

Supplementary Committee Agenda



**Epping Forest
District Council**

Audit and Governance Committee Monday, 20th September, 2010

Place: Council Chamber
Civic Offices, High Street, Epping

Time: 7.00 pm

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**9. FOOD STANDARDS AGENCY AUDIT - FOOD LAW ENFORCEMENT SERVICE
(Pages 253 - 286)**

(Director of Environment & Street Scene) To consider the attached report (AGC-008-2010/11).

Please find attached the original audit report.

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**Report on the Audit of Local Authority Food Law
Service Assessment of Food Businesses'
Food Safety Management System (FSMS)**

Epping Forest District Council
2-3 March 2010

Foreword

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

The attached audit report examines the Local Authority's Food Law Enforcement Service. The assessment includes the local arrangements in place for officer authorisation and training, inspections of food businesses and internal monitoring. The audit scope was developed specifically to address Recommendations 9 and 15 of the Public Inquiry Report¹ into the 2005 E. coli outbreak at Bridgend, Wales. The programme focused on the local authority's training provision to ensure that all officers who check Hazard Analysis and Critical Control Point (HACCP) and HACCP based plans, including those responsible for overseeing the work of those officers, have the necessary knowledge and skills. Also, that existing inspection arrangements and processes to assess and enforce HACCP related food safety requirements in food businesses are adequate, risk based, and able to effect any changes necessary to secure improvements.

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 Local Authority Food Law Enforcement and is available on the Agency's website at: www.food.gov.uk/enforcement/auditandmonitoring. It should be acknowledged that there will be considerable diversity in the way and manner in which local authorities may provide their food enforcement services reflecting local needs and priorities.

The main aim of the audit scheme is to maintain and improve consumer protection and confidence by ensuring that local authorities are providing an effective 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.

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

¹ <http://wales.gov.uk/ecolidocs/3008707/reporten.pdf?skip=1&lang=en>

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1. Introduction

- 1.1 This report records the results of an audit at Epping Forest District 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 food premises inspections, enforcement activities 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 Epping Forest District Council was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme.
- 1.3 The Authority was included 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 by the Agency and was representative of a geographical mix of 25 Councils selected across England.

Scope of the Audit

- 1.4 The audit examined Epping Forest District Council's arrangements for food premises inspections and internal monitoring with regard to food hygiene law enforcement, with particular emphasis on officer competencies in assessing food safety management systems based on HACCP principles. 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 other related food hygiene law enforcement activities.
- 1.5 Assurance was sought that key 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 office at the Civic Offices, High Street, Epping, Essex on 2–3 March 2010.

Background

- 1.6 The administrative area of Epping Forest District Council is an area of around 130 square miles with a population of approximately 121,000. The District extends from the north east perimeter of Greater London, along the Lea Valley to the River Stort and the boundary of Harlow, and encompassing the Roding Valley to the north and east.
- 1.7 The District covers commuter suburb belts and rural hamlets, with areas of industrial production, farmland and glasshouses. The commuter towns of Chigwell, Loughton and Buckhurst Hill line along the southern boundary with London, to the west are the old streets and new factories of Waltham Abbey, and to the east the village of Theydon Bois and the towns of Epping and Ongar.
- 1.8 The Authority's official monitoring return (2008/2009) confirmed a total of 1,011 food premises in the District, largely comprising small to medium catering (662) and retail businesses (242), and a relatively high number of manufacturers (84). The Authority believed it had up to six establishments in its area which it had approved under Regulation (EC) No. 853/2004, with a further three whose current approval status were uncertain at the time of the audit.
- 1.9 The Authority's Food Safety Service Plan 2010/2011 reported the profile of Epping Forest District Council's food businesses as follows:

Type of food premises	Number
Approved Establishments	6
Manufacturers/Packers	6
Retailers	241
Restaurant/Caterers	662
Total number of food premises	*895

**It is noted that the total number of food businesses reported by the Authority in its 2010/2011 Service Plan was internally inconsistent with the attendant breakdown of premises types, and with the figures provided in the Authority's most recent official monitoring return (2008/2009). These anomalies are addressed in the body of this report (para. 3.1 ['Organisation and Management'] and Section 3.2 ['Food Premises Inspections']).*

- 1.10 The Authority had restructured its Environment and Neighbourhoods Group over the preceding 18 months. The Public Health Team was responsible for enforcing food hygiene legislation in the District. The Team had a wide range of additional law enforcement responsibilities, which included occupational health and safety, pollution, planning related issues, animal welfare, and pest control.
- 1.11 The Team was not responsible for food standards and feeding stuffs law enforcement, which was carried out by Essex County Council Trading Standards Service.

2. Executive Summary

- 2.1 Evidence from interviews with staff and an accompanied visit to a local food business indicated that officers had good levels of knowledge and a sound understanding of enforcement practices, including the assessment and implementation of HACCP based food safety management systems. The Authority provided adequate training opportunities and all front-line officers had attended relevant food safety management (FSM) courses.
- 2.2 However, in relation to general food businesses, it could not be confirmed by audit that officers had carried out their duties in full accordance with legal requirements and official guidance, including the standards of FSM implementation and enforcement. This was due to a number of weaknesses in the Service's procedures and practices, but primarily because the Authority did not have a standard proforma inspection form or aide-memoire to guide officers and to ensure that the required business, food operation and inspection information was recorded. Consequently, key information was either not identified or retained. Where minimal records were logged, this was done by a variety of means such that there was no reliable and complete source of record keeping from which food businesses compliance histories could be assessed.
- 2.3 All these issues also applied to the businesses in the District that required formal approval by the Authority under Regulation (EC) No. 853/2004. The Service was unable to confirm all of the businesses that had been approved by the Authority, whether they had required approval or continued to do so, and if they currently met the required legal standards. The Authority must ensure, as a priority, that the approval status of all relevant businesses is reviewed; that appropriate assessments are carried out under the current legislation, and that re-approval to reflect legislation changes in 2006 is either granted or approval is withdrawn as necessary.
- 2.4 Where examples of thorough work were discerned, particularly in recent activities where more detailed and appropriate records had been documented, these reflected the diligence of individual officers rather than systemic improvements. In addition to these concerns regarding approval assessments, the related statutory process and wider enforcement record keeping deficiencies, this report identifies significant areas of concern relating to the following key Service areas:
- the reliability of the food business database and data management;
 - Service planning;
 - officer authorisations;
 - documented policies and procedures;
 - internal monitoring.

- 2.5 The Service had developed documented policies and procedures for most food law enforcement activities, as part of its Quality Management System (QMS). Although all procedures had recent revision dates they contained a number of outdated references to superseded official guidance. Due to the generic format of these documents they provided very little detail to guide officers in the processes and practices specific to this Authority, which is likely to have been a significant contributory factor in the instances of officer inconsistency identified in this report.
- 2.6 Where adequate records were available, it appeared that officers were prepared to take an appropriate and graduated approach to enforcement. There were some issues in relation to the drafting of statutory notices and adherence to due process; these suggested a need for better internal monitoring to ensure accordance with official guidance and for consistency of approach.
- 2.7 Overall, food sampling and food complaint activities had been undertaken to a good standard. All food and food premises examined appeared to have received appropriate investigation and follow-up action. It was evident that a high level of appropriately targeted sampling was being carried out, much of it part of Essex wide Food Liaison Group surveys. Sampling was being utilised as an adjunct to business inspections, although it could not be confirmed from the records that unsatisfactory sample test results had been followed up on all occasions.
- 2.8 The Service had implemented a procedure for internal audit under its QMS regime which was being followed. However, there appeared to be an over-reliance on the scheduled QMS audits with very little evidence of day to day qualitative monitoring to ensure conformance with the requirements of official controls, official guidance and with the Standard in the Framework Agreement on Local Authority Food Law Enforcement.

3. Audit Findings

3.1 Organisation and Management

Strategic Framework, Policy and Service Planning

3.1.1 The Authority had developed a 'Food Safety Service Plan 2010/2011' that broadly reflected the Service Planning Guidance in the Framework Agreement on Local Authority Food Law Enforcement. The Service Plan was supported by more detailed 'Environmental Health Work Plans', which identified specific objectives, targets and their scheduled dates for completion. Although the Work Plan for 2010/2011 had yet to be drafted, the Plans developed for previous years had included targets relevant to food safety and healthy eating.

3.1.2 The Service Plan identified the aims and objectives of the Public Health Team for 2010/2011, which were linked to the corporate policy objective, to 'to provide a safe, healthy and attractive place to live and work':

- *'to inspect all food premises within the District boundaries in accordance with the Code of Practice made under the Food Safety Act 1990;*
- *to investigate all reports of food poisoning or suspected food poisoning from premises within our District or ensure that the proper authorities are informed of cases arising within the population but which originate outside of it;*
- *to look into all complaints regarding food premises or food within our District and in accordance with the Code of Practice;*
- *all officers shall have regard to published guidance from the recognised expert bodies and will act in accordance with the Directorate's Enforcement Policy and Service Plan;*
- *we aim to increase knowledge and therefore compliance with legislation by providing food handlers with access to courses to bring their knowledge up to the needs required.'*

3.1.3 The Cabinet style political management structure of the Council, with a Portfolio holder for Environment, whose remit covered food safety, largely precluded the need for routine updates and reports concerning food law enforcement as the Portfolio Holder is an executive Member and is therefore an integral part of the higher levels of Council governance. The Service met regularly at Assistant/Director level to brief the Portfolio holder on matters concerning the Service's food law activities and performance. However, the Service was unable to

confirm whether the Service Plan 2010/2011 had been approved by the Portfolio Holder, and its status at the time of audit was therefore unclear. There was no evidence to confirm that the Authority had reviewed the Service's performance against the preceding year's Service Plan, or that any variances had been identified and addressed.

- 3.1.4 There were some significant discrepancies within the figures quoted in the Service Plan 2010/2011, relating to the total number of food businesses in the District and their breakdown into business types, and also when compared to the Authority's official monitoring return to the Agency for 2008/2009 – the most recent available. These anomalies are set out in more detail under *Section 3.2* of this report: '*Food Premises Inspections*'.
- 3.1.5 The Service Plan included estimations of the likely demand for various Service activities, based on previous years' experience. The current staffing allocation set out in the Service Plan detailed 2.7 FTE.

Recommendations

The Authority should:

- 3.1.6 Ensure that future Food Service Plans are in full accordance with the Service Planning Guidance in the Framework Agreement; that they include accurate details of the District's food premises profile, their risk ratings, numbers of unrated premises and the work programme for the year, together with the staffing resources required to deliver the food law enforcement service, compared with the staffing resources available to the Authority. [The Standard – 3.1]
- 3.1.7 Ensure that the Service's performance against the Authority's Food Service Plan is reviewed at least annually and that any variances in achieving the work programme are recorded, submitted for Portfolio Holder approval, and addressed in the subsequent year's Service planning. [The Standard – 3.2 and 3.3]

Documented Policies and Procedures

- 3.1.8 The Service had developed a range of policies and procedures as part of its accredited Quality Management System ('QMS' - ISO 9001:2000) and document control process.
- 3.1.9 The QMS policies and procedures were updated and approved by the Authority's Performance and Quality Support (PQS) Officer, and authorised by the PQS Manager. Implementation of the QMS was the

responsibility of the Assistant Director (Environment and Street Scene), and the Public Health Team Manager.

- 3.1.10 Although the relevant procedures had recent review dates, some included out of date and confused references to official guidance and current requirements. For example, the procedures for approval of premises and their inspection (reviewed January 2010) did not reflect amendments to the 2008 revision of the Food Law Code of Practice.
- 3.1.11 The procedures were generic in format and contained very little detail to guide officers in the processes and practices specific to this Authority, or the qualitative standards necessary to achieve compliance with statutory requirements and official guidance. There was no procedure developed for the voluntary closure of premises.
- 3.1.12 The procedural deficiencies are likely to be a significant contributory factor where instances of inconsistency within the team's approach have been identified in this report.

Recommendations

The Authority should:

- 3.1.13 Ensure that all policies and procedures are reviewed and revised at regular intervals to reflect accurately the changes to legislation or official guidance and to provide officers with up to date guidance.
[The Standard – 4.1 and 4.2]
- 3.1.14 Expand and revise the generic procedures to ensure the documents contain sufficient detail to provide adequate and consistent guidance for staff in the food law enforcement processes and practices they implement, in accordance with the relevant legislation, Food Law Code of Practice and other centrally issued guidance.
[The Standard – 4.1, 4.2, 7.4 and 15.2]

Officer Authorisations

- 3.1.15 The Authority had a procedure for the authorisation of officers, which was set out in the Constitution and confirmed a Cabinet decision to delegate the powers for officer authorisation to the Director of Environment and Street Scene, or in that officer's absence, the Assistant Director.
- 3.1.16 The procedure did not detail the process for assessing, reviewing, revising and confirming officers' levels of competency, or refer to the qualification, training and experience provisions of the Food Law

Code of Practice. Authorisation was sanctioned on the basis of advice from the Public Health Manager (PHM), who was responsible for ensuring that *'officers reach the standards required by the FSA'* by *'checking with the Chartered Institute of Environmental Health or other appropriate organisation to confirm competency requirements'*.

- 3.1.17 The Service had at some stage used a 'Competency/Training Matrix' template, which set out some key skills, activities and experience standards with tick-boxes to confirm the level each officer was assessed to have attained. However, the status of the completed copy examined during the audit was unclear; it was confirmed that this template was not part of the QMS, it had not been used for several years and that the version examined was out of date.
- 3.1.18 In practice, officers had not been authorised individually in accordance with an assessment of their individual levels of qualification, training and experience. Uniform authorisation had been issued to all staff engaged in food law enforcement, which conferred the same high level of authorisation to each officer irrespective of their designation, qualification and competency.
- 3.1.19 The standard authorisation instrument issued by the Authority to provide officers with confirmation of the powers vested in them, and the list of relevant legal provisions appended to the Cabinet decision (dated 2005), omitted reference to some key food legislation and regulatory provisions enforced by the Authority. In some cases, these omissions appeared to concern legal provisions that have been superseded, or enacted since the Authority's documents were drafted:
- Official Feed and Food Controls (England) Regulations 2009;
 - Food Hygiene Regulations (England) 2006;
 - Contaminants in Food (England) Regulations 2009;
 - Products of Animal Origin (Third Country Imports) (England) Regulations 2006;
 - Products of Animal Origin (Import and Export) (Amendment) (England) Regulations 2001;
 - current/relevant Emergency Control Regulations;
 - specific nominated officer(s) for FSA authorisation under Food and Environment Protection Act 1985.

Recommendations

The Authority should:

- 3.1.20 Review, revise and implement the documented procedure on the authorisation of officers to include details of the competency assessment process by which authorisations are conferred based on officers' individual qualifications, training and experience. [The Standard – 5.1]
- 3.1.21 Review and revise officers' schedules of authorisation to ensure they include reference to all relevant and up to date legislative provisions, and the extent and limitations of each officer's duties based on an assessment of their individual levels of qualification, training and experience. [The Standard – 5.3]

- 3.1.22 The Authority operated a corporate annual performance review process where officer training requirements were discussed, and it was evident that adequate training opportunities were made available when requests were agreed. However, the identification of necessary training appeared to be largely officer lead and there was no process for collating individual and team training needs into a documented annual training programme, or to provide structured induction training to those returning or new to food related work.
- 3.1.23 Officers' qualification records were held centrally by Human Resources, with each officer expected to maintain their own records of continuing professional development (CPD) and their attendance of relevant seminars and update training.
- 3.1.24 All front-line authorised officers for whom training records were available had achieved the required minimum 10 hours relevant training, based on the principles of continuing professional development. With regard to specific training on HACCP issues, it was noted that most officers had attended recent training on '*Safer food, better business*' (SFBB) in 2006.
- 3.1.25 The training records indicated that the Authority's lead officer for food safety had not maintained the minimum 10 hours CPD training. There was no evidence that the lead officer had received update training relevant to the scope of this audit, such as training in HACCP principles, SFBB, inspection of approved establishments, complex processes, or formal enforcement training, other than attendance of a course on the Regulation of Investigatory Powers Act 2000.

Recommendations

The Authority should:

- 3.1.26 Set up, implement and maintain a documented training programme to encompass identified individual and team training needs. [The Standard – 5.4]
- 3.1.27 Maintain records of relevant qualifications, training and experience of each authorised officer in accordance with the Food Law Code of Practice. [The Standard – 5.5]
- 3.1.28 Ensure that the appointed lead officer for food hygiene has the necessary specialist knowledge; this should include any food issues for which the Authority has specific responsibilities in its area, such as establishments approved under product specific legislation. [The Standard – 5.2]

3.2 Food Premises Inspections

3.2.1 The Authority's Food Safety Service Plan 2010/2011 identified a total of 895 food businesses in the District, and the following breakdown into risk categories:

Risk category	Number
A	13
B	72
C	398
D	118
E	294
Total	895

3.2.2 The Plan confirmed that 466 inspections of these businesses fell due in 2010/2011, together with a further 104 overdue inspections carried over from the previous year. It was estimated that inspection of the combined total of businesses due would generate approximately 180 follow-up visits.

3.2.3 The Service Plan also set out a limited profile of the food businesses in the District according to type:

Business type	Number
Manufacturers	6
Retailers	241
Caterers	662
Approved establishments	6
Total	915

3.2.4 This table suggests a higher total of businesses than the first table, yet it excludes a number of the District's businesses that fall into the full range of officially designated categories. The most recent official monitoring return (2008/2009) made by the Authority to the Agency showed the following more complete breakdown into business type and the spread of risk ratings:

Risk category	Primary producers	Manufacturers & packers	Importers/exporters	Distributors/transporters	Retailers	Restaurants /caterers	Totals
A	0	0	0	0	2	9	11
B	0	1	0	0	7	66	74
C	0	3	0	1	35	345	384
D	0	2	0	3	28	60	93
E	1	33	0	11	129	93	267
Unrated	1	45	0	6	29	57	138
Outside inspection programme	0	0	0	0	12	32	44
Totals	2	84	0	21	242	662	1,011

- 3.2.5 While allowing for some minor fluctuations in these figures, due to the different times in year at which the statistics were collated and the interim changes in risk ratings and 'business churn', it seems unlikely that they can be reconciled. For example, the number of food manufacturers appears to have decreased from 84 to 6 in year. Similarly, in its official return, a total of 138 businesses were declared by the Authority not to have been risk rated, but there were none at the time of the audit. The reliability of the Authority's data was further undermined by apparent inconsistencies in the figures for inspection follow-up actions and also uncertainty about the number of establishments approved by the Authority. The Service had recognised the need for 'data cleansing', which was thought to be at least partly due to it having been an Administration task to input data, prior to a recent transfer of responsibility to enforcement officers.
- 3.2.6 Although the scope of the audit did not include a detailed examination of the Authority's database management, it was evident from the limited checks undertaken that there were anomalies in the manner in which data were being recorded, which was likely to affect data management reports run from the system. For example, additional and unexplained fields were identified which indicated that an inspection was being carried out at each business on 1 April each year, together with a risk rating.

Recommendation

3.2.7 The Authority should:

Ensure that the food business database is configured and operated in such a way as to provide accurate and reliable food business and food law enforcement activity data.

[The Standard – 6.4]

- 3.2.8 The Authority had developed and implemented a brief procedure on the general inspection of food premises and a further limited procedure for 'Product Specific Establishments/Approved Premises'. These procedures needed to be expanded to provide adequate officer guidance and appropriate references to official guidance, with particular regard to the specific requirements for the approval process, the inspection of approved establishments and the use of appropriately detailed inspection/record aides-memoire.

Recommendation

3.2.9 The Authority should:

Revise and implement its documented inspection procedures to include appropriate details and references for the approval of product specific establishments under Regulation (EC) No. 853/2004, and the assessment of the compliance of premises and systems, particularly in relation to HACCP based food safety management systems.
[The Standard – 7.2, 7.3 and 7.4]

3.2.10 It was evident from the Authority's Service Plan and the on-site file and database record checks that the Authority was not carrying out all its higher risk premises inspections at the minimum frequencies required by the Food Law Code of Practice. The Service had utilised a contractor during the year to assist with its inspection programme.

Recommendation

3.2.11 The Authority should:

Ensure that food hygiene inspections are carried out at a frequency which is not less than that determined under the inspection rating system set out in the Food Law Code of Practice. [The Standard – 7.1]

3.2.12 Interviews with staff and the audit 'reality check' at a local business indicated good levels of knowledge and a professional approach. The officers were fully aware of the findings of the Inquiry report into the 2005 E. coli outbreak in Wales and had evidently considered ways in which improvements might be made to better align the Service with good practice.

3.2.13 The auditors were informed of an Agency funded Essex Food Liaison Group initiative in 2005/2006 that had provided a series of 'Safer food, better business' seminars for local ethnic businesses, using bilingual trainers.

3.2.14 It was not possible from an audit of the Service's records, in most of the cases examined, to confirm that appropriate inspections, interventions and effective follow-up actions were being made, or that the risk ratings of businesses were being accurately determined. This was due to the Service's lack of a systematic approach to recording information.

- 3.2.15 There was no Service standard proforma or aide-memoire to prompt officers to record in sufficient detail their assessments of general premises or approved establishments. Officer records of the food safety management systems (FSMS) were incomplete and did not indicate that an assessment of the food business operator's validation and verification of the FSMS had taken place.
- 3.2.16 Officers used a range of different approaches which included:
- personal notebooks. There was no system to require the surrender of notebooks when officers left the Authority's employment, and consequently any information recorded by this means was likely to be lost;
 - an inspection form that was removed from the QMS system in 2006;
 - a subsequent non-sanctioned revised draft form, and/or
 - limited database entries.
- 3.2.17 Officers were routinely providing business proprietors with inspection reports at the conclusion of each inspection. However, these were hand written, often difficult to read, and the format required reporting by exception only.
- 3.2.18 In addition to the absence of basic information on each business, such as the size and scale and the type of food operation, there was little information on the compliance of businesses with general hygiene requirements such as records of assessments of the adequacy of the structure, facilities, or equipment. The absence of information and variations in the location and content of records made it difficult to confirm that an effective assessment of the compliance of the food business with legislative requirements had been made or to determine the basis for the allocation of premises risk ratings.
- 3.2.19 It was acknowledged that the database held incomplete business compliance histories. In practice, there was also no Service standard for the minimum details and location of records relating to follow-up actions, including sampling and formal enforcement.
- 3.2.20 It was therefore very difficult for an inspecting officer new to a business to establish its inspection and compliance history, to determine what regulatory interventions and investigations have been carried out, the date and rationale, and how matters were concluded.
- 3.2.21 The Service required more detailed inspection procedures, specific to this Authority's practices, and standardised inspection aides-memoire to assist their officers in ensuring that all aspects of official controls are considered and recorded in appropriate detail. This would then provide the necessary basis to inform subsequent inspections for officers and a graduated approach to enforcement in accordance with

the Authority's Enforcement Policy, and also to permit effective internal monitoring.

Recommendations

The Authority should:

3.2.22 Inspect general food premises in accordance with the relevant legislation and assess the compliance of premises to the legally prescribed standards, taking appropriate action on any non-compliance found in accordance with the Authority's enforcement policy.

[The Standard – 7.2 and 7.3]

3.2.23 Ensure that observations made and/or data obtained in the course of an inspection are recorded in a timely manner to prevent loss of relevant information. Ensure that adequate records of inspections and key details of food business operations, particularly in relation to the verification of HACCP based food safety management systems, include sufficient detail to demonstrate whether the compliance of premises and systems has been comprehensively assessed to legally prescribed standards, and provide complete histories of each business's compliance with legal standards. [The Standard – 7.5]

3.2.24 The issues raised above in relation to general premises are of particular significance with regard to establishments for which the Authority has responsibility to approve under Regulation (EC) No. 853/2004. Assurance of the effective control of these processing operation forms the basis for their national and international trade.

3.2.25 The Authority had notified the national database of nine establishments in its area for which approval was granted. At the time of audit, the Service recognised only six of these businesses as being approved, and there was uncertainty whether all of these continued to require approval.

3.2.26 Most of the Service's files of approved establishments examined were incomplete, lacking in some cases the approval documentation, basic information about the business and its processes. It was not possible to confirm whether these operations had been appropriately approved in accordance with Regulation (EC) No. 853/2004, or whether their approval had been re-confirmed following legislation changes in 2006.

3.2.27 Other than for the most recent inspections, the findings had not been routinely recorded on prescribed aides-memoire specific to the type of establishment. It was therefore not possible to establish from the file

records whether an appropriate detailed evaluation had been carried out, and the basis of the officer's assessment of compliance, in particular, whether the business had implemented an effective FSMS based on HACCP.

- 3.2.28 Approved establishment files required review to ensure that they contained the relevant business and operations information as recommended in Annexe 12 of the Food Law Practice Guidance, including a synopsis of the business details and food operations, details of pest control arrangements, assessment and confirmation of compliance with HACCP plans, and information on emergency withdrawal/recall procedures, which would be important in the event of a food safety incident.

Recommendations

The Authority should:

- 3.2.29 As a priority, re-inspect and review the status of all the Authority's approved premises and those that might require approval, to ensure that all relevant businesses are approved in accordance with Regulation (EC) No. 853/2004. [The Standard - 7.2]
- 3.2.30 Maintain up to date, accurate and comprehensive records for all approved establishments in accordance with Annexe 12 of the Food Law Practice Guidance. [The Standard – 16.1]

Verification Visit to a Food Premises

- 3.2.31 During the audit, a verification visit was undertaken to a local retail delicatessen/cafe 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. The specific assessments included the conduct of the preliminary interview of the food business operator (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.
- 3.2.32 During the visit, the checks carried out by the officer were detailed, thorough, and appropriate. Due to the absence of an appropriate aide-memoire, the officer's previous reports contained detail by 'exception reporting' so the whole compliance history and activities carried on at the business could not be fully ascertained by the auditor prior to the visit. It was clear that the officer was able to adequately

assess HACCP compliance and the FBO's ability to verify and monitor critical control points. The officer took a proportionate, risk based approach with the FBO in discussions during the visit. An appropriate risk score rating appeared to have been assigned at previous inspection and the officer intended to follow-up on this visit with appropriate actions.

3.3 Enforcement

- 3.3.1 The Authority had developed a recently updated enforcement policy which was generally in accordance with centrally issued guidance and with regard to the Regulators' Compliance Code. The Policy had been approved by Cabinet in September 2009. The Service had also developed procedural guidance for most formal food law enforcement actions, guidance still needed to be developed for voluntary closure procedures.
- 3.3.2 Where sufficient records were available for examination, it appeared that officers were taking a graduated approach to enforcement when appropriate. Some issues were noted for statutory notices issued by some officers, with regard to the technicalities of due process and the drafting of notices. In particular, it could not be ascertained whether notices had received timely follow-up checks, a clear indication that compliance had been confirmed, the process around time extensions and whether businesses had received written confirmation of compliance.
- 3.3.3 There were some examples of formal enforcement action being taken by officers in relation to failures in providing an adequate FSMS. The wording of the notices was limited to a quotation of the legal requirements, and did not provide clear examples of the reasons for the contravention. In some cases the minimum statutory period for compliance had been allowed, which appeared difficult to achieve where FSMS needed to be developed in businesses that were starting from 'first base'.

Recommendations

The Authority should:

- 3.3.4 Set up, maintain and implement documented procedures for follow-up and enforcement actions in accordance with the Food Law Code of Practice, for example, voluntary closure procedures. [The Standard – 15.2]
- 3.3.5 Ensure that enforcement actions are carried out in accordance with the statutory requirements and official guidance. [The Standard – 15.3]

3.4 Internal Monitoring and Third Party or Peer Review

Internal Monitoring

- 3.4.1 The Service had a documented QMS monitoring procedure. The QMS was subject to a minimum programme of annual external and internal audit, which had been maintained since inception of the QMS in 1996.
- 3.4.2 Although the QMS was 'internally coherent' and subject to regular audits that frequently identified some non-conformances within the limited specifications of the system, the process itself did not relate sufficiently outward to the specific statutory obligations, official controls, due processes and qualitative standards that it had been established to deliver.
- 3.4.3 The Authority regarded the QMS as a key indicator and a safeguard of the effective operation of the Service. In practice, there appeared to be an over-reliance and false confidence in the QMS and its audit regime, which may have obscured the fundamental importance of effective day-to-day management and monitoring.
- 3.4.4 For all Service activities examined during this audit, there was no evidence of routine internal qualitative monitoring of the Service's conformance with statutory requirements, official guidance and the Standard in the Framework Agreement on Local Authority Food Law Enforcement. Most of the issues highlighted by this report could be identified by an effective internal monitoring system.

Recommendation

3.4.5 The Authority should:

Review, revise and fully implement its internal monitoring procedure to include the qualitative monitoring of all areas of food law enforcement activity in accordance with the Food Law Code of Practice; ensure that records of monitoring activities and corrective actions are maintained. [The Standard – 19.1 and 19.2]

Food and Food Premises Complaints

- 3.4.6 The Authority had developed and implemented a policy and procedure for the investigation of food and food premises complaints.
- 3.4.7 The records of complaint investigations examined confirmed that in all cases, the allegations were appropriately investigated and follow-up action had been taken as necessary.

- 3.4.8 Key details of complaints were recorded on the database, and in some cases, details were also held on the premises files.

Food Sampling

- 3.4.9 The Authority was participating in local and national food sampling programmes. The sampling procedure required some further development to provide detail on the Authority's own procedures, including action to be taken following the receipt of sampling results.
- 3.4.10 It was evident that a high level of appropriately targeted sampling was being carried out, including at the Authority's approved and high risk businesses, much of it in accordance with the Essex Food Liaison Group programmes. Sampling was also being used as an effective adjunct to business inspections.
- 3.4.11 Audit checks of unsatisfactory sample results indicated that, where adequate records were available, appropriate follow-up action was being taken and that officers were advising business owners of appropriate remedial actions.

Third Party or Peer Review

- 3.4.12 Auditors were informed that the Essex Food Liaison Group had established a process of inter-authority audits around three years ago, but that this had been discontinued before the full programme was completed and no recent formal inter-authority audits had taken place in the area.

Auditors: **Jane Tait**
John Questier

Food Standards Agency

Local Authority Audit and Liaison Division

Action Plan for Epping Forest District Council

Audit date: 2-3 March 2010

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.7 Ensure that future Food Service Plans are in full accordance with the Service Planning Guidance in the Framework Agreement; that they include accurate details of the District's food premises profile, their risk ratings, numbers of unrated premises and the work programme for the year, together with the staffing resources required to deliver the food law enforcement service, compared with the staffing resources available to the Authority. [The Standard – 3.1]	30/06/10	Future Food Safety Plans to be produced in accordance with the Guidance. Figures to be taken from LAEMS return to ensure consistency. Team work programme to reflect staffing resources and other work commitments.	
3.1.8 Ensure that the Service's performance against the Authority's Food Service Plan is reviewed at least annually and that any variances in achieving the work programme are recorded, submitted for Portfolio Holder approval, and addressed in the subsequent year's Service planning. [The Standard – 3.2 and 3.3]	30/06/10 30/09/10 31/12/10 31/03/11	The Food Safety Plan will be reviewed annually and its action plan quarterly. Reviews to be submitted to the relevant Portfolio Holder.	

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.1.14 Ensure that all policies and procedures are reviewed and revised at regular intervals to reflect accurately the changes to legislation or official guidance and to provide officers with up to date guidance. [The Standard – 4.1 and 4.2]</p>	<p>31/10/10</p> <p>As and when legislation/ guidance changes</p>	<p>Policies and Procedures to be reviewed in light of audit findings, to include greater detail and guidance for officers this will be completed by 31 October.</p> <p>Additional reviews will be undertaken when new legislation and/or guidance is notified by FSA/CIEH/LACORS/EFLG, and in accordance with the requirements of the quality system.</p>	
<p>3.1.15 Expand and revise the generic procedures to ensure the documents contain sufficient detail to provide adequate and consistent guidance for staff in the food law enforcement processes and practices they implement, in accordance with the relevant legislation, Food Law Code of Practice and other centrally issued guidance. [The Standard – 4.1, 4.2, 7.4 and 15.2]</p>	<p>31/10/10</p>	<p>See above.</p>	
<p>3.1.21 Review, revise and implement the documented procedure on the authorisation of officers to include details of the competency assessment process by which authorisations are conferred based on officers' individual qualifications, training and experience. [The Standard – 5.1]</p>	<p>31/07/10</p>	<p>Procedure to be reviewed and revised and a competency matrix produced. Each competency will be defined and a list of skills/training required to meet each criteria produced.</p> <p>This procedure will reference the rules for officer delegations in the Councils constitution.</p>	
<p>3.1.22 Review and revise officers' schedules of authorisation to ensure they include reference to all relevant and up to date legislative provisions, and the extent and limitations of each officer's duties based on an assessment of their individual levels of qualification, training and experience. [The Standard – 5.3]</p>	<p>31/07/10</p>	<p>Schedules of authorisation to be reviewed using list available from FSA website. When the definitive schedule has been produced, it will be referenced in the Councils Constitution.</p>	

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.27 Set up, implement and maintain a documented training programme to encompass identified individual and team training needs. [The Standard – 5.4]	31/07/10	Individual training needs are documented in the Personal Development Review process. The authorisation procedure will reflect the need for refresher/update training, with a general training policy created for team training on a three year cycle.	
3.1.28 Maintain records of relevant qualifications, training and experience of each authorised officer in accordance with the Food Law Code of Practice. [The Standard – 5.5]	Completed	Such records are maintained within the Directorate. Officers will check that their records are up to date and re-check and update if required, on an annual basis. Line manager will undertake an annual check of Officers training record.	Complete.
3.1.29 Ensure that the appointed lead officer for food hygiene has the necessary specialist knowledge; this should include any food issues for which the Authority has specific responsibilities in its area, such as establishments approved under product specific legislation. [The Standard – 5.2]	30/06/10	Lead Food Officer/ Assistant Director to identify and attend refresher/update training, as necessary to maintain competency. Assistant Director will review Lead Food Officer on a six monthly basis.	Lead Officer training booked for 20-22 July 2010 with an external training provider. Assistant Director refresher training booked for 15- 16 June 2010 with an external training provider.
3.2.7 Ensure that the food business database is configured and operated in such a way as to provide accurate and reliable food business and food law enforcement activity data. [The Standard – 6.4]	31/10/10	Procedures to be reviewed and re-issued to ensure consistent use of database. Officers to take responsibility for updating business details following interventions, and for entering and linking records of revisits. Documents are to be scanned and attached to database records.	

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.2.9 Revise and implement its documented inspection procedures to include appropriate details and references for the approval of product specific establishments under Regulation (EC) No. 853/2004, and the assessment of the compliance of premises and systems, particularly in relation to HACCP based food safety management systems. [The Standard – 7.2, 7.3 and 7.4]	31/05/10	Procedure to be reviewed and revised.	
3.2.11 Ensure that food hygiene inspections are carried out at a frequency which is not less than that determined under the inspection rating system set out in the Food Law Code of Practice. [The Standard – 7.1]	Completed	Higher risk businesses will be prioritised to ensure inspection at correct frequency, with separate lists for A-C and D-E risk rated premises. Inspections will be allocated to staff one month earlier, giving greater notice of due inspection dates on lower risk businesses. Senior management will be notified of those businesses not inspected within 14 days of the due date.	
3.2.22 Inspect general food premises in accordance with the relevant legislation and assess the compliance of premises to the legally prescribed standards, taking appropriate action on any non-compliance found in accordance with the Authority's enforcement policy. [The Standard – 7.2 and 7.3]	31/08/10	See 3.2.23 and 3.4.5.	

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.2.23 Ensure that observations made and/or data obtained in the course of an inspection are recorded in a timely manner to prevent loss of relevant information. Ensure that adequate records of inspections and key details of food business operations, particularly in relation to the verification of HACCP based food safety management systems, include sufficient detail to demonstrate whether the compliance of premises and systems has been comprehensively assessed to legally prescribed standards, and provide complete histories of each business's compliance with legal standards. [The Standard – 7.5]	31/08/10	Procedures will provide greater guidance in relation to consistent record keeping. Inspection documents to be reviewed and revised to provide a standard pro-forma inspection record which will be attached to the database record of inspection. All non-sanctioned documents will be withdrawn.	
3.2.29 As a priority, re-inspect and review the status of all the Authority's approved premises and those that might require approval, to ensure that all relevant businesses are approved in accordance with Regulation (EC) No. 853/2004. [The Standard - 7.2]	30/06/10	All approved establishments to be re-inspected. Approval to be renewed or removed as necessary. LACORS form to be completed, where necessary and attached to computer record, other paperwork to be retained in dedicated file.	
3.2.30 Maintain up to date, accurate and comprehensive records for all approved establishments in accordance with Annex 12 of the Food Law Practice Guidance. [The Standard – 16.1]	30/06/10	See above.	
3.3.4 Set up, maintain and implement documented procedures for follow-up and enforcement actions in accordance with the Food Law Code of Practice, for example, prohibition and voluntary closure procedures. [The Standard – 15.2]	31/10/10	Procedure PH03 already deals with prohibition and voluntary closure, All procedures are to be reviewed in light of the audit report.	
3.3.5 Ensure that enforcement actions are carried out in accordance with the statutory requirements and official guidance. [The Standard – 15.3]	31/10/10/ Immediate	Procedures to be reviewed. Formal notification of notice compliance to be sent to businesses in future.	

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.4.5 Review, revise and fully implement its internal monitoring procedure to include the qualitative monitoring of all areas of food law enforcement activity in accordance with the Food Law Code of Practice; ensure that records of monitoring activities and corrective actions are maintained. [The Standard – 19.1 and 19.2]</p>	<p>31/08/10</p>	<p>Joint consistency visits will take place quarterly. Public health manager currently reviews all notices, in future a sample of letters and database entries will be reviewed quarterly to ensure consistency. Review activities will be more frequent for new staff. Records are currently kept of accompanied inspections, a proforma will be introduced detailing review activities.</p>	

Audit Approach/Methodology

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

(1) Examination of LA policies and procedures.

The following LA documentation, policies, procedures and related paperwork were examined before and during the audit:

- Epping Forest DC Local Authority Monitoring Returns 2008/2009
- Food Safety Service Plan 2010/2011;
- Environmental Work Plans 2009/2010; 2008/09
- Public & Environmental Health/Food Inspection spending and control book 2009/10
- QMS Procedures:
 - Authorisation of Officers [PH10]
 - Programme & Reactive FH & H&S Inspections [PH 01]
 - Product-Specific Establishments/Approved Premises [PH11]
 - Food Complaints [PH 04]
 - Food Samples [PH 06]
 - Improvement Notices [PH 02]
 - Legal Proceedings [ESS 12]
 - Seizure, Detention and Voluntary Surrender of Food [PH 08]
 - Internal Audits/Process Review [ESS 04] and internal audit reports
- New Constitution Book [05B 2005 Appendix A – Rev 10]
- Departmental Competency/Training Matrix [QdOC 700/5]
- Executive Functions – Delegations [Ed. 7 May 2009]
- Commercial Premises Hygiene Report [August 2006]
- Report sheet for accompanied inspection
- Environment & Street Scene Directorate Enforcement Policy [August 09]
- Cabinet Report 7 September 2009
- Hygiene Inspection Report [March 09]
- LRQA Surveillance Report [LRQ 0953617/0025]
- Public Health Team Meeting minutes [12/11/09; 8/7/09; 11/3/09]
- Essex Food Group meeting minutes [3/12/09; 15/10/09; 9/7/09].

(2) File reviews – the following LA activity and action records were reviewed during the audit:

- General food premises inspection records
- Approved establishment files
- Food complaint records
- Food sampling records
- Formal enforcement records
- Internal monitoring and audit records

(3) *Officer interviews – the following officers were interviewed:*

- Audit Liaison Officer
- Environmental Health Officers (x3)

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

(4) *On-site verification check:*

A verification visit was made with the Authority's officers to a local food business. The purpose of the visit was to 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 specific regard to LA checks on FBO compliance with HACCP based food safety management systems.

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.
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 geographic area and situated within a County Council whose responsibilities include food hygiene enforcement.
E. coli	<i>Escherichia coli</i> microorganism, the presence of which is used as an indicator of faecal contamination of food or water. <i>E. coli</i> 0157:H7 is a serious food borne pathogen.
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 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 law enforcement.</p> <p>The Monitoring Scheme requires local authorities to submit quarterly returns 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 law enforcement services of local authorities against the criteria set out in the Standard.</p>
Full Time Equivalents (FTE)	A figure which represents that part of an individual officer's time available to a particular role or set of duties. It reflects the fact that individuals may work part-time, or may have other responsibilities within the organisation not related to

food enforcement.

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.
OCD returns		Returns on local food law enforcement activities required to be made to the European Union under the Official Control of Foodstuffs Directive.
Regulators' Code	Compliance	Statutory Code to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on businesses.
Risk rating		A system that rates food premises according to risk and determines how frequently those premises should be inspected. For example, high risk premises should be inspected at least every 6 months.
Service Plan		A document produced by a local authority setting out their plans on providing and delivering a food 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 (TSO)	Officer	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.