
**Food Standards Agency Audit of Local Authority
Official Controls and Food Business Operator
Controls in Approved Establishments**

Basildon District Council

1-2 April 2009

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 official controls implemented in approved establishments by the Local Authority's Food Law Enforcement Service. The audit assessments included the authority's policies, organisation and management and local arrangements for implementation of official controls in approved establishments, with specific focus on approved meat products establishments, and related areas of food law enforcement.

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. The Framework Agreement and the audit protocols are available on the Agency's website at:

www.food.gov.uk/enforcement/auditandmonitoring

The main aim of the audit scheme is to improve and maintain 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 information to inform Agency policy on food safety.

The report contains some statistical data on food law enforcement activities undertaken by the authority. The Agency's website contains enforcement activity data for all UK local authorities and can be found at:

www.food.gov.uk/enforcement/auditandmonitoring

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

A glossary of technical terms used within the audit report can be found at Annex C.

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1. Introduction

Background and Scope of the Audit

- 1.1.1 This report records the results of an audit at Basildon District Council. The Authority was 1 of 11 authorities selected for the audit programme of local authority official controls and food business operator controls in approved establishments carried out between February and April 2009, as part of the Food Standards Agency's programme of audits of local authority food law enforcement.
- 1.1.2 The audit was carried out under relevant headings of the Food Standards Agency Food Law Enforcement Standard and the report has been made publicly available on the Agency's website at www.food.gov.uk/enforcement/auditandmonitoring. Hard copies are available from the Food Standards Agency's Local Authority Audit and Liaison Division at Aviation House, 125 Kingsway, London WC2B 6NH, Tel: 020 7276 8428.
- 1.1.3 The power to set standards, monitor and audit local authority food law enforcement services was conferred on the Food Standards Agency by the Food Standards Act 1999 and the Official Feed and Food Controls (England) Regulations 2006. This audit of official controls implemented by Basildon District Council's food service was undertaken under section 12(4) of the Act and Regulation 7 of the Regulations.
- 1.1.4 The audit examined the Local Authority's arrangements for implementing official controls at approved establishments, with a particular focus on approved meat products establishments. In considering the effectiveness of these controls, the audit evaluated the appropriateness of approvals; compliance of the approvals process with legal requirements, the Food Law Code of Practice and official guidance; delivery of routine official controls in approved establishments; the reactive elements of the Authority's approved establishments responsibilities and related aspects of the Service.
- 1.1.5 The district of Basildon lies in the southern part of Essex and covers an area of 42.5 square miles and has a population totalling 165,600 with 3 main town centres of Basildon, Billericay and Wickford.
- 1.1.6 There are approximately 1,200 registered food business premises within the Authority's area including 9 approved establishments.
- 1.1.7 The on-site element of the audit took place at the Authority's office at The Basildon Centre, St Martins Square, Basildon, Essex, SS14 1DL on 1-2 April 2009.

2.0 Executive Summary

- 2.1 The Authority had produced a Food Service Plan for 2008/2009 in line with the Service Planning Guidance in the Framework Agreement. The plan was reviewed annually when any variance and associated resource issues were addressed.
- 2.2 The Authority had developed and implemented a robust document control system relating to the control and authorisation of the food service policies and procedures and there was evidence available to confirm that relevant procedures had been recently reviewed.
- 2.3 The Authority maintained a documented procedure for the authorisation of officers which included the method for the initial assessment of officers' competence prior to authorisation and also identified the additional skills to be assessed in relation to specific work.
- 2.4 There was a fully documented procedure in place for the maintenance of the food premises database. Audit checks specific to approved establishments confirmed that the database contained accurate records of enforcement activity at these establishments.
- 2.5 The Authority had developed a comprehensive procedure specifically relating to the approval of establishments, including actions to be taken where a business was found to be non-compliant.
- 2.6 Auditors established that although the Authority had identified and recorded significant contraventions at one approved establishment, the findings had not been appropriately reflected in the premises risk rating, resulting in a lower frequency of inspection than required under the Food Law Code of Practice.
- 2.7 The Authority's records on approved establishments were maintained on both electronic and paper based files. The paper based files were found to be generally well organised and maintained in chronological order; however some pre-approval assessment records could not be located in either electronic or paper format. In the absence of the relevant documentation it was not possible for the auditors to determine the basis for the Authority's approval decision.
- 2.8 The Authority had developed a procedure for the investigation of food complaints. Audit checks indicated that a complaint referral which had originated from an approved establishment had been fully and appropriately investigated.

- 2.9 The Authority had a documented sampling policy and procedure and in addition, a sampling programme had been developed in conjunction with the Essex Food Liaison Group. The Authority had undertaken recent food sampling within approved establishments and demonstrated appropriate follow-up action where sample results were found to be unsatisfactory.
- 2.10 The Authority had developed a detailed documented enforcement policy which was supported by several associated procedures. However, auditors noted that the Authority had not in all cases taken appropriate and proportionate enforcement action in line with their own procedures following inspections which had repeatedly identified substantial evidence of serious contraventions of legal requirements.
- 2.11 The Authority had developed a documented internal monitoring procedure which included specific target levels of monitoring for officers casework. Although auditors were advised of ongoing qualitative and quantitative monitoring of officers work, the Authority was unable to provide any records to demonstrate recent monitoring activity.

3.0 Audit Findings

3.1 Organisation and Management

3.1.1 Food law enforcement was carried out by officers within the Food and Safety Team which formed part of the Environmental Health Services Department. In addition to food hygiene law enforcement, the team also undertook work relating to infectious disease control, health and safety at work and animal welfare.

3.1.2 The team leader, in addition to maintaining responsibility for the day to day operational management of the team, was also responsible for licensing and the management of licensing officers. The team leader was also the nominated lead officer with responsibility for food safety, which included shared specialist responsibility for approved establishments.

3.1.3 The Authority had produced a Food Service Plan for 2008/2009 in accordance with the Service Planning Guidance in the Framework Agreement which had been appropriately endorsed by the Cabinet Member for Environment. The plan was subject to annual review when any variance and associated resource issues would be addressed.

3.1.4 The aim of the Service, as stated in the Food Service Plan 2008/2009 was that:

'through a balance of interventions promote the safety of food handled, produced, sold or consumed within the district.'

3.1.5 The Plan also confirmed the Service's commitment to undertaking risk based food hygiene and enforcement decisions in line with the Food Law Code of Practice:

'Registered food businesses are inspected on a priority system based on risk to assess compliance with the legislation and take appropriate enforcement action where contraventions are identified.'

3.1.6 The Authority also incorporated the following paragraph within the Scope of the Food Service which was of particular relevance to the audit:

'We identify and inspect premises where approval is required in order for the business to sell food to other businesses, and ensure that they are appropriately approved in accordance with the regulations.'

3.2 Review and Updating of Documented Policies and Procedures

- 3.2.1 The Authority had established and implemented a document control system in relation to relevant legislation and its own documented food service policies and procedures. The documents were held electronically on the Authority's intranet to which officers maintained 'read only' access. The Environmental Health Manager held overall responsibility for the control of the Authority's policies and procedures and authorised all necessary amendments.
- 3.2.2 The Authority's document control procedure detailed a requirement to complete an annual review of all documented policies and procedures or where relevant changes to legislation or guidance had occurred. All procedures which were examined during the audit demonstrated evidence of recent review in line with the Authority's document control procedure.

3.3 Authorised Officers

- 3.3.1 The Authority maintained a scheme of delegation in respect of officer authorisation. The Council's Standing Orders delegated power to the Head of Service, who in turn had delegated responsibility to the Manager of Environmental Health and Environmental Health Managers to authorise staff under applicable legislation, which included the Food Safety Act 1990, the Official Feed and Food Control (England) Regulations 2007 and the Food Hygiene (England) Regulations 2006.
- 3.3.2 The Authority had developed a documented procedure for the authorisation of officers based on their qualifications and food related experience and included the means by which officers' competency was assessed prior to deciding individual levels of authorisation.
- 3.3.3 The authorisation of named officers to exercise specific duties, including food law enforcement, was undertaken by the Environmental Health Manager and confirmed in the Authority's Authorisation of Officers procedure. The document contained appropriate legislative references and also detailed the required knowledge and additional skill requirement relating to the approval of establishments.
- 3.3.4 Officer training requirements were identified through individual performance review and collated into an annual training plan. Training records for the 2 officers responsible for official controls in approved establishments were examined during the audit. Evidence of relevant qualifications and update training, including training on formal enforcement and specialist processes was being maintained.

Officers had completed a minimum of 10 hours training in food related matters per year, based on the principles of continuing professional development (CPD), in line with Food Law Code of Practice requirements.

3.4 Food Premises Database

3.4.1 Records of the establishments approved by the Authority were accessible and recorded on the Service's database. The information held was consistent with that held on paper files.

3.4.2 The Authority had developed a documented procedure to ensure that the food premises database was accurate and up to date, including the requirement for an annual check on local business directories to maintain the Authority's awareness of all food business activities that may require approval.

3.5 Approved Establishment Inspections

3.5.1 The Authority's Food Service Plan specifically mentioned approved establishments and the intended frequency for inspection. A review of the inspection records confirmed that in general establishments had been inspected at the minimum frequency set out in the Food Law Code of Practice.

3.5.2 The Food Service Plan detailed the number of product-specific establishments approved under Regulation (EC) No. 853/2004 in the Authority's area. Although audit checks identified there to be a discrepancy between the actual numbers of establishments that had been approved and the number specified within the Service Plan, through discussion the Authority were able to clearly demonstrate a full awareness of the correct number of approved establishments within the Authority.

3.5.3 The Authority had developed documented procedures for food hygiene inspections, which detailed operational guidance for the inspection of food premises in the Authority's area. The Authority had also developed a specific procedure for officers to follow when considering approval at an establishment under the requirements of Regulation (EC) No. 853/2004. The comprehensive procedure included guidance for officers to follow when considering conditional approval and withdrawal or suspension of establishment approval.

3.5.4 Inspection records of 3 approved establishments were examined. The Service had not produced a specific aide-memoire to assist officers in recording relevant information specific to premises subject to the requirements of Regulation (EC) No. 853/2004, however the information recorded on file generally had sufficient detail regarding the food businesses activity and level of compliance.

- 3.5.5 From the files reviewed, auditors identified one establishment where significant contraventions had been identified, however on two occasions these findings had not been reflected in the establishments overall risk rating, resulting in a lower frequency of inspection than required by the Food Law Code of Practice.
- 3.5.6 Auditors made a joint visit with 2 of the Authority's officers to an approved meat products establishment. The purpose of the visit was to verify information gathered from file records checks and officer interviews and to assess the effectiveness of official controls implemented by the Authority at the establishment. The visit confirmed that the approval had been correctly granted and covered all business activities. It was also confirmed that the Authority was effectively carrying out its official controls at the establishment and had developed a supportive working relationship with the food business operator.

Recommendation 1**The Authority should:**

Ensure that all approved establishments are inspected and approved in accordance with relevant legislation, the Food Law Code of Practice, centrally issued guidance and the Authority's own policies and procedures. The Authority should also ensure that the compliance of premises is assessed to the legally prescribed standards. [The Standard – 7.2 & 7.3]

3.6 Food and Food Premises Complaints

- 3.6.1 The Authority had developed and implemented documented procedures for the investigation of food complaints relating to both food and food premises. These outlined the steps that should be followed by officers when accepting and investigating complaints referred under food safety legislation.
- 3.6.2 There had been 1 complaint received involving an approved establishment by the Local Authority in the 12 months preceding the audit. The records examined provided full details of the complaint and indicated that the complaint had been fully investigated in line with official guidance and the Authority's own documented procedures.

3.7 Food Inspection and Sampling

- 3.7.1 The Authority had set up, maintained and implemented a detailed food inspection and sampling policy which was supported by a comprehensive food sampling procedure.
- 3.7.2 The food microbiological sampling programme for 2008/2009, had been developed in conjunction with the Essex Food Liaison Group. Auditors noted evidence of food sampling from the Authority's approved establishments and records indicated that appropriate follow-up action had been taken by officers where sample results were found to be unsatisfactory.

3.8 Food Safety Incidents

- 3.8.1 The Authority had developed and implemented a detailed procedure that set out the process for initiating and responding to food alerts and other incidents.
- 3.8.2 The Authority had appropriately notified the Food Standards Agency of a localised incident related to one of their approved establishments.

3.9 Enforcement

- 3.9.1 The Authority had developed a detailed Food Safety Enforcement Policy supported by associated procedures in accordance with the relevant Food Law Code of Practice, the Regulators' Compliance Code and other official guidance.
- 3.9.2 No formal enforcement action had been taken in relation to the 3 approved establishments subject to file review. However, auditors noted with some concern that the authority had not in all cases taken proportionate enforcement action where inspections at one particular establishment had repeatedly highlighted substantial evidence of serious contraventions of legal requirements. The Authority had adopted a graduated approach to enforcement, however it was not always evident from the information provided as to the rationale for their departure from the criteria set out in their enforcement policy, particularly where significant contraventions had been identified. Inspection reports and letters relating to these premises were also examined and although they provided detailed guidance to the food business operator, it was not always possible to determine a clear distinction between legal requirements and recommendations of good practice and the timescales to secure compliance.

Recommendation 2**The Authority should:**

Carry out food law enforcement in accordance with the relevant Food Law Code of Practice, centrally issued guidance and the Authority's own Enforcement Policy. All decisions on enforcement action, including any reasons for the departure from the criteria set out in the Authority's enforcement policy should be documented. [The Standard – 15.3 & 15.4]

3.10 Records and Inspection Reports

- 3.10.1 The Authority's records which related to approved food establishments were stored using a dual filing system utilising both paper based and electronic database filing methods. File and database records of 3 approved establishments were examined and the records which were available generally contained an appropriate level of detail, including relevant business operation records and information as specified in Annex 12 of the Food Law Practice Guidance.
- 3.10.2 The paper file records of the 3 approved establishment files were well organised and in chronological order. This was not reflected in the Alchemy digital image filing system and auditors were advised that paper files had been maintained by officers specifically as a result of previous difficulties in retrieving information from this system. Auditors were unable to retrieve pre-approval inspection records for 2 of the approved establishments from either the electronic database system or the paper based system. Consequently it was not possible to determine the basis of the approval decision or if compliance had been assessed under current legislation.

Recommendation 3**The Authority should:**

Maintain up to date and accurate records in an easily retrievable form for all approved establishments, including reports of all inspections and visits which are relevant to the approval. [The Standard – 16.1]

3.11 Internal Monitoring

- 3.11.1 The Authority had set up a detailed documented procedure on the internal monitoring of food hygiene inspections, visits and actions in accordance with the Food Law Code of Practice that included a specified minimum percentage target level of monitoring of officers casework. Auditors were advised that internal monitoring was completed by the Environmental Health Manager who maintained responsibility for qualitative and quantitative monitoring; however records of these activities had not been maintained to demonstrate monitoring had been undertaken in accordance with the Authority's procedure.
- 3.11.2 Auditors were informed that individual performance targets were discussed with officers during monthly one to one meetings with the Environmental Health Manager. Although auditors were advised of the ongoing performance monitoring the Authority was unable to provide any evidence to verify performance.

Recommendation 4

The Authority should:

Implement the internal monitoring procedures in accordance with the relevant Food Law Code of Practice, centrally issued guidance and the Authority's own procedure, in order to verify conformance with the Standard. Records of all monitoring activities should be maintained. [The Standard – 19.1, 19.2 & 19.3]

3.12 Third Party or Peer Review

- 3.12.1 Auditors were advised that the Authority had participated in inter authority audit activities and experienced a full audit in relation to their food law enforcement conducted as part of the Essex Food Liaison Group initiative. However the results of this audit had not identified any recommendations that specifically related to approved establishments.

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TO ADDRESS RECOMMENDATION (INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>Recommendation 2 – Carry out food law enforcement in accordance with the relevant Food Law Code of Practice, centrally issued guidance and the Authority’s own Enforcement Policy. All decisions on enforcement action, including any reasons for the departure from the criteria set out in the Authority’s enforcement policy should be documented. [The Standard – 15.3 & 15.4]</p>	<p>31/05/09</p> <p>30/04/09</p> <p>30/09/09</p>	<p>Review of relevant procedures and inspection records to incorporate a requirement to document enforcement decisions that are considered to be a departure from Authority’s enforcement policy. This will also require them to be brought to the attention of the Lead Officer.</p> <p>Review of enforcement action taken in respect of the single establishment that prompted criticism in the report and appropriate corrective enforcement action undertaken against the approved establishment concerned.</p> <p>Currently investigating the possibility of inter-authority peer review visits, particularly for approved establishments to ensure consistency.</p>	<p>Review commenced.</p> <p>Completed 30/04/09.</p> <p>Views of other authorities will be sought at the next Essex Food Liaison Group.</p>
<p>Recommendation 3 – Maintain up to date and accurate records in an easily retrievable form for all approved establishments, including reports of all inspections and visits which are relevant to the approval. [The Standard – 16.1]</p>	<p>31/05/09</p> <p>31/08/09</p>	<p>Production of a detailed pro forma that can be used to record inspection information when determining suitability of establishments for approval. This form will then also form the basis for use during future routine inspections.</p> <p>Explore the options for ensuring regular and appropriate updates to Alchemy electronic filing system.</p>	<p>Draft form produced, but needs further development and pilot to ensure that it enables recording of meaningful information and will be used by officers.</p> <p>Enquiries progressing with a view to introducing an improved system, as resources will allow.</p>

TO ADDRESS RECOMMENDATION (INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
Recommendation 4 – Implement the internal monitoring procedures in accordance with the relevant Food Law Code of Practice, centrally issued guidance and the Authority’s own procedure, in order to verify conformance with the Standard. Records of all monitoring activities should be maintained. [The Standard – 19.1, 19.2 & 19.3]	31/08/09	Management checks will in future be recorded in accordance with amended policy on quality monitoring (in accordance with Recommendation 4).	Currently investigating most efficient method of recording monitoring undertaken (looking to see if better use of database system can be made, but priority currently for LAEMS set up).

ANNEX B**Audit Approach/Methodology**

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

(1) Examination of LA policies and procedures.

The following LA policies, procedures and linked documents were examined before and during the audit:

- Environmental Health Services Food Service Plan 2008/2009;
- Authorisation of Officers procedure;
- Food Hygiene Inspections procedure;
- Approved Premises procedure;
- The Authority's Food Law Enforcement procedures;
- Basildon District Council Food Sampling Policy and procedure;
- Basildon District Council Food Safety Enforcement Policy and related enforcement procedures;
- Monitoring the Quality of Food Hygiene inspections, visit and actions procedure;
- Basildon District Council Investigation Protocol.

(2) File reviews – the following LA files were reviewed during the audit:

- Approved establishment files;
- Officer training records;
- Food complaint records;
- Food sampling records.

(3) Database records

- Food premises database records relating to approved establishments and records of complaints relating to approved establishments.

(4) Officer interviews – the following officers were interviewed:

- Audit Liaison Officer (ALO);
- 1 Officer authorised to inspect approved establishments.

(5) On site verification check:

- Site visit with the Authority's officers to an approved establishment.

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 geographic area and situated within a County Council whose responsibilities include food hygiene enforcement.
Environmental Health Officer (EHO)	Officer employed by the local authority to enforce food safety legislation.
Feeding stuffs	Term used in legislation on feed mixes for farm animals and pet food.
Food hygiene	The legal requirements covering the safety and wholesomeness of food.
Food standards	The legal requirements covering the quality, composition, labelling, presentation and advertising of food, and materials in contact with food.
Framework Agreement	<p>The Framework Agreement consists of:</p> <ul style="list-style-type: none">• Food 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.
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.
Monitoring (OCD) returns	Local authority data returns to the Agency on local food law enforcement activities required to be made to the European Union under the Official Control of Foodstuffs Directive.
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.