

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

Leicester City Council
20-22 May 2014



Foreword

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

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

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

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

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

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

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1.0 Introduction

- 1.1 This report records the results of an audit at Leicester City Council with regard to food hygiene enforcement, under relevant headings of the Food Standards Agency Food Law Enforcement Standard. The audit focused on the Authority's arrangements for the management of the food premises database, food premises interventions, and internal monitoring. The report has been made available on the Agency's website at:

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 Leicester City Council was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme.
- 1.3 Regulation (EC) No. 882/2004 on official controls performed to ensure the verification of compliance with feed and food law includes a requirement for competent authorities to carry out internal audits or to have external audits carried out. The purpose of these audits is to verify whether official controls relating to feed and food law are effectively implemented. To fulfil this requirement, the Food Standards Agency, as the central competent authority for feed and food law in the UK has established external audit arrangements. In developing these, the Agency has taken account of the European Commission guidance on how such audits should be conducted.¹
- 1.4 The Authority was one of six authorities selected for an audit programme on inland imported food control arrangements carried out between July and December 2010. That audit and subsequent follow up visits and meetings identified a number of wider issues regarding the Authority's food law enforcement service, outside of the limited scope of the original audit. A further audit with a wider scope was therefore scheduled for May 2014 to enable a broader assessment of the food service to be undertaken.

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

Scope of the Audit

- 1.5 The audit examined Leicester City Council'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 New Walk Centre A3, Welford Place, Leicester on 20-22 May 2014.

Background

- 1.7 The City of Leicester is located in the East Midlands of England and is the county town of Leicestershire. In the 2011 census, the population of Leicester was 330,000. Over 30 percent of the population is from ethnic communities mainly from the Indian sub-continent. There are two universities and the city therefore also has a large student population.
- 1.8 There are over 3,100 registered food businesses in Leicester including a number of national food producers which are either based or have factories in the city. Leicester is also home to a significant number of specialist ethnic food producers. The number of food businesses in the City has steadily increased in recent years, which reflects the 17% growth in Leicester's population since 2001. The auditors were advised that the catering sector of food businesses have a high turnover rate in terms of food business operators with some businesses changing management several times a year.
- 1.9 Food hygiene law enforcement was the responsibility of the Food Safety Team within Environmental and Enforcement Services. The Team also had a wide range of other responsibilities, which included food standards and feed law enforcement, health and safety, infectious disease control work and the enforcement of health protection law. The auditors were advised that in practice any feed law enforcement in the City was undertaken by officers from Leicestershire County Council's Trading Standards Service.

1.10 The Authority reported the profile of Leicester City Council's food businesses as of 31 March 2013 as follows:

Type of Food Premises	Number
Primary Producers	0
Manufacturers/Packers	73
Importers/Exporters	11
Distributors/Transporters	80
Retailers	848
Restaurant/Caterers	2100
Total Number of Food Premises	3,112

2.0 Executive Summary

2.1 The Authority was selected for audit following meetings between the Authority's managers and senior managers from the Food Standards Agency. The discussions related to the ongoing implementation of the action plan from a focused audit on inland imported food controls that was carried out at the Authority in October 2010. As the original audit scope was limited and the Food Standards Agency (FSA) was concerned that the Authority's resource constraints were impacting on food service delivery generally, this wider service delivery audit was scheduled to gain assurance on wider service performance.

2.2 Key areas for improvement:

Organisation and management: The Authority needs to ensure that future reviews of resources should include a considered and realistic assessment on the challenges specific to the Service, namely the large number of food businesses with poor levels of compliance and the numerous approved establishments in the Authority's area. These challenges can significantly impact on the ability of the food safety team to deliver service priorities, particularly in the areas of work and businesses that carry the biggest public health and food safety risks.

Authorisation and training: The Authority needs to ensure that officers receive suitable training and are able to demonstrate the appropriate level of competency in relation to all types of food businesses where they carry out food law enforcement activities, particularly those businesses with specialist processes and establishments subject to approval under Regulation (EC) No 853/2004.

Database: The Authority needs to ensure that reasonable security measures are in place to prevent access and amendment to the electronic database by unauthorised persons particularly in relation to the creation and deletion of premises records.

Interventions and inspections:

(i) The Authority should ensure that it addresses the significant backlog of food businesses that are not broadly compliant with hygiene legislation and overdue for intervention. Similarly there are a large number of food establishments registered with the Authority including caterers and restaurants that have not yet received any assessment or intervention, contrary to the Food Law Code of Practice, which should receive a first inspection at the earliest possible opportunity.

(ii) The Authority needs to ensure that any official controls carried out at establishments subject to approval under Regulation (EC) No 853/2004 are only undertaken by suitably experienced and competent

officers in accordance with the Food Law Code of Practice. As a priority, all the approved establishments in the area require further review to ensure that they had been appropriately approved and inspected against all the requirements of relevant food hygiene legislation and to ensure that they are inspected at the correct frequency as prescribed by the Food Law Code of Practice.

Enforcement: The Authority should ensure that in relation to both general and approved establishments officers adopt a graduated but proportionate approach to enforcement where serious and repeated breaches of hygiene legislation are noted during inspections, with the aim of achieving timely business compliance.

Internal monitoring: Regular internal monitoring across all areas of food law enforcement activities should be implemented by the Authority to help ensure that there is a consistency in approach and record keeping by officers, to identify officer training and development needs and to inform any assessment of resources that are required for effective food service delivery across all types of food establishments.

3.0 Audit Findings

3.1 Organisation and Management

Strategic Framework, Policy and Service Planning

3.1.1 The Authority had partially drafted a Service Plan for Official Food and Feed Controls 2014/15 which outlined how Leicester City Council intended to meet its obligations as a food and feed authority and detailed following aims and objectives for the Service:

- 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 food law.

3.1.2 The Plan linked to the strategic themes detailed in the Economic Action Plan to 2020 published by the City Mayor in 2012 and outlined the organisational structure of the Council. This confirmed that the Food Safety Manager, under the Head of Business Regulation, had specialist responsibility for food hygiene, food standards and feeding stuffs. Business Regulation was located within the remit of Environmental and Enforcement Services under the Strategic Director of City Development and Neighbourhoods.

3.1.3 The incomplete draft Plan broadly followed the headings in the Service Planning Guidance in the Framework Agreement, and auditors were advised that the Plan would be completed and finalised once the staffing resourcing issues and work priorities for the year had been agreed. Auditors were advised that the Plan would be cleared and approved by the Assistant City Mayor.

3.1.4 The Enforcement Services Management Board at the Authority had recently carried out a resourcing review in relation to the food safety service and had produced a draft document on 'Service Delivery Proposals and Resourcing Requirements 2014/15' which would inform the 2014/15 Food Service Plan. The review concluded that 11 full time equivalent (FTE) officers would be required to deliver the core activities of the food team. These included food hygiene and food standards proactive and reactive work, some predominantly administrative animal feed responsibilities and reactive public health investigations. The review document also confirmed that as of 1 April 2014, there was a shortfall in terms of numbers of employed frontline officers.

3.1.5 Auditors were advised of the particular challenges facing the Authority in relation to the food service, particularly in relation to the high numbers of premises awaiting an initial inspection and the number of

premises overdue programmed interventions. The Authority's food premises profile included a large number of businesses with poor levels of compliance and numerous approved establishments. Both of these factors placed a greater burden on staffing resources in comparison with resources that would be required when dealing with less complex and compliant businesses. Any future review of resources should include a considered realistic assessment on how these significant challenges specific to this Authority can impact on the ability of the team to deliver the service priorities, particularly in relation to the food businesses that potentially pose the highest public health and food safety risks.

Recommendations

3.1.6 The Authority should:

- (i) Draw up, document and implement a service delivery plan in accordance with the Service Planning Guidance in the Framework Agreement and ensure that this includes a clear comparison of the resources required to carry out the full range of statutory food law enforcement activities against the resources available to the Service. [The Standard - 3.1]
- (ii) Carry out a documented performance review at least once a year based on the Food Service Plan, which is submitted to either the relevant Member forum or senior officer where responsibility for approval is delegated to them. Any variance in meeting the Plan should be addressed in the subsequent years' service arrangements. [The Standard - 3.2 and 3.3]
- (iii) Ensure that the Service has a sufficient number of suitably qualified, experienced and competent officers to carry out the work set out in the Food Service Plan. [The Standard – 5.3]

Documented Policies and Procedures

3.1.7 The Service had recently produced a number of relevant documented policies and procedures for the food safety team. In most cases however it was not possible to fully assess the implementation of these procedures or their effectiveness due to the short period of time since their introduction. Additional procedures should be produced to provide essential guidance for officers and to promote a consistent approach amongst officers in accordance with the Food Law Code of Practice (FLCoP) and official guidance. Auditors also discussed the

importance of ensuring that policies and procedures were reviewed and updated regularly and in line with new legislation and centrally issued guidance.

Recommendations

3.1.8 The Authority should:

- (i) Ensure that all documented food service policies, procedures and working practices are reviewed at regular intervals and whenever there are changes to legislation or centrally issued guidance.
[The Standard – 4.1]
- (ii) Set up, maintain and implement a control system for all documentation relating to its enforcement activities.
[The Standard - 4.2]

Officer Authorisations

- 3.1.9 The Authority had reviewed their Scheme of Authorisation in April 2014, which provided for officers to be generically authorised under the Food Safety Act 1990, the European Communities Act 1972 and associated relevant regulations. This was contrary to centrally issued guidance which advised authorising officers under individual Regulations that conferred specific enforcement powers. However, the auditors were advised that the Authority's legal department had been consulted and was content that the existing authorisations would withstand legal challenge.
- 3.1.10 The individual officer warrants required updating to reflect the current structure of the Service, with the powers conferred on officers by the Strategic Director of City Development and Neighbourhoods.
- 3.1.11 A Lead Officer for Food Safety and Hygiene had been appointed having the appropriate qualifications and level of experience in relation to general food premises.
- 3.1.12 The Service had not developed a documented authorisation procedure to detail the process of authorising individual officers based upon their qualifications and experience and an assessment of officer competence in accordance with the FLCoP. Officer authorisations were based on the title of each officer's post. However, auditors were advised that in practice the duties allocated to officers were controlled by the Food Safety Team Manager, and were based on a practical assessment of competence. This included a training phase which involved shadowing other officers, accompanied visits and monitoring

before the officer was allowed to undertake each new task. The monitoring and assessment of competence was however not recorded.

- 3.1.13 Officer training and qualification records were easily retrievable and demonstrated that officers had carried out a minimum of 10 hours training annually based upon the principles of continuing professional development (CPD). Officers training needs were assessed as part of annual performance review and work planning.
- 3.1.14 Auditors did raise concerns, however, about the lack of any recent specific training for officers on official controls in relation to approved establishments and specialist processes, which was highly significant given the large number of varied and complex approved establishments in the area. In view of the high levels of poor compliance in food businesses it was also important that all officers received regular formal enforcement update training.
- 3.1.15 The Head of Business Regulation and the Food Safety Team Manager were authorised to make recommendations to the Director of Legal Services in respect of the instigation of legal proceedings. Other formal enforcement decisions and actions were taken by individual officers in accordance with their specific levels of authorisation based on their qualifications, experience and competence.

Recommendations

3.1.16 The Authority should:

- (i) 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 and any centrally issued guidance.
[The Standard – 5.1]
- (ii) Ensure that all officers and support staff involved in food hygiene law enforcement activities receive sufficient relevant training, including specialist training as required, in accordance with the Food Law Code of Practice.
[The Standard – 5.4]

3.2 Food Premises Database

- 3.2.1 The Authority operated a food premises database system that was capable of providing the returns required for the Local Authority Enforcement Monitoring System (LAEMS). A Food and Feed Establishments Registration and Database documented procedure had been developed which set out the Council's approach to registration by food and feed business operators in the City and the maintenance of accurate database records. In addition to registration applications received by the Authority, auditors were advised that officers were proactive in identifying new businesses. This included checking the accuracy of registration details at interventions, receiving information from other Council departments and through internet and media searches. Random checks on six food businesses in the area identified by internet searches were cross checked against the premises database and all businesses were found to be present and included in the food hygiene intervention programme.
- 3.2.2 The general security of the database was protected through restricted password access and the database was backed up centrally on a daily basis. The database procedure stated that the database had different levels of security access and whilst officers could add and amend records, they were unable to delete premises. The auditors were advised however, that at the time of the audit officers were able both to create and delete premises records and that the systematic monitoring of data entry was not being undertaken.
- 3.2.3 Audit checks highlighted a number of anomalies in data entry and risk scoring after premises inspections. The security settings for protecting the integrity and accuracy of the database should be reviewed as the identified anomalies could undermine the accuracy of the LAEMS returns and premises risk scoring, both of which could adversely affect the planning and prioritisation of the proactive intervention programme.

Recommendation

3.2.4 The Authority should:

Ensure that reasonable security measures are in place to prevent access and amendment to the electronic database by unauthorised persons. [The Standard – 6.4]

3.3 Food Premises Interventions

3.3.1 The Authority's draft Service Plan for Official Food and Feed Law Controls 2014/15 did not set out the interventions programme for the year. However the Plan and information submitted as part of the Authority's LAEMS return for 2012/13 confirmed the following premises profile as of 31 March 2013:

Premises Risk Category	Number of Premises
A	52
B	275
C	1,424
D	423
E	569
Unrated	369
Not in programme	0
Total	3,112

3.3.2 The draft Plan confirmed that the number of food establishments in the city has steadily risen in recent years. There was a high turnover of businesses with many only existing for a short time, often less than one year. This imposed additional demands on the Food Safety Team as these establishments were also characterised by poor compliance with food law and often requiring higher levels of intervention and formal enforcement.

3.3.3 The Authority had recently developed a Food Establishment Interventions Procedure which applied to both general premises and approved establishments. This needed to be reviewed and expanded to provide clearer guidance for officers on the application and assessment of FSA guidance on avoiding cross-contamination risks from E.coli O157 and to guide officers on imported food controls. The procedure confirmed the Authority's aim to have a risk-based approach to prioritising food hygiene inspections of highest risk category A, B and C establishments. In addition, according to the procedure, newly registered establishments were prioritised for inspection within 28 days of opening if they were engaged in any of the following activities:

- Manufacturing
- Processing
- Catering
- Importing.

3.3.4 Record and database checks confirmed that the Authority was generally prioritising its inspection programme and concentrating its efforts on higher risk establishments, although there was clear evidence that inspections hadn't always been carried out at the frequency required by the Food Law Code of Practice (FLCoP). At the

time of the audit there were over 900 establishments that required some form of intervention or assessment in accordance with the FLCoP to verify whether they were compliant and to identify any changes to business operations. A significant number of these businesses overdue for intervention, sometimes by several years were not broadly compliant with hygiene legislation. The Authority had not always used the full range of interventions available within the FLCoP and auditors discussed the possibility of using alternative approaches to address the backlog of inspections. In addition there were over 350 establishments registered with the Authority that had not yet received any assessment or intervention, contrary to the FLCoP.

- 3.3.5 The Service had developed an inspection aide-memoire to prompt officers and to record inspection findings. Auditors were informed that the aide-memoire was currently under review and would be amended following the audit findings, to include some improvements to the content of the form to ensure that all relevant information would be captured and consistently completed by officers. Additional questions on the aide-memoire regarding imported foods, the application of the E.coli Guidance and further more structured questions on business traceability systems would be beneficial.
- 3.3.6 File checks showed that although there was some variability between officers, generally comprehensive inspection findings were being recorded. Businesses were routinely provided with detailed reports of inspection findings with officers clearly differentiating between legal contraventions and advice. Officers were able to identify and record food safety hazards and assessments of business compliance with relevant legislation including food safety management systems based on HACCP. However, auditors noted a number of occasions where the risk scores allocated by officers governing the frequency of inspections did not always appear to be consistent with the significant hazards and legal contraventions identified by officers.
- 3.3.7 Auditors noted that follow-up actions had been taken following inspections, including formal enforcement actions to deal with certain cases of imminent risk particularly involving pest infestations. However audit file checks identified several examples at higher risk businesses where timely business compliance had not been achieved despite serious repeated contraventions of hygiene legislation being recorded. There was generally little evidence on premises records that all formal enforcement options had been considered and to demonstrate a graduated approach to enforcement in accordance with the Authority's Enforcement Policy.
- 3.3.8 At the time of the audit there were 23 establishments in the Authority's area which were subject to approval under Regulation (EC) No 853/2004. These included a number of large national companies as well as numerous smaller specialist ethnic food producers.

- 3.3.9 The Food Establishments Interventions Procedure made mention of the inspection of approved establishments but did not provide any guidance to officers on identifying premises requiring approval and on the inspection of such establishments and the approval process.
- 3.3.10 Audit record checks were carried out in relation to four businesses approved by the Authority, including three businesses producing meat and fishery products and one business producing specialist paneer cheese. Premises files generally contained all relevant information about the business and the processes that were carried out, in accordance with the Food Law Code of Practice.
- 3.3.11 Inspection records provided evidence of detailed and comprehensive inspections having taken place, with officers recording evidence of business compliance with relevant food hygiene legislation as well as noting details of any significant legal contraventions. However, in three of the four files assessed auditors had concerns that serious and repeated breaches of hygiene legislation were noted during inspections with only limited evidence of any formal enforcement actions being considered or taken to achieve timely business compliance.
- 3.3.12 Each of these businesses produced food on a national scale, with one business supplying potentially vulnerable patients at regional hospitals with a range of meat and fish products. Contraventions noted by officers included significant failures to develop and implement food safety management systems based on HACCP principles, significant and repeated cross-contamination issues with the potential to lead to harm to public health, as well as deficiencies in business traceability systems. Auditors also noted examples of inaccurate risk scoring and risk scores that were not supported by inspection findings. In the case of one establishment, intelligence received from other local authorities on poor hygiene standards at events attended by the business, did not appear to have been followed up effectively.
- 3.3.13 As a result of these concerns auditors requested that an urgent review of all of the Authority's approved establishments was undertaken by suitably trained and experienced officers. The aim of the review was to ensure that establishments were appropriately approved under relevant legislation and that they were inspected or re-inspected as appropriate based on the findings of the review. Auditors acknowledged the significant impact on resources this review was likely to have, given the number of specialist approved establishments operating in the Authority's area. However, this area of food law enforcement is of particular significance in protecting public health as high risk products from approved establishments are supplied to other businesses and the approval status of an establishment enables the product to be distributed throughout the European Union.

Recommendations

3.3.14 The Authority should:

- (i) Ensure that food hygiene premises interventions and inspections are carried out at a frequency which is not less than that determined by the Food Law Code of Practice. [The Standard – 7.1]
- (ii) Carry out interventions and inspections and approve or register in accordance with the relevant legislation, the Food Law Code of Practice and centrally issued guidance and the Authority's policies and procedures. [The Standard – 7.2]
- (iii) Ensure that inspections of general and approved food businesses adequately assess the compliance of establishments and systems to legally prescribed standards and take appropriate and timely action on any non-compliance found in accordance with the Authority's enforcement policy, the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.3]
- (iv) Set up, maintain and implement documented procedures for the inspection and approval of establishments under Regulation (EC) No 853/2004. [The Standard – 7.4]

Verification Visit to a Food Premises

- 3.3.15 During the audit, a verification visit was undertaken to a local cafe 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.
- 3.3.16 During the visit, the officer was able to demonstrate familiarity with the premises, and the operations carried out. The officer had completed a thorough inspection, discussed issues of ongoing significance and in

general had effectively assessed the business' compliance with legal requirements.

3.4 Enforcement

- 3.4.1 The Authority had developed a General Enforcement Policy dated November 2008, which needed to be reviewed to reflect the current organisational structure. The Policy contained broad guidance for officers and businesses on the different types of enforcement actions possible and the situations when they might be appropriate. The Policy confirmed that every effort was made by the Authority to assist businesses and individuals to comply with the legislation by the provision of information and advice, with regulatory activity targeted only at cases where that action was needed.
- 3.4.2 The Service had also developed some documented procedures for formal follow-up actions, namely Hygiene Improvement Notices, Hygiene Emergency Prohibition Notices and Remedial Action Notices. Auditors discussed the need to develop operational procedures for all formal enforcement options available to officers.
- 3.4.3 A considerable amount of formal enforcement was already being taken by officers in relation to serious legal contraventions at certain establishments, including a number of contraventions linked to meat traceability. The actions were generally found to be appropriate for the circumstances and had been taken in accordance with the enforcement policy and official guidance. However, both in relation to general and approved establishments it was not always evident that officers were adopting a graduated approach to enforcement. In general, officers were carrying out revisits to check on significant contraventions. However, auditors noted some instances of serious and/or repeated breaches of legislation at high risk establishments with a record of persistent non-compliance where formal enforcement would have been appropriate but had not been taken.

Recommendations

3.4.4 The Authority should:

- (i) Review the Food Enforcement Policy in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 15.1]
- (ii) Set up, maintain and implement documented procedures for the full range of follow up and enforcement actions in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 15.2]
- (iii) Ensure that food law enforcement is carried out 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 The Authority had not developed documented procedures for either qualitative or quantitative internal monitoring. There was evidence of some internal monitoring being carried out as recorded in the team meeting minutes. Auditors were also made aware of additional ad hoc qualitative monitoring that was undertaken in response to Food Hygiene Rating Scheme (FHRS) ratings queries and Freedom of Information requests. Individual officers' progress in relation to the number of inspections undertaken was also regularly monitored by the team manager.
- 3.5.2 Regular internal monitoring across all areas of food law enforcement activities performed by the Service, covering intervention records for all types of business including approved establishments, would assist with the assessment of resources that are required for food service delivery and would also help ensure that there is a consistency in approach and record keeping amongst all officers.

Recommendations

3.5.3 The Authority should:

- (i) Set up, maintain and implement documented internal monitoring procedures in accordance with Article 8 of Regulation (EC) No. 882/2004, the Food Law Code of Practice and centrally issued guidance. The procedure should include arrangements for risk-based monitoring of all aspects of the Service, including reviews of inspection records and risk scoring, follow-up actions, approved establishments, complaints and sampling. [The Standard – 19.1]
- (ii) Verify the conformance of the Service with 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]
- (iii) Ensure records of internal monitoring activities are maintained [The Standard – 19.3]

Food and Food Premises Complaints

- 3.5.4 The Authority's policy was to investigate all food and food premises complaints, including ones from an anonymous source. The Service had developed separate documented procedures on dealing with food and food premises complaints. These provided officers with a framework to follow to ensure consistency of approach during investigations.
- 3.5.5 Checks were made on records for five varied complaints received by the Authority in the last twelve months. In all cases appropriate details were recorded on file and appropriate investigations and follow-up actions had been carried out.

Food Inspection and Sampling

- 3.5.6 The Service had developed a documented Sampling Policy and Procedure. The Authority also participated in regional and national sampling surveys. The sampling programme for 2013/14 had mainly comprised an extensive food standards meat species DNA sampling programme although the Service had also carried out some microbiological sampling in relation to imported foods.
- 3.5.7 The records for the one unsatisfactory imported food sample result in the last 12 months were examined during the audit. Appropriate sampling records had been maintained and suitable follow-up action had been carried out based upon the results.

Records

- 3.5.8 Records were held on the premises database and within a file management system. In general auditors found that the records across the range of food law enforcement activities were easily retrievable and comprehensive, although there were some differences between officers in the level of detail recorded.

Third Party or Peer Review

- 3.5.9 In December 2013 the Service had participated in an inter-authority audit on the implementation of the E.coli cross-contamination guidance. This was organised by the Leicestershire Food Hygiene Best Practice Group. An audit summary form had been produced with comments and recommendations and auditors were advised that these were due to be considered by the Authority in the near future.

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Food Standards Agency

Operations Assurance Division

ANNEX A Action Plan for Leicester City Council

Audit date: 20-22 May 2014

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.6(i) Draw up, document and implement a service delivery plan in accordance with the Service Planning Guidance in the Framework Agreement and ensure that this includes a clear comparison of the resources required to carry out the full range of statutory food law enforcement activities against the resources available to the Service. [The Standard – 3.1]	Completed	The Service Plan for 2014/15 will be submitted to the City Mayor/Executive for approval.	Service Plan submitted and approved by Assistant Mayor. Service Plan includes forecast of workload, estimates of resources required and a resourcing strategy for 2014/15.
3.1.6(ii) Carry out a documented performance review at least once a year based on the Food Service Plan, which is submitted to either the relevant Member forum or senior officer where responsibility for approval is delegated to them. Any variance in meeting the Plan should be addressed in the subsequent years' service arrangements. [The Standard - 3.2 and 3.3]	30/11/14 (mid-year) 31/05/15 (end year)	Performance review against Service Plan to be undertaken at mid-year and year end for 2014/15 and 2015/16 and reports submitted to City Mayor/Executive. Reviews and Reports - November 2014 (mid-year), May 2015 (full year), November 2015 (mid-year) and May 2016 (full year).	

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.6(iii) Ensure that the Service has a sufficient number of suitably qualified, experienced and competent officers to carry out the work set out in the Food Service Plan. [The Standard – 5.3]	Completed Completed 30/11/14	Service Plan will set out resource requirement for 2014/15. Recruit additional temporary inspector resources. Long term (post April 2015) resourcing requirements presented to Senior Management for determination as part of budget strategy.	Senior Management commitment given to provide required resources for 2014/15. Additional temporary support recruited for 2014/15.
3.1.8(i) Ensure that all documented food service policies, procedures and working practices are reviewed at regular intervals and whenever there are changes to legislation or centrally issued guidance. [The Standard – 4.1]	30/09/14 Completed 28/02/15	Update existing procedures to include references to guidance on E.coli, imported foods and traceability systems. Update the aide-memoire documents. Annual review of procedures by Team.	Officer tasked. Review meeting convened (04/02/15)
3.1.8(ii) Set up, maintain and implement a control system for all documentation relating to its enforcement activities. [The Standard - 4.2]	30/09/14	Produce list of documentation requiring control [with owner, creation and review dates] and measures for amendment, storage and security.	

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.16(i) 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 and any centrally issued guidance. [The Standard – 5.1]	30/09/14	An officer authorisation procedure will be written and set out the process of authorising individual officers to undertake food enforcement activities.	Legal Service view is that the City Council's scheme of authorisation is satisfactory. Authorisation management concept devised.
3.1.16(ii) Ensure that all officers and support staff involved in food hygiene law enforcement activities receive sufficient relevant training, including specialist training as required, in accordance with the Food Law Code of Practice. [The Standard – 5.4]	31/10/14 31/10/14	Training for all authorised officers, on approved establishments. Training for one authorised officer, on speciality cheesemaking due Oct 2014.	Training commissioned. Place booked on FSA course.
3.2.4 Ensure that reasonable security measures are in place to prevent access and amendment to the electronic database by unauthorised persons. [The Standard – 6.4]	31/10/14 30/09/14	The database security settings will be reset so as to limit the persons who can create and delete and make certain changes to records. Review food-related permissions in relation to the database and make appropriate amendments.	
3.3.14(i) Ensure that food hygiene premises interventions and inspections are carried out at a frequency which is not less than that determined by the Food Law Code of Practice. [The Standard – 7.1]	31/03/15	Backlog of overdue inspections and interventions eliminated through employment of additional temporary inspectors.	Completed list of overdue interventions compiled and register cleansed. Additional inspectors employed.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.3.14(ii) Carry out interventions and inspections and approve or register in accordance with the relevant legislation, the Food Law Code of Practice and centrally issued guidance and the Authority's policies and procedures. [The Standard – 7.2]	31/03/15	Backlog of overdue initial inspections of new food establishments eliminated through employment of additional inspectors.	Completed work on cleansing list of new registrations that are yet to be inspected. Additional inspectors employed.
3.3.14(iii) Ensure that inspections of general and approved food businesses adequately assess the compliance of establishments and systems to legally prescribed standards and take appropriate and timely action on any non-compliance found in accordance with the Authority's enforcement policy, the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.3]	30/09/14	Undertake an initial desktop review of all of the Authority's approved establishments and complete any required remedial actions.	A briefing on the review was submitted to the Strategic Director on 9 July 2014 that identified approved establishments where action was required. Officers tasked to undertake actions (e.g. bring forward inspections and obtain confirmation that actions to bring establishment into compliance undertaken by FBO).
	Ongoing from 04/08/14	Undertake a detailed review of each approved establishments and action taken with the inspecting officer, prior and immediately following the due inspection.	
	30/09/14	Undertake a follow-up desktop review of all of the Authority's approved establishments and initiate any further required remedial actions.	
	Ongoing from 01/10/14	Undertake reviews of a sample of general food business interventions undertaken including the allocation of risk scores.	

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.4.4(ii) Set up, maintain and implement documented procedures for the full range of follow up and enforcement actions in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 15.2]	30/11/14	Procedures incorporating operational guidance on all available enforcement actions will be written and issued to officers.	
3.4.4(iii) Ensure that food law enforcement is carried out in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 15.3]	31/08/14 and ongoing	Implement a monthly review of all enforcement action decisions made in relation to category A and category B establishments and a sample of lower risk premises. [Note: special procedure for approved premises]	
	31/08/14 and ongoing	Implement regular risk-based reviews of enforcement action decisions taken by officers.	

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.5.3(iii) Ensure records of internal monitoring activities are maintained. [The Standard – 19.3]	31/08/14 and ongoing 30/0616	Create records of internal monitoring of regulatory activity on the database. Internal biennial review will be documented and reported to City Mayor/Executive.	Database record amended to include internal monitoring event category.

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:

- Draft Service Plan for Official Food and Feed Law Controls 2014/15
- Service Deliver Proposals and Resourcing Requirements 2014/15
- Local and Enforcement Services Division Scheme of Authorisation
- Food and Feed Establishments Registration and Database Procedure
- Sampling Policy and Procedure
- Guidance for Enforcement officers on Dealing with Food Premises Complaints
- Food Establishments Interventions Procedure
- Emergency Prohibition Procedure
- Food Hygiene Improvement Notice and Remedial Action Notice Procedure
- General Enforcement Policy
- Food Safety Team Meeting minutes
- Food Hygiene Best Practice Group meeting minutes.

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

- Authorisation and training records
- General food premises inspection records
- Approved establishment application records
- Food complaint records
- Sample records
- Formal Enforcement records

(3) Review of database records:

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

(4) Officer interviews – the following officers were interviewed:

- Food Safety Team Manager
- Food Safety Officer
- 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"> • Food and Feed Law Enforcement Standard • Service Planning Guidance • Monitoring Scheme • Audit Scheme <p>The Standard and the Service Planning Guidance set out the Agency’s expectations on the planning and delivery of food and feed law enforcement.</p> <p>The Monitoring Scheme requires local authorities to submit yearly returns via LAEMS to the Agency on their food enforcement activities i.e. numbers of inspections, samples and prosecutions.</p> <p>Under the Audit Scheme the Food Standards Agency will be conducting audits of the food and feed law enforcement services of local authorities against the criteria set out in the Standard.</p>
Full Time 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.