

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

Durham County Council
28-29 November 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 Environmental Health and Trading Standards Services.

The attached audit report examines the 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.

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.

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.

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

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1.0 Introduction

- 1.1 This report records the results of an audit at Durham County 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.

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 Durham County 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.¹
- 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 five years by the Agency, and was representative of a geographical mix of 12 local authorities selected across England.

¹ 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 Durham County 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 Annand House, Meadowfield, Durham on 28-29 November 2012.

Background

- 1.7 County Durham is situated in the north-east of England with an area covering 223,260 hectares, with 219,000 households and 12 major centres of population. The County is one of contrasts comprising of sparsely populated rural areas such as the North Pennines and densely populated areas such as the East Durham coast.
- 1.8 The County has recently undergone a major local government reorganisation. On 1 April 2009 the County became a unitary authority replacing the previous two tier system of local government which consisted of the County Council and seven District Councils, which provided more local services. The seven Districts previously comprised of Chester le Street, Derwentside, the City of Durham, Easington, Sedgefield, Teesdale and Wear Valley.
- 1.9 The County has a population of approximately 513,000 and following local government reorganisation is now the largest council in the north-east region and the sixth largest all purpose council by population in England. Significant urban areas include Durham City, Consett, Bishop Auckland, Chester le Street and the new towns of Peterlee and Newton Aycliffe. The area has a mixed economic profile with large areas of predominantly agricultural activity, a diverse range of manufacturing industries and a growing service sector which includes tourism. Historically, the County's economy was based on the coal mining industry. The decline of this industry has led to areas

of deprivation and Durham was ranked 62nd out of 326 authorities in the 2010 Index of Deprivation.

- 1.10 The new Department of Environment, Heath and Consumer Protection amalgamated the full range of environmental health and trading standards functions. Within this structure, food hygiene law enforcement was the responsibility of the Food Safety Team. The Food Safety Team had also been allocated responsibility for the enforcement of food standards.
- 1.11 The Authority reported the profile of Durham County Council's food businesses as of 31 March 2012 as follows:

Type of Food Premises	Number
Primary Producers	6
Manufacturers/Packers	114
Importers/Exporters	9
Distributors/Transporters	42
Retailers	937
Restaurant/Caterers	3,162
Total Number of Food Premises	4,270

2.0 Executive Summary

- 2.1 It was acknowledged that Durham County Council Food Safety Service was a newly amalgamated service consisting of seven previously autonomous District Councils. This local government reorganisation (LGR) had led to some unique challenges which have had to be tackled against a back drop of reduced resources. After the merger of seven databases it was apparent that the Authority had carried out considerable data cleansing, and continues to do so, and has given priority to reducing the numbers of inherited overdue inspections and unrated premises. It was also evident that considerable work had been carried out to improve consistency of enforcement across the County and that this work also continues.
- 2.2 The Authority had developed a Food and Feed Control Service Plan 2012/13, which had been recently approved by the relevant Portfolio Holder. The Plan was in line with the Service Planning Guidance in the Framework Agreement, and included a breakdown of the resources required to provide the Food Service. Future plans would benefit from a comparison of this information with the estimated resources available. In terms of good practice the Service Plan contained a comprehensive review of the previous year's enforcement activities.
- 2.3 The Authority had developed comprehensive documented procedures for food law enforcement activities that provided useful guidance for officers. These had been subject to recent review and amendments had been suitably documented. Documentation was controlled by use of the data portal system. This had recently been set up as a central portal from which officers had easy access to all relevant and up to date food enforcement policies, procedures, aide-memoires, legislation and centrally issued guidance. Access for officers was restricted to 'read only'.
- 2.4 The Authority had developed a procedure on the authorisation of officers which detailed the process and criteria for assigning authorisations based on officers' individual qualifications, competency and experience. We discussed reviewing the legislation in the officer authorisations to ensure that the Official Feed and Food Control (England) Regulations 2009 are appropriately referenced.
- 2.5 Generally, training records indicated that officers had received the minimum 10 hours continuing professional development (CPD) training. Where officers had not received the full amount of required training it was evident that relevant training had been factored in for later in the year. Training records in relation to a contractor that had been employed by the Authority had not been maintained and auditors discussed the need to tighten up procedures for the recruitment of contractors to ensure that the required CPD training and appropriate

specialist training records were retained on file prior to the commencement of their duties.

- 2.6 The Authority was operating a database capable of providing monitoring returns to the Agency and had developed a documented procedure to ensure the accuracy of the returns. Other food law enforcement procedures contained database entry instructions to ensure that data entry was both accurate and consistent. Auditors discussed some minor discrepancies in the accuracy of the Local Authority Enforcement Monitoring System (LAEMS) returns including inaccurate full time equivalent (FTE) numbers and a slight under reporting for sample numbers.
- 2.7 The Authority had developed procedures on general and approved establishment inspections. The Service Plan set out the priorities for the inspection programme as part of a risk-based approach. All category A and B rated premises would receive a food hygiene enforcement intervention along with 80% of C rated premises and 30% of D rated premises. E rated premises would be subject to an alternative enforcement strategy (AES). In addition the Authority had recently implemented the Food Standards Agency's national Food Hygiene Rating Scheme (FHRS). Auditors were informed that implementation of FHRS had a significant impact on the Services' available resources, including staffing capacity.
- 2.8 There was an identified backlog of overdue inspections and unrated premises. It was clear that resources were targeted at the inspection of higher risk premises, and overdue inspections had been reduced considerably since LGR. A database report had been developed to separate 'broadly compliant' from 'non-broadly compliant' C rated premises to help further prioritise overdue inspections on a risk basis. A system of monitoring for unrated premises had been developed to ensure that the highest risk premises were prioritised for an initial visit and premises not immediately opening were held on a separate list until they became active.
- 2.9 Auditors were informed that following LGR it had been identified that there had been a marked variation between the seven amalgamated areas on the levels of acceptable compliance in food premises and the Authority had been working towards a more consistent approach to enforcement across the County. File checks showed there was some inconsistency in the level of detail recorded by some officers on their inspection findings and in some cases it was not always possible to ascertain if a full and effective inspection had been carried out, particularly in regard to the assessment of food safety management systems. The Service had recently introduced comprehensive inspection forms, supported by written guidance on the completion of the forms, which if consistently completed, should provide a detailed record of food business operator compliance.

- 2.10 Following LGR, the Authority had carried out a review of the records relating to approved establishments and had implemented a process of updating the files. Record checks on approved establishment files showed that, although generally up to date, there was still some significant information that needed to be collected to comply with Annexe 10 of the Food Law Code of Practice. Similar to the findings on general inspections there was variance between officers in the detail of the recording of observations on inspection and it was also evident that in some cases officers had historically used inadequate aide-memoires. Consistent completion of an appropriate aide-memoire would help facilitate the maintenance of adequate records.
- 2.11 The Authority's policy on food and food premises complaints was set out in the Service Plan. A procedure on the investigation of food and food premises complaints and service requests had been developed and implemented. Record checks showed that generally complaint investigations had been carried out by officers in a timely and thorough manner and records had been maintained.
- 2.12 The Service had developed a food sampling policy, procedure and programme which included national, regional and local sampling initiatives. It was clear that sampling performed an important role in confirming food business operator compliance and to support inspection findings. All the records checked confirmed that effective and appropriate follow-up actions had been taken in cases of unsatisfactory sample results and records had been maintained.
- 2.13 The Service had a Corporate Enforcement Policy 2009 that had been approved by the relevant Member forum.
- 2.14 A full range of food law enforcement procedures had been developed and implemented, which provided useful guidance to officers. Checks on records, including voluntary closures and hygiene improvement notices (HINs) were carried out. Whilst voluntary closures had been carried out effectively, some historic procedural issues with the serving of HINs and the sending of letters confirming compliance were identified. However, there was evidence that these issues had improved recently. In all cases enforcement action had been appropriate and timely follow-up checks carried out.
- 2.15 In general, records across the range of food law enforcement activities were easily retrievable and up to date. Consistent use of the revised inspection aides-memoire and the implementation of the new monitoring regime should further improve the detail recorded by officers in inspection reports.
- 2.16 The Service had recognised that consistent internal monitoring procedures needed to be implemented across all food law enforcement activities as historically the monitoring of intervention and enforcement

activities had been sporadic and not always recorded. It was evident that quantitative monitoring was being routinely undertaken and reported to senior management. The recent implementation of new qualitative internal monitoring procedures should assist in ensuring there is consistency in approach from all officers. The new procedures should be extended to include sampling activities. Appropriate 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 The County had been divided into two teams, covering the north and the south. Each team was managed by a Food Safety Team Leader (FSTL), overseen by the Food Safety Manager (FSM). The Senior Environmental Health Officers (SEHO), Principal Protection Officer, Health Protection Officers, and Technical Assistants operating within the teams had access to technical and administrative support and a Consumer Protection Officer had been allocated to carry out high risk interventions and to provide advice and support in regard to food standards enforcement activities.
- 3.1.2 A Food and Feed Control Service Plan 2012/13 had been drafted and had received approval from the Department's Portfolio Holder and circulated to the rest of the Council Members. The Portfolio Holder had signed the front of the Plan to confirm approval and auditors discussed the benefit of developing a more formal documented procedure for the approval of the Plan.
- 3.1.3 The Service Plan had been drafted in accordance with the Service Planning Guidance in the Framework Agreement. The stated aim of the Plan was:

'To ensure that all food and feed produced, stored, distributed, imported through, handled or sold within County Durham complies with all legislation relating to its safety, hygiene, composition, standards and labelling, is of wholesome quality, and is without risks to health and safety of the consumer.'

The Service Plan had appropriately linked the work of the Service to the Authority's corporate objectives contained in the Council Plan.

Good Practice – Service Planning

The Authority had carried out a comprehensive review of the previous year's Service Plan detailing the planned actions and the progress that had been made towards completion. Areas that had been identified for the development of the Service in 2012/13 included:

- Continue to promote the FSA Food Hygiene Rating Scheme (FHRS).
- Work with regional partners on consistency and benchmarking activities.
- Extend the implementation of the UK Food Surveillance System (UKFSS) national database to cover microbiological and feed sampling.
- Complete the setting up of document templates with a view to achieving a paperless office environment.
- Develop existing arrangements to ensure accuracy of the food premises database.
- Review existing arrangements for monitoring of the quality and performance of food premises interventions, subsequent action taken and the response to service requests.
- Identify skills and competency gaps amongst the current staffing resources.

- 3.1.4 The Plan had set out the calculated resources required to provide the Food Service and had detailed the full time equivalents (FTEs) available to carry out the range of food hygiene activities. Auditors discussed the benefit of including a comparison between the FTE officers needed to carry out the full range of enforcement activities against those available to the Service.

Recommendation

3.1.5 The Authority should:

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

[The Standard – 3.2]

Documented Policies and Procedures

- 3.1.6 The Authority had developed and implemented documented procedures for the full range of food law enforcement activities. Some of the procedures had been recently developed and/or revised and were being embedded. There was evidence of a system for the checking and revising of procedures and documentation on a regular basis and whenever there were changes to legislation or centrally issued guidance and auditors discussed the benefit of formalising this in an overarching document control procedure.

Good Practice – Documented Policies and Procedures

The Authority had recently set up a central data portal to ensure officers had access to only the most up to date policies, procedures, documentation, legislation and centrally issued guidance. Officers were able to download the appropriate paperwork from the system for use in the field but their access rights for updating of any documentation was restricted to 'read only'. Responsibility for updating the data portal and revising the stored documentation was restricted to the Food Safety Team Leaders and Food Safety Manager.

Officer Authorisations

- 3.1.7 The Authority had developed an Authorisation of Officers procedure which contained a Scheme of Delegation with reference to Part III of the Council's Constitution. The procedure specifically set out the delegated responsibilities in relation to the authorisation of officers and details the legislation under which officers were required to be authorised. We discussed reviewing the procedure to ensure that the Official Feed and Food Control (England) Regulations 2009 were appropriately referenced.
- 3.1.8 In practice, officers' competence was assessed through practical evaluation and checks made on qualifications and training. Once satisfied, the FSM would recommend the officer for authorisation.
- 3.1.9 The Authority had in place a system of annual performance reviews. This was supported by six month interim reviews. The process included a discussion of officers' training needs and any team training requirements. Officer training carried out was recorded on the Training Evaluation Record and then subsequently reviewed and documented using the Post Evaluation Training Record.

3.1.10 Training records for permanent enforcement staff had been effectively maintained and record checks confirmed that generally all officers had achieved the minimum 10 hours of relevant training, reflecting their roles and responsibilities, in accordance with the levels of Continuing Professional Development (CPD) and specialist training requirements specified in the Food Law Code of Practice. One officer had not achieved the required 10 hours CPD but the Authority was able to show that additional hours had been factored in for later in the year. Training records in relation to a contractor that had been employed by the Authority had not been maintained and auditors discussed the need to tighten up procedures for the recruitment of contractors to ensure that the required CPD training and appropriate specialist training records were retained on file prior to the commencement of their duties.

Recommendations

3.1.11 The Authority should:

- (i) Review and update current officer authorisations as necessary to ensure that all officers are appropriately authorised under relevant current legislation in accordance with their individual level of qualification, experience and competency. [The Standard – 5.1 and 5.3]
- (ii) Maintain records of relevant qualifications, training and experience of each authorised officer, including contractors in accordance with the Food Law Code of Practice. [The Standard – 5.5]

3.2 Food Premises Database

- 3.2.1 The Service operated a computer database system that was capable of providing the returns required for the Local Authority Enforcement Monitoring System (LAEMS). The operation of the system was overseen by the FSM, who was responsible for producing LAEMS monitoring returns, with additional support and maintenance from the Technical Support Team.
- 3.2.2 The Authority had developed and implemented the Food and Feed Establishments – Database Management Procedure which set out the means by which the accuracy and completeness of the database would be maintained. The procedure had been cross referenced with the Food Inspection Standard Operating Procedure and the Service Request Standard Operating Procedure which gave further direction in regard to database entry. In practice, this included formal mechanisms for updating records following interventions, service requests and complaints, and restricted permissions for opening and closing premises records.
- 3.2.3 As part of LGR the seven District Council databases had been merged. Analysis of the merged data identified issues with the accuracy of the database and extensive data cleansing had been carried out. The implementation of the Food Hygiene Rating Scheme (FHRS) had provided an opportunity to carry out further data cleansing of the system.
- 3.2.4 LAEMS data to be reported to the Agency was checked against a master list of reports run by the FSM to ensure that they were up to date and accurate. On site checks carried out during the audit confirmed that the database was in general accurate and reflected the Service's activities. There were some minor discrepancies identified on the LAEMS data including the numbers of FTE reported and a slight under reporting on sampling activities and these were discussed.

3.3 Food Premises Interventions

3.3.1 The Authority's Food and Feed Control Service Plan 2012/13 set out the food premises profile by risk category and the interventions programme for the year. The Service Plan specified that implementation of the Agency's FHRS had been a priority for the Authority. It was acknowledged that implementation of the Scheme had impacted on the resources available to the Food Safety Team, including the staffing capacity.

3.3.2 The Service Plan confirmed the following breakdown of premises requiring inspection:

Premises Risk Category	Number of Premises
A	11
B	161
C	1844
D	949
E	1,114
Unrated	169
Outside programme	22
TOTAL	4,270

3.3.3 The Service Plan set out the priorities for the annual inspection programme based on risk and in consideration of current staffing resources and other service demands. Interventions were to be carried out in accordance with date due and with the following priority:

Premises Rating Category	Minimum Interventions Frequency	No. of Premises due an Intervention	Intervention Priority
A	6 months	11	100%
B	12 months	161	100%
C	18 months	1,386	80%
D	24 months	680	30%
E	36 months	434	AES*

*Alternative Enforcement Strategy (AES)

3.3.4 It was acknowledged by the Authority that there were a significant number of overdue premises in risk rating categories C, D and E which had been inherited after LGR. It was acknowledged that significant progress had been made in clearing the backlog, particularly in the higher risk categories. The Service Plan stated that where resources allowed, temporary contractors were to be employed to carry out inspections at overdue category C and D catering premises. The Authority informed auditors that it had developed a database report that allowed it to establish which category C premises were either 'broadly compliant' or 'non-broadly compliant', which

would aid the prioritisation of interventions at overdue premises. E rated premises were to be subject to an alternative enforcement strategy (AES), comprising alternate interventions and the use of questionnaires in accordance with the flexibilities contained in the Food Law Code of Practice.

- 3.3.5 At the time of the audit there were approximately 146 unrated premises which were mainly a backlog of newly registered premises due to a high turnover of business ownership. The Authority estimated that there was around a three month backlog of unrated premises that consisted mainly of home caterers. New premises registrations were the responsibility of the FSTLs for an initial assessment. The new premises were then allocated to officers based on risk. Premises that did not open immediately were held on a separate list until they were ready to commence business.
- 3.3.6 Database reports produced during the audit confirmed that the Authority was focusing their resources at higher risk premises interventions.
- 3.3.7 The Authority had developed and implemented a Food Safety Intervention Procedure for the inspection of general food premises. Generally the procedure had been drafted in accordance with the Food Law Code of Practice and provided useful guidance to officers in carrying out their intervention duties.
- 3.3.8 Auditors were advised that following the publication of guidance from the Food Standards Agency on E. coli O157 and Control of Cross-Contamination, the Authority had identified all relevant premises and these had been sent a letter and a copy of the guidance. Consideration of the guidance formed an integral part of inspections.
- 3.3.9 The Authority had recently developed a comprehensive inspection aide-memoire the 'Food Safety Intervention Record' for caterers and retail premises, and a 'Partial Inspection Record' for targeted interventions not covering the full range of food safety enforcement activities.

Good Practice – Inspection Paperwork

The recently developed aides-memoire had been backed up with a document called Guidance on Completion of the Food Safety Inspection Record which provided useful advice to officers on completion of the intervention records. More specifically the Guidance referred to the system for 'red flagging' any significant inspection findings to inform future interventions and in addition placed particular emphasis on specific checks highlighted in Agency guidance on avoiding cross-contamination risks from E.coli O157 and checks that were required to be carried out as part of the evaluation of Food Safety Management Systems (FSMS).

- 3.3.10 The Authority informed auditors that following LGR they had become aware that there had been considerable variation in the levels of acceptable compliance in food premises across the seven amalgamated District Councils. Consequently, the Authority had been working towards a more consistent approach across the whole of the County. File checks confirmed that there was some variance in the level of detail recorded of the officers' findings on inspection. Whereas some records were very detailed, in others it was not possible to establish basic details about the business, for example size, scale and type of food operation, or adequate information about the officers' evaluation and validation of any FSMS in place or assessment of E. coli cross contamination risks. The Authority was confident that the recently introduced aide-memoire, the Guidance on Completion of the Food Safety Inspection Record and a new quality monitoring regime would improve consistency across all officers.
- 3.3.11 Inspection report forms were consistently provided to the FBO following each intervention, which confirmed the key points found on inspection and any proposed follow-up action to be taken by the Authority.
- 3.3.12 There was evidence in database reports that in some cases additional risk scores had been inappropriately allocated to premises which appeared generally compliant. File checks showed that there was some indication that some officers had allocated risk scores that appeared lenient based on the evidence contained in the file. Auditors discussed the importance of consistency of scoring across all officers and of clearly setting out the justification for risk scores where necessary.
- 3.3.13 The Authority had 33 approved establishments under Regulation (EC) No. 853/2004. File checks showed that the Annexe 10 Food Law Practice Guidance information required to be retained on approved establishment files was generally available, although it was noted that

two files did not contain product withdrawal information or supplier lists.

- 3.3.14 There was some variance in the recording of findings from inspections of approved establishments, particularly in relation to the assessment of FSMS based on HACCP and an inappropriate aide-memoire had been used at two of the approved establishments. It was noted that comprehensive product specific aide-memoire had recently been introduced and consistent completion, along with improved quality monitoring procedures would help with officer consistency and the maintenance of up to date records.

Recommendations

3.3.15 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, including product specific establishments to legally prescribed standards to confirm compliance with current legislation, the Food Law Code of Practice and centrally issued guidance. Ensure that intervention ratings are accurately and consistently determined. [The Standard – 7.2 and 7.3]

Verification Visit to a Food Premises

- 3.3.16 During the audit, a verification visit was undertaken to a local butchers shop with an authorised 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.
- 3.3.17 The officer was able to demonstrate familiarity with the premises and had a good working relationship with the FBO; however the issues highlighted earlier regarding record keeping were reflected in the visit, which could have been more detailed, especially having regard to the evaluation of the FSMS and training records.

3.4 Enforcement

- 3.4.1 The Authority had developed a Corporate Enforcement Policy 2009 which set out available enforcement options and had been approved at the Council's Cabinet level. The Policy made appropriate reference to the Enforcement Concordat and the Regulators' Compliance Code incorporating the principles of consistency and proportionality.
- 3.4.2 The Service had developed and implemented documented procedures and associated template notices to cover the full range of food safety enforcement activities which were in accordance with the Food Law Code of Practice.
- 3.4.3 Records of four hygiene improvement notices (HINs), and two voluntary closures were examined and had been served by officers who were all correctly authorised and had witnessed the contravention. Service of the notices was found from the premises records and inspection history to be the appropriate course of action. In respect to the HINS, although there was evidence of timely and effective follow-up, some procedural problems were identified. These included a lack of evidence for proper service on three of the HINs and no evidence on file of written confirmation to the FBO of compliance for two of the HINs. Generally, the problems identified were historical and there was evidence that the more recent HINs had been effectively administered. Only one of the notices examined had any evidence of internal monitoring. The voluntary closures had been effectively executed in all respects.
- 3.4.4 Following LGR the Authority had discovered that in some areas a low level of compliance had been tolerated and in some cases non-compliant FBOs had been advised that they were compliant. In these cases, and in keeping with the principles of the Enforcement Policy, it was decided that the most suitable course of action would be to work with the businesses towards compliance rather than take immediate enforcement action. Therefore, due to the available resources, which were already stretched in reducing the backlog of inspections, the Authority had taken a pragmatic approach to the escalation of enforcement and had consciously sought to avoid the time consuming sanctions of simple caution and prosecution. Auditors were assured that the policy was risk-based and did not apply to serious breaches of legislation or imminent risks to public health. The Authority had developed suitable prosecution and simple caution procedures.

Recommendation

3.4.5 The Authority should:

Ensure that all the necessary procedures and documentation specified by the Food Law Code of Practice have been implemented in respect of the service and follow-up actions related to hygiene improvement notices.
[The Standard – 15.3]

3.5 Internal Monitoring, Third Party or Peer Review

Internal Monitoring

- 3.5.1 The Authority had recognised the need to develop and implement documented procedures to set out the process for quantitative and qualitative monitoring across the food law enforcement service. A new Internal Management and Monitoring System had been developed and recently implemented which covered interventions, post intervention administration, database administration, complaints and the overseeing of newly qualified and returning officers. Auditors discussed expanding the procedures to include the monitoring of sampling activities.
- 3.5.2 In practice, following LGR and the subsequent competing resource priorities of inspection backlogs and the improving of enforcement consistency, routine qualitative monitoring had not been carried out systematically. Where it had been undertaken, this had not always been recorded. However, there was evidence that the new monitoring regime had been implemented in the form of planned annual qualitative monitoring for accompanied inspections and record checks across the full range of enforcement activities and inspections.
- 3.5.3 It was evident that routine and effective quantitative monitoring checks were being carried out particularly in relation to adherence to the inspection programme and to response targets. These were being monitored by the FSM and FSTLs on a monthly basis and reported to and considered by senior managers and the Portfolio Holder.
- 3.5.4 The Authority acknowledged that an effectively implemented risk-based monitoring regime across all areas of food law enforcement work would help improve the variance in the quality of records maintained by different officers on food law enforcement activities and the consistency of approach to enforcement, including the accurate and consistent application of intervention risk ratings.

Recommendations

3.5.5 The Authority should:

- (i) Ensure that risk based internal monitoring procedures are documented and implemented with respect to sampling in accordance with Article 8 of Regulation (EC) No. 882/2004 (Official Feed and Food Controls), the Food Law Code of Practice and centrally issued guidance. [The Standard – 19.1]
- (ii) 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 procedure across all the Authority's food law enforcement activities. [The Standard – 19.2]
- (iii) Ensure that records of monitoring activities are maintained. [The Standard – 19.3]

Food and Food Premises Complaints

- 3.5.6 The Official Food Controls Service Plan included reference to the Authority's policy to investigate all complaints. The Service had developed and implemented a Food and Food Premises Complaints Investigation Procedure.
- 3.5.7 In practice the Technical Support Team received and recorded incoming complaints. These were then forwarded to the FSTLs to be filtered to ensure that the complaints posing the highest risk were allocated to officers without delay, and the rest prioritised based on their likely detrimental impact. Officers investigated complaints using the Food Complaint Checklist and the Complaint Investigation Form which provided useful prompts to help guide them through investigations. Home Authority service requests were handled in a similar manner.
- 3.5.8 Checks made on records for five food and food premises complaints showed that in general officers had carried out thorough and appropriate investigations, maintained detailed records of the investigation and ensured that all interested parties were informed of progress of the investigation. Generally routine monitoring had not been carried out in relation to the investigation of complaints.

Food Inspection and Sampling

- 3.5.9 The Authority had produced a Food and Feed Sampling Policy and a Food Sampling for Microbiological Examination procedure which set out the Authority's aim to participate in local, national and EU sampling programmes, and to use food sampling activities to support interventions at food premises and in response to complaints as necessary.
- 3.5.10 An annual Sampling Plan had been developed and implemented which was divided between the North and South Teams. The Sampling Plan focused on participation in national and regional sampling initiatives and had been developed in liaison with local authority partners in the region, and in consultation with the Health Protection Agency and the Public Analyst. The Authority reported that it had been unable to fulfil the Agency's 10% target to sample imported food due to a lack of availability in the area.
- 3.5.11 Checks were made on three records where unsatisfactory samples results had been obtained. The samples were found to be in accordance with the Authority's sampling policy and part of the sampling programme, and had been taken by a trained, authorised officer. In all cases appropriate follow-up actions had been carried out and records maintained. Although there was some evidence of the monitoring of the sampling programme generally there had been no routine monitoring undertaken of the sampling process.

Records

- 3.5.12 Records of food law enforcement activities were maintained in paper files and electronically on the food premises database system. In general, records were easily retrievable and up to date, with the exception of some information required by Annexe 10 of the Food Law Practice Guidance relating to approved establishment files. The recent implementation of the revised inspection aide-memoire and the new internal monitoring regime should improve the detail of record keeping in relation to inspection and enforcement.

Recommendation

3.5.13 The Authority should:

Maintain up to date, accurate records of relevant checks for product specific establishments in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 16.1]

Third Party or Peer Review

- 3.5.14 The Authority advised that there had not been any inter-authority audit (IAA) or peer review undertaken in the past two years. Auditors were informed that there had been some initial planning for IAA in the regional food liaison group (FLG) in 2010 but this had not been progressed due to resource issues. Auditors were also informed that a peer review exercise on implementation of the Agency guidance on avoiding cross-contamination risks from E.coli O157 was to be discussed at the next FLG meeting. The Authority had carried out in-house consistency exercises including one for the implementation of FHRS.

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Jane Tait
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Food Standards Agency
Local Authority Audit and Liaison Division

ANNEXE A Action Plan for Durham County Council

Audit date: 28-29 November 2012

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.5 Ensure that future Service Plans include a clear comparison of the resources required to carry out the full range of statutory food law enforcement activities against the resources available to the Service. [The Standard – 3.2]	31/07/13	The Food and Feed Control Service Plan for 2013/14 will include a comparison of staffing resources required to carry out the full range of statutory food law enforcement activities against resources available.	
3.1.11(i) Review and update current officer authorisations as necessary to ensure that all officers are appropriately authorised under relevant current legislation in accordance with their individual level of qualification, experience and competency. [The Standard – 5.1 and 5.3]	30/04/13	Current officer authorisations to be reviewed and updated.	Officer authorisations are subject to regular review and updated as necessary.
3.1.11(ii) Maintain records of relevant qualifications, training and experience of each authorised officer, including contractors in accordance with the Food Law Code of Practice. [The Standard – 5.5]	30/04/13	Ensure that all records of training and CPD hours for appointed contractors are held on appointment.	All records of relevant qualifications, training and experience of authorised officers including contractors are up to date and maintained.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.3.15(i) continued.			A review of the performance of inspection rates will continue to be addressed at the end of the intervention allocation periods and considered with individual officers and at food safety team briefings.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.3.15(ii) Assess the compliance of food premises, including product specific establishments to legally prescribed standards to confirm compliance with current legislation, the Food Law Code of Practice and centrally issued guidance. Ensure that intervention ratings are accurately and consistently determined. [The Standard – 7.2 and 7.3]</p>	<p>30/04/13</p>	<p>The monitoring of the quality of planned food premises interventions will continue to be carried out in accordance with the authorities 'Internal Management and Monitoring System' taking account of areas of improvement identified by auditors.</p>	<p>Officers were provided with prompt post audit feedback on the areas of improvement identified by auditors at team briefing sessions. Further discussions and feedback took place at the bimonthly Food Safety Team meeting held in December 2012.</p> <p>An audit feedback document was prepared to address all matters highlighted by auditors in respect of interventions at food premises including product-specific premises. This document is accessible to officers from the 'Sharepoint' central portal system.</p> <p>Following attendance of officers at a recent FSA 'HACCP for Enforcement Officers' training course, a review of the assessment of HACCP and recording of findings following intervention was completed and cascaded</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.3.15(ii) continued.			<p>to officers at the Food Safety Team Meeting in February 2013.</p> <p>A revised version of the recently developed inspection aide-memoires for caterers and retailers and 'product specific' premises has been issued to assist officers when recording their findings relating to food safety management systems and HACCP.</p>
<p>3.4.5 Ensure that all the necessary procedures and documentation specified by the Food Law Code of Practice have been implemented in respect of the service and follow-up actions related to hygiene improvement notices. [The Standard – 15.3]</p>	30/04/13	<p>The monitoring of the service and follow-up actions relating to hygiene improvement notices will continue to be carried out in accordance with the authorities 'Internal Management and Monitoring System'.</p>	

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.5.5(i) Continue to ensure risk-based internal monitoring procedures are documented and implemented across all food law enforcement activities, including sampling in accordance with Article 8 of Regulation (EC) No. 882/2004 (Official Feed and Food Controls), the Food Law Code of Practice and centrally issued guidance. [The Standard – 19.1]	30/04/13	Risk-based internal monitoring procedures will continue to be documented and implemented across all food law activities and the Internal Management and Monitoring System procedure will be reviewed to include sampling.	A checklist has been designed to document internal monitoring of sampling activity and the follow-up action taken upon receipt of unsatisfactory sampling results.
3.5.5(ii) 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 procedure across all the Authority's food law enforcement activities. [The Standard – 19.2]		Refer to 3.5.5(i)	
3.5.5(iii) Ensure that records of monitoring activities are maintained. [The Standard – 19.3]		Refer to 3.5.5(i)	

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.5.13 Maintain up to date, accurate records of relevant checks for all food establishments and related food law enforcement activities, including product specific establishments in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 16.1]		Refer to 3.3.15(i)	

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 and Feed Control Service Plan 2012/13
- Authorisation of Officers procedures
- Food and Feed Establishments – Database Management Procedure
- Food Safety Intervention Procedure
- Guidance on the Completion of the Food Safety Record
- Product Specific Premises Requiring Inspection and Approval under Regulation (EC) No. 853/2004
- Alternative Enforcement Strategy
- Food and Feed Premises Complaints Investigation Procedure
- Food and Feed Sampling Policy
- Food Sampling for Microbiological Examination
- Corporate Enforcement Policy 2009
- Health Protection Prosecution Procedure
- Simple Caution Procedure
- Food Detention and Seizure Procedures
- Enforcement Procedure: Hygiene Improvement Notices
- Enforcement Procedure: Remedial Action/Detention Notices
- Internal Monitoring and Management System

(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:

- Food Safety Manager
- Food Safety Team Leaders (2)
- Senior Environmental Health Officer

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

(5) 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	<p>The Framework Agreement consists of:</p> <ul style="list-style-type: none"> • Food and Feed 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 and feed law enforcement.</p> <p>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.</p> <p>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.</p>
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.