

## **Audit Programme Summary Report**

# **An Assessment of Local Authority Implementation and Operation of the Food Hygiene Rating Scheme In England**

**April 2016**

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## Foreword

Audits of local authority (LA) feed and food law enforcement functions are part of the Food Standards Agency's (FSA's) arrangements to improve the consistency and effectiveness of enforcement.

Agency audits normally focus fully on the assessment of an LAs' conformance with the Feed and Food Law Enforcement Standard ('the Standard'), the Food Law Code of Practice (FLCoP) and relevant official enforcement guidance. For the purpose of this focused audit programme reference was made to the guidance contained within the Food Hygiene Rating Scheme (FHRS), Brand Standard, which is based on the FLCoP.

The Feed and Food Law Enforcement Standard was published by the Agency as part of the Framework Agreement on Official Feed and Food Controls by Local Authorities and is available on the Agency's website at: [www.food.gov.uk/enforcement/enforcework/frameagree](http://www.food.gov.uk/enforcement/enforcework/frameagree)

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 feed and food law enforcement service. The scheme also provides the opportunity to identify and disseminate good practice and to provide information to inform Agency policy on food safety, food standards and feeding stuffs. The primary purpose of this focused audit programme was to check and provide assurance (as far as practicable) that the FHRS is operated consistently within and between local authorities

The FHRS is a FSA/local authority partnership initiative. The FSA is responsible for the central operation of the FHRS and providing guidance to ensure that the FHRS is operated fairly and consistently. LAs are responsible for delivering the scheme in their areas. Delivery is regularly reviewed by the FSA and reflected in revisions to the Brand Standard.

Consistent implementation and operation of the FHRS is critical to ensuring that consumers are able to make meaningful comparisons of hygiene ratings for establishments both within a single local authority area and across different local authority areas, and to ensuring that businesses are treated fairly and equitably.

The FSA and local authorities participating in the FHRS both have a role to play in achieving such consistency. In order to demonstrate their commitment to working in partnership and fulfilling their respective responsibilities, the FSA and each participating local authority have entered into a formal agreement. The agreement requires each participating authority to implement and operate the FHRS in accordance with the Brand Standard. The aim is to ensure that where establishments are rated under the FHRS and where consumers see the FHRS branding, they can be confident that the local authority is operating the FHRS as the FSA intends.

The power to set standards, monitor and audit feed and food law enforcement authorities was conferred on the Food Standards Agency by the Food Standards Act 1999 and the Official Feed and Food Control (England) Regulations 2009, along with parallel Regulations for the devolved countries. The Agency's audits of LAs are

undertaken under section 12(4) of the Act. Regulation (EC) No. 882/2004<sup>1</sup> 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 implemented effectively. 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 Agency has taken account of the European Commission guidance<sup>2</sup> on how such audits should be conducted.

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 <https://www.food.gov.uk/enforcement/auditandmonitoring>

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<sup>1</sup> <http://www.food.gov.uk/enforcement/auditandmonitoring>

<sup>2</sup> 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)

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## 1.0 Background

- 1.1 The FHRS in England is a FSA / local authority partnership initiative. At the time of this report this national scheme operates on a voluntary basis in England. It provides consumers with information about hygiene standards in food business establishments at the time they are inspected to check compliance with legal requirements on food hygiene. The scope of the FHRS extends to establishments supplying food direct to consumers. This includes restaurants, cafes, takeaways, sandwich shops and other places where people eat food prepared outside of the home, as well as food retailers.
- 1.2 The purpose of the FHRS is to allow consumers to make informed choices about the places where they eat out or shop for food and, through these choices, encourage businesses to improve their hygiene standards. The overarching aim is to reduce the incidence of food-borne illness and the associated costs to the economy.
- 1.3 The food hygiene rating reflects the hygiene standards found at the time the business is inspected by a food safety officer. There are six ratings from, '0 – Urgent Improvement necessary' to '5 – Very good'. The top rating of '5' represents a very good level of compliance with legal requirements and all businesses irrespective of the nature or size of their operation should be able to achieve this. Food hygiene ratings are published online at [food.gov.uk/ratings](http://food.gov.uk/ratings). Businesses are encouraged to display a sticker showing the food hygiene ratings for their food businesses where consumers can easily see them.
- 1.4 The FHRS incorporates three safeguard measures to ensure fairness to businesses - an appeal procedure; a 'right to reply' for publication (together with the food hygiene rating) at [food.gov.uk/ratings](http://food.gov.uk/ratings); and a procedure for requesting a re-inspection/re-visit for the purposes of re-rating when improvements have been made.
- 1.5 The FSA is the central competent authority responsible for protecting public health from risks which may arise in connection with the consumption of food and otherwise to protect the interests of consumers in relation to food. Part of this role includes publishing and reviewing statutory codes of practice to which LAs must have regard. The current Food Law Code of Practice (England) was last reviewed in 2015.
- 1.6 The Code and associated guidance is supplemented by the Framework Agreement (FA) on Official Feed and Food Controls by Local Authorities 2010.
- 1.7 The above documents set out the requirements and arrangements for local authorities in the delivery and management of controls on food law. These include requirements in relation to interventions/ inspections from which the Food Hygiene Rating for an establishment is calculated.

- 1.8 LAs are required by the Framework Agreement to carry out interventions/inspections in accordance with the relevant legislation, Codes of Practice, centrally issued guidance and the Authority's policies and procedures. The Code of Practice requires that food businesses receiving an inspection, partial inspection or audit be given a risk rating. The rating is calculated from an assessment of the following:
- Type of food and method of handling
  - Method of processing
  - Consumers at risk
  - Level of (current) compliance – Structure
  - Level of (current) compliance – Hygiene
  - Confidence in management/control procedures
- 1.9 Extra weightings are also given for service to predominantly vulnerable groups and also if there is a significant risk of food being contaminated during production processes.
- 1.10 The food hygiene rating (FHR), is calculated from this assessment process. It is based on three key elements of the above; structure, hygiene and confidence in management.

## **2.0 Scope and Key Objectives of the Audit Programme**

- 2.1 The audit programme took place between January and April 2016 and included audit of 12 LAs in England; the objectives were to gain assurance through assessment of the controls at the 12 LAs in the audit sample that:
- There was consistent application of Chapter 5.6 Food Law Code of Practice application / FHRS scoring and justification
  - The rating notification process and safeguards e.g.; appeal procedure, revisits and right to reply were operated in accordance with the Brand Standard
  - The LA premises database was reliable and data displayed on the FHRS site was accurate and had been uploaded correctly

The audit programme also sought to identify and disseminate good practice for the operation of the FHRS.

- 2.2 The audit programme focused on LA operation of the FHRS with reference to the Framework Agreement, Codes of Practice, The Brand Standard and centrally issued guidance. This included:
- Organisation and Management
  - Authorisation and Training
  - Inspection procedures
  - Notification of ratings and follow up
  - Food Premises Database

- Consistency Framework
- Local Authority Website
- FHRS Website

### 3.0 Audit Methodology and Design

3.1 Details of the audit methodology, design, and the evaluation and assessment framework used during the audits are set out in Annex (I).

### 4.0 Executive Summary

4.1 This audit programme looked at a range of sample evidence. It included 12 LAs in England and was completed in April 2016. Recommendations and conclusions are based on the findings. The audits sought to provide assurance that the FHRS was operated in accordance with the key guidance document the Brand Standard. It gathered sample evidence on; consistency of scoring, operation of safeguards (appeals, rights to reply and requests for revisits) and the integrity of data supplied by LAs to the FHRS website.

#### Key Findings

4.2 LAs were generally delivering the FHRS in accordance with the guidance contained within the Brand Standard but detailed implementation and operation was variable. Anecdotal evidence gathered from Lead Food Officers supported the view that the FHRS was well received by food businesses as an important incentive for improving compliance and a valuable support to enforcement that enhanced consumer protection. LAs were committed to delivering the scheme and endeavoured to meet all the deadlines and quality criteria specified in the Brand Standard. The LAs audited were delivering the FHRS at a time of reducing operating budgets due to austerity measures but in spite of this delivery was generally consistent with the Brand Standard.

4.3 Sample evidence analysed from inspection reports demonstrated that timely enforcement and revisits to check on legal non-compliance were carried out and appropriate enforcement action taken where necessary.

4.4 Most LAs had not accurately quantified the resource in terms of full time equivalent staff (FTE), needed to deliver the overall demands on the service. Participation in the FHRS is one aspect of the food safety service. Successful delivery is dependent upon services being adequately resourced and it is therefore important that this information is brought to the attention of heads of service and elected members through service planning documents

4.5 Checks on training records revealed a strong LA commitment to training of Authorised Officers that were delivering the FHRS based on the principles of continual professional development (CPD). The training was generally formally certificated and covered a varied range of subjects.

- 4.6 Evidence showed that the level of detail and or evidence gathered to support inspection findings and ultimately the FHR given could be improved. In five of the LAs audited this was identified as a key finding.
- 4.7 Four of the LAs audited had a backlog of inspections, including many food businesses that were part of the FHRS. Some LAs reported that these interventions were overdue because of resource shortfalls. There is a potential increased reputational risk to the LAs and ultimately consumer protection where inspections are not carried out at the prescribed intervals. Delayed inspections also raise the possibility that the FHR is no longer representative of current hygiene standards.
- 4.8 The food hygiene inspections and associated documentation that result in a FHR should be subject to monitoring by a competent Authorised Officer. This is to ensure consistency, identify errors in recording, ensure policies and procedures are followed and to identify when corrective action is needed such as officer training or moderation of risk-rating scores. All of the LAs audited undertook some form of monitoring. At eight of the audits we identified that improvements were needed to monitoring of the inspections that informed the FHRS and four identified that the recording of monitoring required improvement.
- 4.9 The FHRS has specific deadlines for notification of ratings and the safeguard arrangements for food businesses. LAs generally demonstrated adherence to the targets for these deadlines set out in the Brand Standard. LAs that provided the FHR to the food business operator at the time of the inspection reported that this had helped in meeting time deadlines.
- 4.10 LA food premises databases had the capability to report accurate data to the FHRS portal. In advance of each audit a report was prepared by the FHRS team on the dataset for each LA. In all cases this showed potential data errors to varying degrees. Generally establishment classifications were accurate. On a few occasions incorrect FHRS scope codes had been used e.g. 'included', 'sensitive', 'exempt', and 'excluded'. In one instance an LA following an alternative delivery approach had intentionally excluded businesses that should have been included in the FHRS.
- 4.11 A full list of recommendations for LAs is contained in the report however key areas for improvements to the operation of the FHRS are as follows.  
LAs must ensure:
- Food businesses should be inspected at the intervals prescribed within the FLCoP
  - Adequate detail is gathered to support the FHR given
  - Monitoring is fully recorded. Records must be kept for at least two years. Monitoring should also encompass operation of the FHRS within a Consistency Framework
  - Review consistency training to ensure greater emphasis on detail gathered by officers to support ratings given

- They specify the demands of the service versus the resources available. This information is a fundamental part of service planning and a requirement of the Framework Agreement.

4.12 There was one example of good practice identified which should be considered by LAs:

- Implementing an officer performance indicator to ensure ratings are notified promptly as part of a management system.

## 5.0 Summary of Findings

### 5.1 Implementation

5.1.1 LAs must include the appropriate range of businesses within the operation of the FHRS as described in the Brand Standard<sup>3</sup>.

Failure to correctly implement the full scope of the scheme can disadvantage FBOs and prevent consumers from being consistently informed.

### 5.2 Audit Programme Findings

5.2.2 The majority of the LAs in the audit programme had correctly included the range of business types appropriate for inclusion in the scheme. As part of the pre audit information LAs were asked how they had originally adopted the scheme. Most had taken the “critical mass” approach whereby all appropriate food businesses were included in the rollout of the scheme at the same time.

5.2.3 In three LAs auditors found that some businesses had been excluded to varying degrees. This ranged from a relatively small number, possibly due to coding errors, to over fifty percent of the Authority’s database in another instance where auditors found that establishments had not been included in the scheme and were not identified for an intervention. This was not in accordance with the FLCoP or the Brand Standard and auditors agreed to refer the matter to the FHRS and FLCoP Teams at the FSA to facilitate engagement with the Authority to discuss their FHRS delivery approach.

### Conclusion

5.2.4 Findings demonstrated that most LAs had included the correct range of food businesses in the scheme. Where there were exceptions LAs gave assurance that any omissions would be reviewed and FSA policy colleagues will be working with the authority that had employed an alternative approach to ensure issues are resolved.

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<sup>3</sup> See Section 2, Paragraphs 2.1& 2.2 The Brand Standard

### 5.3 Authorisation and Training

5.3.1 LA officers that deliver official food controls must be correctly authorised to enter premises, risk rate a premises and carry out enforcement. It is equally important that these officers receive regular training to minimum defined standards that includes training in the operation of the FHRS. This training should contribute to consistent application of the Chapter 5.6 FLCoP risk rating score and the resultant FHR score. The FA requires that:

<p>Framework Agreement Section 5.3 &amp; 5.4 Authorised officers</p>	<p>Requirement</p> <p>The Authority shall appoint a sufficient number of authorised officers to carry out the work set out in the service delivery plan. The level of authorisation and duties of officers should be consistent with their qualifications, training, experience and the relevant Code of Practice.</p> <p>The Authority shall ensure that all authorised officers and appropriate support staff receive the training needed to be competent to deliver the technical and administrative aspects of the work in which they will be involved, in accordance with the Code of Practice</p>
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#### Audit Programme Findings

- 5.3.2 Half of the LAs in the audit sample had appropriate procedures in place for the authorisation and training of officers authorised to carry out interventions that would result in a FHR.
- 5.3.3 Four LAs did not cite specific legislation such as the Food Safety and Hygiene England Regulations 2013 in officer authorisations and this is contrary to the Agency’s view as stated in the FLCoP. The references to the regulation above give specific enforcement powers that similarly could be restricted, where appropriate, according to qualification and experience.
- 5.3.4 In one LA a Lead Food Officer was inadequately qualified to administer FHRS appeals. In another, two officers were noted to be carrying out inspections without the proper baseline qualification according to the FLCoP. These LAs were advised to review the interventions that the officers had carried out to ensure that appropriate risk ratings had been awarded. The LA was also advised to restrict the officer’s level of authorisation in accordance with their qualifications.

5.3.5 In all but one LA officers had completed the minimum ten hours continuing professional development training for the calendar year 2015 spread across a range of subjects, the following is not an exhaustive list:

- Risk rating consistency
- E Coli guidance
- Specialist processes (vacuum packing, sous vide)
- HACCP
- Lead auditor
- Imported food
- Food standards
- Approved premises

### Conclusion

5.3.6 A lack of appropriate authorisation in some of the LAs could inhibit effective enforcement being taken if needed and leaves the Authority open to legal challenge. All LAs gave a commitment to reviewing authorisations where needed and similar assurances were received where officers were found that were not qualified according to the standard within the FLCoP. Good evidence was found of commitment to training based on the principles of continuing professional development in a range of subjects and notably risk rating consistency.

**Recommendation 1 – Officer Authorisations**

**Section 5 Framework Agreement**

LAs must ensure all officers are authorised to the appropriate level and authorisation documents accurately reflect the powers of the authorised officer [The Standard – 5.1 and 5.3]

## 5.4 Inspection procedures

The FHR is based on the findings of an inspection, partial inspection or audit. It is awarded when a premises has been risk rated using the guidance contained in Chapter 5.6 of the FLCoP, supplemented by the guidance contained within the Brand Standard. This intervention must be recorded in sufficient detail to support the rating given. It is also important that the intervention is conducted at the correct interval as defined by the FLCoP. Interventions that are overdue could result in the display of a FHR that is no longer representative of the food safety and hygiene standards at the premises.

Framework Agreement Section 7 Food and Feeding stuffs Establishments	Requirement  The Authority shall carry out
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Interventions and Inspections	<p>interventions/inspections (as required by the relevant Code of Practice) at all food hygiene, food standards and feedingstuffs establishments in their area, at a frequency which is not less than that determined under the intervention rating schemes set out in the relevant legislation, Codes of Practice or other centrally issued guidance.</p> <p>Observations made and/or data obtained in the course of an inspection/intervention shall be recorded in a timely manner to prevent loss of relevant information. Officers' contemporaneous records of interventions shall be legible and stored in such a way that they are retrievable.</p>
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### **Audit Programme Findings**

- 5.4.1 All of the LAs in the audit sample needed to address one or more areas of non-compliance with the FLCoP and Framework Agreement in regard to inspection procedures.
- 5.4.2 In seven LAs there was a lack of substantive evidence on some inspection records, to support the FLCoP risk rating and FHR given. On at least two occasions chapter 5.6 FLCoP scores for minor non-compliance with legislation had been identified but records did not indicate non-compliance and perhaps more importantly that the non-compliance had been communicated to the food business operator (FBO). On these occasions the individual FLCoP scores for hygiene, structure and confidence in management were scored 5, 5 and 5 respectively; this still resulted in a FHR of "5 - Very Good".
- 5.4.3 Documentary evidence from inspection records seen at two LAs indicated that the scoring under the FLCoP and FHRS may have been too lenient based upon the evidence of legal non-compliances gathered suggesting that a lower FHR than that awarded would have been appropriate. As a result the justification for the FHR was not supported.

5.4.4 The audits did confirm that generally where significant non-compliance and risks to consumers had been identified, timely revisits were carried out and appropriate enforcement action taken.

5.4.5 In its guidance to Authorised officers the FLCoP details the following in the last two editions:

*“Making progress” can only be considered appropriate once. If at the next intervention the food safety management procedures are not satisfactory the score of 10 is not appropriate”.*

In two of the LAs, audit samples identified two examples where Authorised Officers had not followed this element of the FLCoP guidance. The Authorised Officers had awarded a confidence in management score of 10 on consecutive inspections even though the food safety management system was inadequate. This meant that the FHR did not result in a score of “1 major improvement necessary”, as should have been the case<sup>4</sup>.

5.4.6 A quarter of the LAs included had a significant backlog of unrated; circumstances where a premises required an initial inspection and overdue inspections. This ranged from a backlog of 122 inspections (ten percent of the total food premises), to 1,436 (fifty seven percent of the total food premises), in another authority. Most of these were due to a lack of resources available to the food service although one backlog was largely made up of premises that had been intentionally excluded from the intervention programme as part of an alternative approach to the delivery of food safety controls. The sum total of overdue food business interventions at these LAs was over 2200 but, to impart some risk perspective, some of these had been initially identified as low risk premises; however, without a recent intervention this cannot be confirmed. From the information presented by LAs it was not possible to determine how many of the businesses with overdue interventions would have been included in the FHRS.

5.4.7 During each audit officers were accompanied on a reality visit to a food business. The purpose of this was to determine the validity of the FHR given based upon the previous recorded inspection findings. Generally these visits showed that officers were familiar with the premises in question, able to identify the relevant hazards and able to score them appropriately although the level of detail that had been recorded to support the officers judgement was found to be variable.

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<sup>4</sup> The latest FLCoP provides more clarification on this matter.

## Conclusion

- 5.4.8 These findings demonstrate that more focus should be placed on the information gathered at the time of the inspection that supports the FHR given. This information is important for the FBO in gaining an understanding of how to comply and is vital in the case of an appeal or request to revisit and rescore the premises.

### **Recommendation 2 –Information gathered by officers/ provided to FBOs**

#### **The Brand Standard Section 5,**

LAs must ensure enough information is gathered to be able to advise FBOs why the establishment was rated as it was and, in cases where the top rating has not been achieved, the actions needed in order to achieve legal compliance for each of the three intervention rating scheme elements that are used for the FHR

### **Recommendation 3 - Interventions and Inspections**

#### **Section 7 Framework Agreement**

LAs must ensure interventions are recorded in sufficient detail and carried out according to the timescales within the FLCoP.

## 5.5 Notification of ratings and follow up

- 5.5.1 Local Authorities must provide the FHR in writing whether it is notified at the time of intervention (this must be an inspection, partial inspection or audit) or afterwards.
- 5.5.2 If not notified at the time of intervention, the FHR food hygiene rating must be communicated in writing without undue delay and within fourteen days from the date of the intervention.
- 5.5.3 Irrespective of when the FBO is notified of the food hygiene rating, information should be provided in writing about how to appeal it. This must make clear that the notification of the food hygiene rating triggers the start of the 'appeal' period.

## Audit Programme Findings

- 5.5.4 In the sample of evidence seen across all the LAs in the audit programme three Authorities were found to have exceeded target times set in the Brand Standard. Two of these had not complied with appeal deadlines and two had also given late notification of the initial FHR. LAs in most cases communicated the rating in writing and also made good use of web links to appeal and revisit forms in correspondence with FBO's when communicating a FHR.
- 5.5.5 In the LAs where the appeal timeframe had been exceeded LAs commented that the FSA should give consideration to extending the time allowed for consideration of appeal.
- 5.5.6 A minority of the LAs had put in place management performance indicators with the intention of identifying late notification of ratings. Auditors found that ratings given in the sample seen at these LAs were usually awarded promptly and well within the fourteen day deadline.

## Conclusion

- 5.5.7 The audit reports support the view that the deadlines in the Brand Standard for notification of ratings and the operation of the scheme safeguards are reasonable and appropriate. There is some evidence that appeal timings should be reviewed although not significant.

### Recommendation 4 – Notification of FHRS ratings

#### The Brand Standard Section 5 - 8

LAs should comply with the requirements of the Brand Standard when notifying ratings and operating the safeguards of the scheme.

## 5.6 Food Premises Database

- 5.6.1 The credibility and integrity of the FHRS depends on up-to-date and accurate food hygiene ratings information being available to consumers. Regular transfer of local authority data to the national database and timely publication of ratings at [food.gov.uk/ratings](http://food.gov.uk/ratings) is key to this. Effective management of the LA database is vital to ensuring the accuracy of published data.

Framework Agreement Section 11 Food Premises Database	Requirement  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
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	accuracy of such databases is fundamental to service delivery and monitoring.
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### **Audit Programme Findings**

- 5.6.2 During the onsite phase of the audits a live data upload was observed. The purpose was to identify if the LA could carry out the upload in the expected time frame and also to observe any data cleansing that took place.
- 5.6.3 The amount of data cleansing that was observed during the upload process was variable. Where LAs were found to routinely carry out this process prior to upload it was often in an effort to remove duplicate entries. The consequences of duplicate entries on the public facing FHRs website can result in an incorrect FHR being displayed.

### **Conclusion**

- 5.6.4 As part of the Consistency Framework and the LAs monitoring procedure checks should be made to verify of data uploaded to the FHRs portal. These should be recorded so that trends in errors can be identified and corrective action applied.

**Recommendation 5 – Ensuring accuracy of uploaded data**

**The Brand Standard Section 10**

LAs must implement systems and procedures to ensure that local data that is uploaded to the national database is accurate.

### **5.7 Consistency Framework**

- 5.7.1 Consistent implementation and operation of the FHRs is critical to ensuring that consumers are able to make meaningful comparisons of hygiene ratings for establishments both within a single local authority area and across different local authority areas, and to ensuring that businesses are treated fairly and equitably. Local authorities participating in the FHRs must establish and operate a Consistency Framework in order to achieve this.
- 5.7.2 A key part of the FHRs Consistency Framework is monitoring;

*“The Framework should include monitoring and auditing to ensure consistent application of the guidance and consistency in the way that interventions are*

*undertaken (and in particular how the intervention-rating scheme set out in the Food Law Code of Practice is applied)".<sup>5</sup>*

5.7.3 Monitoring is also a fundamental part of the Framework Agreement to ensure that official controls are delivered according to policies procedures and guidance.

<p>Framework Agreement Section 19 Monitoring</p>	<p>Requirement</p> <p>The Authority shall verify its conformance with this Standard, relevant legislation, the relevant Codes of Practice, relevant centrally issued guidance and the Authority's own documented policies and procedures.</p> <p>A record shall be made of all internal monitoring. This should be kept for at least 2 years.</p>
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### **Audit Programme Findings**

5.7.4 Eight of the authorities audited needed to review systems and procedures for monitoring. In four cases this amounted to a lack of documentation of monitoring that had been completed. All of the eight LAs needed to review monitoring to encompass key aspects such as instances where there had been deviation from policy, corrective actions and circumstances where the FLCoP has not been followed.

5.7.5 With regard to the application of the Brand Standard and the requirements for training records confirmed that all of the officers in eleven of the LAs seen had participated in consistency training that was designed to ensure a consistent approach to risk rating and ultimately scoring under the FHRS. Some LA officers had undertaken this training several times and in various forms. A good mix of consistency training was identified across the LAs audited including:

- National web based consistency training administered by the FSA
- Formal one day consistency training provided by the FSA
- Local Food Liaison Group organised training exercises
- Team training undertaken in house / peer review exercises

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<sup>5</sup> The Brand Standard 2015, Section 11, Page 66

## Conclusion

- 5.7.6 The findings demonstrate that the application of a Consistency Framework was variable particularly with regard to monitoring of the FHRs. There is good evidence that officers regularly participated in consistency training through a number of routes and often this had been undertaken on more than one occasion.

### **Recommendation 6 – Monitoring delivery of the FHRs**

#### **The Brand Standard Section 11& Framework Agreement Section 19**

LAs should ensure that monitoring arrangements include application of the FHRs Brand Standard. Monitoring should also be documented.

## 5.8 Local Authority Website

- 5.8.1 LAs websites are a valuable source of information for FBO's and consumers in relation to the FHRs. The Agency has produced template text for local authority websites to help food safety teams in promoting and explaining the FHRs to local consumers and local businesses.

### **Audit Programme Findings**

- 5.8.2 Local Authority FHRs webpages were found to be consistent with Brand Standard guidance and the template text found in the toolkit resource. Safeguard application forms for appeals, 'right to reply' and requests for revisit inspections were available for download and there was a link in all cases to the FHRs portal to enable look up of ratings.

### **Conclusion**

- 5.8.3 The audit programme findings showed that the guidance that had been devised by the agency had been adopted by the LAs examined. Anecdotal evidence confirmed that the toolkit resource was well received and a valuable source of information.

## 5.9 FHRs Website

- 5.9.1 It is important that LAs upload their contact details to the IT platform in accordance with the Brand Standard. This information clearly informs the consumer as to which authority has awarded the rating.

### **Audit Programme Findings**

5.9.2 Correct LA contact details were in most cases available on the FHRIS website although on two occasions auditors found that the LA Banner / logo had not been uploaded as required by the Brand Standard.

## 5.10 Impacting issues outside of the immediate scope of audit

5.10.1 Despite falling outside the strict scope of the audit, certain related issues can have the potential to impact on the effective implementation of the FHRIS. Where these issues have been detected through our audit work the detail is set out here with an associated summary observation for consideration of the audit sponsor.

### Food Service Planning

5.10.2 Although LA controls for food service planning sit outside of the immediate scope of this audit there are crucial service planning links to the effective operation of the FHRIS and the display of an FHRIS score that is representative of current hygiene conditions at a food business.

5.10.3 Official food hygiene interventions at food businesses provide the essential inspection outcome information that underpins the FHRIS score and to that end the Framework Agreement requires LAs to carry out service planning to establish the local resource needs for food law control activities. Given this essential link to the effective operation of the FHRIS, service planning arrangements were considered during our audits.

5.10.4 All LAs audited had a service plan in place but six of the plans did not contain a reasoned estimate of the resources required to meet the demands placed on the food safety service and ultimately resource requirements needed to effectively operate the FHRIS. The absence of this information makes it difficult for LA service managers to provide senior managers and elected members with adequate estimates of the official control resource need, or to estimate the potential impact of any proposed restructures or reductions in official resource.

### **Recommendation 7 – Impacting out of scope issue – Food Service Planning**

LA service plans require review to ensure that they meet the requirements of section 3.1 of the Service Planning Guidance and contain a reasoned estimate of the resource required to deliver the local official intervention programme. Through our audit activity we observed that inadequate resourcing of the intervention programme had a direct and adverse effect on the operation of the FHRIS as specified in the FHRIS Brand Standard. Effective service planning will act to mitigate this risk.

## 5.11 Good practice identified for the operation of the FHRS.

5.11.1 The programme found the following example of good practice in relation to FHRS which was;

### **FHRS Good Practice – Notification / Performance indicators**

LAs within the programme had implemented management performance indicators to identify ratings that had been awarded after the fourteen day minimum. Auditors found that notifications were awarded promptly as a result.

## 6.0 Overall Conclusions

6.1 This audit programme sought to establish evidence in three key areas;

### ***Was there consistent application of Chapter 5.6 Food Law Code of Practice/ FHRS scoring and adequate justification for scores awarded?***

- 6.2 When an inspection is carried out an officer records their findings. These records serve as evidence to support the risk rating score given and ultimately the food hygiene rating awarded. The officer uses two guidance documents when awarding the score and rating. For the risk score the FLCoP is used. Then the FHR is calculated based upon this supplemented by the Brand Standard. In the audit programme the records from inspections were examined to see if they supported the risk score and rating given. In a minority of cases the evidence suggested the score and rating should have been worse than that given and on some occasions the opposite was found. This demonstrates the importance of the need to gather and accurately record findings from an inspection
- 6.3 Where the top rating of five had not been achieved auditors found that generally non-compliance had been found and detailed by the officer. In a minority of instances auditors also found that non-compliance had been indicated by the FLCoP score given and yet Authorised officers had not made any record of the non-compliance seen or evidenced that they had informed the FBO. This was noted when scoring was awarded for minor non-compliance numerically represented as 5 for hygiene, structure and confidence in management. There was some evidence to show that Authorised officers had not complied with FLCoP guidance when awarding scores for confidence in management. The guidance requires that a score of 10 indicating improvements are needed to the food safety management system should be given only once.<sup>6</sup> Auditors found that it had not been escalated on consecutive occasions which would have resulted in a lower FHR.

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<sup>6</sup> The latest FLCoP provides more clarification on this matter

- 6.4 Nearly all of the Authorised officers were found to have attended or participated in consistency training specifically aimed at consistent FLCoP scoring and FHR. Officers were found to use inspection proformas, post inspection report forms and letters containing legal schedules. These were all opportunities to support the score given and inform the FBO of non-compliance seen. Auditors reported in the majority of the sample seen that evidence gathered was variable and often not detailed enough.
- 6.5 In advance of the onsite phase of the audits LAs were asked to provide a breakdown of all FHRs safeguards used within the preceding two year period; requests for revisit / rescore, rights to reply and appeals against the ratings given. The following is a breakdown for the sample:
- Appeals against ratings 12
  - Requests for Revisit / re score inspections 342
  - Right to reply requests 4
- 6.6 There is some evidence here to suggest that given the thousands of rating inspections carried out in this period that the small number of appeals demonstrates that the LAs are managing the operation of the FHRs to a consistently high standard. There is also anecdotal evidence from those officers interviewed to support the view that the facility for rescoring following a score lower than 5 was an invaluable tool that helped to encourage compliance and is evidently the most often used safeguard in the scheme.
- 6.7 Across the audits undertaken a significant number of premises were found to be overdue an inspection or intervention, although the exact number that were included in the FHRs could not be confirmed. The majority of these were classified as lower risk and would, if inspected on time, be subject to inspection typically once every two years in accordance with FLCoP requirements.
- 6.8 When the minimum inspection frequency is exceeded it may impact on the ability of the FHRs to reflect the current hygiene status of the food business. A change in business operator, changes in business practices and a fall in hygiene management standards could potentially go unnoticed where inspections are overdue. Often new food business operators are only identified when a business has its routine inspection at the defined interval. There is a potential increased reputation risk to the Authorities and ultimately consumer protection where inspections are not carried out at the prescribed intervals.

***Were the rating notification processes and safeguards e.g.; appeal procedure, revisits, 'right to reply', operated in accordance with the Brand Standard?***

- 6.9 The evidence gathered overall does support the view that in most cases the FHRs is being operated broadly in accordance with the Brand Standard.

6.10 Evidence demonstrated in most cases that timescales for notification of ratings and safeguards are adhered to. Where these had been exceeded some LAs had expressed concern that the period allowed for appeals was too demanding. Auditors found in some cases that the communication of the rating by the officer to the FBO was part of a LA performance management system.

***Were LA premises databases reliable, was data displayed on the FHRS site accurate and had it been uploaded correctly?***

6.11 The LAs audited used a range of software providers. The databases were all capable of making accurate returns and FHRS uploads to the Agency. The management and monitoring of them was variable.

6.12 Routine analysis by Auditors and the FHRS IT support team identified in most cases that the databases and data sent to the FHRS portal had varying degrees of errors. These were identified by straightforward analysis of data extracts from the FHRS web site / portal and the database extracts submitted to Auditors. LAs for the most part did not have structured, documented monitoring systems in place that would have identified the anomalies found.

6.13 Auditors did find four occasions when the incorrect rating sticker / certificate had been sent to the FBO and also instances where time frames had not been adhered to. None of the LAs seen had a monitoring procedure that followed the audit trail of a rating from the time an FBO was informed post inspection to ultimately posting a rating on the FHRS Portal / website.

**7.0 Summary of Recommendations**

No	Recommendations for Local Authorities
1	<p><b>Officer Authorisations - Section 5 Framework Agreement</b>            LAs must ensure all officers are authorised to the appropriate level and authorisation documents accurately reflect the powers of the authorised officer. [The Standard – 5.1 and 5.3]</p>
2	<p><b>Information gathered by officers/ provided to FBOs – The Brand Standard Section 5</b>            LAs must ensure enough information is gathered to be able to advise FBOs why the establishment was rated as it was and, in cases where the top rating has not been achieved, the actions needed in order to achieve legal compliance for each of the three intervention rating scheme elements that are used for the FHRS.</p>
3	<p><b>Interventions and Inspections – Section 7 Framework Agreement</b>            LAs must ensure interventions are recorded in sufficient detail and carried out according to the timescales within the FLCoP.</p>
4	<p><b>Notification of FHRS ratings – The Brand Standard Section 5 - 8</b>            LAs should comply with the target time requirements of the Brand</p>

	Standard when notifying ratings and operating the safeguards of the scheme.
5	<b>Ensuring accuracy of uploaded data – The Brand Standard Section 10</b> LAs must implement systems and procedures to ensure that local data that is uploaded to the national database is accurate.
6	<b>Monitoring delivery of the FHRs – The Brand Standard Section 11&amp; Framework Agreement Section 19</b> LAs should ensure that monitoring arrangements include application of the FHRs Brand Standard. Monitoring should also be documented.
7	<b>Impacting out of scope issue – Food Service Planning</b> LA service plans require review to ensure that they meet the requirements of section 3.1 of the Service Planning Guidance and contain a reasoned estimate of the resource required to deliver the local official intervention programme. Through our audit activity we observed that inadequate resourcing of the intervention programme had a direct and adverse effect on the operation of the FHRs as specified in the FHRs Brand Standard. Effective service planning will act to mitigate this risk.
<b>No</b>	<b>Recommendations for the FSA</b>
1	<b>Appeal timings</b> Consideration should be given to extending the deadline for the time taken for LAs to decide an appeal.

## Annex i - Audit Methodology and Design

The audits assessed LA implementation of official controls through:

- (i) Use of structured audit protocols and checklists for checks of LA file and database records relating to routine official controls relating to food establishments audits/inspections, sampling and any resulting follow-up enforcement activities
- (ii) Meetings with LA officers
- (iii) Document reviews including all relevant LA food law enforcement service plans, policies and procedures

## Annex ii - Local Authorities Audited by Type (January 2016 – May 2016)

The Agency is grateful for the assistance and views provided by officers of the following LAs who were audited during the programme:

	Local Authority	Type of LA
1	London Borough Of Hounslow	Unitary
2	Boston Borough Council	District
3	Cheltenham Borough Council	District
4	Basingstoke and Deane	District
5	Erewash Borough Council	District
6	Wigan Metropolitan Borough Council	Unitary
7	Borough of Poole Council	District
8	Charnwood Borough Council	District
9	Eden District Council	District
10	Harrogate Borough Council	District
11	Thurrock Council	Unitary
12	Tamworth Borough Council	District

### **Annex iii - Summary Report Circulation**

All local authorities participating in this audit programme

Local Government Association Regulatory Control Unit (formerly LG Regulation/LACORS)

Chartered Institute of Environmental Health (CIEH)

Trading Standards Institute

Copyright Library

British Library

### **Annex iv - Glossary**

CA	Competent Authority
EC	European Commission
EU	European Union
FA	The Framework Agreement on Official Food and Feed Controls by Local Authorities 2010
FBO(s)	Food Business Operator(s)
FHRS	Food Hygiene Rating Scheme
FLCoP	Food Law Code of Practice
FLPG	Food Law Practice Guidance
LA	Local Authority