

To: Interested Parties

Date: 28 January 2008

Reference: EPA/0337

## **PUBLIC WRITTEN CONSULTATION**

### **Review of the Food Standards Agency's Scheme for Audit of Local Authorities**

Dear Sir/Madam

#### **Executive Summary**

1. **This letter seeks your views and comments on proposed revisions to the Agency's arrangements for audit of local authorities' (LAs') feed and food law enforcement activities.**
2. **The key changes are for audits:**
  - **to take more account of, and to build upon, LAs' own audit activity of their feed and food law enforcement services, where these local audit arrangements can be verified as sufficiently robust to meet EU audit criteria;**
  - **to be more risk-based in their approach and in the selection of LAs, and;**
  - **to have a greater focus on LA feed and food law enforcement service outcomes.**
3. The proposals take into account the wider government agenda on the performance management framework for the public sector, and EU requirements on Competent Authorities relating to the audit of Official Controls of feed and food law.
4. **Responses are required by 21 April 2008. When responding, please state whether you are responding as a private individual or on behalf of an organisation/company (with a brief summary of the people it represents).**

**All comments and views should be sent to:**

**Mrs Abimbola Adeyemi**

Local Authority Liaison Division – Audit and Policy Branch

FOOD STANDARDS AGENCY

Room 415C

Aviation House

125 Kingsway

London WC2B 6NH

Tel: 020 7276 8428

Fax: 020 7276 8463

Or by email to: [abimbola.adeyemi@foodstandards.gsi.gov.uk](mailto:abimbola.adeyemi@foodstandards.gsi.gov.uk)

## **Detail of Consultation**

- 5. Comments are being invited on proposed revisions to the arrangements for auditing local authorities (LAs') feed and food law enforcement activities.**

## **Background**

6. The current review of audit arrangements meets the Agency's commitment in its Strategic Plan 2005-10 '*to monitor and review the Framework Agreement on LA Food Law Enforcement*'. The Framework Agreement came into effect in April 2000, following a national consultation exercise. The Agency's audit of LAs' feed and food law enforcement services forms part of the Agreement and helps ensure that effective controls are in place locally to protect consumers and fulfil EU food safety obligations.
7. The Agency Board agreed in March 2007<sup>1</sup> to explore options for a more outcome and risk-based approach that encourages and takes greater account of, and builds upon, existing LA mechanisms for audit, self-assessment and peer review.
8. This approach would be consistent with the wider government framework for LA performance monitoring in England set out in a Department for Communities and Local Government (DCLG) White Paper issued October 2006<sup>2</sup>, and subsequent related consultation documents.
9. This approach would also be consistent with the position in Northern Ireland where District Councils are participating in an Inter-Authority Auditing scheme as an extension of the monitoring and auditing arrangements arising from the Northern Ireland statutory Group system.
10. The Agency's audit arrangements also need to consider relevant self-monitoring and audit data provided by LAs in connection with the new Comprehensive Area Assessment (CAA)<sup>3</sup> arrangements in England, due

<sup>1</sup> <http://www.food.gov.uk/multimedia/pdfs/fsa070306.pdf>

<sup>2</sup> '*Strong and Prosperous Communities – The Local Government White Paper*' 26 October 2006 ISBN 9 780101 693929 - <http://www.communities.gov.uk/publications/localgovernment/strongprosperous>

<sup>3</sup> <http://www.audit-commission.gov.uk/caa/>

to be implemented by the Audit Commission from 2009, and which include a food service performance indicator.

## EU requirement for audit

11. Under Regulation (EC) No 882/2004, competent authorities of EU Member States (ie primarily LAs in the UK) are required to carry out internal audits or be subject to external audits to ensure that they are achieving the objectives of that Regulation. Guidelines for the conduct of audit under the Regulation are set out in a Commission Decision<sup>4</sup>.
12. This Decision envisages all LAs being audited within a 5 year cycle and on a risk basis in terms of LA selection, extent and the focus of the audit. A revised audit scheme needs to meet the EU criteria for audit of official controls of feed and food law, and continue to provide assurance that LAs provide effective enforcement services to protect public health.

## Key changes proposed

13. Details of the Agency's current audit scheme and related protocols can be found at <http://www.food.gov.uk/enforcement/auditscheme/> . The main areas of LA feed and food law service activities covered by the Agency's existing central audit arrangements are summarised in Annex A, together with emerging government priorities for LAs in England.
14. The proposals for change have been subject to preliminary discussions with the Local Authorities Coordinators of Regulatory Services (LACORS) and other LA representatives. Discussions with relevant stakeholders will be maintained in light of the outcome of this formal consultation process and subsequent development work.
15. It is proposed that the Agency's audit arrangements are revised to:
  - take formal account of, and build upon, **LAs' own audit activity** where LA self-audit of food and feed law enforcement can be verified as sufficiently robust to meet EU competent authority audit criteria. Many LAs have already implemented such audits at the individual LA level or LA group level (e.g. Inter-Authority Audits, IAA, within Food Liaison Groups or comparable arrangements).
  - be more focused on **local authority service outcomes** eg business compliance levels, and to allow flexibility for a reduced focus in other areas.
  - introduce **different levels of Agency audit**, dependant on risk and on the information received from LAs' own assessment processes. This could range from desk-top audits carried out off-site through to full on-site audits across all, or part of the Standard<sup>5</sup>, that may also include some validation visits to business premises to verify the effective implementation of official controls. The Standard will be subject to

---

<sup>4</sup> Commission Decision 29 September 2006: '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'. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:278:0015:0023:EN:PDF>

<sup>5</sup> Chapter 2: 'The Standard' - Framework Agreement on Local Authority Law Enforcement. <http://www.food.gov.uk/enforcement/foodlaw/frameagree/>

review as part of the Framework Agreement review scheduled for 2008/09.

16. To support these new arrangements the Agency is in the process of developing a UK risk analysis tool that will better enable risk-based selection and prioritisation of LAs for audit and also to inform the focus and level of audit. Currently our intention is to consult on this also in the Framework Agreement review. It is proposed that the tool will use central audit data and, where relevant, IAA or other audit information relating to an authority's feed and food law enforcement service together with data routinely provided by LAs, such as monitoring data. This proposal, therefore, aims to minimise additional administrative burdens on LAs.
17. This approach is consistent with both the guidelines issued under Article 4(6) of Regulation (EC) No 882/2004, laying down the criteria for the conduct of audits, and with the wider government Better Regulation agenda for more risk-based and proportionate regulation.

## Information

### **18. At this stage we are inviting comments on the broad changes to the approach to Agency audit being proposed in paragraph 15.**

Subject to comments received on the proposed new approach, detailed arrangements for coordinating, monitoring and assimilating LA audit schemes into the existing UK audit arrangements will be developed with LA representatives and be subject to further consultation. However, any new audit approach will need to consider, when finalised, the wider government Comprehensive Area Assessment performance framework for local authorities in England, which is currently under development<sup>6</sup>. It will also need to take account of ongoing Food & Veterinary Office (FVO) requirements on EU Member State Official Control arrangements and findings.

19. To inform comments we have set out below the general criteria the Agency would at this stage envisage local audits meeting in order for them to be considered sufficiently robust to form part of the new national audit arrangements.
  - a) The key areas for audit under the existing Standard and reflecting current national priorities are set out in **Annex A**. Decisions on the areas for audit should be based on identifying risk-based priorities, but focus should be given to assessment of service outcomes and management processes and activities, having regard to EU guidelines for the conduct of audits;
  - b) Audits to be generally based on systems checks and document review, and should include an element of 'reality checking' focused at the point of enforcement;

---

<sup>6</sup> <http://www.communities.gov.uk/publications/localgovernment/developingimplementing>

- c) Use of Agency audit protocols and checklists to ensure consistency. These will be revised during 2008/09 to reflect the outcome of this consultation, and reviews of the Standard and the Food Law Code of Practice. It is anticipated that this will result in a more streamlined audit process and attendant documentation;
- d) Audits to be undertaken by competent individuals with appropriate audit and technical knowledge, skills and experience, and independent of the areas they are auditing. This would not necessarily require a formal audit qualification;
- e) Transparency of the audit process and outcomes, which must be free from pressures, bias and conflicts of interest that might affect the auditor's independent judgement;
- f) Audit reports of findings should be submitted to senior management within the LA, who will be responsible for ensuring that time-bound corrective and/or preventative actions are set out in an action plan to address the underlying root causes of areas of weakness;
- g) Mechanisms to be established to ensure action plans are appropriate and comprehensive, and that remedial actions are effectively completed in a timely manner. This process will require independent verification by the Agency.

20. The benefits for LAs from assuming greater audit responsibilities include:

- reduced but more focused FSA central audit activity in LAs;
- an enhanced level of internal monitoring and potential for improving the standards of the service;
- closer links between LAs and the sharing of good practice;
- the potential to use alongside this the LACORS/Improvement Development Agency (IDeA) Peer Review Model<sup>7</sup> to ascertain the root cause of problems; and
- better control over the audit timing and focus.

21. Depending on the outcome of this consultation, it is anticipated that there will be a need for Agency support for local audit schemes of an acceptable standard. This could include:

- A revised central audit protocol and checklist templates that can be tailored for local audit use;
- Support and training to LA auditors;
- Highlighting information sources for LA audit schemes;

---

<sup>7</sup>This consists of two elements: a self-assessment against a web-based framework; and an external review of the effectiveness of that self-assessment by peers.

- Establishing a mechanism for receiving LA audit data and for verifying their scope and standard.

22. Existing audit arrangements will continue until consultation is completed and a new approach is agreed and implemented.

### **Impact Assessment - Costs to LAs**

23. The Agency envisages that the greater use of IAA and other audit information, to focus and/or remove the need for a central Agency audit, should reduce the burden and cost of Agency audits for many LAs, especially where the authority already has in place local audit arrangements as part of their existing service controls.

24. The FSA believe that the total incremental cost to LAs and FSA of the proposed new audit arrangement is below £5 million and have therefore not included a full Impact Assessment (IA) with this consultation. However if evidence resulting from this consultation shows that the incremental costs will be over £5 million an IA will be produced and published.

25. Detailed information on resource implications relating to internal LA audits or IAA is not currently available. LAs may wish to comment on the cost of current LA audit schemes and the likely extent and implications of implementing additional LA audit schemes in accordance with the criteria set out in this consultation document. These may be provided by LAs currently operating an audit scheme considered to be in accordance with EU standards, LAs operating Inter-Authority Audit Schemes (IAAs) at a Group level, or LAs that have estimated the likely additional resource requirements necessary to implement such an audit scheme.

### **Consultation Questions**

26. Comments are invited on the content of this consultation document and the proposals for changes to the current Agency audit scheme. Comments are particularly welcome in the following areas.

1. The proposal for the Agency to take more formal account of LAs' own audit activity, where this has been verified as sufficiently robust.
2. The proposal for the Agency to adopt a more outcome and risk-based focused approach to audits, including proposals to introduce different levels of audit, ranging from desk-top assessments through to full on-site audits, which could include in certain cases verification visits to food businesses.
3. Other changes to the Agency's audit scheme which you believe would improve the current arrangements and which would be consistent with wider government and EU requirements in this area.
4. Any information on the number of authorities which currently carry out self-audits, or participate in an Inter-Authority Audit (IAA)

scheme that would meet or could easily be modified to meet the criteria set out in paragraph 18.

5. Information on the resource implications for LAs connected to these proposals and the likelihood of LAs having or putting robust self-audit and/or IAA arrangements in place to support the new approach.
6. The support and assistance you would expect from the Agency to help implement the new arrangements.

## **Queries**

27. Enquiries relating to the contents of this letter can be addressed to the contact given in paragraph 4.

## **Publication of personal data and confidentiality of responses**

28. In accordance with the FSA principle of openness our Information Centre at Aviation House will hold a copy of the completed consultation. Responses will be open to public access upon request. The FSA will also publish a summary of responses, which may include personal data, such as your full name and contact address details. If you do **not** want this information to be released, please complete and return the Publication of Personal Data Form (Annex C). Return of this form does not mean that we will treat your response to the consultation as confidential, just your personal data.
29. In accordance with the provisions of Freedom of Information Act 2000/ Environmental Information Regulations 2004, all information contained in your response may be subject to publication or disclosure. If you consider that some of the information provided in your response should not be disclosed, you should indicate the information concerned, request that it is not disclosed and explain what harm you consider would result from disclosure. The final decision on whether the information should be withheld rests with the FSA. However, we will take into account your views when making this decision.
30. Any automatic confidentiality disclaimer generated by your IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.

## **Further information**

31. A list of interested parties to whom this letter is being sent appears in Annex D. Please feel free to pass this document to any other parties with an interest in the subject matter, or send us their full contact details and we will arrange for a copy to be sent to them direct.
32. A copy of this consultation letter/package is available on our website at [www.food.gov.uk](http://www.food.gov.uk) where a summary of the responses received will be published on 21 July 2008.

33. This consultation has been prepared in accordance with the Cabinet Office's Code of Practice on Consultation, available at: <http://bre.berr.gov.uk/regulation/consultation/code/index.asp>

The Consultation Criteria have been reproduced within Annex E.

34. For details about the consultation process (**not** about the content of the consultation) please contact: Food Standards Agency Consultation Co-ordinator, Room 115B Aviation House, 125 Kingsway, London, WC2B 6NH. Tel: 0207 276 8630.

35. Criterion 6 of the Cabinet Office Code of Practice states that a consultation must follow better regulation best practice, including carrying out an IA.

This consultation is not accompanied by an IA in accordance with paragraphs 23 -25 above.

### **Comments on the consultation process itself**

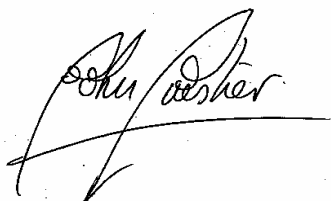
36. We are interested in what you thought of this consultation and would therefore welcome your general feedback on both the consultation package and overall consultation process. If you would like to assist us to improve the quality of future consultations, please feel free to share your thoughts with us by using the **Consultation Feedback Questionnaire** which is attached in Annex B.

37. If you would like to be included on future Food Standards Agency consultations on other topics, please advise us of those subject areas that you might be specifically interested in by using the Feedback Questionnaire.

38. If any of the mailing information used to send you this letter has changed, please advise us direct using the Feedback Questionnaire.

Thank you on behalf of the Food Standards Agency for participating in this public consultation.

Yours faithfully

A handwritten signature in black ink, appearing to read 'John Questier', written over a horizontal line.

### **JOHN QUESTIER**

Head of Audit and Policy Branch  
Local Authority Liaison Division

**Enclosed:**

**Annex A: Key Areas for Audit**

Annex B: Consultation Feedback Questionnaire

Annex C: Publication of Personal Data Form

Annex D: List of interested parties

Annex E: Cabinet Office Consultation Criteria

**Key Areas for Audit**

(encompassing the current Agency local authority audit Standard<sup>8</sup> and reflecting relevant cross-government priorities for local authorities in England).

SERVICE INPUTS	STAKEHOLDER ENGAGEMENT	MANAGEMENT ACTIVITIES & PROCESSES	SERVICE OUTCOMES
<p>Interventions including inspections of food and feedingstuffs and premises inspections;</p> <p>Complaints about food and feedingstuffs and premises complaints;</p> <p>Food and feedingstuffs sampling;</p> <p>Control and investigation of outbreaks and food related infectious disease;</p> <p>Food and feedingstuffs incidents;</p> <p>Facilities and equipment including database.</p>	<p>Stakeholder requirements and expectations;</p> <p>Advice to business;</p> <p>Food and feedingstuffs safety/standards promotion;</p> <p>Liaison with other organisations;</p> <p>Home Authority Principle (Partnership Authority Principle).</p>	<p>Organisation and management, including service planning and performance review;</p> <p>Authorisation, training and competency of officers;</p> <p>Internal monitoring eg</p> <ul style="list-style-type: none"> <li>• Internal monitoring of interventions, follow-up and closure;</li> <li>• Food/feedingstuffs database;</li> <li>• 3<sup>rd</sup> Party/Peer Review.</li> </ul> <p>Enforcement;</p> <p>Review of policies and procedures eg:</p> <ul style="list-style-type: none"> <li>• Review and updating of documented procedures;</li> <li>• Complaints about the service.</li> </ul> <p>Verification and validation of interventions: ‘reality checks’ at point of enforcement where appropriate.</p>	<p>Broad compliance of businesses:</p> <ul style="list-style-type: none"> <li>• Effectiveness and prioritisation of interventions;</li> <li>• Trend analysis: premises risk profiles, % broadly compliant, complaints about the service etc.</li> </ul> <p>Records and Inspection reports;</p> <p>Business and other stakeholder satisfaction;</p> <p>Risk basis of food and feedingstuffs enforcement.</p>

<sup>8</sup> Chapter 2: Framework Agreement on Local Authority Food Law Enforcement. NB scheduled for consultation and review during 2008/09.



## Review of the Food Standards Agency's Scheme for Audit of Local Authorities Consultation Feedback Questionnaire

We would be interested in what you thought of this consultation package. We would be grateful if you could spend a few minutes to complete the following questionnaire and return it even if you do not intend to respond to the consultation itself. Please return the questionnaire no later than **21 April 2008** to:

**Mrs Abimbola Adeyemi**

**Local Authority Liaison Division – Audit and Policy Branch**

**FOOD STANDARDS AGENCY**

**Room 415C**

**Aviation House**

**125 Kingsway**

**London WC2B 6NH**

**Tel: 020 7276 8428**

**Fax: 020 7276 8463**

**Or by email to: [abimbola.adeyemi@foodstandards.gsi.gov.uk](mailto:abimbola.adeyemi@foodstandards.gsi.gov.uk)**

1. How did you become aware of this consultation exercise?

- |  |     |
|--|-----|
| Our consultation list included your/your organisation's name                                   | [ ] |
| Via the Food Standards Agency website ( <a href="http://www.food.gov.uk">www.food.gov.uk</a> ) | [ ] |
| Via the UK Online website ( <a href="http://www.ukonline.gov.uk">www.ukonline.gov.uk</a> )     | [ ] |
| Through a Food Standards Agency publication (please specify title)                             | [ ] |
| _____  | [ ] |
| Other publication (please specify title)_____  | [ ] |
| Other means (please specify)_____  | [ ] |

2. If you / your organisation are not responding to the consultation, is it because:

- |   |     |
|---|-----|
| You are not working on this subject area      | [ ] |
| The consultation topic is not relevant to you | [ ] |
| You do not have the time / resources to reply | [ ] |
| Other reason (please specify)                 | [ ] |

3. Do you feel you were given enough time to respond to the issues / proposals in the consultation?

YES [ ]

NO [ ]

4. Were the issues / proposals clearly set out and easy to understand?

YES [ ]

NO [ ]

5. Do you have any suggestions on how the consultation package could have been improved?

6. Do you have any other comments about this consultation exercise? (Please continue overleaf if required)

7. If you received this consultation direct, were the contact and address details correct? If not please kindly provide the correct contact details for us to use in the future.

8. Do you still wish to remain on our consultation list?

YES [ ]

NO [ ]

9. Are there any other Food Standard Agency subject areas on which you would be interested in receiving future consultations?

Name:.....
Organisation:.....
.....
.....
Date:.....

**THANK YOU FOR TAKING THE TIME TO COMPLETE AND RETURN THIS FEEDBACK QUESTIONNAIRE**



Privacy Statement

The **FOOD STANDARDS AGENCY** is totally committed to complying with the 1998 Data Protection Act principles that protect facts and opinions about the individual. Any personal information that you provide will only be used for a specific purpose. We will not pass on personal information to others outside of our organisation unless the Data Protection Act allows us to do so. *If you have concerns about your personal data please contact the Food Standards Agency Data Protection Officer at [Data.Protection@foodstandards.gsi.gov.uk](mailto:Data.Protection@foodstandards.gsi.gov.uk)*



## Publication of Personal Data

Please note that the Food Standards Agency may publish details that you supply in legitimate pursuit of the functions of the organisation.

As the publication of responses in full may include personal data (such as your full name and contact address details), would you please let us know if you object to us using this information.

Please tick the box below, complete the relevant details and return this form (together with your response) to indicate your objection.

I **do not** agree to the publication of my personal details.

**\* If no objection is received we will assume that you consent to full disclosure of your personal details and these may be published.**

Full Name

Full postal address

To comply with the *Data Protection Act 1998*, it is essential that we keep our records up to date. Would you therefore please inform us if your personal details change in any way.

This form has been issued by:

**Mrs Abimbola Adeyemi, Room 415, Aviation House,  
125 Kingsway, London WC2B 6NH  
[abimbola.adeyemi@foodstandards.gsi.gov.uk](mailto:abimbola.adeyemi@foodstandards.gsi.gov.uk)  
Tel: 020 7276 8428**

If you have any queries, please contact:

The FSA Data Protection Officer, Ground Floor Aviation House, 125 Kingsway, London WC2B 6NH  
**Email:** [Data.Protection@foodstandards.gsi.gov.uk](mailto:Data.Protection@foodstandards.gsi.gov.uk) **Tel: 020 7276 8013**

*General information about the most recent Data Protection Act can be viewed on the Information Commissioner's Office website at [www.dataprotection.gov.uk](http://www.dataprotection.gov.uk).  
For general enquiries you may contact Tel: 01625 545745*

List of Interested Parties

Heads of Environmental Health Services (England)  
Directors of Trading Standards (England)  
Chief Port Health Officers (England)  
Local Authorities Coordinators of Regulatory Services (LACORS)  
Trading Standards Institute (TSI)  
Chartered Institute of Environmental Health (CIEH)  
Association of Port Health Authorities (APHA)  
Association of Public Analysts (APA)  
Members of the Enforcement Liaison Group:-  
Health & Safety Executive  
Health Protection Agency  
Which?  
Sustain  
Foodaware  
British Hospitality Association  
British Retail Consortium  
Food & Drink Federation  
Institute of Food Science and Technology

CABINET OFFICE CODE OF PRACTICE ON CONSULTATION

**THE SIX CONSULTATION CRITERIA**

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.