

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

Westminster City Council
9-10 February 2010



Foreword

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

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

Agency audits assess local authorities' conformance against the Food Law Enforcement Standard ("The Standard"), which was published by the Agency as part of the Framework Agreement on Local Authority Food Law Enforcement and is available on the Agency's website at: www.food.gov.uk/enforcement/auditandmonitoring. It should be acknowledged that there will be considerable diversity in the way and manner in which local authorities may provide their food enforcement services reflecting local needs and priorities.

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

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

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

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1. Introduction

- 1.1 This report records the results of an audit at Westminster 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 food premises inspections, enforcement activities and internal monitoring. The report has been made available on the Agency's website at: www.food.gov.uk/enforcement/auditandmonitoring/auditreports. Hard copies are available from the Food Standards Agency's Local Authority Audit and Liaison Division at Aviation House, 125 Kingsway, London WC2B 6NH, Tel: 020 7276 8428.

Reason for the Audit

- 1.2 The power to set standards, monitor and audit local authority food law enforcement services was conferred on the Food Standards Agency by the Food Standards Act 1999 and the Official Feed and Food Controls (England) Regulations 2009. This audit of Westminster City Council was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme.
- 1.3 The Authority was included in the Food Standards Agency's programme of audits of local authority food law enforcement services, because it had not been audited in the past by the Agency and was representative of a geographical mix of 25 Councils selected across England.

Scope of the Audit

- 1.4 The audit examined Westminster City Council's arrangements for food premises inspections and internal monitoring with regard to food hygiene law enforcement, with particular emphasis of officer competencies in assessing food safety management systems based on HACCP principles. This included a reality check at a food business to assess the effectiveness of official controls implemented by the Authority at the food business premises and, more specifically, the checks carried out by the Authority's officers to verify food business operator (FBO) compliance with legislative requirements. The scope of the audit also included an assessment of the Authority's overall organisation and management, and the internal monitoring of other related food hygiene law enforcement activities.
- 1.5 Assurance was sought that key authority food hygiene law enforcement systems and arrangements were effective in supporting business compliance, and that local enforcement was managed and delivered effectively. The on-site element of the audit took place at the Authority's office at City Hall, 64 Victoria Street, London, on 9-10 February 2010.

Background

- 1.6 Westminster City Council is a London Borough in the heart of central London and covers an area of approximately 2,204 hectares with a residential population of around 230,000. The City includes within its boundaries some of London's most prestigious landmarks including the Houses of Parliament, Buckingham Palace, Westminster Abbey, Marble Arch, Trafalgar Square and Big Ben. It also contains key shopping, business, entertainment and residential areas such as Mayfair, Oxford Street, Piccadilly Circus and Soho. In addition to the resident population, it is estimated that in excess of 1 million people travel through Westminster during the day.
- 1.7 The City of Westminster is a prestigious location for business and is home to the international headquarters of many multinational companies. However, approximately 75% of businesses within the Borough employ between 1-10 people and therefore small businesses play an equally important role in the economy of Westminster.
- 1.8 On 1 April 2009 there were 5,053 registered food premises within the City of Westminster, the majority of which were in the catering sector. There was 1 establishment in the Authority's area which required approval under Regulation (EC) No. 853/2004.
- 1.9 There is a high turnover of businesses in the area and the Authority envisaged that at least 70% of registered food premises that closed would reopen as new food businesses within the same financial year.
- 1.10 The Service Manager for Food, Health and Safety was responsible for managing a dedicated Food Team enforcing food hygiene legislation with a separate team responsible for occupational health and safety enforcement. In addition, the Environmental Health Consultation Team was responsible for commenting on planning applications and licenses in respect of food business related matters as well as carrying out programmed food hygiene inspections and responding to service requests in relation to night clubs in the Authority's area. The consistency of food service delivery was ensured through ongoing close liaison between the Food Team and the Environmental Health Consultation Team.
- 1.11 The profile of Westminster City Council's food businesses as of 31 March 2009 was as follows:

Type of food premises	Number
Primary Producers	0
Manufacturers/Packers	4
Importers/Exporters	1
Distributors/Transporters	3
Retailers	1,006
Restaurant/Caterers	3,829
Total number of food premises	4,843

2. Executive Summary

- 2.1 The Authority had developed a detailed and comprehensive Food Law Enforcement Plan 2009/2010, which was in line with the Service Planning Guidance in the Framework Agreement. It was noted that the Plan detailed several projects and initiatives designed to address specific high risk areas relating to food law enforcement. These were aimed at meeting particular local needs, complying with 'better regulation' principles and maximising the effective use of resources. The auditors were advised however, that as a result of recent restructuring within the Authority, the staffing levels within the Food Team had been reduced, which could have a significant impact on planned food law service delivery in an area with a large number of high risk food businesses, coupled with a high rate of premises turnover.
- 2.2 The Authority had recently reviewed existing procedures or developed new policies and procedures covering enforcement issues relevant to the scope of this audit and the documents were generally detailed and comprehensive. In addition, the Authority had recognised the need for a structured document control and review process and an electronic system had been recently developed which was being implemented at the time of the audit.
- 2.3 Audit checks confirmed that officers were authorised in accordance with their qualifications and experience. Individual authorisation levels were matched to officers' competence, which was thoroughly and systematically assessed through shadowed visits and internal monitoring. It was clear that the Authority was proactive in providing training opportunities for officers, although a more structured approach to the planning and recording of update training would help ensure that relevant officer training needs were more effectively addressed.
- 2.4 It was evident that the Authority was committed to carrying out a food premises inspection programme that concentrated on the highest risk premises. The programme included a variety of projects involving close liaison with other Council officers to complement the activities of the Food Team. The Authority had also developed and implemented a food premises intervention procedure and the inspection forms routinely completed by officers contained comprehensive information, including SFBB and HACCP evaluation. Letters provided to food business operators (FBOs) following inspections were detailed and clearly separated legal requirements from advice.
- 2.5 Audit findings confirmed that food hygiene interventions, especially in relation to lower risk premises, were not always being carried out at the minimum frequencies and within the timeframes specified in the Authority's own intervention policies or the Food Law Code of Practice. In addition, the high volume of revisits generated, which were necessary to check whether actions had been taken by FBOs in relation to significant recommendations raised during inspections and to inform further follow-up action, including formal

enforcement, were not always carried out in accordance with the Authority's own revisit policy or official guidance.

- 2.6 The Authority had developed a generic enforcement policy and detailed documented procedures for all available enforcement options. It was clear that the Authority carried out a significant amount of formal enforcement aimed at the highest risk premises, in relation to serious hygiene offences at food businesses, including failure by businesses to implement food safety management systems based on HACCP principles. Audit record checks on emergency food premises closures, prosecutions taken, and simple cautions administered by the Authority confirmed that the actions taken were appropriate, effective and followed due legal process.
- 2.7 In the case of hygiene improvement notices served in relation to food safety management systems at food premises and examined during the audit, it was unclear if timely checks were made on compliance, whether further follow-up action was needed, or if letters were sent to food business operators to confirm compliance with the notices. The auditors were advised that the Authority's ability to carry out revisits, including checks on business compliance with hygiene improvement notices, had been affected by the need to prioritise and target available staffing resources toward the known highest risk premises.
- 2.8 File and database checks confirmed that in all cases examined, complaints were effectively investigated and followed up, with accurate records maintained.
- 2.9 In addition to participating in local regional and national routine sampling programmes, the Authority had developed and carried out a sampling survey on ready to eat raw meat dishes served in a significant number of establishments in the area. This aimed to investigate how adequate controls could be incorporated into the businesses' HACCP systems.
- 2.10 The Authority had developed procedures and systems for quantitative and qualitative monitoring across all areas of food law enforcement activity. It was clear that extensive internal monitoring was being implemented in practice, with corrective actions put in place where issues were identified.

3. Audit Findings

3.1 Organisation and Management

Strategic Framework, Policy and Service Planning

3.1.1 In 2009, Westminster City Council carried out a strategic reorganisation, moving from its previous structure of departments to a new commissioning model consisting of a Strategic Executive Board (SEB) and individual delivery units focusing on serving customers. The SEB was responsible for the overall management of the Council, for setting and monitoring overall direction, ensuring high performance and for overall risk and reputation management. The delivery units, directly responsible for providing the Council's services, did not set their own targets but determined how best to meet the targets set by the SEB, which commissioned operational delivery unit directors to deliver specific outcomes.

3.1.2 The Premises Management Delivery Unit, formerly the Community Protection Department, provided the local authority regulatory services of environmental health, trading standards and licensing. The Authority had developed and implemented a detailed and comprehensive Food Law Enforcement Plan for 2009/2010 (the Plan) which aimed to ensure that the Service met the aims and targets of the Premises Management Delivery Unit. The Cabinet Member for Community Protection and Licensing did not formally approve the Plan, but signed off the broader Community Protection Business Plan 2008-2011 and the associated annual updates and action plans. The latter included the following key food service aims:

- *Promote continuous improvement in the level of compliance with food hygiene legislation in Westminster food businesses*
- *Participate in the new Primary Authority principle by entering into statutory agreements with national retailers based in Westminster*
- *Provide targeted business advice about their legal obligations regarding commercial environmental health, focusing predominantly on small and medium enterprises (SME) in line with the City Recovery Programme.*

3.1.3 The Leader's Speech to the Council in March 2009 also set out the Authority's priorities for 2009/2010. This included the food team's work to improve standards in food premises as part of the wider Soho project.

3.1.4 The overall aim of the Food Service in relation to its enforcement activity, as stated in the Plan, was to *'reduce the risk to public health from food purchased, produced or eaten in Westminster.'*

3.1.5 The Plan also set out key operational service delivery objectives for the forthcoming year, which included commitments to:

- *Undertake proactive food law inspections of food businesses*
- *Investigate complaints about poor food hygiene or safety standards in food businesses*

- *Promote and regulate food safety and standards in food businesses*
- *To advise the general public, new and existing businesses on good practice in relation to food safety*
- *To promote food safety through initiatives based on local needs*
- *To work with other governmental agencies and bodies to maintain or improve standards in food businesses located in the City.*

3.1.6 In response to the recommendations and issues raised by the Public Inquiry Report into the 2005 Wales E. coli outbreak (published March 2009) and following the subsequent guidance issued by the Agency, the Service attended a meeting with the School Catering monitoring officers to discuss the Pennington Report recommendations and to give appropriate advice on the supply of high risk foods.

3.1.7 The following mechanisms were in place to carry out reviews against the Community Protection Business Plan and the Food Law Enforcement Plan:

- Monthly reports to the Service Review Board
- Quarterly reports to the City Management overview and Scrutiny Committee
- Monthly Cabinet reports – to inform and update members and staff on specific matters of interest involving food team activities
- Monthly monitoring of the Food Law Enforcement Plan by the Senior Management Team
- Fortnightly Cabinet Member meetings.

3.1.8 The Food Law Enforcement Plan included a detailed breakdown of the staffing resources required in line with the Service Planning Guidance and it was estimated that approximately 20 full time equivalent (FTE) officers would be required to deliver the planned level of service. The Plan also confirmed that the staffing allocation available to undertake food law enforcement during 2009/2010 was as follows:

Officer Designation	Number of staff
Service Manager	1
Assistant Service Manager	1
Food Team Leaders	2
Food Officers*	18
TOTAL	22

*All the Food Officers were either Environmental Health Officers (EHO) or held a Higher Certificate in Food Premises Inspection.

3.1.9 The Authority's review of the Food Law Enforcement Plan concluded that *'the intelligence-based and educational-based activities to effect alternative compliance within food premises have achieved an excellent 'enforcement balance' and therefore enabled the service to fully achieve its objectives for 2008/2009.'* However, the auditors were advised that as a result of the recent restructuring within the Authority and since the development of the

Food Law Enforcement Plan 2009/2010, 1.5 FTE posts had been lost from the Food Team, which would have a significant impact on service delivery.

Documented Policies and Procedures

- 3.1.10 The Service had recently reviewed existing policies and procedures or developed new documentation covering most of its food law enforcement responsibilities. These documents were available to all officers in electronic format on a shared folder, with superseded documents electronically archived in a clearly marked folder. The documents evaluated during the audit generally contained up to date references to legislation and official guidance. Most of the documents had been produced on a standard template which required the following information: status; issue date; revision date; version number and author. However, this information was not consistently available on each document
- 3.1.11 The auditors were advised that the Authority had recognised the need for a structured document control and review process and a new electronic system had been developed and was in the process of being implemented at the time of the audit. A single hyperlink index document had been produced for all food law enforcement documentation. The auditors were advised that all policies and procedures would be linked to this document, providing single point access to officers and facilitating the development of a structured, easily controlled review system.

Recommendation

3.1.12 The Authority should:

Fully implement the document control system for all its food service policies and procedures to ensure that all documents are reviewed at regular intervals and whenever there are changes to legislation and centrally issued guidance and all changes to documents are covered by the correct authorisation.

[The Standard – 4.1 and 4.2]

Officer Authorisations

- 3.1.13 The Authority had developed a documented food safety authorisation policy and procedure. This confirmed that the Premises Business Management Team administered officer authorisations after receiving direction from the food team regarding the level of powers to be given to each individual officer. Officers were given limited, mid range or full range powers depending on their qualifications, experience and competence, which were assessed by either an Assistant Service Manager or Senior Practitioner. The documented

procedure did not detail the competency assessment process by which authorisations were conferred, although it was evident from audit interviews and discussions that, in practice, a comprehensive system was in place.

- 3.1.14 The auditors were advised that newly appointed officers were given limited or mid range powers depending on their previous role. However, the officer was only permitted to exercise a specific conferred power once a Senior Practitioner was satisfied with their competency in that area of work. The competency assessment was carried out through shadowing exercises. The new officer shadowed a variety of experienced officers both on visits and the associated administration. The officer was then shadowed by an experienced officer to determine their level of competency. Officers were only given full range powers once they had completed another similar shadowing process undertaken with an officer already authorised at that level.
- 3.1.15 Audit checks confirmed that all officers' qualifications were available; that copies of relevant qualification certificates had been retained by the Authority and were current.

Recommendation

3.1.16 The Authority should:

Expand the Service's documented procedure on the authorisation of officers to detail the competency assessment process by which authorisations are conferred, based on an officer's individual qualifications, training and experience.
[The Standard – 5.1]

- 3.1.17 All officers were authorised generically under the European Communities Act 1972, to include any Regulations or Orders made pursuant to the Act, and were also separately authorised under the Food Hygiene (England) Regulations 2006. However, officers were not specifically authorised to enforce the Official Feed and Food Control Regulations 2009, contrary to official guidance. This advises that officers need to be separately authorised in writing to deal with matters arising under these implementing Regulations, which particularly enable officers to enforce controls on imported 3rd country Products Not of Animal Origin (PNAO) both at ports and at inland local authorities. This matter was discussed during the audit with the Service Manager. The auditors were advised that Westminster City Council's legal department had been consulted previously and again during the audit and it was the Authority's view that its officers were correctly authorised and that Regulations made under the European Communities Act 1972 did not have to be specifically named in officer authorisation documents.

- 3.1.18 The individual officer authorisation documents were signed by the Director of Community Protection. This did not reflect the structural changes brought about by the Council reorganisation in 2009. The auditors were advised that any necessary changes to the authorisations would be agreed with the Authority's legal department.
- 3.1.19 Officers' individual training and development needs were identified as part of the annual performance review system and incorporated into their Performance Development Plans. Any interim training needs identified during the year were discussed at monthly 1-1 meetings and 6 monthly appraisal reviews. Any other expressions of interest by officers in relation to training courses were addressed by informal interviews with the Service Manager or Assistant Service Managers, who considered whether the requested training could benefit the Food Team as a whole. The team training needs were prioritised through the variety of mechanisms described, although these were not drawn together into a documented training programme.
- 3.1.20 The Authority had produced generic training plans for different officer grades to cover introductory development, further development and specialist and longer term development options.
- 3.1.21 It was clear that the Authority was proactive in providing training opportunities for officers, who had generally achieved the minimum of 10 hours relevant training per year, based on the principles of continuing professional development. The auditors were advised that officers within the food team were encouraged to deliver cascade training to colleagues, especially after attending an external course. These 'toolbox talks' were generally given by the Senior Practitioners and usually took place monthly. In December 2009 the topic of the toolbox talk was the Pennington Report recommendations following the 2005 E.coli outbreak in Wales.
- 3.1.22 The Service had recently reviewed the level of training that food officers had received in relation to the assessment of HACCP based food safety management systems. Although auditors were assured that in practice, officers had received additional training in this area, that was not reflected in the records. In general, records of ongoing officer training, particularly internal cascade training and specific practical training undertaken through 1-1 shadowing were not consistently maintained. Therefore, the extent of training that officers had received, particularly in relation to formal enforcement and HACCP systems, was not always clear from the records examined during the audit. Audit discussions indicated that a more structured approach to the planning and recording of update training would help ensure that relevant officer training needs were more effectively addressed.

Recommendation

3.1.23 The Authority should:

Ensure that detailed records are maintained in relation to the annual team training programme to ensure that all officers receive regular relevant update training, particularly in relation to HACCP based food safety management systems and formal enforcement.
[The Standard – 5.4]

3.2 Food Premises Inspections

3.2.1 The Authority's Food Law Enforcement Plan 2009/2010 provided details of the food premises within the City of Westminster by risk category and stated that *'programmed inspections of food businesses are carried out in accordance with the frequencies determined by the inspection rating system set out within the Food law Code of Practice.'*

Premises Risk Category	Number of Food Premises
A	37
B	373
C	2,921
D	609
E	814
Unrated	299
TOTAL	5,053

3.2.2 In addition, the Plan also outlined the Authority's inspection programme for 2009/2010 which was aimed at *'using a range of interventions to reduce the risk ratings and ensure compliance of high risk (Category A and B) food premises.'*

Premises Risk Category	Number of Food Premises
A	37
B	373
TOTAL	436

The interventions would include:

- The delivery of 100% of the high risk food inspection programme (Category A and B) as detailed in the above table. Wherever possible, the Service intended that officers would be allocated the same premises as in the previous year to ensure *'a consistent approach and appropriate escalation of enforcement action.'*
- A project to tackle persistently high risk food businesses
- The identification of geographical areas with a concentration of persistently high risk premises which would be tackled on an area basis.

3.2.3 The Plan also outlined the Authority's strategy for lower risk food businesses confirming that remaining resources would be targeted strategically amongst medium and low risk premises as follows:

- All premises that were not broadly compliant and those whose risk scores were at the high end of the broadly compliant band would receive a full programmed inspection. This would result in a further 1,577 programmed inspections in 2009/2010

- A proactive inspection would be carried out when a justified complaint was received regarding a premises due for an intervention
- As part of the Authority's ongoing 'Chains Project' dedicated officers would provide food law enforcement advice through building up professional relationships with Head Offices for 38 national and local food chains. The aim of the project was to ensure that there was consistency of enforcement and that improvements could be made nationally. As part of the project, a sample of premises from each chain would be inspected and when officers were satisfied that a chain was compliant, no further inspections would be carried out in relation to that chain
- The food team would target food premises from particular areas of Westminster that were the subject of other departmental projects
- Other premises would be targeted as a result of intelligence received.

Good Practice – A multifaceted food premises intervention programme aimed at the effective targeting of the highest risks

The Authority had developed an intervention programme using a variety of projects and partnership approaches to both identify and target the highest risk food businesses in the Authority's area. The range of initiatives aimed to address local needs and the scale of the demands on the Service. More specifically, the programme was designed to maximise the effective use of the Service's resources in relation to the large number of high risk premises in the area and the significantly high turnover of food business ownership.

- 3.2.4 The Authority had identified 299 new premises which required inspection. In the Plan the Service confirmed that whilst it was recognised that these premises needed to be inspected and risk rated at the earliest opportunity, *'they do not form part of the programme of food hygiene inspections.'*
- 3.2.5 The Service had developed and implemented a detailed documented procedure for food premises interventions including the approval and inspection of establishments subject to the requirements of Regulation (EC) No. 853/2004. The procedure included guidance to officers on the process to be followed when carrying out an inspection. This stated that officers should *'thoroughly and systematically gather and record information from the observation of practices, procedures and processes, including procedures based on HACCP principles and discussion with food handlers, contractors, food business operators and managers.'*
- 3.2.6 The procedure also provided the following further details on the scope and proposed delivery of the food premises intervention programme:

- Both 'High Risk Project' and 'Chains Project' premises were allocated to dedicated officers to ensure consistency of approach. As part of the 'High Risk Project' all premises in risk categories A, B, and C were subject to inspection. For the 'Chains Project' all risk category A, B and non broadly compliant risk category C premises were subject to inspection. In addition, 50% of broadly compliant risk category C premises were to be inspected, with the other 50% subject to surveillance. The auditors were advised that in practice, the latter would only receive an intervention if a complaint or other intelligence was received or as part of the Authority's sampling programme
- All other risk category A, B and non broadly compliant risk category C premises, not included in specific projects, were also subject to inspection
- It was proposed that a proportion of broadly compliant risk category C premises, not included in the projects, would also be inspected, with those having the lowest risk scores in this category being '*subject to light touch enforcement*'. The auditors were advised that in practice, at the start of the financial year, all broadly compliant risk category C premises were profiled by the Assistant Service Manager and the highest risk premises were allocated to officers for inspection. Other premises in this category would not routinely be programmed for any intervention unless complaints or intelligence were received. However, the auditors were advised that the Service intended that all risk category C premises would receive at least 1 inspection within any 3 year period
- Food businesses falling into risk categories D and E and therefore regarded as being low risk were '*subject to light touch enforcement*'. In practice, auditors were informed that these premises were not subject to any intervention visits unless complaints or intelligence were received or they were included in the Authority's sampling programme
- Full postal surveys were undertaken periodically to request up to date food premises registration details, with the last survey undertaken in 2008/2009. However, the auditors were advised that the businesses' response level to such surveys was poor
- All night clubs were allocated to the Environmental Health Consultation team who carried out all programmed inspections in these premises irrespective of risk rating.

3.2.7 In 2009/2010, the Service's High Risk Project was targeting the Soho area, with the objective of reducing the risk ratings and improving compliance in 80 premises which had achieved less than 2 stars under the Council's 6 tier, 5 star 'Scores on the Doors' scheme. The project aimed to improve the rating of all targeted premises with 0 stars by 31 March 2010 and to further improve 75% of the premises rated as 1 star by 31 March 2011. In order to maximise the success of the project all the 0 and 1 star premises were

invited to consultation events held at a Soho venue to help the food business operators identify any barriers to compliance and to ask them how the Authority could improve inspections to provide businesses with a better service. The results of the consultations were used to inform the project programme; specifically, to address the businesses' key areas of concern, which included staff turnover and related training gaps, particularly their understanding of food safety management systems, as well as the need to build trust between the officers and the food business operators by allocating a dedicated officer to each premises. Food hygiene training was provided for all the businesses, in addition to individual coaching sessions and follow-up visits on 'Safer food, better business' implementation. The auditors were informed that the project was making good progress with only 7 premises remaining at 0 stars at the time of the audit, out of an original 20 premises at the beginning of the financial year.

Good Practice – Targeting geographical areas with a concentration of persistently high risk premises

The Authority had identified areas in Westminster with specific problems that contributed to a concentration of persistently non-compliant food businesses. These were targeted on a project basis, using dedicated officers, additional training resources and consultation meetings with all relevant businesses. The aim of the business consultations was to seek business views and to identify issues and potential barriers to successful enforcement in order to inform the project and maximise its success.

3.2.8 The auditors were advised that due to the high level of premises turnover in Westminster, in addition to the planned intervention programme, the Authority had also put in place the following measures to keep the Food Team informed of changes in respect of the food businesses within the Authority's area:

- The Food Team were working with the Licensing Team in relation to public houses, as licensing officers regularly carried out visits to all these premises. A brief checklist had been developed which included some key questions about the nature of the business and the level of food handling. The licensing officers, who also received training from the Food Team on the completion of the checklist and matters to consider, were asked to complete these forms when visiting public houses that served food and to refer the premises to the food team if there had been any significant change in ownership or type of food handled
- As part of the periodical postal premises surveys the Service also consulted business rates information to identify any new food premises or changes to existing food premises

- The Environmental Health Consultation Team who were responsible for commenting on planning and licensing applications, including those relating to food businesses, notified the Food Team of any new premises or material changes to existing premises.

3.2.9 File and database record checks confirmed that the Authority was, in general, implementing a well organised and structured risk based food premises inspection programme based on its own procedures and aimed at addressing the scale of the demands on the Service. This focused on the highest risk category A and B premises. More specifically, the Authority sought to address the risks associated with the large number of high risk food premises in its area and the significantly high turnover in food business ownership. However, audit checks confirmed that a significant number of food premises, particularly in those within the lower risk categories C, D and E were not being inspected at the minimum frequencies set out in the Food Law Code of Practice.

Recommendation

3.2.10 The Authority should:

Ensure that food hygiene interventions at 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]

3.2.11 File and database record checks on general food hygiene premises confirmed that appropriate aides-memoire had been used to record inspection findings and areas of non-compliance had been recorded in detail. Inspection forms had been recently revised to provide additional guidance to officers when assessing food safety management within a food business.

3.2.12 Reports of inspection were left with food business operators (FBOs). Both the reports and the letters subsequently sent to food business operators contained all the information required by the Food Law Code of Practice. Letters were detailed and clearly worded with the measures to be taken to secure compliance with appropriate timescales clearly identified. They also consistently differentiated between legal requirements and recommendations of good practice.

3.2.13 The Authority's revisit policy was incorporated in the documented interventions procedure, and stated that '*a revisit inspection must be undertaken if there is a failure to comply with significant statutory requirements.*' The policy also included a revisit matrix which differentiated the circumstances that should result in a revisit from those which could be addressed by the receipt of satisfactory self-certification from the FBO. Audit checks indicated that revisits to check whether appropriate remedial action

had been taken by FBOs to rectify significant contraventions, including the absence or inadequacy of food safety management systems identified during interventions, had not always been carried out in accordance with the Authority's own policy or official guidance. Such revisits would inform the officer whether further follow-up action, including formal enforcement may be required to ensure timely and effective action by the FBO. The auditors were advised that the Authority's ability to carry out revisits had been affected by the need to prioritise and target staff resources toward the known highest risk premises.

Recommendation

3.2.14 The Authority should:

Ensure that revisits following interventions are undertaken, where appropriate, in accordance with the Authority's own policies, the Food Law Code of Practice and centrally issued guidance.
[The Standard – 7.3]

3.2.15 File records for the approved dairy establishment in the Authority's area were examined during the audit. The prescribed aide-memoire had been used to record inspection findings. In general, the inspection records were detailed and confirmed that an appropriate evaluation of the HACCP system had been carried out and the basis of the officer's assessment of compliance. The premises had been approved in accordance with legislative requirements and official guidance. The files contained the key business and operations information as recommended in Annexe 12 of the Food Law Practice Guidance.

Verification Visit to a Food Premises

3.2.16 During the audit, a verification visit was undertaken to a local restaurant with an officer from the Authority, who had carried out the last food hygiene inspection of the premises. The main objective of the visit was to assess the effectiveness of the Authority's assessment of food business compliance with food law requirements. 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.

3.2.17 During the visit, it was evident that there were significant issues at the premises relating to training, hygiene, and overall food safety management. Visual checks and discussions with the manager and food handlers indicated an overall poor level of training as well as a lack of understanding of food safety hazards. These were appropriately identified by the officer who advised the auditor that there had been a significant decline in standards

since the last inspection. The officer raised the identified issues with the FBO and confirmed that further action would imminently be taken in relation to the findings.

- 3.2.18 The auditors were subsequently advised that due to an internal breakdown of communication between the Authority's officers, these premises were not visited again until 3 weeks after the audit. The latest inspection highlighted serious problems at the premises, including a mouse infestation, poor temperature control in relation to high risk food, extremely poor cleaning throughout and an absence of hot water both for cleaning and hand washing. In addition the food safety management system was not fully implemented, without monitoring or implementation of controls or corrective actions. The premises had a history of non-compliance in relation to similar issues. The Authority informed the auditors that a Hygiene Improvement Notice would be served in relation to the food safety management system and an officer would revisit in one week to check on the hot water issue.

3.3 Enforcement

- 3.3.1 The Authority had adopted a generic enforcement policy which was relevant to food law enforcement and was generally in accordance with centrally issued guidance. This 'umbrella' policy was revised in 2008 to take account of the Regulators' Compliance Code. In addition, the Service had also developed detailed documented procedures on all formal enforcement options, both to provide officer guidance and to ensure that the council-wide enforcement policy was implemented.
- 3.3.2 The documented interventions procedure instructed officers that '*food businesses that fail to comply with significant statutory findings must be subject to appropriate enforcement action.*' It was clear that the Service carried out a significant amount of proportionate and graduated formal enforcement aimed at the highest risk premises and persistent offenders, where serious contraventions had been identified.
- 3.3.3 A sample of Hygiene Improvement Notices (HINs), which had been served against businesses which had failed to comply with Regulation (EC) No. 852/2004 Article 5, were selected for review during the audit. In each case, the use of the notice had been the appropriate course of action, the notices had been very clearly worded and had been served in accordance with the Authority's own procedures. However, it could not be determined whether timely checks had been made on compliance on the expiry of the notices, whether further follow-up action was necessary or if letters were sent to FBOs to confirm compliance with the notices. Failure to undertake a timely check on compliance may compromise an authority's ability to enforce the notice. The auditors were advised that the Authority's ability to follow-up on all HINs served was affected by over-stretched staffing resources which were targeted at known highest risk premises.

Recommendation

3.3.4 The Authority should:

Ensure that food law enforcement, in relation to the service of Hygiene Improvement Notices, is carried out in accordance with the Food Law Code of Practice, centrally issued guidance and the Authority's own enforcement policy. [The Standard – 15.3]

Good Practice – Hygiene Improvement Notice templates

The Authority had developed a range of templates to assist officers with drafting Hygiene Improvement Notices, including those specifically relating to Regulation (EC) No. 852/2004 Article 5.

3.3.5 Records were also reviewed in relation to a sample of other formal enforcement actions taken by the Authority, namely:

- Three hygiene emergency prohibition notices served on food business operators in relation to serious pest infestations and cleaning issues
- Three successful prosecutions and 2 simple cautions in relation to serious hygiene offences at food businesses, including failure by businesses to implement food safety management systems.

In every case the actions taken by the Authority were appropriate for the contraventions that had been identified, and followed due legal process. There was clear evidence that the Authority's own enforcement policy had been considered and decisions were taken in line with the enforcement policy and the Food Law Code of Practice.

3.3.6 Premises records generally contained a substantial amount of appropriate evidence to support the contraventions identified during premises inspections and provided clear justification for the subsequent formal enforcement decisions.

Good Practice – Formal Enforcement Procedures

The Authority had developed and implemented comprehensive and detailed documented procedures on investigations/prosecutions, the emergency closure of food premises and the cautioning of offenders.

3.4 Internal Monitoring and Third Party or Peer Review

Internal Monitoring

- 3.4.1 The Service had developed documented internal monitoring procedures which applied to the quantitative and qualitative monitoring of all food inspections and reactive investigations. The procedures detailed the frequency of monitoring to be undertaken, the application of a scoring system against set criteria and the methods for giving feedback to officers and addressing any identified issues and inconsistencies. In addition, internal monitoring arrangements were in place in relation to unsatisfactory sampling results and formal enforcement.
- 3.4.2 Monitoring was undertaken by nominated Quality Assurance (QA) officers who were generally either Assistant Service Manager or Senior Practitioners. However, auditors were advised that other officers were given peer monitoring responsibilities on a rota basis as part of their skills development.
- 3.4.3 In practice, there was clear evidence that extensive internal monitoring was being implemented across all areas of food law enforcement activity, with outcomes generally fed back to officers and corrective actions put in place where necessary. However, the Service had recognised that the record keeping arrangements required review to ensure monitoring records for all food law enforcement activity were consistently maintained.
- 3.4.4 The auditors were advised that monthly data quality review meetings had recently been introduced, where management, database and QA reports would be reviewed and discussed to identify any problems with both premises records and operational data. It was proposed that the Service Manager, Assistant Service Managers and Senior Practitioners attending these regular meetings would subsequently allocate any issues identified for resolution before the next meeting.

Food Complaints

- 3.4.5 The Authority had developed and implemented a documented food complaint and reactive service policy and procedure. The procedure for complaint investigation included timescales for responding to the complainant and provided guidance to officers when investigating complaints. The procedure aimed to provide officers with a structure within which to *'investigate service requests, comprehensively address consumer concerns and ensure that the Council applies the law and its powers fairly, consistently and without undue delay.'* The procedure also emphasised that *'valuable information and intelligence about day-to-day issues affecting food businesses can be gleaned from consumers. Given the high number of food premises in Westminster and the potential for business turnover, this sort of information is invaluable.'*

- 3.4.6 Audit checks were completed in relation to 5 separate food and food hygiene complaint records. In all cases examined, complaints were effectively investigated and followed up, with appropriate and accurate records maintained, in accordance with the Authority's own procedure and the Food Law Code of Practice. Complainants had been notified of the investigation findings and there was evidence of appropriate internal and external liaison as necessary.

Food Sampling

- 3.4.7 The Authority was actively participating in local, regional and national food sampling programmes. In addition to a reference to the Authority's policy on sampling in the Food Law Enforcement Plan, a separate documented sampling policy had been developed. The Service had also developed a food sampling manual which contained detailed and comprehensive procedures and guidance to officers to assist with food and related environmental sampling.

Good Practice – Food Sampling Manual

The Authority had developed a detailed and comprehensive sampling manual. This provided extensive practical guidance to officers undertaking sampling activities. This included step by step information on how to take a variety of samples as well as guidance on the interpretation of results.

- 3.4.8 Audit checks of unsatisfactory sample results were carried out. These confirmed that in general, effective and appropriate follow-up action had been taken and food business operators had been informed of the sample results.

Good Practice – A sampling survey linked to HACCP based controls, which was developed to investigate potential food hazards from high risk ready to eat meat dishes sold by local businesses

The Authority had developed and completed a sampling survey on ready to eat raw meat dishes. The Service had identified that traditional ethnic raw meat dishes were being served in a significant number of establishments in the area. The Authority's officers had also confirmed an absence of adequate controls in relation to these high risk operations during visits to the associated food premises. A sampling project was therefore developed to further investigate these issues and how any controls could be incorporated into the businesses' HACCP based food safety management systems.

Third Party or Peer Review

3.4.9 Auditors were informed that inter-authority audits have been undertaken with other London Boroughs on the 'Scores on the Doors' scheme. In addition, an internal audit on food safety inspections was carried out in May 2008. An action plan was produced, which was reviewed and signed off as completed in November 2008.

Auditors: **Christina Walder**
Andrew Clarke

Observer: Abimbola Adeyemi

Food Standards Agency

Local Authority Audit and Liaison Division

ANNEXE A

Action Plan for Westminster City Council

Audit date: 9-10 February 2010

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.12 Fully implement the document control system for all its food service policies and procedures to ensure that all documents are reviewed at regular intervals and whenever there are changes to legislation and centrally issued guidance and all changes to documents are covered by the correct authorisation. [The Standard – 4.1 and 4.2]	31/05/10	Ensure all procedures are reviewed, on common template, with version numbers and are attached to hyperlinked index. Ensure all source documents are placed in read only protected files.	All procedures reviewed, majority on common template and with version numbers and attached to hyperlinked index.
3.1.16 Expand the Service's documented procedure on the authorisation of officers to detail the competency assessment process by which authorisations are conferred, based on an officer's individual qualifications, training and experience. [The Standard – 5.1]	07/05/10	Review and expand documented procedure for authorisation to reflect detailed competency assessment practices that are in place.	
3.1.23 Ensure that detailed records are maintained in relation to the annual team training programme to ensure that all officers receive regular relevant update training, particularly in relation to HACCP based food safety management systems and formal enforcement. [The Standard – 5.4]	31/05/10	Implement enhanced recording system for planning and delivery of relevant update training.	
3.2.10 Ensure that food hygiene interventions at 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]	31/10/10	Review the current multifaceted food premises intervention programme and associated intervention frequencies.	Ongoing review of intervention programme which targets the highest risk premises.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.2.14 Ensure that revisits following interventions are undertaken, where appropriate, in accordance with the Authority's own policies, the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.3]	31/05/10	Review revisit policy and ensure adequate resources are redirected towards conducting revisits required by policy. Check revisit policy is being adhered to through QA process and monthly data quality check meeting.	Monthly data quality check meeting introduced.
3.3.4 Ensure that food law enforcement, in relation to the service of Hygiene Improvement Notices, is carried out in accordance with the Food Law Code of Practice, centrally issued guidance and the Authority's own enforcement policy. [The Standard – 15.3]	30/06/10	Review Hygiene Improvement Notice procedure and retrain officers in revised procedure. Check procedure is being implemented through QA process and monthly data quality check meeting.	Monthly data quality check meeting introduced.

Audit Approach/Methodology

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

(1) Examination of LA policies and procedures.

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

- Food Law Enforcement Plan 2009/2010 and associated appendices
- Community Protection Business Plan 2008-2011
- Building a Living City – Leader’s Speech to Council, March 2009
- The Authority’s Food Safety Authorisation Policy and Procedure
- The Authority’s training and qualification records
- Community Protection Training Plan
- The Authority’s Intervention Procedure for Food Premises (including Approved Premises) and associated aides-memoire
- The Authority’s Approved Establishments procedure
- The Authority’s Enforcement Policy and documented food law formal enforcement procedures
- The Authority’s Food Complaint and Reactive Service Procedure
- The Authority’s Food Sampling Policy
- The Westminster Sampling Manual
- The Westminster Sampling Programme 2009/2010
- Documentation relating to the Ready to Eat Raw Meat Dish Sampling Survey
- The Authority’s Quality Assurance Procedure for Monitoring Food Inspections
- The Authority’s Quality Assurance Reactive Procedure
- Westminster City Council Internal Audit Report on Food Safety Inspections May 2008 and the associated Follow-up Review November 2008

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

- General food premises inspection records
- Approved establishment files
- Food complaint records
- Food sampling records
- Formal enforcement records
- Internal monitoring records
- Database reports

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

- Audit Liaison Officer – Service Manager
- Assistant Service Manager

- Senior Practitioners
- Environmental Health 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 specific regard to LA checks on FBO compliance with HACCP based food management systems.

Glossary

Authorised officer	A suitably qualified officer who is authorised by the local authority to act on its behalf in, for example, the enforcement of legislation.
Codes of Practice	Government Codes of Practice issued under Section 40 of the Food Safety Act 1990 as guidance to local authorities on the enforcement of food legislation.
County Council	A local authority whose geographical area corresponds to the county and whose responsibilities include food standards and feeding stuffs enforcement.
District Council	A local authority of a smaller geographic area and situated within a County Council whose responsibilities include food hygiene enforcement.
E. coli	<i>Escherichia coli</i> microorganism presence of which is used as an indicator of faecal contamination of food or water. <i>E. coli</i> 0157:H7 is a serious food borne pathogen.
Environmental Health Officer (EHO)	Officer employed by the local authority to enforce food safety legislation.
Feeding stuffs	Term used in legislation on feed mixes for farm animals and pet food.
Food hygiene	The legal requirements covering the safety and wholesomeness of food.
Food standards	The legal requirements covering the quality, composition, labelling, presentation and advertising of food, and materials in contact with food.
Framework Agreement	<p>The Framework Agreement consists of:</p> <ul style="list-style-type: none"> • Food Law Enforcement Standard • Service Planning Guidance • Monitoring Scheme • Audit Scheme <p>The Standard and the Service Planning Guidance set out the Agency's expectations on the planning and delivery of food law enforcement.</p> <p>The Monitoring Scheme requires local authorities to submit quarterly returns to the Agency on their food enforcement activities i.e. numbers of inspections, samples and prosecutions.</p> <p>Under the Audit Scheme the Food Standards Agency will be conducting audits of the food law enforcement services of local authorities against the criteria set out in the Standard.</p>
Full Time Equivalents (FTE)	A figure which represents that part of an individual officer's time available to a particular role or set of duties. It reflects the fact that individuals may work part-time, or may have other responsibilities within the organisation not related to

food 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.
OCD returns	Returns on local food law enforcement activities required to be made to the European Union under the Official Control of Foodstuffs Directive.
Regulators' Compliance Code	Statutory Code to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on businesses.
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.
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.