

East Renfrewshire Council – Capacity and Capability Audit

Food Law Enforcement Services

December 2021 – February 2022

Final Report issued 02 June 2022



Foreword

Audits of Local Authorities food law enforcement services are part of Food Standards Scotland's arrangements to improve consumer protection and confidence in relation to food and feed. These arrangements recognise that the enforcement of UK food law relating to food safety, hygiene, composition, labelling, imported food and feeding stuffs is largely the responsibility of Local Authorities. These Local Authority regulatory functions are principally delivered through Environmental Health and Trading Standards Services.

The audit scope is detailed in the audit brief and plan issued to all Local Authorities under reference [FSS/ENF/16/014](#) in June 2021. The main aim of the audit scheme is to maintain and improve consumer protection and confidence by ensuring that Local Authorities are providing an effective food law enforcement service. This audit was developed to assess Local Authority capacity and capability to deliver the food service.

The Audit scheme also provides the opportunity to identify and disseminate good practice and provide information to inform Food Standards Scotland policy on food safety, standards and feeding stuffs.

Specifically, this audit aimed to establish:

- evaluate the organisational, management and information systems in place to ensure they are effective and suitable to achieve the objectives of the relevant food law.
- assess the capacity and capability of the Local Authority to deliver the food service.
- provide a means to identify under performance in Local Authority food law enforcement systems.
- assist in the identification and dissemination of good practice to aid consistency.
- provide information to aid the formulation of Food Standards Scotland policy.

Food Standards Scotland audits assess Local Authorities' conformance against retained [Regulation \(EU\) 2017/625](#) and the [Food Law Code of Practice \(Scotland\) 2019](#) and the [Interventions Food Law Code of Practice \(Scotland\) 2019](#)

It should be acknowledged that there will be considerable diversity in the way and manner in which Local Authorities may provide their food enforcement services reflecting local needs and priorities.

Following the audit, it is expected that for any recommended points for action the Local Authority will prepare and implement an action plan, which will incorporate a

root cause analysis of any non-compliance.

Root cause analysis is a technique that senior management should use to identify the root causes of non-conformities identified at the audit have been effectively addressed. An important aspect is that there is a need to ensure that the non-conformity does not recur. This should be achieved by the accurate identification of the cause(s) of the non – conformity (i.e. the root cause) and the introduction of effective preventative action

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1.0 Introduction

- 1.1 This report records the results of the audit of East Renfrewshire Council, carried out between 25th January 2022 and 1st February 2022, with regard to their capacity and capability to deliver food enforcement, under relevant sections of retained Regulation (EU) 2017/625 on official controls performed to ensure the verification of compliance with feed or food law. An initial documentation review was carried out in December 2021. The audit focused on the Authority's arrangements for meeting certain operational criteria, particularly on staffing related issues, registration and approval of food business operators, enforcement actions, interventions, procedures for carrying out official controls and transparency about their enforcement activities.
- 1.2 Audits of Local Authorities' food law enforcement services were suspended in 2020 / 2021 due to the Covid – 19 pandemic. Deviations from the Food Law Code of Practice were granted to Local Authorities by the Minister for Public Health and Sport due to their active role in response to the pandemic and their role in the enforcement of the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020. Each Food Law Code of Practice deviation Enforcement Letter can be found here: [Register of Food Letters - 2015-2022](#)
- 1.3 FSS recognise that the Covid – 19 pandemic has had an impact on the delivery of official controls carried out by Local Authority enforcement officers. Local Authority food law intervention programmes were adversely affected as numerous interventions were not undertaken during 2020 and 2021 due to the deviations in place.
- 1.4 In response to this, FSS in partnership with the Scottish Food Enforcement Liaison Committee (SFELC) developed a LA Recovery Process which allowed Local Authorities to re – set their intervention programmes and incorporate all interventions into a new programme scheduled to restart on the 1st September 2021. Capacity and Capability Audits carried out post September 2021 take into account the LA Recovery process.
- 1.5 The final report will be made available on the Food Standards Scotland website at: www.foodstandards.gov.scot/food-safety-standards/regulation-and-enforcement-food-laws-scotland/audit-and-monitoring#la

Reason for the Audit

- 1.6 The power to set standards, monitor and audit the performance of enforcement authorities was conferred on Food Standards Scotland by Sections 3 and 25 of the Food (Scotland) Act 2015, and Regulation 7 of The Official Feed and Food Controls (Scotland) Regulations 2009.

- 1.7 In addition, Article 6(1) of Retained Regulation (EU) No 2017/625 on official controls performed to ensure the verification of compliance with feed or food law, includes a requirement for competent authorities to carry out internal audits or to have external audits carried out.
- 1.8 To fulfil this requirement Food Standards Scotland has established external audit arrangements in respect of competent authorities. These arrangements are intended to ensure competent authorities are providing an effective and consistent service for the delivery of official controls and are meeting the general criteria laid out in Retained Regulation (EU) No 2017/625.
- 1.9 The previous Audit of East Renfrewshire Council's Food Service was undertaken by Food Standards Scotland in May 2015. The food related audit prior to that was in 2011.

Scope of the Audit

- 1.10 The audit examined operational criteria such as having a sufficient number of staff who are suitably:
- qualified
 - experienced
 - competent
 - authorised, and
 - ensure staff are free from conflict of interest
 - have contingency plans for emergencies
 - have appropriate legal powers
 - have suitable facilities and equipment, and to,
- (a) Ensure that staff receive appropriate and on-going training.
- (b) Ensure effective and efficient co-ordination with other competent authorities and between different units of a single authority if applicable.
- (c) Have procedures in place for the registration/approval of establishments.
- (d) Take appropriate action where businesses do not comply with the law.
- (e) Carry out internal audits or have external audits undertaken.
- (f) Be transparent about its monitoring and enforcement activity.
- (g) Prepare reports of individual controls and provide copies to businesses.
- (h) Have, use and update as necessary, documented procedures for carrying out controls.
- 1.11 The audit examined East Renfrewshire Council's arrangements for official controls in relation to Retained Regulation (EU) 2017/625 on the verification of compliance with feed and food law.

1.12 The audit took place entirely remotely with no on-site activity.

Local Authority Background

1.13 East Renfrewshire Council is a unitary Authority which provides all local services for the East Renfrewshire Council area. The Council's officers are currently not office based and are working remotely from home due to the Covid – 19 pandemic. Throughout the pandemic, the Authority continued to carry out visits to food premises as part of Covid – 19 compliance checks.

1.14 The Environmental Health Service is structured into two teams: one focused on the regulation of commercial premises; the other on regulation of Environmental Protection, Public Health, Private Sector Housing and Sustainability matters. The delivery of Food and Feed Law enforcement sits within the Regulation of commercial premises team commonly cited as the Commercial Team.

1.15 The planned structure is designed to have the day-to-day operational management lead for food safety delegated to the Environmental Health Manager (EHM). The EHM is supported by two Senior Environmental Health Officers (SEHOs), an EHO and a Food Safety Officer (FSO). The Lead Food Officer (LFO) role as set out in the Food Law Code of Practice (Scotland) 2019, sits with one of the SEHO positions. The total number of officers in the team equates to a total of 3.0 Full Time Equivalentents (FTEs).

1.16 At the time of the Audit, a SEHO within the team (0.6 FTE) was involved in an investigation and was unavailable to carry out Food Law Interventions temporarily during this period.

2.0 Executive Summary

Capacity

2.1 In conjunction with the SFELC food recovery programme work, the Audit found that the Local Authority's (LA) current calculated capacity was 1.0 FTE short making it challenging to achieve and maintain the requirements of the Food Law Code of Practice (Scotland) 2019, the Interventions Food Law Code of Practice (Scotland) 2019 and retained Regulation (EU) 2017/625 of the European Parliament. At the time of Audit, the team was also currently operating with a temporary shortfall of 0.6 FTE.

2.2 The Authority has a satisfactory Service Delivery Plan (2021 – 2022) in place which was suitably approved.

- 2.3 The appointed LFO is a SEHO who has worked for the Authority for a number of years and is authorised to carry out all official controls.
- 2.4 In line with the LA Recovery Programme, the Authority restarted programmed interventions (PIs) in September 2021.
- 2.5 As evidenced by the locally maintained programmed inspection spreadsheets provided, the LA had met all planned interventions. However, this could not be verified by auditors as a result of spreadsheets being created from the MIS system.
- 2.6 Additionally, as the quarterly intervention spreadsheets did not contain FLRS ratings, we were unable to verify risk assessment and intervention frequency. This was due to issues with creating a Microsoft Access report to pull the information from the MIS system.

Capability

- 2.7 The Authority has robust Food Law policies and procedures in place which were documented electronically and maintained up to date.
- 2.8 Officers were generally clear on the Authority's procedure for conducting inspections and adhered to the Authority's Enforcement Policy and inspection procedures.
- 2.9 The Authority has a satisfactory procedure covering officer authorisations; however, it was found in the corporate scheme of delegation, that the listed statutes relative to Environmental Health (including Food Law) need to be updated.
- 2.10 Officers did not have access to the LA's Management Information System (MIS) for a period of five – six months during 2020 due to Information and Communications Technology (ICT) issues with remote working. This meant that official controls and associated food law interventions were not being recorded through the MIS during this time. However, it is noted that deviations were in place for the majority of Food Law interventions during this time.
- 2.11 Internal monitoring both quantity and quality, is being carried out by the LFO. Examples of accompanied inspections were provided and were found to be satisfactory.
- 2.12 Food complaints and complaints associated with food businesses are being recorded on a locally maintained spreadsheet within the team, and are not allocated or recorded through the MIS. For the first 6 months of the pandemic this was not possible due to the remote access issues.

Level of Assurance

2.13 As detailed in the Audit Charter Document of March 2020 (reference FSS/ENF/18/001) the audit has been assigned as below:

Reasonable Assurance Controls are adequate but require improvement	Some improvements are required to enhance the adequacy and effectiveness of procedures. There are weaknesses in the risk, governance and/or control procedures in place but not of a significant nature.
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3.0 Audit Findings

3.1 The findings reported below detail both corrective and preventive actions which are not confined to addressing specific technical requirements, but also include system-wide measures. Conclusions address the compliance with the planned arrangements, the effectiveness of their implementation and the suitability of the planned arrangements to achieve the stated objectives as appropriate.

3.2 **Article 4. Designation of competent authorities**

Article	Audit Findings
4. 2	The Authority has a satisfactory Service Delivery Plan (2021 – 2022) in place which was adequately approved by the Director and Convener for Environment on the 10 th of December 2021.
4.2	The Authority has a Corporate Scheme of Delegation in place which is available on the Council’s website. The Scheme of Delegated Functions enables the Chief Executive to authorise appropriately qualified staff to undertake duties in terms of regulatory functions. Within the Authority’s scheme of delegated functions, the statutes relative to Environmental Health and more specifically food related statute, is out of date and requires a review.
4.2	A table illustrating all officers’ qualifications and authorisations were provided within the Authorisation procedure document. The LFO position is filled by an experienced SEHO who is appropriately authorised.

Recommendation

1. Review and update the statutes listed in the Corporate Scheme of Delegation.

3.3 **Article 5. General obligations concerning the competent authorities and the organic control authorities**

Article	Audit Findings
5.1	<p>The total FTE within the food team at the time of audit was 3.0 which included two SEHOs, one EHO and one FSO. During this time, the team was operating with a temporary shortfall of 0.6 FTE and an additional shortfall of 1.0 FTE was identified as per the FSS/SFELC Recovery programme calculation carried out in July 2021. This made it challenging at times to achieve and maintain the requirements of the Food Law Code of Practice (Scotland) 2019, the Interventions Food Law Code of Practice (Scotland) 2019 and retained Regulation (EU) 2017/625 of the European Parliament. Audit evidence would indicate that additional resource is required to ensure full service delivery.</p> <p>It was noted that a successful recruitment process was ongoing during the audit and two new FTE's were to join the Environmental Health department within weeks of the audit. This additional resource has allowed the authority to re assign and re allocate duties across the two Environmental Health teams and increase capacity in the food team to 3.2 FTE.</p> <p>The post of LFO is covered by a SEHO within the team. The LFO manages and monitors the workload of the authorised officers within the team, whilst also sharing an equal part of the programmed and reactive workload.</p>
5.1	<p>It was not possible to attain an accurate record of the number of registered food establishments during the audit. Different spreadsheets were provided with different total figures. It was identified throughout the audit that there is difficulty with obtaining accurate data from the Authority's MIS without having to manipulate the data manually. This was only made possible because of the experience and local knowledge of the LFO.</p>
5.1	<p>The LA had recently introduced a system for uploading documents such as inspection reports onto their MIS, however, the majority of information including the previous history of premises is kept in paper files.</p>
5.1	<p>Food complaints and complaints associated with food businesses are being recorded on a locally maintained spreadsheet within the team, and are not allocated or recorded on the MIS. The premises' name and address are not recorded on the spreadsheet and the actions taken to resolve complaints are not recorded neither. The timeline for the first contact and completion of the complaints are not mentioned in the procedures, however, it is specified on the Council's website. Where information is not recorded on the MIS, it is therefore not available to FSS through the SND.</p>

5.1	<p>Officers did not have access to the LA's Management Information System (MIS) for a period of five – six months during 2020 due to Information and Communications Technology (ICT) issues with remote working. This meant that official controls and associated food law interventions were not being recorded through the MIS during this time. However, it is noted that deviations were in place for the majority of Food Law interventions during this time. The Authority should review any interventions carried out during this time and ensure these are entered onto their MIS retrospectively.</p>
5.1	<p>Officers within the Authority have the appropriate qualifications required to perform official controls. Complete copies of four officers' qualifications were provided for the purposes of the audit and were all found to be satisfactory.</p> <p>Documentary evidence was also available to demonstrate that officers have completed the required ten hours of continuing professional development (CPD) as required by the Food Law Code of Practice.</p> <p>Officers have responsibility for a variety of food establishments including those approved under Regulation (EC) No 853/2004 - laying down specific hygiene rules for food of animal origin. For officers carrying out interventions in these establishments the FLCoP requires competence in the inspection of specialist or complex manufacturing processes. It was identified through the audit, that some officers had a gap of competence in this area, simply due to the fact that the Authority did not have any approved establishments up until recently. However, we recognise that one SEHO within the food team has over 10 years' experience, from employment in another local authority, including the audit and inspection of approved establishments. As a result of Official Control Verification (OCV) implementation, further training in approved establishments is recommended for all officers and was booked for future attendance in early 2022. As discussed and mentioned by the LFO, additional experience may also take the form of shadowing a neighbouring LA and asking for assistance where required. This has been offered to all food team officers.</p>
5.4	<p>The success of the current arrangements appears to be dependent on the detailed knowledge and experience of the LFO especially with regard to the MIS and the responsibilities involved in the LFO role. There is a need to consider and ensure contingency and resilience across the service which may include further development and training opportunities for other officers and also students.</p>

Recommendations

2. Carry out a detailed workforce review with an aim of working towards a full complement of staff capable of delivering the requirements of the Food Law Code of Practice and associated codes of practice and centrally issued guidance.
3. Review the MIS database and ensure that all registered establishments listed are accurate and up to date.
4. Food Complaints commonly known as service requests should be recorded on the MIS. This should also include retrospective data entry.
5. Interventions completed during the 5 - 6 months where officers had no access to the MIS should be entered retrospectively.
6. The Authority must ensure officers are competent in the audit and inspection of approved establishments.
7. There is a need to consider and ensure contingency and resilience across the service.

3.4 **Article 9. General rules on official controls**

Article	Audit Findings
9	<p>It appears from the spreadsheets provided which were generated from the Management Information System (MIS), that all planned interventions (PIs) were being achieved. However, this data did not correspond with the overall spreadsheet provided with the allocated PI dates in June 2021 as part of the recovery programme. Following discussions it is understood that some Food Law Rating System (FLRS) Group 3 and Group 2 establishments were given future PI dates to ease the work pressure following the restart on the 1st of September 2021. These future intervention dates were allocated within the time frames outlined in the LA Recovery Programme Guidance (Priorities Table). However, one premises identified during a documentation check which had a rating of Group 2 Band D, was re-programmed to a future intervention date of 15/04/2022, which was out of scope of the recovery guidance which requires Group 2 band Ds to be spread over a 6 month period.</p> <p>Whilst it appeared the PI schedule was being achieved, the audit team have concerns about that accuracy of the information being provided and the inability of the Authority's MIS to produce accurate and verified reporting.</p>

Recommendation

8. Ensure that all premises are allocated an appropriate intervention frequency and the intervention programme complies fully with the Interventions Food Law Code of Practice (Scotland) 2019 and associated recovery guidance issued.

3.5 Article 12. Documented control procedures

Article	Audit Findings
12.1	The Authority has robust policies and procedures in place which were clearly laid out and documented. Auditors were impressed with the way which the Authority's policies and procedures were formatted into a single document. The format provided was easy to follow, maintained up to date, and approved by appropriate Directors of Service.
12.1	The Authority has an internal monitoring procedure in place. Qualitative internal monitoring assessments such as accompanied inspections are taking place when required in accordance with the monitoring procedure. These accompanied inspections are also routinely taking place where necessary; if it is expected that there could be potential complications arising from the intervention, and if the intervention requires two officers. Documented evidence of accompanied inspections were provided during the audit.
12.1	As part of the Authority's internal monitoring procedure, it would appear that formal team meetings which should take place every two months have been replaced with weekly Covid - 19 meetings and weekly Senior EHO meetings, where food matters are also discussed. No agendas or minutes of food meetings were provided, however, action logs from weekly meetings were submitted to the auditors.
12.1	Quantitative monitoring was evidenced by internal key performance indicators and mid-year returns. The intervention programme is allocated by the LFO on a quarterly basis and interventions are divided equally amongst the team. The Authority has a small team of officers and it was apparent during interviews with officers that they all work collaboratively and collectively to meet the intervention programme.

Good Practice

The Authority has robust policies and procedures in place which were clearly laid out and documented.

Recommendation

9. We recommend that formal team meetings are resumed, have an agenda and are minuted to ensure that records are maintained.

3.6 **Article 13. Written records of official Controls**

Article	Audit Findings
13.1	A sample of three food establishments were selected for review during the audit. The documentation was assessed for accuracy and compliance with the requirements of the code of practice. All documentation submitted was found to comply with the requirements of the code of practice.

3.7 **Article 14. Methods and techniques for official controls**

Article	
14 (h)	A comprehensive sampling policy and plan was provided. The sampling plan for 2020 and for most of 2021 was suspended due to the Covid – 19 pandemic. Sampling from September 2021 to April 2022 has only covered FSS funded samples, with the full sampling plan to resume in April 2022.
	A selection of sampling results were provided as part of a documentation review. On analysis it was identified that a sample result received required that the FBO be made aware of the result. No letter or correspondence was provided in the documentation provided of follow up action. During officer discussions, it was stated that FBOs are made aware of results through letters and phone calls. There was no evidence of this being a systemic failing, however a documented process would have provided a higher level of assurance of this.

3.8 **Articles 34 (1), (2), (4) and (5). Methods used for sampling, analyses, tests and diagnoses**

Article	
34	The Authority has a contract with Glasgow Scientific Services (GSS) for the testing and reporting for food samples.

3.9 **Article 138. Actions in the event of established non-compliance**

Article	Audit Findings
138.1	Out of the three establishments selected for review in the documentation check, one establishment was subject to Hygiene Improvement Notices (HINs) for non-conformance with HACCP and training requirements. The HINs were reviewed for detail and application and were found to be fit for purpose and served in line with the Council's enforcement policy.

4.0 Annex A – Action Plan

Action Plan for East Renfrewshire Council’s Capacity and Capability Audit, January – February 2022

1. Review and update the statutes listed in the Corporate Scheme of Delegation.	Review all legislation within current scheme, redefine for primary directives and legislation only.	Year 2022 (TBC with Chief Executives Dept)	Operations Manager
2. Carry out a detailed workforce review with an aim of working towards a full complement of staff capable of delivering the requirements of the Food Law Code of Practice and associated codes of practice and centrally issued guidance.	Recruitment drive for additional SEHOs. 1 EHO upgraded to SEHO and increased hours.	Jan/Feb 2022 Jan 2022	Operations Manager
	Swap of 0.6FTE SEHO from PH team to commercial team.	Feb 2022	
	Additional post of an environmental health technical officer approved for recruitment 2022/2023.	Feb 2022	
3. Review the MIS database and ensure that all	Review the MIS database for accuracy.	Mar 2022	

registered establishments listed are accurate and up to date.			
4. Food Complaints commonly known as service requests should be recorded on the MIS. This should also include retrospective data entry.	A procedure and staff training for data entry.	Mar 2022. ERC is still having upload issues to SND.	
5. Interventions completed during the 5 - 6 months where officers had no access to the MIS should be inputted retrospectively.	Review of all previous food related actions/ interventions. Data entry	Mar 2022 Mar 2022	
6. The Authority must ensure officers are competent in the audit and inspection of approved establishments.	Officers to attend OCV and HACCP level 4 training	Ongoing – training completed for some officers during Mar 2022	
7. There is a need to consider and ensure contingency and resilience across the service.	Resilience plan to be reviewed	December 2022	Operations Manager, LFO and Resilience Officer

8. Ensure that all premises are allocated an appropriate intervention frequency and the intervention programme complies fully with the Interventions Food Law Code of Practice (Scotland) 2019 and associated recovery guidance issued.	All premises are to be given a future inspection date in accordance with the SFELC Food Recovery guidance.	Feb 2022 and quarterly checks carried out during PI creation	LFO
9. We recommend that formal team meetings are resumed, have an agenda and are minuted to ensure that records are maintained.	Meetings to be put in officers diaries. Action logs to be maintained.	Feb 2022 Ongoing	LFO ALL
Satisfactory evidence was received from East Renfrewshire Council to allow for the closure of the recommendations. June 2023			

5.0 Acknowledgements

The Audit Assurance Team would like to acknowledge the help and co-operation of all staff involved for their assistance while conducting this audit.

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Audit Assurance Branch

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Abbreviations

EHM	Environmental Health Manager
EHO	Environmental Health Officer
EU	European Union
FLCoP	Food Law Code of Practice
FLRS	Food Law Rating System
FSO	Food Safety Officer
FSS	Food Standards Scotland
FTE	Full Time Equivalent
GSS	Glasgow Scientific Services
ICT	Information and Communications Technology
LA	Local Authority
LFO	Lead Food Officer
MIS	Management Information System
PI	Programmed Intervention
SEHO	Senior Environmental Health Officer
SND	Scottish National Database