



Report on the Food Law Enforcement Service

London Borough of Lewisham

29 April - 2 May 2003

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 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 inspections of food businesses and foodstuffs, sampling and analysis, internal management, food safety promotion and educational activities. 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 Local Authority Food Law Enforcement and is available on the Agency's website at:

www.food.gov.uk/enforcement.

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.

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

www.food.gov.uk/enforcement.

The report also contains an action plan, prepared by the Authority, to address the audit findings.

For assistance, a glossary of technical terms used within the audit report can be found at the Annex.

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1. Introduction

- 1.1 This report records the results of the audit under the headings of the Food Standards Agency Food Law Enforcement Standard and has been made publicly available on the Agency's website at www.food.gov.uk/enforcement. Hard copies are available from the Food Standards Agency's Local Authority Enforcement Division at Aviation House, 125 Kingsway, London WC2B 6NH, Tel: 020 7276 8434.

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. The audit of the food service at the London Borough of Lewisham 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 within the audit programme on the basis of a low level of food standards inspections of high risk premises, as indicated by 2001 monitoring information provided to the Agency under section 13 of the Food Standards Act 1999. The London Borough of Lewisham was subsequently named in a paper presented to the Food Standards Agency's Board in February 2003. Further details of monitoring statistics can be found at: www.food.gov.uk/enforcement.

Scope of the Audit

- 1.4 The audit covered the London Borough of Lewisham's food hygiene, food standards and feeding stuffs law enforcement service. The on-site element of the audit took place on 29 April–2 May 2003 at the Authority's Environmental Health Commercial offices at 333-335 Baring Road, London and the Trading Standards offices at Laurence House, 1 Catford Road, London.
- 1.5 The audit assessed the Authority's conformance against the Standard, using audit protocols FSA/AP3/1 – FSA/AP21/1. The Standard was adopted by the Food Standards Agency Board on 21 September 2000, (amended March 2002), and forms part of the Agency's Framework Agreement with local authorities. The Framework Agreement and the audit protocols can be found on the Agency's website at: www.food.gov.uk/enforcement.

Background

- 1.6 Lewisham is an inner London Borough covering 13.7 square miles in south-east London. The Borough is mainly residential and has a population of approximately 245,000 with a high proportion of ethnic minority groups. A survey carried out by the Authority in 2001 indicated that 59% of Environmental Health Service users were from ethnic minority communities.
- 1.7 The local food industry is largely based on the retail and catering trade with a few small scale food manufacturers and an increasing number of small scale producers. Several business parks are being developed with units being taken up by food businesses. A high proportion of food businesses cater for ethnic minority communities, and this includes a significant level of food importation, repackaging and food distribution activity.
- 1.8 Officers of the Food, Safety and Health Team in the Environmental Health Commercial division of the Regeneration Directorate were responsible for food hygiene and food standards enforcement. Enforcement of feeding stuffs legislation was the responsibility of the Trading Standards Service, however, no premises dealing in feeding stuffs for livestock had been identified in the Borough. Consequently, the audit focused on the Authority's food hygiene and food standards function and specific references to feeding stuffs are included in this report only where relevant.
- 1.9 Officers of the Food, Safety and Health Team were also responsible for infectious disease work and enforcement of occupational health and safety law, in addition to food hygiene and food standards enforcement. However, a recent audit report produced by the Health and Safety Executive (January 2003) stated that no proactive health and safety work was being undertaken in practice, although a reactive service was provided. Trading Standards officers were responsible for enforcement of the full range of fair trading and consumer protection law.
- 1.10 The Environmental Health Commercial offices were open from 09:00 – 17:00 hours Monday to Friday. A telephone number for the Authority's out-of-hours emergency call out service was displayed at the Council offices, but it was not clear at the time of audit whether this remained operational in the event of a food related incident. The auditors were informed that there was currently no formally agreed arrangement, but that a food specialist officer would be contacted when possible.

1.11 The Authority's monitoring returns made to the Agency for the four quarters making up the financial year 2001/2002 indicated that the Food, Safety and Health Team was responsible for enforcing food legislation in 2,150 premises. These food businesses were predominantly within the catering (57%) and retail sectors (37%). The returns also indicated that the Authority carried out:

Proactive Enforcement Activity	No.
Food hygiene inspections	1,278
Food hygiene other visits	21
Food hygiene revisits	237
Advisory and sampling visits	428
Formal food samples	45
Informal food samples	87
Food standards inspections	0
Food standards revisits	0
Food standards other visits	0

2. Executive Summary

- 2.1 A number of significant management and operational deficiencies were identified during the audit relating to the food standards and food hygiene law enforcement Service. The Authority did not know the food standards risk profile of the businesses in its area and had never carried out a food standards inspection programme. Food hygiene inspections were not carried out at the required minimum frequencies according to risk, and there was no effective prioritisation of the Service's resources to ensure that all businesses identified by the Authority as high risk were at least inspected ahead of those of known low risk. A backlog of food hygiene inspections of high risk premises had accumulated, some overdue an inspection by up to 2 years.
- 2.2 The lines of delegated authority for food law enforcement were not clear and it could not be confirmed that formal enforcement actions were properly authorised, or that these decisions had been made in accordance with the Authority's Enforcement Policy. Although officers were prepared to use the full range of enforcement powers available, there were significant problems with most of the formal enforcement actions examined during the audit.
- 2.3 Records were inconsistent and incomplete across the range of enforcement activities. No food law enforcement Service Plans had been developed since 2001 and the policies and procedures available to guide officer actions had not been revised when necessary. The internal monitoring process had also lapsed.
- 2.4 The findings of this audit largely reflect those of an inter authority audit carried out in May 2000.

2.5 Key Areas for Improvement:

Food Standards Inspections – The Authority was not fulfilling its statutory duties as a food authority to proactively inspect and enforce food standards legislation. The Authority had never had a risk based food standards inspections programme, as required by Food Safety Act Code of Practice No. 8: Food Standards Inspections, and was not carrying out any food standards inspections. The Authority did not know the risk profile of the food businesses in its area.

This failure had been highlighted by the Authority as having particular implications for the ethnic community, local businesses, local consumers and the disadvantaged. Food standards inspections ensure that food businesses are monitored, that the legal requirements for food composition and labelling are being met and permit timely interventions where problems are identified. There may also be wider implications because of the failure to implement local enforcement at manufacturers supplying food products outside the Borough.

Food Hygiene Inspections – The Authority was not carrying out inspections of high risk premises at the required minimum frequency according to risk. The inspection programme had not been effectively prioritised. Known low risk businesses were being inspected whilst some 90 premises, identified by the Authority as high risk, remained overdue an inspection by up to 2 years.

Officer Authorisations – There was no documented procedure for the authorisation of officers and the lines of delegation for food law enforcement and formal actions were not clear. The scheme of delegation was under review at the time of audit, but the Authority may be vulnerable to effective challenge until these issues are formally clarified.

Formal Enforcement – There were significant problems with the majority of formal enforcement actions carried out by the Authority. It could not be confirmed that formal actions were properly authorised and there were concerns that cases had not received effective scrutiny. It was not clear that all enforcement decisions had been made in line with the Authority's Enforcement Policy.

The Service's documented enforcement procedures were out of date and did not reflect local practices or current official guidance. There were problems with the drafting of formal notices and with the process of administering formal enforcement powers.

Record keeping – Records were inconsistent and incomplete across a range of enforcement activities, including formal enforcement actions. Some significant documents were missing and entries on the electronic database were not always consistent with the paper files. Consequently, the Service's records did not provide an adequate basis to inform appropriate enforcement decisions or for effective internal monitoring.

Internal Monitoring – Implementation of the Service’s internal monitoring procedures had lapsed and there was little evidence of effective quantitative or qualitative monitoring or any corrective actions.

Service Planning, Documented Policies and Procedures – The Authority did not have a current Service Plan and had not developed a documented programme for food law enforcement since 2001.

Documented policies and procedures for most enforcement activities had been issued and reviewed in accordance with an externally accredited quality assurance standard until 2001. This system had lapsed and no reviews or revisions had been carried out since. Consequently, the Services policies and procedures did not reflect current practices or any subsequent changes to legislation and official guidance.

3. Audit Findings

3.1 Organisation and Management

3.1.1 The Council's political management structure comprised of a directly elected Mayor, an Executive responsible for most day to day Council decisions, an Overview and Scrutiny Committee and a number of committees relating to the various Council functions.

3.1.2 The Council had 4 Directorates. Food and feeding stuffs law enforcement was part of the Business Regulatory Service, 1 of 5 units in the Regeneration Directorate. This function fell within the remit of the Member portfolio holder for Environmental Services.

3.1.3 The corporate planning framework included the Best Value Performance Plan (BVPP). The BVPP contained key corporate targets and objectives and the Authority's vision:

'Together we will make Lewisham the best place in London to live, work and learn'.

3.1.4 The BVPP contained information about the services, details of performance in previous years, and set out key actions and performance indicators for the forthcoming 5 years. These included the national performance indicator:

- the score against a checklist of enforcement best practice for environmental health and trading standards (BVPI 166). The Authority aimed to achieve top quartile performance.

3.1.5 The BVPP also included a local performance indicator for food law enforcement:

- the percentage of food premises inspections that should have been carried out, that were carried out for (a) high risk premises, and (b) other premises.

3.1.6 Figures provided by the Authority indicated the following targets and performance levels for food hygiene inspections (no food standards inspections were recorded):

	2002/03	2001/02	2000/01	1999/00
Target:	85%	80%	n/a*	n/a
No. high risk premises inspections actually achieved	54%	91%	83%	78%
Target:	85%	80%	n/a	n/a
No. lower risk premises inspections actually achieved	80%	91%	91%	82%

*n/a = not available

3.1.7 The Authority's food and feeding stuffs functions had been subject to internal Best Value Reviews (BVRs) as part of the wider Environmental Health and Trading Standards services BVR process in 2000 and 2001 respectively. The Authority had reorganised its structure in December 2002 in order to provide an integrated service with a view to taking an increasingly generic approach to enforcement. The Business Regulation Directorate incorporated Environmental Health Commercial (food safety and standards and other business related Environmental Health functions), Building Control and Trading Standards.

3.1.8 The Service had developed a Food Law Enforcement Plan in 2001 that had received Member approval. However, this had not become an annual process and no subsequent plans had been produced. There had been no review of performance against the stated food law enforcement programme for that year. The auditors were informed that service planning had not been considered worthwhile given the uncertainties relating to the organisational change and the resource constraints that had been in operation.

3.1.9 There were 12 officer posts whose duties included food hygiene and food standards enforcement, ranging from 40% to 95% of their work time. Three posts were vacant (following a freeze on recruitment), and 1 part time officer was absent on maternity leave. This equated to an available food law enforcement staff resource of 6.7 full time equivalents at the time of audit. The auditors were informed that the Service would be aiming to fill the 3 vacant posts and that the part time post would be filled by the officer returning from maternity leave in September 2003. Contractors had been employed to assist with inspections during 2001/2002 but none had been used since that date.

- 3.1.10 The Food and Feeding Stuffs Service's financial costs were contained within the total budgets for Environmental Health and Trading Standards. Some elements had been disaggregated but no breakdown of figures was available that clearly identified the full financial resourcing of the Authority's food and feeding stuffs functions.
- 3.1.11 The Authority's BVR report noted that in 2001 the Environmental Health Service was delivered at the lowest cost of all London boroughs (£8.39 per 1,000 population compared to a London average of £18.54), and the lowest Environmental Health service costs overall (£2.3m against the average of £3.8m). However, the BVR report further noted that food safety work carried out at Lewisham engaged more time and resources than the average for all London boroughs (20% against 14%).

Recommendations

- 3.1.12 The Authority should:
- (i) Develop, document and implement a food and feeding stuffs law enforcement service plan in accordance with the Service Planning Guidance. [The Standard – 3.1]
 - (ii) Carry out an annual performance review against the service plan. Document the review and submit it for Member approval. Ensure that any variance in meeting the service plan is addressed in the subsequent year's service arrangements. [The Standard – 3.2 & 3.3]

3.2 Review and Updating of Documented Policies and Procedures

Food Hygiene and Food Standards

- 3.2.1 Many of the documented policies and procedures required by the Standard for food hygiene activities were developed prior to 2000 under the Service's then ISO 9000 certified quality assurance system. This system was identified as a strength during the Environmental Health Best Value Review, but certification had since been abandoned due to financial constraints. Other than a new procedure for butchers' shop licensing, no reviews or updates had been carried out following the issue of the majority of the original documents in 2000.
- 3.2.2 The Authority's policies and procedures therefore did not reflect subsequent changes to legislation and official guidance and the Service acknowledged that several internal practices had also changed. Although officers were still referring to the existing procedures on occasions when guidance was needed, an audit of the Service's performance against its own procedures was not attempted as they were not used consistently and their current status was unclear.
- 3.2.3 No documented procedures relating to food standards activities had been developed.
- 3.2.4 The document control process for reference texts had similarly lapsed. Officers had access to most of the relevant reference texts through internet sites and a hardcopy law encyclopaedia maintained by the Service, but a number of superseded and out of date reference documents were also available.

Feeding Stuffs

- 3.2.5 The Trading Standards Service had maintained a document control procedure based on ISO 9000 quality assurance principles that covered feeding stuffs legislation and relevant official guidance.

Recommendations

3.2.6 The Authority should:

- (i) Ensure that all existing food hygiene and food standards policies and procedures are reviewed to reflect current official guidance and internal practices. [The Standard – 4.1]
- (ii) Set up, maintain and implement a document control system to ensure that internal food hygiene and food standards policies and procedures are reviewed at regular intervals and whenever there are changes to legislation and official guidance. The system should also ensure the removal of superseded documents. [The Standard – 4.1 & 4.2]

3.3 Authorised Officers

3.3.1 The Authority's scheme of delegation did not appear to be coherent and the lines of delegation relating to enforcement of the Food Safety Act 1990 and formal enforcement actions were unclear. The auditors were informed that the Service was aware of some of these issues and that the scheme was currently under review. In the meantime, the Authority could be vulnerable to effective legal challenge.

3.3.2 A number of different schemes were provided from different sources before and during the audit and there was some confusion regarding the current approved version.

Food Hygiene and Food Standards

3.3.3 The Service did not have a documented procedure setting out the process for the authorisation of officers and to ensure that levels of authorisation were conferred in line with officers' individual qualifications, training and experience. Officers were not provided with documented confirmation of the limits of their authority. There were some anomalies in the extent of officer authorisations relating to the detention and seizure of food and those conferred under the European Communities Act 1972.

3.3.4 In practice, and with regard to the sample of records examined, officers were carrying out duties appropriate to their levels of qualification and in accordance with the competency requirements of Food Safety Act Code of Practice No. 19: Qualifications and Experience of Authorised Officers.

3.3.5 An Environmental Health Service Unit Manager had been appointed with lead responsibility for food hygiene and food standards legislation. It could not be confirmed that the designated officer had sufficient specialist knowledge and experience to fulfil this role for food standards or that the Service employed any officers with the required training to carry out food standards inspections of high risk manufacturers and processors, or food businesses with documented quality assurance systems.

- 3.3.6 The Service considered that it did not have sufficient resources to meet its statutory duties as a food authority and a 'bid for growth' had been put before the Members seeking additional resources. The Service informed the auditors that when the existing vacant posts were filled it should be able to meet its responsibilities in respect of food hygiene, and that an additional 2 posts would enable food standards work to be carried out. However, these figures were not supported by any calculated figures for staff resource needs matched to a planned food law enforcement programme. The Service was therefore unable to provide objective evidence that confirmed or quantified any perceived staff resource deficiencies.
- 3.3.7 Although the Authority had Investors in People accreditation, the Service had not implemented the Council's officer appraisals scheme and did not have a documented officer training programme. A wide range of relevant training was being provided on an ad hoc basis, but it could not be confirmed that all officers were receiving the required amount of update training in accordance with the requirements of Food Safety Act Code of Practice No. 19: Qualifications and Experience of Authorised Officers. There was no evidence that food law enforcement officers had received any update training related to formal food law enforcement for at least 2 years, although the auditors were informed that a course on the Regulation of Investigatory Powers Act 2000 and the Criminal Procedure and Investigations Act 1996 was programmed.
- 3.3.8 The auditors were informed that tight budget constraints limited the amount of training that could be provided. The current allocation was £150 per officer per year with a central budget available for non-specialist/corporate training.
- 3.3.9 In general, qualification and training records were being maintained but these were incomplete. A useful system for evaluating training had been set up, but the relevant form had not been completed in all cases and the scope and content of some training was not clear from the records.

Feeding Stuffs

- 3.3.10 The Authority had designated an officer with appropriate specialist knowledge to have lead responsibility for enforcement of feeding stuffs legislation.

3.3.11 The Service had organised training for officers in relation to enforcement of The Feeding Stuffs (Establishments and Intermediaries) Regulations 1999. This training had also been made available to officers from other London boroughs.

Recommendations

3.3.12 The Authority should:

- (i) Develop, maintain and implement a documented procedure for the authorisation of officers that is consistent with the Authority's scheme of delegation and based on their individual levels of competence, in accordance with the requirements of Food Safety Act Code of Practice No. 19: Qualifications and Experience of Authorised Officers. [The Standard – 5.1]
- (ii) Ensure that the Service's designated lead officer for food standards legislation has the necessary specialist knowledge to fulfill the requirements of that role. [The Standard – 5.2]
- (iii) Maintain and implement a documented training programme to ensure that officer and team training needs, in respect of food hygiene and food standards work, are assessed and met. [The Standard – 5.4]
- (iv) Ensure that the qualification and training records for food hygiene and food standards enforcement officers are complete and that these provide sufficient details of the content and objectives of all training provided. [The Standard – 5.5]

3.4 Facilities and Equipment

- 3.4.1 The Authority was providing the necessary equipment and facilities to enable all activities associated with the Service to be carried out. This included equipment necessary for feeding stuffs sampling should any premises be identified.
- 3.4.2 A documented procedure for equipment calibration had been developed in 2000. Routine calibration checks of officers' thermometers were being carried out at 6 monthly intervals and records were maintained. However, these checks were made against a reference thermo-couple that was itself out of calibration and which had not been certified when due in June 2002. Consequently, the Service was not able to verify the accuracy of officers' thermometers.
- 3.4.3 The Service had an electronic database system that was capable of providing the information required by the Agency's official monitoring returns, but it could not be verified that the system was being operated in a way that enabled accurate data to be provided. The Authority's Service Plan 2001 contained inconsistent figures for the total number of food businesses in the Borough and an inexplicable halving of the volume of food complaints received over 2 successive years. A number of reports run from the system as part of the audit showed some significant anomalies that highlighted inaccurate and inconsistent data entries. The Service acknowledged that the system was unreliable and that it produced conflicting data.
- 3.4.4 The Service operated a system of restricted access levels, password protection and data back-ups aimed at minimising the risk of corruption and loss of information from the food premises database. The auditors were informed that data back-ups of the system had been carried out on a daily basis by officers from the noise nuisance call out service. However, this Team was no longer located in the same building and it could not be confirmed during the on-site audit that the system was being backed-up on a regular and routine basis. The Authority subsequently notified the Agency that the system is regularly backed up by Pollution Team officers and that records are maintained on a calendar adjacent to the server.

Recommendations

3.4.5 The Authority should:

- (i) Review the documented procedure for equipment calibration to ensure all equipment is properly maintained and calibrated. Implement the revised procedure. [The Standard – 6.2]
- (ii) Ensure that the electronic record administration system is managed and operated in such a way that the Authority is able to provide accurate food hygiene and food standards monitoring returns to the Agency. [The Standard – 6.4]
- (iii) Set up, maintain and implement effective back-up systems and security measures that will minimise the risk of corruption and loss of information from the food premises database. [The Standard – 6.5]

3.5 Food and Feeding Stuffs Premises Inspections

- 3.5.1 The Authority's food premises profile could not be clearly determined. The Authority's official returns for the last quarter of 2001/2002 indicated a total of 2,152 food businesses, but the Service acknowledged that inconsistent figures were derived from the database when various management reports were run.

Food Hygiene

- 3.5.2 The problem of deriving accurate data was compounded by the use of 'dummy ratings' whereby some new businesses were given a nominal 'A' risk rating for food hygiene with the intention of prioritising these inspections within the programme. This practice skewed the Authority's official returns with an over representation of the actual number of premises in the Borough with a high risk rating for food hygiene.
- 3.5.3 Inspections were not being carried out at the minimum frequencies required by Food Safety Act Code of Practice No. 9: Food Hygiene Inspections. This included a business approved by the Authority to produce meat products.
- 3.5.4 A report run as part of the audit showed that there were 179 premises on the system with an 'A' risk rating, of which up to 93 may have been dummy rated. A second database report indicated that there were a further 44 food premises on the system that did not have a risk rating and which were not part of the inspection programme or prioritised for inclusion. A number of these premises had been identified by the Service as caterers and take-away food businesses.
- 3.5.5 All schools and supermarkets had been removed from the food hygiene inspection programme as they were deemed by the Service to be generically of low risk. The auditors were informed that this decision had been taken with the aim of allowing better targeting of resources. In the case of schools, this approach took into account the existence of other audit arrangements carried out by the Education Service and the catering contractors themselves, and the limitations of statutory enforcement due to the contractual relationship between the Council and school caterers. Major supermarket chains had been excluded on the basis that these companies had their own internal audit processes and procedures, and general standards could be monitored in the event that officer visits needed to be made in response to customer complaints. Inspections of other premises that had been properly risk rated and found to be low risk were being undertaken, whilst over 90 high risk premises remained overdue an inspection, some by up to 2 years. More than 100 lower risk premises were also overdue inspection.

- 3.5.6 The Service had issued documented procedures for food hygiene inspections, butchers' shop licensing and approval assessments of meat products establishments in 2000. A range of documented procedures had also been issued to provide guidance on formal follow-up actions, but these were undated and the document control status references had not been completed on the individual procedures.
- 3.5.7 The prosecution procedures did not include guidance on carrying out interviews under the Police and Criminal Evidence Act 1984, the provisions of the Criminal Procedure and Investigations Act 1996 or the Regulation of Investigatory Powers Act 2000.
- 3.5.8 The records of inspections maintained by the Service were incomplete and there were significant inconsistencies between the database and file records. In a number of instances these discrepancies included risk rating inspection dates recorded on the database for which there were no paper records and frequent inconsistencies in the dates of subsequent actions.
- 3.5.9 These deficiencies in the record keeping made it difficult to establish businesses' compliance histories and to fully ascertain the Service's involvement and actions. However, from the files examined, it appeared that general premises were being assessed against legally prescribed standards and that officers' risk ratings were generally accurate. These inspections were carried out by officers with appropriate levels of qualification, training and experience, consistent with the requirements of Food Safety Act Code of Practice No. 19: Qualifications and Experience of Authorised Officers.
- 3.5.10 It could not be confirmed that reductions in food businesses' risk ratings from 'A' and 'B' categories had been authorised by the lead officer, as required by Food Safety Act Code of Practice No. 9: Food Hygiene Inspections. There was no reference to this requirement in the Service's documented inspection procedure.
- 3.5.11 The gaps in the enforcement history records for premises precluded a full assessment of follow-up actions where instances of non-compliance had been identified. Copies of inspection reports and the inspection findings were not available on some files examined. In many cases where inspection records had been retained, officers had not completed all relevant parts of the standard forms. In these instances, there was not always a clear record to justify requirements made on the subsequent inspection reports or evidence that effective follow-up action had been taken to ensure compliance, in line with the Authority's Enforcement Policy.

- 3.5.12 In general, inspection reports and/or follow up letters appeared to have been provided to proprietors following each inspection. The inspection letters often contained helpful information, but there was considerable variation in the format and content of these letters. Overall, the legal references were accurate and complete, but legal requirements and recommendations were not always clearly distinguished. Most letters that required works did not confirm an agreed timetable for carrying out the remedial measures or specify any revisit arrangements.
- 3.5.13 The documented procedure for 'Meat Products/Meat Preparations' approval assessments included a record of assessment form. The Authority had approved 1 local business under product specific legislation, but the current approval status of a second premises was unclear. The auditors were informed that the approval for this business had been revoked, but this could not be confirmed. Inspecting officers had continued to quote the relevant product specific legislation in inspection letters although any requirements for works were made under the Food Safety (General Food Hygiene) Regulations 1995.
- 3.5.14 The Service's files and records of its Approved Premises did not contain all of the information required by the relevant official guidance and necessary to confirm that these premises were in compliance with the appropriate regulations. This was due, in part, to a failure to complete all relevant sections of the designated inspection record form.
- 3.5.15 The Service's documented procedure for butchers' shop licensing was comprehensive and included detailed assessment forms. It could not be confirmed that the Service's procedural arrangements for suspending and revoking licences were consistent with the Authority's scheme of delegated authority.
- 3.5.16 There were gaps in the records for some butchers' shops, but it was clear that comprehensive and thorough assessments had been carried out when the standard forms had been completed in full.
- 3.5.17 It appeared from the records of 10 butchers' shop licensing records examined that 2 businesses had been allowed to trade for a number of months without a licence and while works required to comply with the legislation were undertaken. It was also evident that determinations of licence applications had not always been carried out within the prescribed statutory period and that a number of licences had been backdated.

Food Standards

- 3.5.18 The Authority was not carrying out a food standards inspection programme, as required by Food Safety Act Code of Practice No. 8: Food Standards Inspections. There were no documented procedures for food standards inspections.
- 3.5.19 The Authority's Service Plan identified food standards issues as having significant implications for local ethnic businesses and consumers, particularly in relation to imported foods and the relatively high proportion of businesses importing, re-packing and trading in these products. Furthermore, the Authority's Environmental Health Enforcement Policy committed the Service to ensuring that risk-based food premises inspection programmes were in place for monitoring compliance with the legislation affecting these businesses.
- 3.5.20 The Service had set out a work plan, notified to the Agency in April 2002, by which it proposed to begin a prioritised approach to a proactive food standards inspection programme. This was drawn up to reflect the available staff resources and to ensure that high risk premises were identified and inspected first.
- 3.5.21 There was, however, no evidence provided to indicate that planned action had been taken to identify, risk rate and deal with those premises posing the greatest risk, such as manufacturers and importers.
- 3.5.22 A report run from the database as part of the audit indicated that only 6 premises in the Borough had ever received a risk rating for food standards (3 manufacturers, 2 caterers and 1 retailer). The Service contended that unforeseen staffing shortages had prevented this action plan from being implemented. However, it was not clear why food hygiene inspections of low risk premises were continuing to be carried out at the expense of food standards inspections of high risk premises.

3.5.23 It was evident from inspection reports that some food standards issues were being considered during food hygiene inspections (such as date coding), but it could not be confirmed that where food standards problems had been identified, these were always followed up effectively. The file records for the business approved by the Authority for the production of meat products included copies of product labels that did not comply with significant food standards and labelling requirements. Although a letter had been sent to the business pointing out in general terms that labels must comply with the Food Labelling Regulations, there was no evidence that these contraventions had been addressed. Furthermore, there was no evidence that recipes had been checked, that compositional requirements were being met or that compliance with these requirements had been verified through targeted sampling.

Feeding Stuffs

3.5.24 No feeding stuffs premises had been identified by the Authority in its area.

Recommendations

3.5.25 The Authority should:

- (i) Develop a programme for food standards inspections. Implement the programme and ensure that food standards and food hygiene inspections are carried out at a frequency which is not less than that required by the relevant Food Safety Act Codes of Practice. [The Standard – 7.1]
- (ii) Ensure that food businesses are approved and licensed in full accordance with all relevant legislation and official guidance. [The Standard – 7.2]
- (iii) Ensure that appropriate and effective follow-up action is taken in accordance with the Authority's Enforcement Policy where instances of non-compliance are identified. [The Standard – 7.3]
- (iv) Ensure that up to date procedures are available for all types of inspections carried out. This will include procedures for the range of follow-up actions that reflect current practice and relevant official guidance. [The Standard – 7.4]

3.6 Food, Feeding Stuffs and Food Premises Complaints

Food Hygiene and Food Standards

- 3.6.1 The Service did not have a documented policy for dealing with food and food premises complaints. However, a documented complaints procedure was based on an assumption that all complaints would be dealt with according to their individual merits.
- 3.6.2 The Service maintained full records of the nature of food and food premises complaints and the complainants' details.
- 3.6.3 The Authority's internal performance indicators for response times were consistently met. These required the investigating officer to make contact with the complainant within 5 days, or in writing within 7 days if the complaint was not justified.
- 3.6.4 It could not be confirmed from the records of actions taken that appropriate investigations had been carried out in 7 of 20 cases examined or that all involved parties were kept informed, in accordance with the relevant official guidance.

Feeding Stuffs

- 3.6.5 No complaints had been made to the Authority about feeding stuffs.

Recommendations

- 3.6.6 The Authority should:
- (i) Develop, maintain and implement a documented policy for dealing with food hygiene, food standards and food premises complaints. Review the documented procedure for food complaints and ensure that it reflects current practice and the relevant official guidance. [The Standard – 8.1]
 - (ii) Ensure that all food and food premises complaints are properly investigated and that all interested parties are kept informed in accordance with the relevant official guidance. [The Standard – 8.2]

3.7 Home Authority Principle

Food Hygiene and Food Standards

- 3.7.1 The Service Plan 2001/2002 stated the Authority's aspiration to enter into Home Authority arrangements with local businesses based in the Borough. The Service Plan noted the benefits that such arrangements could provide to local businesses, particularly small scale manufacturers, importers and re-packagers in terms of providing guidance and advice on food safety, labelling and compositional standards.
- 3.7.2 The Service considered that some local businesses would be interested in Home Authority agreements, but that none had been pursued due to a lack of resources.
- 3.7.3 There was little evidence from the files examined that Home and Originating Authority contact had been initiated in the circumstances set out in Food Safety Act Code of Practice No. 2: Legal Matters, particularly during food complaint investigations. Although the Service's complaints procedure made reference to this requirement, the file records for complaints and their investigations suggested that this had occurred in only half of the cases examined where Home Authority liaison appeared appropriate.
- 3.7.4 Similarly, it could not be confirmed from the Service's records that Originating Authority complaints referred by other food enforcement authorities received appropriate action. Both food standards complaint referrals examined appeared not to have been fully investigated.
- 3.7.5 The auditors were informed that adverse food sampling results obtained in a recent sampling survey were notified to the relevant enforcement authorities for manufacturers based outside the Borough.

Recommendations

3.7.6 The Authority should:

- (i) Ensure that all food hygiene and food standards Home/Originating Authority referrals receive appropriate and effective investigations and that all relevant parties are notified of the outcome. [The Standard – 9.2]
- (ii) Ensure that liaison is initiated with the Home/Originating Authorities of businesses where food hygiene or food standards matters have been identified that are or may be associated with the businesses' centrally defined policies or procedures. Ensure that the outcome of any such investigation is confirmed to all relevant parties. [The Standard – 9.4 & 9.6]

3.8 Advice to Business

Food Hygiene and Food Standards

3.8.1 Other than advice given during the course of inspections and in response to specific enquiries, there was little evidence of proactive initiatives aimed at assisting businesses to comply with food law. The following actions had been taken:

- The Service had disseminated the results of a sandwich sampling survey to local businesses through a local press release. This survey covered microbiological standards and some food standards issues.
- Foundation level food hygiene courses were being provided for local businesses and food handlers working for Council services. A leaflet was available giving details of alternative trainers and the courses available in languages other than English.
- A leaflet had been developed in-house that provided guidance to food business proprietors on the design of food premises.

3.9 Food and Feeding Stuffs Premises Database

Food Hygiene and Food Standards

- 3.9.1 The database was found to include all but 1 of 14 food premises chosen at random from a local business directory, and these were included in the food hygiene inspection programme. However, the inconsistencies in data entry and anomalies in management reports outlined previously undermined the system's effectiveness as a means of effective record administration.
- 3.9.2 Some ad hoc measures were being undertaken in practice to maintain the accuracy of the database, largely dependent on officer observations. However, the Authority did not have a documented procedure that set out measures to ensure that the system was routinely updated and cross-referenced with other sources of data.

Feeding Stuffs

- 3.9.3 The Authority had carried out some work to establish whether there were any premises in the Borough that required enforcement of feeding stuffs legislation, relating to animal feeds for livestock. This work needed to be completed in order to ensure that the feeding stuffs premises database was accurate and up to date.

Recommendations

- 3.9.4 The Authority should:
- (i) Complete the survey of livestock feed premises and update the feeding stuffs premises database as necessary. [The Standard – 11.1]
 - (ii) Set up, maintain and implement a documented procedure to ensure that the premises databases are accurate and up to date. [The Standard – 11.2]

3.10 Food and Feeding Stuffs Inspection and Sampling

- 3.10.1 The Authority's policy on food sampling was set out in a procedural document: 'The Food Sampling Programme'. The Service had also developed a documented procedure that provided guidance for officers on the practical aspects of taking formal samples for examination and analysis.
- 3.10.2 A sampling programme for the current year had yet to be developed. The auditors were informed that further confirmation of locally co-ordinated sampling was awaited from the South East London Food Liaison Group.
- 3.10.3 A sampling programme had been developed for the preceding year and this was generally in line with the Authority's stated sampling policy. However, the programme had not been implemented in full and there was no evidence that any samples had been taken over a 7 month period between September 2002 and March 2003. There was also no evidence that local high risk and manufacturing premises had been subject to sampling in accordance with the Authority's policy and stated programme.
- 3.10.4 No unsatisfactory sampling results had been obtained other than for foods that had been submitted to laboratories following customer complaints. These complaint samples had all received appropriate follow-up action.
- 3.10.5 All food samples had been sent to properly appointed and accredited laboratories.

Recommendation

3.10.6 The Authority should:

Develop and implement a documented sampling programme for 2003/2004. The programme should have regard to national and regionally co-ordinated sampling projects and local high risk businesses. [The Standard – 12.3 & 12.5]

3.11 Control and Investigation of Outbreaks and Food Related Infectious Disease

3.11.1 The Service had participated in the development of the South East London Health Protection Service's 'Major Community Outbreak Plan' and 'Guidance on Food Poisoning and its Investigation'. Up to date copies were available to officers.

3.11.2 The investigation records of a local outbreak of food related infectious disease and 6 notifications of isolated incidents of infectious disease were examined. In all cases, appropriate follow-up action had been taken. The outbreak received a thorough investigation and a detailed report had been compiled.

3.12 Food Safety Incidents

- 3.12.1 The Authority had a computer system capable of receiving food hazard warnings (FHWs) and a documented procedure that set out the process for responding to and initiating FHWs.
- 3.12.2 Records of actions taken were being maintained and these indicated that appropriate and timely follow-up action had been carried out as appropriate. This had included officer monitoring visits, information letters and local press releases.
- 3.12.3 The Authority had also initiated contact with the Agency concerning local incidents that may have had wider implications.

3.13 Enforcement

Food Hygiene and Food Standards

- 3.13.1 The auditors were informed that the Authority had adopted the Enforcement Concordat and this was extended to Environmental Health in April 2002. This is a Home Office and Local Government Association scheme that sets out the principles of good enforcement practice, based on the following criteria:
- Standards of service and performance
 - Openness and clarity
 - Helpfulness
 - Effective complaints procedures
 - Proportionality of enforcement actions
 - Consistency.
- 3.13.2 The Authority had developed a generic Environmental Health Enforcement Policy. A report to the Executive requesting Member agreement on extending the Enforcement Concordat to Environmental Health and adoption of the Enforcement Policy was drafted in April 2002. The minutes of the meeting of the Executive confirming agreement were not available for verification.
- 3.13.3 The Enforcement Policy had not been made available to the public or food business proprietors.
- 3.13.4 The report to the Executive noted that the Service's existing documented procedures for formal actions would need to be reviewed with reference to the Enforcement Concordat and the Authority's Environmental Health Enforcement Policy. However, the policies and procedures had not been reviewed and it was acknowledged that they did not reflect current practice. The auditors were informed that officers would therefore normally refer to the Enforcement Policy for guidance when taking formal actions, although the Policy was departmental and generic in scope, and did not include sufficient procedural detail specific to food law enforcement for this purpose.
- 3.13.5 A significant example of the local enforcement procedures not reflecting current Council enforcement policy was evident in the Service's documented inspection procedure. This stated that officers must serve an improvement notice if a business had carried out less than 30% of the items required on an inspection report schedule. The auditors were informed that this guidance had not been followed for some time and was not part of the Service's Enforcement Policy.

- 3.13.6 It was clear that officers were prepared to use the full range of formal enforcement powers available. The Service reported that it had carried out the following formal enforcement action over the 2 years preceding the audit:
- 2 prosecutions for food hygiene offences
 - 1 prosecution for food standards offences
 - 1 formal caution for food hygiene offences
 - 1 emergency prohibition
 - 7 voluntary closures of premises
 - 1 detention/seizure of food
 - 132 improvement notices served on 24 premises.
- 3.13.7 A sample of 20 improvement notices and all other formal enforcement actions listed above were examined.
- 3.13.8 The records of prosecutions, the formal caution, the emergency prohibition, improvement notices and voluntary closures indicated significant defects in the legal process and/or drafting of documents associated with these formal enforcement actions. It was not clear in all cases that the Authority's Enforcement Policy had been considered. There was evidence of inconsistencies between officers in relation to follow-up enforcement action decisions and some actions appeared to have been taken on questionable grounds.
- 3.13.9 Many of the records examined indicated that there had not been effective scrutiny and management of formal enforcement actions. This was compounded by a lack of clarity in the scheme of delegated authority with regard to the current structure of the Department, and out of date enforcement procedures. Officers expressed concern that their recommendations for formal enforcement actions and the attendant casework were not subject to a higher tier of informed scrutiny within the Department before formal cases were referred to Legal Services.
- 3.13.10 In practice, the decision to offer formal cautions and all other subordinate formal actions were taken at Service officer level. In general, Legal Services were only involved in these actions and prosecutions after cases had been compiled and when legal proceedings needed to be instigated. In a number of the cases examined, it was only at this point that some of the significant defects in some of these cases were identified. However, the defects in the processing of these actions, the most significant of which are set out below, should have been identified at some stage in their progress to Court. It appeared that in many cases the Authority had been reliant on a guilty plea or ineffectual challenge in order to achieve a 'successful' outcome.

- 3.13.11 It was not clear that the prosecutions had been authorised by an officer with the appropriate delegated powers or if any authorisation had been given within the Directorate above Service level. The prosecution cases examined appeared to be appropriate and were taken under the correct legislation.
- 3.13.12 Formal interviews of prospective defendants were not routinely carried out in accordance with the Police and Criminal Evidence Act 1984 (PACE). Consequently, the Service was not exploring fully the circumstances of alleged offences, any mitigating circumstances and any likely defence that may be cited once the cases reached the Court.
- 3.13.13 PACE interviews were not used as a means of establishing ownership of businesses and consequently, other less reliable and more time consuming methods were used. This had contributed to delays and subsequent challenge.
- 3.13.14 The auditors were informed that the Environmental Health facilities for tape recording formal PACE interviews were unsatisfactory, and therefore the records of any formal interviews that were deemed essential had generally been hand-written. However, in 1 case examined, the Trading Standards Service interview room and tape recording facilities had been used. It appeared that evidence had been recorded in writing after a formal taped interview was concluded, and presumably when the defendant was no longer under caution.
- 3.13.15 It was not clear in some cases that all partners involved in the ownership of businesses were identified and properly summonsed. In 1 case, the officer's statement indicated that the summonses in relation to a business under joint ownership were hand delivered to 1 partner with a request that he deliver a summons to the other partner. The same approach to service of formal documents had apparently been adopted when the preceding improvement notices were served.
- 3.13.16 It was also not clear that the provisions of the Criminal Procedure and Investigations Act 1996 were being properly followed. There was no evidence that the proper nominated officers were being designated at the commencement of the cases. In 1 prosecution case, the Service's failure to properly observe these requirements had resulted in difficulties.

- 3.13.17 The general presentation of cases was poor. Exhibits were not fully labelled with descriptions and dates. PACE notebooks were available to officers, but the reverse side of scraps of used paper had generally been used for recording evidence. The formal records of significant visits, meetings and discussions were frequently presented in this format. Witness statements contained substantial tracts of hearsay, some of which had been relied on to prove significant elements of cases.
- 3.13.18 In those cases where prosecution had followed a failure to comply with improvement notices, there were significant defects in the process and/or drafting of these notices that could have rendered the Authority vulnerable to effective challenge.
- 3.13.19 The formal caution was offered in respect of a rat infestation at a take-away food business. On the basis of the file records and photographic evidence, it appeared that an emergency prohibition might have been more appropriate. Only 1 of the 2 officers involved in this case had prepared a witness statement, and this incorporated the second officer's evidence by means of hearsay. Although the proprietor accepted the offer of formal caution, it was not clear that the Authority would have been in a position to prosecute in the event of a refusal.
- 3.13.20 The emergency prohibition notice (EPN) appeared appropriate, but the notice was not served until 5 days following discovery of the problem. This undermined the Service's contention that the risk was imminent.
- 3.13.21 The EPN was served by a correctly authorised officer and carried out in general accordance with the procedural requirements of Food Safety Act Code of Practice No. 6: Prohibition Procedures. However, the premises was not re-inspected within 6 months of the EPN being lifted, as required by the Code of Practice. The case resulted in confusion when the Borough's Legal Services subsequently sought an emergency prohibition order from the Courts, after the Service had issued a certificate confirming that the premises was no longer an imminent risk to health.
- 3.13.22 The records of voluntary closures were incomplete. There were no documents relating to 2 of 7 voluntary closures on the paper files, although there was a reference to 1 on a database entry. The records of 1 voluntary closure were not clear. The date on a file copy of a letter sent to confirm a voluntary closure had been amended by hand from 1 month to 2 days after the date of closure. There were no records to indicate any involvement or developments since.

- 3.13.23 A witness statement drafted by an officer in relation to a voluntary closure clearly showed that the proprietor was given the choice of voluntary closure under threat of formal closure and service of an EPN. This approach is prohibited by Food Safety Act Code of Practice No. 6: Prohibition Procedures.
- 3.13.24 The detention and seizure related to an illegal import of unskinned goats. Although it was not clear that the food had been properly monitored when held under detention at the premises where it was discovered, the Service successfully removed the consignment from the food chain. The case was properly notified to the Agency and effective liaison was maintained throughout.
- 3.13.25 The improvement notices examined were all signed by an officer with appropriate qualifications and who had witnessed the contravention. The notices were served on appropriate persons, although the majority did not set out the proprietors' full names as required by official guidance.
- 3.13.26 The wording of the notices was generally clear and easily understood, but there were problems relating to the drafting of notices served for hazard analysis and training.
- 3.13.27 The records for many of the improvement notices examined were confused and incomplete. The dates of service and subsequent actions were frequently inconsistent and it was not clear whether some copies on file had actually been served, whether compliance had been checked and what follow-up actions had been taken. The majority of notices examined had not received timely checks on compliance, which could have resulted in enforcement difficulties. It was not clear from the records that effective follow-up action had been taken in all cases of non-compliance.
- 3.13.28 Officers were generally not providing proprietors with written confirmation of any extensions to the time period or to confirm compliance with improvement notices, as required by Food Safety Act Code of Practice No. 5: The Use of Improvement Notices.

Recommendations

3.13.29 The Authority should:

- (i) Ensure that the Environmental Health Enforcement Policy has been approved by Members. Ensure that the Policy, or an accurate summary, is made readily available to local food business proprietors and the public. [The Standard – 15.1]
- (ii) Ensure that all formal enforcement actions are carried out in full accordance with the relevant Food Safety Act Codes of Practice and official guidance. [The Standard – 15.2]
- (iii) Ensure that all decisions on enforcement action are properly authorised, in accordance with the Authority's scheme of delegation, and following consideration of the Enforcement Policy. The reasons for any departure from the criteria set out in the Enforcement Policy should be documented. [The Standard – 15.3]

3.14 Records and Inspection Reports

Food Hygiene and Food Standards

- 3.14.1 Paper records for the various enforcement activities carried out at the same premises were held within a number of files. There were inconsistencies between the paper files and the database records; these have been mentioned throughout this report where relevant.
- 3.14.2 Records across the full range of activities examined were insufficiently detailed, and in some cases were missing. Records of follow-up actions to inspections and complaints did not provide a clear account of any actions taken and references to some documents were not supported by the paper files. In a number of cases examined, different dates for the same actions were recorded in the same files and on the database. The records of formal enforcement actions in general, and improvement notices in particular were confused.
- 3.14.3 These deficiencies made it very difficult for subsequent officers to gain an accurate picture of premises' enforcement histories. As such, the Service's records did not provide a sufficiently detailed background to inform appropriate enforcement decisions, particularly the graduated approach required by official guidance and the Authority's Enforcement Policy, nor provide a basis for effective internal monitoring. It follows therefore that the Authority may have difficulty in producing documented evidence, in justification of its actions, in the event of an appeal against formal enforcement, Local Government Ombudsman Review or Judicial Review.
- 3.14.4 The Service's standardised inspection record form provided a useful format for maintaining comprehensive records of premises inspections, but these had not always been completed in full. The training sections of the record forms for 8 of 10 inspections examined had not been properly completed, or were left blank. There were similar deficiencies in the records of businesses' progress in complying with the hazard analysis requirement, and it was difficult to determine the scale and nature of food operations at some premises where it was not evident from the business name.

3.14.5 It appeared that inspection reports or letters were provided to proprietors following each inspection, although many recent copies of reports had not been retained on the files. The Service's standard handwritten inspection report format provided for all of the information required to be reported in accordance with the requirements of Food Safety Act Code of Practice No. 9: Food Hygiene Inspections. The letters posted after the inspection did not meet these requirements, although it could not be determined whether any letters had been sent without a handwritten report being first left on site.

Recommendations

3.14.6 The Authority should:

- (i) Maintain up to date and accurate records in retrievable form for all food premises in accordance with the relevant Food Safety Act Codes of Practice. These should include reports of all inspections, visits, investigations, the determination of compliance with legal requirements, details of enforcement actions, and approval information. [The Standard – 16.1]
- (ii) All records should be kept for at least 6 years. [The Standard – 16.2]

3.15 Complaints about the Service

- 3.15.1 The Authority had a documented corporate procedure for dealing with complaints against the Service.
- 3.15.2 A Council leaflet had been produced that provided the public with a summary of the process. This was not available from the Environmental Health offices, although it could be obtained from the Trading Standards offices and the auditors were informed that it was also on display at public reception points in the Town Hall.
- 3.15.3 Two complaints had been made against the food law enforcement Service over the 2 years preceding the audit. Both of these had received investigations and responses in accordance with the corporate procedure. Details had been properly forwarded to the appropriate officer in the Council who collated any such complaints.

3.16 Liaison with Other Organisations

3.16.1 Appropriate liaison arrangements were in place with neighbouring enforcement authorities and other bodies aimed at facilitating consistent enforcement. This was principally through the Authority's regular attendance at meetings of the following groups:

- South East London Food Liaison Group (SELFLG);
- Greater London Food Study Group;
- Communicable Disease Liaison Group.

3.17 Internal Monitoring

Food Hygiene and Food Standards

- 3.17.1 The Service had developed a comprehensive documented procedure for the internal monitoring of food hygiene activity that covered inspections and reactive activities, but its implementation had lapsed.
- 3.17.2 Useful quantitative management reports were produced from the database on a monthly basis in accordance with a documented procedure. These provided updated monitoring information on areas such as officer caseloads and overdue inspections. There was no evidence, however, that this data was being effectively utilised or that corrective actions were being taken.
- 3.17.3 There was also little evidence of effective qualitative monitoring in practice. This area of monitoring appeared to be largely dependent on officer-lead discussions and issues raised at irregular Team meetings. There was no evidence of a routine and structured approach to the monitoring of officers' activity against documented standards of performance.
- 3.17.4 The Service's achievements against the Council's Key Performance Indicators (KPIs) were reported to the Corporate Monitoring Team on a monthly basis. The KPIs for food law enforcement measured the number of food hygiene inspections carried out as a percentage of those due. The auditors were informed that a KPI for food standards inspections was under consideration.

Recommendation

3.17.5 The Authority should:

Review, revise as necessary and implement the documented internal monitoring procedure. The Authority should verify its conformance with relevant legislation, centrally issued guidance, the Service's own internal policies and procedures and the requirements of the Standard. [The Standard – 19.1 & 19.2]

3.18 Third Party or Peer Review

Food Hygiene and Food Standards

- 3.18.1 Independent assessment reports indicated that prior to the Authority's termination of the ISO quality assurance system in 2001, third party scrutiny of the Service was carried out routinely.
- 3.18.2 The Service participated in the London Inter Authority Audit (IAA) scheme in 2000. Although some of the issues raised in this audit report had been addressed, these had not been tackled in a systematic way through the development of an action plan.
- 3.18.3 Most of the significant problems identified in this report were first highlighted in the IAA report 3 years earlier. These included: authorisations, the frequency of food hygiene inspections at high risk premises, the absence of a food standards inspection programme, inspection follow up actions and formal enforcement activity. Other areas have since deteriorated, such as the internal monitoring and a failure to update the Service's documented procedures.

3.19 Food and Feeding Stuffs Safety and Standards Promotion

3.19.1 There was no evidence of any recent proactive initiatives to promote food safety and standards. The auditors were informed that there was no budget for promotional activity and staff resources were focused on enforcement work.

Auditors: **John Questier**
 Ron Cheesman
 Mark Davis

Food Standards Agency

Local Authority Enforcement Division

Action Plan for London Borough of Lewisham

Audit date: 29 April – 2 May 2003

IMPROVEMENTS PLANNED	BY (DATE)	TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	COMMENTS
<p>1. Service Plan to be completed and presented to Members in time for full implementation for next full financial year. Draft Plan to be produced by 30 September 2003. Work programmes geared to full adoption of the Service Plan by March 2004.</p>	<p>29/2/04</p>	<p>3.1.12(i) Develop, document and implement a food and feeding stuffs law enforcement service plan in accordance with the Service Planning Guidance. [The Standard – 3.1]</p>	
<p>2. Performance review of current service levels to be carried out in December of this year. Deficiencies to be addressed in the Service Plan which is subsequently presented to Members. Both review and Service Plan to be presented in full and considered by Members. In future years, performance reviews to be carried out in advance of presentation of Service Plan to Members.</p>	<p>31/01/04</p>	<p>3.1.12(ii) Carry out an annual performance review against the service plan. Document the review and submit it for Member approval. Ensure that any variance in meeting the service plan is addressed in the subsequent year's service arrangements. [The Standard – 3.2 & 3.3]</p>	

<p>3. Existing policies and procedures to be reviewed and rewritten where necessary. Any revised procedures to be implemented with immediate effect. Training needs that are identified to be fed through the Council's Performance Evaluation System programme.</p>	<p>31/10/03</p>	<p>3.2.6(i) Ensure that all existing food hygiene and food standards policies and procedures are reviewed to reflect current official guidance and internal practices. [The Standard – 4.1]</p>	
<p>4. Policies and procedures to be reviewed at 6 monthly intervals. Document control system to be established to ensure all superseded material is removed. Immediate review to be carried out to discard all superseded material.</p>	<p>31/01/04</p>	<p>3.2.6(ii) Set up, maintain and implement a document control system to ensure that internal food hygiene and food standards policies and procedures are reviewed at regular intervals and whenever there are changes to legislation and official guidance. The system should also ensure the removal of superseded documents. [The Standard – 4.1 & 4.2]</p>	
<p>5. Review of Council's system of delegation currently being undertaken by Legal Services. Following the outcome, a new list of authorised officers will be prepared and appropriate approvals put in place. Establish procedure for formally documenting and assessing officers' qualifications and experience. Information to be fed in to Council's authorisation process to ensure that all authorised officers are competent to carry out their duties at the prescribed levels.</p>	<p>30/11/03</p>	<p>3.3.12(i) Develop, maintain and implement a documented procedure for the authorisation of officers that is consistent with the Authority's scheme of delegation and based on their individual levels of competence, in accordance with the requirements of Food Safety Act Code of Practice No. 19: Qualifications and Experience of Authorised Officers. [The Standard – 5.1]</p>	<p>At present with Legal Services</p>

<p>6. Appropriate training to be actioned for Council's lead officer. Approach neighbouring authority for assistance in providing practical experience.</p>	<p>30/11/03</p>	<p>3.3.12(ii) Ensure that the Service's designated lead officer for food standards legislation has the necessary specialist knowledge to fulfill the requirements of that role. [The Standard – 5.2]</p>	
<p>7. Council's Performance Evaluation System scheme addresses the basic requirements for developing a documented training programming and identifying training needs. This has not operated within Environmental Health over the past two years. The programme is to be resumed with immediate effect. Overall training requirements will be noted within the Service Plan.</p>	<p>Immediate</p>	<p>3.3.12(iii) Maintain and implement a documented training programme to ensure that officer and Team training needs, in respect of food hygiene and food standards work, are assessed and met. [The Standard – 5.4]</p>	
<p>8. Qualification and training records are compiled as part of the Performance Evaluation System. Training Officer to be nominated to ensure accurate record keeping.</p>	<p>30/09/03</p>	<p>3.3.12(iv) Ensure that the qualification and training records for food hygiene and food standards enforcement officers are complete and that these provide sufficient details of the content of all training provided. [The Standard – 5.5]</p>	
<p>9. Procedures to be reviewed and implemented. Calibrator has been calibrated</p>	<p>30/11/03</p>	<p>3.4.5(i) Review the documented procedure for equipment calibration to ensure all equipment is properly maintained and calibrated. Implement the revised procedure. [The Standard – 6.2]</p>	

<p>10. Review the existing guidelines and review existing coding. Organise training in system use. Verify that statistical information to the Food Standards Agency can be provided easily and accurately.</p>	<p>31/01/04</p>	<p>3.4.5(ii) Ensure that the electronic record administration system is managed and operated in such a way that the Authority is able to provide accurate food hygiene and food standards monitoring returns to the Agency. [The Standard – 6.4]</p>	<p>We need to monitor how system operates with users located in several different buildings, may be an opportunity for Trading Standards Services to share database, or to run present system separate to other existing users.</p>
<p>11. Server to be located within Catford Complex (immediate). Review to be carried out jointly with Environmental Enforcement to ensure systems are backed up adequately and information is not lost.</p>	<p>31/12/03</p>	<p>3.4.5(iii) Set up, maintain and implement effective back-up systems and security measures that will minimise the risk of corruption and loss of information from the food premises database. [The Standard – 6.5]</p>	<p>At present system backed up regularly, all data to be transferred to new server which will be maintained by IT (anticipated date for change July/August 2003)</p>
<p>12. Outside consultants to be employed to increase the frequency of inspections to the required levels.</p> <p>Programme to be increased gradually to ensure follow-up actions can be handled and all actions properly documented. Institute monitoring procedures to verify that inspections are being carried out to the required standard and frequency.</p>	<p>Programme in place: 30/4/04</p> <p>Programme up to date: 30/4/05</p>	<p>3.5.25(i) Develop a programme for food standards inspections. Implement the programme and ensure that food standards and food hygiene inspections are carried out at a frequency which is not less than that required by the relevant Food Safety Act Codes of Practice. [The Standard – 7.1]</p>	<p>Agency staff engaged to assist in removal of backlog in respect to food hygiene, Priorities amended to include food standards inspections at high risk premises.</p>

<p>13. Work priorities to be amended to ensure that the approval and licensing of premises are given sufficient time and resources to ensure compliance. Review training of officers to ensure that they are competent to carry out necessary inspections. Institute training programme as required. Institute monitoring procedures.</p>	<p>30/11/03</p>	<p>3.5.25(ii) Ensure that food businesses are approved and licensed in full accordance with all relevant legislation and official guidance. [The Standard – 7.2]</p>	<p>Review of files of premises being undertaken, procedures to be reviewed.</p>
<p>14. Enforcement Policy to be reviewed and amended if necessary. Training needs to be identified within the Performance Evaluation System. Immediate action to be taken to address deficiencies in formal actions by group briefing with Legal Services involvement. Enforcement activity to be gradually increased as inspections rise towards acceptable levels. Institute monitoring procedures.</p>	<p>30/04/04</p>	<p>3.5.25(iii) Ensure that appropriate and effective follow-up action is taken in accordance with the Authority's Enforcement Policy where instances of non-compliance are identified. [The Standard – 7.3]</p>	
<p>15. Review current procedures and amend as necessary. Scrutinise new procedures to ensure they are consistent with the enforcement policy.</p>	<p>30/04/04</p>	<p>3.5.25(iv) Ensure that up to date procedures are available for all types of inspections carried out. This will include procedures for the range of follow up actions that reflect current practice and relevant official guidance. [The Standard – 7.4]</p>	

<p>16. Review current procedures and formulate document policy for dealing with complaints. Review procedures and amend as necessary to accord with formal policy.</p>	<p>30/04/04</p>	<p>3.6.6(i) Develop, maintain and implement a documented policy for dealing with food hygiene, food standards and food premises complaints. Review the documented procedure for food complaints and ensure that it reflects current practice and the relevant official guidance. [The Standard – 8.1]</p>	
<p>17. Briefing session to be held for all food officers on Internal Procedures for food complaints and requirements of Codes of Practice and current LACORS guidance. Managers to monitor completed complaints.</p> <p>Review existing Procedure to reflect current guidance.</p>	<p>30/9/03</p> <p>31/01/04</p>	<p>3.6.6(ii) Ensure that all food and food complaints are properly investigated and that all interested parties are kept informed in accordance with the relevant official guidance. [The Standard – 8.2]</p>	
<p>18. Work priorities to be amended to ensure adequate resources are available. Briefing session to be held for all food officers on Internal Procedure for food complaints / referrals and requirements of Codes of Practice and current LACORS guidance. Managers to monitor completed complaints.</p> <p>Review of existing Procedures to reflect current guidance.</p>	<p>30/09/03</p> <p>31/01/04</p>	<p>3.7.6(i) Ensure that all food hygiene and food standards Home/Originating Authority referrals receive appropriate and effective investigations and that all relevant parties are notified of the outcome. [The Standard – 9.2]</p>	

<p>23. Ensure that an Enforcement Policy is submitted to Members for approval with Service Plan. Copies to be produced and circulated to relevant businesses and policy to be published on Council web site. Copies to be circulated to all Council offices with public information and reception facilities (including libraries).</p>	<p>30/04/04</p>	<p>3.13.29(i) Ensure that the Environmental Health Enforcement Policy has been approved by Members. Ensure that the Policy, or an accurate summary, is made readily available to local food business proprietors and the public. [The Standard – 15.1]</p>	
<p>24. Procedures to be reviewed and revised as necessary. Training needs to be identified by the Performance Evaluation System process. Legal briefings to be instigated in the short term to address failings in enforcement processes. Management monitoring to be increased to ensure compliance.</p>	<p>30/04/04</p>	<p>3.13.29(ii) Ensure that all formal enforcement actions are carried out in full accordance with the relevant Food Safety Act Codes of Practice and official guidance. [The Standard – 15.2]</p>	
<p>25. Revised procedures to specifically relate process of authorisation for enforcement action. (All cases to be documented and reviewed by the Service Group Manger at completion. Any issues requiring policy changes to be incorporated in yearly review.)</p>	<p>31/01/04</p>	<p>3.13.29(iii) Ensure that all decisions on enforcement action are properly authorised, in accordance with the Authority’s scheme of delegation, and following consideration of the Enforcement Policy. The reasons for any departure from the criteria set out in the Enforcement Policy should be documented. [The Standard – 15.3]</p>	<p>Until such time as enforcement policy agreed will use criteria set out in existing Environmental Health enforcement policy.</p>

<p>26. Continue with current practice of recording information on hard copy. Team briefings to be instigated in the short term to address issues of poor or non-existent record keeping. Management monitoring to be increased to verify that accurate and complete records are being kept.</p>	<p>31/10/03</p>	<p>3.14.6(i) Maintain up to date and accurate records in retrievable form for all food premises in accordance with the relevant Food Safety Act Codes of Practice. These should include reports of all inspections, visits, investigations, the determination of compliance with legal requirements, details of enforcement actions, and approval information. [The Standard – 16.1]</p>	<p>With impending office move decisions need to be made as to what facilities for storage are to be adopted e.g. paper store, electronic scanning</p>
<p>27. Continue with current practice. Briefings to be instigated in the short term to stress the importance of accurate and complete record keeping. Establish formal mechanism for regular monitoring of records.</p>	<p>31/10/03</p>	<p>3.14.6(ii) All records should be kept for at least 6 years. [The Standard – 16.2]</p>	
<p>28. Review and amend existing procedure. Implement fully with new service plan. Critical areas where there are failings are to be addressed by management intervention as detailed in the action plan.</p>	<p>30/04/04</p>	<p>3.17.5 Review, revise as necessary and implement the documented internal monitoring procedure. The Authority should verify its conformance with relevant legislation, centrally issued guidance, the Service's own internal policies and procedures and the requirements of the Standard. [The Standard – 19.1 & 19.2]</p>	

Glossary

Agricultural Analyst	A person, holding the prescribed qualifications, who is formally appointed by a local authority to analyse feeding stuffs samples.
Approved premises	Food manufacturing premises that has been approved by the local authority, within the context of specific legislation, and issued a unique identification code relevant in national and/or international trade.
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.
Best Value	<p>A Government policy which seeks to improve local government performance in the delivery of services to local communities – from education and care for the elderly through to environmental health and road maintenance. Best Value aims to ensure that the cost and quality of these services are of a level acceptable to local people by:</p> <ul style="list-style-type: none"> • increasing the role of local people in deciding the priorities for local government services • improving the way authorities manage and review their business • building on the experience and expertise of staff.
Border Inspection Post	Point of entry into the UK from non-EU countries for products of animal origin.
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.
Enforcement Concordat	Government guidance setting out principles and procedures of good enforcement which local authorities may adopt. Developed in consultation with businesses, local and central government, consumer groups and other interested parties. It sets out what businesses and others being regulated can expect from enforcement officers.
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 Examiner	A person holding the prescribed qualifications who undertakes microbiological analysis on behalf of the local authority.
Food Hazard Warnings	This is a system operated by the Food Standards Agency to alert the public and local authorities to national or regional problems concerning the safety of 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 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.
Home Authority	An authority where the relevant decision making base of an enterprise is located and which has taken on the responsibility of advising that business on food safety/food standards issues. Acts as the central contact point for other enforcing authorities' enquiries with regard to that company's food related policies and procedures.

Improvement notice	A notice served by an Authorised Officer of the local authority under Section 10 of the Food Safety Act 1990, requiring the proprietor of a food business to carry out suitable works to ensure that the business complies with the requirements of food hygiene or food processing legislation.
Inter Authority Auditing	A system whereby local authorities might audit each others' food law enforcement services against an agreed quality standard.
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.
Minded to notice	A notice served by an Authorised Officer of the local authority under the Deregulation (Improvement and Enforcement Procedures) (Food Safety Act 1990) Order 1996. This notice is served prior to an 'improvement notice' and gives food business proprietors a specified period to make either a written or oral representation to the enforcement authority about the enforcement action. A repeal to the above Order means that from 10 April 2001 'minded to notices' no longer need to be issued prior to the issue of an 'improvement notice'.
OCD returns	Returns on local food law enforcement activities required to be made to the European Union under the Official Control of Foodstuffs Directive.
Originating Authority	An authority in whose area a business produces or packages goods or services and for which the Authority acts as a central contact point for other enforcing authorities' enquiries in relation to the those products
Port Health Authority	A local authority within whose boundaries there is a point of entry into the UK for imported foods.
Public Analyst	An officer, holding the prescribed qualifications, who is formally appointed by the local authority to carry out chemical analysis of food samples.
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 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.