

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

London Borough of Lewisham  
16 – 18 September 2014



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

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

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

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## **1. Introduction**

- 1.1 This report records the results of an audit at the London Borough of Lewisham with regard to food hygiene enforcement, under relevant headings of the Food Standards Agency Food Law Enforcement Standard. The audit focused on the Authority's arrangements for the management of the food premises database, food premises interventions, and internal monitoring. The report has been made available on the Agency's website at:  
[www.food.gov.uk/enforcement/auditandmonitoring/auditreports](http://www.food.gov.uk/enforcement/auditandmonitoring/auditreports).  
Hard copies are available from the Food Standards Agency's Operations Assurance Division at Aviation House, 125 Kingsway, London WC2B 6NH, Tel: 020 7276 8428.

### **Reason for the Audit**

- 1.2 The power to set standards, monitor and audit local authority food law enforcement services was conferred on the Food Standards Agency by the Food Standards Act 1999 and the Official Feed and Food Controls (England) Regulations 2009. This audit of the London Borough of Lewisham was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme.
- 1.3 Regulation (EC) No. 882/2004 on official controls performed to ensure the verification of compliance with feed and food law includes a requirement for competent authorities to carry out internal audits or to have external audits carried out. The purpose of these audits is to verify whether official controls relating to feed and food law are effectively implemented. To fulfil this requirement, the Food Standards Agency, as the central competent authority for feed and food law in the UK has established external audit arrangements. In developing these, the Agency has taken account of the European Commission guidance on how such audits should be conducted.<sup>1</sup>
- 1.4 The Authority was selected for inclusion in the Food Standards Agency's programme of audits of local authority food law enforcement services because it had not been audited in the past five years by the Agency. The selection also took account of the Authority's Local Authority Enforcement Monitoring System (LAEMS) data submitted which indicated that an audit would be beneficial.

### **Scope of the Audit**

- 1.4 The audit examined the London Borough of Lewisham's arrangements for food premises database management, food

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<sup>1</sup> Commission Decision of 29 September 2006 setting out the guidelines laying down criteria for the conduct of audits under Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls to verify compliance with feed and food law, animal health and animal welfare rules (2006/677/EC).

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. An interview with an officer from the authority was also carried out. 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.

- 1.5 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 offices at Wearside Service Centre, Wearside Road, Lewisham on 16-18 September 2014.

### **Background**

- 1.6 The London Borough of Lewisham is situated to the south west of the city and has an area covering 22 km<sup>2</sup>, with a population of approximately 276,000 (2011 census). The borough includes the suburban areas of Deptford at the River Thames, Sydenham, Downham and Grove Park and is bordered by Greenwich to the east, Southwark to the west, Bromley to the south and Tower Hamlets across the River Thames to the north.
- 1.7 The borough is ethnically diverse and it is estimated that 175 different languages and dialects are spoken within the borough.
- 1.8 The borough has an elected Mayor and the Council is divided into four directorates: Children and Young People, Community Services, Customer Services and Resources and Regeneration.
- 1.9 Food safety law enforcement was delivered by the Food and Safety Team within the Community Services Directorate. The Food and Safety Team also had responsibility for food standards, health and safety, public health duties relating to infectious disease control and Sports Ground Safety Regulations.
- 1.10 In recent years the Authority had been subject to a number of reductions in resources affecting environmental health functions. In 2013 there were also a number of resignations which resulted in only two officers remaining to carry out food safety duties. Since then the Authority had recruited four extra officers and appointed a new Food and Safety Team Manager. In addition, in July 2014, the Service had been subject to a major reorganisation within the Council moving

environmental health functions from Customer Services to Community Services.

- 1.11 The Authority reported the profile of London Borough of Lewisham's food businesses as of 31 March 2014 as follows:

<b>Type of Food Premises</b>	<b>Number</b>
Primary Producers	0
Manufacturers/Packers	34
Importers/Exporters	10
Distributors/Transporters	14
Retailers	593
Restaurant/Caterers	1,731
<b>Total Number of Food Premises</b>	<b>2,382</b>

## 2.0 Executive Summary

2.1 The Authority was selected for audit because it had not been audited by the FSA in the previous five years and there were some discrepancies in recent enforcement data submitted to the Agency via the Local Authority Enforcement Monitoring System (LAEMS).

2.2 The Authority reported that it had recently made a significant restructure and reported to auditors that a number of other issues had impacted on the delivery of the food service including reductions in food enforcement staff issues and database administrative support. Audit checks raised concerns that these changes had impacted on the Authority's ability to comply with a number of areas of the Standard in the Framework Agreement and the statutory obligations placed upon a competent food authority. In particular this had led to a substantial backlog of premises overdue for inspection including some in a high risk category and a significant number of unrated businesses still to be assessed for food safety standards. The following is a summary of the main issues identified which require further measures to be taken for the Authority to comply with the Standard and relevant legislation.

### 2.3 Strengths:

**Officer training and competency:** From audit evidence and discussion, it was clear that officers carrying out interventions and enforcement activities were competent, experienced and knowledgeable. Training records were detailed, well maintained and retrievable.

**Enforcement:** Officers demonstrated a willingness to take enforcement action where necessary and a range of enforcement activities had been implemented at non-compliant premises. Generally enforcement action carried out had been effective in securing compliance.

### 2.4 Key areas for improvement:

**Service Planning, interventions and inspections:** There was a significant backlog of unrated premises and overdue food premises interventions across all risk categories. This amounted to 1,364 premises overdue for inspection – over 50% of food premises based in the Borough. The extent of the backlog was such that it would be a considerable amount of time to restore the inspection programme to a manageable level based on current staffing levels. This had not been sufficiently addressed or highlighted in the draft Service Plan.

**Authorisation:** The Authority should ensure officers are effectively authorised to carry out their duties and have been issued with the necessary authorisation documentation from the appropriate delegated officer.

**Database:** The Authority should develop and implement procedures to ensure the accuracy of the database and to ensure that its data submissions to the FSA via LAEMS accurately reflect all the official controls carried out by the Service.

**Approved Establishments and Records:** The Authority should ensure that all product specific premises have been approved under current legislation. Although general food premises records were mostly comprehensive and retrievable the Authority should ensure that records for approved establishments are reviewed and updated to ensure they contain all the information specified in Annex 10 of the Food Law Code of Practice – Practice Guidance. In addition, an appropriate premises specific aide-memoire should be used when carrying out inspections at approved establishments. Reliable records are essential to inform future officer interventions and a graduated approach to enforcement, and to enable effective internal monitoring.

**Sampling:** The Authority should develop and implement a food sampling policy and documented sampling programme in accordance with the Food Law Code of Practice.

**Internal monitoring:** Although there was some evidence that qualitative and quantitative internal monitoring had been carried out, this should be extended further to include risk-based and targeted monitoring of all aspects of the Service. All internal monitoring should be routinely recorded and retained for two years.



## **3.0 Audit Findings**

### **3.1 Organisation and Management**

#### Strategic Framework, Policy and Service Planning

3.1.1 A Food Service Plan for 2013/14 had not been drafted. However, a mid-year Interim Food Service Plan had been drafted which detailed amendments to the annual interventions programme in the light of unforeseen reductions in staffing levels. The Food and Health & Safety Team Service Plan 2014/15 had been developed. However, auditors were advised by the Food and Safety Team Manager (F&STM) that due to the recent reorganisation of the Service the Plan would have to be re-drafted to reflect the changes in structure and working practices before it could be submitted to the appropriate Member forum for approval.

3.1.2 The Service Plan gave the following commitment:

‘...to ensure all businesses in the borough comply with the law, and all consumers, residents, workers and visitors are provided with a high level of protection and are aware of their rights and responsibilities.’

The Plan had appropriately linked the work of the Service to the Authority’s corporate objectives.

3.1.3 Generally, the 2014/15 Plan had been drafted in accordance with the Service Planning Guidance in the Framework Agreement. There had been an attempt in the Service Plan to state how many full time equivalent (FTE) staff the Authority had in post to carry out statutory food law enforcement duties, but the information had been confusingly presented with several different figures quoted and it was unclear if health and safety work had been separated from food enforcement activities. It was stated in the 2011/12 Service Plan, a time of significantly fewer food premises, that the Service required 10.5 FTE to carry out food law enforcement duties. However, it was evident that in recent years FTE numbers had been significantly reduced below this staffing level. Future Service Plans would benefit from the addition of a clear comparison of the resources, presented in terms of FTE, required to deliver the food law enforcement service in accordance with the Food Law Code of Practice (FLCoP) against the resources available, based on a detailed assessment of the demands placed upon the Service. The absence of such information makes it difficult to quantify any resource shortfalls to senior managers and Members.

3.1.4 In addition, the Service Plan would benefit from the inclusion of more accurately and consistently presented FTE data separated from health and safety enforcement activities, fully documented demands

on the Service and out of hours contact information. The Service Plan had included a review of the previous year's plan with a summary of the variation from the planned activities.

### **Recommendations**

3.1.5 The Authority should:

- (i) 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, a clear indication of resources required for food safety separated from those for health and safety, the full documentation of the demands on the Service and out of hours contact details in accordance with Service Planning Guidance in the Framework Agreement. [The Standard – 3.1]
- (ii) Ensure that the Service has a sufficient number of suitably qualified, experienced and competent officers to carry out the work set out in the Food Service Plan. [The Standard – 5.3]

### **Documented Policies and Procedures**

- 3.1.6 The Authority had not developed a draft overarching procedure for the review of documented policies and procedures. This procedure needed to be further developed and implemented to ensure officers have access to relevant up to date policies, procedures, aides-memoir and guidance in accordance with the FLCoP.
- 3.1.7 The Authority had developed and implemented a range of procedures covering most aspects of food law enforcement. However, these were generally out of date and auditors were informed that all policies and procedures were in the process of being reviewed and amended to reflect current working practices and updates in legislation and centrally issued guidance.

## **Recommendation**

### 3.1.8 The Authority should:

Set up, maintain and implement a control system for all documentation and continue to ensure that all documented policies and procedures are reviewed and updated on a regular basis. [The Standard - 4.1 and 4.2]

## Officer Authorisations

- 3.1.9 The Authority's Scheme of Delegation for the authorisation of officers was contained in part 3 of the Council's constitution. This delegated authority for the authorisation of officers to the Head of Environment. The Authority had also developed an 'Authorisation of Food Officers' procedure which detailed the process and criteria for assigning authorisations based on officer's individual qualifications, competency and experience. However, it was noted that although officers deemed competent and nominated for authorisation had been added to the schedule of authorised officers, they had not received authorisation documents signed by the appropriate senior delegated officer. Auditors discussed the need to review the authorisation process to ensure that officers were appropriately authorised to carry out the enforcement activities for the food safety legislation listed against their names and that it was robust enough to withstand any legal challenge.
- 3.1.10 Newly appointed officers were subject to a documented qualifications and competency assessment. Officers' training needs were assessed at annual appraisal meetings and training needs were also identified at team meeting and on an ad hoc basis. Auditors discussed the benefits of developing a competency matrix to identify ongoing training requirements and to ensure officers receive regular relevant update training.
- 3.1.11 Record checks confirmed that enforcement staff had achieved the minimum 10 hours of relevant training, reflecting their roles and responsibilities, in accordance with the levels of continuing professional development specified in the FLCoP. Specialist training had also generally been kept up to date.
- 3.1.12 Training records were comprehensive, well maintained and easily retrievable.

## **Recommendation**

3.1.13 The Authority should:

Review and update 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 in accordance with the Food Law Code of Practice and centrally issued guidance.  
[The Standard – 5.1]

## **3.2 Food Premises Database**

- 3.2.1 The Authority had a database system capable of providing the returns required for the Agency's Local Authority Enforcement Monitoring System (LAEMS). Auditors discussed the benefits of developing a database monitoring and validation procedure to ensure the accuracy of future LAEMS returns.
- 3.2.2 The Authority had developed a 'Managing the Database' procedure which was mainly concerned with managing officer access levels and liaising with the software company. The Authority had begun to develop officer work instructions to provide officers more detailed guidance on how to enter food intervention and enforcement records effectively. Auditors were advised that other sections of regulatory services had unrestricted access to the database system which presented a risk to the integrity of the food safety information due to differing working practices and information needs. The Authority were advised to review this risk and consider the development and implementation of cross-service protocols to ensure different services were not adversely affecting each other's data.
- 3.2.3 Auditors were informed that the Service database administrator post had been lost in recent years due to reductions in resources. The responsibilities of the post had been passed down to other staff that had also subsequently left the Authority. The present Food Safety Team receives database support from the Information Management & Technology (IMT) team. Auditors were advised that this was a fledgling arrangement and the IMT needed time to develop sufficient understanding of the database to replace the technical knowledge of the preceding database administrator.
- 3.2.4 The Authority was unable to provide database information in a format that could be usefully manipulated. Consequently it was not possible to draw any definite conclusions in regard to the accuracy of the database during this audit. However, auditors did note some anomalies among the data for Category A risk rated premises, such as missing fields and incorrect application of extra risk weightings which may be indicative of wider problems with the accuracy of the data. The Authority was advised to review the accuracy of the database and take steps to ensure that any inaccuracies detected are rectified. Ongoing monitoring and validation procedures needed to be developed and implemented to ensure that database accuracy is maintained in the long term.
- 3.2.5 The Food Hygiene Rating Scheme (FHRS) had been implemented from 2012 and was generally working effectively. The Authority was in the process of working through a report provided by the Agency to ensure that any potential data anomalies identified were checked and updated.

## **Recommendations**

3.2.6 The Authority should:

- (i) Set up, maintain and implement appropriate systems and documented procedures to minimise loss of information on the database. [The Standard - 6.4]
- (ii) Set up, maintain and implement documented procedures to ensure that the food premises database is accurate and up to date. [The Standard - 11.2]

### **3.3 Food Premises Interventions**

- 3.3.1 The Authority's Food and Health & Safety Service Plan 2014/15 set out the food premises profile by risk category and the interventions programme for the year. The Service Plan also stated the Authority's commitment to the Agency's FHRS programme.
- 3.3.2 The Authority had developed a procedure for food hygiene inspections which was subject to the ongoing review and updating of procedures.
- 3.3.3 In 2013/14 the Authority had planned to carry out all programmed inspections at premises risked A and B and all non-compliant C-rated premises. However, due to the aforementioned unforeseen staffing reductions only 48% of the scheduled C-rated premises inspections had been completed. Auditors were also informed that premises risk rated Category D and E (except those known to be non-compliant) had been left out of the inspection programme and had not been subject to an alternative enforcement strategy intervention due to the need to concentrate resources on the higher risk premises.
- 3.3.4 In addition, the Authority advised its information pertaining to Category D and E risk rated premises was out of date and up to date intelligence needed to be gathered to evaluate whether or not they required an on-site visit. A project to gather the information concerning these premises had been implemented but had not been completed due to resource issues.
- 3.3.5 Prior to the audit the Authority had carried out an analysis of the database which revealed that a significant number of premises had been left out of the inspection programme. This anomaly had been traced back to staff in 2010 incorrectly operating the database system resulting in next inspection dates not being consistently allocated.
- 3.3.6 Database reports run during the audit showed that there were 897 premises overdue for inspection across all risk categories and 467 unrated premises. This amounted to 1,364 premises overdue for inspection – over 50% of food premises situated in the Borough.
- 3.3.7 In the 2014/15 Service Plan which was subject to a redraft the Authority planned to carry out inspections at all due Category A and B risk rated premises, all approved establishments regardless of risk category and all non-compliant Category C rated premises. In addition the Authority planned to reduce the number of unrated premises on a month by month basis by 10%. However, it was noted at the present rate of inspection it would take a considerable amount of time to significantly reduce the backlog of overdue inspections. Therefore the Authority were advised to review the resources allocated to food safety law enforcement to ensure that interventions are carried out in accordance with the Food Law Code of Practice.

- 3.3.8 File record checks for general food premises showed that not all inspections had been carried out at the frequency required by the FLCoP. Generally effective on-site inspections had been carried out and appropriate risk ratings allocated. However, there were some inconsistencies noted in the level of detail recorded by officers on the inspection aide-memoire. This meant that in some cases it was difficult for auditors to ascertain if all contraventions identified had been communicated to the food business operator (FBO) and in some cases there was insufficient evidence that timely revisits had been carried out where necessary. Auditors discussed further developing the general food aide-memoire to enable officers to record their observations and establish a detailed history of compliance to aid future interventions.
- 3.3.9 Letters following inspection had not been consistently provided to the FBO following each intervention. Generally contraventions not requiring immediate enforcement action had been communicated to the FBOs via self-carbonating inspection forms. However, the forms examined sometimes did not completely correspond with all the contraventions identified on the general inspection aide memoir. Auditors were informed that this method of communicating minor contraventions to FBOs had been adopted as officers did not always have time to draft detailed enforcement letters. In the cases where letters had been provided they contained useful advice to businesses as well as confirming the key points found on inspection and any proposed follow-up action to be taken by the Authority.
- 3.3.10 File checks were carried out for four approved establishments. In the case of one establishment, which had been approved before 2006, not all of the required approvals paperwork had been retained on file. In addition the establishment had not been re-approved when legislation changed in 2006. As the establishment was technically trading without approval, the Authority were advised to immediately reassess the establishment and if appropriate issue conditional approval, pending an assessment for full approval. In general, the inspections at approved establishments had not been recorded on the appropriate aide-memoire for the premises and the information recorded, especially in relation to the assessment of HACCP systems and cross-contamination was inadequate for auditors to gain assurance that thorough and effective inspections had been carried out in all cases. The approved establishment files required review to ensure they contained all the information listed in Annexe 10 of the FLCoP Guidance and needed to be re-organised to ensure relevant data was easily retrievable.



## **Recommendations**

3.3.11 The Authority should:

- (i) Carry out interventions/inspections at all food hygiene premises 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) Carry out interventions/inspections, and approve or register establishments in accordance with the relevant legislation, the Food Law Code of Practice, centrally issued guidance and the Authority's policies and procedures. [The Standard - 7.2]
- (iii) Review and update the current general inspection aide-memoire to aid officers to assess the compliance of establishments and systems in their area to legally prescribed standards and ensure that inspections of approved premises are carried out using an appropriate aide-memoire for that establishment. [The Standard - 7.2 and 7.3]
- (iv) Continue to review and update the documented procedures, including those related to product specific establishments and the range of interventions/inspections carried out, in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard - 7.4]
- (v) Take appropriate action on any non-compliance found in accordance with the Authority's own Enforcement Policy. Ensure that observations made in the course of an inspection are effectively recorded. [The Standard - 7.3 and 7.5]

### Verification Visit to a Food Premises

- 3.3.12 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.
- 3.3.13 It was observed that the officer had a good working relationship with the FBO and an effective approach to the inspection. The visit confirmed that the premises was in accordance with the last inspection aide-memoire and the officer had generally carried out an

effective inspection. Auditors discussed the cooking and storing processes of cooked ham and the consideration of additional checks on the cooling process and the use of the risk score weighting for method of processing.

### **3.4 Enforcement**

- 3.4.1 The Authority had developed a corporate Environment Division Enforcement Policy which was generally in line with centrally issued guidance and had been approved by the appropriate Member forum. An Enforcement Policy for Regulatory Services and a Food Safety Enforcement Policy was also under development which focussed more closely on food safety enforcement options than the corporate policy. Auditors discussed the need to ensure that they covered all aspects of food enforcement and were approved by the appropriate Member Forum. The policies made appropriate reference to the Regulators' Compliance Code incorporating the principles of consistency and proportionality.
- 3.4.2 Enforcement procedures had been developed on specific food law enforcement options and these provided useful guidance for officers. These procedures were also in the process of being reviewed and updated.
- 3.4.3 The Authority demonstrated a willingness to take enforcement action where necessary and a range of enforcement activities had been carried out. File checks on hygiene improvement notices (HINs), hygiene emergency prohibition notices, voluntary premise closures, detention and voluntary surrender of food, simple cautions and prosecutions showed that in all cases an appropriate course of action had been taken in accordance with the FLCoP and the Authority's Enforcement Policy. Generally enforcement action carried out had been effective in gaining FBO compliance. However, historically, simple cautions had been issued by officers who were not at the correct authorisation level in accordance with centrally issued guidance and consideration of the Enforcement Policy had not been routinely documented. Auditors also highlighted some procedural issues with the signing and service of notices and in some cases in regard to HINs, timely checks on compliance could have been more effectively implemented.

## **Recommendations**

### 3.4.4 The Authority should:

- (i) Continue to review and update the documented enforcement policies in accordance with the Food Law Code of Practice and other official guidance. Ensure that the enforcement policies are approved by the relevant Member forum or senior delegated officer. [The Standard - 15.1]
- (ii) Continue to review and update all relevant documented procedures for follow-up and enforcement actions in accordance with the Food Law Code of Practice. [The Standard - 15.2]
- (iii) Ensure all decisions on enforcement action are made following consideration of the Authority's enforcement policies and appropriately documented. [The Standard - 15.4]

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

#### Internal Monitoring

- 3.5.1 The Authority had developed an internal monitoring procedure which documented the ways in which the Service would be monitored and contained both quantitative and qualitative controls. However, it was evident that the procedure had not been followed except on an ad hoc basis.
- 3.5.2 There was some evidence that regular quantitative monitoring was undertaken in respect of key inspection targets and complaints and these had been reported to senior managers. Inspection targets were also discussed with officers at 1 to 1 meetings and more generally at team meetings.
- 3.5.3 Although there was some evidence that qualitative monitoring checks had been carried out on an ad hoc basis including accompanied visits with authorised officers, regular discussions in regard to ongoing enforcement actions and officers working together when enforcement options were being considered, were not routinely documented.
- 3.5.4 Auditors were informed that the internal monitoring procedures were under review and it was the intention of the Service to implement a qualitative monitoring system based on peer review with a percentage of records subject to additional checks by the Food and Safety Manager. Auditors discussed the need to ensure that internal monitoring was consistent, risk based and implemented across the whole of the food law enforcement service in accordance with the FLCoP.

#### **Recommendations**

3.5.5 The Authority should:

- (i) Review and develop the risk based documented internal monitoring procedures to include enforcement, sampling and complaints 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) Ensure that a record is kept of all internal monitoring and retained for at least two years. [The Standard - 19.3]

## Food and Food Premises Complaints

- 3.5.6 The Authority had a documented complaints policy within the Service Plan and a complaints procedure had been developed and implemented. Auditors were informed that the complaints system was under review with the consideration of a new system of assessing complaints by potential risk before any investigation is carried out.
- 3.5.7 In practice, all complaints and service requests were investigated by the Authority and recorded on the database.
- 3.5.8 Checks made on records for five food and food premises complaints showed that in general officers had carried out appropriate investigations, with appropriate contact with FBOs and primary or home authorities where required.

### **Recommendation**

3.5.9 The Authority should:

Continue to review, and where necessary, set-up, maintain and implement the complaints policy and procedures. [The Standard - 8.1]

## Food Inspection and Sampling

- 3.5.10 The Authority had not developed a food sampling policy or documented sampling programme. No microbiological samples had been taken in 2013/14 and none were planned for 2014/15. Auditors were advised that the Authority preferred to use control measures to ensure FBO compliance rather than sampling activities. However, officers were encouraged to take samples when they were of the opinion it was beneficial to do so and would provide validation of their intervention findings. The Authority stated it would consider taking part in national, regional and local sampling initiatives should the programmes be relevant to the Borough.
- 3.5.11 Auditors advised that the Agency does have some expectation, in accordance with the FLCoP for some risk-based sampling and local surveillance to be carried out, especially at small and medium sized caterers and retailers who often don't carry out their own sampling. The Authority should review its sampling policy and to consider taking advantage of the allocation available from Public Health England to carry out some targeted sampling activities.
- 3.5.12 The Authority had developed a sampling procedure which was in the process of being reviewed and updated.

## **Recommendations**

3.5.13 The Authority should:

- (i) Set up, maintain and implement a documented sampling policy and programme in accordance with the Food Law Code of Practice and centrally issued guidance or relevant guidance and include reference to the Authority's approach to any national programme centrally co-ordinated by the Food Standards Agency. [The Standard - 12.4]
- (ii) Continue to review the documented procedures for the procurement of samples, continuity of evidence and the prevention of the deterioration or damage to samples in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard - 12.5]

## Records

- 3.5.14 Records of food law enforcement activities were maintained in paper files and electronically on the food premises database system. In general auditors noted that records across the range of food law enforcement activities were easily retrievable and well maintained, except for approved establishments files which needed to be updated and re-organised.
- 3.5.15 As previously mentioned, there was some variability in the level of detail recorded by officers and therefore in some cases it was not always possible to establish whether all areas of inspection had been thoroughly covered. Improvements to the general premises inspection aide-memoire, usage of the appropriate aide-memoire at approved establishments inspections and more effective routine internal monitoring checks should assist in ensuring that there is consistency between officers and the level of detail in records is maintained.

### **Recommendation**

3.5.16 The Authority should:

Maintain up to date accurate records in retrievable form on all food establishments, and for all relevant checks, in accordance with the Food Law Code of Practice and centrally issued guidance. Ensure records are maintained for at least six years.  
[The Standard - 16.1 and 16.2]

### Third Party or Peer Review

3.5.17 The Authority advised that there had not been any inter-authority audits carried out in the last two years. The Authority was however, an active participant in the South East London Sector Food Liaison Group.

**Auditors:** **Robert Hutchinson**  
Christopher Green

Food Standards Agency  
Operations Assurance Division



## ANNEX A Action Plan for London Borough of Lewisham

Audit date: 16-18 September 2014

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.1.5(i) 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, a clear indication of resources required for food safety separated from those for health and safety, the full documentation of the demands on the Service and out of hours contact details in accordance with Service Planning Guidance in the Framework Agreement. [The Standard – 3.1]</p>	<p>Redrafted Service Plan to be completed by 30/11/14  To cabinet by 28/02/15</p>	<p>Revised and redrafted service plan will contain:-</p> <ul style="list-style-type: none"> <li>• Clear comparison between current levels of FTE for food and those required to undertake all requirements covered by the current Food Law Code of Practice.</li> <li>• It will clearly show the requirements of FTE for the team to undertake it's other duties.</li> <li>• Updated Out of Hours arrangements and contact details.</li> </ul>	<p>Time has been allocated to complete the redrafting of this document.</p> <p>Once the Street Based database checks have been completed and outstanding inspections / premises awaiting inspections allocated for inspection within current financial year a reassessment will be made as to number of FTE for food safety and standards work will be required and this determination will be included in the service plan to go to Cabinet.</p>
<p>3.1.5(ii) Ensure that the Service has a sufficient number of suitably qualified, experienced and competent officers to carry out the work set out in the Food Service Plan. [The Standard – 5.3]</p>	<p>30/04/15</p>	<p>Mayor &amp; Cabinet will be invited to note the above (3.1.5(i)) when the service plan is presented for approval.</p>	

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.1.8 Set up, maintain and implement a control system for all documentation and continue to ensure that all documented policies and procedures are reviewed and updated on a regular basis. [The Standard - 4.1 and 4.2]	31/12/14	A documented system to control all policies and procedures applicable to the food and safety team will be set up encompassing the food safety/standards work of the team along with its other duties.	A review of current policies / procedures is currently underway and will include the review of similar documented policies from neighbouring authorities to establish a system based of best practice.
3.1.13 Review and update 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 in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 5.1]	31/01/15	A full review of all delegations will be undertaken to ensure that they encompass all relevant legislation and that a clear & positive audit trail between the senior delegating officer and the field practitioner can be demonstrated	A review of the delegation procedure is progress following the transfer of the service from Customer Services Directorate to Community Services Directorate. Discussion with Legal Services has commenced. An updated revised delegation procedure has been drafted.
3.2.6(i) Set up, maintain and implement appropriate systems and documented procedures to minimise loss of information on the database. [The Standard - 6.4]	28/02/15	An overarching user protocol covering all departments that use the database system is being considered and we have approached the database providers to ascertain is they can provide assistance with this or can recommend another LA that has such a document. Key system owner in LBL Information & Technology Team to facilitate.	Approach to database provider made.

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3.2.6(ii) Set up, maintain and implement documented procedures to ensure that the food premises database is accurate and up to date. [The Standard - 11.2]	31/03/15	Once the control system (see 3.1.8) has been agreed and put in place detailing all documents to be included with the control system, a timetable will be drawn up and review and rewriting where appropriate will be undertaken.	A review of current policies / procedures is currently underway and will include the review of similar documented policies from neighbouring authorities to establish a system based on best practice.
3.3.11(i) Carry out interventions/inspections at all food hygiene premises 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]	31/03/15	Work to address overdue and outstanding inspections along with currently unrated inspections will be done by March via contractors.	All outstanding Premises have been included in a 'street / database survey' to confirm they still exist so accurate information can be given to contractors who should be starting around mid to late November.
3.3.11(ii) Carry out interventions/inspections, and approve or register establishments in accordance with the relevant legislation, the Food Law Code of Practice, centrally issued guidance and the Authority's policies and procedures. [The Standard - 7.2]	31/03/15 03/03/15 ( subject to availability of suitable training)	All approved premises will be re-inspected and current files brought up to date.  Training will also be sourced for all EHOs to enable sufficient officers to deal timely and effectively with issues relating to premises subject to approval.	Work plan and discussions started with officers to provide 'in the field' training alongside officers familiar with approved premises and each approved premises now has an allocated lead officer.

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3.3.11(iii) Review and update the current general inspection aide-memoire to aid officers to assess the compliance of establishments and systems in their area to legally prescribed standards and ensure that inspections of approved premises are carried out using an appropriate aide-memoire for that establishment. [The Standard - 7.2 and 7.3]	31/01/15	Current (recently reviewed) aide-memoire will be subjected to further review and all officers currently with the team know that this is not to be used for approved premises and that an appropriate aide-memoire should be used. Acknowledge that previously this hadn't happened.	Underway and examples from other LAs requested for review.
3.3.11(iv) Continue to review and update the documented procedures, including those related to product specific establishments and the range of interventions/inspections carried out, in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard - 7.4]	31/03/15	All documented procedures to be reviewed using on site knowledge and a review of those from other LAs to be undertaken to establish good practice. Once completed training and familiarisation for the team will be undertaken.	
3.3.11(v) Take appropriate action on any non-compliance found in accordance with the Authority's own Enforcement Policy. Ensure that observations made in the course of an inspection are effectively recorded. [The Standard - 7.3 and 7.5]	Immediate and ongoing	Action will be taken should any non-compliance found in accordance with the Authority's own Enforcement Policy be found. Food Safety Manager will select 10% of records to audit for comprehensiveness and appropriateness.	All team members have discussed this point and standards for recording and auditing agreed and established.

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3.4.4 (i) Continue to review and update the documented enforcement policies in accordance with the Food Law Code of Practice and other official guidance. Ensure that the enforcement policies are approved by the relevant Member forum or senior delegated officer. [The Standard - 15.1]	31/03/15  31/05/15	All documented procedures to be reviewed using on site knowledge and a review of those from other LAs to be undertaken to establish good practice.  Once completed they will be put forward for approval by the relevant Member forum or senior delegated officer.	
3.4.4(ii) Continue to review and update all relevant documented procedures for follow-up and enforcement actions in accordance with the Food Law Code of Practice. [The Standard - 15.2]	31/03/15	All documented procedures to be reviewed using on site knowledge and a review of those from other LAs to be undertaken to establish good practice.	
3.4.4(iii) Ensure all decisions on enforcement action are made following consideration of the Authority's enforcement policies and appropriately documented. [The Standard - 15.4]	01/01/15	The new enforcement policy for food will have an enforcement expectation matrix which will be in a format for the team to carry with them, the matrix will primarily be used by field officers but also by line management to ratify actions.	

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.5.5(i) Review and develop the risk based documented internal monitoring procedures to include enforcement, sampling and complaints 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]	01/01/15	An internal monitoring system will be set up where officers peer review each other' inspections and document this and the Food Safety Manager will select 10 percent of these for further documented audit.	A discussion outlining this with the team has taken place and will be implemented as soon as the paperwork and codes for the database have been sorted.
3.5.5(ii) Ensure that a record is kept of all internal monitoring and retained for at least two years. [The Standard - 19.3]	01/01/15	Once started this will be recorded against the inspections on the database.	
3.5.9 Continue to review, and where necessary, set-up, maintain and implement the complaints policy and procedures. [The Standard - 8.1]	31/03/15	All documented procedures to be reviewed using on site knowledge and a review of those from other LAs to be undertaken to establish good practice.	
3.5.13(i) Set up, maintain and implement a documented sampling policy and programme in accordance with the Food Law Code of Practice and centrally issued guidance or relevant guidance and include reference to the Authority's approach to any national programme centrally co-ordinated by the Food Standards Agency. [The Standard - 12.4]	31/01/15	Setting up of a suitable sampling policy to fit within set of procedures detailed in 3.3.11(iv). Also included in the Food Service plan will be a sampling plan and suggested programme. (see 3.1.5 (i)).	

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3.5.13(ii) Continue to review the documented procedures for the procurement of samples, continuity of evidence and the prevention of the deterioration or damage to samples in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard - 12.5]	28/02/15	All documented procedures to be reviewed using on site knowledge and a review of those from other LAs to be undertaken to establish good practice.	
3.5.14 Maintain up to date accurate records in retrievable form on all food establishments, and for all relevant checks, in accordance with the Food Law Code of Practice and centrally issued guidance. Ensure records are maintained for at least six years. [The Standard - 16.1 and 16.2]	31/03/15	A review of approved premises will be undertaken along with an inspection to verify records and documents. Officers will receive training on approved premises to include record keeping (in house until a suitable course is available via the FSA).	Review started and allocation of premises to suitably trained and qualified officers underway.

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

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

(1) Examination of LA policies and procedures.

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

- Draft Food and Health & Safety Service Plan 2014/15
- Interim Enforcement Service Plan Food and Health & Safety Team 2013/14
- Food Safety Service Plan 2011/12
- Authorisation of Food Officers procedure
- Scheme of Delegated Functions
- Draft Procedure Review procedure
- Managing the Database procedure
- Database entry crib sheets
- Approval of Premises under Regulation (EC) 853/2004
- Food Hygiene and Food Standards Inspections procedure
- Procedure for Food Complaints
- Food Premises Interventions Programme 2014/15
- Food Sampling for Analysis and Examination procedure
- Environment Division Enforcement
- Food Safety Enforcement Policy
- Draft Enforcement Policy for Regulatory Services
- Enforcement Procedures x5
- Procedure for Service Monitoring
- Cabinet minutes (various)
- Minutes of liaison group meetings
- Minutes of team meetings.

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

- Officer training records
- General food premises inspection records
- Approved establishment records
- Food and food premises complaint records
- Records of food sampling
- Enforcement records
- Internal monitoring 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
- Trading Standards, Markets & Environmental Health Manager
- Principal Environmental Health Officer
- Environmental Health Officers

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.

## **ANNEX C**

## **Glossary**

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

Food Hygiene Rating Scheme	The Food Hygiene Rating Scheme provides information to the public about hygiene standards in catering and retail food establishments. It is run by local authorities in partnership with the Food Standards Agency. Businesses that fall within the scope of the scheme are given a ‘hygiene rating’ which shows how closely the business was meeting the requirements of food hygiene law at the time of inspection. The scheme also encourages businesses to improve hygiene standards.
Food Safety Management System	A written permanent procedure, or procedures, based on HACCP principles. It is structured so that this requirement can be applied flexibly and proportionately according to the size and nature of the food business.
Food standards	The legal requirements covering the quality, composition, labelling, presentation and advertising of food, and materials in contact with food.
Framework Agreement	<p>The Framework Agreement consists of:</p> <ul style="list-style-type: none"> <li>• Food and Feed Law Enforcement Standard</li> <li>• Service Planning Guidance</li> <li>• Monitoring Scheme</li> <li>• Audit Scheme</li> </ul> <p>The <b>Standard</b> and the <b>Service Planning Guidance</b> set out the Agency’s expectations on the planning and delivery of food and feed law enforcement.</p> <p>The <b>Monitoring Scheme</b> requires local authorities to submit yearly returns via LAEMS to the Agency on their food enforcement activities i.e. numbers of inspections, samples and prosecutions.</p> <p>Under the <b>Audit Scheme</b> the Food Standards Agency will be conducting audits of the food and feed law enforcement services of local authorities against the criteria set out in the Standard.</p>
Full Time Equivalents (FTE)	A figure which represents that part of an individual officer’s time available to a particular role or set of duties. It reflects the fact that individuals may work part-time, or may have other responsibilities within the organisation not related to food and feed enforcement.
HACCP	Hazard Analysis and Critical Control Point – a food safety management system used within food businesses to identify points in the production process where it is critical for food safety that the control measure is carried out correctly, thereby eliminating or reducing the hazard to a safe level.

LAEMS	Local Authority Enforcement Monitoring System is an electronic system used by local authorities to report their food law enforcement activities to the Food Standards Agency.
Member forum	A local authority forum at which Council Members discuss and make decisions on food law enforcement services.
Metropolitan Authority	A local authority normally associated with a large urban conurbation in which the County and District Council functions are combined.
Risk rating	A system that rates food premises according to risk and determines how frequently those premises should be inspected. For example, high risk premises should be inspected at least every six months.
Safer food, better business	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.