



Summary Report

Local Authority Use of Contractors/Consultants for Feed and Food Law Enforcement Services in England

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Foreword

Audits of local authorities' (LAs) feed and food law enforcement functions are part of the Food Standards Agency's arrangements to improve the consistency and effectiveness of enforcement and consequently to increase consumer protection and confidence in relation to food. These arrangements recognise that the enforcement of UK feed and food law relating to feed and food safety, hygiene, composition, labelling, imported food and feeding stuffs is largely the responsibility of local authorities. These regulatory functions are delivered through LA Environmental Health and Trading Standards services in most food establishments, and by the Meat Hygiene Service (MHS) in approved fresh meat establishments.

The main aim of the LA audit scheme is to maintain and improve consumer protection and confidence by ensuring that authorities provide effective feed and food law enforcement services. The scheme also provides the opportunity to identify and disseminate good practice and to obtain information to inform Agency policy on feed and food safety.

The power to set standards, monitor and audit feed and food law enforcement authorities was conferred on the Food Standards Agency (FSA) by the Food Standards Act 1999. The Agency's audits of LAs are undertaken under section 12(4) of the Act.

Agency audits assess LAs' conformance against the Food Law Enforcement Standard ("the Standard"), the Food Law Code of Practice, the Feed Law Enforcement Code of Practice, and relevant enforcement guidance or instructions issued by the Agency. "The Standard" 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/enforcework/frameagree/.

Further information on the Agency's LA audit scheme, including Questions and Answers on the operation of the scheme and details of good practice identified during audits, is available on the Agency's website at <http://www.food.gov.uk/enforcement/auditandmonitoring/>

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1. Background

1.1 Introduction

1.1.1 Audits previously carried out by the Food Standards Agency (FSA) have indicated that many local authorities (LAs) have in recent years relied on contractors or consultants to enable them to complete the work programme set out in their Food Service Plans. There appear to be a number of reasons for this, as follows:

- A national shortage of environmental health and trading standards professionals;
- LA recruitment freezes preventing the employment of permanent officers;
- Variation in the recruitment and retention packages offered by LAs;
- The need to 'back-fill' for work normally carried out by permanent officers engaged in other initiatives such as the implementation of *Safer food, better business* or smoke free legislation;
- Provision of cover for long term absences such as secondments, maternity or sick leave;
- Local economic climate, particularly in the south east where relatively high housing prices may discourage applicants for vacant permanent posts;
- Greater flexibility, as contractors can be employed to meet the restrictions of an available budget or to staff short-term projects.

1.1.2 The employment of temporary contractors¹ to carry out food and feed law enforcement activities is seen by many authorities as a practical means of addressing the skills and resource shortages created by the above situations. Whilst this can be a very successful and beneficial arrangement, previous FSA audits have identified some important associated issues relating to the quality of contractors' work, the extent of internal monitoring of that work and the appropriateness of the contractors' qualifications, experience and competency in relation to the work allocated to them.

1.1.3 Against this background, a focused audit programme was developed to explore the extent and use of contractors within feed and food law enforcement services in England, to identify any issues or trends and with a view to sharing good practice.

1.1.4 This summary report records the key findings and recommendations made during this programme of audits, which focused on the use of contractors across all local authority food and feed law enforcement activities. Audits took place between October and December 2008, and 20 authorities participated in the programme (see Annex IV). In addition:

- 10 reality visits were made to food businesses recently inspected by a contractor;
- 13 contractors were interviewed;

¹ The terms 'contractor' and 'consultant' are used interchangeably in this context. For brevity 'contractor' will be used to cover both terms throughout this report.

- 5 local authority officers were interviewed who had worked with a contractor or had followed up on their work; and
 - 8 contractor employment agencies were consulted, of which 5 provided written responses.
- 1.1.5 After the completion of each of the 20 local authority audits, an individual report outlining audit findings and any recommendations for improvement was sent to each LA. Remedial action plans were agreed with the authorities. This report summarises the key findings of the audit programme, good practice identified and at Section 6, what we hope will be helpful guidance on the issues LAs should consider when engaging contractors.

1.2 Reasons for the Audit Programme

- 1.2.1 This audit programme was developed by the FSA's Audit and Policy Branch to provide assurance that effective measures were in place in LAs to ensure that the feed and food law enforcement work carried out by contractors on their behalf met the requirements of the Standard in the Framework Agreement, the Food Law Code of Practice and official guidance, and that Official Controls were being effectively implemented.

1.3 Scope of the Audit Programme

- 1.3.1 The audits covered all activities in relation to local authorities' use of contractors and consultants for feed and food law enforcement. Initial enquiries with LAs indicated that there is a more established use of contractors for food hygiene than food standards activities and none of the LAs within the programme had engaged contractors for feedingstuffs enforcement activities.
- 1.3.2 The scope, aims and objectives of the audits are summarised in the audit programme logic model² in Annex I.
- 1.3.3 Authorities were selected for audit based on the following considerations:
- LAs that had not been previously audited;
 - LAs that had employed contractors for food or feed law enforcement activities in the preceding 18 months;
 - The scope and extent of contractors work based on pre-audit feedback;
 - Selection to ensure a reasonably representative spread of LAs across England; and
 - A number of local authorities volunteered for audit as they were keen for this area to be looked at in more depth.
- 1.3.4 To add further value to the audits, the programme also included discussion with individual contractors and considered responses to a questionnaire completed by contractor employment agencies. This aimed to achieve a balanced view from a wide range of individuals and organisations involved in such activities.

² A systematic and visual method of presenting and understanding the relationships between the inputs and resources, planned activities and expected changes or outcomes relating to the audit programme.

These views have been summarised throughout the report and any issues emerging from these discussions have been included. It should be noted that the subjective opinions gained from the discussions may not necessarily be consistent with the objective findings from the audits detailed in the report.

1.4 Audit Methodology and Design

Details of the audit methodology used during the audits are set out in Annex II.

1.5 Key Objectives of the Audit Programme

1.5.1 The audits and associated discussions sought to:-

- (i) Gain assurance that food law enforcement activities carried out by contractors were effective and in accordance with legal requirements and official guidance;
- (ii) Review the arrangements for the selection, engagement and induction of contractors for food law enforcement work;
- (iii) Review the arrangements for the management of contracts and monitoring of the qualitative and quantitative performance of contractors work;
- (iv) Gain wide-ranging views on issues covered in the programme and to identify good practice and useful advice for LAs when using contractors.

1.5.2 The audits also sought to establish specific background information on the use of contractors engaged by local authorities to carry out feed and food law enforcement activities. These included:

- The areas of work for which contractors are deployed by LAs;
- The scope of work allocated; and
- The measures in place to ensure that findings from contractors' inspections were appropriately followed up and that the future inspection programme was planned to take into account any potential peak in inspections that may arise from a contractor's work.

1.5.3 In addition, the discussions with individual contractors and a cross section of employment agencies sought to establish the specifics of the recruitment processes and the means by which contractors were matched to the individual LAs, the monitoring arrangements in place, and the support framework available for contractors both from the LA and the employment agencies.

1.5.4 Authorities were audited against specific areas of the 'Standard' in the Framework Agreement on LA Food Law Enforcement, relevant to the engagement of contractors. These were:

- Organisation and management
- Authorised officers
- Food premises inspections
- Food and food premises complaints

- Food premises database
- Food inspection and sampling
- Control and investigation of outbreaks and food related infectious disease
- Enforcement
- Records and inspection reports; and
- Internal monitoring.

2. Executive Summary

2.1	Local authorities increasingly rely on contractors to assist in meeting their food premises inspection obligations and completing the work programmes set out in their Food Service Plans. Some authorities advised that it would be impossible to complete their inspection programmes without the assistance of contractors. Generally, contractors are either employed as temporary officers carrying out the full range of food law enforcement duties or on a short term contract, typically completing an agreed number of medium to low risk food hygiene or food standards inspections.
2.2	The authorities that participated in the audit programme appeared in general to be satisfied with the standard of work provided by their current contractors and felt that most problems cited with contractors appeared to be historical.
2.3	<p>A total of 67 recommendations for improvement were made in the 20 audit reports. Key areas for improvement related to:</p> <ul style="list-style-type: none">• the arrangements for the authorisation and training of authorised officers, including contractors;• the quality of food premises inspections and records of findings;• the arrangements for internal monitoring of enforcement activity;• the adequacy of service planning arrangements; and• use of the food premises database by contractors.
2.4	In general, adequate arrangements were in place for the recruitment and selection of contractors engaged to carry out food law enforcement activities. In the main, LAs had developed and implemented effective procedures for the selection and recruitment of contractors.
2.5	The two main recruitment sources for contractors were through the use of specialist contractor employment agencies or by direct engagement of individual contractors, typically already known to the LA or recommended to them. A minority of authorities indicated that better checks needed to be carried out on the qualifications and competency of contractors offered by some employment agencies as they had been initially provided with details of contractors who lacked the required skills for the work required. Once a suitable contractor had been selected there appeared to be no difference in the LA's level of satisfaction with the contractors' performance, irrespective of the source of recruitment.
2.6	Audit checks on file records and reality checks at premises inspected by contractors highlighted some weaknesses in follow-up arrangements, including cases where follow-up action by the LA was not consistent with the severity of findings identified by the contractor. This lack of proper follow-up by the LAs officers was not routinely identified in the authorities' own internal monitoring checks.
2.7	Additionally, circumstances were identified where reality checks carried out during the audits indicated that the contractor's inspection had not adequately identified significant contraventions of food law.

- 2.8 There appeared to be a large variation in the type and extent of monitoring carried out of contractors work. In the main, contractors tended to receive the same level of monitoring as the authority's permanent officers, with a significant proportion receiving higher levels of monitoring. Some contractor employment agencies also offered review and monitoring activities during the life of the contract, including shadow inspections and business satisfaction questionnaires.
- 2.9 There was clear evidence of good practice being demonstrated by many authorities in their use of contractors and this has been highlighted throughout the report.
- 2.10 Section 6 summarises issues that LAs may wish to consider when engaging contractors, drawn from the audit process and discussions with LA officers, individual contractors and employment agencies. It is hoped these will provide a helpful checklist for authorities to adopt when considering the engagement of contractors.

3. Detailed Audit Findings

3.1 The use of contractors for food law enforcement activities

- 3.1.1 Contractors have been engaged by LAs to carry out a wide range of food law enforcement functions, including programmed food safety and food standards inspections, reactive work such as the investigation of complaints about food and food premises, and to carry out food safety training or coaching initiatives. The majority of LAs in this audit programme had engaged contractors to assist them in the completion of the food premises inspection programme, and in most cases to carry out inspections of medium and low risk premises. Most contractors employed by LAs were either qualified Environmental Health Practitioners (EHP) or Trading Standards Officers (TSO).
- 3.1.2 Many LAs suggested that it would have been difficult or impossible to complete the annual premises inspection programme without employing contractors. In some LAs contractors had also released time for permanent officers to concentrate on more challenging high risk premises, complex enforcement work or specialist projects.
- 3.1.3 Typically, contractors were engaged on a short term basis e.g. from January to March to carry out an agreed number of inspections. A minority of authorities had authorised contractors to carry out all the food law enforcement duties of an enforcement officer operating from the LA offices. In most cases the short term contracts were restricted to inspections only. Where the need for formal enforcement action was identified, the case was referred to an appropriately authorised LA officer for follow-up. This did not necessarily reflect a lack of confidence in contractors' competency, rather concerns about the practical implications of follow-up of complex cases or pursuing legal action once the contract had ended.
- 3.1.4 In total 67 recommendations were made in respect of the relevant areas of the Standard. Key areas for improvement identified were:
- authorisation and training of contractors (34% of the recommendations, in 15 of the 20 authorities audited in the programme);
 - the quality of food premises inspections and records of findings (24% of the recommendations, in 9 authorities) and;
 - measures in place for the internal monitoring of contractors' activities (21% of the recommendations, in 6 authorities).

A breakdown of the recommendations is provided in Annex III.

- 3.1.5 Interviews and discussions with LA officers and contractors considered the perceived advantages and disadvantages of the use of contractors to carry out food enforcement activities. A summary collated from the interviews is provided in Section 7.

3.2 Service planning

- 3.2.1 In most authorities the engagement of contractors had as far as practicable, been planned when drawing up the work programme at the commencement of the year, unless their employment was due to unanticipated events such as staff sickness or maternity cover.
- 3.2.2 A key focus of auditors was whether LAs had properly considered the impact of contractor activity on future inspection programmes and follow-up where significant failings in business compliance were identified. Some authorities advised that they did not experience a peak in workload, as the contractors were only allocated due inspections.

Eight LAs (40% in the audit programme) received recommendations to improve service planning. These related to:

- Lack of an annual Service Plan;
- Lack of adequate information in Service Plans on staff resources available compared to those required, to demonstrate the need to use contractors to assist in addressing any shortfall;
- Failure to review the Service Plan.

Good Practice – Service Planning

A number of LA Service Plans clearly set out the demands on the service, compared with the resources available to provide the service and how any shortfall was to be addressed by the engagement of contractors. **(Charnwood BC, LB Hammersmith and Fulham, Rochford DC, Reading BC, South Hams DC).**

3.3 Recruitment and selection

- 3.3.1 There were two main methods of sourcing contractors, either through a specialist contractor employment agency or by word of mouth, mainly where the contractor was known or recommended to the LA, and in some cases was an ex-employee. Most had approached contractors or agencies directly, although some had advertised tenders in specialist journals.
- 3.3.2 Contracts were structured so that payment was either per unit i.e. per inspection, revisit etc. or on an hourly/daily rate. Opinions were mixed on the advantages and disadvantages of both payment structures, with some authorities having had experience of both methods. The majority of LAs (75%) reported that they paid on a unit basis although there were some concerns expressed that this could result in rushed inspections. Conversely 1 LA changed from an hourly rate to a unit basis as they had found that work rates diminished when contractors were paid hourly. One employment agency reported that they no longer offered contracts on a unit basis as this resulted in lower rates being paid in line with market trends, with a consequent reduction in the quality of inspections and service support. None of the authorities expressed significant concerns about the quality of inspections currently carried out by contractors who were being paid on a unit basis, and felt that problems appeared to be either anecdotal or historical.

- 3.3.3 The level of recruitment checks varied, both within the employment agencies and within local authorities. Some agencies only required the production of a CV, whereas others had more robust recruitment processes which also included interviews, qualification and training checks, a requirement to produce references and in some cases the use of specialist software to help in matching the contractor with the LA contract specifications. Only 1 employment agency confirmed that the professional qualifications of contractors were verified with the appropriate awarding body. Some authorities advised that the contractors provided by some employment agencies had not always met the qualification and competency requirements for the level of work to be carried out and careful checks were an important safeguard to ensure the contractors were suitably qualified.
- 3.3.4 Local authority recruitment procedures also varied. In some cases where the contractor was well known to the authority, for example an ex-employee, recruitment checks were minimal. In other cases interviews were conducted along with robust qualification checks, or prospective contractors were required to carry out an inspection shadowed by a senior officer. Some LAs cited the benefits of informal checks with authorities where the contractor had previously worked to gain insight into their performance.
- 3.3.5 The audits revealed that increasingly LAs were imposing corporate procurement requirements to use vendor managed services for the recruitment process. This usually required the initial selection and shortlisting by an external agency. In practice this did not appear to significantly influence the choice of contractor as the final decision remained the responsibility of the relevant manager. Some of the contractor employment agencies referred to the increased use of vendor managed services, and suggested that this reduces the ability to discuss the client's contract requirements directly with the hiring manager. Depending on the arrangements, it was suggested that this could also impede monitoring checks during the life of the contract if there was a continuing requirement for contact to be made via a vendor managed service.

Good Practice - Recruitment Process

Worthing BC and the **Borough of Broxbourne** checked the validity of qualifications of contractors with the appropriate awarding body.

The Borough of Broxbourne had developed a specific interview proforma for contractors which ensured comprehensive and consistent assessment interviews.

Bolsover and **South Kesteven DCs** had developed and implemented a 'Contractors Policy' which set out the minimum criteria for contractors appointed to carry out food hygiene inspections and also detailed the contractor management arrangements, including details of internal monitoring.

Charnwood BC produced a detailed contract and job specification for contractors containing reference to the Authority's internal procedures, the provision of qualifications and training certificates and the need to disclose any conflicts of interest.

3.4 Induction

- 3.4.1 The induction process typically involved the contractor being provided with their authorisation and other necessary documentation, an overview of inspection procedures and use of the database as necessary, along with the provision of relevant health and safety information. Contractors were also advised about the internal monitoring procedures, and other practical arrangements for the contract. This frequently included discussion on how the contractor should raise any potential conflicts of interest in relation to allocated inspections and the arrangements for referring back issues that required follow-up action by the LA.
- 3.4.2 The expected performance targets e.g. output of inspections, was also discussed at either the induction or recruitment stage. This varied considerably between authorities, with 12 LAs preferring to leave it to the professional judgement of the contractor, whilst others ranged from specifying at least 1 inspection per day to another LA that restricted the output to 'no more than 5 per day'. One LA required a minimum of 1 hour on site per inspection.
- 3.4.3 All of the employment agencies confirmed that relevant professional insurance was provided for contractors, although the level of cover tended to vary. Employment agencies expressed surprise that some LAs did not seek confirmation that the contractor had sufficient cover for the required tasks, although the majority of LAs advised that they did check that insurance was provided.

Good Practice – Induction

Bolsover DC used a specific contractor meeting record form to detail the matters discussed during the induction process and provided a standard information/documentation pack.

Reading BC used a documented and signed contractor induction checklist to ensure that contractors had received all necessary work instructions and health and safety information.

3.5 Authorisation and training

- 3.5.1 It was not always clear that LAs had fully considered the provision of appropriate authorisation to the contractor in line with their level of experience and qualifications and the nature of their work. Issues were also raised relating to the means by which training needs were met to ensure that contractors achieved the 10 hours of continuing professional development training (CPD) required by the Food Law Code of Practice. 75% of authorities received a recommendation for improvement with regard to authorisation and training issues.
- 3.5.2 One authority could not provide evidence that the contractor was appropriately authorised to carry out any food law enforcement on their behalf. Three authorities however, had issued contractors with generic authorisations which provided them with the powers to carry out all food law enforcement activities, which included authorisation to serve hygiene notices including emergency prohibition notices, and provided powers for the

approval of establishments. This level of authorisation far exceeded the terms of the contract which only required powers of entry to inspect premises, without any follow-up action. Other authorities used a competency matrix to determine the appropriate level of authorisation of the contractor based on their levels of competence and the requirements of the contract.

- 3.5.3 Some authorities had not updated schedules of authorisation following changes to legislation so that the contractor's authorisation documents referred to superseded legislation. It is probable that this oversight also applied to the authorisations of their permanent officers.
- 3.5.4 All authorities confirmed that they had checked the CPD records of prospective contractors on recruitment or during induction. However, not all authorities maintained records of the training of contractors and some were unable to confirm that the contractor had received 10 hours ongoing relevant training in the year, as required by the Food Law Code of Practice. Most employment agencies placed responsibility on the individual contractor to ensure their CPD met Food Law Code of Practice requirements.
- 3.5.5 The lack of opportunity for training was of concern to a number of contractors. Whilst some advised that they were invited to participate in team training initiatives, others advised that it was sometimes impossible to attend training courses when working full time on contracts and that finding information on available training was difficult because they were 'out of the loop'. In many cases contractors were responsible for funding their own training, the cost of which was said by some to be prohibitive. They advised that they were not eligible to attend low cost training courses funded by the Food Standards Agency as these were intended for local authority staff only. One contractor advised that they were participating in the Chartered Institute of Environmental Health (CIEH)/University of Ulster assignment scheme to ensure that they completed sufficient CPD hours. Others relied upon the authority's officers to advise them of any potential training events. One LA advised that authorities should liaise with their personnel department to consider any potential contractual implications arising from the training and development of contractors in their employment.
- 3.5.6 All LAs had considered the means of keeping the contractor informed of any changes to policies and procedures within the Authority, particularly for those contractors who were not office based. Measures included regular one to one meetings with the contractor, invitations to attend team meetings, and regular email contact.

Issues identified in relation to the training and authorisation of contractors included:

- Lack of procedures to assess the competence of the contractor prior to authorisation;
- Inappropriate or no authorisation for the contractor to carry out the food law enforcement duties for which they were employed;
- Authorisations that allocated powers to the contractor in excess of those required;
- Lack of or inadequate/out of date documented procedures for the authorisation of officers, including contractors;

- Inadequate checks on the contractors continuing professional development records to ensure they had achieved the minimum 10 hours relevant training in food related matters required by the Food Law Code of Practice; and
- Failure to maintain records of the contractor's relevant qualifications or training undertaken.

Good Practice – Authorisation and Training

Bolsover DC ensured that their contractor received minutes of departmental team meetings and other briefings.

3.6 Inspection and other food law enforcement activities

- 3.6.1 All of the 20 authorities had engaged contractors to carry out food hygiene and/or food standards inspections. Most had used contractors to carry out inspections of medium and low risk premises, however 6 LAs stated that their contractors were also required to inspect high risk premises.
- 3.6.2 Various issues were considered when allocating inspections to the contractor. LAs frequently advised that they aimed to select straightforward inspections where formal enforcement action was unlikely. Where the authority had adopted a flexible interventions programme and a full inspection was not always required, 3 LAs stated that they specified the type of intervention to be carried out at particular businesses, whilst the remaining LAs required that only full inspections should be carried out. One authority advised that they only allocated inspections of category C premises that were not broadly compliant to ensure the contractor only had the option of full inspection. In addition, many LAs also considered the extent to which the inspection was overdue. Some authorities also considered the geographical location of food businesses so that the contractor could concentrate their inspections in particular areas.
- 3.6.3 The practical arrangements for the contract were agreed at the induction stage. These included issues such as the means for returning files and discussing the outcome of inspections and any associated follow-up action. These varied according to circumstances but where contractors were not office based, the most popular means was by returning the inspection files in batches and taking the opportunity to then discuss any issues with the local authority manager. In some cases this formed an integral part of the internal monitoring arrangements and involved a meeting with a senior officer to discuss individual inspection reports and assess the risk ratings allocated to premises.
- 3.6.4 Recommendations for improvement were made in respect of 55% of the authorities audited in relation to inspections carried out by contractors and follow-up work. A number of the recommendations related to the lack of adequate documented procedures for the inspection of food premises, which would apply equally to inspections carried out by permanently employed officers.
- 3.6.5 The audits also revealed that in 3 authorities incorrect risk ratings had been applied by contractors following inspections. This would have resulted in premises being inspected at a longer frequency than that required by the Food

Law Code of Practice. One authority had already identified this deficiency through their internal monitoring procedures and had implemented appropriate corrective action. The audit also identified the inadequate recording of inspection findings by the contractor, including checks to verify compliance with procedures based on Hazard Analysis and Critical Control Point (HACCP) principles. This meant that it was not possible to establish the basis for the risk rating awarded or whether appropriate follow-up action had been taken.

3.6.6 Deficiencies were also found with the content of letters or reports of inspection written by contractors following inspection. In a number of cases, these did not adequately detail the inspection findings or did not include all the information required by the Food Law Code of Practice.

3.6.7 Two authorities received recommendations relating to the use of the database by contractors. These related to a lack of documented procedure to ensure the accuracy of the database and inadequate security measures to prevent contractors making amendments which could compromise the accuracy of recorded information, e.g. allowing contractors to create new premises records.

In summary, the audit programme identified the following issues relating to food premises inspections carried out by contractors:

- A lack of or inadequate documented food premises inspection procedures;
- Inadequate or inconsistent records of food premises inspection findings;
- Incorrect risk rating scores that were inconsistent with the findings on inspection;
- Inadequate evidence to confirm that full assessments of the adequacy of food safety management systems had been made by the contractor; and
- Failure to adequately confirm inspection findings in writing to the food business operator.

Good Practice – Inspections

Rochford DC had a detailed food hygiene inspection procedure specifically designed for the use of the contractor.

Reading and **Nuneaton and Bedworth BCs** had comprehensive inspection record forms which provided the basis for detailed records of inspection findings to be made.

3.7 Follow-up action and enforcement

- 3.7.1 Fourteen of the authorities audited advised that they had not authorised contractors to carry out any formal enforcement action as this would be undertaken by their permanent officers. The procedures for ensuring that appropriate follow-up was taken in the light of inspection findings raised recommendations for improvement at some authorities. In the case of 3 audits, checks highlighted that contraventions of food law that appeared sufficient to warrant consideration of immediate formal action, were appropriately raised by the contractor with the local authority, however they were not effectively followed up by the authority's officers.
- 3.7.2 It was not always clear that LAs were adopting a proportionate and graduated approach where persistent breaches of food law were being identified. At 1 LA, a reality visit carried out as part of the audit at a premises inspected by the contractor identified serious contraventions in relation to structural requirements and practices, which had not been identified by the contractor during their recent inspection. The authority took prompt and appropriate action to address the problems identified.
- 3.7.3 In cases where LAs had used contractors for other food law enforcement activities (5 authorities) such as dealing with complaints about food or food businesses, food sampling and infectious disease investigations, these activities were found to have been satisfactorily carried out and no recommendations were made in respect of these activities.

Issues relating to enforcement that were identified from the audit reports included:

- A lack of appropriate graduated enforcement action in cases of persistent non-compliance by food business operators;
- A lack of appropriate and proportionate follow-up action by the local authority where serious contraventions were found by the contractor on inspection; and
- Inadequate enforcement policies, including those that required review.

Good Practice – Enforcement

The **Borough of Broxbourne** and the **Royal Borough of Kensington and Chelsea** had detailed, comprehensive enforcement policies which covered all food law enforcement options and provided clear guidance to their officers including contractors. The policy was provided to contractors as part of the induction procedures.

3.8 Internal monitoring and contractor employment agency checks

- 3.8.1 All authorities advised that they carried out some form of performance monitoring of the contractors' work and that the contractors were aware of the aspects of their work that would be monitored. Most authorities (60%) applied the same level of internal monitoring as they did for their permanent staff, whereas 35%

carried out more monitoring. One authority advised that they carried out less monitoring because the contract was short term. Internal monitoring checks included qualitative assessments such as accompanied inspections and checks of file contents and letters. This ranged from 5% checks on records of high risk inspections to 100% of file and database records. Contractors' activities were also included in any business satisfaction questionnaire initiatives which were increasingly being used in local authorities in response to new requirements to provide data on the level of satisfaction of business with local authority regulatory services for National Indicator NI182.

- 3.8.2 Quantitative internal monitoring checks were similar to those carried out for permanent officers and included checks on the numbers of inspections and adherence to service request response times. In addition checks were made of time sheets, payment invoices and visit sheets provided as part of the contract.
- 3.8.3 Employment agencies offered varying levels of support and monitoring during the course of the contract. This invariably included an end of contract evaluation. Some agencies also provided regular review during the term of the contract, which included interviews with the contractor and LA and a regular review of the contractor's CPD records. Some agencies carried out shadow or follow-up inspections to premises and postal or telephone satisfaction surveys with food business operators.
- 3.8.4 Contractors interviewed during the audits were generally satisfied with the internal monitoring activities that were carried out and the means of ensuring that any corrective action required was drawn to their attention. In situations where poor performance was reported to employment agencies by the LA, or discovered by their own monitoring checks, the agencies advised that an immediate investigation would be undertaken. Subsequent action would depend on the outcome of the investigation, but could include the termination of the contractor's employment.

Recommendations relating to internal monitoring identified during the audit programme focused on:

- Lack of robust internal monitoring procedures covering all relevant aspects of contractors' work;
- Insufficient records of internal monitoring activities;
- Internal monitoring arrangements that did not extend to cover follow-up work referred to LA officers by the contractor.

Good Practice – Internal Monitoring

Mid Suffolk DC had a comprehensive and effective internal monitoring system which covered the qualitative and quantitative assessment of the contractor's work.

Rochford DC had developed a detailed Management and Quality Audit Checklist as part of their internal monitoring arrangements. This included checks that the contractors' invoice and payment details were correct before payment.

4 Conclusions

- 4.1 The audits confirmed that in general, adequate arrangements were in place in the authorities audited for the recruitment and selection of contractors engaged to carry out food law enforcement activities.
- 4.2 In 45% of authorities contractors were not always appropriately authorised for the type of work the contract covered and in consideration of the contractor's individual qualifications, competence and experience.
- 4.3 Some contractors were experiencing difficulties in ensuring that they achieved the minimum relevant food related training required by the Food Law Code of Practice. Authorities could not always demonstrate that they had confirmed that the contractors were receiving at least 10 hours relevant food related training per year in accordance with Food Law Code of Practice requirements and that the LAs were maintaining comprehensive records of the content and duration and any evaluation of the training received by the contractor.
- 4.4 It was not clear that adequate arrangements were always in place for effective follow-up action to be taken where the findings on an inspection carried out by a contractor highlighted the need for further enforcement action, either by the contractor or by the authority's own officers.
- 4.5 Other food law enforcement activities such as food complaint investigations, food sampling and infectious disease investigations were generally satisfactorily carried out by contractors.
- 4.6 Internal monitoring did not always cover the full range of food law enforcement activities carried out by the contractors and were not sufficiently robust in some cases to ensure that any required corrective action was identified and implemented.

5 Summary of Recommendations

Issues for the Agency

- The Agency should disseminate the specific good practice identified among LAs using the available channels and opportunities.
- The Agency should consider with contractors how relevant food law training opportunities can be accessed to ensure the requirements of the Food Law Code of Practice are met.

Issues for LACORS

- LACORS will be approached to assist in promoting good practice identified from the audits and other measures highlighted to promote the effective use of contractors for LA enforcement.

Issues for LAs

- Local Authority EH and TS services should consider the good practice and other issues highlighted in this report when engaging and managing contractors for food and feed law enforcement activities.

6 Summary of Issues to Consider When Engaging Contractors for Feed and Food Law Enforcement Activities

	Issues to consider
Preliminaries	<ul style="list-style-type: none"> • Most appropriate form of contract for LA needs, e.g. contractor to carry out a defined number of inspections of specified risk categories, or to act as temporary officer carrying out all food/feed law enforcement activities. • Limits of the contract e.g. length, whether the contractor will be expected to pursue formal enforcement action or carry out revisits etc. • Structure of the contract - a payment per unit basis or an hourly/daily rate. • Use of a contractor employment agency or choice of independent contractor. • Management of potential morale issues for permanent officers if contractor engaged. • Arrangements for contractors to refer back issues they are not authorised to address. • Management of follow-up work/additional workload will be managed by permanent officers. • Reference to use of contractors included in service planning arrangements.
Recruitment and selection	<ul style="list-style-type: none"> • The need to carry out robust qualification checks, including checks of arrangements the employment agency has in place. • Necessity for CPD records checks. • Appropriateness of qualifications/experience and competence of the individual contractor for the nature of work allocated. • Flexibility of the contractor's arrangements e.g. ability to work out of hours if necessary. • Option of informal checks with previous employers in addition to formal references. • Any restrictions imposed by corporate recruitment procedures, which may require Service's preferred contractor or contractor employment agency to approach the Council's external recruitment consultants.
Training and authorisation	<ul style="list-style-type: none"> • Arrangements for assessment of competence of the contractor will be assessed, e.g. interviews, qualification checks, shadow inspection. • Authorisation is appropriately limited to the work carried out by the contractor. • The means by which contractors' CPD will be checked and recorded. • If contractors to be invited to participate in any in-house training events. • Measures to keep the contractor updated with changes in policies and procedures.

	Issues to consider
Induction	<ul style="list-style-type: none"> • Agreement on expected performance e.g. numbers of inspections per day, the level of detail required on inspection records/reports. • Ensuring that the contractor is fully aware of the extent/boundaries of their work and when issues need to be passed back to the Authority. • Arrangements for contractor to highlight any potential conflicts of interest. • The contractor is fully appraised of all relevant procedures and documentation necessary for the work to be carried out. • Agreement on the arrangements for returning work and for entering details of the inspection onto the database. • How performance will be monitored and how any corrective action agreed and checked. • Confirmation that the contractor is covered by appropriate professional insurance.
Inspections and follow-up action	<ul style="list-style-type: none"> • How inspections will be allocated e.g. those overdue/by location/if problem premises to be excluded. • Clear documented inspection procedures available for the contractor to follow. • Record of inspection form will, if fully completed, comprehensively record inspection findings. • Measures in place to ensure effective follow-up on matters referred back to LA by the contractor for further action.
Enforcement	<ul style="list-style-type: none"> • Clear, comprehensive enforcement policy produced that covers the work carried out by contractors, and has been drawn to their attention. • Arrangements for ensuring that a graduated and proportionate approach is being followed by the contractor and any officers following up on the contractor's work.
Internal monitoring	<ul style="list-style-type: none"> • Use of feedback from any reviews or monitoring checks carried out by a contractor employment agency to inform the LAs own internal monitoring checks. • Use of documentation provided as part of the contract for quantitative checks e.g. time/cost sheets. • Documented internal monitoring procedures are in place, which include all food law enforcement activities carried out by the contractor. • An appropriate level of internal monitoring is in place in line with the competency of the contractor and the nature of their work. • Checks in place to ensure that appropriate and effective corrective action is taken by the contractor in the light of any issues raised. • Internal monitoring arrangements also cover follow-up work referred to permanent officers by the contractor. • Arrangements in place for recording the results of all

	Issues to consider
	internal monitoring activities undertaken of the contractor's work.

7 Perceived Advantages and Disadvantages of Engaging Contractors to carry out Feed and Food Law Enforcement Activities

This section provides a summary of the main points arising from discussions held with local authority officers and the contractors in respect of what they felt were the 'pros and cons' of either engaging contractors or working as a contractor.

Local Authority responses:

Advantages	Disadvantages
Quick fix during staff shortages	Additional officer time in monitoring/managing
Help meet inspection targets	May not follow work through
Bring knowledge and experience from other LAs	Communication/monitoring/supervision can be difficult with remote working contractors
Contractors are willing and helpful	Can be unreliable, varying quality of work
Relieves pressure on employed staff	Generates peak periods of inspection activity in the future
Releases staff to do special projects/investigations/ formal enforcement action	Officers left to carry out the follow up work
Short term commitment	Lack of knowledge of area and businesses
Set number of inspections at known cost	Enforcement inconsistencies
Almost certain guarantee that work will be completed	Can't be used for problem premises as would generate too much formal action for LA officers
Confidence in the contractor's ability as proven track record and worked for a number of LAs	Unqualified officers
No training time/cost	Lack of contact with business community for LA staff
Low cost inspections	Rushed inspections, less time to 'add value' with business support and advice
Highly efficient and professional	Blasé attitude to work

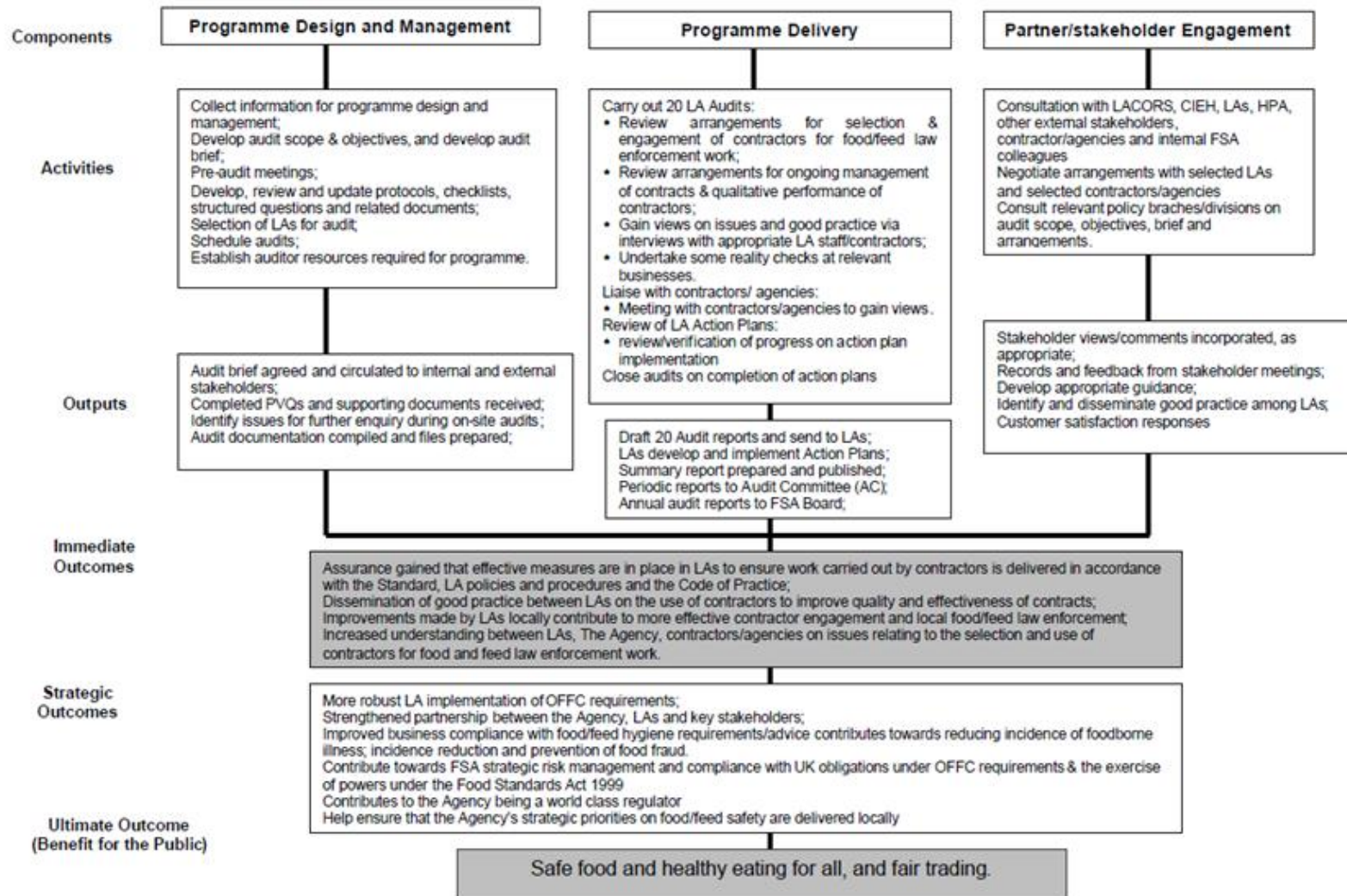
Contractor responses:

Advantages	Disadvantages
Offers flexible working/meets personal circumstances	Removed from working in a team. Don't have job security
Challenging – need to think more independently	Difficulty in taking up training opportunities
Provides independence	Reliance on yourself as no one to assist if you're struggling to complete workload

Advantages	Disadvantages
Pick up good practice from different LAs	Don't have benefits of working in an LA – pension, leave, sickness payments etc
No office politics	Contractors have unfairly got a bad reputation so have to go the extra mile to disprove assumptions
Varied workload	Can be given the 'dross' that LA officers don't want to deal with

Annex I

Audit Programme Logic Model 2008/2009 Quarter 3: LA Arrangements for the Use of Contractors/Consultants for Food and Feed Work



Annex II: Audit Methodology and Design

The audits assessed the implementation of official controls implemented by contractors at local authorities through:

- (i) Checks of LA file and database records relating to routine official controls carried out by contractors, in particular inspections and any resulting follow-up enforcement activities;
- (ii) Joint visits with LA officers to premises which had received a recent inspection from a contractor to carry out a 'reality check' to assess whether official controls carried out by the contractor adequately verified compliance with legal requirements and official guidance and to confirm that appropriate decisions had been made on follow-up action, including formal enforcement pursued by either the contractor or local authority officers.
- (iii) Structured interviews with contractors, contractor employment agencies and local authority officers involved in the management of the service and/or the contractor's work. Eight employment agencies were approached who specialise in the provision of contractors to undertake food and feed law enforcement activities at local authorities. They were invited to complete a questionnaire, the aim of which was to establish arrangements for selecting and recruiting contractors and allocating them appropriately to the requirements of the LA, and the extent of ongoing support offered to the individual contractors during their placement. Five of the agencies contacted completed and returned the questionnaire.

Annex III – Summary of Audit Programme Findings

This table provides a breakdown of the recommendations for improvement made during the audits of the 20 local authorities during the programme. References are provided to the appropriate areas of the Standard in the Framework Agreement to which the recommendations relate.

LA function audited	Findings		
	No. of LAs Satisfactory	No. of LAs Unsatisfactory	Not applicable
Service Planning [The Standard – 3.1 & 3.2]	12	8	-
Training and authorisation [The Standard – 5.1, 5.4 & 5.5]	15	5	-
Inspections and inspection records [The Standard – 7.2, 7.3, 7.4, 7.5]	9	11	-
Database [The Standard – 6.5 & 11.2]	2	12	6
Food and food premises complaint investigations	5	0	15
Food inspection and sampling	2	0	18
Food related infectious disease and outbreak control	1	0	19
Enforcement [The Standard – 15.3]	9	3	8
Internal monitoring [The Standard – 19.1 & 19.2]	6	14	-

Annex IV: Local Authorities Audited

The following LAs were audited during the programme:

Local Authority	Type of Authority
Bolsover	District
Broxbourne	District
Charnwood	District
Hammersmith & Fulham	London Borough
Horsham	District
Kensington & Chelsea	London Borough
Malvern Hills	District
Mid Suffolk	District
Nuneaton and Bedworth	District
Peterborough	Unitary
Reading	Unitary
Rochford	District
South Hams	District
South Kesteven	District
St Edmundsbury	District
Staffordshire	County
Swindon	Unitary
West Lancashire	District
Worthing	District
Wyre Forest	District

Annex V: Summary Report Circulation

Food Standards Agency:

- Internal circulation to relevant policy branches
- Agency website (Enforcement portal)

LACORS

Chartered Institute of Environmental Health (CIEH)

Trading Standards Institute (TSI)

Copyright Library

British Library

Library of the House of Commons

Bolsover District Council

Borough of Broxbourne

Charnwood Borough Council

London Borough of Hammersmith and Fulham

Horsham District Council

Royal Borough of Kensington and Chelsea

Malvern Hills District Council

Mid Suffolk District Council

Nuneaton and Bedworth Borough Council

Peterborough City Council

Rochford District Council

Reading Borough Council

South Hams District Council

South Kesteven District Council

St Edmundsbury Borough Council

Staffordshire County Council

Swindon Borough Council

West Lancashire District Council

Worthing Borough Council

Wyre Forest District Council

Annex VI: Glossary

CIEH	Chartered Institute of Environmental Health
CoP	(Food Law) Code of Practice
CPD	Continuing Professional Development
EC	European Commission
EH	Environmental Health
EHO	Environmental Health Officer
EU	European Union
FBO(s)	Food Business Operator(s)
FSA	Food Standards Agency
FSMS	Food Safety Management System
HACCP	Hazard Analysis Critical Control Points
LA	Local Authority
LACORS	Local Authorities Coordinators of Regulatory Services
TS	Trading Standards
TSO	Trading Standards Officer
UK	United Kingdom

Annex VII: Acknowledgements

The Agency is grateful for:

- *the contributions of the following authorities and their officers who participated in the audit programme:*
Bolsover District Council
Borough of Broxbourne
Charnwood Borough Council
London Borough of Hammersmith and Fulham
Horsham District Council
Royal Borough of Kensington and Chelsea
Malvern Hills District Council
Mid Suffolk District Council
Nuneaton and Bedworth Borough Council
Peterborough City Council
Rochford District Council
Reading Borough Council
South Hams District Council
South Kesteven District Council
St Edmundsbury Borough Council
Staffordshire County Council
Swindon Borough Council
West Lancashire District Council
Worthing Borough Council
Wyre Forest District Council
- *the contributions of the following contractor employment agencies who agreed to complete a comprehensive questionnaire as part of the audit programme:*
Osborne Richardson
Kenyon Block Consultants Ltd
James and Associates Ltd
ARI Environmental Services Ltd
Synergygroup
- *the cooperation and assistance of the individual contractors who participated in interviews with auditors.*