

Food Standards Scotland

Internal Monitoring Advice for Local Authority Food and Feed Law Enforcement Services

Food Standards Scotland's (FSS) audits of Local Authorities' feed and food law enforcement arrangements have identified Service areas that are critical to maintaining effective service provision and improving food business compliance. This guidance highlights some simple issues which the auditors find frequently during audits and highlights practical tips for addressing them.

This summary seeks to provide Local Authority Service Managers with some key information or prompts that may assist in managing and monitoring these areas.

We would be pleased to receive any comments on the usefulness of this advice or, more widely, suggestions for any additional guidance that would be welcomed by Local Authority Service Managers.

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Introduction

On the 25th January 2017 the Food Enforcement Partnership Event took place organised by Food Standards Scotland along with the Scottish Food Enforcement Liaison Committee (SFELC) and the Society of Chief Officers of Environmental Health in Scotland (SOCOEHS). The purpose of the event was to demonstrate the importance and value of collaborative working, reflecting on past and present achievements whilst looking forward.

One of the workshops at that event was on internal monitoring and this document takes into account the outputs from that workshop. The contributions made by all involved are greatly appreciated.

Core Service Areas

FSS audits in the past have included focus on three service areas which, experience has shown, are critical to effective service management and achieving business compliance. In each of these areas there are some fundamental questions for any Manager. In addition available resource should be considered in all cases.

Managers should be able to answer 'yes' to all of the questions below. These points are expanded upon over the next few pages to help with this process:

1. Database management

- Does the Service know what food/feed businesses are present in their area?
- Is the LA food/feed business database maintained and up to date?
- Are sufficiently detailed and accurate records of key business operations and their compliance histories being maintained and managed?

2.(a)Inspections/interventions and (b)follow-up actions

- Are LA official controls being carried out at a frequency that prioritises and reflects the risks presented by individual food businesses?
- Do official controls identify the significant issues of business non-compliance with food/feed law, especially in relation to business safety management systems, and are these recorded on file?
- Are appropriate follow-up actions being taken to deal effectively with persistent and/or significant non-compliance?
- Are Officers' records of observations made during inspections/interventions retrievable?

3. Internal service monitoring

- Is there a system in place and implemented to monitor enforcement activities qualitatively and quantitatively, and to ensure that any identified issues result in Service improvements?

Key Issues, Common Problems and Useful tips

1. Database Management

Complete, up to date, accurate and reliable databases of local food/feed businesses are essential to enable Managers to know of all the relevant businesses located in their area and to provide the basis for comprehensive risk-based inspection and intervention programmes. The databases need to be monitored and maintained to ensure that changes of business use and ownership, closures and new businesses can be tracked.

Key Issues:

- Databases(s) must be subject to database management procedures and processes to monitor routinely both the accuracy of the premises database, and the action/information entries entered and maintained for each business;
- Scheduled regular and ad-hoc checks should be carried out to identify any inconsistencies between hardcopy or electronically gathered file records and the associated database entries for inspections/interventions details, enforcement activities and actions.

Common Problems:

- Businesses duplicated or missing on the electronic database;
- Database records of inspections/interventions inconsistent with data held on hardcopy files (e.g. specific actions taken, dates of actions, risk ratings);
- No routine monitoring of data entries and/or anomalies and inaccuracies not picked up;
- Illegible or incomplete handwritten inspections/interventions reports scanned onto the system.

Useful Tips:

- Routine cross-referencing checks of businesses held on the premises database against other listings of local businesses;
- References to Assurance schemes;
- Use of the database software Manager reporting facility;
- Use of simple reports, to monitor for consistency issues and to routinely check for anomalies and inaccuracies in electronic inspections/interventions records

- such as duplicate premises entries, data entry errors and missing or inappropriate risk rating scores.

2. (a) Business Inspections/Interventions

Inspections/interventions programmes must follow the appropriate Code of Practice and relevant Local Authority policies and procedures. Control activities, methods and techniques for carrying out tasks related to Official Controls are specified in Article 10 of Regulation (EC) No 882/2004. Central to this being effective are the Authorised Officers assessment of businesses food/feed safety management and control systems and arrangements.

Record Keeping: sufficiently detailed, accurate and retrievable records or documentation for key business operations and activities, inspection/intervention and assessment records, particularly in relation to food/feed safety management systems, and any enforcement actions, are essential to:

- demonstrate that an assessment has been carried out;
- demonstrate the level of food/feed businesses compliance with the appropriate law;
- ensure subsequent official controls are informed of individual business compliance histories;
- to inform each step of a graduated enforcement approach;
- to provide the evidence base for formal enforcement, and to permit effective internal qualitative monitoring.

Key Issues:

- Comprehensive official control programmes are required to consider all relevant businesses;
- Inspection/intervention frequencies are prioritised by risk;
- Inspection/intervention procedures and aides-memoires provide sufficient prompts and guidance to help Authorised Officers through an official control which is effective, and to facilitate the keeping of sufficiently detailed records of key business, inspection/intervention and compliance data – particularly in relation to businesses' documented food/feed safety management systems;
- Officers are familiar with the legislation they enforce, the appropriate Codes of Practice and other relevant guidance;
- Officers are competent and appropriately authorised for the businesses they inspect and the legislation they enforce;

- Officers authorised to undertake food/feed hygiene and safety controls of food/feed business establishments should have a detailed, relevant and up to date knowledge of the nature and types of businesses in their area and the technology utilised by the businesses;
- Approved establishments are inspected in accordance with the specific legislation that applies; that due approval process is strictly adhered to and that the additional business and food/feed operations details required for approved establishments are held on file;
- Food/feed business operators receive timely notification of inspection/intervention findings and know what actions need to be taken with legal requirements distinguished clearly from recommendations.

Common Problems:

- Not all food/feed businesses are included when devising annual inspection/intervention programmes, particularly businesses not yet rated, overdue inspection/intervention and/or those that were low risk when last inspected, but which have not been re-assessed for several years;
- Repeated or lengthy non-compliance not being tackled effectively with little or no monitoring by line management;
- Lower risk businesses inspected ahead of known high risk businesses, and/or at the expense of following up and addressing persistent problems with higher risk businesses;
- Unclear/minimal inspection/intervention records that are inadequate to inform subsequent inspections/interventions and actions, especially where these fall to a different Officer;
- Approval assessments carried out that do not adhere to the requirements of the appropriate Code of Practice, procedures and/or without sufficient consideration of the specific requirements of the relevant legislation (e.g. by using generic inspection/intervention forms/aides-memoires);
- The legibility of handwritten inspection/intervention reports;
- Legal requirements not being clear and distinguished from recommendations;
- Inspection/intervention reports/letters not specifying the actions required by the business or the proposed follow-up action by the authority and/or time allowed for remedial works;
- Failure to consider and then undertake any appropriate action in relation to imported feed and/or food.

Useful Tips:

- Inspection/intervention forms should include a 'summary sheet' to provide an easily retrievable, clear, up to date and concise summary of the key issues for the next inspection/intervention;
- A record on the premises files/electronic files to provide an easily accessible summary of key pre-inspection/ intervention details eg:
 - a. Name and address of food/feed business operator;
 - b. Contact/management details (and/or the current business registration form);
 - c. Approval documents;
 - d. Size/scale and main operations of the business;
 - e. Summary of food/feed safety management and staff competence/training compliance levels;
 - f. Article 18 traceability data – main suppliers/customers;
- Where the Food Hygiene Information Scheme is operated, inspection forms include a section for Officers to summarise the reasons for the score awarded and any areas of non-compliance. This provides a quick and useful monitoring and consistency check for Managers.

2. (b) Follow-up Action and Enforcement

Local Authorities should have the capacity and capability to use the full range of enforcement actions available, from support and advice through to legal action. Enforcement should follow the agreed policy and formal enforcement should be instigated where support or informal advice are either not appropriate (due to the seriousness and/or persistence of the failings) or when advice has not achieved a satisfactory response over a reasonable period of time. Serious and/or persistent non-compliance needs to be addressed effectively to protect consumers and to enable other businesses to compete fairly.

Key issues:

- Identified and documented instances of non-compliance are to be followed through, and all instances of significant non-compliance addressed in a timely and effective manner;
- An enforcement approach is taken that is in accordance with local enforcement policies and national guidance, and appropriate to the severity and persistence of the offences;
- Any decisions to deviate from the approach prescribed in the enforcement policy are duly considered and the reasons documented. Proposed Officer action, or inaction, that does not conform with an authority's enforcement policy should normally be referred for higher level agreement;

- The respective due legal process for each of the range of formal enforcement options is strictly observed;
- Formal notices are followed up in a timely manner (i.e. immediately following the date of expiry or are withdrawn and re-served), with a presumption that further graduated enforcement will ensue in the event of continuing non-compliance.

Common Problems:

- Yo-yo businesses with sustained varying levels of compliance - not identifying the causes of instances of repeated non-compliance and associated risk ratings variation between interventions;
- Failure to take a graduated approach to enforcement and/or utilise the full range of enforcement tools;
- The progression of enforcement action undermined by gaps in the records of a business's compliance history and a lack of documented evidence;
- Lack of timely follow-up actions that would permit enforcement of the notice's requirements e.g. checks at the time formal notices expire;
- Treating the symptoms of non-compliance (short term fix) rather than addressing the root cause, resulting in repeated and continuing problems.

Useful Tips:

- Regular (e.g. monthly) case conferences or updates between Managers and staff. For example, to discuss the compliance progress of all high risk businesses in each Officer's area;
- Include an 'enforcement review' section on intervention/inspection forms/files for Officers to provide brief reasons for any action taken/not taken, to inform subsequent inspecting Officers and to facilitate Manager checks of consistency against the local enforcement policy;
- Consult with legal services where appropriate in formal enforcement actions to ensure that cases can meet all evidential and procedural criteria, and to avoid unnecessary "technical" challenge to well-founded cases;
- Develop formal enforcement checklists to ensure due process is checked prior to each step of formal actions;
- Officers schedule and record follow-up visits/compliance checks against notices/formal actions to ensure they are carried out on time (and where appropriate, that these dates are notified to the business in the relevant report or notice covering letter);

- Ensure each Authorised Officer has an appropriate programme of training based on the principles of continuing professional development.

3. Internal Service Audit and Monitoring

Managers should implement an interactive “plan, do, check, act” (PDCA) cycle to control and continually improve processes. Managers should also use regular internal monitoring checks to verify conformance with legal duties, official guidance and their own policies and procedures across the full range of service activities. Managers should ensure effectiveness of delivery methods, identify good practices, identify areas for improvement and satisfactorily address as appropriate.

Internal Monitoring is unique to each Local Authority and the quantity and type of monitoring activity should be tailored accordingly to suit individual needs and circumstances.

Key issues:

- All relevant Service activities to be included and subject to proportionate and routine quantitative and qualitative monitoring so that the Service is able to demonstrate its conformance with legislation such as Regulation (EC) No 882/2004, Codes of Practice, and other official guidance;
- Appropriate and proportionate records to be maintained to verify management oversight of key Service activities and actions, and the measures taken to address any identified problems;
- The recording of actions relating to follow up visits, entering of service requests, complaint handling and non-official control activities to determine the resources required to deliver a service;
- Service planning and adequate arrangements for delivery using sufficient, competent, qualified staff with suitable workload planning;
- Is the Service doing what it said it was doing, is it effective and is it suitable? (validation and verification of the Service);

Common Problems:

- Insufficient monitoring of the qualitative aspects of work with an emphasis being placed on the numbers of interventions/inspections;
- Frequency of monitoring activities and detail are focussed on quantities, rather than how important the outcome is and how effective that is;
- Inflexible and disproportionate monitoring, not varied and tailored according to

personnel or premises risks as required by the Code of Practice (often placing unnecessary demands on Managers to meet internal performance indicators);

- Monitoring evidence undocumented – Managers unable to demonstrate the scope, content or issues identified and addressed through their monitoring, and therefore the steps taken in building a case for any further action if required;
- Out of date documentation or procedures in place which is not effectively implemented;
- Informal monitoring is taking place but is not structured or documented.

Useful Tips:

- Consistency exercises, e.g. a range of business scenarios to enable a comparison of Officer assessments. These might include:
 - a. Risk scores;
 - b. Enforcement decisions;
 - c. FBO intervention/inspections reports;
 - d. Ratings for FHIS.
- Focus on internal qualitative monitoring and improvements (rather than just quantitative checks on the numbers of activities carried out) e.g. monitoring trends in business risk profiles and the quality of Officer inspections/interventions;
- A 'risk based' approach to internal qualitative monitoring e.g. greater emphasis on known problem areas (any issues with particular staff and a greater proportion of higher risk businesses) rather than an inflexible '10% of all files' approach.
- The use of desktop audit techniques using the food premises database and running reports and producing spreadsheets. This can provide a quick and easy way of cross-checking e.g:
 - a. Officer risk scoring;
 - b. totals and types of businesses in each risk category;
 - c. numbers and risk categories of overdue inspections;
 - d. numbers of unrated premises
 - e. approximate numbers of broadly compliant businesses;
 - f. business risk commensurate with inspecting Officer's level of authorisation and competency;
 - g. FHIS data – any anomalies between the database records and published data.
- Run reports listing the recent risk ratings histories of high risk businesses (e.g. the last 3.) Managers can quickly identify and investigate the reasons for any

businesses remaining high risk over a series of inspections.

- Delegation of monitoring activities - encourage all staff to participate in self-monitoring and peer checking of each other's work: reports, letters, notices, sample failure investigations, risk assessments, file updating, etc.
- Monitoring activities that work well for many include:
 - a. accompanied inspections;
 - b. self-audit checklist
 - c. peer reviews of Officers post-inspection paperwork;
 - d. post-inspection surveys
 - e. Manager reviews of all enforcement activities, including checks against the relevant guidance and enforcement policy;
 - f. routine caseload meetings
 - g. team meeting scenarios etc.