

**Report on the Audit of Local Authority Food Law
Service Assessment of Food Businesses'
Food Safety Management System (FSMS)**

New Forest District Council 9-10 February 2010



Foreword

Audits of local authorities' food law enforcement services are part of the Food Standards Agency's arrangements to improve consumer protection and confidence in relation to food. These arrangements recognise that the enforcement of UK food law relating to food safety, hygiene, composition, labelling, imported food and feeding stuffs is largely the responsibility of local authorities. These local authority regulatory functions are principally delivered through Environmental Health and Trading Standards Services. The Agency's website contains enforcement activity data for all UK local authorities and can be found at: www.food.gov.uk/enforcement/auditandmonitoring.

The attached audit report examines the Local Authority's Food Law Enforcement Service. The assessment includes the local arrangements in place for officer authorisation and training, inspections of food businesses and internal monitoring. The audit focus was developed specifically to address Recommendations 9 and 15 of the Public Inquiry Report¹ into the 2005 E. coli outbreak at Bridgend, Wales. The programme focused on the local authority's training provision to ensure that all officers who check Hazard Analysis and Critical Control Point (HACCP) and HACCP based plans, including those responsible for overseeing the work of those officers, have the necessary knowledge and skills. Also, that existing inspection arrangements and processes to assess and enforce HACCP related food safety requirements in food businesses are adequate, risk based, and able to effect any changes necessary to secure improvements.

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 and is available on the Agency's website at:

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

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 the devolved countries comprising the UK.

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

¹ <http://wales.gov.uk/ecolidocs/3008707/reporten.pdf?skip=1&lang=en>

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1. Introduction

- 1.1 This report records the results of an audit at New Forest District 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 food establishment inspections, enforcement activities 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 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 New Forest District Council was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme.
- 1.3 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 by the Agency and was representative of a geographical mix of 25 Councils selected across England.

Scope of the Audit

- 1.4 The audit examined New Forest District Council's arrangements for food establishment inspections and internal monitoring with regard to food hygiene law enforcement, with particular emphasis on officer competencies in assessing food safety management systems based on HACCP principles. 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 other related food hygiene law enforcement activities.
- 1.5 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 office at the Town Hall, Avenue Road, Lymington, Hampshire on 9-10 February 2010.

Background

- 1.6 The area covered by New Forest District Council consists of an ancient forest, heath and coastline and small towns and villages, much of which is within the New Forest National Park. It covers an area of 290 square miles, with 40 miles of coastline and an estimated population of 171,657. The District attracts a very large number of visitors which support the leisure and catering industry.
- 1.7 There are approximately 1,600 food establishments within the Authority's area including 6 approved establishments. The majority are in the small to medium retail and catering sector categories, reflecting the amount of tourism the area attracts.
- 1.8 Food safety enforcement was delivered by 2 geographically based Environmental Health (Commercial) Teams managed by 2 Senior Environmental Health Officers (SEHO). Overall management of the teams was the responsibility of the Environmental Health Manager, who was also the appointed Lead Officer for food safety. The teams also enforced Health and Safety at Work legislation, animal welfare licensing and caravan site licensing, and had an input into Licensing Act applications and planning legislation consultations.
- 1.9 The profile of New Forest District Council's food businesses as of 31 March 2009 was as follows:

Type of food establishment	Number
Primary Producers	1
Manufacturers/Packers	29
Retailers	349
Restaurant/Caterers	1,232
Total number of food establishment	1,611

2. Executive Summary

- 2.1 The Authority had implemented a Food Service Plan for 2009/2010 that was in line with the Service Planning Guidance in the Framework Agreement and had received Member approval.
- 2.2 The Authority had developed and implemented policies and procedures covering all areas within the scope of the audit. An effective system for regular review of these policies and procedures was in place and a number of these had been recently updated.
- 2.3 The Authority had a procedure for the authorisation of officers based on a competency matrix which took account of officer qualifications, experience and competency. The schedule of authorisation comprehensively covered the full range of legislation under which officers were authorised with the exception that some officer authorisations required aligning with the authorisation matrix and some minor updating.
- 2.4 Officer training and qualifications records confirmed that the Authority had provided adequate training to officers commensurate with their duties and in accordance with the specified levels of Continuing Professional Development (CPD) training requirements in the Food Law Code of Practice.
- 2.5 Records of the food hygiene inspections and other actions undertaken by the Authority were well organised and easily retrievable. The records confirmed that officers were carrying out comprehensive inspections and providing detailed records of findings, in particular recording the progress of the business in complying with procedures based on HACCP.
- 2.6 Where contraventions were noted on inspections, appropriate follow-up action was being taken, including the service of hygiene improvement notices and the voluntary closure of premises. The inspection procedure had been reviewed in 2009 in response to the recommendations arising from the Pennington Enquiry, and will be further reviewed to clearly indicate those establishments that supply vulnerable groups.
- 2.7 The approved establishment files generally contained the information required by Annexe 12 of the Food Law Code of Practice, although the approval documents could not be found on the files and there was insufficient information on emergency withdrawal/recall procedures, which would be important in the event of a food safety incident.
- 2.8 The Authority had developed a procedure for the investigation of food complaints. Records of food/food premises complaints made to the

Authority were examined and it was evident that all complaints had been thoroughly investigated.

- 2.9 The Authority had a documented sampling policy and procedure in addition to a sampling programme. File checks showed that appropriate follow-up actions had been taken in all cases of unsatisfactory samples and food business operators had been informed of outcomes.
- 2.10 The Authority had developed a comprehensive Enforcement Policy which had recently undergone review to reflect central guidance. The Authority was using appropriate and effective enforcement powers to ensure that food business operators were compliant with the legislation, including the use of hygiene improvement notices. When using these powers, the Authority was able to show that they had adopted a graduated approach to enforcement.
- 2.11 The Authority had developed an internal monitoring procedure which covered programmed inspections and service requests. In practice both formal and informal monitoring were undertaken across the range of food law enforcement activities. This internal monitoring needs to be extended to ensure that where monitoring is undertaken the Authority have a record, including any corrective actions.
- 2.12 A 'reality check' visit was undertaken during the audit to a food business which had been recently inspected. The main objective of the visit was to assess the effectiveness of the officer's evaluation of food business compliance with food law requirements. The visit confirmed that the Authority was carrying out its official control responsibilities effectively at the establishment. It was clear that the officer had focused on the Food Safety Management System (FSMS) during the inspection and had developed a supportive working relationship with the food business operator.

3.0 Audit Findings

3.1 Organisation and Management

Strategic Framework, Policy and Service Planning

3.1.1 The Authority had developed and implemented a detailed Food Service Plan for 2009/2010. This had been approved by the Environment Health and Wellbeing Portfolio Holder on 20 January 2010 and was in line with the Service Planning Guidance in the Framework Agreement. The Plan confirmed the Council's aim:

- *To protect the public from potentially dangerous foods and poor food hygiene practices.*

The Service objectives were linked to the corporate aim of:

- *Helping local businesses to succeed and improving people's health.*

The Service aimed to meet this corporate objective by:

- *Being an outward looking Service of excellence, working closely with the community and in partnership with others in relation to food safety, infectious disease control, and other related food safety and nutritional issues.*

This would be achieved by:

- *Ensuring food establishments within the New Forest District are provided with suitable information, and provide safe food for residents and visitors to the area.*

3.1.2 The objectives of the Service, as detailed in the current Food Service Plan, included the following, which were of particular relevance to the scope of the audit:

- *To inspect or action by other means food establishments identified by the priority rating system, as required by the Food Law Code of Practice, before March 2010, and to identify during those inspections or other actions the appropriate intervention for the 2010/2011 visit programme.*
- *To maintain a similar level of broad compliance by businesses with food hygiene LA's as achieved last year.*
- *To educate, advise and provide guidance in respect of food related matters and ensure that formal food safety training courses are available.*

- *To investigate requests for service and complaints relating to food purchases and food hygiene in food establishments within specific time periods.*

- *To undertake a programme of food sampling. To identify areas for improvement through comparisons with neighbouring Authorities.*

3.1.3 The Authority had completed a review against the previous year's Service Plan and found no significant variations from the 2008/2009 Plan.

3.1.4 The Service had undertaken a review of the areas identified for improvement in the 2008/2009 Service Plan and had detailed the progress of the service against each item; in addition the Service Plan also listed those areas identified for improvement for 2009/2010.

3.1.5 The Authority had a breakdown of the staff resources allocated for food safety and had broken down the staff allocated for each element of the service.

Activity	Staff (FTE)
Inspections	3.5
Complaints and Service Requests	1.5
Sampling (Food and Shellfish)	0.7
Other (including food poisoning investigation)	0.5
TOTAL	6.2

Good Practice – Service Planning

The Authority had produced a comprehensive Service Plan which detailed the demands placed upon the Service, provided information on the performance of the Service and highlighted variations and planned improvements for the following year.

Documented Policies and Procedures

- 3.1.6 The Authority had developed documented food service policies and procedures, and a document control system was in use to confirm their date of issue. The documents were held electronically in a folder which had protected access.
- 3.1.7 Reviews of documented policies and procedures were programmed and, in general, documents had been reviewed at regular intervals. There was evidence that reviews had been recently carried out to update some documents. The auditors were advised that reviews were generally carried out on a regular basis with 2 or 3 procedures being reviewed per month.

Officer Authorisations

- 3.1.8 The Environmental Health Manager (Commercial) was responsible for ensuring that individual officers were correctly authorised in line with their experience and competency. The manager would advise the Assistant Director of the Service to authorise the officer in line with that advice. The list of legislation under which officers could be authorised was specific to the individual officer's qualifications and competency. However, officers were not specifically authorised under the Official Feed and Food Control Regulations 2009. In addition, it was agreed that the SEHO would investigate the authorisation of all officers under the Food and Environmental Protection Act legislation.

Recommendation

3.1.9 The Authority should:

Review and revise the procedure on the authorisation of officers to define which officers should be authorised under the Food and Environmental Protection Act 1985. In addition, ensure that all officers have authorisation under the current Official Feed and Food Legislation and that the authorisations issued to officers align with those detailed within the authorisation matrix. [The Standard – 5.3]

- 3.1.10 The Service had developed a documented procedure for the authorisation of officers based on their qualifications and experience, aligned with an authorisation matrix which included the means by which officers' competence was assessed prior to deciding individual levels of authorisation. Some anomalies between the authorisations issued to officers and the authorisation matrix were identified during

the audit which the Audit Liaison Officer agreed to investigate and correct.

- 3.1.11 The Authority was committed to providing staff training and development and officer training needs were individually assessed and programmed. The records relating to the staff training were accessible from an electronic spreadsheet co-ordinated by one of the Senior Environmental Health Officers.
- 3.1.12 Training records for 5 authorised officers were examined during the audit. Evidence of qualifications and update training, including training on HACCP principles was being maintained. Officers had completed at least 10 hours of Continuing Professional Development (CPD) training per year, in line with Food Law Code of Practice requirements.

3.2 Food Premises Inspections

3.2.1 The Authority provided details of the proposed intervention programme for 2009/2010, by risk category:

Establishment Risk Category	Planned Interventions
A	14
B	192
C	464
D	69
E	173
TOTAL	912

3.2.2 The Authority had a general food hygiene inspection and an approved establishment procedure which were developed in 2009 and 2010 respectively, each containing a set of work instructions.

3.2.3 The Authority's food establishment records were held on paper files and on an electronic database system. File and database records of 5 food establishments and 3 approved establishments were examined. These were generally comprehensive and contained the majority of appropriate and relevant business operations records. File checks of general food and approved establishment inspections confirmed that the food hygiene inspection programme was being effectively managed across all risk categories.

3.2.4 A comprehensive aide-memoire was being used to record the findings from inspections, in particular to record the progress of the business in complying with procedures based on HACCP. Inspection reports and related correspondence were easily retrievable. The aide-memoire had been reviewed after the outcome of the Pennington Report and was due to be further updated to clearly identify those establishments that supplied vulnerable groups. A report or letter had been issued in all the files examined. These made a clear distinction between legal requirements and recommendations of good practice.

3.2.5 In general the approved establishment files were well ordered and accessible with copies of relevant correspondence with the FBO on file in chronological order. The files however, did not contain the approval document detailing the scope of the approval. In addition the files would benefit from detailing the current methodology by which the FBO would undertake emergency product withdrawal, which would be important in the event of a food safety incident.

Good Practice – Inspections

In response to the recommendations and issues raised by the Public Inquiry Report into the 2005 Wales E. coli outbreak (published March 2009), and following the subsequent guidance issued by the Food Standards Agency, the Authority had written to all of the establishments within their District detailing the need for FSMS. In addition, each business was requested to submit the latest copy of the most up to date FSMS. The letter also reminded FBOs that this would form the basis of the inspecting officer's next inspection.

Verification visit to a Food Premises

- 3.2.6 A reality check visit was made to an establishment that had been recently inspected by an officer and the same officer accompanied the auditor to the site. The audit visit confirmed that the checks carried out by the officer were thorough and covered relevant food law requirements with a focus on the assessment of the FSMS. It was also clear that the officer had developed a supportive working relationship with the FBO.

3.3 Enforcement

- 3.3.1 The Authority had developed a detailed Enforcement Policy for the Environmental Health Service, which was due to be reviewed to include references to the Regulators' Compliance Code.
- 3.3.2 Formal enforcement action had been taken in some food establishments due to the lack of a FSMS in line with the Authority's enforcement policy, legal requirements, the Food Law Code of Practice and official guidance.
- 3.3.3 Three hygiene improvement notices, which had been served against businesses failing to comply with Regulation (EC) No. 852/2004 Article 5, were selected for review. In each case, the use of the notice had been the appropriate course of action and had been served in accordance with the Authority's own procedures.

3.4 Internal Monitoring and Third Party or Peer Review

Internal Monitoring

- 3.4.1 The Authority had a documented procedure on internal monitoring. However, operational guidance on internal monitoring only included inspection and complaint investigations and food law enforcement service procedures.
- 3.4.2 It was evident that quantitative performance monitoring against inspection targets was carried out both within the team and at senior management level. Any shortfall of inspection activity was monitored and inspections were re-distributed to ensure the inspection programme remained on target. In addition, audit record checks and discussions with officers confirmed that officers jointly reviewed enforcement decisions on an ad hoc basis and held team meeting discussions to promote consistent enforcement.
- 3.4.3 Whilst both formal and informal monitoring activities were being routinely carried out, these were not always recorded. The Authority agreed to explore the use of the food premises database to record internal monitoring activities.

Food Complaints

- 3.4.4 The Authority had developed and reviewed its documented procedure for the investigation of food complaints. This outlined the steps that should be followed by officers when dealing with food complaints and referrals under food safety legislation
- 3.4.5 Records of 5 complaints relating to FSMS issues were examined. In all cases complaints were found to have been appropriately investigated and follow-up action taken as necessary. Complete information on the complainant was recorded and the food business operator was contacted.

Food Sampling

- 3.4.6 The Authority had a documented sampling procedure which had been recently reviewed. The procedure also contained the Authority's sampling policy and programme.
- 3.4.7 The Authority were actively participating in local and national food sampling programmes and there was evidence that unsatisfactory samples had been appropriately followed up with the FBO. Where there was a link with a potential issue with the FSMS this had been appropriately identified. In some instances the results of sampling had resulted in the programmed inspection being brought forward and some enforcement action had followed.

Third Party or Peer Review

- 3.4.8 Auditors were advised that there had been no recent inter-authority audits or other third party review activities, however a proposal to instigate this scheme across Hampshire in 2010 was being considered.

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ANNEXE A**Action Plan for New Forest District Council**

Audit date: 9-10 February 2010

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.9 Review and revise the procedure on the authorisation of officers to define which officers should be authorised under the Food and Environmental Protection Act 1985. In addition, ensure that all officers have authorisation under the current Official Feed and Food Legislation and that the authorisations issued to officers align with those detailed within the authorisation matrix. [The Standard – 5.3]	02/06/10	To review and revise the authorisation procedure and seek delegated authority from cabinet. To correct and reissue officer credentials.	Target date takes into account when cabinet meetings occur.

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:

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

- Food Service Plan 2009/2010:
 - Procedure for the Authorisation of Officers – Food Safety;
 - Food Hygiene Inspection File Record;
 - Food Hygiene Intervention Report;
 - Re-visit Intervention Report;
 - Approval Determination document;
 - Approval and Regulation of Approved Establishment Procedure;
 - Inspection of Food Establishment Procedure;
 - Complaints about Food Business Establishments Procedure;
 - Food Safety Complaints Procedure;
 - Food Sampling Procedure;
 - Food Safety Enforcement Policy Statement;
 - Detention of Food Procedure;
 - Remedial Action Notice Procedure;
 - Simple caution Procedure;
 - Prosecution Procedure;
 - Hygiene Improvement Notice Procedure;
 - Voluntary Closure and Prohibition Procedure;
 - Internal Monitoring Procedure.

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

- General food establishment inspection records;
- Approved establishment files;
- Food complaint records;
- Food sampling records;
- Formal enforcement records.

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

- Senior Environmental Health Officer
- 2x Environmental Health Technicians

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

(4) On-site verification check:

A verification visit was made with the Authority's officers to a local food 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 specific regard to LA checks on FBO compliance with HACCP based food management systems.

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.
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 geographic area and situated within a County Council whose responsibilities include food hygiene enforcement.
E. coli	<i>Escherichia coli</i> microorganism, the presence of which is used as an indicator of faecal contamination of food or water. <i>E. coli</i> 0157:H7 is a serious food borne pathogen.
Environmental Health Officer (EHO)	Officer employed by the local authority to enforce food safety legislation.
Feeding stuffs	Term used in legislation on feed mixes for farm animals and pet food.
Food hygiene	The legal requirements covering the safety and wholesomeness of food.
Food standards	The legal requirements covering the quality, composition, labelling, presentation and advertising of food, and materials in contact with food.
Framework Agreement	<p>The Framework Agreement consists of:</p> <ul style="list-style-type: none"> • Food 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 law enforcement.</p> <p>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.</p> <p>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.</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

HACCP		<p>other responsibilities within the organisation not related to food enforcement.</p> <p>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.</p>
LAEMS		<p>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.</p>
Member forum		<p>A local authority forum at which Council Members discuss and make decisions on food law enforcement services.</p>
Metropolitan Authority		<p>A local authority normally associated with a large urban conurbation in which the County and District Council functions are combined.</p>
OCD returns		<p>Returns on local food law enforcement activities required to be made to the European Union under the Official Control of Foodstuffs Directive.</p>
Regulators' Code	Compliance	<p>Statutory Code to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on businesses.</p>
Risk rating		<p>A system that rates food establishment according to risk and determines how frequently those establishment should be inspected. For example, high risk establishment should be inspected at least every 6 months.</p>
Service Plan		<p>A document produced by a local authority setting out their plans on providing and delivering a food service to the local community.</p>
Trading Standards		<p>The Department within a local authority which carries out, amongst other responsibilities, the enforcement of food standards and feeding stuffs legislation.</p>
Trading Standards Officer (TSO)		<p>Officer employed by the local authority who, amongst other responsibilities, may enforce food standards and feeding stuffs legislation.</p>
Unitary Authority		<p>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.</p>