

**Report on the Audit of Local Authority Feed Law
Enforcement Controls of Imported Feed
Not of Animal Origin**

Sefton Metropolitan Borough Council
2-3 March 2011



Foreword

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

www.food.gov.uk/enforcement/auditandmonitoring

This Great Britain (GB) wide programme of focused audits has been specifically developed to address two of the priorities identified in the Food Standard Agency's Strategy for 2010-2015 in meeting the outcomes that feed meets the legislative requirements for animal consumption and is safe to enter the human food chain and that regulation is effective, risk-based and proportionate. The strategic priority is to ensure risk-based, targeted checks at ports and effective local authority monitoring of imports throughout the feed chain. The audits will also be an opportunity for the Agency to establish the level of controls being implemented by Local Authorities (LAs) and Port Health Authorities (PHAs) following the FVO Mission to the United Kingdom on animal feed controls which took place from 16-26 June 2009. The report entitled 'The Implementation of Measures Concerning Official Controls on Feed Legislation' is available from the Europa website at:

http://ec.europa.eu/food/fvo/rep_details_en.cfm?rep_id=2335

The audits examined Port Health Authority (PHA) and Local Authority (LA) systems and procedures for the control of imported feed and where relevant inland imported feed, at ports of entry (sea and air) and at inland authorities, in 10 geographically representative PHAs and LAs in GB. The audits were confined to feed not of animal origin (FNAO). As part of the programme, meetings have been organised with four additional authorities to further establish whether appropriate imported feed checks and liaison between ports and inland LAs 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 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 law enforcement service. The scheme also provides the

opportunity to identify and disseminate good practice and provide information to inform Agency policy on 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 of Sefton Metropolitan Borough Council with regard to feed 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 controls of imported feed of non-animal origin at the Port of Liverpool at all points of entry within its boundary and also at inland premises. The audit was undertaken as part of the Agency's focused GB audit programme of imported feed controls. This 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 Sefton Metropolitan Borough Council 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 Sefton Metropolitan Borough Council (SMBC) was included in the Food Standards Agency's programme of audits of local authority feed law enforcement services, because the points of entry within the Port of Liverpool that were within the Authority's area received imported feed. In addition, the Authority was selected to be representative of a geographical mix of 10 PHAs and LAs across Great Britain.

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 SMBC's arrangements for imported feed controls in respect of imported feed not of animal origin (FNAO). Products of animal origin (POAO) are subject to veterinary control checks and separate auditing regimes.
- 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 feed control activities, including inspection, sampling and enforcement. Maintenance and management of appropriate records in relation to imports activity at the port and internal service monitoring arrangements were also covered.
- 1.6 The on-site element of the audit took place at Sefton Trading Standards Office at Trinity Road, Bootle on 2-3 March 2011. The audit included a reality check to assess the effectiveness of official controls implemented by the Authority at the port and, more specifically, the checks carried out by the Authority's officers to verify compliance with imported feed law requirements.
- 1.7 The audit also afforded the opportunity for discussion with officers involved in imported feed 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 feed 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 feed control programme
 - sampling, surveillance and enforcement approaches.
- 1.8 The information gained during interviews will be incorporated into a summary report on the imported feed inspection and control activities audit programme.

Background

- 1.9 The Metropolitan Borough of Sefton is located immediately to the north of the City of Liverpool in the North West of England and covers an area of approximately 153 square kilometres. This coastal Borough extends from Bootle in the south, to Southport in the north and has a population of around 300,000 residents. Sefton has a rich and diverse community both in terms of its socio-economic structure and its geography. Its boundaries include the Port of Liverpool, the Victorian holiday resort of Southport, residential towns and villages, and varied agricultural landscapes. Some areas of the Borough have been classed as suffering from deprivation.

- 1.10 The Port of Liverpool is one of the United Kingdom and Northern Europe's major container ports and handles nearly 700,000, 20 foot container units a year. The Port has an established traditional container trade with North America while expanding its global routes and now serves more than 100 non-European Union (EU) destinations from China to India, Africa, Australia, the Middle East and South America. Liverpool is the United Kingdom's leading gateway for imports of grain and animal feed, for the export of recycled metal and the movement of freight between Britain and Ireland. The Authority's area contained the Royal Seaforth Container Terminal as well as several dock areas on the east side of the port.
- 1.11 Imported feed commodities received at the Port included soya, sunflower meal pellets, citrus pulp pellets, palm kernel extracts and maize gluten as well as soya oil and palm oil. The countries of origin varied but included China, Brazil, Argentina, USA, Ukraine, Canada, Malaysia and Indonesia, Russia and consignments from countries within the EU.
- 1.12 The Port of Liverpool including areas under the Authority's jurisdiction did not have the status of a designated point of entry (DPE) for certain high risk feed products.
- 1.13 Imported feed law enforcement was carried out by officers of the Trading Standards Service of SMBC, which was part of the Environmental and Technical Services Department. Although there was an emergency out of hours contact number for the Authority, there was no formal out of hours service provided. Ad hoc emergency out of hours cover was provided by the Trading Standards and Licensing Manager.

2. Executive Summary

- 2.1 It was evident from audit data that a significant amount of animal feed materials from outside the European Union was imported into the United Kingdom through points of entry for which Sefton Metropolitan Borough Council had enforcement responsibility. With the exception of checks on soya products from China undertaken in accordance with legislative requirements, there were no other planned, proportionate and risk based arrangements in place to deliver official controls on other imported feed.
- 2.2 The Authority had developed a Trading Standards Service Plan 2010/2011 and a more specific Animal Feed Plan 2010/2011. These contained service delivery information in line with the Service Planning Guidance in the Framework Agreement and references to imported feed. However, the benefits of further developing the Service Plan to include a comparison of the resources required to deliver the imported feed law enforcement service against resources available to the Authority, were discussed.
- 2.3 There was no system in place for the control of the feed service's documented procedures which required both full implementation and review. Adequate control measures were also required to ensure that documents could only be amended by designated officers.
- 2.4 The Authority's documented procedure for the authorisation of officers required review and implementation to ensure that all officers carrying out feed law enforcement were appropriately authorised, based on their qualifications, training, experience and competency. Existing authorisations needed to be reviewed and considered by the Authority's legal department to ensure that officers were duly authorised for the duties they were expected to undertake. It was evident from record checks that officers nominated to carry out feed enforcement did not receive an appropriate level of training in accordance with official guidance and the Feed Law Enforcement Code of Practice.
- 2.5 The Authority had an electronic database for the recording of feed law enforcement activities, which was capable of providing information necessary for official returns. Although the Authority had submitted an annual return to the Agency on its feed law enforcement activities, it had not provided any prescribed quarterly returns in relation to their official controls on soya products from China. A procedure for updating, and maintaining the accuracy of the database needed to be developed to ensure that the feed premises register was accurate and kept up to date.
- 2.6 In conjunction with the Mersey Port Health Authority (PHA), Wirral Borough Council and the City of Liverpool, the Authority had agreed an imported animal feed monitoring procedure, which detailed the

arrangements for the identification of vessels, feed consignments and the geographical areas of responsibility for imported animal feed enforcement. There were liaison arrangements in place with the PHA to carry out some monitoring of feed consignments entering the port. However, it was clear that this system was not identifying all consignments that could potentially be used for animal feed. Audit checks confirmed that the liaison arrangements had largely lapsed in the latter part of 2010 and the Authority acknowledged that minimal official control activity was being undertaken based on information received from the PHA.

- 2.7 Audit checks confirmed that records of interventions at establishments handling imported feed, contrary to the Service's documented procedure, did not include sufficient detail of any inspection findings, assessments or sufficient information about the nature, size and scale of relevant establishments.
- 2.8 The Service had not developed an effective imported feed sampling policy or programme to ensure that appropriate official controls were carried out on feed imported from outside of the EU. Although some sampling had been undertaken in relation to soya products from China, there had been no sampling at feed business operators that used or stored imported animal feed.
- 2.9 The Authority had a generic Environmental Protection Department Enforcement Policy. Feed detention and seizure procedures had been developed, although these needed to be reviewed to include key powers of detention relating to imported feed at the port.
- 2.10 The Service had an appropriate documented procedure for the handling of feed safety incidents and Rapid Alert System for Food and Feed (RASFF) notifications, which needed review to reflect current arrangements. There was an emergency out of hours contact number for the Authority, and audit checks confirmed that the Authority had taken appropriate and effective action in response to a recent imported feed incident, even though no formal out of hours service arrangements were in place. The benefits of using intelligence gained from such incidents to inform subsequent checks at the port were discussed.
- 2.11 Since April 2009 there appear to have been no effective local liaison arrangements in place to discuss imported feed enforcement and official controls, although it was clear that previously liaison meetings between the relevant authorities had regularly taken place. The benefits for the Authority in attending liaison meetings organised by the Port Operator at the port for all stakeholders were also discussed.
- 2.12 Although the Authority had a documented Animal Feeding Stuffs Monitoring procedure, it did not appear to have been implemented and auditors noted no evidence of any internal monitoring related to imported feed activities.

3. Audit Findings

3.1 Organisation and Management

Strategic Framework, Policy and Service Planning

- 3.1.1 The Authority had developed an overarching Environmental and Technical Services Department Service Plan 2010/2011, formally approved by Members, which confirmed that the purpose of this department was *'Ensuring a safe, healthy and sustainable living environment.'* One of the service objectives set out in the Plan, based on the Council's Vision and relevant to the scope of the audit, was to *'Protect the Environment, Consumers, Public and Animal Health.'*
- 3.1.2 The Trading Standards Service Plan 2010/2011 stated that the aim of the Service was to *'Ensure that goods and services produced, manufactured, sold and consumed within the Borough are safe and equitable.'* The Plan confirmed that one of the Key Service Issues for the next one to three years related to animal feed composition and hygiene. The action plan for 2010/2011 also included the taking of feeding stuffs samples in accordance with the Service's more specific Trading Standards Animal Feed Plan.
- 3.1.3 The Trading Standards Animal Feed Plan 2010/2011, approved by the Portfolio Holder, set out the aims of the animal feed service:
- *'To inspect feed businesses for the purpose of:*
 - (a) Ensuring feed is compositionally and nutritionally correct*
 - (b) Ensuring feed is correctly labelled*
 - (c) Ensuring feed is not adulterated or contaminated*
 - (d) Determining compliance with Feed Hygiene Regulations with particular regard to traceability of feed and feed ingredients*
 - *To provide advice and assistance to feed businesses on compliance with legal requirements*
 - *The sampling of feed and feed ingredients for analysis*
 - *To investigate complaints and take appropriate enforcement action where necessary*
 - *To offer preventative guidance and assistance to feed businesses whose head offices are based within Sefton*
 - *To work closely with Mersey PHA to monitor imported feed*
 - *To be an active member to contribute to the Trading Standards North West Agriculture sub-group.'*
- 3.1.4 The Animal Feed Plan, underpinned by the wider strategic Service Plans, generally contained service delivery information in line with the Service Planning Guidance in the Framework Agreement and contained appropriate references to imported feed, including sampling, incident response and partnership working as well as other feed enforcement priorities.

- 3.1.5 The Trading Standards Service Plan detailed the staffing resources available to the Service, and the Animal Feed Plan confirmed that two officers were authorised to enforce animal feed legislation. However, neither Plan confirmed whether the staffing allocation was sufficient to meet the demands of the Service. A staffing resources baseline assessment document, produced by the Trading Standards Service to inform Council budget review discussions and provided during the audit, indicated that the Trading Standards Service would be under-resourced by 1.6 Full Time Equivalent officers from 1 April 2011. Future Service Plans would therefore benefit from the inclusion of a comparison of resources required to deliver the imported and inland feed law enforcement service against resources available to the Authority, based upon the full range of demands placed upon it.

Recommendation

- 3.1.6 The Authority should:

Further develop the service planning arrangements, in accordance with the Service Planning Guidance in the Framework Agreement, to include a comparison of the resources required to deliver the imported feed (and inland feed) law enforcement service against the resources available to the Authority. [The Standard – 3.1]

- 3.1.7 Quarterly monitoring of the departmental Service Plan was undertaken, with a status assessment provided against each activity undertaken. In addition, the Trading Standards Service produced an annual performance report on service delivery, confirming the achievements relating to each activity itemised in the Trading Standards Service Plan. No specific mention of imported feed enforcement was made in the reviews, although the latter did include feeding stuffs samples taken in accordance with the programme in the Animal Feed Plan.

Documented Policies and Procedures

- 3.1.8 The Authority had developed a range of documented procedures relevant to imported and inland feed law enforcement which were electronically available to officers. The system for the control of documented procedures required review however, to ensure adequate control measures were in place, such as 'read only' access, to ensure that they could only be amended by officers authorised to carry out document review.
- 3.1.9 The documented feed law enforcement procedures did not accurately reflect the Service's current operational practices and therefore required further development and review. A robust review system

would also ensure that the procedures contained up to date legislative references in accordance with centrally issued guidance.

- 3.1.10 Access to relevant sources of information, including legislation and the database, was available to officers.

Recommendations

3.1.11 The Authority should:

- (i) Ensure that all documented policies and procedures relating to its enforcement activities, including those relevant to imported feed control activities, reflect the Authority's operational practices and are reviewed at regular intervals and whenever there are changes to legislation and centrally issued guidance.
[The Standard – 4.1]
- (ii) Set up, maintain and implement a control system for all documentation relating to its enforcement activities to ensure that documents are adequately controlled.
[The Standard– 4.2]

Authorised Officers

- 3.1.12 The Authority had developed a documented Animal Feed Enforcement Authorisation of Officers procedure, which described the process of delegation to allow the authorisation of named officers in the Trading Standards Section to undertake appropriate duties on behalf of the Council in respect of animal feed. The procedure confirmed that the power to authorise officers was delegated to the Environmental Protection Director. However, in 2010 the Environmental Protection Department was merged with Technical Services to form a new Environmental and Technical Services Department and these changes had neither been reflected in the procedure nor in officer authorisation documents.

- 3.1.13 It was the responsibility of the Principal Trading Standards Officer to ensure that individual officers' duties were consistent with their qualifications, experience and competence before making appropriate recommendations to the Trading Standards Manager for the granting of their authorisation, signed by the Director. Auditors were advised that officer qualifications and training were considered as part of the authorisation process, but the procedure did not set out the means by which existing authorisations and officer competence could be regularly reviewed based on their level of responsibility and duties. Audit checks indicated that the authorisation procedure had not been fully implemented. The existing generic officer authorisations needed to be considered by the Authority's Legal Department to ensure that

officers were appropriately authorised for the duties they were expected to carry out, such as specific authorisation under Official Feed and Food Control (England) Regulations 2009 (as amended) and feed legislation including Feed (Hygiene and Enforcement) (England) Regulations 2005 and other animal feed Regulations.

- 3.1.14 Officer training needs were identified and discussed at routine annual performance review meetings. Auditors were advised, however, that all training availability, unless deemed critical by senior management, had been suspended. It was evident from audit record checks that officers nominated to carry out feed law enforcement did not receive the minimum ongoing 10 hours of feed related training per year based on Continuing Professional Development (CPD) in accordance with the Feed Law Enforcement Code of Practice and that up to date qualification, training and experience records for each officer were not generally maintained.

Recommendations

3.1.15 The Authority should:

- (i) Review and fully implement the documented procedure for the authorisation of officers and ensure that the level of authorisation is linked to the level of qualifications and competence required by the Feed Law Enforcement Code of Practice and centrally issued guidance. [The Standard – 5.1]
- (ii) Review and update the authorisation documents to ensure that they include references to all relevant and up to date legislation. [The Standard – 5.1]
- (iii) Ensure that all officers involved in imported feed enforcement complete the necessary 10 hours CPD training in accordance with the Feed Law Enforcement Code of Practice. [The Standard – 5.4]
- (iv) Maintain records in retrievable form of relevant academic qualifications, training and experience of each authorised officer, in accordance with the Feed Law Enforcement Code of Practice. [The Standard – 5.5]

Facilities and Equipment Including Verification Visit

- 3.1.16 A verification visit was carried out at the Port's imported feed inspection facilities. The purpose of the visit was to verify that appropriate risk based, proportionate checks are carried out on consignments of imported feed at the Port. The Port Operator representative was cooperative and indicated that the company was willing to assist the Authority with their delivery of official controls in relation to imported feed. Auditors were generally satisfied that the facilities within and surrounding the Border Inspection Post appeared to be suitable for the examination and sampling of containerised animal feed. Feed sampling equipment had generally been provided by the Authority. During the visit the Port Operator representative confirmed that stakeholder liaison meetings had taken place, involving the Port Health Authority (PHA) and customs officials. The benefits for the Authority in attending such future meetings were discussed with the officer accompanying the auditors.
- 3.1.17 Auditors also visited the offices of the PHA to look at the ships data and manifests that the PHA received through the port's electronic cargo data management system.
- 3.1.18 The Authority had an electronic database for recording feed law enforcement activities which was capable of providing information necessary for official returns. Annual feed returns had been provided to the Agency for 2009/2010. However, the Authority had not provided any prescribed quarterly returns in relation to their official controls on soya products from China.

Recommendation

3.1.19 The Authority should:

Ensure that timely returns on analytical results relating to high risk imported feed are provided in official monitoring returns to the Agency. [The Standard – 6.3]

- 3.1.20 The Authority had not developed a documented procedure to ensure that its feed premises database was accurate and were in the process of carrying out a data cleansing exercise and updating the feed premises register.

Recommendations

3.1.21 The Authority should:

- (i) Complete the exercise to update the feed establishment database. [The Standard – 11.1]
- (ii) Develop and implement a procedure to ensure that the database is accurate, reliable and up to date. [The Standard – 11.2]

Liaison with Other Organisations

- 3.1.22 The Authority had liaison arrangements on animal feed matters with central government and local enforcement bodies across the region, through their attendance at quarterly meetings of the Trading Standards North West Agriculture Sub Group. An officer had attended some meetings of the National Animal Feed Port Panel (NAFPP) where imported feed control was discussed with representatives from other local and port health authorities, the Agency and other enforcement bodies.
- 3.1.23 The Authority had participated in Trading Standards Port Health Animal Feed Liaison meetings attended by the four authorities responsible for imported feed law enforcement activities at the Port of Liverpool. However, auditors were advised that the meetings lapsed in April 2009 and since that time there had been no effective local arrangements in place to discuss imported feed enforcement and associated official controls.
- 3.1.24 Arrangements were in place with the PHA for the latter to carry out some monitoring of feed consignments entering the port and to inform the Authority accordingly. Audit checks confirmed that the system had not identified all consignments that could potentially be used for animal feed and that the liaison arrangements had largely lapsed since the latter part of 2010.

Recommendation

3.1.25 The Authority should:

Reinstate and further develop liaison arrangements with other port authorities, local authorities, the port operator and importers with the aim of ensuring that all imported feed consignments are identified and origin and status confirmed, to improve accuracy and quality of data and to help facilitate efficient, effective and consistent enforcement. [The Standard – 18.1]

3.2 Imported Feed Control Activities

Feed Inspection and Sampling

- 3.2.1 Information provided by the Authority prior to the audit indicated that third country feed not of animal origin (FNAO) consignments imported through the port included: containerised organic soya bean from China, soya bean pellets, husks, meal and hulls, sunflower meal pellets, citrus pulp pellets, palm kernel, and maize gluten. The countries of origin varied but, in addition to China, included Brazil, Argentina, USA, Ukraine, Canada, Malaysia and Indonesia. In addition, 70,000 to 80,000 tonnes per annum of soya oil from Russia, USA and Europe and palm oil from Indonesia and Malaysia were received. Consignments of feed also arrived from the EU.
- 3.2.2 As the areas of the Port of Liverpool under the Authority's jurisdiction did not have the status of a designated point of entry (DPE), high risk products from certain third countries specified in Regulation (EC) No. 669/2009 were not permitted to be imported through the port. Audit checks confirmed that a high risk consignment of groundnuts from India, which had wrongly entered the Port, had been appropriately redirected to another port of entry with DPE status.
- 3.2.3 Regular consignments of soya products from China, which were subject to enhanced safeguard measures under Regulation (EC) No. 1135/2009, were received through the Port. Audit checks confirmed that the Authority was undertaking an appropriate level of checks, in accordance with the requirements of the legislation.
- 3.2.4 In conjunction with the PHA, Wirral Borough Council and the City of Liverpool, the Authority had agreed an imported animal feed monitoring procedure, which outlined the measures to be taken with regard to the monitoring of animal feed imported through the Port of Liverpool. The procedure detailed the arrangements for the identification of vessels, feed consignments and those products suspected to be animal feed and outlined the process by which an enforcing authority could place manual hold on containers to prevent them being removed from the docks. It also specified the geographical areas of responsibility for animal feed enforcement at the Port and the contact details of relevant officers.
- 3.2.5 Audit checks confirmed that some arrangements between the Authority and the PHA were in place for the monitoring of imported feed. Ship berthing arrangements data was received by the Authority from the port via the PHA. This data provided details and dates of ships coming into port, with their country of origin and number of containers, though no cargo breakdown. The PHA daily monitored the ships manifests through the port's electronic cargo data management system and notified the Authority of any potential feed consignments. The auditors were advised that a total of 85 referrals had been

received by the Authority from the PHA between 1 April 2009 and 15 March 2011. Audit discussions and record checks confirmed that the liaison arrangements between the PHA and the Authority had recently decreased and that the system was not consistently identifying all potential feed consignments.

- 3.2.6 Although it was clear that the Authority had taken appropriate action in relation to redirecting a groundnut consignment and in response to an incident relating to a copper carbonate consignment, minimal official control activity was being undertaken in response to information received from the PHA. Apart from the checks on soya from China there were no planned, proportionate risk based arrangements in place to deliver official controls on other imported feed entering the port in accordance with legislative requirements and centrally issued guidance.
- 3.2.7 The Authority had not developed an appropriate imported feed sampling policy and programme to ensure that effective official controls were carried out on third country imported feed at the port and inland. An animal feed sampling procedure had been developed which provided detailed operational guidance to officers on the formal sampling of animal feed.
- 3.2.8 Audit record checks and discussions confirmed that the only recent imported feed sampling activity undertaken related to soya products from China in accordance with Regulation (EC) No. 1135/2009. There had also been no sampling at feed business operators in the Authority's area that used or stored imported animal feed.
- 3.2.9 Audit record checks on recently taken soya samples confirmed that these had been taken by an appropriately authorised officer. All results received were satisfactory and appropriate records were maintained in relation to the sampling undertaken.
- 3.2.10 The Trading Standards North West Group had successfully bid for and secured funding from the Agency for imported feed sampling funding for 2008/2009, 2009/2010 and 2010/2011. However, the Authority had not participated in this sampling programme since 2008/2009. Auditors were advised that in 2009/2010 the Sefton MBC element of the joint bid for sampling pet food was not supported by the Agency.
- 3.2.11 The official laboratories used by the Authority for feed sampling activities were properly accredited.
- 3.2.12 The Authority levied a charge for sampling where there was provision to do so in the legislation. Charges were calculated per officer per hour for both sampling and associated administration.

Recommendations

3.2.13 The Authority should:

(i) Ensure that systematic, risk based, proportionate monitoring of imported animal feeding stuffs is carried out to ensure that all relevant imported feeding stuffs consignments are identified and appropriate and proportionate official control activity is undertaken.
[The Standard –12.1]

(ii) Set up and implement a sampling policy and programme for imported feed sampling and carry out risk based imported feed sampling in accordance with the policy and programme.
[The Standard – 12.4 and 12.6]

Feed Establishments Interventions and Inspections

3.2.14 The Authority had identified manufacturing and storage premises at the port which were in receipt of imported feed and there was evidence that inspections of these importers had been completed, however records of these interventions were incomplete. There was insufficient detail recorded to confirm the scope of the interventions or the nature of the inspection findings, any assessments, including Hazard Analysis and Critical Control Point (HACCP) assessment, by the officer or sufficient information about the nature, size and scale of relevant establishments.

3.2.15 The risk rating scheme in the Feed Law Enforcement Code of Practice was used to determine the intervention rating of feed establishments and audit record checks on four premises indicated that, in general, these establishments had been inspected at the correct frequency over the last three inspections. However, there was not enough information recorded during interventions to determine whether the businesses were correctly risk assessed.

3.2.16 The Authority had a feed inspection procedure intended to be used by all officers involved in the inspection of feed premises. This stated that *'an officer carrying out a primary inspection should thoroughly and systematically gather and record information from the observation of practices, procedures and processes, including procedures based on HACCP principles, and discussion with feed business operators and managers.'* The feed premises inspection report form was used by officers to record minimal inspection details, with limited information also recorded on the feed premises database. The use of a pro forma

or designated form for the inspection process would ensure that consistent and sufficient information is obtained and recorded.

- 3.2.17 Audit database checks on three further feed businesses that may store or use imported feed for manufacture confirmed that the businesses had been included in the inspection programme. However, one of the establishments that had been registered since 2009, had not been risk rated and the other two had only received desktop risk ratings on the basis of documentation provided by the businesses, with no primary inspections having been carried out.

Recommendation

3.2.18 The Authority should:

Ensure that interventions/inspections of feed establishments include all the elements appropriate to the type of business being inspected and that appropriate associated records are made and maintained of checks undertaken in accordance with the Feed Law Enforcement Code of Practice.

[The Standard – 7.2 and 7.3]

Enforcement

- 3.2.19 The Authority had a generic Environmental Protection Department Enforcement Policy, which had been approved by the appropriate Member Forum. This policy took into account the Regulator's Compliance Code, but required review following the restructuring and the creation of the new Environmental and Technical Services Department.
- 3.2.20 The Service had developed feed detention and seizure procedures which included operational guidance on imported feed consignments to ensure that feed from third countries which does not comply with feed law does not enter into circulation in the EU. However, the procedures did not detail the key powers of detention under Regulation 32 of the Official Feed and Food Control Regulations 2009, for detaining consignments at the port. Audit checks confirmed that these powers had been used effectively in 2010 in order to redirect a consignment of groundnuts from India, which had wrongly entered the Port of Liverpool. The Authority had accessed the relevant notice template after liaison with the Agency.
- 3.2.21 The existing formal enforcement procedures required review and expansion and further procedures needed to be developed by the

Service to cover the full range of enforcement options available for imported feed law enforcement activity.

- 3.2.22 Auditors were advised that no other formal enforcement actions had been taken in the past two years in relation to imported feed controls.

Recommendation

- 3.2.23 The Authority should:

Review the documented feed detention and seizure procedures to include operational guidance for officially detaining consignments of imported feed at the port. Additionally develop formal enforcement procedures for the full range of enforcement actions and follow up action available to control imported feed in accordance with the relevant legislation, the relevant Code of Practice and centrally issued guidance. [The Standard – 15.2]

Feed Complaints, Primary Authority Scheme and Home Authority Principle

- 3.2.24 The Animal Feed Plan 2010/2011 confirmed that the Service would investigate any complaints reported by the public or businesses. In addition, any infringements or suspected infringements would be investigated and appropriate action taken.
- 3.2.25 The Authority had no official procedure for dealing with imported feed complaints and referrals. However, there was a Trading Standards Duty Officer System in place to ensure that the Authority's database was interrogated daily for any complaints allocated to the Service. The rota system ensured that complaints were considered for appropriate action and investigation.
- 3.2.26 The Authority confirmed support for the Home Authority Principle and the Primary Authority Scheme. The Service did not formally act as Home or Primary Authority for any imported feed businesses.
- 3.2.27 Audit checks confirmed that officers actioned complaints and referrals regarding imported feed and contacted home authorities, where appropriate, regarding feed importers who were based outside Sefton MBC.

Feed Safety Incidents

- 3.2.28 The Authority had developed documented procedures for the handling of feed safety incidents and Rapid Alert System for Food and Feed (RASFF) notifications. Officers were aware of the requirements and had systems in place that were capable of receiving notifications. However, the procedure had not been recently reviewed and did not reflect the current position regarding the absence of formal out of hours response arrangements.
- 3.2.29 Audit checks confirmed that the Authority had taken appropriate and effective action in response to a recent incident that a consignment of feed was removed from sale/distribution. However, the benefits of using the intelligence gained from such incidents to inform subsequent monitoring and checks on similar consignments at the port were discussed.

Advice to Business

- 3.2.30 The auditors were advised that there was no demand for the provision of advice to either the port operator or local importers as they were all well established experienced businesses with internal expertise. There was no documented evidence that any such advice had been requested or delivered recently on imported feed issues.

3.3 Internal Monitoring and Third Party or Peer Review

Internal Monitoring

- 3.3.1 The Authority had a documented animal feeding stuffs monitoring procedure which had not been implemented. Whilst the Authority carried out monitoring of departmental Service Plan delivery against performance indicators, there was no evidence of any routine monitoring of imported feed activities. Auditors were advised that officers' casework was generally discussed during performance reviews and 1 to 1 meetings, but records of this were not maintained.

Recommendation

- 3.3.2 The Authority should:

Review and further develop and implement the documented internal monitoring procedure to include imported feed law enforcement activities at the Port and inland. Implement the procedure to verify the Service's conformance with relevant legislation, official guidance and the Standard. Records of monitoring checks should be maintained.

[The Standard - 19.1, 19.2 and 19.3]

Records

- 3.3.3 Records of imported feed activity including port visits and feed consignment information were maintained on a combination of electronic records and hard copy paper records. Audit checks on inspections and sampling confirmed that there were limited records of official controls in relation to imported feed. The lack of detailed records of checks meant that auditors could not confirm the level of imported feed monitoring, inspection and sampling undertaken by the Authority at the Port and inland.

Recommendation

- 3.3.4 The Authority should:

Maintain up to date, accurate and comprehensive records in retrievable form for all imported feed activities.

[The Standard – 16.1]

Third Party or Peer Review

- 3.3.5 The Authority had not participated in any inter-authority audit, third party or peer review process relating to the imported feed service in the last two years.

Auditors: **Christina Walder**
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Food Standards Agency

Local Authority Audit and Liaison Division

ANNEXE A

Action Plan for Sefton Metropolitan Borough Council

Audit date: 2-3 March 2011

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.6 Further develop the service planning arrangements, in accordance with the Service Planning Guidance in the Framework Agreement, to include a comparison of the resources required to deliver the imported feed (and inland feed) law enforcement service against the resources available to the Authority. [The Standard – 3.1]	31/03/12	Compare resources required to deliver the imported and inland feed service against resources available to the Authority, based upon the full range of demands placed upon it. Integrate the assessment into future Service Plans.	
3.1.11(i) Ensure that all documented policies and procedures relating to its enforcement activities, including those relevant to imported feed control activities, reflect the Authority's operational practices and are reviewed at regular intervals and whenever there are changes to legislation and centrally issued guidance. [The Standard – 4.1]	30/06/11 30/09/11	Develop a robust review system for procedural review. Carry out a review of documented policies and procedures against operational practices, legislation and centrally issued guidance.	
3.1.11(ii) Set up, maintain and implement a control system for all documentation relating to its enforcement activities to ensure that documents are adequately controlled. [The Standard– 4.2]	30/09/11	Introduce adequate control measures for document procedures (read only facility).	Dedicated Electronic Folder Created – 'FSA Feed Procedures.'

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.1.15(i) Review and fully implement the documented procedure for the authorisation of officers and ensure that the level of authorisation is linked to the level of qualifications and competence required by the Feed Law Enforcement Code of Practice and centrally issued guidance. [The Standard – 5.1]</p>	<p>31/05/11 31/05/11 31/05/11</p>	<p>Review and update the documented Animal Feed Enforcement Authorisation of Officers Procedure to include the means for assessing officer competency linked to their responsibilities and duties. Identify all officers that may be involved in the delivery of feed law enforcement, including imported feed. Ensure levels of authorisation granted are linked to officer competency.</p>	<p>Officers identified.</p>
<p>3.1.15(ii) Review and update the authorisation documents to ensure that they include references to all relevant and up to date legislation. [The Standard – 5.1]</p>	<p>31/05/11</p>	<p>Review and update authorisation protocols to ensure that officers are appropriately authorised for the duties they are expected to carry out.</p>	
<p>3.1.15(iii) Ensure that all officers involved in imported feed enforcement complete the necessary 10 hours CPD training in accordance with the Feed Law Enforcement Code of Practice. [The Standard – 5.4]</p>	<p>31/10/11</p>	<p>Identify sources of appropriate training and make arrangements for officer attendance to ensure that relevant officers receive the minimum ongoing 10 hours of feed related training per year based on Continuing Professional Development, in accordance with the Feed Law Enforcement Code of Practice.</p>	<p>Awaiting FSA Training Programme 2011/2012.</p>
<p>3.1.15(iv) Maintain records in retrievable form of relevant academic qualifications, training and experience of each authorised officer, in accordance with the Feed Law Enforcement Code of Practice. [The Standard – 5.5]</p>	<p>Completed</p>	<p>Maintain officer learning logs in dedicated file to contain up to date qualification, training and experience records.</p>	<p>Dedicated Electronic Folder Created – ‘FSA Feed Officer Learning Logs.’</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.19 Ensure that timely returns on analytical results relating to high risk imported feed are provided in official monitoring returns to the Agency. [The Standard – 6.3]	31/10/11	Obtain dedicated ‘quarterly’ return forms from FSA for timely submission.	Email requests (x3) to FSA have been sent.
3.1.21(i) Complete the exercise to update the feed establishment database. [The Standard – 11.1]	Completed	Finalise database of feed establishments in area.	Up to date list of feed establishments sent to FSA on 07/04/11.
3.1.21(ii) Develop and implement a procedure to ensure that the database is accurate, reliable and up to date. [The Standard – 11.2]	31/12/11	Develop and implement a procedure to ensure that the database is accurate, reliable and up to date.	
3.1.25 Reinstate and further develop liaison arrangements with other port authorities, local authorities, the port operator and importers with the aim of ensuring that all imported feed consignments are identified and origin and status confirmed, to improve accuracy and quality of data and to help facilitate efficient, effective and consistent enforcement. [The Standard – 18.1]	Completed	Create Port of Liverpool Liaison Group in partnership with Liverpool Trading Standards, Wirral Trading Standards, Mersey Port Health Authority and the port operator.	Initial meeting with Mersey Port Health Authority was held on 31/03/11. Sefton to lead quarterly meetings. Liaison Meeting with the port operator was held on 08/03/11.
3.2.13(i) Ensure that systematic, risk based, proportionate monitoring of imported animal feeding stuffs is carried out to ensure that all relevant imported feeding stuffs consignments are identified and appropriate and proportionate official control activity is undertaken. [The Standard –12.1]	31/07/11	Carry out initial assessment and monitoring of Imported Feed (Project basis) May – June 2011 to develop risk based monitoring programme.	Sefton draft FSA audit report shared with Mersey Port Health Authority. Port Health advised of 2011/12 sampling priorities for imported feed Request for list of importers and types of feed imported through the Port of Liverpool sent to port operator.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.2.13(ii) Set up and implement a sampling policy and programme for imported feed sampling and carry out risk based imported feed sampling in accordance with the policy and programme. [The Standard – 12.4 and 12.6]	31/07/11	Set up and implement a sampling policy and programme based on the initial assessment and monitoring of imported feed -as in 3.2.13(i) above.	
3.2.18 Ensure that interventions/inspections of feed establishments include all the elements appropriate to the type of business being inspected and that appropriate associated records are made and maintained of checks undertaken in accordance with the Feed Law Enforcement Code of Practice. [The Standard – 7.2 and 7.3]	30/06/11 31/12/11	Devise and implement a pro forma inspection form for use in feed premises inspections. Ensure primary inspections have been carried out at all feed establishments	
3.2.23 Review the documented feed detention and seizure procedures to include operational guidance for officially detaining consignments of imported feed at the port. Additionally develop formal enforcement procedures for the full range of enforcement actions and follow up action available to control imported feed in accordance with the relevant legislation, the relevant Code of Practice and centrally issued guidance. [The Standard – 15.2]	30/05/11 30/09/11	Review feed detention / seizure procedures and correct to include key powers of detention under Regulation 32 – Official Feed and Food Control Regulations 2009. Develop enforcement procedures to cover the full range of enforcement options available for imported feed law enforcement activity.	
3.3.2 Review and further develop and implement the documented internal monitoring procedure to include imported feed law enforcement activities at the Port and inland. Implement the procedure to verify the Service's conformance with relevant legislation, official guidance and the Standard. Records of monitoring checks should be maintained. [The Standard - 19.1, 19.2 and 19.3]	30/04/11 Completed and ongoing monthly	Integrate Animal Feed Plans into Departmental Service Plan. Implement routine monitoring of imported feed activities Ensure routine performance monitoring is documented and records are maintained. (e.g. Officer 1:1's)	Dedicated Electronic Folder Created – 'FSA Feed Officer Performance Record'.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.3.4 Maintain up to date, accurate and comprehensive records in retrievable form for all imported feed activities. [The Standard – 16.1]	30/09/11	Standardise feed law enforcement recording mechanisms using the Authority's database software system.	

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:

- Environmental and Technical Services Service Plan 2010/2011
- Trading Standards Service Plan 2010/2011
- Animal Feed Plan 2010/2011
- Cabinet Member Reports
- Trading Standards Annual Performance Report 2009/2010
- Trading Standards Base Line Assessment
- Authorisation of Officers Operating Procedure
- Imported Animal Feed Monitoring Procedure
- Feed Inspection Procedure
- Trading Standards Duty Officer System
- Animal Feed Sampling Procedure
- Feed Alerts Procedure
- Feed Incidents and Hazards Procedure
- Environmental Protection Departmental Enforcement Policy
- Feed Detention and Seizure Procedures
- Monitoring Procedure – Animal Feeding Stuffs
- Minutes of the Trading Standards/Port Health Animal Feed Liaison Meetings
- Minutes of the National Animal Feed Ports Panel meetings
- Minutes of the Agriculture Sub Group Meetings.

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

- Authorisation, qualification and training files
- Manifest and consignment records
- Ship berthing Arrangements Records
- Liaison records
- Feed premises inspection records
- Feed inspection and sampling records.

(3) Interviews – the following officers were interviewed:

- Audit Liaison Officer – Senior TSO lead officer for imported feed
- Principal TSO
- Port of Liverpool management representative.

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 the Port of Liverpool. The purpose of the visit was to verify that appropriate risk based, proportionate checks are carried out on consignments of imported feed at the Port and to examine the facilities and equipment available.

Glossary

Agricultural Analyst	A person, holding the prescribed qualifications, who is formally appointed by a local authority to analyse feed samples.
Airways bills	Commercial documents providing a general description of cargo items.
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 designated points of entry or import.
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.
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.
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.
ERTS	Enhanced remote transit shed. An HM Customs and Excise designated warehouse where goods are held in temporary storage pending Customs clearance and release for free circulation.
Environmental Health Officer (EHO)	Officer employed by the local authority to enforce food safety legislation.
FNAO	Feed not of animal origin. Products that do not fall under the requirements of the veterinary control regime.

Feeding stuffs	Term used in legislation on feed mixes for farm animals and pet food.
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 Feed 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.
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.
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 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.
Port Health Authority (PHA)	An authority specifically constituted for port health functions including imported food control.
Primary Authority	An authority that has formed a partnership with a business.
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 feed premises according to risk and determines how frequently those premises should be inspected. For example, high risk premises should be inspected annually.
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.