

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

Southend-on-Sea Borough Council  
4-5 December 2012



## Foreword

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

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

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

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

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

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

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## 1.0 Introduction

- 1.1 This report records the results of an audit at Southend-on-Sea Borough 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 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 Southend-on-Sea Borough 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 because it had not been audited in the past by the Agency, and was representative of a geographical mix of 12 local authorities selected across England.

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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 Southend-on-Sea Borough 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 the Civic Centre, Victoria Avenue, Southend-on-Sea on 4-5 December 2012.

## **Background**

- 1.7 The Borough of Southend-on-Sea lies within the county of Essex within the Thames Gateway, and on the north side of the Thames Estuary, around 40 miles east of central London. The area comprises a number of small towns and seaside resorts, including Leigh-on-Sea, Shoeburyness and Westcliff-on-Sea, along with Southend itself, which is a traditional seaside town, with the world's longest pleasure pier. It is the closest seaside resort to London and attracts over 6 million visitors each year.
- 1.8 The population in 2011 was 173,600 which was an increase of 8.3% from the previous census. Whilst the economy is based on tourism, there are significant employers with offices based in the Borough. The Enterprise and Tourism Group actively promotes events in the Borough to support local business prosperity.
- 1.9 Food hygiene law enforcement was the responsibility of the Regulatory Services Group of Public Protection, which was within the Directorate of Enterprise, Tourism and the Environment. The team was also responsible for the enforcement of food standards and feed legislation; pollution control; health and safety and public health issues in food premises; and the enforcement of animal welfare legislation.
- 1.10 The Authority reported the profile of Southend-on-Sea Borough Council's food businesses as of 31 March 2012 as follows:

<b>Type of Food Premises</b>	<b>Number</b>
Primary Producers	0
Manufacturers/Packers	18
Importers/Exporters	5
Distributors/Transporters	9
Retailers	417
Restaurant/Caterers	1,263
<b>Total Number of Food Premises</b>	<b>1,712</b>

## 2.0 Executive Summary

- 2.1 The Authority had developed a comprehensive Food Service Plan for 2012/13 which was generally in line with the Service Planning Guidance in the Framework Agreement. It had recently been accepted by Cabinet and was due to be submitted for approval by full Council. Future plans should include a clear comparison of the estimated resources required to deliver the Food Service against those available. The absence of such information makes it difficult to quantify any resource shortfalls to senior managers and to Members.
- 2.2 The Service had developed and recently updated a comprehensive Food and Feed Control Manual, which provided useful and up-to-date guidance to officers across all food law enforcement activities and followed the structure of the Standard in the Framework Agreement.
- 2.3 Arrangements for the authorisation and training of officers were fully documented, and authorisations were assigned based on officers' individual qualifications, competency and experience. The criteria for this was clearly set out in a competency framework which followed the requirements of the Food Law Code of Practice.
- 2.4 Records of officers' individual levels of authorisation were maintained on an authorisation matrix which was updated to take account of changes in either legislation or where there were new officers or any change in circumstance within the existing team. The matrix contained relevant and current legislative references and officers were found to be appropriately authorised.
- 2.5 Records of officer training confirmed that officers were achieving a broad range of food training and were meeting the minimum 10 hours relevant food training per annum required by the Food Law Code of Practice.
- 2.6 The Authority had upgraded from one database system to another in April 2012, as part of the Authority's 'new ways of working' initiative to rationalise systems across the Authority. The migration was not completely successful, and historic information needed to be input manually in priority order. This had resulted in difficulties in administering the Food Hygiene Rating Scheme (FHRS) on the Agency's website and ratings were not being published at the time of the audit. A database plan was in place to address the migration issues and considerable progress had been made, with a view to being able to publish FHRS data on the Agency's website in early 2013, and the submission of full Local Authority Enforcement Monitoring System (LAEMS) data on the new database from April.

- 2.7 The current situation in relation to the migration between databases meant that it was difficult to produce an accurate report on the number of overdue lower risk inspections, and it was not possible to fully verify during the audit that accurate returns had been made to the Agency on the previous system. There were however, only a few anomalies noted on checks made on data during the audit, which included the possible under reporting of 'warning letters' issued to food business operators (FBO) when contraventions were noted at interventions. This issue had already been identified and addressed on the new database system.
- 2.8 The Service Plan and documented procedures set out the inspection programme for the year and this included an intention to fully consider the flexibilities contained within the Food Law Code of Practice for interventions at lower risk food establishments, although this had not yet been fully implemented at the time of the audit. Officers were also instructed to concentrate on category A and B risk rated premises and non-compliant category C businesses. New businesses were inspected on a potential risk basis.
- 2.9 Whilst it was not possible to accurately quantify the numbers of overdue lower risk establishments during the audit, there were no category A visits overdue at the time of the audit and two category B's, for which there were legitimate reasons recorded for the deferral of the inspection. There was a considerable number of unrated premises requiring an initial inspection. It had been recognised by the Authority that the backlog of inspections needed to be addressed, and the Authority had been able to procure the services of contractors to enable the numbers of overdue inspections and unrated premises to be significantly reduced by the end of the financial year.
- 2.10 There were some inconsistencies noted on file checks on the level of detail recorded by officers on their inspection findings. Whilst some officers were making comprehensive notes, in some cases it was not possible to establish basic details about the business, for example size, scale and type of food operation, or inadequate information about the officer's assessments, including the verification and validation of any food safety management system in place. Routine internal monitoring checks should assist in highlighting any inconsistencies in the quality of inspection records.
- 2.11 In addition, whilst it was evident from discussions with officers that the requirements of the E.coli O157 guidance was taken into consideration during inspections, this was not necessarily reflected in inspection records. It was agreed that the inspection aide-memoire would be amended to prompt officers to record their findings with regard to the FBO's compliance with the guidance. Concern was expressed in relation to inspection records which indicated that the officer had identified that a vacuum packer in a butchers' premises was being used for both raw and cooked foods but that there had been no checks to



ensure that the practice had ceased. The Authority confirmed following the audit that separate vacuum packers were in use at the premises. It was intended to review the approach to enforcement of the requirements of the guidance within the team.

- 2.12 Letters sent following inspections were comprehensive and confirmed that the officers had carried out assessments of the FBO's compliance with relevant legislation. Some improvement to letters was required to ensure that the wording is always clear, and that there is a clear distinction between matters that are legally required and recommendations of good practice. It was evident that timely revisits had not always been made where necessary, and it was acknowledged that this had been difficult to achieve due to staff absences. A reminder system was being implemented as part of the database upgrade which would help to address this issue.
- 2.13 A verification visit was made to a local restaurant with the officer that had carried out the last inspection. It was evident that the officer was familiar with the operations at the business, had carried out a thorough inspection and had assessed the business' compliance with legal requirements.
- 2.14 A selection of approved establishment files were examined. In general it was not easy to retrieve relevant information on the businesses activities. The Authority should ensure relevant files contain all the information set out in annexe 10 of the Food Law Code of Practice Guidance, including a synopsis of the businesses activities and details such as company emergency withdrawal plans, supplier information and product recall procedures. A review of the approval records had been undertaken and approval documents under current legislation were available for all the establishments checked. Correspondence sent out following inspections was detailed and provided clear guidance to the FBO.
- 2.15 The Authority had a procedure and a brief policy on the investigation of food and food premises complaints in the control manual, which provided useful guidance to officers on their investigation. Audit checks on records of food and food premises complaint investigations confirmed that in general appropriate investigations were being made, although it was not always confirmed that all interested parties had been informed of the outcome of the investigation.
- 2.16 The Service had developed a food sampling policy, procedure and programme which included national, regional and local sampling initiatives with specific reference to the Authority's approved establishments and to imported foods. It was clear that the Authority was actively participating in sampling programmes. Whilst there was evidence on some files of written confirmation of the result and further guidance being provided to the FBO, on others there was no specific

reference in the follow-up reports to the results and what action was required.

- 2.17 The Authority had an appropriate and comprehensive enforcement policy, which had been approved in April 2011. There were also documented procedures in the control manual which covered the range of enforcement options. In general officers had taken enforcement action when appropriate and had considered all available enforcement options in response to failure of the FBO to comply with legal requirements. Checks on file records for various enforcement activities were made including prosecutions, seizures and hygiene improvement notices (HINs). The actions were found to be appropriate for the circumstances and generally in line with the requirements of the Food Law Code of Practice, and included a useful evidence checklist for prosecution cases.
- 2.18 In general records across the range of food law enforcement activities were retrievable. There was some variability in the level of detail recorded by officers and in some cases it was not possible to establish complete premises inspection histories and key issues to be pursued at future interventions. Improvements to the inspection aide-memoire and routine internal monitoring checks should assist in ensuring that comprehensive records are maintained.
- 2.19 Documented procedures had been developed covering qualitative and quantitative monitoring checks across the range of food law enforcement activities. These had been recently implemented and some detailed records were available of the internal monitoring undertaken across a range of activities including accompanied inspections and food complaint investigations. Discussions indicated that other monitoring activities had been taking place which had not been routinely recorded. Complete records of internal monitoring activities should be maintained.

## **3.0 Audit Findings**

### **3.1 Organisations and Management**

#### Strategic Framework, Policy and Service Planning

- 3.1.1 A comprehensive Food Law Enforcement Service Plan had been developed for 2012/13. This had been accepted by Cabinet in November 2012 and was due to be approved by Full Council at the time of the audit. The Plan had generally been drafted in accordance with the Service Planning Guidance in the Framework Agreement, although it could be usefully expanded to include a clear comparison between the resources required to deliver the food law service set out in the Plan and the full time equivalent (FTE) resources available. The absence of such information makes it difficult to identify and quantify any resource shortfalls to senior managers and to Members.
- 3.1.2 The Plan included suitable links to the overall Council Vision, and also set out the Service's aim to "ensure that the highest achievable levels of food control (food safety, standards and feeding stuffs) are maintained throughout the Borough".
- 3.1.3 A number of objectives were also set out in the Food Service Plan, and these included:
- Ensure hygienic conditions in the sale, preparation, manufacture and storage of foodstuffs and feeding stuffs.
  - Ensure the wholesomeness and appropriate labelling/composition of foodstuffs and feeding stuffs within the Borough.
  - Focus on a risk-based approach to inspections and enforcement activity in accordance with the Regulatory Services Enforcement Policy.
  - Administer the legislation in compliance with the approved codes of practice and related official guidance.
  - Promote a greater knowledge and understanding of food safety and nutrition within the Borough.
- 3.1.4 The Plan included the outcomes from a review which had been carried out of the previous year's Plan. Some variances were identified from the planned activities for the year and some areas for improvement were highlighted. These included implementation of the new database system and a review of alternative methods of service delivery. The Plan also noted that it had not been possible to complete as many high risk inspections as planned due to a number of factors, including officer time being required for pursuing

enforcement actions; long term staff absences; and the impact of a restructure in 2011, which included service reprioritisation and a review of resources.

- 3.1.5 The Service Plan set out details of the resources available to deliver the food service as a total of 4.4 FTE professional posts and 0.8 FTE administrative posts. The professional posts comprised a mix of Regulatory Services Officers, who covered the full range of food law enforcement activities, and who had responsibility for the inspection of higher risk and approved establishments; and enforcement officers who had more limited authorisations and carried out inspections at lower risk premises and initial inspections at unrated establishments.

#### **Recommendation**

3.1.6 The Authority should:

Ensure that future Food Service Plans include an accurate and clear comparison of resources required to carry out the full range of statutory food law enforcement activities against the resources available to the Service.

[The Standard – 3.1]

#### **Documented Policies and Procedures**

- 3.1.7 The Authority had developed documented policies and procedures that covered the range of food law enforcement activities. These were contained in a Food and Feed Control Manual. The format of the manual followed the structure of the Standard in the Framework Agreement and included arrangements for the review and updating of the document by the lead food officer every two years, and on an ad hoc basis in response to changes in legislation or centrally issued guidance. The manual had been recently reviewed.

#### **Good Practice – Documented Policies and Procedures**

The format of the Authority's Food and Feed Control Manual followed the structure of the Standard in the Framework Agreement, ensuring that all required documented policies and procedures were provided across all relevant enforcement areas.

## Officer Authorisations

- 3.1.8 A procedure had been developed which set out the process for the authorisation of officers in accordance with their training, qualifications and competency. A detailed competency framework supported the procedure. This was in line with the requirements of the Food Law Code of Practice and clearly set out the competencies, knowledge, qualifications and training required for different enforcement activities. Authorisations were confirmed by memorandum from the Group Manager for Regulatory Services.
- 3.1.9 A documented matrix clearly set out the extent of authorisation for each individual officer under relevant legislation. The matrix contained relevant and current legislative references and was regularly updated by the Lead Food Officer in response to changes in legislation or any relevant change of circumstance of officers. All officers were appropriately authorised in accordance with the procedures and competency framework.
- 3.1.10 Individual officer training needs were identified as part of the Authority's annual appraisal system. Records of training were maintained centrally and confirmed that officers were receiving a broad range of relevant training and were exceeding the minimum 10 hours relevant food training per annum required by the Food Law Code of Practice, based on the principles of Continuing Professional Development.
- 3.1.11 It was evident from training records and in discussion with officers that they had recently received training on the implementation of the E.coli O157 cross-contamination guidance; sous vide food processing and on the use of remedial action notices (RAN). Discussions with officers confirmed that they were knowledgeable about food law enforcement and had been provided with broad ranging training opportunities.

### **Good Practice – Authorisation of Officers**

The documented procedures supported by the competency framework and authorisation matrix provided a robust system for the authorisation of officers, in accordance with their individual qualifications, competence and experience.

## **3.2 Food Premises Database**

- 3.2.1 Procedures for maintaining the accuracy, completeness and security of the database were included in the Food and Feed Control Manual. At the time of the audit the Authority was in the process of completing the migration of data from one database to a new system which had become operational in April 2012. The new database was part of the Authority's 'new ways of working' initiative in order to rationalise database systems across Council services. The migration of data from the old database had been problematic, resulting in additional resources being required to manually input historic information onto the new system on a priority basis, with access to the old system being retained in the interim. All food law enforcement activities carried out from April were being entered onto the new system.
- 3.2.2 The operation of two systems and gradual migration of historic information had created problems in running reports to provide an up-to-date and complete picture of inspection and enforcement activities. It had also presented problems in administration of the national Food Hygiene Rating Scheme (FHRS) and ratings were not being displayed at the time of the audit, although premises were still being rated on inspection and provided with certificates. A comprehensive database action plan was in place to address the migration issues and considerable progress was being made in achieving the planned improvements with a view to reinstating the publication of FHRS ratings early in 2013, and the submission of data for the next LAEMS monitoring return from the new system from April 2013.
- 3.2.3 Various measures were in place to ensure that the database was kept up-to-date. These were set out in the documented procedures as being:
- The new database was linked to the gazetteer which links to the business rating system.
  - Registration forms received.
  - Updated details following interventions and observations by officers on the district.
  - Planning and building control applications.
  - Event and licensing applications.
  - Interface between the Commercial Premises and Business Register.
- 3.2.4 Notwithstanding the problems encountered by the Service in the recent migration process, checks carried out during the audit confirmed that in general data held on the systems was accurate. It was not however possible to confirm the numbers of overdue lower

risk premises within the Borough as the migration of data had not yet been completed. It also appeared that there may have been some under reporting of warning letters on previous LAEMS returns, however the configuration of the new system should resolve this inaccuracy in future returns.

- 3.2.5 Checks on premises in the area identified by Internet searches confirmed that the majority were on the database and included within the Authority's intervention programme.

**Recommendation**

- 3.2.6 The Authority should:

Continue to implement the database plan to ensure that the database is configured and operated in such a way to provide accurate and complete monitoring returns to the Agency.  
[The Standard – 6.3]

### 3.3 Food Premises Interventions

3.3.1 The Authority's Food Law Enforcement Service Plan 2012/13 set out the food premises profile by risk category and the interventions programme for the year.

3.3.2 The Plan set out the breakdown of premises requiring inspection and the inspections due in the year as follows:

<b>Premises Risk Category</b>	<b>Number of Premises</b>	<b>Inspections due 2012/13</b>
A	6	12
B	156	156
C	753	603
D	199	179
E	371	298
Unrated	200	200
Not in programme	27	-
<b>Total</b>	<b>1,712</b>	<b>1,448</b>

3.3.3 The Service Plan set out the intention to take into account the flexibilities available in the Food Law Code of Practice, so that the approach in lower risk establishments could alternate between official controls and other interventions in category D premises, and the assessment of category E premises by an alternative enforcement strategy that involved the completion of a questionnaire and visits where necessary. Broadly compliant category C rated premises may receive alternate official controls other than inspections. Auditors were advised that these flexibilities were still to be fully integrated into the inspection programme.

3.3.4 Whilst it was not possible to accurately quantify the full extent of lower risk premises overdue an intervention, it was evident from checks carried out during the audit that the Authority was focusing resources on ensuring that inspections of the highest risk premises were being carried out in line with the intervention frequencies set out in the Food Law Code of Practice. There were no category A inspections overdue at the time of the audit, and although there were two category B inspections overdue, legitimate reasons for their deferral had been recorded. It was evident that there were a significant number of unrated premises requiring an initial inspection. The Authority had recognised that the backlog of inspections needed to be addressed, and the Authority had procured the services of contractors to enable the backlog of unrated and overdue lower risk premises interventions to be significantly reduced by the end of the financial year.



- 3.3.5 The Authority had documented procedures on the inspection of general food premises in the Food and Feed Control Manual, which also made reference to enforcement in approved establishments.
- 3.3.6 Officers used an inspection aide-memoire to detail the findings from inspections and their assessment of the food business operator's (FBO) compliance with food hygiene legislation. The aide-memoire could be usefully expanded to ensure it contains prompts for officers to record the detail of checks on their assessment of the FBO's compliance with requirements to implement a food safety management system (FSMS) based on HACCP; compliance with the E.coli O157 Control of Cross-Contamination Guidance; specific checks made on imported foods, whether the business operations included the supply of food to vulnerable groups, and a clearer indication of significant findings that needed to be followed-up at subsequent interventions ('red flagging').
- 3.3.7 Records of a sample of inspections carried out by different officers at food businesses were checked during the audit. There was a variable level of detail recorded of the officers' findings on the inspection aide-memoire. Whilst some officers were making comprehensive notes of their findings, in general there was insufficient detail on the officer's assessment of the adequacy of the FSMS in place at the business. Not all aides-memoire recorded the officers' findings in respect of compliance with general requirements in relation to structure and other prerequisites. It was not possible in a number of cases to determine whether the risk score applied at inspection was appropriate as there was insufficient information recorded on the aide-memoire to justify the score.
- 3.3.8 It was evident that the requirements of the E.coli O157 Control of Cross-Contamination Guidance had not been satisfactorily and consistently implemented in all relevant premises. Whilst it was clear from discussions with officers that the requirements of the guidance were taken into consideration during inspections, this was not necessarily reflected in inspection records or in follow-up action. In one file examined the officer had identified that a vacuum packer was being used for both raw and cooked food products but it was not evident that the officer had evaluated appropriate and timely follow-up action to confirm that this practice had ceased and that separate equipment had been subsequently provided and appropriately used. A visit following the audit confirmed dual use of the vacuum packer had ceased, however a review of any similar situations needs to be carried out and appropriate follow-up action taken as a priority should continued dual use of complex equipment such as vacuum packers be identified. Auditors were advised that there had been discussions regarding approach at a team meeting and there would be a further review of implementation of the guidance at a future meeting.

- 3.3.9 It was not always clear from the reports of inspection left with the FBO what works were required and if comments related to legal contraventions or recommendations of good practice. Letters sent following inspections were more comprehensive, however they would still benefit from making a clearer distinction between legal requirements and recommendations of good practice.
- 3.3.10 There was evidence that where revisits were necessary to check on the completion of required works, some of these had not taken place or had not been timely. It was acknowledged that there had been difficulties in ensuring that revisits took place due to prolonged staff absences, however implementation of a reminder system on the new database should assist in ensuring they are carried out as appropriate.
- 3.3.11 The Service had previously identified issues with compliance and understanding of food hygiene requirements in some Chinese takeaway food businesses. Officers were able to demonstrate that a successful project had been undertaken to improve understanding of food hygiene issues and increase compliance in such businesses using workshops, training and coaching on Safer food, better business. The success of the approach had prompted its use to be widened to other Chinese businesses that were not part of the original project.
- 3.3.12 The Authority advised that they had currently approved nine establishments under Regulation (EC) No. 853/2004. The majority of these were traditional seasonal cockle processing sheds. Checks were made on a selection of approved establishment files. The Authority should confirm that they include all the relevant details on the establishment as set out in annexe 10 of the Food Law Practice Guidance, including a synopsis of the business activities and details such as the company emergency withdrawal plans, supplier information and product recall procedures.
- 3.3.13 It was evident that the approval records for premises had been reviewed and that an approval document under current legislation was available for each establishment checked during the audit. Whilst it was not always evident that premises had been inspected in accordance with the minimum frequencies set out in the Food Law Code of Practice, there was evidence of frequent revisits and sampling visits being made to the establishments and that follow-up action was being taken as necessary, including the service of a RAN. Correspondence sent out following interventions was detailed and provided clear and helpful guidance to the FBO.

## **Recommendations**

3.3.14 The Authority should:

- (i) Ensure that food hygiene interventions at food premises in their area are carried out at a frequency which is not less than that determined under the intervention rating scheme set out in the Food Law Code of Practice. [The Standard – 7.1]
- (ii) Assess the compliance of food premises to legally prescribed standards to confirm compliance with current legislation, the Food Law Code of Practice and centrally issued guidance. Document and take appropriate and timely action on any non-compliance found, in accordance with the Authority's enforcement policy and documented procedures. [The Standard – 7.2 and 7.3]
- (iii) Maintain accurate and comprehensive records for all establishments including those approved under Regulation (EC) No. 853/2004. The records should detail the determination of compliance with legal requirements and comprehensive reports of all inspections, visits and where relevant the basis for approval, in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard –16.1]

### **Good Practice – Chinese Takeaway Project**

The Authority carried out a successful project targeted at poorly performing Chinese businesses in the Borough, and made use of the outcome of a focus group to develop an approach that took account of the specific cultural considerations of the Chinese community. The project included workshops, training and coaching for food business operators.

### Verification Visit to a Food Premises

- 3.3.15 During the audit, a verification visit was undertaken to a local restaurant with an experienced officer of the Authority, who had carried out the last food hygiene inspection of the premises. The main objective of the visit was to assess the effectiveness of the Authority's assessment of food business compliance with food law requirements. The specific assessments included the conduct of the preliminary interview of the FBO by the officer, the general hygiene checks to

verify compliance with the structure and hygiene practice requirements and checks carried out by the officer to verify compliance with HACCP based procedures.

- 3.3.16 On the visit, the officer was able to demonstrate familiarity with the premises and the operations carried out. The officer had completed a thorough inspection and had appropriately assessed the business' compliance with legal requirements.

### **3.4 Enforcement**

- 3.4.1 The Authority had developed an appropriate Regulatory Services Enforcement Policy, which had been approved by the Council's Scrutiny Committee and Cabinet in 2011. There were also documented procedures to support the policy in the Food and Feed Control Manual and these covered the range of enforcement options available to officers.
- 3.4.2 Records for a range of enforcement actions were provided for audit. Officers had taken enforcement when appropriate and had considered all available enforcement options in response to the failure of the FBO to comply with legal requirements.
- 3.4.3 Records for three hygiene improvement notices (HIN) were examined. The notices were all found to be appropriate in the circumstances. The standard format of the notices needed amendment to ensure that the name and address of the court was provided in case of appeal against the notice. One of the notices had not been complied with and records confirmed that appropriate follow-up action had been taken by the officer.
- 3.4.4 Records for two voluntary closures and one hygiene emergency prohibition notice (HEPN) were examined. All were found to be appropriate and the voluntary closure agreements had been confirmed in writing by the FBO and the officer. Routine checks were made to confirm the premises remained closed.
- 3.4.5 Records for three prosecutions and a simple caution were examined. All were found to be appropriate and with good detailed records and evidence retained on file. A useful evidence checklist was used in the preparation of prosecution cases.
- 3.4.6 Records for two Food Safety Act detentions and one certification and seizure under Regulation 27 of the Food Hygiene (England) Regulations 2006 were checked during the audit. These were found to be satisfactory and the appropriate course of action.
- 3.4.7 A RAN had been served in respect of one approved establishment. This action was appropriate for the circumstances and served on the FBO by a suitably authorised officer.

#### **Good Practice – Prosecutions**

A helpful checklist was used to ensure that all relevant material was available for prosecution cases, and to confirm they had been checked and agreed by a senior officer.

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

#### Internal Monitoring

- 3.5.1 Documented internal monitoring procedures had been developed which included provision for both qualitative and quantitative monitoring checks across the range of food law enforcement activities.
- 3.5.2 Whilst there was limited evidence of routine internal monitoring activities in the past, the procedures had been recently implemented and some detailed records were available of the internal monitoring undertaken across a range of activities including accompanied inspections and food complaint investigations.
- 3.5.3 Discussions during the audit indicated that there were other internal monitoring activities that took place which were not necessarily recorded. These included peer review of enforcement actions, discussions at team meetings and agreement to the reduction of risk ratings following inspection.
- 3.5.4 Audit checks confirmed some variance in the quality of records maintained by different officers on food law enforcement activities and some inconsistencies in approach to enforcement. These could be identified and addressed through continued implementation of routine, effective internal monitoring across all areas of food law enforcement work.

#### **Recommendation**

3.5.5 The Authority should:

Continue to routinely verify its conformance with the Standard, relevant legislation, the Food Law Code of Practice, centrally issued guidance and the Authority's own documented policies and procedures across all the Authority's food law enforcement activities and maintain records of all internal monitoring activities.

[The Standard – 19.2 and 19.3]

#### Food and Food Premises Complaints

- 3.5.6 The Service had a brief food complaints policy, and an accompanying documented procedure in the Food and Feed Control Manual, providing guidance to officers on the investigation of food and food premises complaints.

- 3.5.7 Checks made on records for five food and food premises complaints showed that officers had in general carried out thorough, timely and appropriate investigations. It was not however always evident that all interested parties had been kept informed of progress of the complaint.

**Recommendation**

3.5.8 The Authority should:

Investigate food and food premises complaints in accordance with the Food Law Code of Practice, centrally issued guidance and the Authority's procedures.  
[The Standard – 8.2]

Food Inspection and Sampling

- 3.5.9 The Authority had a food sampling policy which set out the aims of its sampling activities as being:
- To provide analytical results to improve standards of food safety in relation to the sale and manufacture of food within the council's boundaries.
  - To act as an educative tool to help inform businesses and the public regarding food safety issues.
  - To provide supporting evidence to food business' HACCP and hazard analysis, particularly with regard to approved establishments.
  - To address both local and national food safety concerns.
  - To provide supporting evidence in the enforcement of food safety where appropriate.
  - To sample in a manner that is co-ordinated.
- 3.5.10 Procedural guidance on food sampling was provided for officers in the Food and Feed Control Manual.
- 3.5.11 The sampling programme focused on participation in local, national and regional sampling initiatives and made specific reference to the Authority's approved establishments, and to sampling of imported foods. It was clear that the Authority was actively participating in agreed sampling programmes.

3.5.12 Checks were made on records for five recent samples which had received unsatisfactory examination results. The samples were found to have been taken in accordance with the Authority's sampling policy, were part of the sampling programme, and had been taken by a trained, authorised officer. It was not evident on all files checked that the results had been confirmed in writing or further guidance provided to the FBO.

**Recommendation**

3.5.13 The Authority should:

Take and document appropriate action on any non-compliance found following the receipt of unsatisfactory food sample results, in accordance with the Authority's enforcement policy. [The Standard – 12.2 and 12.7]

Records

3.5.14 Records of food law enforcement activities were maintained electronically on the food premises database system and on paper files. In general, records were easily retrievable during the audit, however, as noted previously in this report, there was some variability in quality of records, particularly those for general premises inspections.

Third Party or Peer Review

3.5.15 There had been no recent inter-authority audit (IAA) activity in which the Authority participated in the last two years and there were no current plans within the Food Liaison Group to arrange an IAA exercise, although there had been initial discussions within the Group in relation to a future peer challenge exercise.

3.5.16 The Authority had participated in a consistency exercise with other authorities in the Liaison Group in preparation for the launch of the FHRS in 2012. The Service had also participated in an internal data protection audit in 2012.



**Auditors:** **Yvonne Robinson**  
Christopher Green

Food Standards Agency

Local Authority Audit and Liaison Division

## ANNEXE A Action Plan for Southend-on-Sea Borough Council

Audit date: 4-5 December 2012

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.6 Ensure that future Food Service Plans include an accurate and clear comparison of resources required to carry out the full range of statutory food law enforcement activities against the resources available to the Service. [The Standard – 3.1]	01/05/13	Prepare Service Plan for Cabinet approval to include resources required to deliver services.	To be developed as part of Service Plan for 2013/14.
3.2.6 Continue to implement the database plan to ensure that the database is configured and operated in such a way to provide accurate and complete monitoring returns to the Agency. [The Standard – 6.3]	30/06/13	Complete the implementation of the database plan.	1385 Commercial Food Premises entered on new database.
	31/03/13	All commercial premises records to be uploaded before end March 2013.	Test Food Hygiene Rating Scheme (FHRS) upload completed and working.
	28/02/13	Test LAEMS return to be completed by end February.	Established rules on database management. FHRS certificate live.
	28/02/13	FHRS to be live by end February with current data.	Testing of document imaging for inspection reports underway. Database check completed and corrections underway.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.3.14(i) Ensure that food hygiene interventions at food premises in their area are carried out at a frequency which is not less than that determined under the intervention rating scheme set out in the Food Law Code of Practice. [The Standard – 7.1]</p>	31/03/13	<p>Officers to continue to target those premises of highest risk.</p> <p>Contractors had already been procured to undertake approximately 600 due, overdue and unrated inspections.</p>	<p>Over 320 inspections of the due/overdue/unrated have already been completed by contractors.</p> <p>Unrated premises have been allocated for inspection. Unrated home caterers and childminders are currently being assessed on whether an inspection is required.</p>
	30/06/13	Determine alternative enforcement plan for low risk premises.	

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.3.14(ii) Assess the compliance of food premises to legally prescribed standards to confirm compliance with current legislation, the Food Law Code of Practice and centrally issued guidance. Document and take appropriate and timely action on any non-compliance found, in accordance with the Authority's enforcement policy and documented procedures. [The Standard – 7.2 and 7.3]</p>	<p>30/06/13</p>	<p>Officers to document decisions where no enforcement considered.</p> <p>Mentoring system for revisits to be developed through new Uniform system.</p>	<p>Additional training on E.coli O157 guidance has been provided to three members of staff.</p> <p>Team meeting held where developments in E.coli guidance implementation and results of the audit were discussed.</p> <p>The aide-memoire has been amended to include prompts to detail sufficiency of the food safety management system, compliance with E.coli O157 guidance and supply to vulnerable groups. Aide-memoire also includes rating of premises.</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.3.14(iii) Maintain accurate and comprehensive records for all establishments including those approved under Regulation (EC) No. 853/2004. The records should detail the determination of compliance with legal requirements and comprehensive reports of all inspections, visits and where relevant the basis for approval, in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard –16.1]</p>	<p>Completed</p> <p>31/03/13</p> <p>Completed and ongoing</p>		<p>Discussed at team meeting the audit outcomes and requirement to include more details on aide-memoire.</p> <p>Re-organise approval files in line with annexe 10 requirements.</p> <p>Internal monitoring checks already in place for officers.</p>
<p>3.5.5 Continue to routinely verify its conformance with the Standard, relevant legislation, the Food Law Code of Practice, centrally issued guidance and the Authority's own documented policies and procedures across all the Authority's food law enforcement activities and maintain records of all internal monitoring activities. [The Standard – 19.2 and 19.3]</p>	<p>Completed and ongoing</p>	<p>Maintain records of audits and the outcome of all internal monitoring activities that take place.</p>	<p>Audits have been completed on inspections, letters and reports completed by contractors.</p>
<p>3.5.8 Investigate food and food premises complaints in accordance with the Food Law Code of Practice, centrally issued guidance and the Authority's procedures. [The Standard – 8.2]</p>	<p>Completed</p>	<p>Monitoring to include food complaints, to confirm appropriate action taken with respect to feedback to complainants.</p>	<p>A team meeting was held at which the outcome of the audit was discussed and officers reminded of food complaints procedures.</p>

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.5.13 Take and document appropriate action on any non-compliance found following the receipt of unsatisfactory food sample results, in accordance with the Authority's enforcement policy. [The Standard – 12.2 and 12.7]	30/06/13	Process to be implemented for unsatisfactory sampling results on the food premises database.	Outcome of all revisits undertaken following unsatisfactory sampling results to be documented on inspection form left on site.

## **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 relevant LA policies, procedures and linked documents were examined before and during the audit:

- Food Law Enforcement Service Plans for 2011/12 and 2012/13, and accompanying committee reports.
- Food & Feed Control Manual
- Officer CPD training records
- Authorisation procedure, competency framework and authorisation matrix
- Food inspection documentation including aides-memoire
- Regulatory Services Enforcement Policy
- Minutes of recent Food Safety Liaison Group meetings.

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

- General food premises inspection records
- Approved establishment records
- Food complaint records
- Records of food sampling
- Internal monitoring records
- Formal enforcement records

(3) Review of database records:

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

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

- Team Leader – Regulatory Services
- Two Regulatory Services Officers

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 regard to LA checks on FBO compliance with HACCP based food management systems.



## **ANNEXE C Glossary**

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

wholesomeness of food.

Food Hygiene Rating Scheme (FHRS)

The Food Hygiene Rating Scheme provides information to the public about hygiene standards in catering and retail food establishments. It is run by local authorities in partnership with the Food Standards Agency. Businesses that fall within the scope of the scheme are given a 'hygiene rating' which shows how closely the business was meeting the requirements of food hygiene law at the time of inspection. The scheme also encourages businesses to improve hygiene standards.

Food Safety Management System

A written permanent procedure, or procedures, based on HACCP principles. It is structured so that this requirement can be applied flexibly and proportionately according to the size and nature of the food business.

Food standards

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

Framework Agreement

The Framework Agreement consists of:

- Food and Feed 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 and feed law enforcement.

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

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

Full Time Equivalent (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.