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Food Standards Agency Audit of Local Authority Official Controls and Food Business Operator Controls in Approved Establishments

Monmouthshire County Council

20 – 22 October 2009

Foreword

Audits of local authority food law enforcement services are part of the Food Standards Agency Wales arrangements to improve consumer protection and confidence in relation to food. These arrangements recognise that the enforcement of UK food law relating to food safety, hygiene, composition, labelling, imported food and feedingstuffs 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 official controls implemented in approved establishments by the Local Authority's Food Law Enforcement Service. The audit assessments included the Authority's policies, organisation and management and local arrangements for implementation of official controls in approved dairy, meat products and fish and shellfish establishments.

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 Local Authority Food Law Enforcement. The Framework Agreement and the audit protocols are available on the Agency's website at: www.food.gov.uk/enforcement/auditandmonitoring

The main aim of the audit scheme is to improve and maintain 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 information to inform Agency policy on food safety.

The report contains some statistical data on food law enforcement activities undertaken by the Authority. The Agency's website contains enforcement activity data for all UK local authorities and can be found at: www.food.gov.uk/enforcement/auditandmonitoring

The report also contains an action plan, prepared by the Authority, to address the audit findings.

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 Background and Scope of the Audit

- 1.1.1 This report records the results of an audit of Monmouthshire County Council. The Authority was one of ten Authorities selected for the audit programme of local authority official controls and food business operator controls in approved establishments being undertaken between September 2009 and March 2010. The Authority was selected for audit on the basis that it had supplied information to the Agency on its approved establishments which was incomplete.
- 1.1.2 The audit was carried out under relevant headings of the Food Standards Agency Food Law Enforcement Standard and the report has been made publicly available on the Agency's website at: www.food.gov.uk/enforcement/auditandmonitoring. Hard copies are also available from Food Standards Agency Wales, 11th Floor, Southgate House, Wood Street, Cardiff CF10 1EW.
- 1.1.3 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 (Wales) Regulations 2007. This audit of official controls implemented by Monmouthshire County Council's food service was undertaken under section 12(4) of the Act and Regulation 7 of the Regulations.
- 1.1.4 The audit examined the Local Authority's arrangements for implementing official controls at approved establishments, with a focus on approved dairy, meat products and fish and shellfish establishments. In considering the effectiveness of these controls, the audit evaluated the appropriateness of approvals; compliance of the approvals process with legal requirements; the Food Law Code of Practice and official guidance; delivery of routine official controls in approved establishments; the reactive elements of the Authority's approved establishments responsibilities and related aspects of the Service.
- 1.1.5 Monmouthshire is located in the South East corner of Wales. The population had been estimated at around 85,000 in the 2001 Census. Visitors to the area increase this figure substantially to around 2 million per year. The County covers an area of 330 square miles, is predominantly rural and contains the main towns of Abergavenny, Monmouth, Chepstow, Caldicot, Usk and Raglan and there is also an extensive residential development along the M4 corridor.
- 1.1.6 The Food Service Delivery Plan for 2009/10 identified 1269 food premises on the Authority's premises database, including 5 approved

premises. One of the approved premises had since ceased trading and the approval was in the process of being withdrawn at the time of the audit.

- 1.1.7 The on-site element of the audit took place at the Authority's offices, The Firs, Coed-Glas Lane, Abergavenny NP57 5LE between 20 and 22 October 2009 and also included reality checks at 2 approved establishments.

2.0 Executive Summary

- 2.1 The Authority had produced a Food Service Plan for 2009/10 in line with the Service Planning Guidance in the Framework Agreement. The Plan was subject to an annual review when any variance and associated resource issues were addressed.
- 2.2 The Authority maintained a documented procedure for the authorisation of officers. A review of individual authorisations indicated that officers undertaking inspections/ interventions at approved establishments were suitably qualified and experienced.
- 2.3 The Authority had developed and implemented a relatively new electronic control system relating to all its documented policies and procedures. All controlled documents are available electronically to enforcement officers. Documents may only be amended/ updated by a member of staff with appropriate delegation to update/amend the policies and procedures.
- 2.4 The Authority had a training programme for all enforcement officers including those undertaking inspections in approved establishments and maintained training records of all officers undertaking enforcement work in food premises. Auditors undertook a review of the training records of those undertaking enforcement in approved establishments only.
- 2.5 The Authority had in place a sampling policy which stated that sampling programmes for food hygiene and food standards would be produced. The Authority had a sampling programme for its food standards work which was included in its Food Service Delivery Plan for 2009/10. However, there was no sampling programme in the plan for food hygiene (including approved establishments) as required in The Standard.
- 2.6 It was not clear from all approved establishment files that re-approvals under Regulation (EC) No 853/2004 had been undertaken in accordance with the legislation and centrally issued guidance. A number of file records were incomplete.

2.7 The Authority's Key Areas for Improvement:

Approval of Establishments

- 2.7.1 The audit revealed deficiencies in the way in which re-approvals were undertaken by the Authority after 01 January 2006 when Regulation (EC) No. 853/2004 came into force. There was no evidence that the

Authority had followed the guidance issued by the Agency in December 2005 on the re-approval of establishments.

- 2.7.2 The audit also revealed deficiencies in the information kept in the approved establishments files, for example decisions on approval had been taken before information required by Annex 12 of the Food Law Practice Guidance (Wales) was complete.

3.0 Audit Findings

3.1 Organisation and Management

3.1.1 Food law enforcement was undertaken within the Commercial Team of the Authority's Environmental Health Department. The Commercial Team is responsible for enforcement of food safety, food standards, health and safety at work (at both food and non-food premises), smoke-free places legislation and communicable disease control.

3.1.2 The Principal Environmental Health Officer was the nominated lead officer with responsibility for food safety which included responsibility for approved establishments.

3.1.3 The Authority had produced a Food Service Plan for 2009/10 in accordance with the Service Planning Guidance in the Framework Agreement and had been appropriately approved by the Cabinet Member for Regulatory Services in July 2009. The Plan was subject to an annual review when any variance and associated resource issues would be addressed.

3.1.4 The aim of the service, as stated in the Food Service Plan 2009/10 was:

“to strive to ensure that all food and drink intended for human consumption which is produced, stored, distributed, handled, sold, intended for sale, or consumed within the County is of genuine quality and is without risk to the health and safety of the consumer”.

3.1.5 The Food Service Delivery Plan confirmed the Authority's commitment to the inspection of high risk premises in accordance with the Food Law Code of Practice (Wales).

3.1.6 The Plan indicated that there were five establishments approved under Regulation (EC) No 853/2004. Details of the five establishments corresponded with the information held by the Agency.

3.2 Review and Updating of Documented Policies and Procedures

3.2.1 The Authority had recently established and implemented an electronic control system in relation to its documented food service policies and procedures. All officers had read only access to the latest version of policies and procedures. These may only be reviewed and/ or updated by the Environmental Health Manager or Lead Officer for Food Safety.

3.2.2 All procedures, as listed in Annex B of the report examined during the audit demonstrated evidence of recent review in line with the Authority's document control procedure. The procedure had been subject to an annual review as indicated in the documents.

3.3 Authorised Officers

3.3.1 The Authority maintained a scheme of delegation in respect of officer authorisation. The Council's Standing Orders delegated power to the Corporate Director, Regeneration, Environment and Resources. In addition the standing orders required the authorisations to be countersigned by the appropriate Head of Service. Examination of authorisations for staff undertaking enforcement in approved establishments established that they were signed by the Director and countersigned by the Environmental Health Manager.

3.3.2 The Authority had developed a documented procedure for the authorisation of officers based on their qualifications and food related experience and included the means by which officers' competency was assessed prior to deciding appropriate levels of authorisation for individuals.

3.3.3 The Authority was appropriately staffed in line with its Service Delivery Plan for 2009/10 with suitably qualified competent and experienced officers to undertake its food law enforcement work. The individual authorisations of the 4 officers undertaking enforcement in approved establishments indicated that they were all authorised appropriately in terms of the Authority's scheme of delegation.

3.3.4 Officer training requirements were identified during the officer's annual performance review and were included in a training programme and linked to the officer's key performance objectives. Training records of the 4 officers responsible for official controls in approved establishments were examined during the audit. Evidence of update training was maintained and officers had received the required minimum food related training of 10 hours per year based on the principles of continuing professional development and in line with the requirements of the Food Law Code of Practice (Wales)

3.4 Food Premises Database

3.4.1 The Authority's documented policies and procedures were held electronically. This included a documented procedure to ensure that the food premises database was accurate and up to date.

3.4.2 A review of records of the approved establishments was conducted using the Authority's database. The information was accurate and consistent with that contained in the paper files. No other database checks were carried out.

3.5 Approved Establishment Inspections

3.5.1 The Authority's food service delivery plan included the registered premises profile for the Authority by premises type and approved establishments were included within the profile. Reference was made to the fact that the Authority had 5 approved establishments and that enforcement at those establishments required more detailed knowledge from the officers carrying out the interventions. The qualifications, experience and training undertaken by officers carrying out official controls at approved premises was consistent with the requirements of the Food Law Code of Practice (Wales).

3.5.2 Approval information supplied on the pre-visit questionnaire was consistent with the information held by the Agency.

3.5.3 The Authority had developed documented procedures for food hygiene inspections, which detailed operational guidance for the inspection of food premises in the Authority's area. The Authority had also developed a specific procedure for officers to follow when considering approval of an establishment under the requirements of Regulation (EC) No. 853/2004. The procedure included guidance for officers to follow when considering conditional approval, suspension of approval and refusal of approval.

3.5.4 The Service had produced inspection forms to assist officers in recording relevant information specific to the requirements of Regulation (EC) No 853/2004.

3.5.5 Intervention records of 4 currently approved establishments were examined. From the files reviewed, auditors identified that in general file records did not contain all information as detailed in Annex 12 of the Food Law Practice Guidance (Wales). Examples found by auditors included an absence of information on evidence regarding compliance with Regulation (EC) No 178/2002 concerning traceability, the size and scale of the business, and food sample results taken by the food business operator.

3.5.6 Agency Guidance issued to local authorities in December 2005 highlighted the requirement of Regulation (EC) No. 853/2004 for

reapproval of all approved premises. From the files reviewed, auditors did not find evidence that appropriate action had been taken to determine whether the reapproval of establishments had been undertaken in line with that guidance.

- 3.5.7 Auditors found evidence from the files reviewed that the subsequent assessment of compliance and inspection frequency had been appropriately carried out by the Authority in line with the Food Law Code of Practice (Wales).
- 3.5.8 Auditors made joint visits with the Authority's officers to two approved establishments. The purpose of the visits was to verify the information gathered from file records checks and officer interviews and to assess the official controls implemented by the Authority at the establishments. The visits confirmed that the approvals had been correctly issued and covered all relevant business activity. It was also confirmed that the Authority was effectively carrying out its official controls at the establishments and had developed a supportive working relationship with the food business operators.

Recommendations

- 3.5.9 The Authority shall:
- (i) Inspect, approve and register relevant premises in accordance with the relevant legislation, Food Law Code of Practice (Wales), centrally issued guidance and the Authority's own policies and procedures. [The Standard – 7.2]
 - (ii) Ensure that approved establishment files contain sufficient information to demonstrate that appropriate action has been taken during all inspections/interventions. [The Standard – 7.3]

3.6 Food and Food Premises Complaints

- 3.6.1 The Authority had developed and implemented documented procedures for the investigation of food complaints relating to both food and food premises. The procedures contained all the relevant information and had regard to the Food Law Code of Practice (Wales).
- 3.6.2 Auditors did not find any evidence of complaints relating to food hygiene in the 5 approved establishment files reviewed. The review included the

establishment file for the premises subject to withdrawal of approval by the Authority.

3.7 Food Safety Incidents

3.7.1 The Authority had developed and implemented a procedure that set out the process for initiating and responding to food alerts and other incidents.

3.7.2 A review of the files of the approved establishments identified a recent food incident that had occurred in one of the Authority's approved establishments. It had been reported to the Agency in a timely manner and the Authority had worked in liaison with the Agency in the investigation of the food incident.

3.8 Enforcement

3.8.1 The Authority had developed a detailed Food Safety Enforcement Policy supported by associated procedures in accordance with the Food Law Code of Practice (Wales) and other official guidance. However, auditors did not find evidence that the policy had been submitted to the relevant member forum as required by The Standard.

3.8.2 Following a food incident in one of the approved establishments the Authority was considering a prosecution of the food business operator. As a result of the incident the Authority suspended the establishment's approval and auditors were advised that approval was to be withdrawn as the establishment was no longer in operation as a food business.

Recommendation

3.8.3 The Authority shall:

Ensure that its documented enforcement policy is approved by the relevant member forum.

[The Standard – 15.1]

3.9 Food Sampling

- 3.9.1 The Authority had developed and implemented a food sampling policy which had been reviewed in April 2009.
- 3.9.2 A food sampling programme for food standards was included in the Authority's Food Service Delivery Plan for 2009/10. The Service Delivery Plan did not contain a sampling programme for food hygiene. The Authority indicated in its Service Delivery Plan that it would participate in the shopping basket programme produced by the Welsh Food Microbiological Forum.

Recommendation

- 3.9.3 The Authority shall:
- Set up a documented sampling programme for food hygiene that shall accord with the Food Law Code of Practice (Wales).
[The Standard – 12.4]

3.10 Records and Inspection Reports

- 3.10.1 The Authority's records which related to approved establishments were stored utilising both paper based and electronic database filing methods. File records of the 4 currently approved establishments were examined by the auditors. Historically the approved premises files did not contain all relevant documents. As a result all approved premises files did not contain up to date information as required by Annex 12 of the Food Law Code of Practice (Wales).
- 3.10.2 The Authority provided inspection reports in two ways. An inspection report summary was left at the premises following an intervention and also a follow up letter may be sent, although this was dependant on the nature of any non-conformances found.
- 3.10.3 The inspection report summary complied with the requirements of Annex 6 of the Food Law Code of Practice (Wales) in that it contained all the required elements. However, the forms were not fully completed, particularly with reference to the proposed follow up action by the Authority.
- 3.10.4 All records in the premises files had been kept for at least six years.

Recommendation

3.10.5 The Authority shall:

Maintain up to date accurate records to ensure that the food business operator is informed of any follow up action that the Authority is proposing to undertake. [The Standard – 16.1]

3.11 Internal Monitoring

3.11.1 The Authority had an internal monitoring procedure which was in accordance with the Food Law Code of Practice (Wales) and centrally issued guidance.

3.11.2 Internal monitoring was undertaken in two ways – peer review and senior manager review. Auditors received evidence of file checks and internal monitoring undertaken at approved establishments. Internal reviews were recorded and maintained.

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ANNEX A

ACTION PLAN FOR: MONMOUTHSHIRE COUNTY COUNCIL

Audit Date: 20 - 22 October 2009

| IMPROVEMENTS PLANNED | BY DATE | TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH | COMMENTS |
|----------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Review files and update records to include any absent details required by Annex 12 | 28 th February 2010 | 3.5.9 (i) The Authority shall: Inspect, approve and register relevant premises in accordance with the relevant legislation, Food Law Code of Practice (Wales), centrally issued guidance and the Authority's own policies and procedures. [The Standard – 7.2] | |
| Review files to ensure any absent details on actions taken are updated and ensure this is fully maintained at subsequent visits. | 30 th April 2010 | 3.5.9 (ii) The Authority shall: Ensure that approved establishment files contain sufficient information to demonstrate that appropriate action has been taken during all inspections/interventions. [The Standard – 7.3] | |
| Food Law Enforcement Policy will be presented to appropriate member forum for approval | 30 th April 2010 | 3.8.3 The Authority shall: Ensure that its documented enforcement policy is approved by the relevant member forum. [The Standard – 15.1] | |

| IMPROVEMENTS PLANNED | BY DATE | TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH | COMMENTS |
|------------------------------------------------------------------------------------------------------------------|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Set up documented sampling programme | 30 th March 2010 | 3.9.3 The Authority shall: Set up a documented sampling programme for food hygiene that shall accord with the Food Law Code of Practice (Wales). [The Standard – 12.4] | |
| Authorised officers will be reminded of this requirement and files will be reviewed to ensure that this happens. | With Immediate effect | 3.10.5 The Authority shall: Maintain up to date accurate records to ensure that the food business operator is informed of any follow up action that the Authority is proposing to undertake. [The Standard – 16.1] | |

ANNEX B

Audit Approach/Methodology

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

(1) Examination of LA policies, procedures and linked documents were examined before and during the audit:

- Food Service Delivery Plan 2009/10;
- Authorisation of Officers procedure;
- Food Hygiene Inspections procedure;
- Approved Premises procedure;
- The Authority's Food Law Enforcement procedures;
- Monmouthshire Food Sampling Policy and procedure;
- Monmouthshire Food Safety Enforcement Policy and related enforcement procedures;
- Monitoring the Quality of Food Hygiene inspections, visit and actions procedure (Internal Monitoring).

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

- Approved establishment files;
- Establishment inspection records;
- Officer training records;
- Food complaint records;
- Food sampling records.

(3) Database records

- Food premises database records relating to approved establishments and records of complaints relating to approved establishments.

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

- Audit Liaison Officer (ALO);
- 1 Officer authorised to inspect approved establishments.

(5) On site verification check:

- Site visit with the Authority's officers to two approved establishments.

ANNEX C

Glossary

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|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Agricultural Analyst | A person holding the prescribed qualifications, who is formally appointed by a local authority to analyse feedingstuffs samples. |
| Approved premises | Food manufacturing premises that has been approved by the local authority, within the context of specific legislation, and issued a unique identification code relevant in national and/or international trade. |
| 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. |
| Best Value | <p>A Government policy which seeks to improve local government performance in the delivery of services to local communities – from education and care for the elderly through to environmental health and road maintenance. Best Value aims to ensure that the cost and quality of these services are of a level acceptable to local people by:</p> <ul style="list-style-type: none">• increasing the role of local people in deciding the priorities for local government services• improving the way authorities manage and review their business• building on the experience and expertise of staff. <p>* In Wales this has recently been replaced by the Wales Programme for Improvement</p> |
| Border Inspection Post | Point of entry into the UK from non-EU countries for products of animal origin. |
| 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. |
| Enforcement Concordat | Government guidance setting out principles and procedures of good enforcement which local authorities may adopt. Developed in consultation with businesses, local and central government, |

consumer groups and other interested parties. It sets out what businesses and others being regulated can expect from enforcement officers.

Environmental Health Officer (EHO) Officer employed by the local authority to enforce food safety legislation.

Feedingstuffs Term used in legislation to describe feed mixes for farm animals and pet food.

Food Examiner A person holding the prescribed qualifications who undertakes microbiological analysis on behalf of the local authority.

Food Hazard Warnings This is a system operated by the Food Standards Agency to alert the public and local authorities to national or regional problems concerning the safety of food.

Food hygiene The legal requirements covering the safety and wholesomeness of food.

Food standards The legal requirements covering the quality, composition, labelling, presentation and advertising of food, and materials in contact with food.

Framework Agreement The Framework Agreement consists of:

- Food Law Enforcement Standard
- Service Planning Guidance
- Monitoring Scheme
- Audit Scheme

The **Standard** and the **Service Planning Guidance** set out the Agency's expectations on the planning and delivery of food law enforcement.

The **Monitoring Scheme** requires local authorities to submit quarterly returns to the Agency on their food enforcement activities i.e. numbers of inspections, samples and prosecutions.

Under the **Audit Scheme** the Food Standards Agency will be conducting audits of the food law enforcement services of local authorities against the criteria set out in the Standard.

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| Full Time Equivalents (FTE) | A figure which represents that part of an individual officer's time available to a particular role or set of duties. It reflects the fact that individuals may work part-time, or may have other responsibilities within the organisation not related to food enforcement. |
| HACCP | Hazard Analysis 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. |
| Home Authority | An authority where the relevant decision making base of an enterprise is located and which has taken on the responsibility of advising that business on food safety/food standards issues. Acts as the central contact point for other enforcing authorities' enquiries with regard to that company's food related policies and procedures. |
| Improvement Notice | A notice served by an Authorised Officer of the local authority under Section 10 of the Food Safety Act 1990, requiring the proprietor of a food business to carry out suitable works to ensure that the business complies with the requirements of food hygiene or food processing legislation. |
| Inter Authority Auditing | A system whereby local authorities might audit each others' food law enforcement services against an agreed quality standard. |
| Member forum | A local authority forum at which Council Members discuss and make decisions on food law enforcement services. |
| OCD returns | Returns on local food law enforcement activities required to be made to the European Union under the Official Control of Foodstuffs Directive. |
| Originating Authority | An authority in whose area a business produces or packages goods or services and for which the Authority acts as a central contact point for other enforcing authorities' enquiries in relation to the those products |

| | |
|---------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Port Health Authority | A local authority within whose boundaries there is a point of entry into the UK for imported foods. |
| Public Analyst | An officer, holding the prescribed qualifications, who is formally appointed by the local authority to carry out chemical analysis of food samples. |
| Risk rating | A system that rates food premises according to risk and determines how frequently those premises should be inspected. For example, high risk hygiene premises should be inspected at least every 6 months. |
| Service Plan | A document produced by a local authority setting out their plans on providing and delivering a food 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 all the functions are combined, examples being Welsh Authorities and London Boroughs. A Unitary Authority's responsibilities will include food hygiene, food standards and feeding stuffs enforcement. |