

NAME OF SCRUTINY COMMITTEE	COMMUNITIES
DATE OF MEETING	4 July 2014
TITLE	Food Standards Agency Focused Audit of Gwynedd Council's arrangements for enforcement of the Food Safety Act 1990: 6 th and 7 th March 2014.
AUTHOR	Aled Davies, Head of Regulatory Department
CABINET MEMBER	Cllr W. Gareth Roberts
PURPOSE	

Background

1. The Food Standards Agency carried out a Focused Audit of Gwynedd Council's arrangements for enforcement of the Food Safety Act 1990 on 6th and 7th March 2014.
2. The Audit focused on the following topics:
 1. The implementation of the Recommendations of the Public Inquiry into the September 2005 Outbreak of E. coli O157 in South Wales, and
 2. The Management of Interventions at New Food Businesses.
3. The Audit was prompted by a recommendation in the Report of Professor Pennington (March 2009) that a substantial review of food hygiene enforcement in Wales should take place approximately five years after the publication of his report and the FSA Wales have been requested by Welsh Government to submit a report by the end of April with an assessment of the current situation in Wales.
4. The findings of the Audit reflect badly upon Gwynedd. The Audit report itself will be published and the findings will be included in the report to the Welsh Government Minister for Health and Social Services. The report will single out Gwynedd as being alone in not having effectively implemented the Pennington Recommendations and it is essential that Gwynedd Council develops an effective strategy for addressing these failings.

The Audit Report

5. The Council has received a report giving the findings of the Audit. The Council was invited to consider the findings and report any factual inaccuracies but the Food Standards Authority gave notice that it expected the Council to develop an Action Plan to address the issues identified for improvement by 12th May 2014.
6. Although there have been some queries raised by staff regarding the content of the report, these relate to the manner in which the findings have been stated and to disagreements with regard to the interpretation of subjective matters rather than factual inaccuracies.
7. The findings of the Audit may therefore be taken as a fair representation of the actual topics examined. As such, the report does not make comfortable reading for Gwynedd Council as a number of serious non-compliances were found. These findings are of concern in themselves but, given that the audit only focused on two topics and was very brief in duration, they do inevitably raise questions regarding other aspects of the Food Safety provision by Gwynedd Council.
8. The report is clearly set out as the two topics are dealt with in separate Annexes. In Annex 1, which deals with the implementation of the Recommendations of the Public Inquiry into the September 2005 Outbreak of E. coli O157 in South Wales, the findings are divided into three sections, namely where:
 - a) recommendations which had been fully implemented the Authority
 - b) recommendations where the Authority had demonstrated overall compliance but where cases had been identified where these recommendations had not been implemented:
 - c) recommendations where compliance with implementation was found to be poor:
9. While there were a number of recommendations which had been fully implemented the Authority, there were considerably outnumbered by those which had not. To summarise the non compliances found
 - *The audit had discovered cases where action had not been escalated to deal with non-compliant food establishments.*
 - *Evidence was not available that all officers responsible for inspecting food businesses had received necessary accredited/certified training.*

- *A number of inconsistencies in the application of scores relating to confidence in a business's management of food safety were identified.*
- *Insufficient information was available in the food establishments files checked to demonstrate that adequate consideration of cross contamination risks had been consistently carried out during inspections.*
- *In a significant number of cases, insufficient information relating to food businesses' critical control points had been captured.*
- *The Authority's documented inspection procedure (last revised in Nov 08) did not include the requirement for matters of concern to be highlighted for the benefit of the officer carrying out the next planned inspection. File checks demonstrated that concerns/potential problems were not being consistently highlighted and followed up at the next inspection.*
- *Generally, the authority was unable to demonstrate that discussions with employees were being carried out during food hygiene inspections.*
- *Generally, work procedures had not been subject to review and did not consistently reflect current working practices*

10. Annex 2 deals with the findings of the Audit in respect of the Management of Interventions at New Food Businesses. Non-compliances with the statutory Food Law Code of Practice and/or Practice Guidance noted in this Annex included:

- *A significant proportion of new premises had not been inspected within the target of 28 days from date of opening.*
- *Although qualitative internal monitoring was being carried out, it was not in accordance with the documented procedure.*
- *None of the registration forms checked had been date stamped on receipt contrary to the requirements of the Food Law Code of Practice*
- *There had been delay of eight months in inspecting a new business which was subsequently assessed as category A (high risk) and served food to vulnerable groups.*
- *In three cases insufficient information had been recorded to demonstrate that a full assessment had been carried out in relation to HACCP or that cross contamination controls had been fully considered.*
- *In two cases insufficient information had been recorded to demonstrate that an assessment of food handler training had been carried out.*

- *On the basis of the evidence available three food establishments had been incorrectly risk rated.*
- *In two out of three cases where significant issues had been identified, these had not been highlighted for the benefit of the next inspecting officer. In one case significant issues had been highlighted.*
- *In three cases, on the basis of contraventions identified, revisits were required. The intention to revisit had not been indicated on the report of the visit provided to food business operators and no revisits had been carried out.*

11. The final issue raised by the Auditors is worthy of inclusion here in full:

“The nature of the Authority’s advisory visits to unrated food establishments prior to undertaking food hygiene risk rating inspections was discussed. One issue of particular concern was that significant contraventions had been identified during advisory visits which had not been followed up in a timely manner. Officers explained that the rationale behind the approach was to ensure food businesses were provided with detailed advice before being assessed under the Food Hygiene Rating Scheme.

This approach compromises the Authority’s ability to complete official controls at new businesses within 28 days of registration or from when it becomes aware that the establishment is operating. The Authority’s attention is brought to statutory guidance issued in relation to the Food Hygiene Rating (Wales) Act 2013.”

12. The issues noted by the Auditors relate to out-of-date or incomplete or incorrect procedures or to inadequate monitoring or, in the last example quoted above, to policy being developed in contradiction to the statutory guidance. In many cases the procedures have not been updated since 2008 and therefore do not incorporate the recommendations made by Professor Pennington in 2009. The practice relating to advisory visits being carried out to new businesses which had commenced trading which was identified by the Auditors appears to have no basis in any documented Procedure Note and is totally contrary to the statutory Food Law Code of Practice.

The Action Plan

13. An Action Plan to address the failings identified in the Audit Report has been prepared and submitted to the FSA on 9th May 2014. The Action Plan itemizes 13 areas where improvements are planned to address the recommendations. There are several common threads running through the improvements planned:

- Fundamental review of format and content of Procedure Notes and Forms
- Review of internal monitoring procedures
- Review adequacy of training and provide refresher training.
- Ensure that all training records and details of qualifications are retained
- Review of resources required to deliver Food Safety Service

14. A number of improvements have already been implemented and work is ongoing to deliver all the improvements by the target dates.

Appendix: Contextual Information

1. Number and types of Food Businesses in Gwynedd

The Food Hygiene service is responsible for the enforcement of Food Hygiene law in 2,121 food businesses registered in Gwynedd (all data as at 1st April 2014). The numbers by category are as follows:

Producer	27
Slaughterhouse	2
Manufacturer/Processor	58
Packer	8
Distributor/Transporter of foodstuffs	17
Supermarket/Hypermarket	61
Smaller Retailer	345
Other Retailer	53
Restaurant/Cafe/Canteen	452
Hotel/Guest House	286
Pub/Club	199
Take-away	140
Caring Establishment	185
School/College	137
Mobile Food Unit	28
Other Restaurant/Caterer	67
Manufacturers and Suppliers of Materials and Articles in contact with food.	4
Food Manufacturer selling by Retail	52
Total	2121

2. Risk Rating of Businesses

These premises are assessed for the overall risk that they pose to public health based upon the potential hazard (i.e. the type of food and method of handling, the method of processing, the potential number of consumers at risk), the level of compliance found when last inspected and the confidence in the ability of the management of the food business, and in the effectiveness of control procedures in place, to control the hazards.

The breakdown of the premises by risk category is as follows:

Category	
A	6
B	58
C	902
D	438
E	699

Outside Risk Rating Scheme	6
New business awaiting rating	12
Total	2121

Where Category A is the Highest Risk and Category E is the lowest risk.

3. Determination of frequency of interventions

The Risk Category of a business determines the intervention frequency, i.e. the interval between inspections. The intervention frequencies are:

Category	Frequency
A	At least every six months
B	At least every 12 months
C	At least every 18 months
D	At least every 24 months
E	Every 36 months

Categories A, B and C are regarded as 'High Risk premises' and the inspection of these premises is given priority. In 2014/15, a total of 673 inspections of High Risk premises are due. Additionally, 167 Category D premises are due for inspection. Category E premises do not have to be inspected but must be addressed by means of 'alternative enforcement strategies'. It is expected that 200 food businesses will either close or change ownership during 2014/15.

4. Seasonal Business

Of the 2121 food businesses registered in Gwynedd, 355 operate for only part of the year. This year, 154 premises which are due for inspection are only trading during the summer period and therefore have to be inspected before the end of Quarter 2.

5. New Businesses

In addition to inspecting existing food businesses, any new food businesses which commence trading must be inspected within 28 days of opening. It is expected that approximately 200 new businesses ('new businesses' includes existing businesses where there is a change of ownership) will open during 2014/15.

6. Food Hygiene Rating System

Under the now mandatory Food Hygiene Rating Scheme, most food businesses are required to display a notice on their premises which informs the public regarding the standard of Food Hygiene which has been achieved. These ratings are based upon the assessment of the inspection of the premises carried out by Food Hygiene Inspectors.

The ratings achieved by food businesses in Gwynedd are (as at 9/4/2014)

	Very good	Good	Generally satisfactory	Improvement required	Major improvement required	Urgent improvement required
FHRS rating	5	4	3	2	1	0
Restaurant/ Cafe/ Canteen	275	92	36	4	3	
Hotel/ Guest House	180	46	16	2	1	1
Small Retailer	122	38	14	6	3	
Supermarket/ Hypermarket	34	17	3	1		
Caring Premises	98	11	2	1	1	
Restaurants and Caterers - Other	47	7				
Distributors/ Transporters	2					
Pub/ Club	96	39	9	3	2	
Retailer - Other	13	2				
Take-Away	90	28	16	2	2	
School/ College	114	18	2			
Mobile Food Unit	20	3	1	1		
Manufacturers and Packers	49	12	3	3	1	
Importers/ Exporters						
Primary Producers	4	1				
Total	1144	314	102	23	13	1

Where Low Scores are given to food businesses, it is as a result of poor hygiene practice and procedures having been found during the inspection. Such businesses are targeted and monitored for improvements by officers and enforcement action may also be taken where appropriate. Businesses are now able to request a rescore inspection when they have rectified the defects found.

7. Staffing and Resources

The Food Hygiene service is part of the Public Protection Service, which operates from the three Area Offices. Although staff are based in the individual Area Offices, in fact they operate across the whole of Gwynedd as required by the pattern of workload. Many of the officers also work from home to reduce the cost of, and amount of time expended on, travelling.

In addition to undertaking Food Hygiene inspections, 12 field officers also undertake other duties such as Food Standards, Infectious diseases, Public Health and Water Safety, so the actual amount of time allocated to Food Hygiene duties is 8 FTE officers. Officers who carry out food hygiene inspections must be either a fully qualified Environmental Health Officer or hold a relevant qualification in Food Hygiene inspection. On average, officers are each expected to inspect about 100 businesses during the course of a year.

In addition, the Food Hygiene Manager expends 80% of her time on Food Hygiene matters (0.64 FTE) and there is another 1.13 FTE in Operational, Sampling and Senior Management support.

Total net expenditure on Food Hygiene service in Gwynedd in 2013/14 was £509,503.