

Report on the Audit of Local Authority Inland Imported Food Control Arrangements

London Borough of Newham
3-4 November 2010



Foreword

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

The attached audit report examines the Local Authority's Food Law Enforcement Service. The audit scope includes the assessment of local arrangements in place for service planning, delivery and review, provision and adequacy of officer training on imports and authorisations, and implementation and effectiveness of imported food (including inspection, sampling and enforcement). Maintenance and management of appropriate records in relation to imported food activities and food businesses that handle imported food, as well as internal service monitoring arrangements, will also be examined.

This programme of focused audits has been specifically developed to address one of the main priorities identified in the Food Standard Agency's Strategy for 2010-2015 in meeting the outcomes that imported food is safe to eat and that regulation is effective, risk-based and proportionate. The strategic priority is to ensure risk-based, targeted checks at ports and local authority monitoring of imports throughout the food chain.

The audits examined Port Health Authority (PHA) and Local Authority (LA) systems and procedures for control of imported food and where relevant imported feed, at ports of entry (sea and air) and at inland authorities, in 15 geographically representative PHAs and LAs in England. The audits of PHAs were confined to food not of animal origin (FNAO). However the audits of inland authorities covered products of animal origin (POAO) and FNAO. As part of the programme, other LAs with ports are also being contacted to establish whether liaison with ports and appropriate checks on imports are being undertaken.

Agency audits assess local authorities' conformance against the Feed and 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 (amended April 2010) and is available on the Agency's website at:

www.food.gov.uk/enforcement/auditandmonitoring.

It should be acknowledged that there will be considerable diversity in the way and manner in which local authorities may provide their feed and food enforcement services reflecting local needs and priorities.

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

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

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1. Introduction

- 1.1 This report records the results of an audit at the London Borough of Newham with regard to food law enforcement, under relevant headings of the Food Standards Agency Feed and Food Law Enforcement Standard. The audit focused on the Authority's arrangements for imported food controls. The audit was undertaken as part of the Agency's focused audit programme on imported food and, where appropriate, feed controls. The report has been made publicly 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 feed and 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 Newham was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme. 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
- 1.3 The London Borough of Newham was included in the Food Standards Agency's programme of audits of local authority food and feed law enforcement services, because the Authority is home to a diverse community and therefore is likely to be an area where many local food businesses handle imported food. In addition the Authority was selected to be representative of a geographical mix of 15 PHAs and LAs 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

- 1.4 The audit examined the London Borough of Newham's arrangements for imported food controls in respect of both imported food not of animal origin (FNAO) and products of animal origin (POAO).
- 1.5 The audit scope included the assessment of local arrangements for service planning, delivery and review, provision and adequacy of officer training on imports and authorisations, implementation and effectiveness of imported food control activities, including inspection, sampling and enforcement. Maintenance and management of appropriate records in relation to imported food activities and food businesses that handle imported food, as well as internal service monitoring arrangements, were also examined.
- 1.6 The on-site element of the audit took place at the Authority's office at Newham Dockside, 1000, Dockside Road, London on 3-4 November 2010. The audit included a reality check 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 compliance with imported food law requirements.
- 1.7 The audit also afforded the opportunity for discussion with officers involved in imported food law enforcement with the aim of exploring key issues and gaining opinions to inform Agency policy. A set of structured questions were used as the basis for discussions which sought views and information on areas related to imported food controls such as:
 - service planning and the strategic framework of controls
 - training and support
 - criteria used to determine the level of checks
 - issues affecting the imported food control programme
 - sampling, surveillance and enforcement approaches.
- 1.8 The information gained during interviews will be incorporated into a summary report on the imported food and feed inspection and control activities audit programme.

Background

- 1.9 Newham is one of 32 London Boroughs and is located 5 miles east of the City of London and north of the river Thames, covering an area of about 14 square miles. The Authority borders 5 other London Boroughs and stretches eastwards from Stratford through West Ham and East Ham to Beckton, with North Woolwich to the south. London City Airport and the

Channel Tunnel Rail Terminal (Stratford International Station) are located within the Authority's area.

- 1.10 The Borough has a population of about 249,500 with 61% of the population drawn from Mixed, Asian or Asian British, Black or Black British, Chinese or other non white ethnic groups. The Borough contains some of the most deprived areas of the country and is ranked the sixth most deprived local authority in England.
- 1.11 Newham is one of the five host boroughs for the 2012 Olympic Games and Paralympic games. The Authority predicts that the additional influx of spectators and tourists will be a magnet for attracting businesses to the area, particularly those providing food. In addition to the general commercial areas located throughout the Borough, there are two permanent street markets, and continental markets frequently trade in the area. The commercial population of the Borough is quite transient which is reflected amongst the changing small businesses.
- 1.12 According to the official monitoring returns made to the Food Standards Agency, there were 1,859 registered food businesses within the Borough on 31 March 2010, the majority of which were in the catering sector. The Borough also hosted occasional markets, annual festivals and other outdoor events, which included the sale and handling of food.
- 1.13 The food safety function, encompassing both food hygiene and food standards was delivered by officers within the Food Safety Team which was part of Commercial Standards within the Public Protection Service. Commercial Standards also comprised Trading Standards, Pest Control, Public Health and Drainage and Animal Welfare Teams. Officers undertaking food enforcement work also carried out health and safety hazard spotting in food premises. The two Principal Food Safety Officers were jointly responsible for the performance and service delivery of the food safety service and for providing the specialist support for delivering the food safety function.
- 1.14 The profile of the Borough's food businesses, as shown in the 2009 official monitoring returns to the Agency was as follows:

Type of Food Premises	Number
Manufacturers/Packers	35
Importers/Exporters	9
Distributors/Transporters	38
Retailers	725
Restaurants/Caterers	1,052
Total Number of Food Premises	1,859

2. Executive Summary

- 2.1 The Authority had developed a comprehensive and detailed Food Law Enforcement Service Plan for 2009/2010 which was generally in line with the Service Planning Guidance in the Framework Agreement. The Plan made numerous appropriate references to the importance of surveillance and sampling work in relation to imported food.
- 2.2 Operational procedures relevant to the scope of the audit had recently been reviewed and a specific procedure for imported food control had been developed. However, the Service had recognised that some further updating of procedures and the introduction of a structured document control and review mechanism were required.
- 2.3 Audit checks confirmed that, in general, officers were appropriately authorised for enforcing current legislation relevant to imported food control.
- 2.4 The Service had recognised that regular checks to identify illegal imports or high risk third country imports should take place as an integral part of day to day interventions at food businesses. Auditors were advised that officers, since attending recent relevant training on inland imported food controls, were more aware of the need to prioritise this work as part of their visits to food businesses. Records relating to food business inspections did not indicate the extent of any assessment of imported food. The Service had recognised that the inspection aide-memoire could be expanded to prompt the recording of imported food activity at the business in sufficient detail.
- 2.5 Although contemporaneous inspection details were entered on the computer database software system, the accompanying documentation such as inspection aide-memoire, inspection report forms and any related correspondence were not always legible or retrievable from the electronic document imaging and management facility. The lack of cohesive premises records made it difficult to ascertain the extent of officers' interventions at businesses and would therefore hinder effective monitoring.
- 2.6 It was clear from computer database software records that, where the Authority had identified potentially illegally imported or contaminated imported food, actions had been taken to remove it from sale using appropriate legislative powers. However, due to the problems with timely scanning of records and record retrieval from the electronic document imaging and management system, copies of Notices and other related documents were not available in the majority of cases examined. The audit highlighted the requirement for the Authority to fully document the

- actions taken, particularly relating to the destruction of detained foods, and also the importance of maintaining traceability of imported foods received by food businesses, when it had been necessary to remove food from sale.
- 2.7 The Authority did not have a documented procedure for ensuring that its food premises database was accurate, reliable and up to date. The current ad hoc systems, which were in place to identify food businesses that may not be on the database, needed to be further developed and documented. Audit checks confirmed that a significant number of premises were overdue for food hygiene interventions or were awaiting an initial inspection. This could result in some businesses increasing the risk of their food operations in relation to imported food or changing ownership without the Authority being made aware of their changing circumstances. The Service had recognised this issue and had taken steps to allocate these premises to officers as a priority.
- 2.8 In general, referrals relating to imported foods that were received by the Authority had been investigated in accordance with its documented procedure. Audit checks confirmed that food alerts requiring action were effectively followed up with appropriate records maintained.
- 2.9 The Service's food sampling policy and sampling programme took account of the diverse nature of imported foods sold in the Authority's area. However, from available records, it was not always clear that all relevant parties had been informed of the results and whether appropriate follow-up action had been taken in every case.
- 2.10 The Authority had recently reviewed the procedure for qualitative internal monitoring and it was evident from computer database software records that some monitoring was being undertaken. However, the available records did not indicate the level of monitoring, the findings or what corrective actions had been implemented.

3. Audit Findings

3.1 Organisation and Management

Strategic Framework, Policy and Service Planning

3.1.1 The Authority had developed a documented Food Law Enforcement Service Plan for 2009/2010, which was presented to Cabinet in September and subsequently to Mayoral Proceedings in November 2009 as part of the formal adoption process. The plan generally reflected the Service Planning Guidance in the Framework Agreement and was aimed at contributing to the Council's Corporate Vision and to reflect central government priorities in relation to food law enforcement.

3.1.2 The Food Service Plan set out the Service's specific aims and objectives, which included:

'the Food Safety Service through the promotion and regulation of food safety and food standards aims to ensure that all food and drink which is produced, stored, distributed or consumed within the Borough:

- (i) Is safe and wholesome for the consumer to eat and*
- (ii) Meets labelling and compositional requirements and does not mislead the consumer as to its nature, substance or quality.*

3.1.3 The scope of the food service as outlined in the Plan included *'the control of imported foods in accordance with centrally issued guidance'* as part of providing *'a comprehensive service to food consumers and food businesses.'*

3.1.4 The Service Plan also contained other appropriate references to imported food controls and emphasised the Authority's commitment to support the Agency's objectives in this area. The Plan states that, in relation to imported food control, *'the main focus for the Service will be on sampling and surveillance of imported foods in catering and retail establishments, as part of the planned inspection programme.'* It was therefore evident that the Authority had recognised that imported food control should be an integral part of the day to day food law enforcement service.

3.1.5 Monthly reports on progress against the performance targets detailed in the Service Plan were provided to the Housing and Public Protection Senior Management Team. In addition, a review of the previous Plan was undertaken annually as part of the business planning process, with any identified variances in service delivery and consequent areas for improvement for the following year included in the subsequent Service Plan. The planned improvements for 2009/2010 included *'increased*

enforcement activities in respect of imported foods in line with the Food Standards Agency Step Change Process.'

- 3.1.6 The Service Plan confirmed that there was a total staffing allocation of 10.8 Full Time Equivalent (FTE) officer posts dedicated to food enforcement work, including management time and technical support but excluding any complex unpredicted reactive cases. The Plan also contained a detailed analysis of staffing resource allocation for all aspects of the food safety service delivery. As the Service was not fully staffed in 2009/2010, with three FTE vacant posts, agency staff were used to provide some cover to ensure performance targets were met. In addition, an organisation restructuring resulted in the creation of a second Principal Food Safety Officer post within the service.

Documented Policies and Procedures

- 3.1.7 The Authority had recently reviewed their operational procedures relating to food law enforcement and had developed a specific procedure for imported food control arrangements. The documents were made available to officers electronically in a 'read only' format on a shared drive.
- 3.1.8 The Food Law Enforcement Service Plan 2009/2010 confirmed that the Service's internal policies and procedures were under review. In the Plan the Authority had also recognised the need to develop a system to monitor and control the Service's policies, practice and procedures and this, together with the systematic review of procedures, was reinforced in the identified key areas for improvement and development for the year.

Recommendation

3.1.9 The Authority should:

Set up, maintain and implement a control system for all documentation relating to its enforcement activities and ensure that all documented policies and procedures, including those relevant to imported food control activities, are reviewed at regular intervals and whenever there are changes to legislation and centrally issued guidance. [The Standard – 4.1 and 4.2]

Authorised Officers

- 3.1.10 The Authority had developed a documented procedure for the authorisation of officers, although this had not been fully implemented. The procedure set out a clearly defined process for authorising individual officers based on their specific qualifications, experience and competency. The power to authorise officers was delegated down, through the Council's Scheme of Delegation, to the Head of Public Protection.
- 3.1.11 Audit checks confirmed that officers were appropriately authorised for current legislation relevant to imported food control, in line with their qualifications, experience and competency and that they were acting within their individual conferred levels of authorisation. However, some of the legal references in their authorisation documents required updating. The two officers with joint lead responsibilities for food hygiene, food standards and imported food had the necessary specialist knowledge and experience to fulfil their role.

Recommendation

3.1.12 The Authority should:

Fully implement its documented procedure for the authorisation of officers in relation to the documented competency matrix and ensure that legislative references contained in officer authorisations are updated in accordance with the Food Law Code of Practice and centrally issued guidance.

[The Standard – 5.1]

- 3.1.13 The Authority provided out of hours access to the food service through a generic Council emergency telephone number. If a food related matter arose, appropriately authorised officers would be contacted by the out of hours duty officer to take the necessary follow-up or enforcement action.
- 3.1.14 Officer's individual training and development needs were identified as part of the Council's performance appraisal scheme and when there were changes to legal requirements and centrally issued guidance. Each officer received a quarterly appraisal followed by monthly review meetings with their line manager. Auditors were advised that officers were encouraged to take up training opportunities aimed at maintaining and improving their knowledge and competency and that every officer achieved the minimum of 10 hours relevant training based on the principles of continuing professional development. However, the record keeping arrangements in relation to officer qualifications and training

required review to ensure that they were accurate, complete and readily retrievable. Officers had attended relevant training on imported food controls and the specific officers interviewed during the audit were able to demonstrate an adequate knowledge of imported food legislation.

Recommendation

3.1.15 The Authority should:

Maintain records in retrievable form, of relevant academic qualifications, training and experience of each authorised officer, in accordance with the Food Law Code of Practice.
[The Standard – 5.5]

Food Premises Database

- 3.1.16 The Authority did not have a documented procedure for monitoring the accuracy of the database and audit checks identified some potential food importers that did not appear to be on the database.
- 3.1.17 Auditors were advised that premises information was obtained through ad hoc liaison arrangements with other Council departments. However, the Authority had recognised the inefficiency in integrating existing Council datasets concerning food outlets due to the number of independent databases in different service areas, which collected addresses and other details on premises in differing formats. These inconsistencies along with lack of separate checks outside the existing food hygiene inspection programme to identify where outlets have closed or opened, meant that the Council's own datasets did not provide an adequate, holistic picture of what food provision is available across the Borough.
- 3.1.18 A food outlet mapping exercise was initiated by the Health and Public Protection Service based on analysing data collected in 2009/2010, which recorded the number, location and nature of outlets in the Borough that sold food and drink. Although the key reason for commissioning the mapping was to '*identify "hot spots" of unhealthy food and drink and "cold spots" of poor access to healthy food*', the mapping data enabled the Food Safety Team to review whether outlets identified as part of this exercise were registered as food businesses and if they had been inspected to assess compliance with food law.

Recommendation

3.1.19 The Authority should:

Set up, maintain and implement a documented procedure to ensure that its food premises database is accurate, reliable and up to date. [The Standard –11.2]

3.1.20 The Service confirmed that, at the time of the audit, there were no Enhanced Remote Transit Sheds (ERTS) located in the Authority's area.

3.1.21 The Authority had in place a computer software system capable of providing accurate food law enforcement monitoring data to the Agency. However, the Service had not included third country imported food sampling results and enforcement actions on the imported food section of the Local Authority Enforcement Monitoring System (LAEMS) return for 2009/2010.

Recommendation

3.1.22 The Authority should:

Ensure that accurate information on imported food activity is provided in the official monitoring returns to the Agency. [The Standard – 6.3]

Liaison with Other Organisations

3.1.23 The Authority had effective liaison arrangements with other London Boroughs through attendance at a variety of relevant meetings, particularly those of the North East London Sector Liaison Group, the Sector's Product Specific Liaison Group and their Sampling Sub-Group, and the Chartered Institute of Environmental Health London Food Study Group. Auditors were advised that issues relating to imported food controls including sampling were discussed at these meetings.

3.1.24 The Authority was not aware of any food being imported through London City Airport. However, the jurisdiction of the Borough only extended to the landside terminal buildings and auditors were advised that any enforcement on the airside of the airport would be the responsibility of the London Port Health Authority.

3.2 Imported Food Control Activities

Food Premises Inspections

- 3.2.1 The Authority's Food Law Enforcement Service Plan 2009/2010 provided the following details of the Authority's food hygiene intervention programme:

Premises Risk Category	Food Premises Inspections due
A	8
B	167
C - not Broadly Compliant	189
C - Broadly Compliant	282
D - not Broadly Compliant	15
TOTAL	661

- 3.2.2 The Plan also stated that the Service:

'aims to inspect all due category A and B premises, unrated/new premises, non broadly compliant Category C as a priority, then 60% of due broadly compliant Category C premises.'

As a result 169 of the due 282 Broadly Compliant C premises were to be inspected during 2009/2010.

- 3.2.3 The Plan confirmed that, *'in 2009/2010, all category D premises will be subject to a non-official intervention. Inspections of Category D premises will only be undertaken when subject to complaint.'* Category E premises were subject to an alternative enforcement strategy.
- 3.2.4 Audit checks confirmed that a significant number of premises were overdue for food hygiene interventions, or were awaiting an initial inspection. For all risk category premises, delayed interventions could result in some businesses increasing the risk of their food operations in relation to imported foods or changing ownership, without the Authority being made aware of their altered circumstances. The Service had recognised this issue and had taken measures to allocate these premises to officers as a priority.

Recommendation

3.2.5 The Authority should:

Ensure that food hygiene interventions/inspections of 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 relevant legislation, Food Law Code of Practice and other centrally issued guidance.
[The Standard – 7.1]

- 3.2.6 The documented food hygiene inspection procedure made reference to physical, identity and documentary checks that should be made in relation to POAO foods found during inspections, which appeared to have been imported. The documented imported food procedure specifically guided officers to look for imported food records at food premises, including Common Veterinary Entry Documents (CVED), to identify whether products were illegal imports and to take appropriate follow-up action, including enforcement action, where required. However, the Service's procedures required some updating in relation to imported FNAO to include the requirements of recent legislation aimed at high risk products.
- 3.2.7 Food premises inspections were recorded on a detailed inspection aide-memoire which contained a tick-box to confirm business category, including importers. However, audit checks confirmed that individual inspection records did not indicate the extent of any assessment of imported food. The Service had recognised that the aide-memoire could usefully be expanded to prompt the recording of imported food enforcement activity in sufficient detail. It was evident from audit discussions that the Service had recognised that regular checks to identify illegal imports or high risk third country imports should take place as an integral part of day to day interventions at food businesses. Officers, following recent training on inland imported food controls, were aware of the need to prioritise this work as part of routine interventions at food businesses and also the importance of maintaining traceability of all imported foods received by businesses.

Recommendation

3.2.8 The Authority should:

- (i) Assess the compliance of establishments and systems to legally prescribed standards. [The Standard – 7.3]
- (ii) Expand and fully implement the aide-memoire for inspections of all food establishments in its area, to prompt officers to consistently record inspection findings in relation to the officers' assessment of businesses' imported food controls. Ensure that the records of inspections and key details of business operations are maintained in such a way that they are retrievable and provide complete records of business compliance histories. [The Standard – 7.5]

Verification visit to a Food Premises

3.2.9 During the audit a verification visit was carried out at a local food business with an officer from the Authority, who had carried out a previous food hygiene inspection at the premises. The purpose of the visit was to determine the effectiveness of the Authority's assessment and application of imported food controls in relation to third country imports.

3.2.10 During the visit, the officer demonstrated a thorough understanding of the controls required for imported food and conducted a comprehensive review of the premises, identifying a number of issues relating to imported food controls. Although the food business operator (FBO) was not a direct importer, the officer carried out a detailed evaluation of the foods present and appropriately addressed several issues with the FBO.

Food Inspection and Sampling

3.2.11 In the Food Law Enforcement Service Plan, the Authority confirmed that *'the Service proposes to increase the number of samples per annum for 2009/2010, in particular through the increased monitoring of imported foods and food provided for the New Migrant Communities in the Borough.'*

3.2.12 The Service's documented Food Sampling Policy confirmed that food sampling in the Borough would be undertaken on a risk assessed basis and would form an integral part of programmed inspections of manufacturing food premises located in the Borough.

- 3.2.13 The Authority's food sampling programme for 2010/2011 confirmed that sampling relating to imported food responsibilities and particularly third country imports was a high priority for the Service. The programme also took account of the diverse nature of imported foods sold in the Borough. The Service also participated in the co-ordinated North East London Sector Food Group sampling programme which included imported food sampling, partly funded by an Agency imported food grant.
- 3.2.14 The Service had produced a food sampling procedure which provided practical documented guidance on both sampling for analysis and examination and aimed to ensure a consistent approach by officers. Audit checks confirmed that the official laboratories used by the Authority for food sampling activities were properly accredited.
- 3.2.15 It was evident that the Authority carried out regular sampling of a wide variety of imported food products. Auditors were advised that sampling was always undertaken by appropriately authorised officers if any follow-up enforcement action was anticipated. However, where samples were part of an informal survey or surveillance exercise, they were taken by a technical officer without specialist food qualifications.
- 3.2.16 Audit checks were carried out on four samples. The results were recorded in every case, although it was not always possible to determine from the database records whether all relevant parties had been informed of the results and the extent or adequacy of the follow-up action taken. The Service had recently developed and implemented an imported food sampling spreadsheet to track the progress of samples, the receipt of laboratory results and any action taken.

Recommendation

3.2.17 The Authority should:

Take appropriate action following the receipt of sampling results, including informing all interested parties, in accordance with its enforcement policy, food sampling procedures and centrally issued guidance.

[The Standard – 12.6 and 12.7]

Good Practice – Sampling Spreadsheet

The Authority's imported food sampling spreadsheet which assisted with tracking the progress of samples taken, including the receipt of results and follow-up action.

Enforcement

- 3.2.18 The Authority had developed and adopted a Housing and Public Protection, Food Safety Unit Enforcement Policy in April 2009. The policy aimed to *'ensure that formal enforcement action is focused where there is a real risk to public health and that officers carry out such action in a fair, practical and consistent manner.'* The Service, as part of contributing to the Borough's Enforcement Strategy, was involved in a number of enforcement initiatives, working in partnership across service areas and with external agencies and organisations.
- 3.2.19 The Service had developed operational guidance to officers for formal enforcement options relevant to imported food control including those for detention, seizure of suspect food, voluntary surrender and the service of notices. These were contained within the Enforcement Policy, the documented Imported Food Procedure and a separate documented procedure on the seizure and detention of food.
- 3.2.20 A number of formal enforcement records, taken in relation to imported food, were examined during the audit including:
- 8 voluntary surrenders of FNAO
 - 1 illegal imports Notice under Products of Animal Origin (Third Country Imports) Regulations 2006 – Regulation 24.
- 3.2.21 It was evident that appropriate follow-up action, including formal enforcement, was generally taken in relation to illegal food imports or high risk imported food where food safety issues had been identified, in accordance with the enforcement policy. In all cases examined, it was apparent from database records that the food had been effectively removed from sale using relevant legislative powers. However, due to difficulties with timely scanning of records and record retrieval from the electronic document imaging and management system, auditors were advised that copies of Notices and other related documents were not available in the majority of cases examined. This was particularly significant in relation to records confirming the destruction of detained foods and maintaining traceability of imported foods received by food businesses when food had to be removed from the food chain and destroyed.

Food Complaints, Referrals, Primary Authority Scheme and Home Authority Principle

- 3.2.22 The Authority's general risk based policy on food complaints was contained in the Food Law Enforcement Service Plan with specific operational guidance for officers contained in the documented procedure

– Complaints/Requests for Service, which made reference to imported food. The procedure guided officers to follow the Service’s specific documented procedure on imported food and to refer to appropriate centrally issued guidance.

3.2.23 Audit checks were carried out in relation to four complaints and referrals relating to imported food. In general, it was evident that these had been appropriately investigated in accordance with the Service’s procedures.

3.2.24 The Authority confirmed its commitment to the Primary Authority Scheme and Home Authority Principle in the Food Law Enforcement Service Plan. Auditors were advised that, although there were no formal Primary Authority or Home Authority partnerships with local businesses, the Service acted in an informal advisory capacity with manufacturers, importers and wholesalers in the Borough.

Food Safety Incidents

3.2.25 The Authority had developed and recently reviewed a documented procedure for dealing with and notifying food incidents, food hazards and food alerts. Audit checks confirmed that food alerts for action had been effectively followed up with appropriate records maintained.

Advice to Business

3.2.26 The Authority had not undertaken any proactive advisory work on imported food. Auditors were advised, however, that individual food businesses had been given advice on specific imported food issues as necessary during routine interventions and on request.

Records

3.2.27 It was evident that contemporaneous inspection details were entered on the computer database software system. However, audit checks confirmed that key accompanying documents such as the completed inspection aide-memoire, inspection report forms and related correspondence were not always legible or effectively retrievable from the electronic document imaging and management system. In the absence of paper records the lack of accurate retrievable electronic premises records made it difficult to ascertain the extent of officers’ interventions at businesses.

Recommendation

3.2.28 The Authority should:

Maintain up to date accurate records in retrievable form on all food establishments in its area and for all relevant checks on imported food, in accordance with the Food Law Code of Practice and centrally issued guidance. These records shall include reports of all interventions and inspections, the determination of compliance with legal requirements made by the authorised officer, details of action taken where non-compliance was identified, details of any enforcement action taken, results of any sampling and follow up action and details of any action taken in relation to complaints and referrals. [The Standard - 16.1]

3.3 Internal Monitoring and Third Party or Peer Review

Internal Monitoring

- 3.3.1 The Authority had highlighted the review of the quality monitoring system and associated documentation as an area of improvement in the 2009/2010 Food Law Enforcement Service Plan. Auditors were advised that systematic monitoring of officers' work was regularly undertaken, although the available records did not indicate the level of monitoring, the findings or what corrective actions had been implemented.
- 3.3.2 The Service had recently reviewed the documented procedure for internal monitoring, which covered both qualitative and quantitative monitoring of the service. The scope of the procedure covered the full range of food hygiene and food standard law enforcement activities including imported food control. Audit checks of computer database software records confirmed that some monitoring was being undertaken, although the procedure, including the record-keeping arrangements, had not yet been fully implemented.
- 3.3.3 Other relevant service review and monitoring arrangements undertaken by the Authority included:
- Performance Management and Development review meetings with officers
 - Monthly one to one work review and supervision meetings to discuss casework
 - Regular documented team meetings that included discussion of performance indicators, consistency issues and work planning, including imported food control
 - Weekly and monthly reports from the computer database software to monitor quantitative performance targets
 - Customer and business satisfaction questionnaires to provide feedback on planned inspections and reactive work.

Recommendation

3.3.4 The Authority should:

Fully implement the revised internal monitoring procedure to verify the Service's conformance with the Standard, relevant legislation, the Food Law Code of Practice, relevant centrally issued guidance and the Authority's own policies and procedures and maintain records of all internal monitoring undertaken. [The Standard - 19.2 and 19.3]

Third Party or Peer Review

- 3.3.5 Auditors were informed that there had been no recent peer review activities undertaken by the Service in relation to imported food law enforcement work.

Auditors: **Christina Walder**
Andrew Clarke
Abimbola Adeyemi

Food Standards Agency

Local Authority Audit and Liaison Division

Action Plan for London Borough of Newham

Audit date: 3-4 November 2010

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.9 Set up, maintain and implement a control system for all documentation relating to its enforcement activities and ensure that all documented policies and procedures, including those relevant to imported food control activities, are reviewed at regular intervals and whenever there are changes to legislation and centrally issued guidance. [The Standard – 4.1 and 4.2]	28/02/11	Separate documented procedure being developed to control all the Service's documented policies and procedures. This will include an annual review and provision for additional reviews whenever there are changes to: -legislation and centrally issued guidance -Internal London Borough of Newham changes to policy and/or procedures.	Document review and sign off arranged.
3.1.12 Fully implement its documented procedure for the authorisation of officers in relation to the documented competency matrix and ensure that legislative references contained in officer authorisations are updated in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 5.1]	28/02/11	All food officers' authorisations will be reviewed in line with new competency matrix. Electronic copies of authorisations to be held by Public Protection and placed on officers' personal file. Relevant legislative references to be updated.	To be completed after quarter 3 2010/2011 appraisals. Legislative references amended in all relevant documents.
3.1.15 Maintain records in retrievable form, of relevant academic qualifications, training and experience of each authorised officer, in accordance with the Food Law Code of Practice. [The Standard – 5.5]	Completed	All records of food officer academic qualifications to be held electronically and on officers' personal files. All training records to be retained electronically.	Training records file in place. Copies of verified qualifications kept on personal files.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.19 Set up, maintain and implement a documented procedure to ensure that its food premises database is accurate, reliable and up to date. [The Standard –11.2]	28/02/11	Develop and implement a documented procedure to check accuracy and reliability of database: To include: - Spot checks using ICT random sampling methods - Data verification using local phone directories and other web based address sites - Incorporate the results of field work identifying London Borough of Newham food premises into the existing data base software system.	Consultation with ICT to establish how Uniform system and reports generated are checked for accuracy. Data being cross referenced against existing information in database software system.
3.1.22 Ensure that accurate information on imported food activity is provided in the official monitoring returns to the Agency. [The Standard – 6.3]	31/05/11	'Imported Food' activity to be included in next LAEMS return for 2010/2011.	Consultation with IT Dept to ensure correct mapping and data transfer. Generated new coding for imported food service requests and for identifying smaller premises that import food as part of their business.
3.2.5 Ensure that food hygiene interventions/inspections of 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 relevant legislation, Food Law Code of Practice and other centrally issued guidance. [The Standard – 7.1]	31/03/11	Review inspection allocation to officers. Overdue premises to be prioritised (according to risk). Service Plan to be amended to reflect an increase in number of food premises inspections / interventions per officer to 18 each per month. Make full use of Alternative Enforcement Strategies and the use of alternatives to Official Controls.	Overdue 'compliant' premises identified. Allocation has increased to 18 inspections/interventions per month per officer pro rata. Monitoring impact on service.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.2.8(i) Assess the compliance of establishments and systems to legally prescribed standards. [The Standard – 7.3]	Completed	Update Imported Food procedure regarding FNAO to include the requirements of recent legislation aimed at high risk products.	Imported Food Procedure has been updated. Officers given guidance regarding links for information on high risk FNAO.
3.2.8(ii) Expand and fully implement the aide-memoire for inspections of all food establishments in its area, to prompt officers to consistently record inspection findings in relation to the officers' assessment of businesses' imported food controls. Ensure that the records of inspections and key details of business operations are maintained in such a way that they are retrievable and provide complete records of business compliance histories. [The Standard – 7.5]	Completed	Modify existing aide memoire to include specific information on imported food control. All inspections to be scanned into the electronic document imaging and management system within 1 month of completion. Monitoring of inspection reports.	Aide-memoire modified. Monitored.
3.2.17 Take appropriate action following the receipt of sampling results, including informing all interested parties, in accordance with its enforcement policy, food sampling procedures and centrally issued guidance. [The Standard – 12.6 and 12.7]	Completed	Review sampling letters/information to interested parties. Sampling spreadsheets to indicate that/when information has been sent. Monitoring of sampling outcomes in line with policy.	Sampling letters amended. Spreadsheet amended.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.2.28 Maintain up to date accurate records in retrievable form on all food establishments in its area and for all relevant checks on imported food, in accordance with the Food Law Code of Practice and centrally issued guidance. These records shall include reports of all interventions and inspections, the determination of compliance with legal requirements made by the authorised officer, details of action taken where non-compliance was identified, details of any enforcement action taken, results of any sampling and follow up action and details of any action taken in relation to complaints and referrals. [The Standard - 16.1]</p>	<p>Completed</p> <p>28/02/11</p> <p>Completed</p> <p>31/03/11</p>	<p>Designate an administrative role for scanning documents into the electronic document imaging and management system.</p> <p>Document control procedure (including timings) for the scanning and storage of records to be updated.</p> <p>Separate system for recording copies of all notices (including voluntary surrender / closure) and information /traceability on the destruction of food.</p> <p>Monitoring to take place as part of monthly 1-2-1s.</p> <p>The electronic document imaging and management system is currently under review.</p>	<p>Designated scanning role given to administrative support officer.</p> <p>Hard copy filing system to be held by Senior Technical Support officer.</p>
<p>3.3.4 Fully implement the revised internal monitoring procedure to verify the Service's conformance with the Standard, relevant legislation, the Food Law Code of Practice, relevant centrally issued guidance and the Authority's own policies and procedures and maintain records of all internal monitoring undertaken. [The Standard - 19.2 and 19.3]</p>	<p>31/03/11</p>	<p>Internal Monitoring to be fully implemented according to newly implemented procedure.</p>	<p>New procedure being implemented (and amended as appropriate) Monthly 121's and quarterly appraisals arranged for feedback. Accompanied inspections with officers have been arranged.</p>

Audit Approach/Methodology

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

(1) Examination of LA policies and procedures.

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

- Food Law Enforcement Service Plan 2009/2010
- Documented procedures relating to food law enforcement including imported food controls
- Housing and Public Protection Service – Food Safety Unit Enforcement Policy

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

- The Authority's authorisation training and qualification records
- General food premises inspection records
- Food and sampling records
- Formal enforcement records
- Internal monitoring records
- Database reports

(3) Interviews – the following officers were interviewed:

- Audit Liaison Officer – Principal Environmental Health Officer
- Principal Environmental Health Officer – Joint lead responsibility for imported food
- Environmental Health Officer
- Food Safety Officer

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

(4) On-site verification check:

A verification visit was made with the Authority's officers to a local food business. The purpose of the visit was to determine the effectiveness of the Authority's assessment and application of imported food controls in relation to third country imports.

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.
Border Inspection Post	Point of entry into the UK from non-EU countries for products of animal origin.
CEDs	Common Entry Documents which must accompany certain food products to first destination inland.
CVEDs	Common Veterinary Entry Documents which must accompany third country imported POAO to first destination inland
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.
Consignment	A unit of cargo that can consist of one or a number of different products.
County Council	A local authority whose geographical area corresponds to the county and whose responsibilities include food standards and feeding stuffs enforcement.
Defra	The Department for Environment, Food and Rural Affairs. The Government Department designated as the central competent authority for products of animal origin in England.
District Council	A local authority of a smaller geographic area and situated within a County Council whose responsibilities include food hygiene enforcement.
DPE	Designated point of entry. A port that has been designated for the entry of certain high risk feed and food products subject to enhanced checks.
DPI	Designated point of import. A port that has been designated for the entry of certain products subject to safeguard controls due to aflatoxin contamination.
Environmental Health Officer (EHO)	Officer employed by the local authority to enforce food safety legislation.
ERTS	Enhanced remote transit shed. An HM Revenue and Customs designated warehouse where goods are held in temporary storage pending Customs clearance and release for free circulation.
Feeding stuffs	Term used in legislation on feed mixes for farm animals and pet food.
FNAO	Food not of animal origin. Non animal food products that fall

	under the requirements of imported food control regime.
Food Examiner	A person holding the prescribed qualifications who undertakes microbiological analysis on behalf of the local authority.
Food hygiene	The legal requirements covering the safety and wholesomeness of food.
Food standards	The legal requirements covering the quality, composition, labelling, presentation and advertising of food, and materials in contact with food.
Formal samples	Samples taken in accordance with the requirements of the Food Law Code of Practice in accordance with the relevant sampling regulations and submitted to an accredited laboratory on the official list.
Framework Agreement	<p>The Framework Agreement consists of:</p> <ul style="list-style-type: none"> • Service Planning Guidance • Food and Feed Law Enforcement Standard • 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 annual returns to the Food Standards Agency on their food law 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 Equivalents (FTE)	A figure which represents that part of an individual officer's time available to a particular role or set of duties. It reflects the fact that individuals may work part-time, or may have other responsibilities within the organisation not related to food enforcement.
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.
Home Authority	An authority where the relevant decision making base of an enterprise is located and which has taken on the responsibility of advising that business on food safety/food standards issues. Acts as the central contact point for other enforcing authorities' enquiries with regard to that company's food related policies and procedures.
Informal samples	Samples that have not been taken in accordance with the appropriate sampling regulation (e.g. samples for screening purposes) and/or not sent to an accredited laboratory.
Member forum	A local authority forum at which Council Members discuss

	and make decisions on food and feed 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.
POAO	Products of animal origin. Animal derived products that fall under the requirements of the veterinary control regime.
Primary Authority	An authority that has formed a partnership with a business.
Port Health Authority	An authority specifically constituted for port health functions including imported food control.
Public Analyst	An officer, holding the prescribed qualifications, who is formally appointed by the local authority to carry out chemical analysis of food samples.
RASFF	Rapid alert system for food and feed. The European Union system for alerting port enforcement authorities of food and feed hazards.
Regulators' Compliance Code	Statutory Code to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on businesses.
Risk rating	A system that rates food premises according to risk and determines how frequently those premises should be inspected. For example, high risk premises should be inspected at least every 6 months.
Service Plan	A document produced by a local authority setting out their plans on providing and delivering a food or feed service to the local community.
Third Country	Countries outside the European Union.
Trading Standards	The Department within a local authority which carries out, amongst other responsibilities, the enforcement of food standards and feed legislation.
Trading Standards Officer (TSO)	Officer employed by the local authority who, amongst other responsibilities, may enforce food standards and feed 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 feed enforcement.