maintained for approved establishments. Records were in general retrievable, however it was noted that there were inconsistencies in the level of detail recorded by individual officers. In addition some information was retained in officers' notebooks and it was suggested by the auditors that this should also be available on the premises database to provide a complete premises record and improve ease of retrieval. Reliable and sufficiently detailed records are essential to inform future officer interventions, to provide the justification for FHRS ratings and provide the basis of a graduated approach to enforcement. The quality of records had already been identified as an issue by internal monitoring activities and recent improvements were evident, such as the introduction of a new inspection checklist. Comprehensive records were being maintained for formal enforcement actions, including detailed notes, photographs and premises plans.

### **Recommendation**

3.5.11 The Authority should:

Maintain up to date and accurate records in retrievable form on all food law enforcement activity in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 16.1]

## Third Party or Peer Review

- 3.5.12 There had not been any relevant regional food liaison group inter-authority audit initiatives in the past two years, however the Service had been subject to audit by an external provider on behalf of internal audit in relation to approved establishments, and a follow-up audit on the food safety service. The findings from these audits had contributed to the Service's internal action plan to improve the food safety service.

**Auditors:** Yvonne Robinson  
Jane Tait  
Abi Adeyemi

Food Standards Agency  
Operations Assurance Division

## ANNEX A Action Plan for London Borough of Ealing

Audit date: 11-13 December 2013

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.1.17 Ensure that a sufficient number of authorised officers are appointed to carry out the work set out in the Food Service Plan. The level of authorisation and duties of officers should be consistent with their qualifications, training and experience in accordance with the Food Law Code of Practice (FLCoP). [The Standard – 5.3]</p>	<p>30/09/14</p>	<p>Additional resources have been identified, and recruitment to these positions will commence in April 2014. These resources should meet the gap identified in the previous Service Plan, and should allow for service delivery to be in accordance with the Framework Agreement.</p>	<p>The service has engaged a number of contractors to support the delivery of the work programme – this will continue in the short-term.</p> <p>An additional Team Leader position has been created to support the food service delivery.</p> <p>Cabinet have agreed (Oct'13) to the creation of an addition full time equivalent (FTE) with effect April 2014.</p> <p>Senior Management have agreed the need to provide additional resources and the creation of three FTE with effect September 2014.</p> <p>Wider Regulatory Services (departmental resources) have been used to undertake work that does not require an authorised food inspector (eg database cleansing work and the alternative enforcement strategy (AES)).</p>



<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.2.5(i) Set up maintain and implement a documented procedure to ensure that its food premises database is accurate, reliable and up to date. [The Standard – 11.2]	30/09/14	A documented procedure to ensure that the food premises database is accurate, reliable and up to date has been developed and will be implemented (as identified in the departmental work plan agreed by Committee in 2013). As the database is shared by various Council departments this procedure will need to be developed in consultation with them and the Council's IT partners.	A number of practical steps continue to be carried out to ensure the accuracy of the database including an AES project, liaison with the management of trading estates, and the periodic running of exception reports.
3.2.5(ii) Ensure that its electronic food premises database is managed and operated in such a way as to enable the uploading of accurate information to the Local Authority Enforcement Monitoring System (LAEMS). [The Standard – 6.3]	Completed		Modifications have been made to the database to ensure that AES and desktop interventions are not classed as official controls. The database has also been modified to ensure that enquiries are not classified as complaints.

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.3.18(i) Carry out food hygiene interventions/inspections at a frequency which is not less than that determined by the Food Law Code of Practice. [The Standard – 7.1]	30/09/14	It is anticipated that interventions/inspections will be carried out at the required frequency once the additional FTEs referred to in 3.1.17 have been appointed.	The Authority has continued to focus on completing the most high-risk interventions (including unrated and approved establishments), and those which are significantly overdue for intervention. The Authority has also commenced an AES project and 1.5 FTEs are working on improving the approach to regulating unrated establishments.
3.3.18(ii) Ensure that inspections of general and approved establishments are carried out in accordance with the relevant legislation, the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.2]	30/09/14	The draft procedures will be formally adopted, and the internal monitoring to ensure compliance with the standard shall become maintained.	<p>Officers have been instructed to ensure that all contemporaneous notes generated from inspections and interventions are saved on the establishment files/records.</p> <p>Internal monitoring has been completed to ensure compliance with this work instruction.</p>

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.3.18(iii) Assess the compliance of establishments and systems including those in approved establishments to the legally prescribed standards and take appropriate and timely action on any non-compliance found in accordance with the Authority's enforcement policy. [The Standard – 7.3]	31/03/15	<p>It is anticipated that the timeliness of follow-up action will improve once the additional FTEs referred to in 3.1.17 have been appointed.</p> <p>All approved premises will be subject to detailed review to ensure that these records are complete and consistent with the Framework Agreement. This project will be completed over the next year.</p>	<p>The review of approved establishment files is ongoing and a number of such files have been updated to include the required information and updates regarding the status of other establishments have been provided to the Agency.</p> <p>Following the appointment of new staff (Jan'14) 2.0 FTE officers have been dedicated to inspection and regulation of manufacturing and approved establishments.</p>
3.3.18(iv) Ensure that observations made and data obtained during interventions are stored in such a way that they are retrievable. [The Standard – 7.5]	Completed	Completed	All contemporaneous notes are now being scanned and saved electronically on the electronic database.
3.4.6 Carry out food law enforcement in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 15.3]	Completed	There is an on-going programme of internal monitoring to ensure compliance with this requirement of The Standard.	Officers have been reminded of the need to follow all local standard operating procedures (SOPs), the FLCoP and other centrally issued guidance.

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.5.2 Expand on the current internal monitoring activities carried out to verify the conformance of the Service across the whole of the Standard in the Framework Agreement, the Food Law Code of Practice, relevant centrally issued guidance and the Authority's own documented policies and procedures. [The Standard – 19.2]	31/03/15	Internal monitoring activities will be further expanded during 2014/15 to verify the conformance of the Service across the whole of the Standard.	<p>The Service has introduced further SOPs across the service, these will continue to be developed and formally issued once operationally reviewed.</p> <p>Current internal monitoring activities have been expanded to include additional monitoring of formal enforcement as well as procedures relating to the approval of establishments.</p>
3.5.6 Ensure that timely investigations are made on receipt of food and food premises complaints in accordance with the Authority's own service standards and policies. [The Standard – 8.2]	30/09/14	It is anticipated that this situation will improve once the additional FTEs referred to in 3.1.17 have been appointed.	<p>Officers have been reminded of the need to ensure that investigations are timely and further internal monitoring on complaint investigations has led to further team-wide and individual feedback being provided.</p> <p>We have introduced a weekly duty rota in place where 1.5-2.0 FTEs are responsible for managing all reactive work.</p>

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.5.11 Maintain up to date and accurate records in retrievable form on all food law enforcement activity in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 16.1]	30/06/14	Further modifications to the intervention checklists for general and approved establishments are planned in order to improve data capture in particular areas.	A work instruction has been issued requiring officers to scan all notes and save these electronically on to the relevant establishment or investigation file. This is monitored as part of the internal monitoring process.

## **ANNEX 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:

- Food Service Delivery Plan 2013/14 including accompanying relevant committee items
- Summary of Annual Performance 2012/13
- Food Safety Team Action Plan and update 3 December 2013
- Examples of quarterly performance reports
- QMS master list of documents
- Control, Distribution and Production of Procedures & Documents procedure
- Induction and Training for Authorisation of Food Law Enforcement procedure
- Example of vetting document for new applicant
- Authorisation & Procedural Update checklist
- Criteria for Authorisation for Food Safety Enforcement record/checklist
- Food Hygiene and Food Standards Interventions procedure
- Approved Establishments Interventions procedure
- Re-approval of Pre-2006 Establishments procedure
- Alternative Enforcement Strategy procedure
- Standard interventions letters and inspection aides-memoire/checklists
- Committee items on Primary Authority Partnership
- Committee items on adoption of the FHRS
- Remedial Action Notice procedure
- Food and Food Premises policy
- Food Complaints procedure
- Food Premises Complaints procedure
- Debugging the Database action plan
- Food, Water and Environmental Sampling Plan 2013/14
- Food Sampling Policy
- Food Sampling procedure
- Current and previous corporate enforcement policies
- Committee items relating to new enforcement policy
- Hygiene Improvement Notice procedure
- Hygiene Emergency Prohibition Notice & Order procedure
- Detention & Seizure of Food Overview procedure
- Detention & Seizure of FNAO Imported from Outside EU procedure
- Voluntary Surrender procedure
- Simple Caution procedure
- Legal Proceedings procedure

- Monitoring, Competency and Consistency procedure and associated checklists
- Examples of team and regional meeting minutes
- Examples of internal monitoring records
- Internal audit reports on Food Approvals, and Food safety Extended Follow-Up.

(2) File reviews – the following LA file records were reviewed during the audit:

- General food premises inspections
- Approved establishments
- Food and food premises complaints
- Food sampling
- Formal enforcement activities.

(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:

- Team Leaders
- Head of Regulatory Services
- Regulatory Services Manager
- Database Administrator
- Regulatory Services Officers
- EHO (Policy)
- Environmental Health 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 the Authority's officers to a local food business. The purpose of the visit was to verify the outcome of the last inspection carried out by the Local Authority and to assess the extent to which enforcement activities and decisions met the requirements of relevant legislation, the Food Law Code of Practice and official guidance, having particular regard to LA checks on FBO compliance with HACCP based food management systems.

## **ANNEX 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.
External Temporary Storage Facility (ETSF)	A warehouse (formerly known as an enhanced remote transit shed or ERTS) 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"> <li>• Food and Feed Law Enforcement Standard</li> <li>• Service Planning Guidance</li> <li>• Monitoring Scheme</li> <li>• Audit Scheme</li> </ul> <p>The <b>Standard</b> and the <b>Service Planning Guidance</b> set out the Agency’s expectations on the planning and delivery of food and feed law enforcement.</p> <p>The <b>Monitoring Scheme</b> 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 <b>Audit Scheme</b> 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 Equivalents (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.