

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

St Helens Council
13-14 November 2012



Foreword

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

The attached audit report examines the Authority's Food Law Enforcement Service. The assessment includes the local arrangements in place for database management, inspections of food businesses and internal monitoring. It should be acknowledged that there will be considerable diversity in the way and manner in which local authorities may provide their food enforcement services reflecting local needs and priorities.

Agency audits assess local authorities' conformance against the Food Law Enforcement Standard "The Standard", which was published by the Agency as part of the Framework Agreement on Official Feed and Food Controls by Local Authorities and is available on the Agency's website at: www.food.gov.uk/enforcement/auditandmonitoring.

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

The report contains some statistical data, for example on the number of food premises inspections carried out annually. The Agency's website contains enforcement activity data for all UK local authorities and can be found at: www.food.gov.uk/enforcement/auditandmonitoring.

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

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1.0 Introduction

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

Reason for the Audit

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

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

Scope of the Audit

- 1.5 The audit examined St Helens Council's arrangements for food premises database management, food premises interventions and internal monitoring, with regard to food hygiene law enforcement. This included a reality check at a food business to assess the effectiveness of official controls implemented by the Authority at the food business premises and, more specifically, the checks carried out by the Authority's officers, to verify food business operator (FBO) compliance with legislative requirements. The scope of the audit also included an assessment of the Authority's overall organisation and management, and the internal monitoring of food hygiene law enforcement activities.
- 1.6 Assurance was sought that key Authority food hygiene law enforcement systems and arrangements were effective in supporting business compliance, and that local enforcement was managed and delivered effectively. The on-site element of the audit took place at the Authority's offices at Wesley House, Corporation Street, St Helens on 13-14 November 2012.

Background

- 1.7 The Borough of St Helens is in Merseyside, approximately 12 miles from Liverpool and 25 miles from the centre of Manchester. The population of the Borough was estimated at 175,300 in the 2011 census. The area is well served by road and rail links. St Helens is the main urban and administrative centre, with smaller urban settlements such as Haydock, Newton-le-Willows and Billinge within the Borough.
- 1.8 Although historically an industrial area, today the only remaining large industrial employer in the town is a leading glass manufacturer. The area is now more commercial, and there has been significant investment in ongoing urban regeneration projects, including town centre improvements and the transformation of former industrial land for retail, housing, cultural and recreational purposes.
- 1.9 Food hygiene law enforcement was the responsibility of the Environmental Health Section of the Environmental Protection Department which was also responsible for the enforcement of animal welfare, health and safety and street trading legislation, and infectious disease control.
- 1.10 Food standards and feeding stuffs law enforcement was the responsibility of the Trading Standards Section of the Environmental Protection Department.

- 1.11 The Authority reported the profile of St Helens Council's food businesses as of 31 March 2012 as follows:

| Type of Food Premises | Number |
|--------------------------------------|---------------|
| Primary Producers | 2 |
| Manufacturers/Packers | 23 |
| Importers/Exporters | 0 |
| Distributors/Transporters | 18 |
| Retailers | 360 |
| Restaurant/Caterers | 952 |
| Total Number of Food Premises | 1,355 |

2.0 Executive Summary

- 2.1 The Authority had developed and implemented a comprehensive Food Law Enforcement Service Plan 2012/13, which was in line with the Service Planning Guidance in the Framework Agreement on Local Authority Enforcement. The Plan had been appropriately approved by elected Members and had also been considered by the Overview and Scrutiny Panel. A clear comparison should be made in future plans of the resources required to carry out the full range of statutory food law enforcement activities against the resources available to the Authority. The absence of such information makes it difficult to identify and quantify to senior managers and Members any resource shortfalls which may impact on the delivery of the Service Plan.
- 2.2 Comprehensive documented procedures had been developed for food law enforcement activities. These provided useful guidance for officers and had been subject to recent review.
- 2.3 The Authority had developed a procedure on the authorisation of officers. This required review to ensure it included sufficient detail on the process and criteria for assigning authorisations based on officers' individual qualifications, competency and experience.
- 2.4 Officers' authorisations required amendment to include some specific legislative references, including those relating to imported food controls, and some officers required their authorisation documents to be reviewed in order to ensure they reflected their individual qualifications and competencies. Training records indicated that officers within the Food Safety Team were in general receiving the minimum 10 hours relevant training per annum required by the Food Law Code of Practice. Officers within the Health and Safety Team also carried out food inspections in lower risk premises and were kept up to date on food related issues by attendance at in-house training sessions and briefings at team meetings from the lead officer for food. All in-house training initiatives should be routinely recorded to confirm that sufficient training has taken place to maintain officer competency.
- 2.5 The Authority was operating a database capable of providing monitoring returns to the Agency and had developed procedures aimed at ensuring consistency in inputting data. A number of anomalies arose in relation to the accuracy of the LAEMS returns, which related mainly to the type of interventions recorded and numbers of enforcement actions. Some issues emerged during the audit in relation to the risk rating of premises in accordance with annexe 5 of the Food Law Code of Practice, particularly in relation to the inconsistent application of additional scores for some premises.
- 2.6 The Authority had developed procedures on general and approved establishment inspections and on the administration of the Food Hygiene Rating Scheme (FHRS). The Service Plan set out the

priorities for the inspection programme as part of a risk based approach. High risk premises would receive a food hygiene inspection and compliant C's and D's may be subject to an alternate intervention other than an official control, with category E premises subject to an alternative enforcement strategy. It was evident that the Authority had focused on achieving all high risk premises inspections due. There were some lower risk inspections overdue and a number of unrated premises that required an initial inspection. We were advised that there were a higher number of overdue premises due to the unanticipated absence of an officer.

- 2.7 It was noted that the Authority had adopted some innovative approaches to encouraging compliance by food business operators, including activities with butchers' shops and schools following the publication of the Pennington Enquiry Report, and work on implementation of the E.coli O157 guidance issued by the Agency. The Service had also commenced work on promoting compliance in premises featuring hot food buffets and on encouraging premises with low ratings under the FHRS to attend workshops and take up one-to-one coaching.
- 2.8 There were some inconsistencies noted on file checks in the level of detail recorded by officers on their inspection findings. The Service had recently introduced comprehensive inspection forms for general inspections and for butchers' shop premises which if consistently fully completed would provide a comprehensive record of the officers' assessments of food business operator (FBO) compliance with hygiene legislation and of the implementation of the business' food safety management system (FSMS).
- 2.9 File checks showed that there was some variation in approach by officers in relation to follow-up actions in premises where contraventions had been identified, and a more specific policy on revisits would help to achieve a consistent approach. It was not clear that a graduated and proportionate approach to enforcement was consistently adopted by officers where the FBO failed to satisfactorily address contraventions, although repeated visits to check on compliance were being made. Further implementation of internal monitoring checks would also assist in encouraging greater consistency between officers.
- 2.10 Records of inspection activities in approved establishments were variable and it was not always possible to establish the scope of the inspection and accuracy of the risk score as aides-memoire were not always available or the appropriate form for the type of premises had not been completed.
- 2.11 A verification visit was carried out to a bakers' shop with the officer that carried out the last inspection. It was noted that the officer was familiar with the operations at the business, had carried out a thorough and professional inspection and had appropriately assessed the businesses compliance with legal requirements.

- 2.12 The Authority had a comprehensive policy and procedure on the investigation of food and food premises complaints and service requests. Records examined on complaint investigations confirmed that thorough and timely investigations were being undertaken by officers and comprehensive records were being maintained.
- 2.13 The Service had developed a food sampling policy, procedure and programme which included national, regional and local sampling initiatives. It was clear that sampling performed an important role in confirming FBO compliance and to support inspection findings. All the records checked confirmed that effective and appropriate follow-up actions had been taken in cases of unsatisfactory sample results.
- 2.14 The Service had an enforcement policy that had been recently reviewed. Procedures had also been developed on specific food law enforcement options and these provided useful guidance to officers. Checks on file records for various enforcement activities were made. These included voluntary closures, hygiene improvement notices, a prosecution and simple caution activities. Whilst the actions were found to be appropriate for the circumstances, there were some issues in relation to drafting of notices, and a system was required for recording that the requirements of the enforcement policy had been properly considered as part of prosecution and simple caution proceedings.
- 2.15 In general, records were easily retrievable across the range of food law enforcement activities and there were comprehensive records for food complaint investigations and food sampling. The implementation of the revised inspection aides-memoire will further improve the completeness of inspection records.
- 2.16 An internal monitoring procedure had been developed, and there were references in individual procedures to relevant monitoring activities. Whilst there was evidence of established quantitative monitoring activities, the procedure would benefit from further review to set out achievable qualitative monitoring targets. These should be routinely implemented across the full range of enforcement activities, and action taken on repeated issues to ensure a consistent approach by all officers.

3.0 Audit Findings

3.1 Organisations and Management

Strategic Framework, Policy and Service Planning

- 3.1.1 A comprehensive Food Law Enforcement Service Plan had been developed for 2012/13. Member commitment to the Plan was confirmed in a foreword by the Cabinet Member for Environmental Protection. The Plan had received appropriate approval from the Cabinet and the Authority's Overview and Scrutiny Panel and had been published on the Authority's website. The Plan had been drafted in accordance with the Service Planning Guidance in the Framework Agreement, although it could be usefully expanded to include a clear comparison between the resources required to deliver the food law service set out in the Plan and the full time equivalent (FTE) resources available. The absence of such information makes it difficult to identify and quantify any resource shortfalls to senior managers and to Members.
- 3.1.2 The Plan set out the Service's aims as being "To offer services which aim to contribute to the wider protection of the environment and strive to achieve fair and safe trading for the residents and visitors to St Helens". In addition there were clear links between the work of the Service to the Council's corporate St Helens Plan for 2012-2015.
- 3.1.3 A number of objectives were also set out in the Food Service Plan, and these included:
- To prevent illness resulting from food and waterborne diseases.
 - To help business find the most effective way of complying with food safety and standards legislation and to facilitate access to appropriate training.
 - To work with other local authorities and agencies with common objectives to provide effective and joined up enforcement.
 - To work within pre-set budgets and maximise all opportunities for income generation.
 - To protect businesses from economic disadvantage caused by competitors not complying with food safety and standards legislation.
 - To ensure consumers have access to accurate, understandable information to make informed choices.
- 3.1.4 A detailed review of the 2011/12 Plan had been carried out. Significant outcomes from the review included the completion of 98% of due high risk premises inspections (i.e. those rated category A or B in accordance with annexe 5 of the Food Law Code of Practice), and

89% of lower risk premises inspections (those rated category C, D or E) were carried out. The FHRS was launched in February 2012, and a rise was noted in the percentage of food businesses deemed to be broadly compliant from 82% at the end of 2010/11 to 85% at the end of 2011/12.

- 3.1.5 It was also noted that due to a budget review, a health promotion officer post had been removed, leading to some re-adjustment of work which had impacted on resources in the team.
- 3.1.6 Delivery of the Food Service was carried out by officers in both the Food, and Health and Safety Teams. In general, activity in higher risk establishments was carried out by officers in the Food Team, and officers in the Health and Safety Team carried out a small number of inspections of lower risk establishments.
- 3.1.7 The Service Plan set out details of the resources available to deliver the Plan as a total of six full time equivalent posts (FTE), which was confirmed by information provided by the Authority prior to the audit.

Recommendation

3.1.8 The Authority should:

Ensure that future Food Service Plans include an accurate and clear comparison of resources required to carry out the full range of statutory food law enforcement activities against the resources available to the Service. [The Standard – 3.1]

Documented Policies and Procedures

- 3.1.9 The Authority had developed comprehensive documented procedures that covered the range of food law enforcement activities.
- 3.1.10 An annual review process was in place and in addition ad hoc changes were made by the Principal Officer as necessary. Officers had electronic read only access to the documents and could suggest changes for the Principal Officer to consider. Discussions on the procedures were included as an agenda item for team meetings. All procedures had been recently reviewed.

Officer Authorisations

- 3.1.11 A documented procedure had been developed which confirmed that the Chief Environmental Health Officer was delegated to sign officers' authorisation warrants following recommendation by the Principal Officer. The criteria for assigning delegations was set out, which was in line with the Food Law Code of Practice. The procedure would benefit from review to include details of the practical process for assessing the competence of officers. In practice, this was achieved through practical assessment and checks made on qualifications and training. Once satisfied, the Principal Officer recommended the officer for authorisation.
- 3.1.12 In general officers' authorisations matched their individual qualifications and experience, although two officer records checked indicated that they were authorised to serve remedial action notices when their qualifications and experience did not meet the minimum requirements set out in the Food Law Code of Practice. In addition, authorisations for officers who were not able to inspect higher risk premises needed to be reviewed to ensure it was clear that they could only serve hygiene improvement notices (HIN) in premises with a risk category C-E. The Service also needed to review which officers were authorised under the Food and Environment Protection Act 1985 and inform the Agency accordingly, as the information currently held centrally was out-dated.
- 3.1.13 The Authority had a system of annual appraisals in place where officers' performance was reviewed. This was supported by six month interim reviews. The process included a discussion on officers' training needs and any team training requirements. The outcome of these assessments contributed to an annual Divisional Training Plan.
- 3.1.14 Checks on records of training undertaken by a selection of officers confirmed that in general officers were achieving the minimum 10 hours relevant training per annum required by the Food Law Code of Practice. In order to ensure that officers in the Health and Safety Team maintained their competency, officers attended in-house training initiatives such as risk rating consistency exercises, and there was a reciprocal arrangement whereby the Principal Officer from the Food Team attended the Health and Safety Team meetings to provide a 15 minute update on food issues, and vice versa. These updates could usefully be included in the records of officer training to clearly demonstrate that officers in the Health and Safety Team were also achieving the minimum 10 hour relevant food training per annum.

Recommendation

3.1.15 The Authority should:

Review and update current officer authorisations as necessary to ensure that all officers are appropriately authorised under relevant current legislation in accordance with their individual level of qualification, experience and competency.

[The Standard – 5.1 and 5.3]

3.2 Food Premises Database

- 3.2.1 The Service operated a computer database system that was capable of providing the returns required for the Local Authority Enforcement Monitoring System (LAEMS). The returns were made by the Principal Officer with support from an IT officer.
- 3.2.2 Documented procedures had been developed and implemented with the aim of maintaining the accuracy and completeness of the database. In practice this included updating records following intervention or observations by officers, or through intelligence received such as complaints. Various checks were carried out on the data for the LAEMS return prior to submission to the Agency. Suitable security arrangements were in place to restrict access to the database and to ensure the system was routinely backed up.
- 3.2.3 Some issues with accuracy of the database were identified from reports produced for the audit. These related to:
- questionnaires completed as part of an alternative interventions approach, were mistakenly mapped on the database to count as inspections on the LAEMS return.
 - under-reporting of enforcement actions, including prosecutions and voluntary closures.
 - under-reporting of sampling visits.
- 3.2.4 Checks on premises in the area identified by Internet searches confirmed that the majority were on the database and included within the Authority's intervention programme.

Recommendation

3.2.5 The Authority should:

Ensure the database is configured and operated in such a way to provide accurate monitoring returns to the Agency. [The Standard – 6.3]

3.3 Food Premises Interventions

3.3.1 The Authority's Food Law Enforcement Service Plan 2012/13 set out the food premises profile by risk category and the interventions programme for the year.

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

| Premises Risk Category | Number of Premises |
|------------------------|--------------------|
| A | 6 |
| B | 116 |
| C | 419 |
| D | 136 |
| E | 82 |
| Unrated | 32 |
| Outside programme | 0 |
| TOTAL | 791 |

3.3.3 The Authority had taken into account the flexibilities available in the Food Law Code of Practice, so that the approach in lower risk establishments could alternate between official controls and other interventions in category D premises, and the assessment of category E premises by an alternative enforcement strategy that involved the completion of a questionnaire and visits where necessary. Broadly compliant category C rated premises may receive alternate official controls other than inspections. The Plan stated that the choice of intervention would be determined by the individual officer on a case-by-case basis, under the supervision of the Principal Officer.

3.3.4 It was evident from checks carried out during the audit that the Authority was focusing its resources on ensuring that inspections of the highest risk premises were being carried out in line with the intervention frequencies set out in the Food Law Code of Practice and there were no category A or B inspections overdue at the time of the audit. Auditors were advised that there was a higher backlog of other inspections than usual due to the unanticipated absence of an officer. Reports produced for the audit indicated there was around 120 lower risk inspections overdue and approximately 40 premises awaiting an initial inspection. The overdue and unrated premises could usefully be reviewed as it appeared that some were of a type that could be reasonably excluded from the inspection programme as their risk was so low.

3.3.5 The Service had been proactive in assessing registered childminders by sending a comprehensive self assessment questionnaire with a website link to the Agency's Safer food, better business (SFBB) food safety management system (FSMS) for childminders. Returned

questionnaires were assessed and visits were carried out as necessary.

- 3.3.6 The Authority had developed and implemented documented procedures on the inspection of general food premises and approved establishments, including guidance on the withdrawal or suspension of approvals. There was also a procedure providing guidance on the implementation of the FHRS, which had been launched in February 2012. Procedures could usefully be further expanded when next reviewed to include reference to carrying out checks on imported foods, and implementation of the E.coli O157 guidance.
- 3.3.7 The Authority had been proactive in highlighting the requirements of the E.coli O157 guidance in relevant businesses. Following publication of the guidance the implications were discussed within the team, and training was attended by some officers and cascaded to others.
- 3.3.8 Following publication of the guidance by the Agency, all relevant premises were provided with the four page summary when visited by an officer. The Service had also used innovative approaches to implementation of the guidance and the recommendations from the E.coli O157 Enquiry Report by targeting other types of food business in addition to butchers' shops in various ongoing or completed projects. These included:
- A survey of school meals catering in partnership with the Council's school meal service, which involved inspections focusing on cross-contamination, personal hygiene and cleaning, supported by surface swabbing and food sampling.
 - The Service had recognised that there was a rise in the number of "all you can eat" buffet restaurants in the area. A survey had commenced to carry out assessments of food hygiene standards in such establishments with particular reference to temperature control, cross contamination and cleaning and disinfection, supported by surface swabbing and food sampling.
- 3.3.9 The Authority had also implemented a Food Safety Coaching Workshop project targeted at businesses which did not have a satisfactory FSMS. Targeted businesses received an on-site coaching visit on SFBB. Workshops were held free of charge for businesses and these included practical discussions to improve food safety issues. This was followed-up by visits and enforcement as necessary. The work is continuing with other non-compliant businesses.

Good Practice – Interventions

The Authority had implemented tailored projects to improve compliance and food safety practices in specific food business sectors such as schools meals catering and “all you can eat” buffet style restaurants. The projects used sampling and enforcement to good effect in supporting the initiatives.

- 3.3.10 The Service had recently developed a comprehensive inspection aide-memoire for general premises and a specific form for the inspection of butchers’ premises. The general form included a useful prompt for officers to set out their justification for the three elements of the risk rating score that determined the FHRs rating. The form also included a section for the officer to clearly identify any significant findings that should be ‘red flagged’ to ensure they are followed up at the next intervention at the premises.

Good Practice – Inspection documentation

The inspection aide-memoire had been reviewed to prompt officers to record their justification for the Food Hygiene Rating Scheme (FHRs) rating given as a result of the inspection, by providing specific details on the findings that contributed to the three elements of the risk rating scores used to determine the FHRs rating.

- 3.3.11 Records of a sample of food businesses were checked during the audit. It was not always possible to retrieve completed inspection aides-memoire for the last three inspections to assess whether a graduated approach to enforcement had been adopted or that key inspection findings had been followed up by revisits or other subsequent interventions. Where a full history was available it was not always evident that a graduated approach to enforcement had been consistently adopted by officers. Although a hygiene improvement notice (HIN) had been served for failure to provide a FSMS, records indicated that there had been three subsequent visits without the notice being complied with. In another, premises records indicated there was no evidence of a revisit despite numerous contraventions, including a failure to provide an adequate FSMS. A clear revisit policy would assist in ensuring that key issues are satisfactorily followed up by officers.
- 3.3.12 Where inspection aides-memoire were available there was a variable level of detail recorded of the officers’ findings. In general there was insufficient detail on the officer’s assessment of the adequacy of the FSMS in place at the business. However, findings from one inspection

that had been recorded on the revised general aide-memoire provided a detailed summary of the officer's findings. The consistent completion of the revised inspection aides-memoire should assist in providing a comprehensive record of the inspectors' findings and their assessment of the food businesses compliance.

- 3.3.13 There was also evidence of some anomalies in the risk scoring of some premises which was not in accordance with annexe 5 of the Food Law Code of Practice. These included additional scores applicable in businesses catering for more than 20 vulnerable consumers being applied to some businesses where the number of consumers indicated there were less than 20. In other cases an additional score had been applied indicating that there was a significant risk of contamination of food by specified pathogenic micro-organisms, when the officer had also indicated that there was a good or reasonable confidence in the management and control procedures. In practice these anomalies might result in the premises falling into a higher risk category and requiring inspection at a greater frequency than necessary.
- 3.3.14 Reports of inspection and letters left following inspections included all relevant details and made a clear distinction between contraventions and recommendations of good practice.
- 3.3.15 The Authority had approved six establishments under Regulation (EC) No. 853/2004. As with the file records for general premises, the quality of inspection records was variable and the relevant form for the type of business had not always been completed to confirm that the scope of the inspection was appropriate. It was not possible to locate the approval document for one of the approved establishments. Files should be reviewed to ensure they include all the relevant details on the establishment as set out in annexe 10 of the Food Law Practice Guidance.

Recommendations

3.3.16 The Authority should:

- (i) Ensure that food hygiene interventions at food premises in their area are carried out at a frequency which is not less than that determined under the intervention rating scheme set out in the Food Law Code of Practice. [The Standard – 7.1]
- (ii) Assess the compliance of food premises to legally prescribed standards to confirm compliance with current legislation, the Food Law Code of Practice and centrally issued guidance, and take appropriate and timely action on any non-compliance found, in accordance with the Authority's enforcement policy. [The Standard – 7.2 and 7.3]
- (iii) Ensure that product-specific establishments subject to approval under Regulation (EC) No. 853/2004 are inspected and approved in accordance with relevant legislation, the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.2]
- (iv) Maintain accurate and comprehensive records for all establishments including those approved under Regulation (EC) No. 853/2004. The records should detail the determination of compliance with legal requirements and comprehensive reports of all inspections, visits and where relevant the basis for approval, in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard –16.1]

Verification Visit to a Food Premises

3.3.17 During the audit, a verification visit was undertaken to a local bakery shop with an experienced officer of the Authority, who had carried out the last food hygiene inspection of the premises. The main objective of the visit was to assess the effectiveness of the Authority's assessment of food business compliance with food law requirements. The specific assessments included the conduct of the preliminary interview of the FBO by the officer, the general hygiene checks to verify compliance with the structure and hygiene practice

requirements and checks carried out by the officer to verify compliance with HACCP based procedures.

- 3.3.18 On the visit, the officer was able to demonstrate familiarity with the premises, and the operations carried out. The officer had completed a thorough inspection and had appropriately assessed the business' compliance with legal requirements.

3.4 Enforcement

- 3.4.1 The Authority had developed an Enforcement Policy, which had been approved by the Licensing and Environmental Protection Committee in 2008 and reviewed in 2012 to take into account recommendations from an Inter-Authority Audit (IAA) exercise that took place in 2011. The revised Policy included a foreword by relevant Portfolio Holders. The Policy set out the available enforcement options and the circumstances when these should be considered. The Service had also developed a range of documented procedures on various enforcement options which provided useful guidance for officers.
- 3.4.2 Records of three HINs served by different officers were examined. The notices were all found to be appropriate in the circumstances. Some issues were noted in relation to drafting of the notices, in that more detail should have been provided on the grounds for service, and one notice required the FBO to maintain part of the FSMS, which was not in accordance with centrally issued guidance. It was also not clear from records for one notice examined that appropriate follow-up had been made following expiry of the notice. There was no evidence of service on two of the notices examined, however as a result of recommendations from the IAA exercise, a system is now in place to ensure this is routinely recorded.
- 3.4.3 Records for two voluntary closure procedures were examined. The agreement had been confirmed in writing by the FBO and the officer, and routine checks were made to confirm the premises remained closed.
- 3.4.4 Records for a prosecution and a simple caution were examined. Both were found to be appropriate although it was not possible on either to find evidence that the enforcement policy had been appropriately considered.

Recommendation

3.4.5 The Authority should:

Ensure that officers carry out formal food law enforcement actions in accordance with the Food Law Code of Practice, centrally issued guidance and the Authority's own enforcement policy. [The Standard – 15.3 and 15.4]

3.5 Internal Monitoring, Third Party or Peer Review

Internal Monitoring

- 3.5.1 The Authority had developed a procedure which set out planned internal monitoring activities, along with references in individual documented procedures to relevant monitoring.
- 3.5.2 In practice it was evident that routine quantitative monitoring was being undertaken and reported to senior managers. Whilst some qualitative monitoring activities had also taken place, it was not clear that this was in accordance with the planned frequencies set out in the procedures and that all monitoring activities had been routinely recorded. The procedures would benefit from review to ensure that the targets for monitoring are proportionate and achievable.
- 3.5.3 Audit checks confirmed some variance in the quality of records maintained by different officers on food law enforcement activities and some inconsistent approaches to enforcement. These could be identified and addressed through the implementation of routine, effective internal monitoring across all areas of food law enforcement work.

Recommendations

3.5.4 The Authority should:

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

Food and Food Premises Complaints

- 3.5.5 The Service had produced a comprehensive food complaints policy and an accompanying documented procedure providing guidance to officers on their investigation.
- 3.5.6 Checks made on records for five food and food premises complaints showed that officers had carried out thorough, timely and appropriate investigations, maintained detailed records of the investigation and ensured that all interested parties were informed of progress of the investigation. Where appropriate the Food Standards Agency had also been advised of an incident.

Good Practice – Food and Food Premises Complaints

The food complaint policy was particularly comprehensive and clearly set out the Authority's approach to the investigation of food and food premises complaints and service requests.

Food Inspection and Sampling

- 3.5.7 The Authority had produced a comprehensive food sampling policy and procedure which set out the Authority's commitment to food sampling and to participate in "...all regional sampling programmes where relevant samples exist within the borough and resources allow". The policy also set out the circumstances when food sampling or surface swabbing would be considered, in addition to local and regional sampling programmes. These were:
- Following food complaints
 - Special projects
 - Imported food
 - Food poisoning investigations
 - Concerns following interventions.
- 3.5.8 The sampling programme focused on participation in local, national and regional sampling initiatives and it was clear that officers considered use of food sampling and environmental swabbing to support the food premises interventions programme when appropriate.
- 3.5.9 Checks were made on records for five recent samples which had received unsatisfactory examination results. The samples were found to have been taken in accordance with the Authority's sampling

policy, were part of the sampling programme, and had been taken by a trained, authorised officer. Appropriate follow-up action had been taken on the results. There was evidence in two cases that the results and follow-up action had been discussed with the Principal Officer.

Records

- 3.5.10 Records of food law enforcement activities were maintained electronically on the food premises database system and on paper files. In general, records were easily retrievable during the audit, and whilst the majority were comprehensive, there was some variability in quality of records for general and approved inspections. The implementation of the revised inspection aides-memoire should help to ensure that consistent records are maintained of inspection findings in general food premises. The content of records of approved establishments required review to ensure that all relevant inspection and premises information was available.

Third Party or Peer Review

- 3.5.11 The Authority had participated in a robust IAA exercise in November 2011 which was part of a rolling programme of audits carried out by the Cheshire and Merseyside Food Safety Liaison Group. The audit programme was based on the Agency's IAA Toolkit, and authorities were audited against specific areas of the Standard in the Framework Agreement. The 2011 audit focused on:
- Food premises files
 - Inspections
 - Enforcement activity
 - Internal monitoring.
- 3.5.12 An action plan had been agreed following the latest audit and it was clear that the Authority had taken action to address the recommendations. A future IAA exercise on approved establishments was planned.
- 3.5.13 Auditors were advised that the Authority had also recently achieved the Investors in People Gold Standard for the second time. An internal audit was also due to take place which would cover the work of the Food Service.

Auditors: **Yvonne Robinson**
John Ashcroft
Andrew Gangakhedkar
Kate Thompson

Food Standards Agency
Local Authority Audit and Liaison Division

ANNEXE A Action Plan for St Helens Council

Audit date: 13-14 November 2012

| TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH) | BY (DATE) | PLANNED IMPROVEMENTS | ACTION TAKEN TO DATE |
|--|-----------|---|--|
| 3.1.8 Ensure that future Food Service Plans include an accurate and clear comparison of resources required to carry out the full range of statutory food law enforcement activities against the resources available to the Service. [The Standard – 3.1] | 30/06/13 | During drafting of plans for 2013/14 include a section, which describes a clear comparison between resources required to deliver the service and the resources available. Outline anticipated delivery. | Requirement outlined during audit feedback session Dec 12. |
| 3.1.15 Review and update current officer authorisations as necessary to ensure that all officers are appropriately authorised under relevant current legislation in accordance with their individual level of qualification, experience and competency. [The Standard – 5.1 and 5.3] | 31/01/13 | <p>All authorisations to be redrafted to include omitted legislation.</p> <p>Technical officer authorisation amended to specify service of HIN C-E's only.</p> <p>Remove service of RAN's from officer authorisations not appropriately experienced/qualified.</p> <p>Redraft authorisation procedure to include a practical process to assess the competency of officers.</p> <p>Implement a method of recording all in house training initiatives to ensure all officers meet minimum CPD annually.</p> | <p>Completed.</p> <p>Completed.</p> <p>Completed.</p> <p>Completed.</p> <p>Completed. Already in place from IAA action plan.</p> |

| TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH) | BY (DATE) | PLANNED IMPROVEMENTS | ACTION TAKEN TO DATE |
|--|------------------|---|--|
| <p>3.2.5 Ensure the database is configured and operated in such a way to provide accurate monitoring returns to the Agency. [The Standard – 6.3]</p> | <p>31/01/13</p> | <p>Explore reasons and solution to mapped AES and LAEMs report.</p> <p>Retain additional spreadsheet monitoring of enforcement actions in order to monitor accuracy of LAEMS returns.</p> <p>Implement method of recording sample visits onto database and include in LAEMS reports.</p> <p>Additional training for officers on correct risk rating, in particular +22 score and +20 score.</p> <p>Include examination of risk rating as part of internal monitoring.</p> | <p>Completed. New coding added to AES activities which can be excluded for LAEMS.</p> <p>Completed. Quantitative monthly monitoring spreadsheet amended.</p> <p>Completed. New food sampling visit created, food sampling procedure amended, officers briefed on changes in team meeting Jan 13.</p> <p>Completed. Officers briefed in audit feedback CPD session Dec 12 and team meetings Jan 13.</p> <p>Completed and ongoing. Risk rating profile examined as part of Jan 13 quantitative monitoring.</p> |

| TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH) | BY (DATE) | PLANNED IMPROVEMENTS | ACTION TAKEN TO DATE |
|--|------------------|---|---|
| 3.3.16(i) Ensure that food hygiene interventions at food premises in their area are carried out at a frequency, which is not, less than that determined under the intervention rating scheme set out in the Food Law Code of Practice. [The Standard – 7.1] | 31/01/13 | <p>Distribute overdue food inspections amongst officers, to ensure all C rated premises are completed prior to 31 March 2013.</p> <p>Review all E rated premises to determine whether some very low risk can be excluded from the inspection programme.</p> | <p>Completed.</p> <p>Completed in team meeting in Jan 13 and removed from inspection programme.</p> |
| 3.3.16(ii) Assess the compliance of food premises to legally prescribed standards to confirm compliance with current legislation, the Food Law Code of Practice and centrally issued guidance, and take appropriate and timely action on any non-compliance found, in accordance with the Authority's enforcement policy. [The Standard – 7.2 and 7.3] | 31/01/13 | Address inconsistent graduated approach to enforcement by a revisit policy to ensure satisfactory follow up. Review of internal monitoring. | Completed. |

| TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH) | BY (DATE) | PLANNED IMPROVEMENTS | ACTION TAKEN TO DATE |
|--|------------------|--|--|
| <p>3.3.16(iii) Ensure that product-specific establishments subject to approval under Regulation (EC) No. 853/2004 are inspected and approved in accordance with relevant legislation, the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.2]</p> | <p>31/05/13</p> | <p>Re-approve one of the approved establishments to ensure all approval documents are in place.</p> <p>Review all files and ensure all relevant details complete, including reasons for approval.</p> <p>Redraft the inspection report for routine inspections of approved establishments.</p> <p>Redraft the approval procedure to reflect changes.</p> | <p>Discussed with officer and premises FBO, application form issued.</p> <p>Completed.</p> <p>Completed.</p> |
| <p>3.3.16(iv) Maintain accurate and comprehensive records for all establishments including those approved under Regulation (EC) No. 853/2004. The records should detail the determination of compliance with legal requirements and comprehensive reports of all inspections, visits and where relevant the basis for approval, in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard –16.1]</p> | <p>31/01/13</p> | <p>Ensure consistent completion of the aide-memoire ‘Food Premises Detail Form’ during routine inspections of general and approved establishments.</p> <p>Consistent quality of records to be checked as part of routine internal monitoring activities.</p> | <p>Already completed prior to audit as part of IAA action plan.</p> <p>Completed and ongoing.</p> |

| TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH) | BY (DATE) | PLANNED IMPROVEMENTS | ACTION TAKEN TO DATE |
|---|------------------|--|--|
| 3.4.5 Ensure that officers carry out formal food law enforcement actions in accordance with the Food Law Code of Practice, centrally issued guidance and the Authority's own enforcement policy. [The Standard – 15.3 and 15.4] | 31/01/13 | Implemented a HIN checklist. Amend prosecution file documents to ensure all elements of enforcement policy are considered prior to recommendation of formal action. | Already completed as part of IAA action plan Completed. |
| 3.5.4(i) Ensure that internal monitoring procedures are documented and implemented across all food law enforcement activities in accordance with Article 8 of Regulation (EC) No. 882/2004 (Official Feed and Food Controls), the Food Law Code of Practice and centrally issued guidance. [The Standard – 19.1] | 31/01/13 | Redraft internal qualitative monitoring procedures, reducing some requirements, ensuring across all areas of food enforcement and incorporating peer review. | Completed. |
| 3.5.4(ii) Verify its conformance with the Standard, relevant legislation, the Food Law Code of Practice, centrally issued guidance and the Authority's own documented policies and procedure across all the Authority's food law enforcement activities. [The Standard – 19.2] | 31/01/13 | As for 3.5.4(i) | Completed and ongoing. |
| 3.5.4(iii) Ensure that records of monitoring activities are maintained. [The Standard – 19.3] | 31/01/13 | As for 3.5.4(i) | Completed and ongoing. |

ANNEXE B Audit Approach/Methodology

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

(1) Examination of LA policies and procedures.

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

- Food Law Enforcement Service Plan 2012/13
- Presentation slides and minutes of the Overview and Scrutiny Panel meeting to agree the Service Plan
- Authorisation procedure
- Intervention and registration procedures, including administration of the FHRs
- Food inspection documentation including aides-memoire and business questionnaires
- Database protocols
- Food sampling policy, procedure and programme
- Enforcement Policy 2012 and associated enforcement procedures
- Internal quality monitoring procedure
- Minutes of recent Food Safety Liaison Group meetings.
- Examples of Food Team meeting agendas and minutes
- Report on the Inter Authority Audit of the Food Service and accompanying action plan.

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

- General food premises inspection records
- Approved establishment records
- Food complaint records
- Records of food sampling
- Internal monitoring records
- Formal enforcement records.

(3) Review of database records:

- To review and assess the completeness of database records of food hygiene inspections, food and food premises complaint investigations, samples taken by the authority, formal enforcement and other activities and to verify consistency with file records
- To assess the completeness and accuracy of the food premises database
- To assess the capability of the system to generate food law enforcement activity reports and the monitoring information required by the Food Standards Agency.

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

- Principal Environmental Health Officer
- Two Senior Environmental Health Officers

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

(5) On site verification check:

A verification visit was made with the Authority's officers to a local food business. The purpose of the visit was to verify the outcome of the last inspection carried out by the Local Authority and to assess the extent to which enforcement activities and decisions met the requirements of relevant legislation, the Food Law Code of Practice and official guidance, having particular regard to LA checks on FBO compliance with HACCP based food management systems.

ANNEXE C Glossary

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

wholesomeness of food.

Food Hygiene Rating Scheme (FHRS)

The Food Hygiene Rating Scheme provides information to the public about hygiene standards in catering and retail food establishments. It is run by local authorities in partnership with the Food Standards Agency. Businesses that fall within the scope of the scheme are given a 'hygiene rating' which shows how closely the business was meeting the requirements of food hygiene law at the time of inspection. The scheme also encourages businesses to improve hygiene standards.

Food Safety Management System

A written permanent procedure, or procedures, based on HACCP principles. It is structured so that this requirement can be applied flexibly and proportionately according to the size and nature of the food business.

Food standards

The legal requirements covering the quality, composition, labelling, presentation and advertising of food, and materials in contact with food.

Framework Agreement

The Framework Agreement consists of:

- Food and Feed Law Enforcement Standard
- Service Planning Guidance
- Monitoring Scheme
- Audit Scheme

The **Standard** and the **Service Planning Guidance** set out the Agency's expectations on the planning and delivery of food and feed law enforcement.

The **Monitoring Scheme** requires local authorities to submit yearly returns via LAEMS to the Agency on their food enforcement activities i.e. numbers of inspections, samples and prosecutions.

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.

Full Time Equivalent (FTE)

A figure which represents that part of an individual officer's time available to a particular role or set of duties. It reflects the fact that individuals may work part-time, or may have other responsibilities within the organisation not related to food and feed enforcement.

| | |
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| HACCP | Hazard Analysis and Critical Control Point – a food safety management system used within food businesses to identify points in the production process where it is critical for food safety that the control measure is carried out correctly, thereby eliminating or reducing the hazard to a safe level. |
| LAEMS | Local Authority Enforcement Monitoring System is an electronic system used by local authorities to report their food law enforcement activities to the Food Standards Agency. |
| Member forum | A local authority forum at which Council Members discuss and make decisions on food law enforcement services. |
| Metropolitan Authority | A local authority normally associated with a large urban conurbation in which the County and District Council functions are combined. |
| Risk rating | A system that rates food premises according to risk and determines how frequently those premises should be inspected. For example, high risk premises should be inspected at least every 6 months. |
| Safer food, better business (SFBB) | A food safety management system, developed by the Food Standards Agency to help small catering and retail businesses put in place food safety management procedures and comply with food hygiene regulations. |
| Service Plan | A document produced by a local authority setting out their plans on providing and delivering a food service to the local community. |
| Trading Standards | The Department within a local authority which carries out, amongst other responsibilities, the enforcement of food standards and feeding stuffs legislation. |
| Trading Standards Officer (TSO) | Officer employed by the local authority who, amongst other responsibilities, may enforce food standards and feeding stuffs legislation. |
| Unitary Authority | A local authority in which the County and District Council functions are combined, examples being Metropolitan District/Borough Councils, and London Boroughs. A Unitary Authority's responsibilities will |

include food hygiene, food standards and feeding stuffs enforcement.