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**Report on the Food Law Enforcement Service's  
Arrangements for Food Premises Database  
Management, Food Premises Inspections  
and Internal Monitoring**

Scarborough Borough Council

6 – 8 May 2008

## 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 Authority's Food Law Enforcement Service. The assessment includes the local arrangements in place for inspections of food businesses, database management and internal monitoring. It should be acknowledged that there will be considerable diversity in the way and manner in which local authorities may provide their food enforcement service reflecting local needs and priorities.

Agency audits assess local authorities' conformance against the Food Law Enforcement Standard "The Standard", which was published by the Agency as part of the Framework Agreement on Local Authority Food Law Enforcement and is available on the Agency's website at:  
[www.food.gov.uk/enforcement/](http://www.food.gov.uk/enforcement/).

The main aim of the audit scheme is to maintain and improve consumer protection and confidence by ensuring that local authorities are providing an effective food law enforcement service. The scheme also provides the opportunity to identify and disseminate good practice and provide information to inform Agency policy on food safety, standards and feeding stuffs.

The report contains some statistical data, for example on the number of food premises inspections carried out annually. The Agency's website contains enforcement activity data for all UK local authorities at:  
[www.food.gov.uk/enforcement/](http://www.food.gov.uk/enforcement/).

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

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## **1. Introduction**

- 1.1 This report records the results of an audit under the headings of the Food Standards Agency Food Law Enforcement Standard, focusing on the Authority's arrangements for database management, food premises inspections and internal monitoring at Scarborough Borough Council, with regard to food hygiene enforcement and has been made available on the Agency's website at: [www.food.gov.uk/enforcement/](http://www.food.gov.uk/enforcement/). Hard copies are available from the Food Standards Agency's Local Authority Liaison Division at Aviation House, 125 Kingsway, London WC2B 6NH, Tel: 020 7276 8428.

### **Reason for the Audit**

- 1.2 The power to set standards, monitor and audit local authority food law enforcement services was conferred on the Food Standards Agency by the Food Standards Act 1999 and Regulation 7 of the Official Feed and Food Controls (England) Regulations 2007. This audit of Scarborough Borough Council was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme.
- 1.3 The Authority was selected for audit as part of the Food Standards Agency's programme of audits of local authority food law enforcement services, as it was a District Council, had not been audited in the past by the Agency and was representative of a geographical mix of 10 authorities selected across England.

### **Scope of the Audit**

- 1.4 The audit examined Scarborough Borough Council's arrangements for food premises database management, food premises inspections and internal monitoring with regard to food hygiene law enforcement. The scope of the audit also included an assessment of the Authority's overall organisation, management and internal monitoring of other food hygiene law enforcement activities.
- 1.5 The Agency sought to gain assurance via the audit that key authority food hygiene law enforcement service systems and arrangements were effective in supporting business compliance, and that local enforcement was managed and delivered effectively. The on-site element of the audit took place at the Authority's office at the Town Hall, St. Nicholas Street, Scarborough on 6-8 May 2008.
- 1.6 The audit assessed the Authority's conformance against the requirements of the Standard which was adopted by the Food Standards Agency Board on 21 September 2000, (amended July 2004), and forms part of the Agency's Framework Agreement with

local authorities. The Framework Agreement can be found on the Agency's website at [www.food.gov.uk/enforcement/role/framework](http://www.food.gov.uk/enforcement/role/framework).

## **Background**

- 1.7 The town of Scarborough is situated on the North Yorkshire coastline. The area is predominantly rural with population centres at Scarborough, Whitby and Filey. The Local Authority covers approximately 200 square miles, with a population of 107,800 people and has 2,038 registered food premises within its administrative area.
- 1.8 Tourism is the primary source of employment in the area, with many businesses operating on a seasonal basis. The Authority has a large number of high and low risk fish and fish products businesses that require specific approval under EU legislation. The Service acts as Home Authority for two large food manufacturers, and Originating Authority for a further two food manufacturers.
- 1.9 In 1999 the Authority adopted the ISO accredited North Yorkshire Food Liaison Group (NYFLG) Quality Management System (QMS). This is a regional management system that routinely monitors the performance of its members, requiring local authorities to input performance data related to the delivery of the food safety service, and provide suitable action plans in conjunction with an elected regional QMS manager where under performance is identified. The scheme provides generic procedural and management documentation for its members with regard to the delivery of food safety services.
- 1.10 The Authority's Service Plan 2008-2009 indicated that the Food and Occupational Safety Team were responsible for enforcing food hygiene legislation in 2,038 premises. These premises were predominantly in the catering (74%), manufacturing (3%) and retail sectors (21%). The plan indicated that the Authority carried out:

<b>Enforcement Activity</b>	<b>Number</b>
Food hygiene inspections	878
Other food visits	356
Food complaints	17
Hygiene complaints	146
Prosecutions	1
Hygiene improvement notices	30
Simple cautions	2

## 2. Executive Summary

- 2.1 The Authority had developed a Service Plan for 2008-2009 which generally met the requirements of the Service Planning Guidance in the Framework Agreement on Food Law Enforcement. However, the plan did not include any objective assessment as to how resources would be allocated to enable the Service to meet its statutory duties and deal with a backlog of overdue food premises inspections. Officers were appropriately authorised and carrying out their enforcement activities in line with their level of authorisation.
- 2.2 The Authority has had no documented systems to ensure the accuracy of its food premises database and inspection programme. The Service had been without suitably trained and dedicated IT staff for the last two years, which had led to problems producing computer generated management reports. This issue has now been temporarily resolved by recently providing training for a senior member of staff.
- 2.3 The Authority had repeatedly identified a backlog of overdue premises inspections, currently over 900 premises, including a number of high and medium risk premises. The Authority has opted to use contractors to address this backlog of inspections. The Authority had on occasions, failed to demonstrate continuing business compliance with food hygiene legislation in relation to high risk premises and timely follow-up enforcement actions. There was, however, evidence that a wider range of enforcement options was now being used to address these issues.
- 2.4 Qualitative and quantitative internal monitoring checks were carried out on a regular basis covering all areas of the Service's activities. Comprehensive checklists had been developed for each area of the Service and detailed findings were documented and recorded. However, actions resulting from quantitative monitoring checks had largely been ineffective in addressing the issue of annual inspection targets. The Authority was participating in a thorough inter-authority audit scheme, which had recently highlighted some of the issues in this report.

### **3. Audit Findings**

#### **3.1 Organisation and Management**

##### *Strategic Framework, Policy and Service Planning*

- 3.1.1 The Environmental Health Service had developed a Food Safety Service Plan for 2007/2008, which had been submitted to and approved by the portfolio holder for Public Health.
- 3.1.2 The 2007/2008 Service Plan listed the operational aims and objectives of the Service, two of which involved maintaining high standards of food hygiene in food premises available to residents and visitors. The plan contained a local performance indicator requiring a 20% reduction in the number of reported food poisoning cases over a 3 year period.
- 3.1.3 The plan for 2007/2008 did not fully meet the requirements of the Service Planning Guidance in the Framework Agreement. It did not contain a review of the Services' performance against targets set in the previous year, nor did it present measures to address any variance from the previous year's plan.
- 3.1.4 The 2007/2008 Service Plan stated that the Service had been under-resourced for long periods, leading to a backlog of inspections, and citing staff shortages and recruitment problems as reasons for the continued problems in addressing this issue, although there had been an allocation of additional resources following a management review in 2002. The plan stated: *"Phasing in the current backlog, approximately 1200 inspections are required in 2007/2008 and this is unlikely to be achievable with the current resources"*.
- 3.1.5 The current 2008/2009 Service Plan, which had not yet been approved at Member level, generally met the requirements of the Service Planning Guidance in the Framework Agreement, including a review of the previous year's food safety activities, and highlighting areas of improvement for the current year. However, some of the data presented in the 2008/2009 plan was ambiguous. For example, the review of performance with regard to the 2007/2008 inspection targets stated that the Service planned to undertake 647 inspections and actually achieved 878 primary inspections. This implied that the Service had exceeded its target, although neither breakdown figures nor explanation was provided.
- 3.1.6 The 2008/2009 Service Plan provided a detailed breakdown of the backlog of inspections, identifying 917 overdue inspections, 297 of which were identified as being in higher risk categories A-C. Although the plan identified and prioritised tackling the backlog of inspections, and provided proposals to achieve this using contractors, there was insufficient detail of how resources would be used to reduce the

backlog and meet its other statutory responsibilities for the coming year.

*Recommendation*

3.1.7 The Authority should:

In accordance with the Service Planning Guidance in the Framework Agreement, ensure that the Food Service Plan for 2008/2009 and future plans include details of the staff resources required to deliver the different functional areas of the Service, including the food hygiene premises inspection programme. [The Standard – 3.1]

*Documented Policies and Procedures*

- 3.1.8 The Authority had adopted documented systems for the review and updating of its policies and procedures. More specifically, there were detailed instructions regarding their annual review and updating of policies such as the Enforcement Policy and the Sampling policy.
- 3.1.9 Documentary checks revealed that policies and procedures generally included accurate and up to date references to legislation and guidance.
- 3.1.10 Officers had access to controlled copies of the procedures which were held as hard copies in the Quality Manual.

*Officer Authorisations*

- 3.1.11 The Environmental Health Service had a documented procedure developed by the NYFLG for authorising individual officers to carry out food law enforcement duties. The document contained details of the required minimum qualifications, competency and experience that officers required in order to be authorised under specific food law enforcement functions. Officer authorisations were recorded on a centrally held authorisation matrix.
- 3.1.12 The technical competence of staff and training issues was assessed through routine one-to-one Personal Appraisal meetings between officers and the team manager and during team meetings.
- 3.1.13 The Food and Occupational Safety Team responsible for implementing the food hygiene inspection programme, comprised a mix of 6 EHOs and technical staff, who were authorised appropriately according to their individual qualifications and training.

3.1.14 In recent months the Service had appointed a team of contracted staff to undertake medium-low risk premises inspections. Full details of the contracted officers' training, qualifications and experience were held by the Service, and of those reviewed, all had been authorised appropriately.

## 3.2 Food Premises Database

- 3.2.1 The Authority was operating a “paperless office” database system, with all records in an electronic format. A private company had been used to scan all historic data (i.e. data up to the last 18 months), onto a separate database that could be accessed sequentially by officers. Premises file checks suggested that some historic data may have been lost in the process, including some enforcement and inspection records. All recent records had been scanned onto the in-house database system.
- 3.2.2 The Authority had no specific written procedures regarding the management and maintenance of the food premises database and no dedicated IT systems administrator had been maintaining the system for the last 2 years. Responsibility for this had been assumed by other technical staff and latterly by the Senior EHO (SEHO). However, the SEHO had only recently received training in how to use the system to produce reports. It had therefore not been possible to produce accurate electronic management reports regarding the food premises database and delivery of the food safety service, although there was evidence that some performance figures had been assessed and collated manually.
- 3.2.3 The degree of access allocated to each officer was based on their role, and only the SEHO and administrative support staff could enter or delete premises records, with operational officers limited to updating the system as a result of their enforcement activity.
- 3.2.4 The database was found to contain all the food premises chosen at random from a local business directory. However, 2 of the 10 premises selected were not identified as being closed or outside the hygiene inspection programme, yet these premises were not included in the annual inspection programme. Auditors were informed that if a premises was visited for the first time but not risk rated, then the operating system would fail to include it in the inspection programme. Other than through reliance on local knowledge, there were no formal systems in place to ensure that the database and inspection programme was accurate.

### *Recommendation*

3.2.5 The Authority should:

Set up, maintain and implement a documented procedure to ensure that the food premises database is accurate and kept up to date.

[The Standard – 11.2]

### **3.3 Food Premises Inspections**

- 3.3.1 The Authority used a range of generic inspection and enforcement procedures to provide guidance to officers undertaking food premises inspections.
- 3.3.2 The Service Plan for 2008/2009 indicated a current total of 917 overdue food business inspections, covering all risk categories A-E, and these included medium risk premises that in some cases were several years overdue. The overdue figures were confirmed by the quarterly management performance figures produced for the regional QMS. This data showed that the Authority had been monitoring the backlog of inspections since at least January 2004 when 588 overdue inspections had been recorded, including high and medium risk premises. This backlog rose steadily, reaching 1,320 overdue inspections in January 2008. The Service had recently decided to use contractors as a solution to the problem, estimating that they would need to conduct 700 inspections during 2008/2009 to alleviate the premises inspection backlog. Inspection data provided to auditors showed that contractors had already completed approximately 400 inspections between December 2007 and March 2008.
- 3.3.3 There was evidence in the form of minutes from team meetings that management had instructed officers to prioritise their inspection workload by inspecting the highest risk premises first. However, file and database checks revealed that in recent months this instruction had not been fully implemented, as a number of lower risk inspections were found to have been undertaken whilst some overdue high risk premises remained outstanding. There was evidence that this issue had also been discussed at team meetings.
- 3.3.4 File checks of 3 out of 6 category "A" premises identified a number of problems in ensuring timely and appropriate business compliance in regard to food hygiene legislation. These problems involved premises frequently reported as having very poor standards of hygiene and structure, remaining in the higher risk categories for long periods of time without any documented evidence that appropriate corrective actions were taken to ensure that standards were improved to an acceptable level. In a number of cases, the resulting primary inspections had not been completed until several months after the due date. The Authority had identified the issue of regular business turnover as one reason for these problems. From the files reviewed, it appeared that there had been a reliance on written warnings and advisory re-visits to address immediate concerns, though there was evidence that a wider range of enforcement options, such as improvement notices and prosecution were now being considered and implemented.
- 3.3.5 There was little documentary evidence that there had been appropriate regard to the Authority's Enforcement Policy, or

discussions between officers and management as to the most effective course of action following high risk premises inspections.

- 3.3.6 Six approved premises files were examined and, in general, adequate information had been recorded in relation to the nature and scale of the businesses' activities and their history of compliance. The files examined generally contained all the information required by the Food Law Code of Practice. The Authority's approved premises had been re-approved and inspected in accordance with European legislation.
- 3.3.7 Appropriate inspection forms had been used for both the general food premises inspections and approved premises inspections, and food premise inspection reports and/or follow-up letters had been provided to food business operators. The inspection reports/letters distinguished clearly between legal requirements and recommendations.

*Recommendations*

- 3.3.8 The Authority should:
- (i) Ensure that food hygiene inspections are carried out at a frequency which is not less than that required by the Food Law Code of Practice. [The Standard – 7.1]
  - (ii) Ensure that all decisions on enforcement action are made following consideration of the Authority's Enforcement Policy, and that the reasons for any departure from the criteria set out in the Enforcement Policy are documented. [The Standard - 15.4]

### **3.4 Internal Monitoring, Third Party or Peer Review**

#### *Internal Monitoring*

- 3.4.1 As part of the Services' regional QMS, the Authority had implemented a documented Food Safety Activity Monitoring procedure, aimed at providing qualitative checks on officer records and reports. The procedure required the Team Manager/Senior EHO to monitor the inspection output from authorised officers in accordance with their level of competence. The procedure prescribed the assessment of the inspection process by both desktop administrative checks and accompanied visits. The procedure also included requirements for monitoring checks on a selection of food complaints, sampling visits and Hygiene Improvement Notices for each officer. Detailed monitoring checklists had been developed against which each activity was assessed. Any non-conformances identified during the desktop monitoring were recorded. Auditors were advised that these non-conformances were subsequently discussed with individual officers.
- 3.4.2 File checks indicated that activities had been monitored qualitatively in accordance with the Authority's monitoring procedure.
- 3.4.3 Quantitative monitoring of the food hygiene premises inspection programme was carried out on an ongoing basis using inspection data supplied by officers. The compiled data was then reported to the Environmental Health Manager on a monthly basis and to the regional QMS manager on a quarterly basis. QMS records showed that action plans had frequently been developed by the Service in an attempt to reduce the inspection backlog that had been identified. However, these plans regularly failed to make any quantitative assessment as to how the proposed measures would address the issue. An examination of the monitoring data suggested that all the actions taken, including measures such as greater administrative support and the use of officer overtime had failed to have a significant impact on the numbers of inspections overdue.

#### *Third Party or Peer Review*

- 3.4.4 As part of the regional QMS system, the Authority participated in an inter-authority audit scheme (IAA). The latest such audit took place in November 2007, and required an action plan to be produced to address the significant backlog of overdue inspections. Whilst there was no documentary evidence of an action plan being produced, action through the use of contractors had been agreed and implemented by the Authority.

*Recommendation*

3.4.5 The Authority should:

Review the internal monitoring process to ensure that it can effectively address any identified problems with delivery of the service, in verification of the Authority's conformance with statutory requirements and related guidance [The Standard – 19.1 & 19.2]

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## Action Plan for Scarborough Borough Council

Audit date: 6-8 May 2008

IMPROVEMENTS	BY (DATE)	TO ADDRESS RECOMMENDATION (INCLUDING STANDARD PARAGRAPH)	ACTION TAKEN
Plan will be amended to include more detail regarding actions taken and planned. This will then be submitted for Member approval.	31/07/08	3.1.7 In accordance with the Service Planning Guidance in the Framework Agreement, ensure that the Food Service Plan for 2008/2009 and future plans include details of the staff resources required to deliver the different functional areas of the Service, including the food hygiene premises inspection programme. [The Standard – 3.1]	Considered by Cabinet Member at informal meeting 17/07/08. Awaiting formal approval.
Produce and implement documented procedures on maintaining the database.	30/09/08	3.2.5 Set up, maintain and implement a documented procedure to ensure that the food premises database is accurate and kept up to date. [The Standard – 11.2]	Work on draft procedure commenced.
Target is to clear outstanding backlog of inspections by the end of 2008/2009 using a “risk-based” approach where possible. Secured long term funding for contractors to assist with the delivery of food hygiene inspection programme.	Ongoing	3.3.8(i) Ensure that food hygiene inspections are carried out at a frequency which is not less than that required by the Food Law Code of Practice. [The Standard – 7.1]	Contractors appointed for 2008/2009. Inspections to commence August 2008.
1. Issue new guidance and training to officers on Enforcement Policy. 2. Ensure consistency with Enforcement Policy through internal monitoring arrangements. 3. Report developed to monitor movement of premises within risk categories.	31/07/08	3.3.8(ii) Ensure that all decisions on enforcement action are made following consideration of the Authority’s Enforcement Policy, and that the reasons for any departure from the criteria set out in the Enforcement Policy are documented. [The Standard - 15.4]	1. Refresher training Enforcement Policy given as part of Team meeting on 21/07/08. 2. New report developed and in operation.

<p>Compliance with frequency of inspections will be included as a Critical Success Factor (CSF) under the Council's Performance Management Framework. Under the Council's monitoring system any non-conformities would generate a report and action plan and be reported to the appropriate Overview and Scrutiny Committee.</p>	<p>31/07/08</p>	<p>3.4.5 Review the internal monitoring process to ensure that it can effectively address any identified problems with delivery of the service, in verification of the Authority's conformance with statutory requirements and related guidance. [The Standard – 19.1 &amp; 19.2]</p>	<p>Discussions with Council's Corporate Performance Unit held. Agreement in principle to inclusion of CSF within 2008/2009 PMF.</p>
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## 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"> <li>• Food Law Enforcement Standard</li> <li>• Service Planning Guidance</li> <li>• Monitoring Scheme</li> <li>• Audit Scheme</li> </ul> <p>The <b>Standard</b> and the <b>Service Planning Guidance</b> set out the Agency's expectations on the planning and delivery of food law enforcement.</p> <p>The <b>Monitoring Scheme</b> 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 <b>Audit Scheme</b> 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.
OCD returns	Returns 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.