

Final Internal Audit Report

Food Safety

July 2017

Distribution: Executive Director of Place (Final only)
 Director of Safety
 Head of Public Protection
 Food and Safety Manager
 Business Relationship Manager

Assurance Level	Recommendations Made	
Limited Assurance	Priority 1	3
	Priority 2	6
	Priority 3	2

Status of Our Reports

This report ("Report") was prepared by Mazars Public Sector Internal Audit Ltd at the request of London Borough of Croydon and terms for the preparation and scope of the Report have been agreed with them. The matters raised in this Report are only those which came to our attention during our internal audit work. Whilst every care has been taken to ensure that the information provided in this Report is as accurate as possible, Internal Audit have only been able to base findings on the information and documentation provided and consequently no complete guarantee can be given that this Report is necessarily a comprehensive statement of all the weaknesses that exist, or of all the improvements that may be required.

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Please refer to the Statement of Responsibility in Appendix 3 of this report for further information about responsibilities, limitations and confidentiality

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1. Introduction

- 1.1 Any food establishment operating within the London Borough of Croydon, legally must register with Croydon Council to ensure the food place is inspected and is held to the expected hygiene quality of the Food Standards Agency (FSA). Businesses may register either online or via an application form which is then logged in the Food and Safety team’s UNIFORM system and a questionnaire is sent out to collect further information relating to the establishment. A risk rating is initially allocated to low risk food establishments based on their questionnaire and then the service is supposed to, according to the Food Law Code of Practice 2017, inspect the premises and assign a certified food hygiene rating alongside recommendations for improvement if needed. The high risk businesses will receive a full inspection before allocated a Food Hygiene Rating.
- 1.2 Where there is prolonged negligence by an establishment, and there has been non-compliance with informal action, the Food and Safety team turn to prosecution in an attempt to sanction the non-compliant business.
- 1.3 Officers of the Food and Safety team are monitored based on personal targets set during appraisal meetings which can enable them to identify limitations in their knowledge or ability and request further training. Spot checks of inspections are also conducted to confirm the expected level of quality with regards to establishment inspections.
- 1.4 As part of the agreed 2017/18 Internal Audit Plan, an internal audit of Food Safety was undertaken.

2. Key Issues

Priority 1 Issues
Examination of the documentation for a sample of ten new establishments found that seven had not been sent a data collection form, one had the form sent 113 days after registering and another 102 days after registering, (Issue 2.)
Nine out of the ten new establishments sampled had not yet been inspected and the remaining establishment was only inspected 59 days after it opened, (Issue 5.)
Four out of six establishments with a high risk rating (A) and 30 out of 63 with a B rating were not inspected within the required timeframes set by the FSA. It was further noted that 612 establishments were registered and due an inspection but these had not been conducted, (Issue 6.)
Priority 2 Issues

Six of the seven procedure documents sampled had not been updated within the last year, with one document last being evidenced as reviewed in 2002, **(Issue 1.)**

Sample testing established that food safety records were not being input in a timely manner, **(Issue 3.)**

The webpage on the Croydon website that new traders use to register did not include a 'fair processing' notice, **(Issue 4.)**

Although two out of the ten complaints sampled identified that a follow up inspection was required, there were no records of inspections being conducted, **(Issue 7.)**

Examination of a sample of ten complaints received, found that one case from November 2016 was still open, that two cases took eight and seven days to inspect and that two cases were allocated to officers after these were closed, **(Issue 8.)**

Discussion with the Food and Safety Manager identified that he does not believe that the Service has the time or resources to prosecute late registrations, **(Issue 9.)**

Priority 3 issues are included under item 4 below.

3. Actions and Key Findings/Rationale

<u>Control Area 1: Regulatory, organisational and management requirements</u>					
Priority	Management's Action Plan				
2	<p>This is accepted and procedures are in the process of being reviewed.</p>				
	<p>Detailed Finding/Rational – Issue 1</p> <p>Procedure guidance should be regularly reviewed and updated in line with process and legislation changes. The name of the reviewer and that date should be noted on the document.</p> <p>During testing, it was established that six of the seven procedure documents chosen for sampling had not been evidenced as reviewed within the past year, as follows:</p> <ul style="list-style-type: none"> - PNC8 was last reviewed in February 2002; - PNG60 was last reviewed in February 2007; - PNC2, PNC12 and PNC22 were last reviewed in January 2013; and - PNC1 was last reviewed in June 2015. <p>Where procedure documents are not regularly reviewed, there is a risk that staff are following outdated guidance which may result in them not performing their jobs to the expected or legal standard.</p>				
	<table border="1"> <thead> <tr> <th>Responsible officer</th> <th>Deadline</th> </tr> </thead> <tbody> <tr> <td>Food and Safety Manager</td> <td>End September 2017</td> </tr> </tbody> </table>	Responsible officer	Deadline	Food and Safety Manager	End September 2017
Responsible officer	Deadline				
Food and Safety Manager	End September 2017				

Control Area 2: Registration of food establishments

Priority	Management's Action Plan	Detailed Finding/Rational – Issue 2
1	<p>This is accepted. This is a business support function and out of the control of the food/safety team. The BS team were short staffed for much of 2016, the BS team managers were aware of the situation and took steps to recruit. The staffing situation has improved.</p>	<p>Section 4.1 of the FSA service plan states that “...new caterers receive contact from Food and Safety within 28 days of first registering with the Authority.” In this regard, the Food and Safety team sends out questionnaires to newly registered establishments to capture information relating to the food served and the possible risk level of the establishment.</p> <p>Examination of a sample of ten newly (since January 2016) opened food establishments found that there were nine cases where the FSA guidance had not been followed:</p> <ul style="list-style-type: none"> - In seven cases the questionnaire had not been sent to the establishment ; - Two cases where the questionnaires were sent out late (One 113 days after registration and the other 102 days after registration.) <p>Where questionnaires are not sent to newly registered establishments in a timely manner, there is a risk that high risk food operators are not identified in a timely manner.</p>
<p>Responsible officer</p> <p>Business Support Team Manager /Business Support Team Leader</p>	<p>Deadline</p> <p>Staffing has already increased, situation to be monitored.</p>	

Priority	Management's Action Plan	Detailed Finding/Rational – Issue 3				
2	This is a BS function as above.	<p>The Food Law Code of Practice 2017 Section 3.3.23 states that, 'Competent Authorities must maintain an up-to-date database of food business establishments'. In this regard, it is considered good practice, for establishments that submit registration forms prior to opening, that these are input into the system before the establishment opening date and that inspection findings are input within seven days of the inspection.</p> <p>Examination of the records relating to a sample of ten food establishments that opened after January 2016 found:</p> <ul style="list-style-type: none"> - One instance where the application form was input on 26 May 2016, 175 days after the application was received; - One instance where the application form was input on 24 November 2016, 61 days after the application was received; - One instance where the date of receipt was not recorded on the UNIFORM system; - One establishment was inspected on 15 June 2016 and the findings were only input 44 days after the inspection; and - One establishment was inspected on 4 May 2016 and the findings were only input nine days after the inspection. <p>Where the UNIFORM system is not appropriately updated in a timely manner, the information on the system will be incomplete or out of date, and there is a risk that required inspections are not conducted or that inspections are duplicated.</p>				
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Control Area 3: Data protection and information security	
Priority	Management's Action Plan
2	<p>We were not aware of this requirement. The link to the online form on our website goes direct to the Gov.uk website and the form is therefore not in our control. We can add wording on our web page to cover this point. There is already a fraud warning on our web page which states that 'it is an offence to provide information which you know is false'. We cannot add a fraud declaration to the actual form.</p> <p>We have sent the following to the e-comms team for inclusion on the web page, and this is now present.</p> <p>The London Borough of Croydon will only use the personal information you supply on this form for the purpose for which it has been supplied, and in accordance with the Data Protection Act 1998 and the Council's Privacy Statement which applies to the web sites of the London Borough of Croydon. This may be found at: www.croydon.gov.uk/privacy</p>
	<p>Detailed Finding/Rational – Issue 4</p> <p>The Data Protection Act 1998 states that, 'Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless – (a) at least one of the conditions in Schedule 2 is met, and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.' In this regard the Council must be transparent about how it intends to use any data collected and any application forms in use should include a 'fair processing notice'.</p> <p>Examination of the webpage and downloadable application form on the Croydon website that new traders use to register found that these did not include a 'fair processing' notice or a fraud declaration.</p> <p>Where appropriate fair processing notices are not in place, there is a risk that the Council is in breach of The Data Protection Act 1998 and may face criminal prosecution, a monetary penalty notice or audit by the Information Commissioners Office.</p>
Responsible officer	Deadline
Food and Safety Manager	Actioned

Control Area 4: Food Inspections		Detailed Finding/Rational – Issue 5
Priority	Management's Action Plan	
1	<p>Although we accept this finding, to put things into perspective we received 479 new registration forms during the relevant time period.</p> <p>This is due to the team not having the resources required to carry out this function within the stated time limit, this is unlikely to change with the current staffing level of the team.</p> <p>We do risk rate the low risk premises and don't visit immediately. Thus using a risk based approach to inspections we have a list of new businesses and officers are allocated them as they come in. However due to work load this is not always within the 28 days as per the COP.</p> <p>We are looking at re-configuring the service and will draw up two or three alternative structures, one or two of which will include a growth bid for additional resources.</p>	<p>Section 5.2.2.5 of the Food Law Code of Practice 2017 states that, 'New food establishments and/or those that come to the attention of the Competent Authority for the first time must be subject to an initial inspection.' Section 5.3.1.1 states that, 'Initial inspections should normally take place within 28 days of registration or from when the Authority becomes aware that the establishment is in operation. The requirement to undertake initial inspections within 28 days may in some circumstances present a conflict for resources to complete other higher priority activities, in such circumstances prioritisation of interventions within the authority's programme should be undertaken in a risk based manner.'</p> <p>Examination of a sample of ten new food establishments (opened since January 2016) found that:</p> <ul style="list-style-type: none"> - Nine of the establishments had not been inspected; and - One of the establishments was inspected 59 days after the business opened. <p>Where new food establishments are not inspected in a timely manner, there is a risk that the Council does not have proper sight as to how these establishments operate and that inappropriate practices may not be detected in a timely manner.</p>
Responsible officer	Deadline	
Food and Safety Manager	Alternative team structures and business case(s) produced by end October 2017.	

Detailed Finding/Rational – Issue 6	
<p>Priority</p> <p>1</p>	<p>Management's Action Plan</p> <p>This is accepted and is due to lack of resources. We are looking at re-configuring the service and will draw up two or three alternative structures, one or two of which will include a growth bid for additional resources.</p>
	<p>The Food Law Code of Practice Section 5.6.1 details the following inspection frequencies for different risk categories of food establishments:</p> <ul style="list-style-type: none"> - Risk level A should be inspected at least every 6 months; and - Risk level B should be inspected at least every 12 months. <p>The presiding authority has a 28 day grace period around the deadlines before they are considered non-compliant.</p> <p>Examination of an extract from UNIFORM provided at the time of audit established that from the six currently open establishments with a risk rating of A:</p> <ul style="list-style-type: none"> - One establishment was inspected 256 days after the six month deadline of the previous inspection; - One establishment was inspected 178 days after the six month deadline of the previous inspection; - One establishment was inspected 146 days after the six month deadline of the previous inspection; and - One establishment was inspected 134 days after the six month deadline of the previous inspection. <p>Furthermore, 30 out of 64 currently open food establishments with a risk rating of B were inspected over 12 months after the previous inspection was conducted. It was also seen from the report that there are currently 612 registered establishments awaiting inspection.</p> <p>Where high risk food organisations are not inspected as per the Food Law Code of Practice, there is a risk that non-compliance with legislation and poor practices are not detected in timely manner, which may result in potential harm to members of the public.</p>
<p>Responsible officer</p> <p>Food and Safety Manager</p>	<p>Deadline</p> <p>Alternative team structures and business case(s) produced by end October 2017</p>

Priority	Management's Action Plan	Detailed Finding/Rational – Issue 7
2	<p>This is accepted and officers have been reminded of the importance of carrying out and recording visits on Uniform. These 2 inspections were completed by 21 July 2016.</p>	<p>The Food Hygiene and Food Safety webpages on the Croydon Council website state that, <i>'Food businesses have a legal duty to sell only food that is fit to eat, is of a satisfactory standard of quality and is labelled properly. If it isn't, then contact us and we will look into it. We will take action if the law has been broken' and that, 'There are also some complaints that we will not investigate because there is no risk to public health or safety. If this is your kind of complaint we will let you know and we will tell you the reason why.'</i></p> <p>Examination of the documentation relating to a sample of ten complaints received since January 2016 found that for two of these, where a follow up inspection was required, there was no evidence of a follow up inspection.</p> <p>Where complaints are not appropriately inspected where required, there is a risk of food establishments not operating with sufficient health standards resulting in possible harm to the public.</p>
Responsible officer	Food and Safety Manager	
	Actioned	
Deadline		

Priority	Management's Action Plan	Detailed Finding/Rational – Issue 8
2	<p>We feel that it is the wording on the website that is not clear. An investigation starts with making contact with the customer and obtaining further information, not with the inspection of the premise.</p> <p>Officers have been reminded of the importance of updating Uniform in a timely manner.</p> <p>We have noted a potential area of delay in that complaints sent to 'contact the council' are not always passed to the food/safety team in a timely manner, with delays of up to 8 days being noted.</p>	<p>The Food Hygiene and Food Safety webpages on the Croydon Council website state that high risk complaints will be investigated within 24 hours and medium risk complaints will be dealt within five working days.</p> <p>Examination of the documentation relating to a sample of ten complaints received since January 2016 found that:</p> <ul style="list-style-type: none"> - There was one complaint still open at the time of audit in June 2017, even though the complaint was received on 24 November 2016 and related to the high risk area of cockroaches; - There was one complaint which took 19 days to inspect, 15 days of which were waiting for allocation from the Business Support team; - There were two complaints which took 8 and 7 days respectively to inspect. <p>Where complaints are not allocated and dealt with in a timely manner, there is a risk that food operators may continue to trade with potentially hazardous foods and that this will not be dealt with.</p>
Responsible officer	Deadline	
Food and Safety Manager	Actioned	

Control Area 5: Enforcement		Detailed Finding/Rational – Issue 9
Priority	Management's Action Plan	
2	<p>This is agreed, the team does not have the resources to take prosecutions for late registrations and will only prosecute for non-registration if there are further non-compliances which warrant prosecution. This situation will not change with the current staffing level in the team.</p> <p>We are looking at re-configuring the service and will draw up two or three alternative structures, one or two of which will include a growth bid for additional resources.</p>	<p>Under Article 6(2) of Regulation (EC) 852/2004, food business operators must register the establishment(s) under their control with the appropriate Competent Authority via the channels described in section 3.2.9.3.</p> <p>Discussion with the Food and Safety Manager identified that he does not believe that the Service has the time or resources to prosecute late registrations. He also felt that, as cases tended to be thrown out of Court or have the Court side with the defendant, there was little reason to pursue prosecutions.</p> <p>Where food vendors trade prior to registering with the Council, there is a risk that they operate in an unsafe manner, resulting in possible harm to the public and reputational damage to the Council. Where repercussions for failing to register are not appropriately actioned, there is a risk that establishments do not feel the need or pressure to register.</p>
Responsible officer		Deadline
Food and Safety Manager		Alternative team structures and business case(s) produced by end October 2017

4. Priority 3 Issues

Management's Action Plan	Findings
<p>a) There are currently no resources for proactive work to look for/identify unregistered establishments, this will not change with the current staffing level in the team.</p> <p>We are looking at re-configuring the service and will draw up two or three alternative structures, one or two of which will include a growth bid for additional resources.</p>	<p>Regulation number 852/2004 of the European Parliament states that "...every food business operator shall notify the appropriate competent authority, in the manner that the latter requires, of each establishment under its control that carries out any of the stages of production, processing and distribution of food, with a view to the registration of each such establishment."</p> <p>There is no defined method for the Council to identify unregistered establishments, with the onus being on the owner to notify the Council. Discussion, however established that the Food Safety Team was planning to liaise with the Neighbourhood Enforcement and Business Rates Teams, with a view to joint working in this regard.</p> <p>Where there are unregistered food providers in the Borough and these are not detected by the Council, there is a risk that the Council is held liable by the public for any ill health resulting from unregistered establishments.</p>
<p>b) All information is provided to the court for inclusion when they pass monies to the Council to enable the team to be identified and the money allocated accordingly. Unfortunately they rarely include it which leads to the difficulties highlighted. We are liaising with Finance to see if anything more can be done.</p>	<p>Where prosecutions are successful, fines owed are initially sent to the courts to then be forwarded to the Finance Department, who will allocate these to the Food and Safety Team.</p> <p>Discussion established that The Food Safety Team were finding it difficult to monitor the prosecution income due.</p> <p>Where funding from successful prosecutions are not allocated to the Food and Safety team in a timely manner, there is a risk that they become unallocated and waste Council resources attempting to allocate them.</p>

TERMS OF REFERENCE

Food Safety

1. INTRODUCTION

- 1.1 The Council is required by law to inspect businesses which produce or prepare food to ensure that food legislation is being followed. Particularly under Regulation 5 of the Food Safety and Hygiene (England) Regulations 2013, the Council has a statutory duty to enforce the food safety provisions.
- 1.2 Whilst duty to comply with food safety legislation rests with the Food Business Operator, the Council, as a designated Food Authority, has the regulatory enforcement role to ensure compliance is achieved.
- 1.3 Inspections of food premises can be conducted by the Council at any reasonable time of day without prior notice, with the exception of private home based food providers which require 24 hours' notice. Visits are generally scheduled, however some visits can result from complaints from the general public. A report is then issued outlining any legal requirements and recommendations expected of the food provider.
- 1.4 Following an inspection, a rating is given in line with the National Food Hygiene Rating Scheme on a scale of 0 to 5 (0 requiring urgent attention and 5 being very good).
- 1.5 As part of the agreed 2017/18 Internal Audit Plan, an internal audit of Food Safety has been identified to be undertaken.

2. OBJECTIVES AND METHOD

- 2.1 The overall audit objective is to provide an objective independent opinion on the adequacy and effectiveness of controls / processes.
- 2.2 The audit will for each controls / process being considered:
 - Walkthrough the processes to consider the key controls;
 - Conduct sample testing of the identified key controls, and
 - Report on these accordingly.

3. SCOPE





3.1 The audit included the following areas:

Control Areas/Risks	Issues Identified		
	Priority 1 (High)	Priority 2 (Medium)	Priority 3 (Low)
Regulatory, organisational and management requirements;	0	1	0
Registration of food establishments;	1	1	1
Data protection and information security;	0	1	0
Food Inspections;	2	2	0
Enforcements;	0	1	1
Budgetary control; and	0	0	0
Performance review	0	0	0
Total	3	6	2

DEFINITIONS FOR AUDIT OPINIONS AND RECOMMENDATIONS

In order to assist management in using our reports:

We categorise our **audit assurance opinion** according to our overall assessment of the risk management system, effectiveness of the controls in place and the level of compliance with these controls and the action being taken to remedy significant findings or weaknesses.

	Full Assurance	There is a sound system of control designed to achieve the system objectives and the controls are consistently applied.
	Substantial Assurance	While there is basically a sound system of control to achieve the system objectives, there are weaknesses in the design or level of non-compliance which may put this achievement at risk.
	Limited Assurance	There are significant weaknesses in key areas of system controls and/or non-compliance that puts achieving the system objectives at risk.
	No Assurance	Controls are non-existent or weak and/or there are high levels of non-compliance, leaving the system open to the high risk of error or abuse which could result in financial loss and/or reputational damage.

Priorities assigned to recommendations are based on the following criteria:

Priority 1 (High)	Fundamental control weaknesses that require the immediate attention of management to mitigate significant exposure to risk.
Priority 2 (Medium)	Control weakness that represent an exposure to risk and require timely action.
Priority 3 (Low)	Although control weaknesses are considered to be relatively minor and low risk, action to address still provides an opportunity for improvement. May also apply to areas considered to be of best practice.

STATEMENT OF RESPONSIBILITY

We take responsibility to the London Borough of Croydon for this report which is prepared on the basis of the limitations set out below.

The responsibility for designing and maintaining a sound system of internal control and the prevention and detection of fraud and other irregularities rests with management, with internal audit providing a service to management to enable them to achieve this objective. Specifically, we assess the adequacy and effectiveness of the system of internal control arrangements implemented by management and perform sample testing on those controls in the period under review with a view to providing an opinion on the extent to which risks in this area are managed.

We plan our work in order to ensure that we have a reasonable expectation of detecting significant control weaknesses. However, our procedures alone should not be relied upon to identify all strengths and weaknesses in internal controls, nor relied upon to identify any circumstances of fraud or irregularity. Even sound systems of internal control can only provide reasonable and not absolute assurance and may not be proof against collusive fraud. The matters raised in this report are only those which came to our attention during the course of our work and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Recommendations for improvements should be assessed by you for their full impact before they are implemented. The performance of our work is not and should not be taken as a substitute for management's responsibilities for the application of sound management practices.

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