

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

Portsmouth City Council  
19-20 November 2013



## Foreword

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

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

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

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

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

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

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## 1.0 Introduction

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

[www.food.gov.uk/enforcement/auditandmonitoring/auditreports/](http://www.food.gov.uk/enforcement/auditandmonitoring/auditreports/)

Hard copies are available from the Food Standards Agency's Operations Assurance Division at Aviation House, 125 Kingsway, London WC2B 6NH, Tel: 020 7276 8428.

### Reason for the Audit

- 1.2 The power to set standards, monitor and audit local authority food law enforcement services was conferred on the Food Standards Agency by the Food Standards Act 1999 and the Official Feed and Food Controls (England) Regulations 2009. This audit of Portsmouth City Council was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme.
- 1.3 Regulation (EC) No. 882/2004 on official controls performed to ensure the verification of compliance with feed and food law includes a requirement for competent authorities to carry out internal audits or to have external audits carried out. The purpose of these audits is to verify whether official controls relating to feed and food law are effectively implemented. To fulfil this requirement, the Food Standards Agency, as the central competent authority for feed and food law in the UK has established external audit arrangements. In developing these, the Agency has taken account of the European Commission guidance on how such audits should be conducted.<sup>1</sup>
- 1.4 The Authority was selected for inclusion in the Food Standards Agency's programme of audits of local authority food law enforcement services following a visit to the Authority relating to Local Authority Enforcement Monitoring Systems data submitted which indicated an audit with a wider scope would be beneficial.

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<sup>1</sup> 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 Portsmouth City Council's arrangements for food premises database management, food premises interventions and internal monitoring, with regard to food hygiene law enforcement. This included a reality check at a food business to assess the effectiveness of official controls implemented by the Authority at the food business premises and, more specifically, the checks carried out by the Authority's officers to verify food business operator (FBO) compliance with legislative requirements. The scope of the audit also included an assessment of the Authority's overall organisation and management, and the internal monitoring of food hygiene law enforcement activities.
- 1.6 Assurance was sought that key Authority food hygiene law enforcement systems and arrangements were effective in supporting business compliance, and that local enforcement was managed and delivered effectively. The on-site element of the audit took place at the Authority's offices at Guildhall Square, Portsmouth on 19-20 November 2013.

## **Background**

- 1.7 Portsmouth is a waterfront city on the south coast of England located within the South Hampshire and Solent region and is home to an estimated population of 208,900 residents. The City contains the international port which connects the region via eight freight and passenger routes to France, Spain and the Channel Islands and also receives food imports from the European Union and various countries from all over the world.
- 1.8 Several multinational companies are located in Portsmouth and tourism is also a significant sector of the local economy. The city is renowned as the home of the Royal Navy with its Historic Dockyard. The Spinnaker Tower is also a major visitor attraction and Gunwharf Quays, the City's large waterfront retail and leisure development has 90 retail stores as well as 30 bars and restaurants serving tens of thousands of meals per week.
- 1.9 Food hygiene law enforcement was the responsibility of the Environmental Health Business Support Team, overseen by the Environmental Health Manager. The Service also had a wide range of other responsibilities, which included health and safety, infectious disease control, a wide variety of licensing functions and port health. Food standards and animal feed law enforcement also fell under the remit of the Service.

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

<b>Type of Food Premises</b>	<b>Number</b>
Primary Producers	0
Manufacturers/Packers	9
Importers/Exporters	1
Distributors/Transporters	16
Retailers	356
Restaurant/Caterers	1,468
<b>Total Number of Food Premises</b>	<b>1,850</b>

## 2.0 Executive Summary

2.1 The Authority was selected for further audit following the findings from a previous one day visit in September 2013, arranged to discuss issues arising from the Authority's submission of enforcement data to the Food Standards Agency (FSA) for 2012/13 via the Local Authority Enforcement Monitoring System (LAEMS). Several key issues were discussed during the LAEMS visit which required further assessment by auditors. Based upon additional information received prior to this audit and discussions with senior managers it was clear that the Authority had already made progress in addressing some of the issues identified during the initial LAEMS visit.

### 2.2 Key areas for improvement:

**Authorisation and training:** The Authority needs to ensure that officers only undertake duties commensurate with their individual level of authorisation based upon their competence and experience in accordance with the Food Law Code of Practice (FLCoP). In addition the Authority needed to ensure that officers receive suitable training for all the types of premises they inspect, in particular the inspection of any establishments subject to approval under Regulation (EC) No 853/2004.

**Database:** The Authority needs to continue the process of reviewing its food premises database to improve its accuracy and to ensure that its data submissions to the FSA via LAEMS accurately reflect all the official controls carried out by the Service.

**Interventions and inspections:** The Authority needs to ensure that any official controls carried out at establishments subject to approval under Regulation (EC) No 853/2004 are only undertaken by suitably qualified and experienced officers in accordance with the FLCoP. As a priority, the two approved establishments in the area required further review to ensure that they had been appropriately approved and inspected against all the requirements of relevant food hygiene legislation and to ensure that they are inspected at the correct frequency as prescribed by the FLCoP.

**Records:** The lack of detailed and cohesive records made it difficult to ascertain the extent of officers' interventions at businesses, including approved establishments. There was a need to ensure that comprehensive, retrievable records were maintained of all food law enforcement activities, both on paper files and on the food premises database. Reliable records are essential to inform future officer interventions and a graduated approach to enforcement, and to enable effective internal monitoring.

**Internal monitoring:** Although evidence of some qualitative and quantitative internal monitoring was noted during the audit, this needed to be extended further to include risk-based and targeted monitoring of all aspects of the Service including officer training, approved establishment records and the interventions programme.

## **3.0 Audit Findings**

### **3.1 Organisations and Management**

#### Strategic Framework, Policy and Service Planning

- 3.1.1 The Authority had developed a Food Operating Plan for 2013/14, which had been approved by Executive Members.
- 3.1.2 The Plan detailed the organisational structure of the Council and confirmed that the Environmental Health Service, which included the delivery of food hygiene law enforcement by the Business Support Team, was located within the remit of the Corporate Assets Business and Standards (CABS) Service which fell under the responsibilities of the Cabinet Member for Environment and Community Safety.
- 3.1.3 The overarching aim of the CABS Service as detailed in the Plan was 'to use our strategic and enabling role and service delivery capacity to provide an environment where people and businesses thrive.' More specific targeted aims relevant to food hygiene service delivery were listed as follows:
- Ensure that the City's retail centres make Portsmouth a great place to live, work and visit.
  - Deliver regulatory services that make Portsmouth a safe and healthy place to live, where businesses trade fairly with informed, confident consumers.
  - Provide employment, learning and skills services to enable local people to play a more active part in shaping the future of Portsmouth.
- 3.1.4 The Plan was generally in line with the Service Planning Guidance in the Framework Agreement and provided useful information on the Service's aims and objectives and included details of the complex and demanding range of duties placed upon the Service due to its coastal location and the range of businesses located in the area. Auditors were advised that the Service was undergoing a restructure with changes at senior management level. The period of reorganisation had led to the appointment of a new team leader and new lead officer for food hygiene. It was unclear at the time of the audit how this might impact on future resourcing of the Service or arrangements for service delivery. The auditors were also advised that the Authority had been subject to recent financial constraints that had affected the Service's ability to fully meet all the statutory demands placed upon it. This had led to the development and implementation of a risk-based interventions strategy, which aimed to prioritise resources at the highest risk establishments. Future operational Service Plans would therefore benefit from the addition of a reasoned estimate of the resources required based upon its premises risk profile to fully deliver the Service in accordance with all statutory duties compared to the

resources currently available, in order to identify any potential shortfall.

- 3.1.5 It was unclear whether previous Food Service Plans had been subject to a documented review but it was the stated intention of the Environmental Health Manager that the 2013/14 Food Operating Plan would be reviewed in a year to 18 months from the start of its implementation.

### **Recommendations**

3.1.6 The Authority should:

- (i) Ensure that future Food Service Plans are drafted in full accordance with the Service Planning Guidance in the Framework Agreement, including a complete premises profile by risk category and an accurate and clear comparison of the resources required to carry out the full range of statutory food law enforcement activities against a reasoned estimate of the resources available to the Service. [The Standard – 3.1]
- (ii) Ensure that a documented performance review is carried out by the Authority and that any variance in meeting the Service Delivery Plan is clearly addressed in the subsequent year's Plan. [The Standard – 3.2 and 3.3]

### Documented Policies and Procedures

- 3.1.7 The Service had recently reviewed all its policies and procedures, leading to a number of amendments and the development of several new procedures to reflect the range of activities taking place. Auditors assessed these documents and provided further advice and recommendations as appropriate. Auditors discussed the importance of continuing to ensure that such documentation is regularly reviewed and updated. In most cases however it was not possible to fully assess the implementation of these procedures or their effectiveness due to the short period of time since their introduction.

### Officer Authorisations

- 3.1.8 The Authority had developed a documented procedure for the authorisation of its officers based upon their qualifications and experience, and all officers had been appropriately authorised under relevant legislation. The procedure included a recently developed

useful training and authorisation matrix to identify any potential training needs.

- 3.1.9 A Lead Officer for Food Safety and Hygiene had been appointed having the appropriate qualifications and level of experience in relation to general food premises.
- 3.1.10 A Performance Development Review Policy had been produced and implemented which confirmed that all officers received an annual performance development review where individual development needs were considered and assessed against the organisational aims and the needs of the service.
- 3.1.11 Officer training and qualification records were easily retrievable and demonstrated that officers had carried out a minimum of 10 hours training annually based upon the principles of continuing professional development (CPD). Officers had received a wide range of relevant food hygiene training, including the assessment of HACCP and training on the implementation of the Agency's E.coli guidance. The Authority had also been proactive in developing a range of in-house training sessions to cascade information on current food hygiene issues to officers.
- 3.1.12 Auditors did raise concerns however about the lack of any specific training for most officers on official controls in relation to approved establishments, which was particularly important due to the two approved establishments in the area including a meat products business and a fishery products plant with an associated shellfish purification centre. Only one officer was able to provide evidence of any specific training in relation to shellfish and associated official controls.
- 3.1.13 The Environmental Health Manager was authorised to approve the instigation of legal proceedings and formally instruct the Head of Legal Services as appropriate. Other formal enforcement decisions and actions were taken by individual officers in accordance with their specific levels of authorisation based on their qualifications, experience and competence.

**Recommendation**

3.1.14 The Authority should:

Ensure that all authorised officers and appropriate support staff receive the training needed to be competent to deliver the technical and administrative aspects of the work in which they will be involved, in accordance with the Food Law Code of Practice.  
[The Standard – 5.4]

## **3.2 Food Premises Database**

- 3.2.1 The Service operated a food premises database system that was capable of providing the returns required for the Local Authority Enforcement Monitoring System (LAEMS). A documented procedure for maintaining the accuracy of the database had been developed which specified what checks should be undertaken at prescribed frequencies to ensure that any data errors were identified and corrected. A documented Filing Procedure, also produced by the Service, included operational guidance on the registration of food premises.
- 3.2.2 A number of anomalies and issues had been identified with the Authority's food premises database during the previous LAEMS visit in September. These included data coding anomalies, duplicate premises records and issues concerning the dates of interventions. Auditors also identified significant issues with the data submitted to the FSA via LAEMS, which inadvertently exaggerated the number of intervention achieved in the year. Since then the Authority had introduced a number of database checks to begin to identify and address these issues. During this audit the Authority was able to confirm the cause of the recent LAEMS return issue and planned to contact the FSA for further advice to ensure that accurate enforcement data is submitted in the next return due April 2014.
- 3.2.3 The auditors were advised that the database was backed up centrally on a daily basis. The security of the database was protected through restricting data entry to certain fields to specific officers.
- 3.2.4 At the time of the audit the majority of food law enforcement records were stored electronically and auditors were advised that since April 2013 all food law enforcement data was systematically being scanned on to the database.
- 3.2.5 The Authority was able to produce all the database reports requested by the auditors before and during the audit.
- 3.2.6 Random checks on six food businesses in the area identified by internet searches were cross checked against a report of food premises provided to the auditors and all businesses were found to be present on the Authority's database.

**Recommendation**

3.2.7 The Authority should:

Ensure that enforcement data submitted annually to the FSA via LAEMS accurately reflects the food law enforcement activities undertaken by the Service.  
[The Standard – 6.3]

### 3.3 Food Premises Interventions

3.3.1 The Authority's Food Operating Plan did not set out the food premises profile by risk category or provide the interventions programme for the year, however information submitted as part of the Authority's LAEMS return for 2012/13 indicated the following premises profile as of 31 March 2013:

Premises Risk Category	Number of Premises
A	10
B	82
C	768
D	293
E	651
Unrated	46
Not in programme	0
<b>Total</b>	<b>1,850</b>

3.3.2 The Authority had developed a documented procedure on food hygiene inspections, which provided operational guidance for officers on the inspection of general food businesses.

3.3.3 The Service's risk-based interventions strategy as detailed in the Food Operating Plan targeted higher risk businesses for full inspection and proposed alternative actions including an alternative enforcement strategy (AES) for lower risk businesses. Auditors did question the Service's Plan to potentially use postal questionnaires to assess broadly compliant risk category C establishments. The Authority was able to confirm however that this strategy would be reviewed based upon audit discussions and Food Hygiene Rating Scheme (FHRS) implementation considerations.

3.3.4 File and database checks confirmed that the Authority had implemented a risk-based approach to its inspection programme, with 220 broadly compliant businesses overdue an inspection at the time of the audit, seven of which were risk category B establishments.

3.3.5 At the time of the audit there were approximately 50 unrated food establishments still awaiting their first inspection. The Authority's documented Food Enforcement Policy 2013/14, confirmed that 'all new businesses are assessed and if appropriate will be inspected within 56 days of being identified.' The auditors discussed the requirement in the Food Law Code of Practice Guidance which confirms that new food businesses should receive an initial inspection which should normally take place within 28 days of registration or from when the Authority becomes aware that the establishment is in operation. The Authority advised that all new food businesses are subject to risk-based prioritisation before being allocated to officers for inspection.

- 3.3.6 Records of a sample of inspections carried out at food businesses were examined during the audit. Assessment of intervention histories was severely restricted in many cases by past inspection records being either unavailable or incomplete. The Authority was therefore unable to demonstrate that all businesses had been inspected at the correct frequency against all relevant legislation in accordance with the Food Law Code of Practice (FLCoP) and any centrally issued guidance.
- 3.3.7 The most recent inspection records were however generally available. The Authority had developed and implemented a comprehensive inspection aide-memoire that if completed fully would help officers to demonstrate that they were undertaking appropriate inspections. The aide-memoire provided useful prompts for officers on food safety management systems (FSMS) including Safer food, better business (SFBB), cross-contamination issues, traceability and imported food requirements. Auditors did however note some variation in the quality of the inspection records being completed by officers, although generally sufficient information was being recoded to justify risk scores.
- 3.3.8 Auditors raised concerns about officers occasionally carrying out interventions in the past apparently beyond the scope of their authorisation based upon their qualifications. The Authority acknowledged this and agreed to introduce measures including enhanced monitoring of the interventions programme to ensure that this did not happen again in the future.
- 3.3.9 It was evident from the latest available enforcement records that the officers were taking a graduated and proportionate approach to enforcement to achieve business compliance. Auditors did however note the frequent use of repeated revisits on some occasions and therefore recommended the development and implementation of a suitable policy on revisits for officers to ensure timely business compliance.
- 3.3.10 The Service had recently developed a documented procedure for the approval of food businesses under Regulation (EC) No 853/2004, which also provided some operational guidance to officers on inspections of such establishments and formal enforcement options.
- 3.3.11 The auditors assessed the enforcement records in relation to two approved establishment files, including businesses producing meat products, fishery products and an associated shellfish purification centre. Files for both businesses had a range of missing enforcement and inspection information and only limited evidence of communication with the businesses following inspections.
- 3.3.12 No relevant approval documentation could be provided for the meat products business, making it difficult to confirm the approval status of the business and to establish the operations that the business was

approved to carry out on site. Past inspections at the site had also been recorded using a non-specific inspection aide-memoire which did not record sufficient detail to demonstrate that the business had been inspected against all relevant food hygiene legislation. However, the latest inspection had been carried out using a suitable aide-memoire for the business providing evidence of a comprehensive inspection including an assessment of the businesses food safety management system based upon HACCP and the business had been informed of the inspection findings.

- 3.3.13 There was evidence on file that the fishery products establishment had been approved under the relevant legislation as well as evidence of past joint visits with a representative from the Centre for Environment, Fisheries and Aquaculture Science (CEFAS) to approve the purification centre. However there were no records available to show that the fishery products element of the business had been inspected since 2005, although a full inspection was briefly mentioned in file notes in 2012. The Authority was therefore unable to demonstrate that the business had been inspected and approved in accordance with relevant food hygiene legislation.
- 3.3.14 Given the complex nature of both of these businesses auditors raised concerns about the Authority's ability to demonstrate that officers carrying out inspections at these types of establishment had the necessary training and competency required. Auditors therefore recommended that as a matter of urgency both premises files were reviewed and a plan developed and implemented to ensure that both businesses were inspected and assessed by appropriately trained and qualified officers. Auditors noted plans in place to carry out a joint inspection of the fishery products business with CEFAS in the near future and also discussed the possibility of using and accompanying experienced officers from other neighbouring LA's if required and attending suitable training courses as they become available.

## **Recommendations**

3.3.15 The Authority should:

- (i) Carry out food hygiene interventions/inspections at a frequency which is not less than that determined by the Food Law Code of Practice. [The Standard – 7.1]
- (ii) Carry out intervention/inspections and approve or register in accordance with the relevant legislation, the Food Law Code of Practice and centrally issued guidance and the Authority's policies and procedures. [The Standard – 7.2]
- (iii) Assess the compliance of establishments and systems to the legally prescribed standards and take appropriate and timely action on any non-compliance found in accordance with the Authority's enforcement policy, the Food Law Code of Practice and centrally issued guidance. The reasons for any departure from its enforcement policy should be documented. [The Standard – 7.3]

### Verification Visit to a Food Premises

3.3.16 During the audit, a verification visit was undertaken to a local nursing home with the officer who had carried out the last food hygiene inspection of the premises. The main objective of the visit was to assess the effectiveness of the Authority's assessment of food business compliance with food law requirements. The specific assessments included the conduct of the preliminary interview of the FBO by the officer, the general hygiene checks to verify compliance with the structure and hygiene practice requirements, and checks carried out by the officer to verify compliance with HACCP based procedures.

3.3.17 During the visit, the officer was able to demonstrate familiarity with the premises, and the operations carried out. The officer had completed a thorough inspection, discussed issues of ongoing significance and in general had effectively assessed the business' compliance with legal requirements.

### 3.4 Enforcement

- 3.4.1 The Authority had developed an appropriate Food Enforcement Policy 2013/14, which outlined the Authority's commitment to taking appropriate formal action in cases of repeated non-compliance. The Policy contained broad guidance for officers and businesses on the different types of enforcement actions possible and the situations when they might be appropriate. Whilst the policy covered the key principles of proportionate enforcement, it needed to be reviewed to reflect the need to have regard to the Regulators' Compliance Code. Procedural and legal references also required to be updated.
- 3.4.2 The Service had developed and implemented a range of documented procedures across the range of food law enforcement options available to the Service. These provided useful operational guidance to officers.
- 3.4.3 Audit checks on file records for formal enforcement activities were carried out, including three food hygiene improvement notices, three voluntary closures, one prosecution and two simple cautions. Generally notices had been drafted and served appropriately, and were justified given the inspection findings. It was clear that officers adopted a proportionate approach and used a range of appropriate enforcement actions to achieve business compliance with food law legislation. Auditors did however note that some past enforcement actions had been undertaken by officers acting beyond their authorisation.

#### **Recommendations**

3.4.4 The Authority should:

- (i) Review the Food Enforcement Policy in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 15.1]
- (ii) Carry out food law enforcement in accordance with the relevant Codes of Practice and centrally issued guidance. [The Standard – 15.3]

### 3.5 Internal Monitoring, Third Party or Peer Review

#### Internal Monitoring

- 3.5.1 The Authority had recently developed an internal monitoring procedure covering certain aspects of the food law enforcement service which if fully implemented should provide a useful basis for ensuring consistency amongst officers. Auditors noted evidence of some qualitative and quantitative internal monitoring already taking place including some checks on risk scores, inspection letters, inspection reports and enforcement actions such as hygiene emergency prohibition notices and prosecution files. Auditors also noted that several joint inspections had taken place which can also help to aid consistency amongst officers. However, given the audit findings auditors recommended the implementation of more detailed and targeted monitoring of all food law enforcement activities performed by the Service, including intervention records for all types of business including approved establishments and the monitoring of the interventions programme.

#### **Recommendations**

3.5.2 The Authority should:

- (i) Further review and implement its documented internal monitoring procedure in accordance with Article 8 of Regulation (EC) No 882/2004, the Food Law Code of Practice and centrally issued guidance. The procedure should include arrangements for risk-based monitoring of all aspects of the Service, including reviews of inspection records and risk scoring, follow-up actions, approved establishments, complaints and sampling. [The Standard – 19.1]
- (ii) Verify the conformance of the Service with the Standard in the Framework Agreement, the Food Law Code of Practice, relevant centrally issued guidance and the Authority's own documented policies and procedures. [The Standard – 19.2]

#### Food and Food Premises Complaints

- 3.5.3 A detailed food complaints procedure had been developed and updated by the Authority, the last revision being in October 2013. The procedure provided officers with guidance on investigating food and food premises complaints, suspected food poisoning cases and outlined the types of complaints that would be investigated by the Service. All food complaints of public health significance were to be investigated.

- 3.5.4 Checks were made on records for five food complaints received by the Authority in the last twelve months. Records were generally complete on both the file and database and included appropriate communications with both the complainant and the businesses involved. In most cases timely and appropriate follow-up actions had been taken in accordance with the complaints procedure, although auditors did note one complaint where a more in depth investigation may have been appropriate based upon the complaint details.

#### Food Inspection and Sampling

- 3.5.5 The Authority was able to demonstrate its commitment to risk-based sampling as part of its interventions strategy, with funding additional to any provided by the FSA being secured for the next three years. The Food Operating Plan 2013/14 outlined the Authority's sampling arrangements and sampling policy. In addition the Authority had produced a sampling procedure to provide guidance for its officers. The Authority formed part of the Portsmouth and South East Hampshire Sampling Group and had participated in past joint sampling initiatives. In 2012/13 the Authority took 66 food product and hygiene samples, the results being reported in the Food Operating Plan for 2013/14.
- 3.5.6 The records for five samples were examined during the audit. In each case appropriate sampling records had been maintained and suitable follow-up action had been carried out based upon the results.

#### Records

- 3.5.7 Records were held on a combination of paper files and scanned electronic documents. Auditors were informed that as part of a recent process of transferring records to an electronic format a decision had been made to destroy some old records relating to businesses that had closed or changed ownership. The policy and process for this action was not always clear, with only partial and incomplete scanned inspection and enforcement records being available in several cases. This could in certain circumstances make it difficult for officers to establish enforcement histories prior to inspection and potentially hinder future enforcement actions.
- 3.5.8 Auditors discussed the need to ensure that comprehensive, retrievable records are maintained of all food law enforcement activities both on paper files and on the food premises database. The lack of detailed and cohesive records made it difficult to ascertain the extent of the officer's interventions at businesses and would therefore hinder effective internal monitoring. Reliable and sufficiently detailed records are also essential to inform future officer interventions, to provide the justification for FHRS ratings and provide the basis of a graduated approach to enforcement.

## **Recommendations**

3.5.9 The Authority should:

Maintain up to date and accurate records in retrievable form on all food law enforcement activity in accordance with the Food Law Code of Practice and centrally issued guidance.  
[The Standard – 16.1]

### Third Party or Peer Review

3.5.10 Auditors noted that the Authority was committed to the peer review process and at the time of the audit was participating in an inter-authority audit programme (IAA), organised by the Hampshire and Isle of Wight Food Liaison Group. This should provide a further opportunity for the review and development of the Service and its food law enforcement activities.

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## ANNEX A Action Plan for Portsmouth City Council

Audit date: 19-20 November 2013

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.1.6(i) Ensure that future Food Service Plans are drafted in full accordance with the Service Planning Guidance in the Framework Agreement, including a complete premises profile by risk category and an accurate and clear comparison of the resources required to carry out the full range of statutory food law enforcement activities against a reasoned estimate of the resources available to the Service. [The Standard – 3.1]</p>	<p>30/06/14</p>	<p>Review food Service Plan against framework agreement, including a premises profile by risk category and an assessment of resources required to fulfil the plan.</p> <p>Document procedure for reviewing the Service Plan and incorporate into existing monitoring procedures.</p> <p>Submit plan for Member approval.</p>	<p>Placed upon Portsmouth City Council Forward Plan.</p> <p>Scheduled target date for next full Member committee meeting following purdah.</p> <p>Met and briefed newly appointed Cabinet Member of service responsibilities and Service Plan.</p>
<p>3.1.6(ii) Ensure that a documented performance review is carried out by the Authority and that any variance in meeting the Service Delivery Plan is clearly addressed in the subsequent year's Plan. [The Standard – 3.2 and 3.3]</p>	<p>30/04/14</p>	<p>Carry out a documented review of the service's performance against the Service Plan.</p> <p>Address any variance in the 2014/15 Service Plan.</p>	<p>Service Plan currently under review.</p> <p>Possible variances are tracked and noted every 8 weeks.</p> <p>Significant variances are reported quarterly to Head of Service and Strategic Director and where appropriate upon the 'risk register'.</p>

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.1.14 Ensure that all authorised officers and appropriate support staff receive the training needed to be competent to deliver the technical and administrative aspects of the work in which they will be involved, in accordance with the Food Law Code of Practice. [The Standard – 5.4]	31/12/14	Deliver specialist training for all service team members. Including approved premises training and appropriate refresher training for existing and returning staff.	Training contract in place with reputable provider for all team members.  Bi-monthly CPD training meetings in place for all team members.
3.2.7 Ensure that enforcement data submitted annually to the FSA via LAEMS accurately reflects the food law enforcement activities undertaken by the Service. [The Standard – 6.3]	Completed	Data recording anomalies corrected.  Database monitoring procedures in place.	-
3.3.15(i) Carry out food hygiene interventions/inspections at a frequency which is not less than that determined by the Food Law Code of Practice. [The Standard – 7.1]	30/04/15	Maintain procedure for allocation and monitoring of inspections, interventions and alternative enforcement actions.  Where possible, redirect resources to increase inspection rate.	Internal monitoring procedure in place.  Bi-monthly inspection allocation meetings in place.  Food lead officer database and physical checks in place.

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
<p>3.3.15(ii) Carry out intervention/inspections and approve or register in accordance with the relevant legislation, the Food Law Code of Practice and centrally issued guidance and the Authority's policies and procedures. [The Standard – 7.2]</p>	<p>30/04/14</p>	<p>Produce interventions programme for 2014/15.</p> <p>Review procedure for broadly complaint 'C' premises.</p> <p>Risk assess and prioritise new business registrations.</p>	<p>All Inspection records now scanned onto the database.</p> <p>100% consistency checks of inspections and interventions carried out by food lead.</p> <p>Joint and monitoring inspections carried out where necessary.</p> <p>Bi-monthly spread sheet monitoring checks of inspections carried out by food lead and management.</p>
<p>3.3.15(iii) Assess the compliance of establishments and systems to the legally prescribed standards and take appropriate and timely action on any non-compliance found in accordance with the Authority's enforcement policy, the Food Law Code of Practice and centrally issued guidance. The reasons for any departure from its enforcement policy should be documented. [The Standard – 7.3]</p>	<p>30/04/14</p>	<p>Develop enforcement policy on revisits to ensure timely business compliance</p> <p>Review and update approved establishments files.</p> <p>Obtain up to date approval records for approved establishments where required.</p> <p>Inspect approved establishments businesses with appropriately trained, qualified and competent staff.</p>	<p>Specialist training programme in place.</p> <p>New approved establishments procedures in place incorporating product specific aides-memoire.</p> <p>Monitoring procedures in place.</p>

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.4.4(i) Review the Food Enforcement Policy in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 15.1]	30/04/14	Review the food enforcement policy with regard to the Regulators' Compliance Code.  Update procedural and legal references.	Ongoing
3.4.4(ii) Carry out food law enforcement in accordance with the relevant Codes of Practice and centrally issued guidance. [The Standard – 15.3]	Completed	Internal monitoring procedure in place to ensure all enforcement and intervention action carried out by appropriately qualified and authorised officers.	-
3.5.2(i) Further review and implement its documented internal monitoring procedure in accordance with Article 8 of Regulation (EC) No 882/2004, the Food Law Code of Practice and centrally issued guidance. The procedure should include arrangements for risk-based monitoring of all aspects of the Service, including reviews of inspection records and risk scoring, follow-up actions, approved establishments, complaints and sampling. [The Standard – 19.1]	30/04/14	Review internal monitoring procedures and implement more detailed and targeted monitoring of all food law enforcement/intervention actions.  Including: Intervention records for all types of food business including approved establishments and progress against the intervention programme.	Ongoing

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.5.2 (ii) Verify the conformance of the Service with the Standard in the Framework Agreement, the Food Law Code of Practice, relevant centrally issued guidance and the Authority's own documented policies and procedures. [The Standard – 19.2]	30/04/14	As above.  Review food Service Plan.  Review all procedures against Food Law Code of Practice.  Document review procedure.	Ongoing
3.5.9 Maintain up to date and accurate records in retrievable form on all food law enforcement activity in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 16.1]	Completed	Procedure in place for file maintenance.  Legible scanning of all intervention/enforcement documents into the database ongoing.	-

## **ANNEX B Audit Approach/Methodology**

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

### (1) Examination of LA policies and procedures

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

- Food Operating Plan 2013/14
- Procedure for authorising officers
- Performance Development Review Policy
- Food Hygiene Inspections Procedure Note
- Approval of food businesses under EC 853
- Food Complaints Procedure Note
- Formal Food Sampling Procedure Note
- Enforcement Actions Procedure Notes
- Food Safety Enforcement Policy
- Internal Monitoring Procedure
- Environmental Health Team and Food Liaison Group Meeting Minutes.

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

- General food premises inspection records
- Approved establishment application records
- Food complaint records
- Sample 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) Discussions with Officer

- Environmental Health Business Support Team Leader
- Technical Services Senior Administrator
- Environmental Health Officer.

(5) On-site verification check:

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

## **ANNEX C Glossary**

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

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