

Food Standards Agency in Scotland

Report on the Audit of Scottish Government: Directorate for Agriculture, Food and Rural Communities: Rural Payments and Inspections Division

**Focussed Audit on the Delivery of Official
Controls subject to the Memorandum of
Understanding covering Primary Production of
Food and Feed.**

**18 December 2012
&
29 January 2013**

Foreword

Audits of food law enforcement services are part of the Food Standards Agency'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 and feeding stuffs is shared with the Scottish Government. This function is delivered through the Directorate for Agriculture, Food and Rural Communities: Rural Payments and Inspections Division (AFRC: RPID).

This focused audit has been developed to address two of the priorities identified in the Food Standard Agency's Strategy for 2010-2015 in meeting the outcomes that primary production food and feed meets the legislative requirements and is safe to enter the food chain and that regulation is effective, risk-based, consistent and proportionate. The audit will also be an opportunity for the Agency to establish the level of controls being implemented by AFRC: RPID following the EU Food and Veterinary Office (FVO) Mission to the United Kingdom on animal feed controls which took place from 16-26 June 2009 and the subsequent follow up in (November 2011). The report entitled 'The Implementation of Measures Concerning Official Controls on Feed Legislation' is available from the Europa website at: http://ec.europa.eu/food/fvo/rep_details_en.cfm?rep_id=2335.

The attached audit report examines AFRC: RPID delivery of official controls subject to the memorandum of understanding (MOU) between the two bodies. This MOU covers the primary production of food and feed as contained within Regulation (EC) No 852/2004 on the hygiene of foodstuffs and Regulation (EC) No 1831/2003 laying down the requirements for feed hygiene. The audit includes the arrangements in place for

- Assessment of the number of inspections completed in accordance with the agreed MOU,
- checks to ensure that only Officers authorised by the FSA are carrying out inspections
- The completion and effectiveness of inspections
- The maintenance and management of appropriate records
- Assessment of the data entered onto the Scottish Primary Production Official Control System database
- Checks on the provision of the annual schedule of cross compliance inspections by 30 June every year.

The main aim of the audit scheme is to maintain and improve consumer protection and confidence by ensuring that there is an effective food law enforcement service. The audit also provides the opportunity to identify and disseminate good practice and provide information to inform Agency policy on food safety, standards and feeding stuffs.

For assistance, a glossary of technical terms used within this audit report can be found at Annexe C.

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1.0 Introduction

- 1.1 This report records the results of an audit of The Scottish Government Directorate for Food and Rural Communities: Rural Payment and Inspections Division (AFRC: RPID)The audit focused on AFRC: RPID memorandum of understanding with the Food Standards Agency. The report has been made available on the Agency's website at:
www.food.gov.uk/enforcement/auditandmonitoring/auditreports.

Reason for the Audit

- 1.2 The power to set standards, monitor and audit food law enforcement services was conferred on the Food Standards Agency by Section 12 the Food Standards Act 1999 and Regulation 7 of the Official Feed and Food Controls (Scotland) Regulations 2009. This audit of AFRC: RPID was undertaken under section 12(4) of the Act, and Regulation 7(4) of the Regulations as part of the Food Standards Agency in Scotland audit programme.
- 1.3 This was the first time that AFRC: RPID had been audited by the Food Standards Agency.

Scope of the Audit

- 1.4 The audit examined AFRC: RPID procedures and documentation in place to follow the agreed Memorandum of Understanding in relation to primary production food and feed hygiene inspection arrangements.
- 1.5 The audit examined AFRC: RPID's arrangements for food premises interventions and internal monitoring with regard to primary production feed and food hygiene law enforcement to determine the effectiveness of inspection procedures.
- 1.6 The audit examined enforcement systems and arrangements to determine that they were effective in supporting business compliance, and that enforcement was managed and delivered effectively. The on-site elements of the audit took place at the offices at Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD and Strathearn House, Broxden Business Park, Lamberkine Drive, Perth,PH1 1RX

Background

- 1.7 Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules includes a requirement for competent authorities to carry out internal audits or to have external audits carried out. The purpose of these audits is to verify whether official controls relating to feed and food law are effectively implemented.
- 1.8 To fulfil this requirement, the Food Standards Agency, as the central competent authority for feed and food law in the UK, has established external audit arrangements, one of which is to seek to gain assurance that AFRC: RPID so far as it relates to primary production food and feed hygiene measures are effective.

- 1.9 The responsibility for ensuring food and feed safety at primary production level is enforced by the FSA and the local authorities in accordance with Regulation 5(a) of the Food Hygiene (Scotland) Regulations 2006 (SSI 2006/3) and the Feed (Hygiene and Enforcement)(Scotland) Regulations 2005 (SSI 2005/608). These implement Regulation (EC) NO 852/2004 on the hygiene of foodstuffs and Regulation (EC) No 1831/2003 laying down requirements for feed hygiene respectively.
- 1.10 The detailed guidelines for the conduct of audits of competent authorities are set out in an EC Decision of October 2006¹.

¹Commission Decision (October 2006): *'Guidelines laying down criteria for the conduct of audits under Regulation (EC) No. 852/2004 of the European Parliament and of the Council on official controls to verify compliance with feed and food law, animal health and animal welfare rules'*.

2.0 Executive Summary

- 2.1 The 1% cross compliance and once every three years Eggs & Poultry inspections were being programmed and notified to the Agency, who then paid the agreed costs when the programme of inspections was completed.
- 2.2 The reports of the inspection outcomes were not being entered onto the FSA Scottish Primary Production Official Control System (SPPOCS) database due to technical delays associated with the regular upgrades to the database
- 2.3 AFRC: RPID had developed and implemented a detailed Cross Compliance Inspection Guidance document. It contained references to food law relevant to Statutory Management Requirement (SMR) 11
- 2.4 Authorisation was provided by the FSA, with AFRC: RPID conducting regular reviews of Officer performance.
- 2.5 Officer training needs were being provided by the FSA in Scotland. Training records contained evidence that each Officer had completed relevant training
- 2.6 The AFRC: RPID had developed and implemented documented policies and procedures covering its primary production feed and food law enforcement responsibilities. These documents were available to all Officers in electronic format on a central directory and those evaluated during the audit contained up to date references to legislation and official guidance.
- 2.7 The procedures and documentation provided for inspections were being appropriately and consistently completed. From the files checked it was evident that Officers were clear on the procedure for conducting inspections and adhered to the procedure.
- 2.8 File checks of eight establishments confirmed that in all cases AFRC: RPID were completing detailed inspections in accordance with the Cross Compliance Inspections Control Report Forms. Those left with business operators were clearly worded. The information retained within the premises files provided sufficient evidence to support the basis for Officers' enforcement decisions.
- 2.9 The format of the Cross Compliance Inspections Control Report Form was such that it was not a requirement for the officer to clearly indicate the legislation under which the inspection was carried out, nor did it refer to the contact details for either the officer or the senior officer or the inspecting officer's designation.
- 2.10 It was evident from audit checks that Officers were following procedures and the Codes of Practice to achieve compliance. The information reviewed identified that in each case the enforcement decisions reached were appropriate to the information on file.
- 2.11 The AFRC: RPID had a comprehensive internal monitoring procedure in place. This included office discussions, team meetings, and scrutiny of files and electronic records. This monitoring appears to be effective.

3.0 Audit Findings

3.1 Organisation and Management

Strategic Framework, Policy and Service Planning

- 3.1.1 AFRC: RPID had developed and implemented an inspection plan for 2012-13 and are carrying out inspections in accordance with this plan.
- 3.1.2 Performance indicators are monitored and reported on a monthly basis and entered into a performance management system.

Documented Policies and Procedures

- 3.1.3 There is a comprehensive guide to inspection requirements contained within the “Cross Compliance Notes for Guidance” published by The Scottish Government and the Enforcement of Hygiene Regulations on Egg Production Sites in the United Kingdom published by the FSA.
- 3.1.4 There was a document control system in place managed from Saughton House. Officers have access to the current versions from the electronic files.

Officer Authorisations and Training

- 3.1.5 Authorisation of Officers is based on their competence and training. The Food Standards Agency is responsible for ensuring that each Officer has the appropriate level of authorisation based on their competence. Authorisation cards were not correctly issued by the FSA, being signed by a Deputy Director in the name of the Director.
- 3.1.6 Training was on-going and based on the officers hygiene enforcement experience a sufficient amount of primary production food and feed hygiene enforcement training had been completed.

Recommendation

- 3.1.7 AFRC: RPID should liaise with the Agency to ensure that authorisation documents are signed by a Director of the Food Standards Agency in Scotland.

Training in HACCP Awareness

- 3.1.8 The Cross Compliance Inspection Guidance (June 2012) in Appendix 11 contains a list of Secondary Production Activities that may be found during a cross compliance inspection and which would require HACCP. Officers are instructed to notify the cross compliance team when they confirm or suspect any of the activities are taking place on an establishment. AFRC: RPID then notify the FSA. Evidence of this requirement being followed was identified during the audit.

3.2 Primary Production Establishment Inspections

3.2.1 It was not possible to interrogate the Scottish Primary Production Official Controls System (SPPOCS) for recent inspections as these had not been entered onto the system. Technical delays in the granting of administrative rights are preventing full utilisation of the database. The repeated transfer of data from multiple upgrades of the database has caused data entry delays for both the egg and primary production systems. This situation has been discussed and agreement reached with the Agency.

Recommendation

3.2.2 AFRC: RPID and the Agency should liaise to expedite the use of the SPPOCS database.

Inspection Reports and Records

- 3.2.3 AFRC: RPID operates an IT based database system using the information recorded on the Cross compliance inspections control report form. Pre-inspection procedures include creating an inspection file and populating it with the required information held on centrally held lists or information. The inspection report forms audited were consistently filled in with the required fields being completed.
- 3.2.4 File checks on the information database of eight primary production establishments confirmed that in all cases AFRC: RPID were completing detailed inspections including the assessment and recording of the information required for the completion of the SPPOCS database.
- 3.2.5 Inspection records indicated that the planned inspections were unannounced, which is in accordance with centrally issued guidance and regulation (EC) No 882/2005 Article 3.
- 3.2.6 The majority of primary production business operators required no further action, however one had received a warning letter in accordance with the written procedure.
- 3.2.7 The information retained on file provided sufficient evidence to support the basis for Officers' enforcement decisions.
- 3.2.8 Risk rating of the premises was in accordance with the Annex 10 of the Food Law Enforcement Code of Practice. For cross compliance AFRC: RPID inspect 1% of registered establishments each year, 75% of the programme is based on risk factors and 25% on a random allocation. For Eggs and Poultry, all new registered establishments are inspected, other establishments are routinely inspected once every three years.
- 3.2.9 The Cross Compliance report does not state the specific feed/food law relevant to the inspection, the designation of the authorised Officer completing the report or Officer or Senior Officer contact details.

Recommendation

3.2.10 AFRC: RPID should liaise with the Agency to determine the requirements of the Cross compliance inspection form to ensure that enforcement is clear, open and consistent and in compliance with the Code of Practice requirements.

Verification Visit to Food Premises

- 3.2.11 During the audit, a verification visit was undertaken to a mixed production establishment. The visit was carried out with the Officer from AFRC: RPID who had conducted the most recent programmed primary production inspection. The main objective of the visit was to assess the effectiveness of AFRC: RPID's assessment of the business compliance with the primary production requirements of Regulation (EC) No. 852/2004 on the Hygiene of Foodstuffs and Regulation (EC) 1831/2003 laying down the requirements for feed hygiene.
- 3.2.12 An interview was held with the individual Officer before the verification visits took place to confirm the contents of the file records and to explain the format and objectives of the visit. It also gave the Officer the opportunity to explain the inspection process, i.e. the preparatory work carried out prior to an inspection and the general process while on site.
- 3.2.13 The visit confirmed that checks carried out by Officer was detailed, thorough and had adequately assessed business compliance with structure and hygiene practice. The Officer had assessed the need for HACCP compliance in relation to the gas powered grain dryer.

3.3 Enforcement

- 3.3.1 It was evident from audit checks that Officers were following procedures and the Codes of Practice to achieve compliance.
- 3.3.2 The Cross Compliance report signed by the Feed Business Operator (FBO) following the inspection did not indicate clearly the legislation under which the inspection was conducted. This was discussed during the audit and it was explained that the information would be available on the “Single Application Form” (SAF). However there are no references to the directly applicable legislation involved in the primary production regime detailed in the SAF.

3.4 Internal Monitoring

- 3.4.1 AFRC: RPID have an internal monitoring procedure in place which is capable of producing monthly monitoring reports that are reported to senior managers.
- 3.4.2 Quantitative and qualitative performance using Quality Management check forms is regularly conducted by area managers.

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ANNEXE A

Updated Action Plan for AFRC: RPID

Audit dates: 18 December 2012 (Edinburgh) and 29 January 2013 (Perth)

TO ADDRESS RECOMMENDATION:	BY (DATE)	PLANNED IMPROVEMENTS	PROGRESS	ACTION TAKEN
3.1.7 AFRC: RPID should liaise with the Agency to ensure that authorisation documents are signed by a Director of the Food Standards Agency in Scotland.	01 June 2013	FSA to issue amendment to the scheme of delegation to update all authorisations. Then only if necessary FSA to issue new authorisation cards	Completed	Letter received from Professor Charles Milne (Director FSA (Scotland) 15 May 2013 stating “cards signed by our previous Deputy Director have my approval, as current Director of the Food Standards Agency in Scotland” thus removing the need to reissue cards.
3.2.2 AFRC: RPID and the Agency should liaise to expedite the use of the SPPOCS database.	30 April 2013	AFRC: RPID to assist with testing SPPOCS upgrades.	Completed	Testing completed 19/02/2013 although there are still unresolved SPPOCS related IT issues.
3.2.10 AFRC: RPID should liaise with the Agency to determine the requirements of the Cross compliance inspection form to ensure that enforcement is clear, open and consistent and in compliance with the Code of Practice requirements.	01 June 2013	Relevant legislative references added to the cross compliance control report form (CRF).	1 March 2014	Relevant legislative references were provided by the FSA on 28 May 2013 however there wasn't sufficient time to incorporate the additional text before the early “Random” selection list was issued 30 May. Rather than issue a new version of the CRF within the inspection year it was decided to delay implementation until the start of the 2014 inspection season.

Actions accepted by auditor : Audit file closed 26 November 2013

ANNEXE B

Audit Approach/Methodology

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

(1) Examination of policies and procedures.

The following AFRC: RPID policies, procedures and linked documents were examined before and during the audit:

- Memorandum of Understanding (April 2012)
- Single Application Form (2012)
- Dairy Hygiene Inspection Guidance (2008 v1 July 2008)
- 2012 Dairy Hygiene (SMR 11) (23/07/2012)
- Authorisation card
- Cross Compliance Inspection Guidance (June 2012)
- SMR 11 (Food Law) – Cross Compliance (Annex II of Council Regulation 73/2009)
- Cross Compliance Notes for Guidance
- Enforcement of Hygiene Regulations on Egg Production sites in the United Kingdom (version 1 February 2009)
- Eggs Poultry Unit: Field Staff Instructions (17 February 2012)

(2) File reviews – the following file records were reviewed during the audit:

- 2011 and 2012 - XC/SSAFO inspections Control Report Forms
- Primary Production Food and Feed Pre-visit Questionnaire

(3) Officer interviews – the following Officers were interviewed:

- Audit Liaison Officer
- Area Manager – Cross compliance
- Area Manager – Eggs & Poultry Unit
- Authorised Officer who carried out the most recent inspection at the premises selected for a verification visit.

Opinions and views raised during officer interviews remain confidential and are not referred to directly within the report.

(4) On-site verification check:

A verification visit was made with AFRC: RPID Officers to a local primary production establishment. The purpose of the visit was to verify the outcome of the last inspection carried out by AFRC: RPID and to assess the extent to which enforcement activities and decisions met the requirements of relevant legislation, the Food and Feed Law Codes of Practice and official guidance.

ANNEXE C

Glossary

AFRC: RPID	Directorate for Agriculture, Food and Rural Communities; Rural Payments and Inspections Division, Q1 Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD
Audit	Audit means a systematic and independent examination to determine whether activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve objectives.
Authorised Officer	A suitably qualified Officer who is authorised by the Food Standards Agency to act on its behalf in, for example, the enforcement of legislation.
E. coli	<i>Escherichia coli</i> microorganism, the presence of which is used as an indicator of faecal contamination of food or water. <i>E. coli</i> 0157:H7 is a serious food borne pathogen.
Food Law Code of Practice	Government Code of Practice issued under Section 40 of the Food Safety Act 1990, Regulation 24 of the Food Hygiene (Scotland) Regulations 2006 and Regulation 6 of the Official Feed and Food Controls (Scotland) Regulations 2009, as guidance to Local Authorities on the enforcement of food legislation.
Food hygiene	The legal requirements covering the safety and wholesomeness of food.
Food Standards Agency	The Food Standards Agency is an independent Government department set up by an Act of parliament in 2000 to protect the public's health and consumer interests in relation to food. Everything we do reflects our vision of Safe food and healthy eating for all.
Framework Agreement	The Framework Agreement consists of: <ul style="list-style-type: none"> • Chapter One Service Planning Guidance • Chapter Two The Standard • Chapter Three Monitoring of Local Authorities • Chapter Four Audit Scheme for Local Authorities <p>The Standard sets out the Agency's expectations on the planning and delivery of food law enforcement.</p>

The **Monitoring Scheme** requires local authorities to submit quarterly returns to the Agency on their food enforcement activities i.e. numbers of inspections, samples and prosecutions.

Under the **Audit Scheme** the Food Standards Agency will be conducting audits of the food law enforcement services of local authorities against the criteria set out in the Standard.

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 enforcement.
HACCP/ FSMS	Hazard Analysis and Critical Control Point – a food safety management system (FSMS) used within food businesses to identify points in the production process where it is critical for food safety that the control measure is carried out correctly, thereby eliminating or reducing the hazard to a safe level.
Memorandum of Understanding	A signed document define a relationship between departments,
Risk rating	A system that rates food premises according to risk and determines how frequently those premises should be inspected. For example, high risk premises should be inspected at least every 6 months.