

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

Swale Borough Council  
12-14 March 2013



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

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

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

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

For assistance, a glossary of technical terms used within the 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 Swale Borough 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](http://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 Swale Borough 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.<sup>1</sup>
- 1.4 The Authority was selected for inclusion in the Food Standards Agency's programme of audits of local authority food law enforcement services because it had not been audited in the past five years by the Agency, and was representative of a geographical mix of four local authorities selected across England.

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

## **Scope of the Audit**

- 1.5 The audit examined Swale Borough 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 Swale House, East Street, Sittingbourne on 12-14 March 2013.

## **Background**

- 1.7 Swale Borough Council covers part of the Kent side of the Thames Estuary and includes the Isle of Sheppey, separated from the mainland by the Swale Estuary. Main urban areas include Sittingbourne, Faversham and Sheerness. The estimated population in 2010 was 133,400.
- 1.8 Approximately 75% of the land area in the borough is covered by an environmental designation and includes internationally protected wetlands on both sides of the Swale Estuary and an extensive coastline with a variety of economic uses. The Port of Sheerness which has a high volume of fruit and vegetable imports, is situated on the Isle of Sheppey, although official controls at the Port are the responsibility of the London Port Health Authority. The district contains a high proportion of the country's apple, pear, cherry and plum orchards as well as many of its remaining hop gardens.
- 1.9 Food hygiene law enforcement was the responsibility of the Environmental Health Commercial Team, overseen by the Head of Service Delivery. The Team was also responsible for health and safety enforcement, public health issues in commercial premises, private water supplies and communicable diseases.
- 1.10 The Authority reported the profile of Swale Borough Council's food businesses as of 31 March 2012 as follows:

<b>Type of Food Premises</b>	<b>Number</b>
Primary Producers	46
Manufacturers/Packers	20
Importers/Exporters	1
Distributors/Transporters	12
Retailers	230
Restaurant/Caterers	896
<b>Total Number of Food Premises</b>	<b>1,205</b>

## 2.0 Executive Summary

- 2.1 At the time of the audit the Authority was in the process of entering into a shared service agreement with two neighbouring authorities. The Authority had developed a Food Service Plan for 2012/13 which followed the Service Planning Guidance in the Framework Agreement, although it would benefit from the inclusion of a clear comparison of the resources required to carry out the full range of statutory food law enforcement activities set out in the Plan against the resources available to the Service. This will require a recalculation of the full time equivalent (FTE) resources available, as it appears that they may have been previously over estimated in the Service Plan and in Local Authority Enforcement Monitoring System (LAEMS) returns.
- 2.2 The Authority had a documented procedure that set out the process for the authorisation of officers. Individual authorisations required review to ensure they included all current legislation and reflected the officer's level of authorisation based on their individual qualifications, training, experience and competency.
- 2.3 Records confirmed that officers were achieving a broad range of update training and were meeting the minimum 10 hours relevant training per annum based on the principles of continuing professional development.
- 2.4 A number of checks were carried out during the audit which confirmed in general that the database was complete, and was being operated in a way that would enable monitoring returns to be made to the Agency on LAEMS. Some suggestions to further improve accuracy of the returns were discussed.
- 2.5 The majority of food hygiene inspections were carried out by a contractor, with any necessary follow-up taken by an in-house officer. Premises in general were being inspected at the frequency required by the Food Law Code of Practice (FLCoP). Only three high risk inspections and a small number of lower risk establishment interventions were overdue.
- 2.6 Records of enforcement activities were easily retrievable from the system. A variable level of detail on inspection findings was identified between officers. A new inspection form was being developed which will assist in prompting officers to consistently record adequate detail of their assessments, particularly in relation to the adequacy of the food safety management system and the Food Business Operator's (FBO) implementation of the E.coli O157 guidance.

- 2.7 It was evident that revisits were taking place as appropriate where serious contraventions were being found. A means of highlighting significant issues to be pursued at the next visit would be of benefit, as it was not clear that officers had always considered previous inspection findings to inform a graduated approach to enforcement. This is of particular importance in relation to the contractor, who does not routinely have ready access to previous inspection histories.
- 2.8 Approved establishment files contained most of the required information about business activities as set out in annexe 10 of the Food Law Practice Guidance. Approval documents for establishments should be reviewed to ensure they reflect all current activities at the premises.
- 2.9 Approved establishments were being inspected by suitably qualified and experienced officers, at the frequencies set out in the FLCoP and had been given an appropriate risk rating. The original inspection aide-memoire was supplemented by inspection notes used to record the officers' current assessments of the FBOs compliance, however it was not clear that these were linked to the original aide-memoire or defined the scope of the inspection that had been carried out.
- 2.10 Letters and reports of inspection provided to the FBO following interventions at general and approved establishments generally contained all relevant information and were comprehensive.
- 2.11 Auditors confirmed during a verification visit to a food establishment that the officer was familiar with the operations at the business and had assessed the business' compliance with legal requirements at the previous inspection, including consideration of implementation of the E.coli O157 guidance where applicable.
- 2.12 Records confirmed that in general complaints had been appropriately investigated, relevant parties informed, and that actions taken were recorded.
- 2.13 Records confirmed that follow-up correspondence had been sent following all unsatisfactory or borderline sample results, however it was not always clear from records that appropriate liaison had been carried out with the originating authority where appropriate or that follow-up sampling had been undertaken where correspondence to the FBO indicated that it would be.
- 2.14 The Authority had a corporate enforcement policy which set out a risk-based proportionate approach to enforcement along with associated documented procedures. It was not clear that the Authority's procedure had been fully adhered to in the case of a prosecution as there was no confirmation that the enforcement policy had been considered or agreement to the prosecution recorded on file.

2.15 The Authority had developed documented procedures on internal monitoring covering most food law enforcement activities. There was evidence of internal monitoring being carried out in relation to inspection activities, however discussions indicated that other monitoring was taking place which had not been routinely recorded.

## **3.0 Audit Findings**

### **3.1 Organisations and Management**

#### Strategic Framework, Policy and Service Planning

- 3.1.1 At the time of the audit the Authority was in the process of negotiating shared service agreements with two neighbouring authorities as part of the Mid Kent Improvement Partnership initiative. Whilst the overarching structure had been finalised, the authorities were still in discussion regarding staffing and the practical day-to-day operational issues, and it was recognised that the audit was being carried out at a period of some uncertainty for the Service.
- 3.1.2 The Authority had developed a Food Safety Service Delivery Plan for 2012/13. The Plan had generally 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.
- 3.1.3 The LAEMS return for 2011/12 indicated that there were 2.4 FTE. The Plan stated that there were approximately 2.5 FTE posts, which included 1.5 FTE allocated for work carried out by a contractor. Information provided by the Authority prior to the audit confirmed this figure. However discussions during the audit indicated that this figure was an over-estimate and that the true FTE figure was more like 1.75 FTE. The true figure was complicated by the Commercial Team Manager recently spending two days per week managing the food service at a neighbouring authority. An accurate FTE figure needs to be confirmed in order to enable a clear estimation of any shortfall in FTE resources to deliver the Food Safety Service Delivery Plan. This is of particular importance in respect of planning the proposed shared service arrangements to ensure they are appropriately resourced.
- 3.1.4 Auditors were advised that approval of the Plan was no longer carried out by Cabinet members, but instead was agreed by the Head of Service and the relevant portfolio holder, although there was no written confirmation of this retained.
- 3.1.5 Reference was made to the Authority's Corporate Plan, which set out the organisational purpose as "making Swale a better place". The Corporate Plan also set out three interlinking corporate priorities of:
- Embracing localism
  - Open for business

- Healthy environment

The Food Service Plan stated that the Corporate Plan under 'health' was a key driver.

3.1.6 A number of service aims and objectives were set out in the Food Service Plan. The aim of the Service was stated as "to protect and improve the quality of life of the local community, workforce and visitors. The Commercial Team will ensure as far as is reasonably practicable, that all food produced, sold, consumed within the Council's area is safe and that all food business operators comply with their statutory requirements". The associated objectives were set out as:

- To ensure that food sold or offered for sale within the Council's area is fit for human consumption, wholesome, and of the quality demanded.
- To direct resources to the highest risk food premises and activities and to improve standards by the effective use of available enforcement powers.
- To ensure that food premises in the Council's area maintain standards of hygiene that will minimise the risk of food poisoning.
- To maintain a high quality, professional workforce providing high value services to the council taxpayer.
- To respond appropriately to all food complaints and hygiene matters in food premises.
- To seek to minimise the occurrence of infectious disease amongst Swale residents and workers through investigation and raising awareness.
- To seek to ensure services are available to all the public and business sectors that need them.
- Through partnership working, promote healthy lifestyles to Swale residents.
- To periodically review the team's performance against the Food Service Plan.

3.1.7 The Plan included the outcomes from a review which had been carried out of the previous year's Plan. This confirmed that in general the Service had achieved the food hygiene inspection plan for 2011/12.

## **Recommendation**

### 3.1.8 The Authority should:

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

## Documented Policies and Procedures

- 3.1.9 The Authority had developed documented policies and procedures that covered the majority of food law enforcement activities, including a procedure on document control. A new template had been introduced to ensure a consistent format to the procedures. A master list of Commercial Team procedures had been developed which could usefully be expanded to include revision status and next revision dates.

## Officer Authorisations

- 3.1.10 A documented procedure had been developed which set out the process for the authorisation of officers. This stated that the Head of Service had delegated authority to sign officer authorisations on the recommendation of the Commercial Team Manager. The level of authorisation was determined following an assessment of the individual officer's qualifications, experience, training and competence. An authorisation document was signed by the Head of Service and this referred to an attached schedule setting out the limits of authorisation. Officers were then issued with general warrant cards.
- 3.1.11 Not all of the officer authorisations requested were available. Of those that were examined it was noted that there were various inconsistencies in the officer authorisations. In particular, references to legislation differed between documents, and some legislative references were missing, for example in relation to imported food enforcement. Officers with suitable qualifications and experience were not authorised to issue remedial action notices (RAN) or serve hygiene emergency prohibition notices (HEPN), although these activities were part of their duties. The Authority also needed to update the Agency on the officers currently employed by the Authority that were authorised under the Food and Environmental Protection Act 1985. The development of an authorisation matrix is recommended, clearly setting out the extent of individual

authorisations based on the officer's current qualifications, training, experience and competency.

- 3.1.12 Individual officer training needs were identified as part of the Authority's annual appraisal system. Records of training were maintained centrally and confirmed that both in-house officers and the contractor were receiving a broad range of relevant training and were exceeding the minimum 10 hours relevant food training per annum required by the Food Law Code of Practice (FLCoP), based on the principles of continuing professional development. It was suggested that more detail could be retained of the content of training undertaken and that there is closer monitoring of the training records for the contractor engaged by the Service to carry out inspections. Training included subjects relevant to specialist food businesses in the area in addition to training on HACCP systems and on imported food.

**Recommendation**

3.1.13 The Authority should:

Review and update current officer authorisations as necessary to ensure that all officers are appropriately authorised under current relevant 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 had produced a Food Database Maintenance procedure. The day to day maintenance of the database was the responsibility of an experienced systems administrator.
- 3.2.2 Various measures were in place to ensure that the database was kept up-to-date. These included:
- Training of staff
  - Work instructions on data input
  - Updating information provided by sources such as business rates
  - Occasional checks on local newspapers and business directories
  - Updating information from other intelligence sources, such as officers' observations on the district.
- 3.2.3 Checks carried out during the audit confirmed that in general data held on the systems was accurate, although some identified anomalies were discussed which could impact on the accuracy of returns to the Agency on the Local Authority Enforcement Monitoring System (LAEMS). These included:
- The return of questionnaires from low risk food businesses as part of the alternative enforcement strategy (AES) had been recorded as an inspection on the LAEMS return.
  - Visits to take food samples were not being routinely recorded.
  - Written warnings were not being consistently recorded when issued.
  - Shellfish samples taken on behalf of the Authority had not been recorded for LAEMS purposes.
- 3.2.4 The database had been subject to a significant data cleansing exercise prior to the launch of the Food Hygiene Rating Scheme (FHRS) introduced in June 2012. The systems administrator routinely ran a number of checks to confirm the accuracy of the database. Random checks on seven food businesses in the area identified by internet searches confirmed that they were all on the database and included within the Authority's intervention programme.

**Recommendation**

3.2.5 The Authority should:

Ensure that the database is appropriately configured and all relevant activities are entered onto the system to provide accurate and complete 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 set out the breakdown of premises requiring inspection and the inspections due in the year as follows:

Premises Risk Category	Number of Premises	Inspections due 2012/13
A	1	2
B	86	81
C	519	353
D	159	78
E	365	87
Unrated	0	0
Not in programme	0	0
<b>Total</b>	<b>1,130</b>	<b>601</b>

3.3.3 It was acknowledged that the Service Plan should have included an estimate of the unrated premises due an inspection and that the inspections due of category B premises was a slight underestimate. The Service Plan set out the intention to take into account the flexibilities available in the Food Law Code of Practice in respect of the assessment of category E premises using AES.

3.3.4 The Authority was employing the use of a contractor to carry out the majority of the inspection programme, although in-house officers still retained responsibility for the inspection of category A premises, approved establishments and other businesses with complex food manufacturing processes. It was clear that the Authority was prioritising resources to ensure that the inspection programme was being adhered to, and at the time of the audit there was a total of 26 inspections overdue, of which there were no category A premises and only three category B establishments. It was recognised that some of the lower risk establishments were seasonal businesses due to the significant tourist trade in the area, and they would be visited once open again for trade in the summer.

3.3.5 The Authority had separate documented procedures on the inspection of general and approved food establishments. When next reviewed the procedures could usefully be expanded to include guidance on checks on imported foods during inspections and implementation on the E.coli O157 guidance produced by the Agency.

- 3.3.6 Officers used an inspection aide-memoire to detail the findings from inspections and their assessment of the food business operator's (FBO) compliance with food hygiene legislation. It had been recognised that improvements were required to the form to record more detail on the officers assessments, and a new aide-memoire was being finalised as part of an initiative within the local Food Liaison Group.
- 3.3.7 It was also acknowledged that a system of flagging significant issues to be pursued at the next visit was required as it was not clear that officers had always considered previous inspection findings to inform a graduated approach to enforcement. This was of particular importance as the contractor who carried out the majority of the inspections, did not routinely have ready access to previous inspection histories.
- 3.3.8 Records of a sample of inspections carried out by different officers at food businesses were checked during the audit. There was a variable level of detail recorded of the officers' findings on the inspection aide-memoire and in some cases relevant parts of the form had not been completed. The adoption of the new form, once finalised, will assist in prompting officers to consistently record adequate details of their assessments, including the adequacy of the food safety management system (FSMS) and the FBOs implementation of the E.coli O157 guidance.
- 3.3.9 It was evident that in general revisits and follow-up action was being taken where necessary, with the exception of one premises where records indicated that serious contraventions were found, and although hygiene improvement notices were eventually served, it was not evident that more timely enforcement action had been considered following the inspection.
- 3.3.10 Whilst there was no consistent format to letters sent following inspections, in general they contained all relevant details and provided a distinction between matters that were legally required and those that were recommendations of good practice. It was noted that some of the letters were particularly comprehensive and provided useful guidance to the FBO.
- 3.3.11 The Authority provided details of seven establishments which had been approved under the requirements of Regulation (EC) No. 853/2004. Auditors were advised that following advice issued by the Agency in 2012, the approvals had been reviewed and re-issued as necessary. There were some discrepancies between the records held by the Authority and the Agency, and the Authority was advised to confirm the current approval status of establishments with the Agency.

- 3.3.12 Checks were made on a selection of the approved establishment files. One establishment had been conditionally approved, and the approval period had just expired at the time of the audit. Whilst the officer was aware of this, due to practical issues the approval had still to be reviewed and extended or confirmed as appropriate. In addition, one of the approval documents checked did not fully cover the extent of the food operations that were taking place, and the auditors advised that the approval should be reissued and approval documents for other establishments reviewed to ensure that all relevant operations were included within approval documents as necessary.
- 3.3.13 Files checked were found to be ordered and generally in line with the Food Law Practice Guidance, including a synopsis of the operations carried out, although not every file contained all the required information.
- 3.3.14 It was evident from the files checked that inspections had in general been carried out at the correct frequencies by suitably qualified and experienced officers. Whilst initial inspections had been recorded on an appropriate form specific to the type of operations carried on at the establishment, subsequent inspections were recorded as inspection notes on the officers' assessment of the FBOs compliance. It was not however clear from the file that these notes were linked to the original inspection, and they did not confirm the scope of the inspection that had been undertaken.

### **Recommendations**

3.3.15 The Authority should:

- (i) Approve establishments in accordance with the relevant legislation, the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.2]
- (ii) Take appropriate and timely action on any non-compliance found, in accordance with the Authority's enforcement policy and documented procedures. [The Standard – 7.3]
- (iii) 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

- 3.3.16 During the audit, a verification visit was undertaken to a local restaurant with an experienced officer 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.
- 3.3.17 On the visit, the officer was able to demonstrate familiarity with the premises and the operations carried out. The officer had appropriately assessed the business' compliance with legal requirements including consideration of implementation of the E.coli O157 guidance. It was noted that the officer would have benefitted from the opportunity to review the previous inspection history before carrying out the inspection.

### 3.4 Enforcement

- 3.4.1 The Authority had developed a generic corporate enforcement policy, which had been approved by Cabinet in July 2011, and set out the Authority's risk-based and proportionate approach to enforcement. The policy could be usefully expanded or appended to include references to the Authority's obligations under the Regulatory Enforcement and Sanctions Act 2008 in respect of Primary Authority Partnerships. Documented procedures for a range of formal enforcement actions had also been developed, some of which had been recently reviewed.
- 3.4.2 Records for formal enforcement activities that had taken place over the previous two years were provided for audit. These comprised a prosecution, and the service of a number of hygiene improvement notices (HIN).
- 3.4.3 The records for the prosecution were examined. This was found to be an appropriate course of action in the circumstances, however it was not clear that the Authority's procedures had been fully adhered to as it was not possible to locate the "Justification Report" that was required to be signed by the Head of Service to approve the prosecution proceedings and confirm that the enforcement policy had been considered.
- 3.4.4 Records for three HINs were examined. These were found to be an appropriate course of action and had been drafted and served in accordance with the Food Law Code of Practice. Timely revisits had been carried out to check on compliance, however it was not always evident that where the notice had been complied with that this had been confirmed in writing. In addition procedures required review to ensure that appropriate action is taken in the event that time periods for compliance are being extended.

#### **Recommendation**

3.4.5 The Authority should:

Ensure that appropriate follow-up actions and formal food law enforcement is carried out 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 A documented internal monitoring procedure had been developed and there were references to internal monitoring activities in specific procedures and in the Food Service Plan. Whilst most areas of the Standard were covered in the procedures by qualitative and quantitative monitoring checks, they could usefully be reviewed to ensure they cover all food law enforcement activities, including food sampling and officer authorisations.
- 3.5.2 There was evidence that internal monitoring activities had taken place in relation to inspection activities and routine checks on accuracy of the database. Discussions during the audit indicated that other monitoring activities had been taking place but these had not been routinely recorded. These included:
- peer review of hygiene improvement notices by officers
  - discussions at team meetings
  - individual discussions with officers at one-to-one meetings
  - Follow-up on returned customer satisfaction questionnaires
  - Reviews of correspondence and records.

#### **Recommendations**

3.5.3 The Authority should:

- (i) Routinely 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 procedures across all the Authority's food law enforcement activities. [The Standard – 19.2]
- (ii) Ensure that records of all internal monitoring activities are maintained. [The Standard - 19.3]

## Food and Food Premises Complaints

- 3.5.4 The Service Plan contained reference to the Service's policy on the investigation of food complaints and stated that priority would be given to those where there was a perceived risk to health. This was supported by a procedure on Service Requests which set out the policy and procedures for response. There was also a specific procedure on the investigation of food complaints which included reference to consideration of Primary Authority Partnerships. The procedure should be reviewed to include guidance to officers on the investigation of complaints about hygiene in food premises.
- 3.5.5 Checks made on records for five food and food premises complaints showed that officers had carried out thorough, timely and appropriate investigations and had kept interested parties informed of progress and outcome of the investigation. The Service had produced a leaflet for consumers explaining the process for the investigation of food complaints.

## Food Inspection and Sampling

- 3.5.6 The Authority had a Microbiological Food Sampling Policy Statement which set out the aim of the Service to participate in co-ordinated food sampling programmes and to adopt a risk-based approach to food sampling. The policy set out the purpose of sampling activities as being:
- Surveillance, originating mainly from FSA and Health Protection Agency (HPA) initiatives.
  - Verification of food safety management systems.
  - Compliance, for example against relevant microbiological criteria.
  - Investigation, following receipt of a food complaint or in response to an alleged food associated illness.
- 3.5.7 The policy also referred to sampling of shellfish beds, which is carried out on behalf of the Authority by the London Port Health Authority, and referred to the sampling of imported food
- 3.5.8 Practical guidance on food sampling was provided by the Kent Food Sampling Manual produced collaboratively by the Food Liaison Group and the HPA. The Service had also produced a Food Safety Re-Sampling procedure.
- 3.5.9 The sampling programme focused on participation in national and regional sampling initiatives. Auditors were advised that the Service had been able to increase sampling activity recently as there had

been some additional capacity due to a reduction in Health and Safety activities.

- 3.5.10 Checks were made on records for five recent samples which had received unsatisfactory examination results. The samples had 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. The FBO had been advised of the results and provided with tailored advice to prevent further problems. It was not evident on all records checked that appropriate follow-up action had taken place where results were not satisfactory or that there had been liaison as appropriate with the originating authority. Subsequent discussion suggested that appropriate follow-up action had been taken but not necessarily recorded in sufficient detail.

**Recommendation**

3.5.11 The Authority should:

Take and document appropriate action on any non-compliance found following the receipt of unsatisfactory food sample results, in accordance with the Authority's enforcement policy. [The Standard – 12.2 and 12.7]

**Records**

- 3.5.12 Records of food law enforcement activities were maintained electronically on the food premises database system, with the exception of records for approved establishments which were maintained on paper files for ease of reference. Records were easily retrievable during the audit, however, as noted previously in this report, there was some variability in the level of detail, particularly those for general premises inspections. The introduction of the more detailed aide-memoire would help in ensuring that adequately detailed records are consistently made.

### **Recommendation**

3.5.13 The Authority should:

Maintain up to date, accurate records of relevant checks for all food establishments and related food law enforcement activities, in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 16.1]

### Third Party or Peer Review

- 3.5.14 There had been no recent inter-authority audit (IAA) activity in which the Authority participated in the last two years. There had been an internal audit which covered the Food Safety Service in 2010 for which an action plan had been produced and completed.
- 3.5.15 The Authority had participated in consistency exercises with other authorities in the Liaison Group in relation to implementation of the Agency's E.coli O157 cross-contamination guidance and on intervention risk ratings under annexe 5 of the FLCoP.

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Local Authority Audit and Liaison Division

## ANNEXE A Action Plan for Swale Borough Council

Audit date: 12-14 March 2013

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 the resources required to carry out the full range of statutory food law enforcement activities against a reasoned estimate of the resources available to the Service. [The Standard – 3.1]	30/05/13	To be added to Food Service Plan for 2013/14.	1. Draft Food Service Plan being produced.  2. Team members have provided estimate of full time equivalents (FTE) spent on food service.
3.1.13 Review and update current officer authorisations as necessary to ensure that all officers are appropriately authorised under current relevant legislation in accordance with their individual level of qualification, experience and competency. [The Standard – 5.1 and 5.3]	30/05/13	To use example template matrix from another LA and update authorisation procedure.	Discussed proposals with team and Head of Service.
3.2.5 Ensure that the database is appropriately configured and all relevant activities are entered onto the system to provide accurate and complete monitoring returns to the Agency. [The Standard – 6.3]	Completed and ongoing	Team meeting on 8 May 2013 to remind officers of correct recording of visits to take food samples, and issuing written warnings.	The return of questionnaires from low risk food businesses as part of the alternative enforcement strategy (AES) is now recorded as verification on the LAEMS return. Shellfish returns included in LAEMS. Monitoring returns for 2012 have been returned.

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3.3.15(i) Approve establishments in accordance with the relevant legislation, the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.2]	31/07/13	<ol style="list-style-type: none"> <li>1. Update information supplied to FSA re current approved establishments.</li> <li>2. Check that premises detail on approval files contains all requirements of FSA Food Law Code of Practice Guidance.</li> <li>3. Current approval documents to be reviewed to confirm they fully reflect the extent of operations carried out at the establishment.</li> </ol>	None.
3.3.15(ii) Take appropriate and timely action on any non-compliance found, in accordance with the Authority’s enforcement policy and documented procedures. [The Standard – 7.3]	Completed and ongoing	Increased monitoring by Commercial Team Manager and Systems Administrator.	Monitoring by Commercial Team Manager and Systems Administrator.

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3.3.15(iii) 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]	Completed and ongoing  30/06/13	As above and increase in monitoring of database to ensure details required are included.  Introduction and routine completion by officers of enhanced inspection aide-memoire.	Monitoring by Commercial Team Manager and Systems Administrator.
3.4.5 Ensure that appropriate follow-up actions and formal food law enforcement is carried out 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]	Completed and ongoing  30/06/13	1. To ensure written justification report to approve prosecution is provided to Legal in every case.  2. Reference to obligations under the Regulatory Enforcement and Sanctions Act 2008 will be included in the Food Safety Service Plan.	1. Discussed with Head of Service the justification report to approve prosecutions.  2. Officers reminded to confirm in writing outcome of every hygiene improvement notice.

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3.5.3(i) Routinely 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 procedures across all the Authority's food law enforcement activities. [The Standard – 19.2]	Completed and ongoing  30/06/13	Review Internal Monitoring procedure to ensure it covers the full extent of food law enforcement activities, including sampling and officer authorisations.	Started to record monitoring information.  Have received examples of good practice from other local authorities that will be considered in revision of the procedure.
3.5.3(ii) Ensure that records of all internal monitoring activities are maintained. [The Standard - 19.3]	Completed and ongoing	Records of all internal monitoring to be maintained as appropriate.	Started to record monitoring information.
3.5.11 Take and document appropriate action on any non-compliance found following the receipt of unsatisfactory food sample results, in accordance with the Authority's enforcement policy. [The Standard – 12.2 and 12.7]	Completed and ongoing	Adoption of UKFSS system will help with recording of information and for the LAEMS returns.	Discussed with officers in March and officers reminded to record follow-up action as appropriate.

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3.5.13 Maintain up to date, accurate records of relevant checks for all food establishments and related food law enforcement activities, in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 16.1]	30/06/13	<p>Adoption of more detailed inspection form when finalised (proposed by 30/06/13).</p> <p>Advice and training if necessary, for officers on use of new inspection form.</p> <p>NB Team meeting on 8 May – plan to discuss action plan in detail and allocate specific tasks not already carried out.</p>	Form being trialled and a few minor amendments made.

## **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 Safety Service Delivery Plan 2012/13
- Document Control procedure and List of Procedures for Commercial Team
- Officer CPD training records
- Authorisation procedure
- Training and Competency procedure
- Food Hygiene Inspections procedure
- Alternative Enforcement Strategy procedure
- Approved Premises procedure
- Food Complaints procedure
- Food Complaint leaflet
- Template inspection aide-memoire
- Food Database Maintenance procedure
- Kent Food Sampling Manual
- Microbiological Food Sampling Policy Statement
- Food sampling programme 2011/12 and 2012/13
- Imported Food Control procedure/policy
- Food Safety Re-sampling procedure
- Swale Borough Council Enforcement Policy and associated enforcement procedures
- Food Safety Intervention Monitoring procedure
- Minutes of recent Food Safety Liaison Group meetings.

(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:

- Commercial Team Manager
- Two Environmental Health Officers
- Food Safety Consultant

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

(5) On-site verification check:

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

## **ANNEXE C Glossary**

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

wholesomeness of food.

Food Hygiene Rating Scheme (FHRS)

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

Food Safety Management System

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

Food standards

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

Framework Agreement

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.

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.