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Tuesday, 27 October 2015

To: The Members of the **Licensing Committee**
(Councillors: Bill Chapman (Chairman), Ian Sams (Vice Chairman), Nick Chambers, Mrs Vivienne Chapman, Surinder Gandhum, Ruth Hutchinson, Paul Ilnicki, Rebecca Jennings-Evans, Oliver Lewis, Jonathan Lytle, Bruce Mansell, Nic Price, Conrad Sturt, Pat Tedder and Valerie White)

In accordance with the Substitute Protocol at Part 4 of the Constitution, Members who are unable to attend this meeting should give their apologies and arrange for one of the appointed substitutes, as listed below, to attend. Members should also inform their group leader of the arrangements made.

Substitutes: Councillors Rodney Bates, Ian Cullen, David Lewis, Max Nelson, Wynne Price and Victoria Wheeler

Dear Councillor,

A meeting of the **Licensing Committee** will be held at Council Chamber, Surrey Heath House on **Wednesday, 4 November 2015 at 7.00 pm**. The agenda will be set out as below.

Please note that this meeting will be recorded.

Yours sincerely

Karen Whelan

Chief Executive

AGENDA

Pages

Part 1 (Public)

1 Apologies for Absence

2 Minutes

3 - 4

To confirm and sign the minutes of the meeting held on 9 September 2015.

3 Declarations of Interest

Members are invited to declare any Disclosable Pecuniary Interests and non-pecuniary interests they may have with respect to matters which are to be considered at this meeting. Members who consider they may have an interest are invited to consult the Monitoring Officer or the Democratic Services Officer prior to the meeting.

4	Taxi Licensing - Deregulation Act 2015	5 - 12
5	Food Standards Agency Audit	13 - 28
6	Licensing Policy Update - report to follow	
7	Licensing Act 2003 - Summary of Decisions	29 - 34

**Minutes of a Meeting of the Licensing
Committee held at Council Chamber,
Surrey Heath House on 9 September
2015**

+ Cllr Bill Chapman (Chairman)
+ Cllr Ian Sams (Vice Chairman)

+ Cllr Nick Chambers	+ Cllr Jonathan Lytle
+ Cllr Mrs Vivienne Chapman	+ Cllr Bruce Mansell
+ Cllr Surinder Gandhum	+ Cllr Nic Price
+ Cllr Ruth Hutchinson	- Cllr Conrad Sturt
+ Cllr Paul Innicki	+ Cllr Pat Tedder
+ Cllr Rebecca Jennings-Evans	+ Cllr Valerie White
+ Cllr Oliver Lewis	

+ Present

- Apologies for absence presented

5/L Minutes

The minutes of the meeting held on 24 June 2015 were confirmed and signed by the Chairman.

6/L Taxi Licensing - Deregulation Act 2015

The Chairman proposed that the item be deferred in order for further information to be obtained before the item was considered.

RESOLVED to defer the item to the next meeting.

7/L Taxi Licensing - Engine Capacity Requirements

The Committee was informed that councils which had adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1976 had the right to set conditions and regulations relating to Hackney Carriage and Private Hire Vehicles on the grounds of public safety. One of the conditions which had been set by this Council related to a minimum engine capacity of 1600cc being required for all licensed vehicles.

It was recognised that, since the adoption of the Act in the mid-1970s, the automobile industry had greatly improved safety standards and the efficiency of power units. Most diesel powered cars were now turbocharged, whilst others now benefited from electrically assisted hybrid engines.

The current engine capacity limit of 1600cc was considered to be an unnecessary burden on the taxi trade and to inhibit the trade from using less polluting and more efficient smaller engine or hybrid electric cars. Members noted the minimum engine capacity limits in place at neighbouring local authorities, a number of whom required a minimum capacity of 1300cc.

It was reported that there were no particular restrictions for taxi drivers on the make and model of their vehicles, but they must have 4 or more doors.

RESOLVED that the current minimum engine capacity limit for Hackney Carriages and Private Hire Vehicles be reduced from 1600cc to 1300cc and that any engine capacity requirement for vehicles powered by an electric hybrid system be removed.

8/L Licensing Act 2003 - Summary of Decisions

The Committee received details of the decisions taken under delegated powers in respect of licence applications where no representations had been received from the responsible authorities or any other persons.

Chairman

Taxi Licensing – Deregulation Act 2015

Portfolio:	Community
Ward(s) Affected:	All

Purpose

To report a change in legislation which revises the basis of duration of licences for drivers and operators, and to allow decisions to be made under powers delegated to the Executive Head – Community and to the Licensing Officer to grant licences for such lesser period as the Council thinks appropriate in the circumstances of the case.

Background

1. The conditions and duration of Hackney Carriage and Private Hire Drivers Licences, together with Private Hire Operator's Licences are regulated under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 [LG(MP) Act]. Hitherto it has been practice that each licence has been granted for one year only although legislation has permitted vehicle and operators' licences to be granted for up to three years and five years respectively.

Current Position

2. All licensed drivers are currently required to undergo a triennial criminal record check with the Disclosure and Barring Service (DBS). Drivers are also required to sign a disclosure form which enables officers to carry out a driving licence record check triennially and at any additional time over the following three years.
3. In addition, a licensed driver is required, by condition, to notify the Council in writing with details of any conviction imposed on them during the period of their licence. A further control is that the Council receives notification from the police where there is a public protection risk to allow it to act swiftly to put in measures to mitigate any danger. Such notification will usually relate to an arrest or charge for an offence. In such circumstances officers then have an opportunity to suspend or revoke the Hackney Carriage or Private Hire drivers licence as necessary under delegated powers.
4. Drivers are also required to undergo a medical examination with the Council's nominated medical practitioners every three years. The checks are required annually upon reaching the age of 60 years or at any age upon recommendation by the medical practitioner.
5. In Surrey Heath it is the current practice that licenses are granted for one year only. This places an administrative burden on business which does not improve safeguarding. This is because the DBS checks remain triennially;

DBS checks can be carried out any time during the three year period; licensed drivers are required to notify the Council of any convictions during the licence period; and the Police will provide the Council with timely and relevant information which might indicate a public protection risk.

Legislative Position

6. The Deregulation Act 2015 (the Act) gained Royal Assent on 26 March 2015 with Commencement Orders bringing some provisions into effect during a variety of dates from April 2015 through to January 2016. The provisions relevant to this report came into effect on 1 October 2015.
7. The Act provides for the removal or reduction of unnecessary burdens on businesses, civil society, individuals, public authorities and the taxpayer.
8. Section 10 of the Act relates specifically to the duration of Hackney Carriage and Private Hire driving licences, in addition to Private Hire operators' licences, retaining the default duration of the driving licences to 3 years and the operator's licence to 5 years, but to include the provision or *"for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case"*.
9. The provisions of Section 10 of the Act, together with the original relevant provisions of LG(MP) Act are copied at Annex 1.

Proposals

10. Officers are of the view that the control measures outlined in paragraphs 2-5 above are robust enough to protect the public from danger. If evidence of serious misconduct by a licensed driver is brought to the attention of officers by police the driver is most likely to have his licence suspended or revoked regardless of the remaining duration of a drivers licence.
11. Officers recommend that the triennial criminal record, driving licence and other checks continue in order to maintain the integrity of the 'fit and proper' standard and that in circumstances where there is less than three years left before further checks are required, the duration of a hackney carriage or private hire drivers licence is reduced accordingly. For example, if a medical report recommended an annual examination or if the most recent criminal record check was carried out 2 years previously then a licence would only be granted for one year.
12. With regard to private hire operators, officers recommend that in circumstances where an operator is not a licensed driver a criminal record check is required every 3 years.
13. The scale of charges for Hackney Carriage and Private Hire licence fees are set and agreed by this Committee on an annual basis. Currently Hackney Carriage and Private Hire driver's licences are set at £95 for an annual

licence. Private Hire Operator's licences incur a fee of £215 but reduced to £85 for a single vehicle operator.

14. Officers recommend that, for the remainder of the current financial year, where a licence is granted for a period longer than one year the fee charged is also increased on a pro rata basis and that thereafter fees be set by this committee at a future meeting. Any changes to the fee structure will be subject to a notice being published in a local newspaper followed by a 28 day consultation period. In considering whether there has been a 'variation' requiring publication, section 70 (3) a) of the LG(MP)Act suggests that this is not necessary in order to bring about the changes officers recommend, as the **maximum** fees are not being varied, on a pro rata basis.
15. Although some drivers may welcome the change, others may consider it a financial burden especially where they are approaching retirement or looking for a change in career. Officers therefore recommend that in circumstances where a driver requests a licence for only one year rather than three, then that request is usually permitted. It should be noted that the local authority's discretion as to whether a shorter period should be granted is not one that applies in exceptional circumstances. However, as with any exercise of discretion, there should be a reasoned explanation recorded. The circumstances given above are likely to be those that will engage the discretion. It is currently unclear if government guidance will be provided in this regard.

Recommendations

16. **The Committee is advised to RESOLVE that**
 - (i) **licensed hackney carriage and private hire drivers continue to be subject to a triennial criminal record check, driving licence check and medical examination in order to maintain the integrity of the 'fit and proper' standard and that in circumstances where there is less than three years left before further checks are required the duration of a hackney carriage or private hire drivers licence is reduced accordingly;**
 - (ii) **in circumstances where a private hire operator is not a licensed driver a criminal record check be required every 3 years;**
 - (iii) **subject to the statutory advertisement and consultation period, for the remainder of the current financial year, where a licence is granted for a period longer than one year the fee charged is also increased on a pro rata basis and that future fees be set at a future meeting; and**
 - (iv) **in circumstances where a licensed driver or private hire operator requests a licence for only one year rather than a longer period then that request is usually permitted in the exercise of**

discretion.

<u>Annexes</u>	Annex 1 – Legislative provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Deregulation Act 2015
<u>Background Papers:</u>	None
<u>Author:</u>	Derek Seekings 01276 707626 e-mail: derek.seekings@surreyheath.gov.uk
<u>Head of Service:</u>	Tim Pashen – Executive Head of Community

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Deregulation Act 2015

2015 c. 20 [►](#) Measures affecting business: particular areas [►](#) Section 10

[Table of Contents](#) [Content](#) [Explanatory Notes](#) [Impact Assessments](#) [More Resources](#)

[Previous: Provision](#)[Next: Provision](#)[Plain View](#)[Print Options](#)

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10

Taxis and private hire vehicles: duration of licences

- (1) The Local Government (Miscellaneous Provisions) Act 1976 is amended as follows.
- (2) In section 53 (drivers' licences for hackney carriages and private hire vehicles)—
 - (a) in subsection (1)(a), for "for such lesser period as the district council may specify in such licence" substitute "for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case";
 - (b) in subsection (1)(b), for "for such lesser period as they may specify in such licence" substitute "for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case".
- (3) In section 55 (licensing of operators of private hire vehicles), for subsection (2) substitute—
 - (2) Every licence granted under this section shall remain in force for five years or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case."

[Previous: Provision](#)[Next: Provision](#)

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Local Government (Miscellaneous Provisions) Act 1976

1976 c. 57 ▶ [Part II](#) ▶ [Section 53](#)[Table of Contents](#) [Content](#) [More Resources](#) [Previous: Provision](#) [Next: Provision](#)[Plain View](#) [Print Options](#)

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53

Drivers' licences for hackney carriages and private hire vehicles.

- (1) (a) Every licence granted by a district council under the provisions of this Part of this Act to any person to drive a private hire vehicle shall remain in force for three years from the date of such licence or for such lesser period as the district council may specify in such licence.
- (b) Notwithstanding the provisions of the **M1** Public Health Act 1875 and the **M2** Town Police Clauses Act 1889, every licence granted by a district council under the provisions of the Act of 1847 to any person to drive a hackney carriage shall remain in force for three years from the date of such licence or for such lesser period as they may specify in such licence.
- (2) Notwithstanding the provisions of the Act of 1847, a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so.
- (3) The driver of any hackney carriage or of any private hire vehicle licensed by a district council shall at the request of any authorised officer of the council or of any constable produce for inspection his driver's licence either forthwith or—
- (a) in the case of a request by an authorised officer, at the principal offices of the council before the expiration of the period of five days beginning with the day following that on which the request is made;
- (b) in the case of a request by a constable, before the expiration of the period aforesaid at any police station which is within the area of the council and is nominated by the driver when the request is made.
- (4) If any person without reasonable excuse contravenes the provisions of this section, he shall be guilty of an offence.

Annotations:

Modifications etc. (not altering text)

C1 [S. 53](#): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 2\(1\)](#), [Sch. 1](#) Table B4

Marginal Citations

M1 [1875 c. 55](#).

M2 [1889 c. 14](#).

[Previous: Provision](#) [Next: Provision](#)

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Local Government (Miscellaneous Provisions) Act 1976

1976 c. 57 ▸ [Part II](#) ▸ [Section 55](#)[Table of Contents](#) [Content](#) [More Resources](#)[Previous: Provision](#)[Next: Provision](#)[Plain View](#)[Print Options](#)

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55 Licensing of operators of private hire vehicles.

- (1) Subject to the provisions of this Part of this Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate private hire vehicles grant to that person an operator's licence:

Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence.

- (2) Every licence granted under this section shall remain in force for such period, not being longer than five years, as a district council may specify in the licence.
- (3) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.
- (4) Any applicant aggrieved by the refusal of a district council to grant an operator's licence under this section, or by any conditions attached to the grant of such a licence, may appeal to a magistrates' court.

Annotations:

Modifications etc. (not altering text)

- C1 [S. 55](#): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 2\(1\)](#), [Sch. 1](#) Table B5
- [S. 55](#) extended (13.3.2000) by [S.I. 2000/412](#), [art. 4\(4\)](#)

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Food Standards Agency Audit

Portfolio:	Community
Ward(s) Affected:	All

Purpose: This report is to advise members of the findings of the Food Standards Agency's recent audit of the Council's Food Law Enforcement Service.

1. Background

- 1.1. Since the introduction of the Food Standards Agency in April 2000, the Agency has set minimum standards of performance, both quantitative and qualitative, which all local authorities carrying out food law enforcement are expected to meet. The quantitative aspects are monitored by way of quarterly and annual returns submitted to the Food Standards Agency. The local authority audit scheme which was launched in April 2001, is the process by which the Agency conducts a qualitative assessment of local authority performance.
- 1.2. The audit of Surrey Heath Borough Council's food service carried out on 8th – 9th July 2015, was a focussed audit. The audit focused on controls that the LA had in place to deal with Incidents and Alerts with reference to the Framework Agreement and the Food Law Code of Practice (FLCoP). This included organisation and management, resources, development and implementation of appropriate control procedures, receipt of and response to alerts, reporting of incidents, advice enforcement and sampling, premises database, training and authorisation of officers, liaison and internal monitoring.
- 1.3. The Food Standards Agency's report of this audit is attached at Annex A.

2. Findings of the Audits

- 2.1. The Food Standards Agency does not operate an audit scoring system. The Agency considers that the detailed audit report, which includes an Executive Summary and specific recommendations for improvement, provides a more accurate indication of the performance of the authority.
- 2.2. The findings of the audit are summarised in the Executive Summary on page 4 of the attached audit report and this reiterates the very positive feedback delivered by the auditors during their visit. The summary states that 'The Authority was found to be delivering a range of food law enforcement activities in accordance with the statutory obligations placed on the Authority as a competent food authority. These were generally delivered according to prescribed timescales by experienced professional staff.
- 2.3. The Food Standards Agency recommends four items for improvement that the Authority has agreed together with a realistic timescale to complete these.

These form the basis of a short action plan. See Annex A within the audit report.

3. Post Audit Action

- 3.1. The Environmental Health Manager has completed two of the four items identified within the action plan and has submitted this to the Food Standards Agency for their approval.
- 3.2. The Food Standards Agency may, at any time in the future, seek further evidence of the Council's adherence to its internal monitoring procedure and external review arrangements for the food service. It is important that these monitoring and review arrangements continue to be fully implemented, not only to meet the Agency's requirements, but also to ensure that the Council continues to deliver its food law enforcement service to a high standard.
- 3.3. The Agency has placed a copy of the report on their website at www.food.gov.uk/enforcement and in the libraries of the Houses of Parliament, the British Library and the Copyright Library.

4. Proposal

- 4.1. The Food Standards Agency expects the audit report to be brought to the attention of Members.

5. Resource Implications

- 5.1. There are no resource implications arising from the audit report

6. Recommendation

- 6.1. It is recommended that Members note the content of the audit report

Background Papers: Annex A - Audit of Local Authority Service Delivery, Controls for Incidents and Alerts.

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Executive Head of Service: Tim Pashen – Executive Head of Community

Audit of Local Authority Service Delivery Controls for Incidents and Alerts

Surrey Heath Borough Council
8-9 July



Food
Standards
Agency
food.gov.uk

Table of Contents

1.0	Introduction-----	3
2.0	Scope of the Audit-----	3
3.0	Objectives -----	3
4.0	Executive Summary -----	4
5.0	Audit Findings and Recommendations -----	4
5.1	Organisation and Management-----	4
5.2	Incidents and Alerts -----	5
5.3	Advice to Business -----	6
5.4	Food Inspection and Sampling-----	6
5.5	Enforcement -----	6
5.6	Control and Investigation of Outbreaks and Food Related Disease-----	7
5.7	Authorised Officers -----	7
5.8	Reviewing and Updating Documented Policies and Procedures-----	8
5.9	Facilities and Equipment-----	8
5.10	Food Premises Database -----	9
5.11	Liaison with other Organisations-----	9
5.12	Internal Monitoring-----	9
5.13	Local Authority Views on Arrangements for Incidents and Alerts-----	9
ANNEX A - Action Plan for Surrey Heath District Council-----		11
ANNEX B - Audit Approach/Methodology-----		12
ANNEX C - Glossary -----		12

1.0 Introduction

- 1.1 This is a report on the outcomes of the Food Standards Agency's (FSA's) audit of Surrey Heath Council conducted between 7th July to 8th July 2015 at Surrey Heath House, Knoll Road, Camberley. The audit was carried out as part of a programme of audits on local authority (LA) controls for Incidents and Alerts. The report has been made available on the Agency's website at:

www.food.gov.uk/enforcement/auditandmonitoring/auditreports

Hard copies are available from the FSA's Operations Assurance Division at Foss House, Peasholme Green, York, YO1 7PR. Tel: 01904 232116

- 1.2 The audit was carried out under section 12(4) of the Food Standards Act 1999 and the Agency will produce a summary report covering outcomes from the audits of all local authorities assessed during this programme.

2.0 Scope of the Audit

- 2.1 The audit focused on controls that the LA had in place to deal with Incidents and Alerts with reference to the Framework Agreement and the Food Law Code of Practice (FLCoP). This included organisation and management, resources, development and implementation of appropriate control procedures, receipt of and response to alerts, reporting of incidents, advice enforcement and sampling, premises database, training and authorisation of officers, liaison and internal monitoring. Views on current arrangements for incidents and alerts were sought to inform FSA policy development.

3.0 Objectives

- 3.1 The objectives of the audit were to gain assurance that:
- LAs have adequate capability and effective controls in place to deal with incidents and alerts with reference to the requirements of the Standard in the Framework Agreement, the FLCoP and centrally issued guidance.
 - The interface between the FSA and LAs with regard to the handling of incidents and alerts is appropriate and effective.

The audit also sought to;

- Identify any significant weaknesses and potential improvements in the overall arrangements for the handling of incidents and alerts.
- Identify and disseminate good practice for incidents and alerts controls.

4.0 Executive Summary

- 4.1 The Authority was selected for audit as it had not previously been audited by the Agency.
- 4.2 The Authority was found to be delivering a range of food law enforcement activities in accordance with the statutory obligations placed on the Authority as a competent food authority. These were generally delivered according to prescribed timescales by experienced professional staff. However, some improvements were identified to enable the Service to provide the required level of protection to consumers and in order to meet the statutory requirements of the Framework Agreement and the Food Law Code of Practice (FLCoP). A summary of the main findings and key improvements necessary is set out below.
- 4.3 **Key area for improvement:**
 - Officer Authorisations:** The Authority needed to ensure that all officers are appropriately authorized to take enforcement action in response to incidents and alerts.
- 4.4 **Policies and Procedures:** The Authority needed to review key policies such as the Service Plan and Enforcement Policy to ensure that they comply with current statutory guidance and the service planning guidance in the Framework Agreement.

5.0 Audit Findings and Recommendations

5.1 Organisation and Management

- 5.1.1 At the time of the audit Surrey Heath Borough Council Environmental Health Service was undergoing a comprehensive review. The Environmental Health Function shared a management resource with Mole Valley District Council but was also exploring options for further shared services with a number of other Surrey Local Authorities.
- 5.1.2 The Authority had developed a documented Food Safety Service Plan for 2015- 2016 which had been approved initially by the Licensing Committee. It was awaiting full council approval. The Plan was linked to the key priorities and objectives of the Authority.
- 5.1.3 The Plan was generally well structured and broadly followed the Service Planning Guidance in the Framework Agreement. However, the plan did not include a reasoned estimate of the resources needed to deliver the service.
- 5.1.4 The Lead Officer for food hygiene named in the Service plan was not the officer nominated on the Local Authority Enforcement Monitoring System (LAEMS), database. The Lead Officer role was in practice shared between the Senior Environmental Health Officer and the Environmental Health Manager. The Environmental Health Manager also worked for another Surrey Authority and therefore was not available full time at Surrey Heath. The Authority needed to clarify the Lead Officer role and nominate the relevant appropriately competent officer or officers that in practice had Lead

responsibility for the service, to enable effective liaison and coordination of a response in the event of an incident or alert.

- 5.1.5 The plan did specifically reference food safety incidents. It gave an overview of the mechanism for Food Alerts; the number received, the procedure for response and the officer time that had been spent responding in 2014/15. According to the plan this totalled approximately 4-5 days of officer time. Auditors found that there was a suitable system in place for out of hour's response to incidents and alerts. This consisted of an on call duty officer that was organised on a rota basis. Where an officer that was on call did not have the full range of authorisation needed, auditors were informed that there was facility to include other Authorised Officers as appropriate.

Recommendation(s)

5.1.6 The Authority should:

- (i) Ensure that service plans include a clear comparison of the resources required to carry out the full range of statutory food law enforcement activities against the resources available to the Service. [The Standard - 3.1]

5.2 Incidents and Alerts

- 5.2.1 The authority had a procedure for dealing with food and incidents and alerts which included arrangements for dealing with incidents out-of-hours and for notifying the FSA of food incidents arising locally. The written procedure was part of a wider computer based package that the Authority subscribed to. The written procedure gave clear advice on determining hazards that needed to be reported to the Agency.
- 5.2.2 Auditors examined records in respect of four food alerts for action issued by the FSA during the previous year. All had been received electronically by the authority and records were available to confirm that an appropriate response had been provided. However, auditors did discuss the need to ensure that the incoming food alerts were checked in a timely manner. It was also noted that some officer actions in relation to alerts were not routinely recorded.
- 5.2.3 Action taken by the authority had generally been documented and correspondence, including officer e-mails relating to food alerts, had been maintained and was easily retrievable. The record of the Food Alert For Action (FAFA), response was maintained separately. An example of this recording system was obtained. The record included the nature of the alert, the officer it was allocated to and a list of subsequent actions that included contact with a relevant food business and cascade of information to other Authorised Officers in the Food Safety Team.
- 5.2.4 Auditors did discuss that in the event a food business is visited with reference to a FAFA, it would have been good practice to record this specific aspect of the intervention separately. Officers did not routinely record on the premises record file

when an assessment of the impact of the Food Alert on that particular food business had been carried out during an intervention.

- 5.2.5 There had been no serious localised incidents in the two years prior to the audit. The LA had liaised with the FSA on a localised incident which was deemed to not need further investigation.

5.3 Advice to Business

- 5.3.1 The Authority provided public access to food alerts information from the Agency through a link on its webpage. Auditors were advised that the Authority did not publicise Food Alerts for Action directly to food businesses other than by discussion during the course of a scheduled food hygiene inspection.
- 5.3.2 The Authority participated in a Primary Authority partnership with a national food retailer and a hotel chain. Neither relationship had resulted in a need to report any incidents to the Agency.

5.4 Food Inspection and Sampling

- 5.4.1 The Authority had a policy and procedure that set out requirements and the intended sampling plan for 2014/15. Data provided to LAEMS for 2014 and evidence gathered during the audit confirmed that whilst there were 37 unsatisfactory samples out of a total of 84 gathered none resulted in an incidents or alert report.
- 5.4.2 Three unsatisfactory sampling result records were checked. The officer's assessment in each case was found to be consistent with the Authority's policy and the FLCoP as to whether these should have been reported as an incident or alert. There was good evidence of communication and liaison with the Agency in making the determination on at least two occasions.

5.5 Enforcement

- 5.5.1 The Authority had developed a documented Enforcement Policy which was dated 2010. This was signed off at Director level. The policy required review to ensure that it was in accordance with centrally issued guidance with appropriate reference to the Regulators Code.
- 5.5.2 The Authority also had access to a range of computer based food law enforcement procedures including improvement notices, emergency prohibition notices, seizure and detention of food, voluntary surrender, and voluntary closures.
- 5.5.3 The Authority had not undertaken any food seizures, detentions, voluntary surrenders, simple cautions or prosecutions in the two years prior to the audit.

Recommendation(s)

5.5.4 The Authority should:

- (i) Review the enforcement policy to ensure that it takes account of legislation, statutory guidance and the relevant Codes of Practice. [The Standard – 15.1]

5.6 Control and Investigation of Outbreaks and Food Related Disease

- 5.6.1 The Authority participated in the Kent, Surrey and Sussex Outbreak and Incident Control Plan dated 15 December 2014. The plan was developed and agreed jointly by a range of stakeholders including 20 Local Authorities.
- 5.6.2 Auditors were informed that the procedure for faecal sample analysis across Surrey Local Authorities that participated in the plan required that samples be posted for laboratory analysis. Auditors discussed whether this was a secure and timely method for the analysis of samples, particularly when an Authority is investigating a potential outbreak of a virulent pathogen such as E Coli O157.
- 5.6.3 The Authority had confirmed that there had been no outbreaks of food related infectious disease recorded since 2011. The 2011 outbreak did result in an incident notification to the Agency. It also led to a successful prosecution of the food business implicated as the source of the outbreak resulting in a fine and costs awarded totalling £72,000.

5.7 Authorised Officers

- 5.7.1 The Authority had developed a documented procedure for the authorisation of officers. Auditors could not find in the overarching authorisation documents any reference to key food legislation including the Food Safety Act 1990, The Food Safety and Hygiene (England) Regulations 2014 or The Official Feed and Food Controls (England) Regulations 2009 or the European Communities Act 1972. The generic power of entry documents only referred to "Food Acts". This could potentially prevent officers taking necessary enforcement action in response to incidents and alerts including any action under any emergency control regulations made under the European Communities Act 1972.
- 5.7.2 Two holders of the Higher Certificate in Food Premises Inspection were noted to be authorised to serve Remedial Action Notices. The Authority could not demonstrate however that both the officers complied with the requirements of the revised Food Law Code of Practice for authorisation in this area of enforcement. Whilst there is a one year lead in period to comply with the revised FLCoP for Lead Officer competency, authorisations for enforcement action should be adequately evidence based.

- 5.7.3 Qualifications and training records for a number of officers were examined and these demonstrated that generally officers were receiving the minimum 10 hours relevant training per annum based on the principles of continuing professional development.

Recommendation(s)

5.7.4 The Authority should:

- (i) Review the delegation / authorisation procedure to ensure appropriate legislation is included. [The Standard – 5.1]
- (ii) Review the authorisation of officers to ensure they are appropriately authorised under relevant current legislation in accordance with their individual level of qualification, experience and competency.
[The Standard – 5.3]

5.8 Reviewing and Updating Documented Policies and Procedures

- 5.8.1 The Authority had developed some documented procedures/work instructions for its food law enforcement service. It also relied upon a computer based software package that covered most intervention and enforcement procedures. This had the ability to be updated with local operating instructions although the Audit Liaison Officer could not confirm that the Authority had adapted any of the generic procedures.
- 5.8.2 The Authority's specific in house policies were reviewed although some policies required further review to reflect changes in legislation and official guidance.
- 5.8.3 Procedures were stored electronically and all staff including those at remote locations had ready access.

5.9 Facilities and Equipment

- 5.9.1 The authority's food database was capable of providing the information required by the FSA. Audit checks confirmed that data reports could be readily generated...
- 5.9.2 The Authority had a draft policy for monitoring the accuracy of the database. Access to the database was password controlled and significant changes to the system were controlled by the Systems Analyst.

5.10 Food Premises Database

- 5.10.1 The Authority was operating a database capable of recording responses to incidents and alerts. The LA also had a system in place for ensuring that the database recorded Food Alert for Action notifications from the FSA. These were given a unique identifier.
- 5.10.2 The Authority had developed some draft guidance to ensure data was correctly and accurately entered and also used information and intelligence provided by Licensing and Business Rates Department. LA officers advised the auditors that internet searches were also carried out to ensure that the database was reflective of the LA area.
- 5.10.3 Auditors had prior to the audit identified potential anomalies and inaccuracies in Food Hygiene Rating System data and these were left with the Authority for further investigation.
- 5.10.4 Audit checks on six premises chosen at random indicated that five were correctly entered on the database however one could not be located.

5.11 Liaison with other Organisations

- 5.11.1 Auditors found good evidence that there was appropriate liaison with Originating Authorities, FSA and other Local Authorities. The Authority had sought the advice of the Agency on at least two occasions when considering the notification of an incident.

5.12 Internal Monitoring

- 5.12.1 The Authority had developed a documented internal monitoring procedure. The procedure detailed monitoring arrangements in regard to inspection, complaints and enforcement notices. The Senior Environmental Health Officer carried out accompanied inspections with officers which were fully documented and signed by the officer and SEHO. These detailed strengths and areas of development.
- 5.12.2 Whilst documented evidence was found of intervention monitoring the Authority could not provide evidence of monitoring for handling of complaints. Auditors also discussed the need to record other monitoring that was carried out informally.

5.13 Local Authority Views on Arrangements for Incidents and Alerts

- 5.13.1 At the conclusion of the audit the Authority was asked to provide some feedback on the arrangements in place for incidents and alerts at the Agency and associated statutory guidance. The following is a summary;
- The definition given for serious localised food hazard in the current version of the FLCoP requires further clarity.
 - The Agency should consider giving a time frame for Authorities when planning responses to Food Alerts For Action

- Do Authorities need to participate when an alert maybe more relevant for a manufacturer?
- More general guidance and practical training on incidents and alerts would be welcomed.

Audit Team: Jamie Tomlinson – Lead Auditor
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Annex A - Action Plan for Surrey Heath Borough Council

Audit date: 8-9 July 2015

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
5.1.6 Ensure that service plans include a clear comparison of the resources required to carry out the full range of statutory food law enforcement activities against the resources available to the Service. [The Standard - 3.1]	31/03/16	We will ensure that at the next production of the Food Law Enforcement Service Plan we include the comparison.	
5.5.4 Review the enforcement policy to ensure that it takes account of legislation, statutory guidance and the relevant Codes of Practice. [The Standard – 15.1]	31/03/16	The enforcement policy will need to be adapted in line with the future partnership plans and brought in line with proposed arrangements.	
5.7.4 (i) Review the delegation / authorisation procedure to ensure appropriate legislation is included. [The Standard – 5.1]	01/10/15	It is proposed that over the coming weeks we will review the current procedures and authorisations to ensure that they are suitable and sufficient to meet the needs of the Authority and the legislation.	Completed 1 October 2015
5.7.4 (ii) Review the authorisation of officers to ensure they are appropriately authorised under relevant current legislation in accordance with their individual level of qualification, experience and competency. [The Standard – 5.3]	01/10/15	It is proposed that over the coming weeks we will review the current procedures and authorisations to ensure that they are suitable and sufficient to meet the needs of the Authority and the legislation.	Completed 1 October 2015

ANNEX B - Audit Approach/Methodology

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

- (1) Examination of LA plans, policies and procedures.
- (2) A range of LA file records were reviewed.
- (3) Review of Database records
- (4) Officer interviews

ANNEX C - Glossary

Authorised officer	A suitably qualified officer who is authorised by the local authority to act on its behalf in, for example, the enforcement of legislation.
Codes of Practice	Government Codes of Practice issued under Section 40 of the Food Safety Act 1990 as guidance to local authorities on the enforcement of food legislation.
County Council	A local authority whose geographical area corresponds to the county and whose responsibilities include food standards and feeding stuffs enforcement.
District Council	A local authority of a smaller geographical area and situated within a County Council whose responsibilities include food hygiene enforcement.
Environmental Health Officer (EHO)	Officer employed by the local authority to enforce food safety legislation.
Feeding stuffs	Term used in legislation on feed mixes for farm animals and pet food.
Food hygiene	The legal requirements covering the safety and wholesomeness of food.
Food standards	The legal requirements covering the quality, composition, labelling, presentation and advertising of food, and materials in contact with food.

Framework Agreement	<p>The Framework Agreement consists of:</p> <ul style="list-style-type: none"> • Food and Feed Law Enforcement Standard • Service Planning Guidance • Monitoring Scheme • Audit Scheme <p>The Standard and the Service Planning Guidance set out the Agency's expectations on the planning and delivery of food and feed law enforcement.</p> <p>The Monitoring Scheme requires local authorities to submit yearly returns via LAEMS to the Agency on their food enforcement activities i.e. numbers of inspections, samples and prosecutions.</p> <p>Under the Audit Scheme the Food Standards Agency will be conducting audits of the food and feed law enforcement services of local authorities against the criteria set out in the Standard.</p>
Full Time Equivalents (FTE)	A figure which represents that part of an individual officer's time available to a particular role or set of duties. It reflects the fact that individuals may work part-time, or may have other responsibilities within the organisation not related to food and feed enforcement.
Member forum	A local authority forum at which Council Members discuss and make decisions on food law enforcement services.
Metropolitan Authority	A local authority normally associated with a large urban conurbation in which the County and District Council functions are combined.
Service Plan	A document produced by a local authority setting out their plans on providing and delivering a food service to the local community.
Trading Standards	The Department within a local authority which carries out, amongst other responsibilities, the enforcement of food standards and feeding stuffs legislation.
Trading Standards Officer (TSO)	Officer employed by the local authority who, amongst other responsibilities, may enforce food standards and feeding stuffs legislation.

Unitary Authority

A local authority in which the County and District Council functions are combined, examples being Metropolitan District/Borough Councils, and London Boroughs. A Unitary Authority's responsibilities will include food hygiene, food standards and feeding stuffs enforcement.

Licensing Act 2003 – Summary of Decisions

Portfolio:	Non-executive function
Ward(s) Affected:	All

Purpose

To report decisions that have been taken in respect of licence applications that have been dealt with under powers delegated to the Executive Head of Community and to the Licensing Officer.

Background

1. Details of decisions taken under delegated powers in relations to applications, representations etc have to be reported to the Licensing Committee in accordance with the provisions of the Licensing Act 2003.

Current Position

2. In accordance with the provisions of the Licensing Act 2003 powers have been delegated to the Executive Head of Community to determine applications for premises licences, club premises certificates and personal licences where no representations have been received from responsible authorities or interested parties.
3. If representations are received, consideration has to be given as to whether such representations are relevant, are not vexatious or frivolous and have been submitted in accordance with statutory requirements. No representations have been rejected on the grounds since the last report on these matters to the Committee.
4. When representations have been received authority is delegated to the Licensing Sub-Committee to determine the licence following consideration of these representations.
5. A summary of the decisions that have been taken in respect of applications that have been considered and determined since the last meeting of the Committee is attached at Annex A. These details are submitted for information only and do not require ratification by the Committee.

Recommendation

6. The Committee is advised to NOTE this report.

Background Papers: None

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Head of Service: Tim Pashen – Executive Head of Community

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***Personal Licences Approved Under Delegated Powers
Between 01 August 2015 and 30 September 2015***

<i>Name</i>		<i>Licence Number</i>
Asher	Emma	SHBCPER-11672
Boyle	Marc Leslie John	SHBCPER-15966
Coveney	Scott Lawrence	SHBCPER-05187
Damien	Vinith	SHBCPER-15967
Fairbairn	Kirsty	SHBCPER-15963
Fattore	Paolo Peiro	SHBCPER-05193
Gambardella	Raffaele	SHBCPER-05194
Kysel	Robert	SHBCPER-15964
Lertsri	Roger	SHBCPER-15962
Masterson	Glenn Leslie	SHBCPER-0550
Powell	Kelly	SHBCPER-13804
Pugh	Cathy	SHBCPER-09546
Siena	Fereshteh	SHBCPER-15965
West	Amanda Rachel	SHBCPER-15961

Premises Licences Approved Under Delegated Powers Between 01 August 2015 and 30 September 2015

<i>Premises</i>		<i>Application Type</i>	<i>Application Date</i>	<i>Licence Number</i>
FRIMLEY GREEN WORKING MENS CLUB	18 STURT ROAD, FRIMLEY GREEN, CAMBERLEY, GU16 6HX	Minor Premises Variation	30/09/2015	SHBCPR-10274
J K WINES & FOODS	5 HIGH STREET, BAGSHOT, GU19 5AG	Variation of Premises Supervisor	18/09/2015	SHBCPR-10277
KFC	28 High Street, Camberley, Surrey, GU15 3RS	Application for Premises Licence	13/08/2015	SHBCPR-15332
SUGAR DUMPLIN	UNIT R7, THE ATRIUM, PARK STREET, CAMBERLEY, GU15 3GP	Application for Premises Licence	21/09/2015	SHBCPR-15333
SURREY ARMS	71-73 HIGH STREET, CAMBERLEY, GU15 3RB	Variation of Premises Supervisor	28/08/2015	SHBCPR-0544
THAI BRIGHT KITCHEN	5 FRIMLEY ROAD, CAMBERLEY, GU15 3EN	Variation of Premises Supervisor	24/08/2015	SHBCPR-05114
THAI BRIGHT KITCHEN	5 FRIMLEY ROAD, CAMBERLEY, GU15 3EN	Transfer of Premises Licence	24/08/2015	SHBCPR-05114
THAI BRIGHT KITCHEN	5 FRIMLEY ROAD, CAMBERLEY, GU15 3EN	Replacement Premise/Club	24/08/2015	SHBCPR-05114
THE FORESTERS ARMS	173 LONDON ROAD, BAGSHOT, GU19 5DH	Variation of Premises Supervisor	16/09/2015	SHBCPR-0591
THE HUNGRY HORSE	KINGS ARMS, 42 HIGH STREET, BAGSHOT, GU19 5AZ	Minor Premises Variation	05/08/2015	SHBCPR-05176
The Cricketers	1 LONDON ROAD, BAGSHOT, GU19 5HR	Minor Premises Variation	01/09/2015	SHBCPR-05130
The Cricketers	1 LONDON ROAD, BAGSHOT, GU19 5HR	Variation of Premises Licence	01/09/2015	SHBCPR-05130
Zizzis	50 PARK STREET, CAMBERLEY, GU15 3PL	Variation of Premises Supervisor	26/08/2015	SHBCPR-05117

Temporary Event Notices Received Between 01 August 2015 and 30 September 2015

*(No representations have been received from the Police in respect of any of the notices listed and
all events have been authorised to take place)*

Event Date	Premises Name	
15-Aug-2015	Temporary Event Notices	0 PARK STREET, CAMBERLEY
15-Aug-2015	Temporary Event Notices	0 PARK STREET, CAMBERLEY
19-Sep-2015	Temporary Event Notices	0 PARK STREET, CAMBERLEY
18-Sep-2015	THE ROYAL STANDARD	115 FRIMLEY ROAD, CAMBERLEY, GU15 2PP
7-Aug-2015	KFC	28 High Street, Camberley, Surrey, GU15 3RS
14-Aug-2015	KFC	28 High Street, Camberley, Surrey, GU15 3RS
21-Aug-2015	KFC	28 High Street, Camberley, Surrey, GU15 3RS
28-Aug-2015	KFC	28 High Street, Camberley, Surrey, GU15 3RS
4-Sep-2015	KFC	28 High Street, Camberley, Surrey, GU15 3RS
11-Sep-2015	FRENCHIES LTD	35 OBELISK WAY, CAMBERLEY, GU15 3SG
29-Aug-2015	Chobham Club	50 Windsor Road, Chobham, Woking, Surrey, GU24 8LD
31-Aug-2015	Tru	52 HIGH STREET, CAMBERLEY, GU15 3RS
15-Aug-2015		CEDAR TREE, 1 HIGH STREET, BAGSHOT, GU19 5AG
27-Aug-2015	Chobham Cricket Club	CHOBHAM CRICKET CLUB, 56A HIGH STREET, CHOBHAM, WOKING, GU24 8AA
30-Aug-2015	Chobham Cricket Club	CHOBHAM CRICKET CLUB, 56A HIGH STREET, CHOBHAM, WOKING, GU24 8AA
11-Sep-2015	Chobham Cricket Club	CHOBHAM CRICKET CLUB, 56A HIGH STREET, CHOBHAM, WOKING, GU24 8AA
19-Sep-2015	Chobham Cricket Club	CHOBHAM CRICKET CLUB, 56A HIGH STREET, CHOBHAM, WOKING, GU24 8AA
26-Sep-2015	Roost	GROUND FLOOR, 53 HIGH STREET, BAGSHOT, GU19 5AH
25-Sep-2015	Gordon's School	Gordon's School, Bagshot Road, West End, Woking, Surrey

<i>Event Date</i>	<i>Premises Name</i>	
11-Sep-2015	Mytchett Primary School	Mytchett County Primary School, Hamesmoor Road, Mytchett, Camberley, Surrey, GU16 6JB
29-Sep-2015	St Lawrences Church Hall	ST LAWRENCES CHURCH, HIGH STREET, CHOBHAM, WOKING, GU24 8AF
12-Sep-2015	St Peters Church Hall	ST PETERS CHURCH HALL, 1 PARSONAGE WAY, FRIMLEY, CAMBERLEY, GU16 8HZ
19-Sep-2015	St Peters Church Hall	ST PETERS CHURCH HALL, 1 PARSONAGE WAY, FRIMLEY, CAMBERLEY, GU16 8HZ
22-Aug-2015	THE GOOSE	THE GOOSE, 88-90 HIGH STREET, CAMBERLEY, GU15 3RS
29-Aug-2015	The Mytchett Centre	The Mytchett Centre, The Mytchett Centre, 140 Mytchett Road, Mytchett, Camberley, Surrey, GU16 6AA
19-Sep-2015	Chobham Village Hall	VILLAGE HALL, STATION ROAD, CHOBHAM, WOKING, GU24 8AQ
26-Sep-2015	Chobham Village Hall	VILLAGE HALL, STATION ROAD, CHOBHAM, WOKING, GU24 8AQ
12-Sep-2015		WEST END VILLAGE GREEN, BENNER LANE, WEST END, WOKING, GU24 9JP