

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

Cornwall Council
26th -28th November 2019



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1.0 Introduction

- 1.1 This is a report on the outcomes of the Food Standards Agency's (FSAs) audit of Food Hygiene Service Delivery, focusing on local authority approved establishments, conducted at **Cornwall Council** on the **26th, 27th and 28th of November 2019**. The audit was carried out as part of a programme of audits on local authorities (LA) in England. The report has been made available on the FSA's website at:

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

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

AuditAssurance@food.gov.uk

- 1.2 The power to set standards, monitor and audit local authority feed and food law enforcement services was conferred on the Food Standards Agency by the Food Standards Act 1999 and the Official Feed and Food Controls (England) Regulations 2009. This audit was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme.
- 1.3 Regulation (EC) No. 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, includes a requirement for competent authorities to carry out internal audits or to have external audits carried out. The purpose of these audits is to verify whether official controls relating to feed and food law are effectively implemented. To fulfil this requirement, the Food Standards Agency, as the central competent authority for feed and food law in the UK has established external audit arrangements. In developing these, the FSA has taken account of the European Commission guidance on how such audits should be conducted.^[1]
- 1.4 The Council ("the Authority") was included in this programme of audits as part of set comprising a range of geographical, demographic and structural local authorities.
- 1.5 A glossary of technical terms used within the audit report can be found at Annex C.

2.0 Scope of the Audit

- 2.1 The audit examined the local authority's (LAs) organisation, management, and internal monitoring arrangements with regard to approved establishments. Assurance was sought that key Service systems and

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

arrangements were in place and effective, including suitable arrangements for the internal monitoring of official controls delivered by the Service. The on-site element of the audit took place at Neighbourhoods & Public Protection, Unit 6 Threemilestone Ind Estate, Threemilestone, Truro, Cornwall.

3.0 Background

- 3.1 Cornwall Council is the unitary authority for the county of Cornwall in the United Kingdom, not including the Isles of Scilly. Cornwall is a ceremonial county in South West England, bordered to the north and west by the Atlantic Ocean, to the south by the English Channel and to the east by Devon. Cornwall has a population of 568,210 which rises significantly during seasonal holiday periods and covers an area of 3,563 km².
- 3.2 Cornwall is predominately rural being designated an Area of Outstanding Natural Beauty, but also has several large towns and the City of Truro. The economy of Cornwall is largely dependent upon agriculture, tourism, fishing, shellfish and more recently aviation through innovation at the Newquay Spaceport and Aero hub.
- 3.3 Cornwall has approximately 9000 food businesses of which 160 are approved establishments manufacturing dairy, meat and fishery products. Some of these approved establishments distribute products internationally. The remainder are mostly catering premises providing food services to local people and visitors to the area. Cornwall Council is the Primary Authority for a number of catering operations, manufacturers and specialist food associations. The Authority also offers paid for business advice through its Business Regulatory Support service
- 3.4 At the time of the audit, the Authority was operated through a Cabinet structure.

4.0 Executive Summary

- 4.1 This audit of Cornwall Council food safety service (the “Service”) sought to gain assurance that key food hygiene service systems and arrangements were effective with regard to the approval of establishments, and that local arrangements were managed and delivered effectively.
- 4.2 The Authority was selected for audit primarily because it had not been audited by the Food Standards Agency in at least the past 5 years.
- 4.3 The Authority had developed a Service Plan which followed the guidance in the Framework Agreement on Official Feed and Food Controls by Local Authorities (Framework Agreement) and included information about approved establishments. All the policies and procedures requested were available, comprehensive, and generally able to provide the information needed for the audit.
- 4.4 Cornwall Council had approximately 9000 food businesses of which 160 were approved premises manufacturing dairy, meat and fishery products, some of which with worldwide distribution. The remainder were mostly catering premises providing food services to local people and visitors to the area.
- 4.5 The Authority had developed and implemented an officer competency assessment system in accordance with the Food Law Code of Practice (FLCoP). Officer continuous professional development (CPD) met the requirements of the FLCoP and training received included training regarding approval of establishments. It was clear the Authority was keen on providing training to staff.
- 4.6 The Authority had developed and implemented an appropriate documented procedure for the approval of establishments, which followed the FLCoP and the Approval of Establishments Guidance for Local Authority Authorised Officers 2016 (FSA Approvals Guidance). Following the criteria specified in the Approvals Guidance, the Authority had carried out a suitable assessment of approved establishments and had issued approvals appropriately.
- 4.7 Interventions at approved establishments had generally been carried out at the frequency prescribed in the FLCoP. The Authority used the flexibilities allowed by the FLCoP at D risk rated establishments by delivering training seminars, which were alternated with official control interventions. Work has been undertaken by the Authority to ensure that sufficient resource is available.
- 4.8 Complaint investigations and sampling at approved establishments had been effectively handled and carried out in accordance with the Authority’s procedures.

Recommendations

- 4.9 Although the Authority was carrying out checks of their database to ensure its accuracy, a documented procedure needed to be developed and implemented to ensure that it was up to date and met Framework Agreement requirements.
- 4.10 Internal monitoring activities were being carried out across several elements of the service delivery. However, Auditors found several inconsistencies regarding information recorded in the database by staff against approved establishments, and the Authority was recommended to reinforce their internal monitoring checks to ensure the database was reliable and accurate.

Observations

- 4.11 Two observations in connection with approved establishments files record keeping have been raised at points 5.10.3 and 5.10.4 of this report. These are not recommendations but aspects to be noted by the Authority.

Good Practice

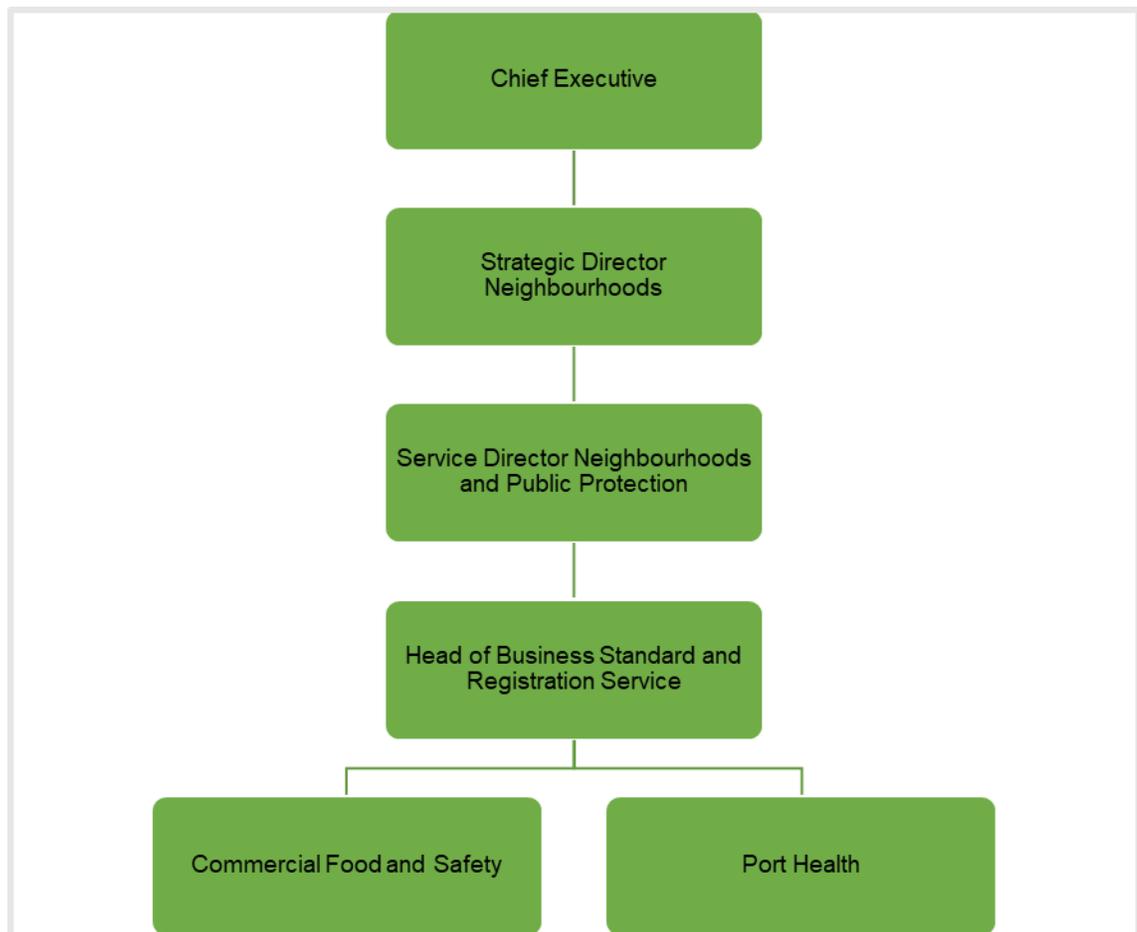
- 4.12 The LA held Approved Premises Committee Meetings to discuss all aspects of approved establishments. These meetings did not include Council Members but the most experienced EHOs in the Food Service Team. A PHE microbiological scientist was invited to these meetings, as well as to some of the interventions. Furthermore, it was noted the Authority also invited an FSA Field Veterinary Leader, to these meetings for consistency purposes between the two enforcement bodies. The use of up to date microbiological expertise and the liaison with the FSA Official Veterinarian were both considered examples of good practice by Auditors.
- 4.13 The Authority was using a risk-based approach to food sampling activities at approved establishments and had created a Master Sampling Programme which classified the establishments in high, medium and low risk. This was also considered an example of good practice.

5.0 Audit Findings

5.1 Service Organisation & Management

- 5.1.1 The Food Service was part of Business Standards and Registration Service section and sited within the Neighbourhoods Directorate.
- 5.1.2 The Food and Safety Manager was working alongside with the Port Health Manager at the delivery of official controls. Both were responsible for the approved establishments within the Authority, and both reported to the Head of Business Standards and Registration service.

The table below shows the structure of the Cornwall Council Food Service organogram which was extracted from the Service Plan and the Council Leadership Team flow diagram¹:



[¹] <https://www.cornwall.gov.uk/media/38647074/council-leadership-team.pdf>

- 5.1.3 The Authority had implemented the Service Plan for 2019/2020 in accordance with the service planning guidance of the Framework Agreement, which was well-structured and included references to approved establishments. The Council used a combination of measures to achieve their consumer protection goal. The Service Plan had been approved by the Cabinet Member for Environment and Public Protection.
- 5.1.4 The Commercial Food and Safety team comprised 3 Senior Environmental Health Officers (EHOs), 8 EHOs and 10 Commercial Food & Safety Officers managed by the Food and Safety Manager. The total FTE (full time equivalent), was 20.73. Work has been undertaken by the Authority to ensure that sufficient resource is available.
- 5.1.5 A performance review of the 2018/2019 Service Plan specified Authority's achievements against their targets when the targets were not met, corrective actions or areas for improvement were defined by the authority.

5.2 Reviewing & Updating Documented Policies & Procedures

- 5.2.1 The Authority had a document control procedure in place. All documents were listed in a spreadsheet alongside a review due date. The Authority carried out an annual review of all the documents, and ad-hoc changes in response to new legislation, procedures and working practices. The proposed changes were discussed and agreed at the Policy and Procedures Working Group and/or a Senior EHOs meeting.
- 5.2.2 The changes were cascaded during the team meetings to the rest of the staff. The new version of the document was filed in a shared folder. Obsolete documents were removed from the shared drive and placed in an archive folder.
- 5.2.3 The procedure for approval of establishments was up to date and had been developed in accordance with the FLCoP and the FSA Approvals Guidance.

5.3 Authorised Officers

- 5.3.1 The Authority had developed and implemented a procedure for the authorisation of officers which was based on the officer's level of competence.
- 5.3.2 Under the Scheme of Delegation in the Constitution of Cornwall Council, the Service Director of Neighbourhoods and Public Protection had been given delegated powers to issue officers' authorisations.

- 5.3.3 The Authority had appointed several specialised officers with the appropriate knowledge to perform approvals at the different types of establishments.
- 5.3.4 Competency assessments, authorisations and staff training records were checked by auditors. The Authority had developed a competency assessment system in line with the Food Law Code of Practice. The system was designed to record training and development needs in detail and also officers' annual performance reviews.
- 5.3.5 There were 3 SEHOs with management responsibility for the EHOs, therefore, their competency assessment included the competencies of a lead officer and an authorised officer as described in the FLCoP. Officer competency was also assessed as part of their annual performance review.
- 5.3.6 Auditors observed that authorisations specified the restrictions depending on the qualification of the officer. In addition, restrictions were also described in the officers' competency assessment.
- 5.3.7 Staff had completed their required CPD training hours and had received training in food matters commensurate with their work activity. The officers dealing with approved establishments had also received the training necessary to be competent to deliver the technical and administrative aspects of the work. It was clear the Authority was keen on providing training to staff.

5.4 Database

- 5.4.1 The Authority maintained a food business database and had a system to keep the database up to date. However, the Authority did not have a documented procedure describing aspects of the system such as how the food establishments database is kept accurate and up to date, how the risk of data corruption is minimised, the sources of information used to keep the database up to date and back up procedures although Auditors were informed the database was backed up on a daily basis.
- 5.4.2 Auditors checked the accuracy of the food database and most approved establishments were present in the database. There were inconsistencies regarding some approved establishments between the Authority's list and the FSA's list. Some approved establishments appeared in the Authority's list but were not in the FSA's list because of incorrect approval numbers recorded in the database. Auditors verified that in one case, the Authority had updated the FSA via a letter regarding the withdrawal of an establishment's approval and it appeared that the FSA had not updated the information received from the Authority.

- 5.4.3 The Authority was able to provide the database information requested by the FSA and this year's Local Authority Enforcement Monitoring System (LAEMS) submission had been filed.

Recommendation 1 – Food Premises Database

[The Standard 11.2]

The Authority shall set up, maintain and implement a documented procedure to ensure that its food and feed premises database is accurate, reliable and up to date, as the accuracy of such databases is fundamental to service delivery and monitoring.

5.5 Food establishments interventions

- 5.5.1 The Authority had developed, implemented and maintained a documented intervention procedure for the range of interventions carried out, which included a policy on announced/unannounced interventions. The Authority had also developed a procedure for approval of establishments in line with the FLCoP and the FSA Approvals Guidance.
- 5.5.2 Auditors checked the Authority's database and verified that the minimum food hygiene intervention frequency at approved establishments had not always been carried out as stated in the FLCoP, in particular, at D risk rated establishments. However, in order to resolve this, the Authority was taking a new approach with these premises and offering a training seminar as other type of intervention, which they would alternate with an official control intervention.
- 5.5.3 Inspections were carried out without prior notification, although in some circumstances, appointments had to be made, for example where businesses run from domestic premises. An intervention report was left with the food business operator on the day of the visit.
- 5.5.4 Auditors checked the files of 3 approved establishments. It was clear that the Authority had made an appropriate assessment and had correctly categorised the establishments as food establishments that required approval under Regulation (EC) 853/2004. The approvals process had been carried out by the officers with specialist knowledge and in accordance with legal requirements, the FLCoP and the FSA Approvals Guidance.
- 5.5.5 There was evidence that the Authority had kept the approval of establishments under review when carrying out official controls, via

questions in the Authority's inspection reports that prompted officers to check if establishments still met the approval conditions.

- 5.5.6 A reality visit was carried out at one approved establishment as part of the audit, which was approved as a meat, fish and dairy processing plant. The establishment was a food production unit that prepared meals for hospitals. Auditors found that the officers had adequate knowledge, expertise and covered all relevant aspects of interventions at approved establishments comprehensively. No issues were observed, and auditors' observations matched officer's intervention records.

5.6 Food and Food Premises Complaints

- 5.6.1 The Authority had a documented procedure for the administration of food and food premises complaints. It covered aspects such as the administration on receipt of complaints, the enforcement responsibility, the storage of food complaints and response time limits amongst others.
- 5.6.2 The Authority had received eight complaints linked to approved establishments in the last six months. All the complaints checked had been investigated and followed up appropriately and in accordance with the Authority's own procedures. Database records regarding the complaint investigations were complete and easily retrievable.

5.7 Food Inspection and Sampling

- 5.7.1 The Authority had a sampling policy and procedure in place which considered national, regional and locally co-ordinated sampling programmes, and in particular those organised by the FSA and Public Health England (PHE).
- 5.7.2 The policy also considered local initiative sampling (samples may be taken for the purposes of monitoring and surveillance), and sampling as a result of the investigation of complaints and food poisoning outbreaks.
- 5.7.3 The annual 2019/2020 programme had been compiled based on a risk rating of approved establishments. The sampling schedule was defined in the Master Sampling Programme: quarterly at high risk establishments, twice a year at medium risk establishments and annually at low risk establishments.
- 5.7.4 The Authority also had a Procedure for Sampling which outlined how to take the different types of samples. The authority had appointed a public analyst and a food examiner to carry out examinations and analyses of food samples.

5.8 Food Safety Incidents

- 5.8.1 The Authority had a documented procedure for dealing with food incidents, alerts and hazards in its area which had been developed in accordance with the Framework Agreement and the FLCoP.
- 5.8.2 The Authority was notified about an incident connected with food businesses in their area by the FSA food alert system in June 2019. The incident happened at approved establishments outside Cornwall Council and was linked to non-approved food business establishments in Cornwall. The Authority had been instructed to find and detain possible contaminated food at a few businesses. The Food and Safety Manager liaised with these businesses and ensured that the affected products were disposed of accordingly.

5.9 Enforcement

- 5.9.1 The Authority had in place an enforcement policy that had been drafted in accordance with the relevant codes of practice other official guidance and had been approved by the relevant Member forum. The policy included reference to the Regulators Code, the Code for Crown Prosecutors and the Human Rights Act. It also outlined the enforcement options available.
- 5.9.2 There had been enforceable breaches at approved establishments in the last two years requiring formal enforcement action by the Authority. Auditors checked some notices served by the LA and observed that the Authority had acted in accordance with its procedure and official guidance.

5.10 Records and Inspection Reports

- 5.10.1 Records were maintained by the Authority for at least 6 years for all food stuffs and, generally, they were in a retrievable form. Officers reported back in writing to the food business operator at the end of every food intervention.
- 5.10.2 With regard to the approved establishments interventions, the authority had developed their own intervention reports and forms, which had been adapted from the FSA aide memoires.
- 5.10.3 Auditors checked the files of three approved establishments, and, in some cases, they did not contain all the details in accordance with the Food Law Practice Guidance (The Practice Guidance). For example, the drainage layout details, water distribution and waste movement, etc were missing. Auditors discussed with the Authority the benefit of following the file content advice specified in the Practice Guidance.
- 5.10.4 The conditional approval documentation for one establishment was not in the file as it had been issued more than six years ago and the LA discarded documents older than 6 years in line with their policy and the

Framework Agreement. However, the Practice Guidance requires keeping the application form and the approval notification in the establishments' files, and while Auditors are aware that the retention period is for a minimum of 6 years, the Authority was advised to keep this documentation in order to retain full establishment history and as a good practise.

5.11 Internal Monitoring

5.11.1 The Authority had developed an Internal Monitoring procedure with examples of qualitative monitoring and evidence of this was observed. Quantitative monitoring activities were not described in the procedure; however, these were outlined in the Service Plan and there was evidence these were also being conducted. The Authority had a large number of approved establishments and had Approved Committee Meetings regularly to specifically discuss matters related to these. Evidence of monitoring work undertaken in relation to approved establishments was observed in the meetings' minutes.

5.11.2 Quantitative monitoring activities described in the Service Plan referred to the measure of performance indicators such as:

- Number of interventions
- Number of broadly compliant premises
- Number of samples, etc

The Authority measured these performance indicators through a digital system.

5.11.3 Qualitative monitoring elements included:

- Monthly one to one with officers to discuss cases and review files including those of approved establishments
- Performance Development Scheme reviews
- Accompanied visits: SEHO with officers with the Manager doing some randomly. Officers were also encouraged to accompany one another
- Scrutiny of the reasons for altered risk ratings of premises.
- Approved premises file checks: SEHO and in the approved establishment committee meetings
- National Food Hygiene Rating Scheme - NFHRS consistency exercises generally once a year.
- Microbiological sampling checks against the plan every two weeks.
- Approved Establishments Committee meetings.

5.11.4 Records of the above internal monitoring activities were examined by auditors and generally, there was evidence that these had been carried out.

5.11.5 Several inconsistencies were observed with regard to the approved establishments information recorded on the database such as incorrect approval numbers, and documentation not being uploaded to the database against approved establishments in a timely manner. As such, the Authority needs to improve the internal monitoring systems in place to ensure the database is accurate and up to date.

Recommendation 2 – Internal Monitoring

[The Standard 19.2]

The Authority shall verify its conformance with the Standard, relevant legislation, the relevant Food Law Codes of Practice, relevant centrally issued guidance and the Authority's own documented policies and procedures. In particular, the Authority should strengthen the internal monitoring checks carried out with reference to their database to ensure it is accurate and up to date.

6.0 Good Practice

- 6.1 The Authority held Approved Establishment Committee Meetings, which included a Public Health England expert Microbiological Scientist and a FSA Field Veterinary Leader. The Microbiological Scientist also occasionally accompanied officers during interventions which provided the Authority with up to date microbiological expertise. This was considered a good example of the use of experts in undertaking approved establishment work.
- 6.2 Auditors noted that the practice of inviting an FSA Field Veterinary Leader allowed the Authority to apply a consistent approach, between the two enforcement bodies, for approved establishments.
- 6.3 The Authority was using a risk-based approach to food sampling activities at approved establishments by classifying them in high medium and low risk. The frequency of sampling was dependent on the risk rating obtained and was quarterly at high risk establishments, twice a year at medium risk establishments and annually at low risk establishments.

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References:

[1] Council Leadership Team flow diagram - Cornwall Council website- December 2019: <https://www.cornwall.gov.uk/media/38647074/council-leadership-team.pdf>

ANNEX A - Action Plan for Cornwall Council

Audit date: 26th – 28th November 2019:

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
11.2 - The Authority shall set up, maintain and implement a documented procedure to ensure that its food and feed premises database is accurate, reliable and up to date, as the accuracy of such databases is fundamental to service delivery and monitoring.	31/3/2020	Establishment of Database Accuracy Procedure to formalise existing work undertaken.	Approved Premises Committee has met and discussed Audit findings. Work has been set to establish what good practice looks like in other Local Authorities before writing a procedure for Cornwall Council based on current working practices.
19.2 - The Authority shall verify its conformance with the Standard, relevant legislation, the relevant Food Law Codes of Practice, relevant centrally issued guidance and the Authority's own documented policies and procedures. In particular, the Authority should strengthen the internal monitoring checks carried out with reference to their database to ensure it is accurate and up to date.	31/3/2020	Creation, adoption and roll out of Database Accuracy Procedure.	Both recommendations will be met through the creation, adoption and roll out of this procedure.

ANNEX B Audit Approach/Methodology

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

- (1) Examination of LA plans, policies and procedures
- (2) A range of LA file records were reviewed
- (3) Review of food premises database
- (4) Reality visit of approved establishment
- (5) Officer interviews – the following officers and staff were interviewed:
 - Food and Safety Manager
 - Port Health Team Manager
 - Environmental Health Officers
 - Performance & Systems Specialist Officer

ANNEX C Glossary

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

National Food Hygiene Rating Scheme	The scheme gives businesses a rating from 5 to 0 after an inspection has assessed how well they comply with food safety. Grades are displayed at their premises and online.
LAEMS	Local Authority Enforcement Monitoring System is an electronic system used by local authorities to report their food law enforcement activities to the Food Standards Agency.
Service Plan	A document produced by a local authority setting out their plans on providing and delivering a food service to the local community.
Unitary Authority	A local authority in which the County and District Council functions are combined, examples being Metropolitan District/Borough Councils, and London Boroughs. A Unitary Authority's responsibilities will include food hygiene, food standards and feeding stuffs enforcement.