

**AUDIT OF LOCAL AUTHORITY FOOD LAW
ENFORCEMENT SERVICE DELIVERY OF
OFFICIAL CONTROLS REGARDING TO
APPROVAL OF ESTABLISHMENTS**

Tewkesbury Borough Council
22-24 October 2019



Contents

-----	1
1.0 Introduction -----	3
2.0 Scope of the Audit -----	3
3.0 Background -----	4
4.0 Executive Summary -----	5
5.0 Audit Findings -----	7
5.1 Service Organisation & Management -----	7
5.2 Reviewing & Updating Documented Policies & Procedures -----	8
5.3 Authorised Officers -----	8
5.4 Database -----	9
5.5 Food establishments interventions -----	10
5.6 Food and Food Premises Complaints -----	11
5.7 Food Inspection and Sampling -----	12
5.8 Food Safety Incidents -----	12
5.9 Enforcement -----	12
5.10 Records and Inspection Reports -----	13
5.11 Internal Monitoring -----	13
6.0 Good Practice -----	14
ANNEX A - Action Plan for Tewkesbury Borough Council -----	15
ANNEX B Audit Approach/Methodology -----	19
ANNEX C Glossary -----	20

1.0 Introduction

- 1.1 This is a report on the outcomes of the Food Standards Agency's (FSAs) audit of Food Hygiene Service Delivery, focusing on local authority approved establishments, conducted at **Tewkesbury Borough Council** on the **22nd, 23rd and 24th October 2019**. The audit was carried out as part of a programme of audits on local authorities (LA) in England. The report has been made available on the FSA's website at:

<https://fsa.riams.org/resource/folders/10>

Hard copies are available from the FSA by emailing the FSA at:

AuditAssurance@food.gov.uk

- 1.2 The power to set standards, monitor and audit local authority feed and 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 was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme.
- 1.3 Regulation (EC) No. 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, includes a requirement for competent authorities to carry out internal audits or to have external audits carried out. The purpose of these audits is to verify whether official controls relating to feed and food law are effectively implemented. To fulfil this requirement, the Food Standards Agency, as the central competent authority for feed and food law in the UK has established external audit arrangements. In developing these, the FSA has taken account of the European Commission guidance on how such audits should be conducted.^[1]
- 1.4 The Council ("the Authority") was included in this programme of audits as part of set comprising a range of geographical, demographic and structural local authorities.
- 1.5 For assistance, a glossary of technical terms used within the audit report can be found at Annex C.

2.0 Scope of the Audit

- 2.1 The audit examined the local authority's (LAs) organisation, management, and internal monitoring arrangements with regard to

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

approved establishments. Assurance was sought that key Service systems and arrangements were in place and effective, including suitable arrangements for the internal monitoring of official controls delivered by the Service. The on-site element of the audit took place at the Council Offices, Gloucester Road, Tewkesbury, GL20 5TT.

3.0 Background

- 3.1 Tewkesbury Borough is located in North Gloucestershire and covers an area of approximately 160 square miles. The borough has a population of approximately 86,000 with 39,064 households. The area is predominantly rural with the main population centres being Tewkesbury Town, Winchcombe, Bishops Cleeve and Brockworth. There is a diverse range of economic activity with around 3900 VAT registered businesses, including several multinational organisations. Tewkesbury Borough is currently a centre for high quality manufacturing and engineering. Both employment and life expectancy rates with Tewkesbury Borough are higher than the national average.
- 3.2 At the time of the audit, the Authority was operated through a committee structure.

4.0 Executive Summary

- 4.1 This audit of Tewkesbury Borough Council food safety service (the "Service") sought to gain assurance that key food hygiene service systems and arrangements were effective with regard to the approval of establishments, and that local arrangements were managed and delivered effectively.
- 4.2 The Authority was selected for audit primarily because it had not been audited by the Food Standards Agency in at least the past 5 years.
- 4.3 The Authority had developed a Service Plan which followed the guidance in the Framework Agreement on Official Feed and Food Controls by Local Authorities (Framework Agreement) and included information about approved establishments. Most of the policies and procedures requested were available, comprehensive, and generally able to provide the information needed for the audit.
- 4.4 The Borough was predominantly a rural area with over 700 food establishments the majority of which were restaurants and caterers, followed by retailers. Distributors/transporters, manufacturers/packers and primary producers were a much smaller percentage. The Service (within the Community Services department) was delivered by a small size team including contractors (contractors represented 37% of the team). The Environmental Health Team was currently implementing a restructure due to be completed by the end of the year, and there were no plans to reduce the current number of food officers.
- 4.5 The Authority had developed and implemented an officer competency assessment matrix system in accordance with the Food Law Code of Practice (FLCoP). Officer continuous professional development (CPD) met the requirements of the FLCoP, and training received by officers included training regarding approval of establishments.
- 4.6 The Authority had developed and implemented a local documented procedure for the approval of establishments, which followed the FLCoP and the Approval of Establishments Guidance for Local Authority Authorised Officers 2016 (FSA Approvals Guidance). The approval process followed the guidance and the FLCoP.
- 4.7 Interventions at approved establishments had been carried out at the frequency prescribed in the FLCoP. Complaint investigations, enforcement and sampling had also been effectively handled and carried out in accordance with the Authority's procedures.

Recommendations

- 4.8 The Service Plan needed to include further details about the staff resources and provide a detailed estimate of the resources required to run the Service compared to the resources available. This should

identify any shortfall which may prevent delivery of all planned work and a plan to address this.

- 4.9 According to the Framework Agreement, a performance review of the service delivery plan shall be submitted for approval to the relevant member forum or to a relevant senior officer (if this duty has been delegated). Approval at Tewkesbury was carried out by the Head of Community Services; however, the scheme of delegation did not demonstrate the delegated powers to approve the Plan. Auditors recommended the Authority to clearly specify in the scheme of delegation that approval of the Food Service Plan was delegated to the Head of Community Services.
- 4.10 The Authority was using a blanket system of authorisation within which it was not clear what specific duties officers were and were not authorised to carry out. Auditors recommended a better system/procedure was needed to manage officer restrictions, to ensure authorisations or documentation linked to each officer specified the activities officers were authorised to perform, so that the level of authorisation and duties of officers were consistent with officer's level of qualifications, training and experience.
- 4.11 There was evidence that the Authority conducted checks to ensure accuracy and correctness of the database, however the Authority needed to document these to meet the Framework Agreement requirements.
- 4.12 Compliance of approved establishments with microbiological testing requirements was being assessed, however in one case the Authority needed to progress their advice to by a food business operator in line with legislative requirements.
- 4.13 Internal monitoring activities were carried out by the Authority; However, these were not documented in a procedure. From comments in the Service Plan and discussions during the audit Auditors noted some were not carried out at the planned frequency. The Authority needed to develop and implement a risk based internal monitoring procedure covering all the elements of the service delivery in order to meet the Framework Agreement requirements.
- 4.14 Some observations have been raised at points 5.10.2 and 5.11.2 of this report. These are not recommendations but aspects to be considered by the Authority.

Good Practice

- 4.15 The electronic filing system of documents with an accurate description in Idox against each establishment made records easily retrievable and was found a good practice by auditors.

5.0 Audit Findings

5.1 Service Organisation & Management

- 5.1.1 The Food Safety Service was delivered by the Environmental Health Section which was part of the Community Services Group. The Principal Environmental Health Officer (PEHO) was the Lead Food Officer who was accountable to the Environmental Health Manager, who in turn was reporting to the Head of Community Services. The next level in the organisational structure was the Deputy Chief Executive and the Chief Executive.
- 5.1.2 The Authority had implemented a Service Plan in accordance with the Service Planning Guidance of the Framework Agreement. The Plan was well-structured and included reference to the approved establishments, a performance review against the previous year's Plan and areas for improvement. Approval of the Food Service Plan and its performance review had been granted by the Head of Community Services, however, auditors looked at the scheme of delegation and it was unclear that he had delegated powers to do this. Auditors recommended the Authority to clearly specify in the scheme of delegation that approval of the Food Service Plan was delegated to the Head of Community Services.
- 5.1.3 The Service was delivered by 5 fully authorised officers, 3 of which were contractors. The total FTE (full time equivalent), was 2.5. The Authority had been restructured recently and there was no anticipated loss of resources. This year's LAEMS data and further database analysis prior to the audit showed that risk prioritisation on interventions was being carried out with a low number of overdue inspections (from some medium to low risk premises). Auditors discussed with the PEHO that the Service Plan would benefit from including an accurate and clear breakdown of the resources required to carry out the full range of statutory food law enforcement activities with a comparison against a reasoned estimate of the resources available to the Service. This should identify any shortfall which may prevent delivery of all planned work.

Recommendation 1 - Service Planning

[The Standard 3.1]

Draw up, document and implement the Service Plan in accordance with the Service Planning Guidance in Chapter 1 of the Framework Agreement. The Plan should include:

- (i) A comparison of the resources required to deliver each part of the Plan with the resources available and any resulting shortfall in resources, together with the corresponding strategy for delivering the Service Plan.

[The Standard 3.2]

- (ii) Where approval of the Service Plan and its performance review is carried out by senior officers, the scheme of delegation must demonstrate they have delegated powers to approve it.

5.2 Reviewing & Updating Documented Policies & Procedures

- 5.2.1 Although some of the Authority's policies and procedures had been developed locally, most of the them were from RIAMS (Regulatory Information and Management System), and the PEHO acknowledged some of the RIAMS procedures needed to be updated with the local systems. The PEHO was in the process of implementing a system of reviewing policies and procedures annually. Policies and procedures requested for this audit had generally been reviewed prior to the audit and the PEHO was planning to finish all the updates and organise a seminar before the end of the year to cascade changes to officers.
- 5.2.2 Up to date policies and procedures were saved on a network drive that officers had access to. Superseded documents were discarded and not used by officers.
- 5.2.3 The Authority had a RIAMS procedure for approval of establishments and had also developed their own local procedure recently, which was comprehensive and in line with the Code of Practice and the FSA Approvals Guidance.

5.3 Authorised Officers

- 5.3.1 The Authority had a procedure for the authorisation of officers which outlined that the Head of Community Services issued officer authorisations once they had the baseline qualification (or a suitable

alternative qualification) and they were deemed to be suitably competent and experienced by the Lead Food Officer. The scheme of delegation specified that the Head of Community Services had delegated powers to issue these authorisations.

- 5.3.2 The Authority had a small number of officers and aimed for officers to be specialised in one area but competent in all areas. This applied to all aspects of the environmental health work, including food, where officers were being trained to cover all ranges of enforcement activities. To this respect EHO and contractor authorisations were issued as a blanket document with no restrictions specified. For instance, one officer who had been partially trained in approved establishments, but was not fully competent yet, had the same authorisation of fully competent officers. Auditors recommended restrictions to be specified either in the authorisations or in the documentation linked to them, so that it was clear what activities officers were not trained to carry out yet. The PEHO and a contractor officer had been appointed as the officers with the appropriate specialist knowledge to carry out the work set out in the Service Plan in relation to approved establishments.
- 5.3.3 Auditors viewed staff training records, authorisations and competency assessments. The Authority had developed a competency assessment matrix in accordance with FSA Guidance. One competency assessment had not been fully completed and effectively 'signed off' by the PEHO.
- 5.3.4 Staff authorisations included the relevant pieces of legislation in line with the FLCoP, including the specific authorisations under the Food Hygiene (England) Regulations 2013.
- 5.3.5 Staff had completed their required CDP training hours. Officers had generally received training in food matters commensurate with their work activity. The two officers dealing with approved establishments had also received the training necessary to be competent to deliver the technical and administrative aspects of the work.

Recommendation 2 – Officer Authorisation

[The Standard 5.3]

The Authority should ensure officer authorisations or documentation linked to them specify officer restrictions so that the level of authorisation and duties of officers are consistent with officer's level of qualifications, training and experience.

5.4 Database

5.4.1 The Authority had set up and was maintaining a food business database. Auditors checked the accuracy of the food database and whether all the approved establishments were present in the database. There were two inconsistencies regarding two approved establishments when comparing the Authority's list and the FSA's list. It appeared the FSA had not been notified of changes regarding approved establishments on a couple of occasions but the PEHO had identified and addressed this prior to the audit.

5.4.2 Auditors were informed that the database was backed up on a daily basis, and the Authority carried out the following checks to make sure the database was up to date:

- At the start of the year a data check was run by Business Support and transferred overdue inspections onto a spreadsheet.
- On a monthly basis (or more frequently) the PEHO worked on a master spreadsheet to allocate inspections to officers.
- Undertaking of social media, and other website checks.
- Obtaining a list of businesses from event organisers.

The above activities were not documented in a procedure, and auditors discussed the need of developing one to meet the Framework Agreement requirements.

5.4.3 The Authority was able to provide the data base information requested by the FSA and this year's LAEMS submission had been filed.

Recommendation 3 – Food Premises Database
[The Standard 11.2]

The Authority should develop and implement a documented procedure to ensure that the database is accurate, reliable and up to date, as the accuracy of such databases is fundamental to service delivery and monitoring.

5.5 Food establishments interventions

5.5.1 The Authority had a standard RIAMS procedure for approval of establishments and had also just developed an internal local procedure which was thorough, specific to the Authority and in line with the Code of Practice and the FSA Approvals Guidance.

5.5.2 Auditors checked the files of 3 approved establishments. The approval process and interventions had been conducted in accordance with the

Approvals Guidance and with the Authority's procedures and by two officers with specialist knowledge appointed by the Authority.

- 5.5.3 Auditors checked the Authority's database and verified that interventions of all approved establishments had been carried out at the frequency set out in the FLCoP. There were two instances where it appeared that the inspections were delayed by up to one year. However, after further discussions with the PEHO it was clarified that in one case the risk rating was incorrect, and the inspection was not due yet. In the other case, the inspection had been carried out on time, but the paperwork files had not been uploaded in the database yet and the PEHO was in the process of doing this.
- 5.5.4 It was evident from discussions with the PEHO that the Authority had kept the approval of establishments under review when carrying out official controls. In addition, intervention reports used at non-approved premises included a prompt question to enable officers to identify if the establishment required approval. Furthermore, as it was a small team, all officers had received some form of training regarding approved establishments, and they were all able to assess when an approval was needed.
- 5.5.5 A reality visit was carried out to a Meat Products (ready to eat) factory. Legislative provisions with regard to microbiological testing were not being followed by the FBO. This had previously been identified and discussed with the FBO and recorded by the Authority in the intervention reports since the establishment was approved two years ago. Auditors discussed that this should be progressed in line with legislative requirements should the FBO continue to fail to address this.

Recommendation 4 – Food Establishments Interventions
[The Standard 7.3]

The Authority shall assess the compliance of establishments and systems in their area to the legally prescribed standards and ensure microbiological testing in accordance with Regulation (EC) 2073/2005 is carried out by Food Business Operators.

5.6 Food and Food Premises Complaints

- 5.6.1 The Authority had a documented procedure for the administration of food and food premises complaints, which, amongst others, covered relevant aspects such as: the notification and investigation of complaint; sampling requirements; liaison with relevant bodies; and the enforcement responsibility.

5.6.2 The Authority had received one complaint regarding an approved establishment in the last six months, which had been investigated and followed up appropriately and in accordance with their own procedures. Database records regarding the complaint investigations were complete and easily retrievable.

5.7 Food Inspection and Sampling

5.7.1 The Authority had a sampling policy in place which considered process monitoring sampling at approved establishments, sampling during food hygiene inspections, sampling as a result of food complaints and national, regional and local sampling studies. Furthermore, information in the Service Plan showed that the Authority had allocated enough resources to undertake sampling at approved establishments at least twice a year.

5.7.2 The Authority also had sampling procedures for analysis and for examination, outlining instructions on how to take different types of samples.

5.7.3 An annual sampling programme had been compiled, which included routine sampling and PHE & cross regional studies. Sampling at one approved establishment in the programme was part of the PHE studies. The Authority had seven approved establishments and, in practice, process monitoring sampling was only conducted at a meat products factory and at a dairy factory, since the rest of the premises did not require any testing.

5.7.4 The authority had appointed a public analyst and a food examiner to carry out examinations and analyses of food samples.

5.8 Food Safety Incidents

5.8.1 The Authority had a documented procedure for dealing with food incidents, alerts and hazards in its area, which had been developed in accordance with the Framework Agreement and the FLCoP.

5.8.2 There had not been relevant incidents associated with approved establishments for the past 6 years. Nor had the Authority had any incidents that could be classified as a serious localised incident or a wider food safety problem associated with the approved establishments. However, Officers were aware of the provision in the FLCoP regarding notification arrangements of serious localised and non-localised food hazards.

5.9 Enforcement

- 5.9.1 The Authority had in place an enforcement policy that had been drafted in accordance with the relevant codes of practice and other official guidance and had been approved by the Executive Committee.
- 5.9.2 Formal enforcement action (a Hygiene Improvement Notice) had been carried out at one approved establishment in the last two years. The notice was checked and there was evidence that it had been issued in accordance with the policy and official guidance.

5.10 Records and Inspection Reports

- 5.10.1 Records were maintained by the Authority for at least 6 years for all food stuffs and, generally, they were in a retrievable form. Officers reported back in writing to the food business operator at the end of every food intervention within 10 days of the visit.
- 5.10.2 Auditors checked the files of three approved establishments and some of them did not contain all the details in accordance with the Practice Guidance. The Authority was advised to follow the Practice Guidance in this respect.

5.11 Internal Monitoring

- 5.11.1 The Authority did not have a documented internal monitoring procedure. Auditors noted from information in the Service Plan and from discussions with the PEHO that the Authority was monitoring quantitative targets such as the number of inspections, the number of samples and the response to service requests amongst others. Evidence of qualitative checks such as accompanied visits and file checks (including approved establishments) conducted by the PEHO were observed, however, these had not been undertaken at the frequency planned, and the Authority acknowledged improvements were needed in regard to this. Auditors recommended the Authority to develop and implement an internal monitoring procedure documenting their checks. The procedure should cover the whole range of food and feed enforcement activities carried out and consider a risk-based approach.
- 5.11.2 Targets set by the Authority for the inspections of C, D and E risk rated premises were all below 100%. Auditors discussed the fact that these targets fell below the standard required by the FLCoP and the Standard in the Framework Agreement. The Authority was advised to review these targets in order to meet the statutory requirements.
- 5.11.3 The Authority had recently participated in inter-authority audits organised by the Gloucestershire Food Safety Liaison Group. The audits focused on arrangements for authorised officer competency

assessments and the Authority was currently addressing the audit action plan.

Recommendation 5 – Internal Monitoring

[The Standard 19.2]

The Authority shall verify its conformance with this Standard, relevant legislation, the relevant Food Law Codes of Practice, relevant centrally issued guidance and the Authority's own documented policies and procedures.

- (i) To update the Internal Monitoring Procedure considering:
 - all the range of food enforcement activities carried out
 - A risk-based internal monitoring approach

6.0 Good Practice

- 6.1 Approved establishment files were all filed against each establishment in an electronic format with an accurate title description for each of the documents, enabling a straightforward and rapid accessibility of records. Auditors found this a good practice of keeping documentation.

Audit Team: Aranzazu Sanchez - Lead Auditor
Philip Shea - Auditor
Jennifer Kemp - Auditor

Food Standards Agency
Audit Assurance Team

ANNEX A - Action Plan for Tewkesbury Borough Council

Audit date: 22-24 October 2019

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
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<p>Recommendation 2 – Officer Authorisation [The Standard 5.3]</p> <p>The Authority should ensure officer authorisations or documentation linked to them specify officer restrictions so that the level of authorisation and duties of officers are consistent with officer’s level of qualifications, training and experience.</p>	<p>3rd Feb 2020</p>	<p>Officer authorisations will be reviewed and any necessary restrictions will be clearly specified.</p> <p>The Council’s authorisation procedure will also be updated to include details of exactly what official controls and enforcement activity each officer is permitted to undertake.</p>	
<p>Recommendation 3 – Food Premises Database [The Standard 11.2]</p> <p>The Authority should develop and implement a documented procedure to ensure that the database is accurate, reliable and up to date, as the accuracy of such databases is fundamental to service delivery and monitoring.</p>	<p>2nd March 2020</p>	<p>A documented procedure will be produced outlining the checks that the Environmental Health department undertake to ensure that the food premises database is accurate and up to date.</p>	

<p>Recommendation 4 – Food Establishments Interventions [The Standard 7.3]</p> <p>The Authority shall assess the compliance of establishments and systems in their area to the legally prescribed standards and ensure microbiological testing in accordance with Regulation (EC) 2073/2005 is carried out by Food Business Operators.</p>	<p>20th Jan 2020</p>	<p>Officers will be instructed to ensure that microbiological testing in accordance with Regulation (EC) 2073/2005 is undertaken at all premises where the need for proactive sampling under this legislation is indicated.</p> <p>This will be monitored by the Principal EHO and included as part of the food premises file checks.</p>	
<p>Recommendation 5 – Internal Monitoring [The Standard 19.2]</p> <p>The Authority shall verify its conformance with this Standard, relevant legislation, the relevant Food Law Codes of Practice, relevant centrally issued guidance and the Authority’s own documented policies and procedures.</p> <p>(i) To update the Internal Monitoring Procedure considering:</p> <ul style="list-style-type: none"> • all the range of food enforcement activities carried out • A risk-based internal monitoring approach 	<p>2nd March 2020</p>	<p>The internal monitoring procedure will be updated to ensure that it is risk based and reflects the full range of food hygiene enforcement activities carried out by the Environmental Health Team.</p>	

ANNEX B Audit Approach/Methodology

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

- (1) Examination of LA plans, policies and procedures
- (2) A range of LA file records were reviewed
- (3) Review of food premises database
- (4) Officer interviews: The Principal Environmental Health Officer was interviewed. The Head of Community Services and the Environmental Health Manager were both present during the feedback and closing meeting session.

ANNEX C Glossary

Authorised officer	A suitably qualified officer who is authorised by the local authority to act on its behalf in, for example, the enforcement of legislation.
Codes of Practice	Government Codes of Practice issued under Section 40 of the Food Safety Act 1990 as guidance to local authorities on the enforcement of food legislation.
County Council	A local authority whose geographical area corresponds to the county and whose responsibilities include food standards and feeding stuffs enforcement.
District Council	A local authority of a smaller geographical area and situated within a County Council whose responsibilities include food hygiene enforcement.
Environmental Health Officer (EHO)	Officer employed by the local authority to enforce food safety legislation.
Food Safety Management System	A written permanent procedure, or procedures, based on HACCP principles. It is structured so that this requirement can be applied flexibly and proportionately according to the size and nature of the food business.
Food hygiene	The legal requirements covering the safety and wholesomeness of food.
Full Time Equivalents (FTE)	A figure which represents that part of an individual officer's time available to a particular role or set of duties. It reflects the fact that individuals may work part-time, or may have other responsibilities within the organisation not related to food and feed enforcement.
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.

Service Plan

A document produced by a local authority setting out their plans on providing and delivering a food service to the local community.

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.