

# **Audit of Local Authority Service Delivery Operation of the Food Hygiene Rating Scheme**

Erewash Borough Council  
24-25 February 2016



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## **1.0 Introduction**

- 1.1 This is a report on the outcomes of the Food Standards Agency's (FSA's) audit of Erewash Borough Council conducted between 24<sup>th</sup> and 25<sup>th</sup> February 2016 at Merlin House, Merlin Way, Ilkeston. The audit was carried out as part of a programme of audits on local authority (LA) operation of the Food Hygiene Rating Scheme (FHRS). 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 FSA's Local Delivery Division:  
Email: [LAAudit@foodstandards.gsi.gov.uk](mailto:LAAudit@foodstandards.gsi.gov.uk) / Tel: 01904 232116.

- 1.2 The audit was carried out under section 12(4) of the Food Standards Act 1999 and section 11 of the FHRS Brand Standard. The FSA is committed to fulfilling its role in monitoring and auditing the implementation and operation of the FHRS. Consistent implementation and operation of the FHRS is critical to ensuring that consumers are able to make meaningful comparisons of hygiene ratings for establishments both within a single local authority area and across different local authority areas, and to ensure businesses are treated fairly and equitably.
- 1.3 The Agency will produce a summary report covering outcomes from the audits of all local authorities assessed during this programme.

## **2.0 Scope of the Audit**

- 2.1 The audit focused on the LA's operation of the FHRS with reference to the FHRS Brand Standard, the Framework Agreement and the Food Law Code of Practice (FLCoP). This included organisation and management, resources, development and implementation of appropriate control procedures, reporting of data, premises database, training of authorised officers and internal monitoring. Views on operation of the FHRS were sought to inform FSA policy development.

## **3.0 Objectives**

- 3.1 The objectives of the audit were to gain assurance that:
- The LA had implemented the FHRS in accordance with the Brand Standard
  - There were procedures in place to ensure that the FHRS was operated consistently.
  - Notifications of ratings, handling of appeals, requests for re inspection and rights to reply were dealt with efficiently.

- Scoring under Chapter 5.6 of the FLCoP was appropriately evidenced and justified.
- Inspections were carried out at intervals determined by Chapter 5.6 of the FLCoP
- Officers administering the scheme were trained and competent.

The audit also sought to identify areas of good and innovative FHRS working practice within Local Authorities. A key focus was on consistency with the Brand Standard.

#### **4.0 Executive Summary**

4.1 The Authority was selected for audit as it was representative of a LA with a low percentage (0.4) of 0-1 rated and medium percentage (63) of 5 rated establishments.

4.2 It was clear from the evidence provided the Authority was committed to delivering the FHRS successfully in the district. The Authority was generally found to be operating the FHRS in accordance with the obligations placed on it by participation in the Scheme. However, some improvements were identified to enable the Service to provide accurate data, consistent operation and the required level of protection to consumers and food business operators in order to meet the requirements of the FHRS Brand Standard, the Framework Agreement and the FLCoP. A summary of the main findings and key improvements necessary is set out below.

#### **4.3 Strengths:**

4.3.1 The Authority was on target to deliver all 2015/16 due interventions which will enable consumers access to up to date FHRS information.

4.3.2 The Authority had three local performance indicators based on the FHRS, performance against which it reported quarterly to the senior management team, providing high-level visibility in the Authority for the FHRS.

4.3.3 The Authority had awarded a food hygiene rating to all its registered food businesses other than those new businesses awaiting inspection. It had been active in taking up a FSA grant to coach food businesses and promote display of the FHRS sticker.

#### **4.4 Key areas for improvement:**

- 4.4.1 The level of recorded detail to support authorised officer assessment of compliance with legal and FHRS requirements and justification of their rating was variable.
- 4.4.2 If not notified at the time of intervention, the food hygiene rating must be communicated in writing without undue delay and within 14 days from the date of the intervention.

### **5.0 Audit Findings and Recommendations**

#### **5.1 Organisation and Management**

- 5.1.1 The Authority had in place a service delivery plan for 2015/16 which was generally written in accordance with the service planning guidance of the Framework Agreement on Official Feed and Food Controls by Local Authorities (the “Framework Agreement”). The Plan made appropriate references to the FHRS.
- 5.1.2 The Authority had documented a service review within the service plan for 2015/16. Auditors were advised the Plan had not been submitted for approval to the relevant member forum due to local elections but had been discussed with the Service Portfolio Member. Future Plans were to be submitted to the Council Executive.
- 5.1.3 The Authority had three local performance indicators of relevance to the FHRS: maintain at or above 96% of food businesses rated 3, 4 or 5, undertake 100% of the planned intervention programme and 100% follow up enforcement action in premises rated 0-2. These were reported quarterly to the senior management team.
- 5.1.4 The Service Plan clearly sets out the food premises intervention programme for the year, and it was noted the Service was delivering an intervention programme in accordance with the FLCoP.
- 5.1.5 The Authority had not estimated the resource required for each part of the food law enforcement service and compared it with the resource available. We discussed this issue with managers at the Authority during the audit, pointing out that the provision of such information can help quantify any resource shortfalls for senior managers and elected Members during service and budget planning discussions.

## **5.2 FHRs implementation history**

- 5.2.1 The Authority had launched the FHRs taking the “Critical Mass” approach in 2012. All food premises within the scope of the scheme (with the exception of unrated establishments) had a food hygiene rating assigned to them. It was clear from the evidence provided the Authority was committed to delivering the FHRs successfully in the district.
- 5.2.2 In 2014/15 the LA received grant funding from the FSA to improve display of FHRs stickers at premises rated 3 or above. The key objective of the project was to promote display of stickers particularly in high street locations.

## **5.3 Authorisation and Training**

- 5.3.1 The authorisation and training records of five food safety officers were checked. All officers were appropriately authorised and qualified in accordance with their authorisations in relation to inspection work related to FHRs. The level of officer authorisation under relevant legislation was recorded on an authorisation matrix. Auditors discussed the need for the Lead Food Officer to undergo training on specialist processes relevant to the premises on the district.
- 5.3.2 All officers had attended risk rating consistency training and HACCP (Hazard Analysis and Critical Control Point) training. All staff had achieved 10 hours CPD (Continuous Professional Development) over the past year as required by the FLCoP. Training records were well maintained and most had a summary sheet capturing the running total of the years CPD

## **5.4 Inspection Procedures**

- 5.4.1 The inspection procedure had recently been reviewed in 2015 and provided guidance for the inspecting officer in respect of the FHRs scheme both during the planning and follow up actions to an inspection.
- 5.4.2 The Authority also had in place a FHRs Brand Standard Consistency Framework which reflected the requirements of the FSA FHRs Brand Standard; it provided officers with comprehensive guidance on the scheme. The Framework was generally up to date and contained a number of signposts to the Brand Standard and associated FSA documents.
- 5.4.3 The Consistency Framework assigned the responsibility for determining appeals against food hygiene ratings to the Lead Food

Officer and Senior EHO. No appeals had been lodged since the launch of the scheme.

- 5.4.4 Inspectors used an aide-memoire to record inspection findings together with the food hygiene rating awarded. The Authority was using FSA appeal and revisit request model forms in its communications with businesses.
- 5.4.5 Inspections had generally been carried out at the frequencies prescribed by the FLCoP. At the time of the audit 58 food establishments were still due a programmed inspection with 26 overdue categories of risk rated premises (4 C, 5 D, 17 E and no unrated). The Authority gave assurance all the due interventions for 2015/16 would be completed.
- 5.4.6 The Service had a policy of graduated enforcement with non-compliant businesses and officers had to complete a section on the inspection aide memoire which identified the issues of non-compliance and the actions required which were discussed with the FBO.
- 5.4.7 Auditors examined liaison arrangements with other local authorities regarding information on mobile, or itinerant, traders. These liaison arrangements are important in ensuring the consistent application of the Brand Standard across local authority boundaries. The Service was able to demonstrate appropriate transfer arrangements with neighbouring authorities in accordance with the Brand Standard and the FLCoP.
- 5.4.8 Five food premises files were examined during the audit. All had been inspected by an appropriately authorised officer and inspected at the required frequency. Generally the compliance scores allocated were supported with appropriate detail on the inspection aide memoires but there was an issue with legibility of some of the notes recorded. Auditors felt the section on HACCP assessment would benefit from review to ensure sufficient detail was consistently recorded to support the officer's assessment. It was noted in one premise significant non-compliance had been identified and more detail was needed as to why the full range of compliance weightings had not been considered. Good example of appropriate follow up enforcement was noted in one of the files examined.

**Recommendation 1 - Recording of scoring evidence**

[The Standard 16.1]

[See also paragraph 5.4.8]

Ensure officers record the determination of compliance with legal requirements in sufficient detail and legibility to justify their choice of rating and confirm adequate assessment of the FHRs compliance elements.

- 5.4.9 One of the premises files checked had been awarded a confidence in management (CIM) score of 10 on two consecutive occasions despite not having a fully satisfactory food safety management system. The Service agreed to review the scoring in accordance with the FLCoP requirements.

**Reality Visit to a Food Premises**

- 5.4.10 During the audit, a verification visit was undertaken to a local food business with an officer from the Authority. The main objective of the visit was to evaluate the effectiveness of the Authority's assessment of food business compliance with food law requirements.
- 5.4.11 The officer had a good working relationship with the food business operator (FBO) and was able to demonstrate a detailed knowledge of food safety legislation and food safety management systems at the establishment.

**5.5 Notification of ratings and follow up**

- 5.5.1 The Authority operated a policy that the FHR was determined in the office following an official control intervention. The Service advised auditors they were in the process of moving towards officer's trialling issuing 5 ratings when appropriate at the time of the intervention in risk rated category E premises.
- 5.5.2 A report form was left on-site identifying issues requiring attention but this needed review as it did not distinguish between legal requirements and recommendations. However it was acknowledged these were followed up by written confirmation which included the information required by the Brand Standard and annex 4 of the FLCoP. FBOs were provided a leaflet explaining how the rating was calculated and safeguards of the scheme.
- 5.5.3 In three of the files examined the follow up notification of the food hygiene rating to the FBO was in excess of the 14 days required by the Brand Standard and contrary to the Services FHRs Consistency Guide and Inspection Procedure. It was noted this was a target monitored as part of sample file checks by the Lead Food Officer. Auditors advised this target was reiterated to officers and closely



monitored as part of the Consistency Framework. All premises had received their rating sticker.

- 5.5.4 There was evidence of internal monitoring of the FHR scoring by the Lead Food Officer and Senior EHO on two of the files examined.
- 5.5.5 The food hygiene rating score on the Authority's database matched that found on the FHRS website for all five premises.
- 5.5.6 The Authority reported that it was not aware of any food hygiene rating stickers being defaced or tampered with.

**Recommendation 2 – Notification Policy: food hygiene ratings**

[The FHRS Brand Standard, Revision 3, Section 5]  
[See also paragraph 5.5.3]

If not notified at the time of intervention, the food hygiene rating must be communicated in writing without undue delay and within 14 days from the date of the intervention.

**Re-Inspection/Re-visits**

- 5.5.7 Five food premises re-Inspection/re-visit files were examined during the audit. All had been correctly administered in accordance with the Brand Standard and it was noted in two cases the FBO had subsequently withdrew their application.

**Appeals/ Right to Reply**

- 5.5.8 No businesses had lodged an appeal or made a right to reply in the two years preceding the audit. However the associated procedure was outlined for officers in the Consistency Framework and was in accordance with the Brand Standard.

**5.6 Food Premises Database**

- 5.6.1 The Authority had in place a food premises database which was capable of providing the information required by the FSA to populate the FHRS database.
- 5.6.2 The database was backed up daily and access permissions were limited with further restrictions permitting only key staff to create new food businesses.
- 5.6.3 The database was up to date. Prior to the audit, a search was carried out using the internet and seven food businesses were checked

against the Authority's database. All were included in the food hygiene intervention programme. The correct FHRs status tag had been applied to the businesses checked and had their FHR information correctly presented on the FSA website.

5.6.4 The Authority had put in place an FHRs Upload Procedure which prescribed the audit and upload of its data to the FSA FHRs database every 2 weeks if practicable and within a max of 27 days. The procedure followed the published FSA IT guidance for the FHRs.

5.6.5 A detailed report was prepared on further potential anomalies of data submitted to the FHRs portal in advance of the visit. This was provided to the LA for future resolution and was discussed with the Lead Food Officer during the audit.

5.6.6 Reality Upload

A reality upload to the FHRs portal was included in the verification checks on the LA database. A successful live data upload was carried out during the audit and in accordance with the FSA IT guidance for the Brand Standard. The Lead Food Officer was able to demonstrate that accurate data could be uploaded within expected time frames.

## **5.7 Consistency Framework**

5.7.1 The Authority had a consistency framework in place that was based on the principles contained within section 11 of the Brand Standard. Interviews with officers confirmed a good working knowledge of the procedure.

5.7.2 The Service carried out quantitative, as well as qualitative internal monitoring against the requirements of the FHRs Brand Standard and its own Consistency Framework.

5.7.3 The monitoring included inspection report checks by the Lead Food Officer and Senior EHO to verify the rating reflected officer comments and that notification of ratings were sent within 14 days. Any changes in risk rating category A and B downgrades, non-broadly compliant premises and FHRs increases from 0, 1 or 2 up to a 5 had to be verified by the Lead Food Officer or Senior EHO. Evidence of some internal monitoring was provided and noted on some of the files examined. We discussed the need to review the extent of internal monitoring carried out to take into account the audit findings.

5.7.4 The Authority had taken part in the national FHRs consistency exercise recently conducted by the FSA and had participated previously in exercises organised by the regional food liaison group (FLG). Minutes of discussion about FHRs at team and FLG meetings was provided. Auditors discussed the benefits of conducting more regular internal consistency exercises.

5.7.5 The Authority had also participated in an inter authority audit through the regional food liaison group in 2013 which included the operation of the FHRIS scheme.

## **5.8 Local Authority Website**

5.8.1 The Authority's website contained information for the public and food businesses about the FHRIS scheme and how ratings were calculated and included a link to the FSA business web pages and the FHRIS ratings website.

## **5.9 FHRIS Website**

5.9.1 The Authority had published its current e-mail address, website address and logo on the FHRIS website.

## **5.10 Issues Outside of Scope**

5.10.1 On checking the premises database auditors found that there were some irregularities with the intervention rating scoring system. Examples noted were an extra score of 20 for significant risk been allocated following interventions with a zero for confidence in management and an additional score of 22 for vulnerable groups had been allocated more widely to establishments, contrary to the FLCoP. Auditors recommended that these scores be reviewed and amended where appropriate.

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## ANNEX A - Action Plan for Erewash Borough Council

Audit date: 24 - 25 February 2016

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p><b>Recommendation 1 - Recording of scoring evidence [The Standard 16.1]</b></p> <p>Ensure officers record the determination of compliance with legal requirements in sufficient detail and legibility to justify their choice of rating and confirm adequate assessment of the FHRS compliance elements.</p>	<p>30 June 2016</p>	<p>A team meeting is planned for 19 April 2016 to discuss the audit findings and the changes to the pro-forma with the officers.</p> <p>To ensure this is being implemented effectively the recording of scoring evidence will be subject to closer checks for those files subject to proactive monitoring and will be included in the monthly retrospective monitoring checks.</p>	<p>Discussion with officers on the audit findings and the need for recording this information. The inspection pro-forma has been updated to prompt the recording of information in more detail.</p>

<p><b>Recommendation 2 – Notification Policy: food hygiene ratings [The FHR Standard, Revision 3, Section 5]</b></p> <p>If not notified at the time of intervention, the food hygiene rating must be communicated in writing without undue delay and within 14 days from the date of the intervention.</p>	<p>30 June 2016</p>	<p>This will be subject to closer internal monitoring to ensure this is being implemented effectively.</p>	<p>Officers have been advised of the requirement and the audit findings at a team meeting on 16 March 2016. The number of notification over the 14 days is a small proportion of the total number. Officers are aware of and always try to meet the required deadline. This is not always possible due to other work priorities and the focus of resources is undertaking the inspection. Systems are in place to amend the notification date so the FBO still has the 14 day period to make an appeal. Other planned changes to inspection monitoring may support the officers to make the FHR notification in 14 days.</p>
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## **ANNEX B - Audit Approach/Methodology**

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

- (1) Examination of LA plans, policies and procedures.
- (2) A range of LA file records were reviewed.
- (3) Review of Database records
- (4) Officer interviews

## **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.
Brand Standard	This Guidance represents the 'Brand Standard' for the Food Hygiene Rating Scheme (FHRS). Local authorities in England and Northern Ireland operating the FHRS are expected to follow it in full.
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.
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 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.
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.
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.