

Audit of Local Authority Service Delivery Operation of the Food Hygiene Rating Scheme

Wigan Metropolitan Borough Council
15-16 March 2016



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1.0 Introduction

- 1.1 This is a report on the outcomes of the Food Standards Agency's (FSA's) audit of Wigan Metropolitan Borough Council conducted between 15th and 16th March 2016 at Library Street, Wigan WN1 3DS. The audit was carried out as part of a programme of audits on local authority (LA) operation of the Food Hygiene Rating Scheme (FHRS). 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 FSA by emailing the FSA at LAAudit@foodstandards.gsi.gov.uk or telephoning 01904 232116

- 1.2 The audit was carried out under section 12(4) of the Food Standards Act 1999 and section 11 of the Food Hygiene Rating Scheme (FHRS), Brand Standard. The FSA is committed to fulfilling its role in monitoring and auditing the implementation and operation of the FHRS. Consistent implementation and operation of the FHRS is critical to ensuring that consumers are able to make meaningful comparisons of hygiene ratings for establishments both within a single local authority area and across different local authority areas, and to ensuring that businesses are treated fairly and equitably.
- 1.3 The Agency will produce a summary report covering outcomes from the audits of all local authorities assessed during this programme.

2.0 Scope of the Audit

- 2.1 The audit focused on the LA's operation of the FHRS with reference to the FHRS Brand Standard, the Framework Agreement and the Food Law Code of Practice (FLCoP). This included organisation and management, resources, development and implementation of appropriate control procedures, reporting of data, premises database, training of authorised officers and internal monitoring. Views on operation of the FHRS were sought to inform FSA policy development.

3.0 Objectives

The objectives of the audit were to gain assurance that:

- The LA had implemented the FHRS in accordance with the Brand Standard
- There were procedures in place to ensure that the FHRS was operated consistently.
- Notifications of ratings, handling of appeals, requests for re inspection and rights to reply were dealt with efficiently.

- Scoring under Chapter 5.6 of the FLCoP was appropriately evidenced and justified.
- Inspections were carried out at intervals determined by Chapter 5.6 of the FLCoP
- Officers administering the scheme were trained and competent.

The audit also sought to identify areas of good and innovative FHRs working practice within Local Authorities. A key focus was on consistency with the Brand Standard.

4.0 Executive Summary

4.1 The Authority was selected for audit as it was representative of a LA in the lower third percentile for the proportion of premises rated 5 in the FHRs. At the time of selection the Wigan had 27.3 percent of premises rated as 5.

4.2 The Authority was found to be operating the FHRs broadly in accordance with the obligations placed on it by participation in the Scheme but there were some improvements required to meet the FHRs Brand Standard. However the Authority had a backlog of more than 1600 overdue food safety interventions at premises and this impacts on the ability of the FHRs scheme to reflect the hygiene status of food businesses. Urgent improvements were required to attain the required level of protection for consumers and business afforded by meeting the statutory requirements of the Food Law Code of Practice. A summary of the main findings and key improvements required is set out below.

4.3 Key area for improvement:

4.3.1 The Authority needs to urgently address the backlog of overdue interventions and ensure that it has sufficient resources to deliver the full range of food hygiene enforcement activities and interventions at the frequency required for competent food authorities by the Framework Agreement and Food Law Code of Practice.

4.3.2 The Authority Service Plan should include a comparison of the resources required to effectively carry out the full range of food law activities against the resources available to the service and any resource shortfall should be identified.

4.3.3 Where FBOs are notified of the FHRs rating by letter this must be communicated without undue delay and within 14 days of the intervention and must include details of when the food hygiene rating will be published.

4.3.4 Appeals against FHRs scores should be considered and the decision communicated to the FBO within 7 working days of the appeal.

4.3.5 The LA should ensure it conforms with the mandatory data required by the Brand Standard specifically in regard to the Scope and an identifier to indicate the status of establishments.

5.0 Audit Findings and Recommendations

5.1 Organisation and Management

5.1.1 Wigan M.B.C. has a population of 317,000 and covers an area of 200 square kilometers. The Council is responsible for 2506 food premises including 52 manufacturers, 21 import/exporters, 670 retailers and 1744 restaurants and caterers. Food law enforcement is the responsibility of the Business Compliance and Improvement Section within the Place Directorate of the Council.

5.1.2 The LA had developed a Food Service Plan for 2015-2016 which supported the Council Business Compliance & Improvement Strategy 2014-17. The Plan had a specific section in regard to the Food Hygiene Rating Scheme which included a percentage breakdown of premises by food sector and FHRS rating and also highlighted that the LA had carried out 34 re-inspections following requests for revisits.

5.1.3 Whilst the Food Service Plan met many of the requirements of the Service Planning Guidance in the Framework Agreement it did not clearly set out the number of overdue interventions at category A – E premises and that the Authority was not meeting the requirements of the FLCoP in terms of the frequency of interventions at premises. At the time of the audit the LA had 1689 overdue and unrated premises of which 1436 had a food hygiene rating. This included 7 category A and 40 category B overdue interventions. Overdue scheduled interventions to premises included 490 prior to 2011, 720 prior to 2012 and 1185 prior to 2014.

5.1.4 We were advised that the LA had previously piloted a new approach to interventions using Business Compliance Officers. However in 2013 following closure of the project the LA restructured with the loss of 5 operational food officers and had since accumulated the large backlog of overdue interventions.

5.1.5 As a result of the large backlog of overdue interventions the LA was not providing consumers with the appropriate level of protection as required by the FLCoP.

5.1.6 The 2014/15 LAEMS data submitted by the LA did not reflected the large backlog of inspections, the LA had also reported professional staffing levels of over 11 full time equivalent (FTE) food enforcement officers when the LA Service Delivery Plan stated that there were 4.9 FTEs.

- 5.1.7 Officers advised that figures for FTEs and overdue interventions reported for 2014/15 were in fact incorrect and the LA was undertaking action to improve data mapping to ensure future LAEMS data was accurate.
- 5.1.8 Although the Service Plan contained an estimate of the resources engaged in food law activities in terms of professional FTEs it did not identify the number of FTE equivalents required to deliver food controls in accordance with the FLCoP or any shortfall in resources.
- 5.1.9 Auditors were advised the 2015/16 Service Plan had been signed off by the Director but as the plan did not include full details of the backlog of interventions, any shortfall in resources, or potential risks to consumers and business, it was unclear if the Director or Elected Members had knowledge of the shortfalls in the delivery of food hygiene controls and the potential risks and impact on consumers and business.

Recommendation 1 - Sufficient Authorised Officers

[The Standard - 5.3]

The Authority should ensure it has sufficient numbers of authorised officers to carry out all food hygiene law activities required by the Framework Agreement and Food Law Code of Practice

Recommendation 2 - Frequency of Interventions

[The Standard – 7.1]

The Authority should carry out intervention/inspections at a frequency which is not less than that specified by the Food Law Code of Practice and centrally issued guidance.

Recommendation 3 - Service Plan

[The Standard - 3.1]

The Authority should ensure that Service Plans include a clear comparison of the resources required to effectively carry out the full range of food law activities against the resources available to the service and any resource shortfall should be identified.

5.2 FHRIS implementation history

5.2.1 The LA had launched the FHRIS in June 2011. Implementation was on a staged basis. The Service Plan stated the Authority had published ratings for approximately 80% of all relevant food businesses and expected the remaining ones to be published within the next year. Data provided prior to audit using 2014/15 LAEMS data against FHRIS data for Retailers and Restaurant & Caterers indicated a rollout of 83 percent.

5.3 Authorisation and Training

5.3.1 Five officer authorisation and training records were examined. All officers had completed the ten hour continuing professional development in accordance with the FLCoP. The Authority operated a My Time corporate appraisal system which identifies training needs and an officer training plan had been developed for the year. Auditors discussed the value of undertaking refresher training in regard to HACCP.

5.3.2 All officers were found to be suitably authorised for their level of qualification however authorisation under the Food Hygiene (England) Regulations 2013 did not include specific regulations as recommended by the Agency. The LA stated it had been advised on this issue by LA legal officers.

5.4 Inspection Procedures

5.4.1 Prior to the audit the LA had provided the following documents;

- A procedure note detailing visit types and the circumstances in which types of visits should be undertaken. This included FHRIS revisits
- A revisit policy which applied to when revisits should be carried out, revisits for conditional approval, and requests for revisits under the FHRIS.
- A general food hygiene inspection procedure in the form of a flowchart and useful internet link references to documents. The flowchart included reference to the assessment of the premises for FHRIS, recording and scoring, sending letters and reference to a procedure note and an example letter. The references in the document included an internet based link to the FHRIS scoring guidance.

5.4.2 Officers provided two new draft procedures which included;

- Notification of food hygiene rating
- Requests for re-inspection for re rating

- Appeals
- Right to reply

The procedures included flowcharts for each element and standard wording for letters and emails.

- 5.4.3 Five premises and a total of 8 intervention records were checked. All premises were inspected by an appropriately authorised officer. Three premises were inspected at the correct frequency, one was overdue and one new premises had not been visited within the 28 day period.
- 5.4.4 Records of inspection findings generally demonstrated adequate assessment of compliance with hygiene and structural requirements had been undertaken, although in one instance the aide memoire would have benefited from more detail of the assessment.
- 5.4.5 Generally officers were recording a good level of detail on inspection paperwork, which demonstrated comprehensive inspections with evidence that businesses are being assessed against food law requirements and there was a good level of knowledge demonstrated by officers.
- 5.4.6 Risk ratings were generally consistent with officers' findings. However there were three occasions identified where non-compliance involved both elements of the establishment's structure and food safety management procedures; where this is the case officers could justify awarding a risk score for both the 'hygiene' and 'structural' factors. Had this "double" score been awarded it would have impacted on the FHRs score outcome. Auditors noted that officers had made revisits to all premises rated 2 or below and had generally secured compliance in the business, and the majority of these businesses had been issued a higher rating. Some inspection records showed that officers had not clearly differentiated between recommendations and legal non-compliance.

Reality Visit to a Food Premises

- 5.4.7 A verification visit was undertaken at a catering premises with an officer from 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 and resultant FHRs score.
- 5.4.8 During the visit the officer was able to demonstrate a good and effective working relationship with the FBO. The officer was able to justify previously identified non-compliances and the advice given at the last inspection had resulted in improvements being made.

5.5 Notification of ratings and follow up

- 5.5.1 During the audit visit officers produced a procedural note for the Food Hygiene Rating Scheme which included a procedure for Notification of Food Hygiene Ratings. This new draft procedure had been recently created by the LA. The notification procedure comprised of a flow chart which stated notification should be carried out without undue delay and within 14 days of the intervention.
- 5.5.2 In accordance with the Authority's FHRs operational procedure businesses are notified of the FHRs rating by letter following an inspection. Examination of records found that in two instances the LA had been unable to meet the 14 day period for notification of the FHRs score.
- 5.5.3 Notification letters contained appropriate information as required by the Brand Standard with the exception that letters omitted to state when the rating would be published. There had been no post inspection adjustment to scores.
- 5.5.4 In all cases there was evidence of appropriate FHRs appropriate stickers being issued. Checks on the FSA website found that information about the businesses matched that on the LA database.

Recommendation 4 – Notification of food hygiene rating [The FHRs Brand Standard, Section 5]

If not notified at the time of the intervention the food hygiene rating must be communicated in writing without undue delay and within 14 days from the date of the intervention and this must include details of when the food hygiene rating will be published.

Re-Inspection/revisits

- 5.5.5 Five premises records for FHRs revisits were checked in detail. On all occasions the FBO had submitted a revisit request form and revisits had been carried out promptly by the officer in accordance with the scheme.

Appeals

- 5.5.6 During the audit the LA produced a procedure for Appeals and four premises records for appeals were checked. On all occasions the food business had submitted a written appeal to the authority which had been determined by the Lead Food Officer. The FBOs were advised of the outcome of the appeals in writing however there were two occasions when this had not been done within 7 days of the appeal being lodged.

- 5.5.7 An example letter provided prior to the audit and checks on the FHRIS website indicated that due to an error the businesses rating was still published on the FHRIS website despite the FBO appealing.

Recommendation 5 – Appeal Decision Communications

[The FHRIS Brand Standard, Section 6]

Appeals should be considered and the decision should be communicated to the FBO within 7 days of the appeal date.

5.5.8 Requests for Right to Reply

One request for a right to reply had been made to the Authority in the last two years. The right to reply had been published on the FSA website within a reasonable timescale.

5.6 Food Premises Database

- 5.6.1 The LA was able to provide database reports of premises included in the FHRIS scheme in advance of and during the audit.

- 5.6.3 A detailed report was prepared on further potential anomalies of data submitted to the FHRIS portal in advance of the visit. This was provided to the LA for future resolution and was discussed with the Lead Food Officer during the audit. The LA had appropriate systems in place to update the premises database on the change of business ownership.

- 5.6.4 Reality Upload

- 5.6.5 A reality upload to the FHRIS portal was included in the verification checks on the LA database. The officer carrying out the upload was able to demonstrate that accurate data could be uploaded within expected time frames.

- 5.6.6 It was however apparent that the LA uploads data for all establishments to the portal only with a status of 'Yes' which is then mapped to "included". When viewing the distribution of ratings report there are no establishments with a status of 'Exempt' or 'Excluded'. The LA was aware of this issue and in the process of addressing this via software suppliers.

Recommendation 6 – FHRs Data Standard

[The FHRs Brand Standard, Section 10]

Ensure data held on the database conforms with the format and premises status requirements set out in the “FHRs Data Standard” in the Brand Standard - specifically in regard to the scope and the identifier to indicate the status of establishments e.g. exempt, included, excluded.

5.7 Consistency Framework

The LA had recently developed elements of a consistency framework based on the principles contained within section 11 of the Brand Standard. This included new drafts of a monitoring procedure with documented checks which were already being undertaken by the LA. These included checks on risk rating and FHRs scoring.

Two senior officers had attended consistency training which had been cascaded to other staff and accompanied inspections were carried out on a yearly basis. However these had fallen behind but the LA did also carry out paired buddying up visits where officers could learn from each other and discuss consistency issues.

The Lead Food Officer attended the regional food group where FHRs issues were discussed and the Authority had taken part in the national FHRs consistency exercise conducted by the FSA.

5.8 Local Authority Website

5.8.1 The Local Authority FHRs webpage was found to be consistent with Brand Standard guidance and the template text found in the toolkit resource¹. Safeguard application forms were available for download and there was a link to the FHRs portal to access ratings.

5.9 FHRs Website

5.9.1 A sample of five premises records were checked to ensure that the rating was correctly calculated, the FBO properly informed, and ultimately, the correct rating published. All five ratings were found to be published on the FHRs website correctly.

¹ <http://www.food.gov.uk/enforcement/enforcework/hygienscoresresources/hygieneratingtemplates#toc-4>

5.10 Issues Outside The Audit Scope Requiring Action

5.10.1 Analysis of the database provided in advance of the audit indicated that some premises had been given a score that was not appropriate. For example, on some occasions the additional risk factor score for a vulnerable group had been given where the type of food and method of handling score indicated less than 20 meals a day served. Whilst this did not impact directly on the FHRS score it did affect the intervention frequency and action should be taken to ensure the additional risk factor score is applied correctly.

5.10.2 Anomalies found between that actual and reported figures in the 2014-15 LAEMS data submission to the FSA. The Authority should ensure that computerised systems providing LAEMs data to the Agency are reliable and capable of providing accurate information reasonably requested by the Agency.

Audit Team: **John Ashcroft – Lead Auditor**
Michael Bluff – Auditor
Alex Lisle – Local Authority Liaison Officer

ANNEX A - Action Plan for Wigan M.B.C

Audit date: 15-16 March 2016

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>Recommendation 1- Sufficient Authorised Officers [The Standard - 5.3]</p> <p>The Authority should ensure it has sufficient numbers of authorised officers to carry out all food hygiene law activities required by the Framework Agreement and Food Law Code of Practice</p>	<p>Starting June 2016</p> <p>To be recruited by Sept 2016</p>	<ul style="list-style-type: none"> • The 16/17 inspection program will be delivered in line with the FLCOP • Appoint 1 food qualified officer (now in post) • Appoint 0.4 fte food qualified officer(now in post) • Engage a student EHO to assist with alternative interventions(in post) 	<p>Allocated and on target</p> <p>Completed</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>Recommendation 2 - Frequency of Interventions [The Standard – 7.1]</p> <p>The Authority should carry out intervention/inspections at a frequency which is not less than that specified by the Food Law Code of Practice and centrally issued guidance.</p>	<p>1 April 2016 for current 16/17 prog.</p> <p>Overdue inspections to be completed by 31/3/18</p>	<ul style="list-style-type: none"> The inspection program has been reviewed and from 1/4/2016 the inspections will be carried out at a frequency which is not less than that specified by the Food Law Code of Practice and centrally issued guidance. <p>The Business Compliance triage approach has had an impact on the profile of the program as these visits are not recognised as official controls under the FLCoP. Qualified food officers inspected higher risk and non compliant businesses.</p> <p>The majority of overdue inspections are lower risk and compliant.</p> <ul style="list-style-type: none"> Identify the overdue inspections/ interventions. Overdue program to be completed by 31/3/2018 	<p>Program compiled for 16/17 and delivery against the program has allocated and delivery is on target</p> <p>Completed</p> <p>Finance agreed and tender documents being prepared. In the meantime a temporary contract has been allocated to begin inspecting the backlog. contract has been allocated to begin inspecting the backlog.</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>Recommendation 3 - Service Plan [The Standard - 3.1]</p> <p>The Authority should ensure that Service Plans include a clear comparison of the resources required to effectively carry out the full range of food law activities against the resources available to the service and any resource shortfall should be identified.</p>	June 2016	<ul style="list-style-type: none"> The Service Plan for 2016/17 will include the planned program and the resources allocated to enable its delivery. 	Completed
<p>Recommendation 4 - Notification of food hygiene rating [The FHRS Brand Standard, Section 5]</p> <p>If not notified at the time of the intervention the food hygiene rating must be communicated in writing without undue delay and within 14 days from the date of the intervention and this must include details of when the food hygiene rating will be published.</p>	Completed May 2016	<ul style="list-style-type: none"> Procedure will be reviewed and changes implemented. 	Completed
<p>Recommendation 5 - Appeal Decision Communications [The FHRS Brand Standard, Section 6]</p> <p>Appeals should be considered and the decision should be communicated to the FBO within 7 days of the appeal date.</p>	Completed April 2016	<ul style="list-style-type: none"> Procedure will be reviewed and changes implemented. 	Completed

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>Recommendation 6 - FHRS Data Standard [The FHRS Brand Standard, Section 10]</p> <p>Ensure data held on the database conforms with the format and premises status requirements set out in the “FHRS Data Standard” in the Brand Standard - specifically in regard to the scope and the identifier to indicate the status of establishments e.g. exempt, included, excluded.</p>	31/1/2017	<ul style="list-style-type: none"> • The FHRS identifiers will be added to the database. • All new food registrations will have the scoping field and status including in the creation of the record. • IT Support requested to update existing records using a batch process. 	<p>Completed</p> <p>Completed</p> <p>Support requested from IT – being progressed</p>

ANNEX B - Audit Approach/Methodology

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

- (1) Examination of LA plans, policies and procedures.
- (2) A range of LA file records were reviewed.
- (3) Review of Database records
- (4) Officer interviews

ANNEX C - Glossary

Authorised officer	A suitably qualified officer who is authorised by the local authority to act on its behalf in, for example, the enforcement of legislation.
Brand Standard	This Guidance represents the 'Brand Standard' for the Food Hygiene Rating Scheme (FHRS). Local authorities in England and Northern Ireland operating the FHRS are expected to follow it in full.
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.
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 standards	The legal requirements covering the quality, composition, labelling, presentation and advertising of food, and materials in contact with food.
Framework Agreement	<p>The Framework Agreement consists of:</p> <ul style="list-style-type: none"> • Food and Feed Law Enforcement Standard • Service Planning Guidance • Monitoring Scheme • Audit Scheme <p>The Standard and the Service Planning Guidance set out the Agency's expectations on the planning and delivery of food and feed law enforcement.</p> <p>The Monitoring Scheme requires local authorities to submit yearly returns via LAEMS to the Agency on their food enforcement activities i.e. numbers of inspections, samples and prosecutions.</p> <p>Under the Audit Scheme the Food Standards Agency will be conducting audits of the food and feed law enforcement services of local authorities against the criteria set out in the Standard.</p>
Full Time Equivalents (FTE)	A figure which represents that part of an individual officer's time available to a particular role or set of duties. It reflects the fact that individuals may work part-time, or may have other responsibilities within the organisation not related to food and feed enforcement.
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.
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.