

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

Medway Council
16-17 October 2012



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 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 and feed law enforcement service. The scheme also provides the opportunity to identify and disseminate good practice and provide information to inform Agency policy on food safety, standards and feeding stuffs. Parallel local authority audit schemes are implemented by the Agency's offices in all devolved countries comprising the UK.

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

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

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1.0 Introduction

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

Reason for the Audit

- 1.2 The power to set standards, monitor and audit local authority food law enforcement services was conferred on the Food Standards Agency by the Food Standards Act 1999 and the Official Feed and Food Controls (England) Regulations 2009. This audit of Medway 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 included in the Food Standards Agency's programme of audits of local authority food law enforcement services because it had not been audited in the past five years by the Agency and was representative of a geographical mix of 12 local authorities selected across England.

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

Scope of the Audit

- 1.5 The audit examined Medway Council's arrangements for the management of the food premises database, food premises interventions, and internal monitoring with regard to food hygiene law enforcement. This included a reality check at a food business to assess the effectiveness of official controls implemented by the Authority at the food establishment and, more specifically, the checks carried out by the Authority's officers to verify food business operator (FBO) compliance with legislative requirements. The scope of the audit also included an assessment of the Authority's overall organisation and management, and the internal monitoring of food hygiene law enforcement activities.
- 1.6 Assurance was sought that key Authority food hygiene law enforcement systems and arrangements were effective in supporting business compliance, and that local enforcement was managed and delivered effectively. The on-site element of the audit took place at the Authority's offices at Gun Wharf, Dock Road, Chatham, Kent on 16-17 October 2012.

Background

- 1.7 Medway is located on the north coast of Kent, midway between London and the Channel Ports. It forms the second largest urban area in the South East outside London and was formed as a Unitary Authority in 1998 comprising of the five historically separate towns of Chatham, Gillingham, Rainham, Rochester and Strood, with a population in excess of 250,000 inhabitants. The area has developed as a result of its location on the main transport routes between London and Europe.
- 1.8 The area has a growing economy in the service industries, with some tourism, concentrations of catering and retail development throughout the district, and both large and small food producers.
- 1.9 Food hygiene law enforcement was the responsibility of the Food and Safety Team that sits in the Commercial Services section of the Frontline Services Department which forms part of the Regeneration, Culture and Communities Directorate of the Council. Commercial Services is made up of the Food and Safety, Environmental Protection and Trading Standards Teams.
- 1.10 The Food and Safety Team was organised into a single enforcement team responsible for delivering food safety enforcement and other functions including port health, infectious disease control, and health and safety. Two team leaders split the operational responsibility of delivering the Service, one leading on food and the other leading on

health and safety. Medway Council was also responsible for the enforcement of food standards legislation, which was mainly delivered through the Trading Standards team.

- 1.11 The Authority reported the profile of Medway Council's food businesses at 31 March 2012 as follows:

Type of Food Premises	Number
Primary Producers	15
Manufacturers/Packers	10
Importers/Exporters	4
Distributors/Transporters	21
Retailers	571
Restaurant/Caterers	1,643
Total Number of Food Premises	2,264

2.0 Executive Summary

- 2.1 The Commercial Services Manager was appointed to a newly combined Trading Standards, Food and Safety, and Environmental Protection Team in summer 2011. A further review and rationalisation of staff resources was currently being undertaken within a corporate 'Better for Less' strategy.
- 2.2 The Authority had developed a Food Hygiene Enforcement Plan 2012/13 which was broadly in line with the Service Planning Guidance contained in the Framework Agreement. However, the Plan would benefit from being further developed to include a breakdown of staff resources and financial allocation for providing the Service.
- 2.3 Due to resource constraints, the Authority had developed a risk-based intelligence-led strategy including a suite of interventions for different risk rating categories. The focus of the strategy was on the highest risk food businesses, in line with a risk-based programme. However the intended frequency of interventions and oversight at lower risk businesses was not in line with the current Food Law Code of Practice, albeit this is currently under review. The arrangements and management oversight has previously been discussed with the Agency, and an update is required to be provided to the Agency for further consideration.
- 2.4 A proactive approach was being implemented to address a large backlog of unrated food premises requiring an initial inspection, and also the substantial number of new premises registered with the Authority each month also requiring initial inspections in accordance with Code of Practice requirements.
- 2.5 The Authority were dependent upon database accuracy to enable them to carry out their food law enforcement activities, to formulate their interventions strategy, address their unrated premises and inform the introduction of the Food Hygiene Rating Scheme (FHRS). Although the computer database system was capable of providing the returns required for the Local Authority Enforcement Monitoring System (LAEMS), it was evident during the audit that there were some inaccuracies, duplicate entries and premises no longer trading which had not been removed from the inspection programme. The Authority was currently undertaking data cleansing of the database.
- 2.6 A number of documented procedures covering food law enforcement activities, including the Food Hygiene Inspection procedure, were out of date, and a commitment was made to review, develop and implement procedures to provide consistency and guidance for officers.

- 2.7 A document had recently been developed for the authorisation of officers within the Safer Communities Division. Legislative references were up to date and records examined showed all officers, including a private contractor, were appropriately qualified, trained and experienced to match the authorisations and powers exercised in practice.
- 2.8 From the food establishment files checked it was noted that, with the exception of the two approved establishments, recent food establishment inspections were being carried out at the frequency required by the Food Law Code of Practice. Generally, officers were carrying out effective hazard analysis and critical control point (HACCP) assessments and records were easily retrievable. Where necessary, timely follow-up revisits had been made and graduated approaches to enforcement undertaken.
- 2.9 File checks confirmed that a wide range of formal enforcement actions had been carried out by the Authority. These were appropriate and effective in ensuring improved business compliance. The creation of a Legal Development Officer for the Service had improved service delivery and facilitated a closer working relationship with the Authority's Legal Department.
- 2.10 A verification visit was carried out to a local butchers' shop with the officer that carried out the most recent inspection at the premises. The purpose of the visit was to assess the officer's evaluation of the compliance of the food business with legislative requirements. The officer demonstrated good familiarity with the premises, an appropriate understanding of the food safety risks, and competence in assessing the business's compliance. Whilst the officer employed an incremental approach to achieving compliance, they had not fully advised the food business operator (FBO) of all non compliances found during the previous visit, or fully recorded the extent and scope of the inspection on the recent files.
- 2.11 The Authority had recently commenced their implementation of the food hygiene rating scheme (FHRS) on an incremental roll out and the requirements of the E.coli O157 cross-contamination guidance issued by the Agency, in relevant establishments.
- 2.12 A corporate enforcement policy had been developed which made no specific reference to food enforcement activities and would benefit from being updated. Some comprehensive enforcement procedures had been recently developed, although a procedure for prosecutions was not available and others would benefit from being updated.
- 2.13 The Authority was undertaking some informal quantitative and qualitative internal monitoring. An internal monitoring procedure should be developed to cover all areas of food law enforcement activities.

- 2.14 The current complaints procedure for food and food premises was to be updated to reflect a strategy being proposed by the Authority to implement an intelligence-led approach to prioritise complaints. Records of a range of food and food premises complaints investigated by the Authority indicated that appropriate follow-up actions had been taken in all cases and the results of the complaints had been confirmed with the complainants.
- 2.15 Auditors discussed with the Authority that due to lack of staff resources, no sampling procedures had been developed and no sampling programme was being undertaken.
- 2.16 The Authority was actively involved in the Kent Food Technical Group. It was noted that no peer review had been undertaken in the last two years and none was planned for the forthcoming year.

3.0 Audit Findings

3.1 Organisations and Management

Strategic Framework, Policy and Service Planning

- 3.1.1 A restructure of the Service had taken place during 2011 and at the time of the audit, a further review and rationalisation of staff resources was being undertaken as part of a council wide review called 'Better for Less'. Auditors were advised that there was a shortfall in the number of experienced and competent full time equivalent officers (FTE) actually in post and available to carry out food law enforcement duties. Agreement had been gained to engage the services of a qualified contractor for a short term period to assist the team in carrying out inspections at compliant C and D risk rated establishments. It was also noted that the Commercial Service Manager had recently secured the ability to recruit to a vacant post a suitably qualified officer to undertake food hygiene activities. Whilst the recruitment process took place, temporary administrative support had also been provided for the officers to enable them to focus on service delivery.
- 3.1.2 The Authority had developed a Food Hygiene Enforcement Plan 2012/13 which was broadly in line with the Service Planning Guidance contained in the Framework Agreement. However, the Plan would benefit from being further developed to include a breakdown of staff resources and financial allocation for providing the service. The Plan would also benefit from highlighting any additional resources needed for the implementation of the Agency's E.coli O157 cross-contamination guidance and impact of the implementation of the FHRS.
- 3.1.3 The Plan had not been formally approved by Members but evidence was provided to show that the Portfolio Holder for Community Safety and Customer Contact had been provided with a copy and had found it acceptable.
- 3.1.4 The Plan and accompanying 'Project Brief for Auditors' which detailed the proposed Community Officers project did not provide a detailed breakdown of the proposed food hygiene intervention programme for 2012/13. Auditors were advised that the first stage of the Community Officers project was to ensure that the officers had undergone some basic training in a variety of areas of work (including food hygiene and safety), and they had been assessed to ensure that any interventions that they had with the business community were appropriate. The project was only one of the initiatives that were being implemented to ensure that an intelligence based approach was taken

to service delivery. Other approaches considered, for example, delivering initiatives across business sectors and cross referencing the database with business rates etc. This approach commenced in June 2011 and the Authority hoped to continue to refine and develop over the next few years.

- 3.1.5 A proactive approach was being implemented to address a large backlog of unrated food premises in the area requiring an initial inspection, many of which were historic, and also the substantial number of new premises registered with the Authority each month, also requiring initial inspections in accordance with Food Law Code of Practice requirements.
- 3.1.6 The Authority was delivering the FHRS, which was being introduced incrementally taking a 'location-based' approach over a five year period. The Authority received a grant from the Agency in March 2012 to assist with their data cleansing in preparation for the implementation of the scheme, and inspections had commenced from September 2012.
- 3.1.7 Staffing levels from the pre-visit questionnaire information supplied prior to the audit were as follows:

Officer Designation	Number of Staff (FTE)
Commercial Services Manager	0
Environmental Health Team Leaders	0.8
Environmental Health Officers	0.8
Food Safety Officer	0.4
Environmental Health Technicians	1.6
FTE TOTAL	3.6

Recommendations

3.1.8 The Authority should:

- (i) Ensure that future Food Service Plans are in full accordance with the Service Planning Guidance in the Framework Agreement to include an accurate estimate of the staffing and financial resources required to deliver the food law enforcement service. [The Standard – 3.1]
- (ii) 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

- 3.1.9 The Authority acknowledged that many relevant documented procedures were out of date, did not necessarily reflect current practice within the team, and did not encompass the whole range of food law enforcement activities. For example there were no procedures for prosecution, although template forms for completion were provided to assist officers.
- 3.1.10 A commitment was made in the Enforcement Plan to undertake a complete review of all policies and procedures, and included proposed review dates. Documents for review included the Food Inspection procedure, Food Sampling and Food Complaints procedures, Notice Serving procedures, Voluntary Surrender procedure, Registration of Food premises and Formal (*sic*) Caution procedure.

Recommendations

3.1.11 The Authority should:

- (i) Review, expand and revise the food law enforcement procedures to ensure the documents accurately reflect the Food Law Code of Practice and centrally issued guidance, and contain sufficient detail to provide adequate operational guidance for staff in relation to all interventions and enforcement activities carried out. [The Standard – 7.4 and 15.2]
- (ii) Set up and implement a control system for all documentation relating to food law enforcement activities. Ensure that documented policies and procedures across all enforcement activities are reviewed at regular intervals, and whenever there are changes to legislation or centrally issued guidance. [The Standard – 4.1 and 4.2]

Officer Authorisations

- 3.1.12 The Authority's 'Delegated Powers and Authorisation of Officers Scheme' stated that the Head of Safer Communities authorised officers to carry out administrative and enforcement functions under the legislation in the schedule contained in the document. The Scheme of Authorisations had recently been reviewed.
- 3.1.13 Officers' authorisations were subject to an annual review based on their competency. The Authority had developed a competency process checklist aligned to established posts in the Service which took account of qualifications and training.
- 3.1.14 Auditors noted that legislative references were appropriate and up to date, and qualifications, training and experience matched the authorisation and powers exercised in practice.
- 3.1.15 Auditors were advised that officers' training needs were identified as part of performance development reviews and monthly one to one meetings. Service level team training needs were identified at the time of service planning and reviewed regularly to identify gaps in skills and knowledge to ensure current and future objectives could be met. The Authority advised that they were developing a training spreadsheet to identify gaps in training needs. This should include formal enforcement training.

3.1.16 The Authority was committed to enable each employee to engage in the equivalent of at least five days learning or development a year to help meet their current and future development needs. All officers had completed at least 10 hours of continuing professional development (CPD) training per year in accordance with Food Law Code of Practice requirements.

3.2 Food Premises Database

- 3.2.1 The Authority was dependent upon database accuracy to enable them to carry out their food law enforcement activities, to formulate their interventions strategy, address their significant number of unrated premises, provide consistency and transparency for their FHRs implementation, and provide accurate monitoring returns to the Agency.
- 3.2.2 The Service operated a computer database system that was capable of providing the returns required for the Local Authority Enforcement Monitoring System (LAEMS).
- 3.2.3 The Authority was currently undertaking a proactive review and data cleanse of the premises held on the database to create an accurate, reliable and up to date database which is fundamental to service delivery and monitoring.
- 3.2.4 However, various database checks performed before and during the audit confirmed some inaccuracies, anomalies, duplications and premises no longer trading which cast some doubt on the ability of the Authority to produce accurate monitoring returns to the Agency. It was also acknowledged by the Authority that they did not have full confidence in the accuracy of the historic premises records held on the system.
- 3.2.5 The following reports requested by the auditors were provided during the visit:
- Food premises by type and risk category.
 - Premises that were broadly compliant.
 - Premises in risk category A.
 - Premises where interventions were overdue.
 - Food premises with no risk assessment rating.

It was noted that these reports were only as accurate as the current database system allowed.

- 3.2.6 A report listing those premises with 'no inspectable risk' had not been developed and could not be provided during the audit.
- 3.2.7 Time allocated for the internal Data Analysis Officer to assist the team was extremely limited and auditors discussed the benefits of increased IT support for the team. Additionally, key officers might benefit from more formal training to promote their understanding of the capabilities of the software system, the ability to carry out appropriate corrective measures, and to enable effective monitoring, management and review of the database. It was noted that there

were plans to include a systems administrator through the Better for Less process.

- 3.2.8 Officers had responsibility for entering records of enforcement activity, including inspection details and risk ratings on to the system. Systems were in place for back up and security of the electronic database.

Recommendations

3.2.9 The Authority should:

- (i) Develop, maintain and implement procedures to ensure that the food premises database is complete, accurate, reliable and up to date, and that accurate and comprehensive information on food law enforcement activity is reported in official returns to the Agency. [The Standard - 6.3 and 11.2]
- (ii) Ensure that key officers receive appropriate training needed to maintain the competencies necessary to deliver the technical aspects of the work in which they are involved, having particular regard to the database. [The Standard - 5.4]

3.3 Food Premises Interventions

3.3.1 The Authority's Food Service Plan 2012/13 identified a total of 2,385 food businesses in the Authority's area, and the following breakdown into risk categories:

Premises Risk Category	Number of Premises
A	12
B	109
C	760
D	202
E	898
Unrated	380
Outside programme	24
TOTAL	2,385

3.3.2 The Authority was proceeding to implement a 'Community Officers Project' to develop a suite of interventions to ensure that, over time, every business in Medway would receive an intervention. High risk premises would receive appropriate interventions by authorised and competent Food Safety Team officers. Medium risk premises (broadly compliant risk rated C premises, D premises and some E premises) would receive interventions by Business Compliance Officers, and Category E premises by appropriately trained, but not authorised, Community Officers.

3.3.3 The Authority also intended to use intelligence led strategies and work with other regulators in implementing the project. Auditors discussed the flexibilities allowed by the Food Law Code of Practice for broadly compliant category C risk and D risk premises and also alternative enforcement strategies for Category E risk premises.

3.3.4 Auditors were advised that officers had been allocated their high risk premises inspections for this year. All premises allocated to the officers were considered to be high risk due to being non-compliant or presenting a significant risk i.e. nursing home, or a new premises. However, it was evident that not all officers were sure whether, for example, a high risk butchers' establishment was part of the new interventions approach. It could not be established whether all the high risk premises due an intervention would receive that intervention within the 28 days in line with the Code of Practice. The Authority advised auditors that where possible, all high risk premises were inspected within 28 days of becoming due for an intervention.

3.3.5 The broadly compliant risk rated C, and category D establishments had been allocated to an external contractor for intervention. It was at

these establishments where the Authority was still considering the approach for future interventions.

- 3.3.6 Auditors noted the potential deviation of the project from the current Food Law Code of Practice in the frequency of interventions at lower risk premises. The arrangements and management oversight has previously been discussed with the Agency, and an update is required to be provided to the Agency for further consideration.
- 3.3.7 The Authority was aware of the significant number of unrated premises in their area which had not received an intervention and had been registered as a food business on their database. Many of these were historic and registered before the formation of the new Food and Safety Team. The team were being proactive in dealing with the backlog of unrated premises and were addressing the issue in a number of ways including:
- Community officers walking the streets and reporting back the business status.
 - Web checks.
 - Business rates checks.
 - Each Food and Safety team officer was allocated 10 new unrated premises each month for an appropriate intervention in addition to their programmed visits.
 - A childminders event was held in September 2012 as part of the 'Better for Less' strategy, which assisted the Authority in updating their database records. Officers were able to assess activities being carried on at these establishments to prioritise interventions or implement an alternative enforcement strategy.
- 3.3.8 The Authority had a documented Food Hygiene inspection procedure and auditors discussed the benefit of updating the procedure to include guidance for officers on, for example:
- FHRs assessment in line with the Brand Standard.
 - HACCP assessment.
 - Approval of establishments.
 - E.coli O157 cross-contamination guidance and implementation, Pennington recommendations e.g. 'red flagging' high risk matters of concern, and supply to vulnerable groups.
- 3.3.9 File checks confirmed that, with the exception of the two approved establishments, recent high risk food establishment inspections were broadly being carried out at the required frequency and all risk ratings were appropriate, in line with the Code of Practice.
- 3.3.10 Records of food hygiene interventions were easily retrievable and legible and confirmed that in most cases officers were carrying out detailed interventions and recording their findings appropriately.

- 3.3.11 Officers were generally carrying out effective HACCP assessments and assessment of compliance with general hygiene and structural requirements. One officer included a useful plan of a butchers premises and another provided a schematic process flow chart of procedures carried out in that catering establishment.
- 3.3.12 Auditors advised that the aide-memoire, although recently reviewed, would benefit from further revision to include more prompts for officers to have regard to the E.coli cross-contamination guidance, for example on hand washing procedures and practices, heat disinfection and separate use of complex equipment.
- 3.3.13 Reports of inspection were left with the FBO after each inspection and generally contained all the details required by the Food Law Code of Practice.
- 3.3.14 The Authority had responsibility for enforcement in two approved establishments, both of these were cold stores and therefore 'low' risk. However, these had not been inspected since 2008 and according to the risk rating given, should have received a further inspection in 2010. In addition, the Service was unaware that a fishery establishment in their area was listed as approved on the Food Standards Agency's central list required by the EU, which is publically available.

Recommendations

3.3.15 The Authority should:

- (i) Ensure that the Authority's proposed interventions strategy and management oversight is clarified and provided to the Agency for consideration. [The Standard - 7.1]
- (ii) Ensure that product-specific establishments subject to approval under Regulation (EC) No. 853/2004 are inspected and approved in accordance with relevant legislation, the Food Law Code of Practice and centrally issued guidance. [The Standard - 7.2]
- (iii) Set up, maintain and implement documented procedures for the range of interventions and inspections carried out. [The Standard - 7.4]

- 3.3.16 There was evidence that officers were proactive in providing advice and support to businesses in complying with current legislation and

relevant guidance for example continuing to provide support for businesses which choose to adopt Safer food, better business as a food safety management system and the distribution of the E.coli O157 cross-contamination guidance and DVD to a butchers shop.

Verification Visit to a Food Premises

- 3.3.17 During the audit, a verification visit was undertaken to a butchers' shop with an officer from the Authority, 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.
- 3.3.18 The officer demonstrated good familiarity with the premises, an appropriate understanding of the food safety risks associated with the activities at the premises, and competence in assessing business compliance. Whilst the officer employed an incremental approach to achieving business compliance they had not fully advised the FBO of all non compliances found during the previous visit. The officer's notes of the food hygiene inspection did not fully record the extent and scope of the inspection as was evident from discussions with the officer and FBO.

3.4 Enforcement

- 3.4.1 A corporate enforcement policy had been developed which did not contain any references to food law enforcement activities and would benefit from being updated.
- 3.4.2 Some comprehensive enforcement procedures had recently been developed, however, there was no prosecution procedure available and other procedures would benefit from being updated, for example the simple caution and hygiene emergency prohibition notice procedures.
- 3.4.3 In one of the simple caution records examined there had been a delay in its administration and the Authority acknowledged that at the time, there was inadequate communication with the Legal Team. The recent creation of a Legal Development Officer for the Service had improved service delivery and facilitated a closer working relationship with the Authority's Legal Department. The Service was now benefitting from regular monthly meetings with the Authority's Legal Department, and the Legal Development Officer had been able to ensure an improved corporate priority given to food law enforcement.
- 3.4.4 Auditors discussed the number of food hygiene written warnings in the LAEMS returns which appeared low in comparison with the number of interventions that had been carried out. Written warnings include any relevant communication with the FBO which refers to any breach of legal requirements. This could be in the form of a letter, report of inspection, email etc. The Authority considered this to have been a coding error which would be rectified leading to more accurate reporting in future.
- 3.4.5 The Authority reported that there had been no food seizures or detentions in the two years preceding the audit.
- 3.4.6 Records of three hygiene improvement notices were examined. These were all found to be an appropriate course of action and signed by a correctly authorised officer who had witnessed the contravention. In general the notices were appropriately drafted in accordance with centrally issued guidance. In one file examined a request for a time extension had been granted to an FBO. There was no evidence that the Authority had withdrawn the original notice and issued a new one with a revised compliance date. Evidence that the notices had been properly served was not available. Timely follow-ups could not be ascertained as in two of the files examined the notices had only been served recently. In the other, the electronic copy provided to auditors did not have the date included.
- 3.4.7 Records of three voluntary closures were examined. In all cases, this had been an appropriate course of action agreed in writing with the

FBO and the officer. Appropriate follow-up visits and actions had been taken and there had been no breaches of voluntary closure agreements.

- 3.4.8 Two records for voluntary surrender of food were examined. In one, due process had been followed. In the other, the food had been infested by mice and seizure was being considered until the FBO voluntarily surrendered the food. There was no record of destruction of the food as at the time of audit this still had to be undertaken.
- 3.4.9 Records of two hygiene emergency prohibition notices were examined. Grounds for service were consistent with the Food Law Practice Guidance and signed by a correctly authorised officer. Appropriate follow-up actions were taken.
- 3.4.10 Prosecutions and a simple caution followed due legal process.
- 3.4.11 With the exception of the simple caution and prosecution files there was no evidence of documented internal monitoring of the formal enforcement actions.

Recommendations

3.4.12 The Authority should:

- (i) Set up, maintain and implement a documented enforcement policy for food enforcement activities in accordance with the Food Law Code of Practice and other official guidance. [The Standard - 15.1]
- (ii) Ensure up to date documented procedures are developed and implemented for all follow-up and enforcement actions in accordance with the Food Law Code of Practice. [The Standard - 15.2]

3.5 Internal Monitoring, Third Party or Peer Review

Internal Monitoring

- 3.5.1 The Authority had not developed and implemented a documented internal monitoring procedure for all food law enforcement activities which should be maintained and implemented in accordance with the Food Law Code of Practice.
- 3.5.2 File checks across all food law enforcement activities showed that there was limited documented evidence of qualitative monitoring of the Service's activities. Auditors were informed of the following qualitative monitoring arrangements that were carried out at the Authority:
- One to one monthly meetings, fortnightly team meetings and monthly section meetings.
 - Officers were accompanied by the team leader on inspections when they required a further opinion or advice, although this was not formally recorded.
 - Non-routine complaints were discussed by officers with team leaders.
 - Checks by a team leader on file records currently being transferred from a paper to an electronic storage system.
- 3.5.3 Accompanied inspections were occasionally carried out in order to share knowledge and maintain consistency of inspection approach and risk ratings. An inspection in one file examined had been carried out by the two team leaders to ensure consistency during a new FHRS assessment inspection.
- 3.5.4 There was little evidence of qualitative monitoring of formal enforcement activities except in prosecution files authorised by two senior managers for approval, and also when a simple caution had been administered.
- 3.5.5 Quantitative monitoring aspects of the service monitoring included reporting figures quarterly to the Assistant Director through the corporate performance management system. This included numbers of inspections carried out, broadly compliant premises, complaints, and enforcement actions taken. Regular meetings were held with the Portfolio Holder, who was advised appropriately of any non routine complaints and enforcement actions.

Recommendations

3.5.6 The Authority should:

- (i) Set up, maintain and implement risk based and proportionate 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 Standard - 5.1]
- (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 - 5.2]
- (iii) Ensure records of internal monitoring activities are maintained. [The Standard - 5.3]

Food and Food Premises Complaints

3.5.7 Due to resource constraints, the current complaints procedure for food and food premises was to be updated to reflect a proposed intelligence-led approach to prioritise complaints. Auditors were advised that this strategy would be presented for approval by Members.

3.5.8 Records for a range of complaints investigated by the Authority were examined. Appropriate follow-up actions had been taken in all cases, investigations all complied with the timing set out in the Authority's procedures, and results of the complaints had been confirmed with the complainant. There was no evidence of internal monitoring of complaints.

Recommendation

3.5.9 The Authority should:

Set up and maintain a documented policy and procedure in relation to complaints about food and food establishments including any referral arrangements. [The Standard - 8.1]

Food Inspection and Sampling

- 3.5.10 The Authority advised that as a result of resource constraints no sampling procedures had been developed and no sampling programme was being undertaken. This was in spite of the availability of Health Protection Agency microbiological sampling credits. The Authority considered that the outcomes of a sampling programme were not of sufficient benefit to inform their local interventions strategy. However, where appropriate, food sampling would be undertaken as an important tool in the investigation of food complaints and food poisoning investigations.
- 3.5.11 The Service Plan also advised that whilst routine sampling is not currently undertaken, 'where appropriate, the team will target food businesses and processors by way of a risk based/intelligence led approach. This may include food sampling and swabbing'.

Recommendations

3.5.12 The Authority should:

- (i) Set up, maintain and implement a documented sampling policy, procedure and programme in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard - 12.4]
- (ii) Appropriate action should be taken on any non-compliance found in accordance with the Authority's enforcement policy. [The Standard - 12.5]

Third Party or Peer Review

- 3.5.13 The auditors were advised that the Authority had not recently participated in any inter-authority audit or peer review initiative and none was planned for the forthcoming year. They were however, an active participant in the Kent Food Technical Group, this was noted from minutes of meetings provided prior to the audit and from anecdotal references made throughout the audit visit. The group reported to the Kent Environmental Health Managers Group and one of the remits of the Group was to ensure enforcement consistency across the County.

Auditors: Jane Tait
John Ashcroft

Food Standards Agency

Local Authority Audit and Liaison Division

ANNEXE A Action Plan for Medway Council

Audit date: 16-17 October 2012

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.1.8(i) Ensure that future Food Service Plans are in full accordance with the Service Planning Guidance in the Framework Agreement to include an accurate estimate of the staffing and financial resources required to deliver the food law enforcement service. [The Standard – 3.1]</p>	<p>30/04/13</p>	<p>The Food Service Plan will be updated in April 2013 to reflect the recommendations. The April date will allow us to consider the settlement for the year and how this relates to the delivery of the food service.</p>	<p>Budget building for 2013 has commenced and current resources have been maintained to date.</p>
<p>3.1.8(ii) 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]</p>	<p>01/04/13</p>	<p>Recruit two suitably qualified, experienced and competent officers who are able to undertake interventions in high-risk establishments. It is hoped that officers will be in post early in the new financial year.</p>	<p>Recruitment to one post was agreed in October 2012 and we are currently in the recruitment process with interviews arranged for early February 2013. As part of Medway's 'Better for Less' review we have been able to recruit to another post, and this will commence in January 2013.</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.11(i) Review, expand and revise the food law enforcement procedures to ensure the documents accurately reflect the Food Law Code of Practice and centrally issued guidance, and contain sufficient detail to provide adequate operational guidance for staff in relation to all interventions and enforcement activities carried out. [The Standard – 7.4 and 15.2]	30/09/13	We are currently exploring a range of options to address a number of the recommendations relating to policies, procedures and reviews. A current plan to review and/or write the relevant documents was contained in the Food Service Plan. We are conscious of the time that this could take, and do not want this impacting on the delivery of interventions. Therefore we are looking at the business case for buying in a 'quality system', or developing one in-house and temporarily back filling the post. We would like all documentation to be in place for 2013/14.	The sampling policy is currently in draft. We have contacted a number of providers and we are considering whether they meet the requirements.
3.1.11(ii) Set up and implement a control system for all documentation relating to food law enforcement activities. Ensure that documented policies and procedures across all enforcement activities are reviewed at regular intervals, and whenever there are changes to legislation or centrally issued guidance. [The Standard – 4.1 and 4.2]	30/09/13	See 3.1.11(i)	See 3.1.11(i) The Legal Development Officer identifies any changes to legislation and informs the relevant parties.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.2.9(i) Develop, maintain and implement procedures to ensure that the food premises database is complete, accurate, reliable and up to date, and that accurate and comprehensive information on food law enforcement activity is reported in official returns to the Agency. [The Standard - 6.3 and 11.2]</p>	<p>01/04/13 and ongoing</p>	<p>As part of Medway's 'Better for Less' review, we have managed to secure a support post that will have responsibility for administering the database. In addition, key officers will undertake appropriate training to aid them in undertaking their role. Any training needs for key officers will be identified when the support post is filled. The post holder following this will review procedures.</p>	<p>As part of Medway's 'Better for Less' review we have developed the support post and recruitment will commence in January 2013.</p>
<p>3.2.9(ii) Ensure that key officers receive appropriate training needed to maintain the competencies necessary to deliver the technical aspects of the work in which they are involved, having particular regard to the database. [The Standard - 5.4]</p>	<p>01/04/13 and ongoing</p>	<p>As part of Medway's 'Better for Less' review, we have managed to secure a support post that will have responsibility for administering the database. In addition, key officers will undertake appropriate training to aid them in undertaking their role. Any training needs for key officers will be identified when the support post is filled. The post holder following this will review procedures.</p>	<p>As part of Medway's 'Better for Less' review we have developed the support post and recruitment will commence in January 2013.</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.3.15(i) Ensure that the Authority's proposed interventions strategy and management oversight is clarified and provided to the Agency for consideration. [The Standard -7.1]	31/05/13	An alternative intervention proposal was presented to the Agency in February 2012. It is proposed to report back to the Agency in May 2013 so that the impact over the financial year 2012/13 can be adequately assessed. Early indications seem to show that we have managed to secure improvements in problematic premises.	The proposals have been implemented over the past 10 months and will continue to be developed and refined. Medway's 'Better for Less' review has aided this approach.
3.3.15(ii) Ensure that product-specific establishments subject to approval under Regulation (EC) No. 853/2004 are inspected and approved in accordance with relevant legislation, the Food Law Code of Practice and centrally issued guidance. [The Standard - 7.2]	31/03/13	The Environmental Health Team Leader to take responsibility for these premises. Inspections will be undertaken in early 2013.	Allocation of the premises to the Environmental Health Team Leader has already taken place.
3.3.15(iii) Set up, maintain and implement documented procedures for the range of interventions and inspections carried out. [The Standard - 7.4]	30/09/13	See 3.1.11(i)	See 3.1.11(i)

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.4.12(i) Set up, maintain and implement a documented enforcement policy for food enforcement activities in accordance with the Food Law Code of Practice and other official guidance. [The Standard - 15.1]	30/09/13	Medway undertakes a wide variety of enforcement activities. To ensure that there is a consistent approach, Medway has a Corporate Enforcement Policy. Through the Legal Development Officer we will seek a review of the corporate policy to include enhanced references to food enforcement.	The Legal Development Officer has been tasked with this, but no work has commenced to date.
3.4.12(ii) Ensure up to date documented procedures are developed and implemented for all follow-up and enforcement actions in accordance with the Food Law Code of Practice. [The Standard - 15.2]	30/09/13	See 3.1.11(i)	See 3.1.11(i)
3.5.6(i) Set up, maintain and implement risk based and proportionate 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 Standard - 5.1]	30/09/13	See 3.1.11(i) In addition Officers to undergo regular and planned peer reviews. Team Leaders to audit 10% of inspections.	See 3.1.11(i)

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.5.6(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 - 5.2]	01/04/13	Officers asked to complete an 'Authority to serve' document for all enforcement action. Actions to be reviewed by the Team Leaders, Commercial Service Manager and Head of Service as appropriate. Conformance to be reviewed and reported on.	
3.5.6(iii) Ensure records of internal monitoring activities are maintained. [The Standard - 5.3]	01/04/13	See 3.5.6(ii)	See 3.5.6(ii)
3.5.9 Set up and maintain a documented policy and procedure in relation to complaints about food and food establishments including any referral arrangements. [The Standard - 8.1]	30/09/13	See 3.1.11(i)	See 3.1.11(i)
3.5.12(i) Set up, maintain and implement a documented sampling policy, procedure and programme in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard - 12.4]	01/04/13	A policy and procedure is to be drawn up and will include a sampling programme to commence in the financial year 2013/14. Medway will continue to be part of the Kent Food Sampling Group; a sub-group of the Kent Food Technical Group.	Work has started on this document.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.5.12(ii) Appropriate action should be taken on any non-compliance found in accordance with the Authority's enforcement policy. [The Standard - 12.5]	01/04/13	See 3.5.6(ii)	See 3.5.6(ii)

ANNEXE B Audit Approach/Methodology

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

(1) Examination of LA policies and procedures.

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

- Medway Council Food Hygiene Enforcement Plan 2012/2013. (Sept 2012)
- Community Officers Project Brief (Oct 2012)
- National Food Hygiene Rating Scheme (Oct 2012)
- Minutes of Meetings with Portfolio Holder (Various dates 2012)
- Safer Communities Learning & Development Policy (2012)
- Delegated powers and authorisation of officers scheme (Sept 2012)
- Food Hygiene Inspection procedure (July 2002)
- Food complaints procedure (Date unknown)
- Corporate Enforcement Policy (2006)
- Officer authorisation, training and qualification records
- Various enforcement procedures (various dates, 2002-2012)
- Minutes of Kent Food Technical Group (various dates 2012)
- Routine food inspection document/database check sheet.

(2) File reviews

The following LA file records were reviewed during the audit:

- General food premises inspection records
- Approved establishment files
- Food and food premises complaint records
- 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:

Commercial Services Manager
Environmental Health Team Leader
Environmental Health Officer
Food Safety Officer

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

(5) On-site verification check:

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

ANNEXE C Glossary

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

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