

Report on the Audit of Local Authority Inland Imported Food Control Arrangements

Leicester City Council
23-24 November 2010



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. These arrangements recognise that the enforcement of UK food 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 Agency's website contains enforcement activity data for all UK local authorities and can be found at:

www.food.gov.uk/enforcement/auditandmonitoring.

The attached audit report examines the Local Authority's Feed and Food Law Enforcement Service. The audit scope includes the assessment of local arrangements in place for service planning, delivery and review, provision and adequacy of officer training on imports and authorisations, and implementation and effectiveness of imported food (including inspection, sampling and enforcement). Maintenance and management of appropriate records in relation to imported food activities and food businesses that handle imported food, as well as internal service monitoring arrangements, will also be examined.

This programme of focused audits has been specifically developed to address one of the main priorities identified in the Food Standard Agency's Strategy for 2010-2015 in meeting the outcomes that imported food is safe to eat and that regulation is effective, risk-based and proportionate. The strategic priority is to ensure risk-based, targeted checks at ports and local authority monitoring of imports throughout the food chain.

The audits examined Port Health Authority (PHA) and Local Authority (LA) systems and procedures for control of imported food and where relevant imported feed, at ports of entry (sea and air) and at inland authorities, in 15 geographically representative PHAs and LAs in England. The audits of PHAs were confined to food not of animal origin (FNAO), where relevant imported feed. However the audits of inland authorities covered products of animal origin (POAO) and FNAO. As part of the programme, other LAs with ports are also being contacted to establish whether liaison with ports and appropriate checks on imports are being undertaken.

Agency audits assess local authorities' conformance against the Feed and 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 (amended April 2010) and is available on the Agency's website at:

www.food.gov.uk/enforcement/auditandmonitoring/auditreports.

It should be acknowledged that there will be considerable diversity in the way and manner in which local authorities may provide their feed and food enforcement services reflecting local needs and priorities.

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 feed and 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.

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

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1. Introduction

1.1 This report records the results of an audit at Leicester City Council with regard to food law enforcement, under relevant headings of the Food Standards Agency Feed and Food Law Enforcement Standard. The audit focused on the Authority's arrangements for imported food controls. The audit was undertaken as part of the Agency's focused audit programme on imported food and, where appropriate, feed controls. 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 feed and 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 Leicester City Council was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme. 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

1.3 Leicester City Council was included in the Food Standards Agency's programme of audits of local authority food and feed law enforcement services, because the Authority is home to a diverse community and therefore is likely to be an area where many local food businesses handle imported food. In addition the Authority was selected to be representative of a geographical mix of 15 PHAs and LAs 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

- 1.4 The audit examined Leicester City Council's arrangements for imported food controls in respect of both imported food not of animal origin (FNAO) and products of animal origin (POAO).
- 1.5 The audit scope included the assessment of local arrangements for service planning, delivery and review, provision and adequacy of officer training on imports and authorisations, implementation and effectiveness of imported food control activities, including inspection, sampling and enforcement. Maintenance and management of appropriate records in relation to imported food activities and food businesses that handle imported food, as well as internal service monitoring arrangements, were also examined.
- 1.6 The on-site element of the audit took place at the Authority's office at New Walk Centre, Leicester on 23-24 November 2010. The audit included a reality check 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 compliance with imported food law requirements.
- 1.7 The audit also afforded the opportunity for discussion with officers involved in imported food law enforcement with the aim of exploring key issues and gaining opinions to inform Agency policy. A set of structured questions were used as the basis for discussions which sought views and information on areas related to imported food controls such as:
- service planning and the strategic framework of controls
 - training and support
 - criteria used to determine the level of checks
 - issues affecting the imported food control programme
 - sampling, surveillance and enforcement approaches.
- 1.8 The information gained during interviews will be incorporated into a summary report on the imported food and feed inspection and control activities audit programme.

Background

- 1.9 Leicester has a population of 280,000 people, of which approximately 30% are from ethnic communities that originate in the Asian sub-continent. There are nearly 3,000 registered food businesses in Leicester, the majority of which are small (less than 50 workers), or micro (less than 10 workers) enterprises, with some businesses operated by people for whom English is not their first language. The catering sector has increased significantly over the past ten years and the Authority confirmed that takeaway businesses have a particularly high turnover rate. A number of national food producers are based or

have factories within the City and Leicester is also home to a number of specialist ethnic food producers and importers.

- 1.10 The food safety function was delivered by officers within the Food Safety Team who also implemented the Authority's 'SmileSafe' food premises hygiene rating scheme. Sampling for microbiological testing and investigation of food related illness and food incidents were also undertaken by the Food Safety Team. The Trading Standards Service maintained responsibility for feedingstuffs and food standards enforcement including food labelling, durability dates and product description. Food Safety and Trading Standards were both within the Business Regulation Service which formed part of the Environmental Services Division. Imported food work was split between Trading Standards and the Food Safety Team.
- 1.11 The 2010/2011 Service Plan for Food Safety Enforcement provided details on the types of food businesses in the City. Although anomalies in the premises figures were noted between the two teams, the table in paragraph 1.12 illustrates a number of manufacturers and packers, food importers/exporters and distributors, however the majority of food businesses were in the catering and retail sector.
- 1.12 The profile of Leicester City Council's food businesses, as shown in the 2010/2011 Service Plan was as follows:

| Type of Food Premises | Number (Food Safety) | Number (Feed and Food Standards) |
|--------------------------------------|----------------------------------|--|
| Manufacturers/Packers | 79 | 101 |
| Importers/Exporters | 8 | 27 |
| Distributors | 63 | 54 |
| Retailers | 815 | 648 |
| Restaurants/Caterers | 1788 | 943 |
| Total Number of Food Premises | 2753 | 1778 |

The anomalies noted are addressed later in the report.

2. Executive Summary

- 2.1 Leicester City Council is a Unitary Authority with separate Food Safety Team and Trading Standards Teams enforcing food legislation. The Trading Standards Officers in Leicester work across a number of regulatory areas with no managers or officers dedicated exclusively to food law enforcement. The Authority had developed a Service Plan for Food Law Enforcement which was generally in line with the Service Planning Guidance in the Framework Agreement. The Plan would benefit from the inclusion of information about staff and financial resources for the Service. Anomalies were noted between the two teams records of the types and numbers of food establishments in the City.
- 2.2 The Authority had developed an enforcement policy and prosecutions policy for regulatory activities but did not maintain documented policies and procedures for each of the enforcement activities covered by the scope of the audit or in accordance with the Food Law Code of Practice. Auditors discussed the benefits to the Authority of developing documented procedural guidance across all enforcement activities in order to provide useful reference in the absence of key specialist officers, to promote officer consistency, and to provide the basis for effective internal monitoring.
- 2.3 Although the Authority had developed a Scheme of Authorisation, the officers Warrant of Authority required review in accordance with the scheme. The current method of authorising officers needed to be reviewed and documented to take account of their individual qualifications, training and competency. In general officers were found to have completed the minimum 10 hours of relevant training based on continuing professional development (CPD). Although a number of officers had recently attended training on imported food controls, auditors discussed the benefit of officers in both teams maintaining a more comprehensive knowledge of imported food legislation and relevant controls.
- 2.4 A recent lack of staff resources in the Trading Standards team had led to a significant number of food standards interventions becoming overdue. The Food Safety Team had prioritised their interventions scheme as they were also unable to achieve the intervention frequency required by the Food Law Code of Practice based on their current staff resources.
- 2.5 Significant variation was noted in the quality of records retained between different officers in both teams in relation to food inspection, food sampling and enforcement actions. Audit checks confirmed that some investigatory enforcement actions had been comprehensively carried out and records maintained, however auditors noted that in many cases appropriate follow-up actions had not always been taken.

- 2.6 There were effective liaison arrangements between the Authority and its neighbouring authorities, for example proactive and committed attendance at food liaison groups, and with central government departments and external stakeholders.
- 2.7 Auditors were advised that changes were made to the operational management of the Trading Standards Service in Autumn 2009 whereby the Trading Standards manager was acting up for a Head of Service on secondment. Two frontline officers strengthened management and support.
- 2.8 The Authority did not maintain a documented internal monitoring procedure, however there was some evidence of qualitative monitoring within the Food Safety Team. Quantitative monitoring such as interventions and enforcement activities were reported through the annual Service Plan.

3. Audit Findings

3.1 Organisation and Management

Strategic Framework, Policy and Service Planning

- 3.1.1 The Authority had developed a documented Service Plan for Food Law Enforcement 2010/2011. The previous 2009/2010 Service Plan had been approved in January 2010 by Full Council and the current Plan was due to undergo a similar approval process. The Plan was generally in line with the Service Planning Guidance in the Framework Agreement. Both the Food Safety Team and Trading Standards Team contributed their own individual sections covering planned interventions, sampling, complaints and a review of the Service.
- 3.1.2 The Food Law Enforcement Plan set out the links to the 2008 'One Leicester' corporate strategy, and annual contributions to One Leicester were made through the Division's Service Improvement and Efficiency Plans. The Service Plan for Food Law Enforcement was therefore an 'expression of commitments to meet statutory and local priorities' that would:
- Prevent ill health and death arising from food poisoning
 - Ensure that retailers and caterers supply good quality food
 - Prevent and detect fraud in the production and description of food
 - Assist Leicester's food businesses to comply with legislation
- 3.1.3 Within the Plan there was little reference to imported food controls other than in relation to Trading Standards food sampling from importers. A review of the work undertaken by both teams had been included within their respective sections and variances addressed. Auditors noted anomalies between the numbers of different categories of food establishments reported by the two teams.
- 3.1.4 The Service Plan confirmed that there was a total staffing allocation of 7.6 Full Time Equivalent (FTE) authorised officers for food safety work and 1.5 FTE authorised officers for food standards. The Plan for the Food Safety Team stated that '*The number of inspections required by the Food Law Code of Practice intervention rating scheme exceeds the resources available to achieve all of them, priorities are therefore determined locally*'. Trading Standards will '*review its priorities and local strategic assessment during 2010-2011. As part of this review, the service will reassess the number of full time equivalent posts required to deliver the service plan*'.
- 3.1.5 Auditors discussed the requirement to provide more information concerning staff resources for all enforcement activities across the services and the financial resource allocation in providing the Service. Future plans for both Food Safety and Food Standards teams would benefit from expansion to include a comparison of full time equivalent

staff available against the resource required to deliver all aspects of the Service, including any extra demands e.g. from the enforcement of imported food controls. Inclusion of the financial allocation was also needed, setting out the overall level of expenditure in providing the Service.

Recommendation

3.1.6 The Authority should:

Further develop the Service Plan for Food Law Enforcement to ensure that it is in full accordance with the Service Planning Guidance. The Plan should include an estimation of the demands placed upon the Service, including those relevant to imported food controls and the staff and financial resources required to deliver the Service effectively. [The Standard - 3.1]

Documented Policies and Procedures

3.1.7 The Authority did not maintain all relevant policies and procedures for each of the enforcement activities covered by the scope of the audit or in accordance with the Food Law Code of Practice. The provision of procedural guidance across all enforcement activities would benefit the Authority in providing a useful reference for officers, particularly in the absence of key specialist officers, and would help to address inconsistencies in officers' records of inspections and interventions, and anomalies in database records.

Recommendation

3.1.8 The Authority should:

Ensure that policies and procedures relating to all food enforcement activities are documented and adequately provide guidance on all areas of food law enforcement including those related to imported food controls. A document control system should be implemented and maintained to ensure relevant policies and procedures are reviewed at regular intervals and whenever there are changes to legislation or centrally issued guidance. [The Standard - 4.1 and 15.2]

Authorised Officers

- 3.1.9 The Authority had recently developed a Scheme of Authorisation which included most of the necessary up to date legislative references to food and including imported food. The Director of Environmental Services had delegated authority to authorise staff for the discharge of functions and statutory duties within his Division. Heads of Service and Team Managers were responsible for ensuring that all officers within their service area properly exercised all statutory powers delegated to them.
- 3.1.10 The powers detailed in the document were 'post-specific' and were therefore automatically conferred on an officer upon appointment to a given post. However, this blanket level of authorisation did not take into consideration officer's individual level of qualification, experience, and competency with reference to the relevant Codes of Practice. An authorisation procedure based on officer competence had not been developed to implement the Scheme of Authorisation.
- 3.1.11 The 'Warrant of Authority' carried by the authorised officers required review to include reference to the schedule of legislative powers within the scheme of authorisation with the inclusion of some additional legislative references to reflect officers' actual duties and powers.

Recommendation

3.1.12 The Authority should:

Set up, maintain and implement a documented procedure for the authorisation of officers based on their competence and in accordance with the Food Law Code of Practice. Review the Scheme of Authorisation and Warrant of Authority to ensure that officers are specifically authorised in accordance with their individual qualifications and levels of experience and competency. [The Standard - 5.1]

- 3.1.13 Officer's individual training and development needs were identified as part of the annual performance review process, at team meetings and when there were changes to legal requirements and centrally issued guidance. The identified training requirements of the current officers were fed into the regional training groups and appropriate courses were delivered by the Chartered Institute of Environmental Health (CIEH) and Trading Standards East Midlands (TSEM). Any other training needs were delivered either in-house or, where available, through external providers.

- 3.1.14 Audit checks confirmed that, in general, the food safety officers had achieved the minimum of 10 hours relevant training based on the principles of continuing professional development (CPD), however it was not evident that all officers carrying out food standards enforcement had achieved the minimum 10 hours relevant CPD training.
- 3.1.15 Within the two teams officers had attended relevant training on imported food controls, and although officers were able to demonstrate some understanding, auditors discussed the benefit of further training of officers in both teams, particularly in relation to the enforcement of controls applicable to high risk foods of non-animal origin.
- 3.1.16 Auditors were advised that since January 2010, the frontline establishment of the Trading Standards Service as a whole was reduced by three full time officers and managers tasked officers with what they judged to be higher priority demands on the resources of Trading Standards.

Recommendations

3.1.17 The Authority should:

- (i) Appoint a sufficient number of authorised officers to carry out the work set out in the service delivery plan. The level of authorisation and duties of the officers should be consistent with their qualifications, training, experience and the relevant Codes of Practice. [The Standard - 5.3]
- (ii) Ensure that all officers receive appropriate and adequate training on the enforcement of imported food controls in accordance with the Food Law Code of Practice. [The Standard - 5.4]

Food Premises Database

- 3.1.18 The Authority had submitted their LAEMS return 2009/2010 but there had been delays in the submission of the Food Standards section due to technical problems and lack of specialist staff knowledge in the team.
- 3.1.19 Auditors noted issues with the accuracy of the shared food safety and trading standards database, in that there were significant anomalies between the numbers of premises coded for food safety inspections in

comparison with those coded for food standards inspections. The Authority advised that this was due to a different interpretation between the two teams of the definitions of types of food establishments.

- 3.1.20 Anomalies were also noted between the two teams in the definitions of importers, so different numbers of importers were reported in the Service Plan. There were no known enhanced remote transit sheds (ERTS) in the Authority.
- 3.1.21 Auditors discussed the benefit to the Authority of developing a documented procedure for ensuring its database was accurate, reliable and up to date, as the accuracy of such a database is fundamental to service delivery and monitoring.

Recommendations

3.1.22 The Authority should:

- (i) Ensure that the computer software package is configured and operated in such a way as to provide reliable and accurate information on food standards activities and imported food activity.
[The Standard – 6.3]
- (ii) 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]

Liaison with Other Organisations

- 3.1.23 The Authority had effective liaison arrangements with other Leicestershire local authorities. Minutes of recent meetings showed evidence of proactive commitment and attendance at the Leicestershire Food Liaison Group, the Trading Standards East Midlands (TSEM) Food and Agriculture Group, and the Food Safety Team of the Leicestershire and Rutland CIEH food group.
- 3.1.24 The Authority had liaised as appropriate on imported food issues with other relevant bodies including Government agencies such as the Food Standards Agency and Defra.

3.2 Imported Food Control Activities

Food Premises Inspections

- 3.2.1 The Service Plan for the Food Safety Team confirmed that the inspection of food business establishments took up more resources than any other activity carried out by the team, in addition to follow-up action to improve compliance with food law where appropriate. The Plan stated that the number of inspections required by the food establishment intervention rating scheme in the Food Law Code of Practice consistently exceeded the resources available. Priorities had been determined locally and focussed on targeting the highest risk establishments.
- 3.2.2 The Feed and Food Standards Plan confirmed that the Service target was to carry out interventions at no less than 50% of risk category A businesses. Auditors were advised that this target was not being achieved due to a reassessment of priorities, a reduction in staff resources and an increase in complaints diverting staff resources.
- 3.2.3 Audit checks and LAEMS returns confirmed that a significant number of food standards interventions were overdue, and at the time of audit 2 Category A, 29 Category B and 247 Category C establishments were overdue for food hygiene inspections.

Recommendation

3.2.4 The Authority should:

Ensure that food hygiene and standards interventions/inspections of food businesses in their area are carried out at a frequency which is not less than that determined under the intervention rating scheme set out in the relevant legislation, Food Law Code of Practice or other centrally issued guidance. [The Standard – 7.1]

- 3.2.5 During audit discussions, both Food Safety and Trading Standards Teams acknowledged that regular checks to identify illegal imports or third country imports and appropriate follow-up actions were not generally being undertaken and should take place as an integral part of day to day interventions at food businesses.
- 3.2.6 A Food Hygiene Inspection procedure dated April 2009 had been developed but this required expansion to include imported food inspection to provide consistent guidance to officers. The Authority would also benefit from developing a documented procedure for food

standards interventions carried out including consideration of activities relating to imported food controls.

- 3.2.7 Audit checks were carried out on five recent inspections files, three of which related to food hygiene and two to food standards. In the food hygiene files examined, significant variation in the detail recorded by different officers was found and the records examined did not adequately demonstrate that imported food was routinely assessed during interventions. In the food standards files there was also significant variation found in the detail of interventions recorded by different officers. The level of evaluation of imported food legislation controls was unclear from the evidence retained, particularly without the use of an appropriate aide-memoire for food standards inspections.
- 3.2.8 In all but one of the five files examined it was not clear that appropriate and proportionate follow-up action had been taken or whether actions had been taken in line with the Authority's own enforcement policy and food hygiene inspection procedure.
- 3.2.9 There was no evidence of internal monitoring noted on the files examined.

Recommendations

3.2.10 The Authority should:

- (i) Assess the compliance of establishments and systems in relation to imported food controls to legally prescribed standards and take appropriate action on any non compliance found, in accordance with the Authority's enforcement policy. [The Standard – 7.3]
- (ii) Set up, maintain and implement documented procedures for the range of food standards interventions/inspections it carries out, including imported food controls. The 'Food Hygiene Inspection Procedure' should be expanded to include imported food controls to ensure appropriate checks on imported food requirements during inspections and consistent record keeping. [The Standard – 7.4]

Verification visit to a Food Premises

- 3.2.11 During the audit a verification visit was carried out at a local food importer with an officer from the Authority who had carried out the last food hygiene inspection. The purpose of the visit was to determine the

effectiveness of the Authority's assessment and application of imported food controls in relation to third country imports.

- 3.2.12 During the visit, it was evident that the officer was not fully aware of the official controls required for high risk foods not of animal origin from third countries. There was no evidence to confirm that evaluation of these controls had formed part of the previous inspection. However, the officer quickly established an awareness of the foods subject to an increased level of official control and was effective in identifying several potential food products during the visit.
- 3.2.13 Common entry documents (CEDs) were not routinely held at the food establishment. These documents should accompany the food to the first inland destination and be retained by that business for one year. The food business operator (FBO) thought that these must be held by the agent and had no understanding of the requirement to retain a copy himself.

Food Inspection and Sampling

- 3.2.14 In the Food Service Plan, the Authority confirmed that the majority of food and environmental samples taken for microbiological examination for the Food Safety Team were their contribution to county, national or European Surveys. For the Food Standards Team, the majority of food samples were to be taken at manufacturers, importers and distributors to monitor compliance with labelling and compositional requirements.
- 3.2.15 The Service had not developed a food sampling policy or procedure including that for imported food. The need for a more focussed approach to imported food sampling was discussed during the audit for both food standards and food safety, particularly in relation to sampling of high risk food not of animal origin.
- 3.2.16 The Authority was taking part in a 'LACORS/HPA plus Leicestershire & Rutland Microbiological Sampling Programme' which had included sampling imported foods during January to March 2010.

Recommendation

3.2.17 The Authority should:

Set up, maintain and implement documented procedures for the inspection and sampling of food, including imported foods, in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 12.3]

- 3.2.18 The Service had been successful in 2009 in obtaining funding through a Food Standards Agency imported food grant to sample basmati rice for authenticity and aflatoxins. The projects had been chosen because *'this variety of rice was a staple food in many of the city's communities'*. The intended outcomes of the projects reflected those corporate and service priorities linked to healthy food and accurate food descriptions. Appropriate follow-up actions were noted.
- 3.2.19 The official laboratories used by the Authority for food sampling activities were properly accredited.
- 3.2.20 From sampling result records examined, auditors found difficulty in ascertaining the country of origin of the products sampled. The Authority advised the auditors that the country of origin was often difficult to establish as in many cases this information had not been included on the label. It was evident that the Authority carried out regular sampling of a wide variety of imported food products.
- 3.2.21 Audit checks were carried out on five sample records where results had been unsatisfactory. The files examined generally showed that thorough investigations had been undertaken and, except for one file, the results were recorded.
- 3.2.22 Officers were not authorised and properly trained in all cases to undertake sampling in accordance with the Food Law Code of Practice. On these occasions, purchases had been made where there was no intention for formal action to be taken following sampling. However, auditors noted one file where an officer who was not appropriately authorised had seized mouldy food following receipt of sample results, and appropriate follow-up actions for a formal seizure had not been undertaken.

Recommendation

3.2.23 The Authority should:

Take appropriate action in accordance with its enforcement policy and centrally issued guidance where food sample results are not considered to be satisfactory.

[The Standard – 12.7]

Enforcement

- 3.2.24 The Authority had developed a Regeneration and Culture Department General Enforcement Policy dated November 2008. Auditors were advised that the policy had been approved by the Head of Environmental Services in a delegated capacity through the Council's constitution.

- 3.2.25 The Authority had also developed a corporate prosecutions policy which had been updated in December 2007. Associated procedures to guide officers on the Authority's processes for formal enforcement actions required development.
- 3.2.26 A file relating to an illegal import of fish products was examined where a notice had been served under Regulation 24 of the Products of Animal Origin (Third Country Imports) Regulations 2006. There was evidence that officers had conducted a thorough investigation in accordance with the Food Law Code of Practice and appropriate follow up actions had been taken. The seized food had been satisfactorily destroyed in line with centrally issued guidance.
- 3.2.27 In another case file, the officer had been unable to determine the origin of production of Boerewors sausages on display for sale. Condemnation orders were sought for the destruction of the sausages seized from four shops in total following a thorough investigation carried out in liaison with other local authorities, and central government departments. At the time of audit, this food had still to be destroyed.
- 3.2.28 It was evident that appropriate follow-up action, including formal enforcement was generally taken in relation to illegal food imports or high risk imported food where food safety issues had been identified. In both cases enforcement records were well maintained, easily retrievable and accurate.
- 3.2.29 There was no evidence of internal monitoring on files. However in one of the reports there was reference made by the officer to consultation with a senior officer in the Food Safety Team in the Team Manager's absence.

Recommendation

3.2.30 The Authority should:

Set up, maintain and implement documented procedures for follow-up and enforcement actions in accordance with the relevant legislation, the Food Law Code of Practice and centrally issued guidance. [The Standard - 15.2]

Food Complaints, Referrals, Primary Authority Scheme and Home Authority Principle

- 3.2.31 Reference to food complaints was made in the Service Plan which confirmed that the Authority's policy was to *'make a risk assessed response to complaints resulting in either an investigation or use of intelligence received to inform future planning.'* However the Authority

had not set up a documented policy and procedure in relation to food complaints, including imported food. Auditors were advised that a corporate service standard for complaints was recently launched giving a five day first response rate with a 28 day 'clear up' target.

3.2.32 Audit checks were carried out in relation to four food complaints relating to imported food. In general, it was evident that these had been appropriately investigated. However, follow-up actions were not always in accordance with the service standards and it was not always clear from available records that all relevant parties had been informed of the results of the investigation. There was no evidence of internal monitoring of complaints on files.

Recommendations

3.2.33 The Authority should:

- (i) Set up maintain and implement a documented policy and procedure(s) in relation to food complaints, including imported food, and in relation to complaints about food establishments. Procedures should cover any referral arrangements to inland authorities and/or authorities with responsibility for imported food controls at the UK point of entry. [The Standard - 8.1]
- (ii) Investigate complaints received in accordance with Food Law Code of Practice, centrally issued guidance and the Authority's policies and procedures. [The Standard – 8.2]

3.2.34 In the Food Law Enforcement Service Plan the Authority confirmed its commitment to Home Authority arrangements with five food businesses including one importer. With one exception all these Home Authority relationships were for Trading Standards. Auditors were advised that, although there were no formal Primary Authority or Home Authority partnerships with local businesses, the Service acted in an informal advisory capacity with manufacturers in the City. The Authority should review the Home Authority details relating to Leicester City Council contained in the LGR (Local Government Regulation) (formerly LACORS) Home Authority and Resource Directory.

Food Safety Incidents

3.2.35 The Authority had not developed a documented procedure for responding to and instigating food alerts and incidents. An audit check confirmed that the Authority received and actioned food alerts. In

practice, the Food Safety Team Manager decided which team would take the lead in responding to individual alerts following consideration of the nature of the notification.

Recommendation

3.2.36 The Authority should:

Set up and maintain and implement a documented procedure for initiating and responding to food alerts and incidents, including imported food, in accordance with the Food Law Code of Practice. [The Standard - 14.1]

3.2.37 Records of actions taken on alerts were recorded on the electronic database system. The Authority had also appropriately recently notified and liaised with the Agency about two serious localised incidents, one relating to ketamine in an aloe vera-based health drink and also salmonella in imported curry leaves.

Advice to Business

3.2.38 In the Food Service Plan the Food Safety Team made reference to giving advice to new and existing businesses. The Trading Standards Team made reference to the business advice service advertised on the Leicester City Council website.

3.2.39 The Trading Standards Team were able to advise auditors of examples of advisory work on imported food carried out in the 12 months prior to the audit. For example the Authority provided advice about phthalates to importers who imported food in glass jars sealed with plasticised gaskets and also to importers following their sampling programmes on basmati rice. Advice had been given to new and existing businesses about importing food for the first time and labelling advice had been given to importers where product labels were in a language other than English.

Records

3.2.40 Audit checks generally highlighted a lack of consistency in maintaining comprehensive records across all areas of imported food law enforcement activities. Auditors discussed the need for greater consistency between the details held by the two teams, particularly with reference to records of food establishments in the City.

3.2.41 The Authority would benefit from:

- The development of an appropriate food standards aide-memoire to assist trading standards officers in more detailed recordings of findings during interventions, including imported food law controls.
- A further review of the prescribed 'Food Business Establishment Information' for food safety officers to record imported food control details.

This would provide the essential basis necessary to inform subsequent inspections, a graduated approach to enforcement and permit effective monitoring.

Recommendation

3.2.42 The Authority should:

Maintain up to date accurate records in retrievable form on all food establishments in its area and for all relevant checks on imported food, in accordance with the Food Law Code of Practice and centrally issued guidance. These records shall include reports of all interventions and inspections, the determination of compliance with legal requirements made by the authorised officer, details of action taken where non-compliance was identified, details of any enforcement action taken, results of any sampling and follow up action and details of any action taken in relation to complaints and referrals. [The Standard - 16.1]

3.3 Internal Monitoring and Third Party or Peer Review

Internal Monitoring

- 3.3.1 The Authority did not have any documented internal monitoring procedures and in particular there were no specific procedures available on either quantitative or qualitative monitoring of the food service, including imported food checks.
- 3.3.2 In practice however, there was evidence of qualitative monitoring of the Food Safety Team identified through the following mechanisms:
- Minutes of team meetings with action points highlighted and reviewed at the next meeting.
 - 1 to 1 shadowed visits were undertaken annually by Team Manager who accompanied authorised officers to inspections.
- 3.3.3 Auditors were also advised about the relevant service review and monitoring arrangements undertaken by the Authority. Within the Food Safety Team, the Team Manager checked files where there was cause for concern. Emails were sent to staff requiring corrective actions. 1 to 1 case review meetings were carried out once per month depending on case loads, which included all issues.
- 3.3.4 Currently, quantitative reporting for Food Safety and Food Standards interventions was only through the annual Service Plan.

Recommendation

3.3.5 The Authority should:

Set up, maintain and implement a documented internal monitoring procedure for both quantitative and qualitative monitoring in accordance with Article 8 of Regulation (EC) 882/2004 (Official Feed and Food Controls), the relevant Codes of Practice and centrally issued guidance. Implement the procedure to verify the Service's conformance with relevant legislation, official guidance and the Standard. A record should be maintained of internal monitoring activities carried out and any corrective actions.
[The Standard - 19.1, 19.2 and 19.3]

Third Party or Peer Review

- 3.3.6 Auditors were informed that there had been no recent peer review activities undertaken by the Service in relation to imported food law enforcement work.

Auditors: Jane Tait
Andrew Clarke

Food Standards Agency

Local Authority Audit and Liaison Division

Action Plan for Leicester City Council

Audit date: 23-24 November 2010

| TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH) | BY (DATE) | PLANNED IMPROVEMENTS | ACTION TAKEN TO DATE |
|--|--------------------------|---|-----------------------------|
| 3.1.6 Further develop the Service Plan for Food Law Enforcement to ensure that it is in full accordance with the Service Planning Guidance. The Plan should include an estimation of the demands placed upon the Service, including those relevant to imported food controls and the staff and financial resources required to deliver the Service effectively. [The Standard - 3.1] | 31/05/11 | The Service Plan for Food Law Enforcement for 2011/2012 will be produced in full accordance with Guidance including an estimation of the demands placed upon the Service, including those relevant to imported food controls, and the resources required. The Service Plan will be submitted to members. | |
| 3.1.8 Ensure that policies and procedures relating to all food enforcement activities are documented and adequately provide guidance on all areas of food law enforcement including those related to imported food controls. A document control system should be implemented and maintained to ensure relevant policies and procedures are reviewed at regular intervals and whenever there are changes to legislation or centrally issued guidance. [The Standard - 4.1 and 15.2] | 30/09/11 30/09/11 | Policies and procedures relating to food enforcement will be documented in order to provide guidance on all areas of food law enforcement including imported food controls. A documented control system will be implemented to ensure policies and procedures are updated in a timely manner. | |
| 3.1.12 Set up, maintain and implement a documented procedure for the authorisation of officers based on their competence and in accordance with the Food Law Code of Practice. Review the Scheme of Authorisation and Warrant of Authority to ensure that officers are specifically authorised in accordance with their individual qualifications and levels of experience and competency. [The Standard - 5.1] | 31/05/11 | The existing documented procedure for the authorisation of regulatory officers will be reviewed and amended and/or added to, to meet the requirements of the Food Law Code of Practice. | |

| TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH) | BY (DATE) | PLANNED IMPROVEMENTS | ACTION TAKEN TO DATE |
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| 3.1.17(i) Appoint a sufficient number of authorised officers to carry out the work set out in the service delivery plan. The level of authorisation and duties of the officers should be consistent with their qualifications, training, experience and the relevant Codes of Practice. [The Standard - 5.3] | 30/09/11 | <p>The Service Plan will be submitted to members.</p> <p>Any new appointments approved will be undertaken in accordance with the Council's recruitment policies and procedures.</p> <p>The duties and authorisation of officers will be consistent with their qualifications, training, experience and relevant Codes.</p> | |
| 3.1.17(ii) Ensure that all officers receive appropriate and adequate training on the enforcement of imported food controls in accordance with the Food Law Code of Practice. [The Standard - 5.4] | 30/09/11 | Training and learning opportunities will be provided to officers responsible for imported food controls. This will include formal training as this becomes available. | |
| 3.1.22(i) Ensure that the computer software package is configured and operated in such a way as to provide reliable and accurate information on food standards activities and imported food activity. [The Standard – 6.3] | 31/05/11 | The configuration and operation of the computer software package will be reviewed to provide accurate information on food standards activities and imported food activity. | |
| 3.1.22(ii) 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] | 31/05/11 | A documented procedure will be set up and implemented to ensure the food premises database is accurate, reliable and up to date. | |
| 3.2.4 Ensure that food hygiene and standards interventions/inspections of food businesses in their area are carried out at a frequency which is not less than that determined under the intervention rating scheme set out in the relevant legislation, Food Law Code of Practice or other centrally issued guidance. [The Standard – 7.1] | 30/09/11 | The design of the inspection/intervention programmes for 2011/12 will be informed by the Food Law Code of Practice guidance on risk and inspection/intervention frequency, and the officer resources available over the year. | |

| TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH) | BY (DATE) | PLANNED IMPROVEMENTS | ACTION TAKEN TO DATE |
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| 3.2.10(i) Assess the compliance of establishments and systems in relation to imported food controls to legally prescribed standards and take appropriate action on any non compliance found, in accordance with the Authority's enforcement policy. [The Standard – 7.3] | 30/04/11 Ongoing | The monitoring of businesses subject to imported food controls will be included in the Service Plan for 2011/2012. Officers will receive guidance on the prescribed standards and the proposed action on any instance of non compliance will be reviewed and endorsed by the appropriate Manager. | |
| 3.2.10(ii) Set up, maintain and implement documented procedures for the range of food standards interventions/inspections it carries out, including imported food controls. The 'Food Hygiene Inspection Procedure' should be expanded to include imported food controls to ensure appropriate checks on imported food requirements during inspections and consistent record keeping. [The Standard – 7.4] | 30/09/11 | Procedures relating to food enforcement will be documented in order to provide guidance on all areas of food law enforcement including imported food controls. | |
| 3.2.17 Set up, maintain and implement documented procedures for the inspection and sampling of food, including imported foods, in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 12.3] | 30/09/11 | Procedures and protocols relating to food enforcement will be documented in accordance with the Food Law Code of Practice and centrally issued guidance. | |
| 3.2.23 Take appropriate action in accordance with its enforcement policy and centrally issued guidance where food sample results are not considered to be satisfactory. [The Standard – 12.7] | Ongoing | The proposed action on any instance of non compliance will be reviewed and endorsed by the appropriate Manager. | |

| TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH) | BY (DATE) | PLANNED IMPROVEMENTS | ACTION TAKEN TO DATE |
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| 3.2.30 Set up, maintain and implement documented procedures for follow-up and enforcement actions in accordance with the relevant legislation, the Food Law Code of Practice and centrally issued guidance. [The Standard - 15.2] | 30/09/11 | Procedures relating to food enforcement will be documented in order to provide guidance on all areas of food law enforcement including imported food controls. | |
| 3.2.33(i) Set up maintain and implement a documented policy and procedure(s) in relation to food complaints, including imported food, and in relation to complaints about food establishments. Procedures should cover any referral arrangements to inland authorities and/or authorities with responsibility for imported food controls at the UK point of entry. [The Standard - 8.1] | 30/09/11 | Procedures relating to food enforcement will be documented in order to provide guidance on all areas of food law enforcement including imported food controls. The procedures will cover referral arrangements. | |
| 3.2.33(ii) Investigate complaints received in accordance with Food Law Code of Practice, centrally issued guidance and the Authority's policies and procedures. [The Standard – 8.2] | Ongoing | Complaints received will be investigated in accordance with Food Law Code of Practice, centrally issued guidance and the Authority's policies and procedures. | |

| TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH) | BY (DATE) | PLANNED IMPROVEMENTS | ACTION TAKEN TO DATE |
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| 3.2.36 Set up and maintain and implement a documented procedure for initiating and responding to food alerts and incidents, including imported food, in accordance with the Food Law Code of Practice. [The Standard - 14.1] | 30/06/11 | A documented procedure for initiating and responding to food alerts and incidents, including imported food, will be set up and implemented, in accordance with the Food Law Code of Practice. | |
| <p>3.2.42 Maintain up to date accurate records in retrievable form on all food establishments in its area and for all relevant checks on imported food, in accordance with the Food Law Code of Practice and centrally issued guidance.</p> <p>These records shall include reports of all interventions and inspections, the determination of compliance with legal requirements made by the authorised officer, details of action taken where non-compliance was identified, details of any enforcement action taken, results of any sampling and follow up action and details of any action taken in relation to complaints and referrals. [The Standard - 16.1]</p> | Ongoing | <p>Relevant Managers will undertake regular reviews of business and officer activity records to ensure they are accurate, complete and up to date.</p> <p>Uniform configuration and File Director will be reviewed to ensure that records are up to date and accurate.</p> | |
| 3.3.5 Set up, maintain and implement a documented internal monitoring procedure for both quantitative and qualitative monitoring in accordance with Article 8 of Regulation (EC) 882/2004 (Official Feed and Food Controls), the relevant Codes of Practice and centrally issued guidance. Implement the procedure to verify the Service's conformance with relevant legislation, official guidance and the Standard. A record should be maintained of internal monitoring activities carried out and any corrective actions. [The Standard - 19.1, 19.2 and 19.3] | 30/09/11 | Establish and implement a documented internal monitoring procedure recording internal monitoring activities and corrective actions. | |

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

- Service Plan for Food Law Enforcement 2010/2011(October 2010)
- Minutes of approval of Service Plan 2009/2010
- Environmental Services Division Scheme of Authorisation (October 2010)
- Food Hygiene Inspection Procedure (April 2009)
- Regeneration & Culture Department General Enforcement Policy (November 2008)
- Leicester City Council Prosecutions Policy (Updated December 2007)
- Minutes of Liaison Group meetings.

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

- The Authority's authorisation training and qualification records
- General food premises inspection records
- Food and sampling records
- Formal enforcement records
- Internal monitoring records
- Database reports
- Food incident investigation records.

(3) Interviews – the following officers were interviewed:

- Audit Liaison Officers –Team Managers for Food Safety and Trading Standards
- Environmental Health Officers
- Food Safety Office.r

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

(4) On-site verification check:

A verification visit was made with the Authority's officers to a local food importer. The purpose of the visit was to determine the effectiveness of the Authority's assessment and application of imported food controls in relation to third country imports.

Glossary

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| 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. |
| Border Inspection Post | Point of entry into the UK from non-EU countries for products of animal origin. |
| CEDs | Common Entry Documents which must accompany certain food products to first destination inland. |
| CVEDs | Common Veterinary Entry Documents which must accompany 3 rd country imported POAO to first destination inland |
| 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. |
| Consignment | A unit of cargo that can consist of one or a number of different products. |
| County Council | A local authority whose geographical area corresponds to the county and whose responsibilities include food standards and feeding stuffs enforcement. |
| DPE | Designated point of entry. A port that has been designated for the entry of certain high risk feed and food products subject to enhanced checks. |
| DPI | Designated point of import. A port that has been designated for the entry of certain products subject to safeguard controls due to aflatoxin contamination. |
| Defra | The Department for Environment, Food and Rural Affairs. The Government Department designated as the central competent authority for products of animal origin in England. |
| District Council | A local authority of a smaller geographic area and situated within a County Council whose responsibilities include food hygiene enforcement. |
| ERTS | Enhanced remote transit shed. An HM Revenue and Customs designated warehouse where goods are held in temporary storage pending Customs clearance and release for free circulation. |
| Environmental Health Officer (EHO) | Officer employed by the local authority to enforce food safety legislation. |
| FNAO | Food not of animal origin. Non animal food products that fall under the requirements of imported food control regime. |

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| Feeding stuffs | Term used in legislation on feed mixes for farm animals and pet food. |
| Food Examiner | A person holding the prescribed qualifications who undertakes microbiological analysis on behalf of the local authority. |
| 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. |
| Formal samples | Samples taken in accordance with the requirements of the Food Law Code of Practice in accordance with the relevant sampling regulations and submitted to an accredited laboratory on the official list. |
| Framework Agreement | <p>The Framework Agreement consists of:</p> <ul style="list-style-type: none"> • Service Planning Guidance • Food and Feed Law Enforcement Standard • 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 annual returns to the Food Standards Agency on their food law 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 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 enforcement. |
| Home Authority | An authority where the relevant decision making base of an enterprise is located and which has taken on the responsibility of advising that business on food safety/food standards issues. Acts as the central contact point for other enforcing authorities' enquiries with regard to that company's food related policies and procedures. |
| Informal samples | Samples that have not been taken in accordance with the appropriate sampling regulation (e.g. samples for screening purposes) and/or not sent to an accredited laboratory. |

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| 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 and feed 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. |
| POAO | Products of animal origin. Animal derived products that fall under the requirements of the veterinary control regime. |
| Primary Authority | An authority that has formed a partnership with a business. |
| Port Health Authority | An authority specifically constituted for port health functions including imported food control. |
| Public Analyst | An officer, holding the prescribed qualifications, who is formally appointed by the local authority to carry out chemical analysis of food samples. |
| RASFF | Rapid alert system for food and feed. The European Union system for alerting port enforcement authorities of food and feed hazards. |
| Regulators' Compliance Code | Statutory Code to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on businesses. |
| 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. |
| Service Plan | A document produced by a local authority setting out their plans on providing and delivering a food or feed service to the local community. |
| Third Country | Countries outside the European Union. |
| Trading Standards | The Department within a local authority which carries out, amongst other responsibilities, the enforcement of food standards and feed legislation. |
| Trading Standards Officer (TSO) | Officer employed by the local authority who, amongst other responsibilities, may enforce food standards and feed 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 feed enforcement. |