



**Food Standards Scotland**

**City of Edinburgh Council  
Food Law Enforcement  
Services**

**Capacity and Capability Audit  
Report**

**30 April – 02 May 2018**



## Foreword

Audits of Local Authorities food law enforcement services are part of Food Standards Scotland 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.

UK Local Authority Food Law Enforcement data is collected via the Local Authority Enforcement Monitoring System (LAEMS) and is published on the Food Standards Agency website. FSA continue to collect this data for Food Standards Scotland.

<https://www.food.gov.uk/enforcement/monitoring/laems/mondatabyyear>

The audit scope is detailed in the audit brief and plan issued to all Local Authorities under reference FSS/ENF/16/014 on 12 October 2016. 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:

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

Food Standards Scotland audits assess Local Authorities' conformance against Regulation (EC) No 882/2004<sup>1</sup> on official controls performed to ensure the verification of compliance with feed or food law and the Food Law Code of Practice (Scotland) 2015.

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.

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<sup>1</sup> [\(EC\) No 882/2004](#)

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. A template for this is provided at the end of this report.

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## 1.0 Introduction

- 1.1 This report records the results of the audit at City of Edinburgh Council with regard to their capacity and capability to deliver food enforcement, under relevant sections of Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed or food law. 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 The report has been 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](http://www.foodstandards.gov.scot/food-safety-standards/regulation-and-enforcement-food-laws-scotland/audit-and-monitoring#la)

### Reason for the Audit

- 1.3 The power to set standards, monitor and audit Local Authority food law enforcement services 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. This audit of City of Edinburgh Council was undertaken under section 25 (1-3) of the Act, and Regulation 7(4) of the Regulations as part of the Food Standards Scotland audit programme.
- 1.4 As a designated competent authority as defined within Schedule 5 of the Official Feed and Food Control (Scotland) Regulations 2009 local authorities are required to comply with Article 4(6) of Regulation (EC) No 882/2004. In order to help local authorities fulfil this requirement, (as part of its central role under the Food (Scotland) Act 2015 and Official Feed and Food Control (Scotland) Regulations 2009) Food Standards Scotland will continue to deliver external audit arrangements (as done previously under Food Standards Agency). This however, does not preclude Local Authorities (LA's) from implementing their own audit regimes and in fact this will be encouraged. Food Standards Scotland's audit role therefore fulfils two different requirements.
- 1.5 The last audit of City of Edinburgh Council's Food Service was undertaken by the Food Standards Agency (Scotland) in November 2013. A previous audit took place in February 2013 which was a desktop audit of policies, procedures and documentation. At that time Edinburgh was one of 10 Local Authorities subject to a desktop audit, a further three received on the ground audits.

### Scope for the Audit

- 1) Does the Local Authority meet certain operational criteria – such as:
- having a sufficient number of staff who are suitably:
    - qualified
    - experienced
    - competent

- authorised
  - ensuring that staff are free from conflict of interest
  - having contingency plans for emergencies
  - having appropriate legal powers
  - having suitable facilities and equipment
- 2) ensure that staff receive appropriate and on-going training
  - 3) ensure effective and efficient co-ordination with other competent authorities and between different units of a single authority, as applicable
  - 4) have procedures in place for the registration/approval of establishments
  - 5) take appropriate action where businesses do not comply with the law
  - 6) carry out internal audits or have external audits undertaken
  - 7) be transparent about its monitoring and enforcement activity
  - 8) prepare reports of individual controls and provide copies to businesses
  - 9) have, use and update as necessary, documented procedures for carrying out controls
- 1.6 The audit examined City of Edinburgh Council's arrangements for official controls in relation to Regulation (EC) No 882/2004 on the verification of compliance with feed and food law. The audit included two verification visits to two local food businesses to assess the capacity and capability of the official controls implemented by the Local Authority at the food business premises and, more specifically, the relationship between Regulation (EC) No 882/2004, the Local Authority Policies and Procedures and the Authorised Officers ability to deliver official controls.
- 1.7 The on-site element of the audit took place at the Authority's offices in Niddrie Mains Road, Edinburgh.

### Local Authority Background

- 1.8 City of Edinburgh Council is an urban unitary authority covering 122 square miles, with a population of 487 500. As a popular tourist destination it is estimated that the city's population doubles during the summer months. The Council discharges its operational responsibilities as a food authority in relation to food hygiene and food standards enforcement through the Regulatory Team, East Neighbourhood Centre, 101 Niddrie Mains Road, Edinburgh, EH16 4DS From the 2016-17 Local Authority Enforcement Monitoring System (LAEMS) return there are some 6197 food businesses located within the City of Edinburgh Council area. These comprise 9 primary producers, 145 manufacturers, 8 Importers/exporters, 54 distributors, 1017 retailers and 4964 restaurants and other caterers.
- 1.9 The City of Edinburgh Council has a 2018-19 Food Health and Safety Business Plan in draft format, similar to that of 2017-18 which had not been formally approved. It is a high level document stating the Scope of the policy. The previous (2016-2017) service plan was approved in January 2017. The Service Manager informed the Auditors that in the absence of an approved service plan

officers were still able to operate satisfactorily. Nevertheless, it is a requirement of the Food Law Code of Practice (Scotland) that the statutory requirements of the Code are brought to the attention of local authority officials responsible for agreeing service arrangements relevant to the delivery of Official Controls.

- 1.10 The Service contributes directly towards three of the four strategic outcomes in the Edinburgh Partnership Community Plan 2015-18 (Single Outcome Agreement) which describes how the Edinburgh Partnership will deliver the community planning vision for the City.
- 1.11 The key ambition of the Community Plan is to improve services, and deliver better outcomes for service users, citizens and communities.
- 1.12 The Community Plan also reflects a three year partnership commitment to meet increasing demands on services, within an environment of decreasing resources. Community planning partners believe this is possible by placing more focus on joint planning and resourcing, joint service delivery, and joint performance reporting.
- 1.13 Within the current departmental management structure, food law enforcement is managed by the Regulatory Services Manager, then the Regulatory Operations Manager (Environmental Health) and finally 3 Team leaders. The draft Service Plan reports that there has been a steady fall in staff numbers of approximately 20% since 2013-14. The lack of staff does not appear to be budget related as there are sufficient financial resources and available posts, the Authority is currently unable to attract suitable staff to work in Edinburgh.
- 1.14 There are currently 25 Authorised Officers, twenty of whom are Environmental Health Officers (EHOs), the Environmental Health Officers (EHOs) primary focus is food safety although they are multi-disciplined, covering other environmental health duties.
- 1.15 The budget for food safety in 2017-18 was £1 197 125 which was an increase of approximately 1.1% from the previous year. During 2016, CEC went through a transformation process with target savings of 25% for management costs and 15% for all other staffing were set. Voluntary Early Redundancies' were accepted from other non-statutory areas within Environmental Health in order to protect the Food Service.
- 1.16 The Authority had previously followed the Cross Contamination Strategy and as a result of it's implementation between 2013 and 2015 there was a backlog of interventions. The potential for this backlog was recognised by the then Food Standards Agency (Scotland) at the time of the strategy. However, no solution was identified. At the time of this audit there was still a considerable number of premises either unrated or overdue, as follows:

	<b>Figures collected during the 2018 Capacity &amp; Capability</b>	<b>Figures collected during the 2013 Cross Contamination audit</b>
<b>listed</b>	<b>6488</b>	<b>5881</b>
<b>unrated</b>	<b>915</b>	<b>1027</b>
<b>overdue</b>	<b>2886</b>	<b>2830</b>

## 2.0 Executive Summary

### Capacity

- 2.1 The audit found that the Environmental Health resources for conducting Official Controls was insufficient to achieve the requirements of the Food Law Code of Practice (Scotland) 2015.
- 2.2 The Lead Officer for Food post is filled by a Team Leader who is a Food Enforcement Officer who has worked for the Authority for a number of years and is authorised to carry out all official controls and enforcement activities.
- 2.3 Discussions took place on the numbers of full time equivalent staff (FTE's) and the vacant posts. It was established that whilst the finance was available to allow measures to be taken to fill vacancies to maintain the complement of staff necessary to meet the demands of the service, recruitment exercises in 2017 and 2018 had failed to attract sufficient suitable applicants.
- 2.4 Based on the information provided prior to the audit regarding the size of the Local Authority's intervention programme and the significant difference between the number of staff that the Local Authority has identified as required versus the number of staff actually in post, together with discussions and reviews of documentation and records, the capacity to deliver the intervention programme was considered unsatisfactory at the time of audit. It was noted that there is an ongoing non-compliance with the Food Law Code of Practice since the previous audit in 2013.
- 2.5 The most recent LAEMS Report (2016–2017) published on 29 June 2017 shows that for City of Edinburgh Council Food Hygiene there were 6197 establishments in total, this is an increase of more than 1,000 food businesses since the last audit, with an increase of 337 in the last financial year. The report indicates that 4515 interventions were carried out at 2201 premises.
- 2.6 A database query carried out during the audit indicated that at the end of March 2018 there were for food hygiene 25 high risk A & B category, 913 category C, 1340 category D and 608 category E food premises overdue for an official control.
- 2.7 The database query indicated that there were 6488 premises listed on the Food Premises database, for which there were 2886 Food Hygiene interventions overdue and 915 unrated (amounting to 3801 premises in total) which is well over 50% of the premises on the database. This reflects a similar position to that found in 2013, when the Authority were applying the Cross Contamination strategy.
- 2.8 Food standards data indicated that for the 6130 premises on the database, 3363 were considered as being overdue, with only one being a high risk A rated

business. There were less premises on the database for food standards than there were for food hygiene.

- 2.9 The budget information produced by the Authority appeared to show a stable allocation of finance to the service. The finance for vacant posts was available however the Authority were not able to satisfactorily appoint to these posts.

### Capability

- 2.10 Officers were generally clear on the Authority's procedure for conducting inspections and adhered to the Authority's Enforcement Policy and inspection procedures. The procedures and documentation provided for inspections were generally being appropriately and consistently followed and completed.
- 2.11 Two microbiological sampling results reported by the Food Examiner were not investigated. The Authority reviews all results but does not routinely investigate borderline results unless they show the presence of pathogenic organisms. These results could indicate a potential public health issue that should have been further investigated.
- 2.12 Food Service plans remain in draft form for a considerable time following their production. The April 2016 – March 2017 Service Plan was approved in January 2017, and last year's plan (April 2017 – March 2018) remains in draft form. Service plans are seen as an important part of the process to ensure that national priorities and standards are addressed and delivered locally and help local authorities to follow the principles of good regulation, focus on key delivery issues and outcomes, provide an essential link with corporate and financial planning, set objectives for the future, and identify major issues that cross service boundaries, provide a means of managing performance and making performance comparisons and provide information on an Authority's service delivery to stakeholders, including businesses and consumers.
- 2.13 Authorities have the flexibility to decide locally whether or not service plans should be approved at Member level. To help to ensure local transparency and accountability, and to show their contribution to the Authority's corporate plan, feed and food service plans and performance reviews should be approved at the relevant level established for that Local Authority, whether that is Member, Member forum, or suitably delegated Senior Officer level. Records should be kept to show that service plans have received appropriate approval.
- 2.14 Evidence of the authorisation process and relevant documentation was available for Officers. However, reference to two recent pieces of legislation were not present. Authorisations collectively should be reviewed and updated.
- 2.15 Officer activities related to quantitative monitoring of caseloads was reported at Team Meetings, however there was limited formal monitoring of the quality of work allocated or completed.
- 2.16 To assist in the appropriate delivery of enforcement, there are a series of documented policies and operational documents available, generally in flow chart form, for all Officers in electronic format on a central directory. The

majority of these documents have been reviewed in recent years and with some exceptions are generally fit for purpose.

### Level of Assurance

- 2.17 As detailed in the Audit of Enforcement Authorities Policy Document of May 2016 (reference FSS/ENF/16/007) the audit has been assigned as below:
- 2.18 The Recommendations within this report detail the weaknesses in the controls that City of Edinburgh Council should address.

#### **Insufficient Assurance**

**Controls are not acceptable and have notable weaknesses**

There are significant weaknesses in the current risk, governance and/or control procedures, to the extent that the delivery of objectives is at risk. Exposure to the weaknesses identified is sizeable and requires urgent mitigating action.

### **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.

#### Article 3 Regulation EC No 882/2004 – General Obligations with regard to the organisation of Official Controls (Establishment intervention procedures)

- 3.2 The Authority does not have a satisfactory Food Safety Service Plan for 2017/2018 as there was a draft that was awaiting formal approval. The plan for 2016/2017 remained in draft until January 2017 when it received formal approval.
- 3.3 The post of Food Team Leader was the designated Lead Officer for Food and was managing the regular workload of the Authorised Officers and also doing a proportion of the required work.
- 3.4 The Local Authority Intelligence Gathering Questionnaire (June 2017) return to Food Standards Scotland for this Authority indicated that for food hygiene there were 12.5 professional posts and half a FTE post for administration. The figures for food standards were 2.9 FTE's and 0.25 respectively. The Authority does not have an appropriate amount of suitable staff to achieve the required compliance with the Food Law Code of Practice.

- 3.5 The 2016 – 2017 LAEMS Report shows that for City of Edinburgh Council Food Hygiene, there were 6197 establishments in total, with 770 that were recorded on the database having not yet been rated for an intervention. There were 69 Category As, 819 Category Bs, 1994 Category Cs, 1659 Category Ds and 886 Category Es. The report indicates that there were 2583 inspections and audits, 1872 verification and surveillance visits, 15 sampling visits and 45 advice and education visits that year.
- 3.6 A live data report was requested from the food premises database at the start of the audit which was promptly provided. On analysis this showed:
- There were 6488 premises listed on the Food Premises database and at the end of March 2018, there were 25 high risk A and B category food hygiene (FH) and 2886 other food hygiene premises overdue. There were also 915 unrated premises (which as a result had not been allocated a risk rating.) The Lead Food Officer explained that the unrated premises and overdue inspections are regularly monitored to ensure that no potentially high risk food businesses remain unrated or uninspected.
  - The data showed that for food standards, there were 6130 premises on the database, of which 3363 were considered as being overdue an intervention. Only one of these was rated category A (high risk). The Lead Food Officer showed that this premises, although not on the database, had been inspected.
  - The Authority does not use any Alternative Enforcement Strategy, as all businesses are included in the intervention process but lower risk premises (lower risk C's and below) are not all inspected.
  - The Authority's data management system continues to generate inspection dates for food hygiene and food standards interventions at different dates. The Authority advises that where practical these different interventions are carried out at the same time. The majority of the 6130 premises are considered low risk for food standards, with 22 being rated as A.
- 3.7 The same LAEMS report for 2016 – 2017 indicated that for Food Standards 1286 official control interventions were achieved at 1089 premises. Enforcement action in the form of a written warning was recorded at 144 of these.
- 3.8 Many of the issues relating to the missed interventions were found to replicate, or are very similar to, the issues found in the Cross Contamination Strategy Audit of 2013. Deeper analysis shows that the Authority had made inroads into reducing the number of missed interventions in the C category premises. Prior to the Cross Contamination Strategy, the Authority shows relatively small numbers of missed interventions which increased during the strategy and then reduced in the following years. Finally, the number of missed interventions increases in the year 2017; this seems to coincide with the loss of staff in the Authority and the difficulties with recruitment.

**Recommended Point for Action: Food Service Plan & Food Hygiene Enforcement Policy**

The Authority did not have an approved Food Safety Service Plan in place for 2017-18 at the time of the audit.

The current intervention programme does not comply with the Food Law Code of Practice or Regulation (EC) No 882/2004.

Article 3 Regulation EC No 882/2004

**Articles 4(2) to 4(6) Regulation EC No 882/2004 – Designation of Competent Authorities (Establishment Intervention Procedures, Facilities and equipment**

- 3.9 The Food Hygiene Enforcement Policy is dated 2013 and refers to it being “subject to regular review”, however it refers to the “Enforcement Concordat”, the Food Standards Agency and the following of the Cross Contamination Guidance. These have all been altered, particularly the “Enforcement Concordat” which has subsequently been superseded by the Scottish Regulators Strategic Code of Practice (SRSCoP) which requires that Local Authorities recognise, in their policies and practice, a commitment to the five principles of better regulation: regulation should be transparent, accountable, consistent, proportionate and targeted only where needed.
- 3.10 The SRSCoP is made under section 5 of the Regulatory Reform (Scotland) Act 2014 which contains provisions for a Code of Practice in relation to the exercise of regulatory functions by a regulator. The Code will apply to the (devolved) regulatory functions of regulators which includes Local Authorities (excluding planning authority functions). Regulators to whom the Code applies have to have regard to the Code in exercising any such regulatory functions. This duty to “have regard to” the Code means that the regulator must take into account the Code’s provisions, so any references in documentation relevant to enforcement has to follow this Code.
- 3.11 The Food Standards policy is dated May 2007 and also contains inaccurate references to the Enforcement Concordat and the Food Law Code of Practice (Scotland). The regular review stated within the procedure has either been missed or has been ineffective.
- 3.12 The Authority has a scheme of delegation which appropriately delegates powers from the Chief Executive to the Director of Place. The authorisation documents provided varied in format and style and did not include up to date regulations.
- 3.13 The Food Team Leader post (who is the designated Lead Officer for Food) is filled by an experienced Food Enforcement Officer.

- 3.14 The Authorisation documents issued under the scheme of delegation lists all legislation but the Authority has taken the pragmatic approach of considering defining the legislation on a consolidated list available on the Local Authority website. At present, the individual Officer authorisation documents are detailed by groupings, with some improvements required, for example the Trade in Animal Related Products regulations require to be added to the list.
- 3.15 The Authority is maintaining its database which was able to produce reports for the auditors when requested. The Lead Food Officer uses database reports to assess the work priorities and to ensure that there is a reasonable allocation of work to all members of the team.
- 3.16 The full complement of authorised Officers is 21 EHO's and 4 Food Enforcement Officers (FEOs) within the 3 teams, this equates to 14 EHO's and 3.6 FEO's FTE in food. There is a mixture of experience and service within the Local Authority.

**Recommended Point for Action: Procedures**

The Authority has not ensured that all authorisations are up to date.

The Authority did not have satisfactory Enforcement policies for either food hygiene or food standards in place at the time of the audit as these were both out of date and so require to be reviewed and updated.

Article 4 of Regulation (EC) No 882/2004

**Article 6 Regulation EC No 882/2004 – Staff performing official controls**

- 3.17 Officers have the appropriate qualifications and copies were provided as requested. Documentary evidence was requested to verify completed training and on examination it was found that many Officers had not completed the required 10 hours of food based continuing professional development as required by the Food Law Code of Practice.
- 3.18 Evidence of formal training in Hazard Analysis and Critical Control Points (HACCP) principles was requested and it was noted that many Officers have received some forms of training. One Officer in the food team had no formal HACCP training at all. The Local Authority were aware of this and had carried out initial training, ongoing monitoring and team support. Evidence of satisfactory training in Validation and Verification of Food Safety Management Systems based on HACCP was observed for some Officers.
- 3.19 When undertaking interventions in category A food standards establishments and which are engaged in the manufacture and processing of foodstuffs with documented quality assurance systems, Officers should be appropriately trained and able to demonstrate that they are competent to assess quality assurance systems. There are 22 category A food standards premises, the Food Law Code of Practice requires an Officer to have been appropriately

trained and be able to demonstrate that they are competent to assess quality assurance systems. Lead Auditor qualifications are held by several Officers.

- 3.20 Officers have responsibility for a variety of food business operators, including 14 approved under Regulation (EC) No 853/2004 - laying down specific hygiene rules for food of animal origin. For Officers carrying out inspections of specialist or complex manufacturing processes, the Food Law Code of Practice requires additional training and a demonstration of competence to undertake such inspections.

**Recommended Point for Action: Training**

The Authority should access and evidence additional training and be able to demonstrate Officer compliance.

Article 6 of Regulation (EC) No 882/2004  
Section 4 of the Food Law Code of Practice (Scotland) 2015.

**Articles 8 (1) and 8 (3) Regulation EC No 882/2004 – Control and Verification procedure (inc Internal Monitoring)**

- 3.21 The Authority has flowchart type Procedural Notes containing information and instructions for the official controls and food law that it carries out in place for both food hygiene and food standards. Examples of these procedures provided for the audit were simple, short and are generally fit for purpose, however with some being dated 2006-07 the references, particularly to the Food Law Code of Practice, are out of date.
- 3.22 The Authority is not fully implementing internal monitoring of official controls for letters and reports. There is a monitoring procedure which is predominantly a method of ensuring consistency with some quality steps included. There is reference to joint visits and shadowing.
- 3.23 Quantitative monitoring is evidenced primarily by the database being used to provide monthly intervention programmes which can be monitored by running a series of reports.
- 3.24 Officers are discussing enforcement issues and are communicating with each other to ensure some informal monitoring is taking place between themselves and their Team Leaders.

**Recommended Point for Action: Monitoring**

The Authority has an internal monitoring procedure in place which is not being fully implemented.

The Procedural notes were not always current and many require a review.

Article 8 of Regulation (EC) 882/2004 (Official Feed and Food Controls)  
Section 39 of the Food Law Code of Practice (Scotland) 2015

### Article 9 Regulation EC No 882/2004 - Reports

- 3.25 Inspection documentation in the form of a report is always left with the food business operator following an inspection, where appropriate a letter is also sent to food business operators (FBO) at a later date. All letters written later are based on Officer notes and the record of inspection. Although aide memoirs are not used, it is considered that the system used by the Authority is satisfactory. These records were available electronically having been scanned and stored on the database.
- 3.26 From the records checked, the reports or letters written by officers do not fully follow the requirements of the Food Law Code of Practice, as a timescale for achieving compliance is not always provided to the FBO.

#### **Recommended Point for Action: Reports**

The Authority has a system for providing reports to food business operators, however the documents do not always indicate timescales for the FBO to achieve compliance.

Article 9 of Regulation (EC) 882/2004 (Official Feed and Food Controls)  
Section 28 of the Food Law Code of Practice (Scotland) 2015.

### Article 10 Regulation EC No 882/2004 – Control activities, Methods and techniques (examination, inspection, checks on hygiene or GMP)

- 3.27 Two real time un-announced verification checks were carried out during the audit. The first was at a high risk caterer during a programmed inspection. The Officer had prepared for the inspection by reviewing the file and records. The Officer involved had carried out the previous intervention at the premises and was familiar with the business, its documentation and systems.
- 3.28 The various matters that arose during the inspection were dealt with confidently and professionally by the Officer. The main findings related to the subjects of cross contamination, cleaning and labeling. A Record of Inspection report was left with the business and the risk rating category was reduced from an A (every 6 months) to a B (annually).
- 3.29 The second verification check was to a retail butcher which the Officer had not recently inspected. The Officer had prepared for the inspection by reviewing the file and records. A number of issues that were found were dealt with both during and after the intervention. The Officer focused on cross contamination, food safety management systems and structural items throughout the

intervention. The Officer also addressed the substantial issue of improper date coding of frozen stock and the repackaging of vacuum packed products. As a result there was a considerable amount of food subject to voluntary surrender. The various matters that arose during the inspection were dealt with confidently and professionally by the Officer.

**Articles 11 (1) to (3) and (5) to (7) Regulation EC No 882/2004 – methods of Sampling and Analysis**

- 3.30 The Authority sends samples for examination and analysis to Edinburgh Scientific Services (ESS).
- 3.31 A sampling policy and programme are in place, sampling is generally carried out by an Authorised Officer with investigations by the EHO or FEO last involved with the premises. Additionally, the ESS staff also conduct sampling for the Authority which, as an activity, is outside the direct control of the Lead Food Officer.
- 3.32 Records for results of unsatisfactory microbiological samples taken reported in the previous 6 months were reviewed as part of the audit and it was noted that the Authority had not produced an entirely satisfactory outcome in 2 of these cases where there could have been public health issues based on the interpretation of these results.
- 3.33 It was identified from the Food Surveillance System that the microbiological analysis result (aerobic colony count) from 2 different samples of ready to eat meat products was “borderline”. One result was followed up as it was due a programmed inspection. There was no follow up of the other as the premises was not due an inspection and the sample was free from any pathogens.
- 3.34 The Local Authority was notified that Guidance from HPA’s Food, Water and Environmental microbiology network entitled “Interpretation of Microbiological Test Results” indicates that “Test results that are not satisfactory or unsatisfactory, are at the upper limits of acceptability and which indicate the potential for development of public health problems and of unacceptable risk. A “Borderline” result for Colony count indicates high numbers of bacteria and can provide useful information about the general quality of food in question. This may suggest quality issues, poor temperature control or hygiene at any step in production, processing, preparation, distribution or display.
- 3.35 The interventions policy is to concentrate on higher risk premises and the Authority took the decision not to investigate further, to bring forward the missed intervention or to inform the appropriate person as required by the Food Sampling Policy. The auditors consider that based on these results, the Authority should have actively investigated these findings to determine possible causes.
- 3.36 In another case there was a compositional sample failure with the detection of 2 species of DNA in Scotch beef mince. The major part of sample was found to consist of beef with minor amounts of pork also present. The quantity of pork DNA detected suggests cross contamination rather than deliberate addition.

Nevertheless, its presence in minced beef would be objectionable to consumers wishing to avoid consuming pork for cultural reasons. This could be both an indicator of poor hygiene during production as well as a food standards issue. This was not taken forward by the Authority because the result was received long after the food would all have been sold and eaten.

**Recommended Point for Action: Sampling**

The Authority did not follow its Food Sampling Policy for the notified failures of samples.

Article 11 of Regulation (EC) 882/2004  
Section 38 of the Food Law Code of Practice (Scotland)

**Article 31 Regulation EC No 882/2004 – registration / approval of Feed and Food businesses Establishments (Database)**

- 3.37 The Authority has an electronic database of the food premises within their area. At the time of audit, the database appears to be accurate and contains appropriate records, showing many overdue interventions, mainly in the lower C and all of the D / E categories as detailed above. There were also many unrated premises. The food standards programme was also considerably behind schedule. The Authority has a system of ensuring higher risk premises are moved into the inspection programme.

**Article 54 Regulation EC No 882/2004 – Action in case of non-compliance (Enforcement)**

- 3.38 The Authority has Food Enforcement Policies for hygiene and standards in place supported by Procedures which are generally in the form of flow-charts. However the Policies would benefit from being reviewed and where necessary updated on a regular and frequent basis.
- 3.39 Data submitted as part of the most recent LAEMS return showed that there were 20 establishments subject to Hygiene Improvement Notices, 20 subject to a Remedial Action Notice, 36 subject to voluntary closure and 2208 establishments subject to written warnings from the 2201 premises subject to official control during the previous 12 months. The Officers would appear to be following the Food Hygiene Enforcement Policy and the principles of good enforcement and an assessment of risk to public health while recognising the importance of achieving consistent, balanced and fair enforcement
- 3.40 The data from LAEMS and the Local Authority for two consecutive years shows that enforcement has dropped considerably. The Authority informed the auditors that there had not been any operational changes that would have led to this.

3.41 The Authority does not use any Alternative Enforcement Strategies as all businesses are included in the intervention process but low risk C's and all D and E rated ones are not all inspected. However, there is an October 2013 Policy on this subject which was not subject to audit at this visit, however if not relevant it should be considered for withdrawal.

Auditors: Graham Forbes  
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Kevin McMunn

Food Standards Scotland  
Audit Branch

## 4.0 Annex A

## Action Plan for City of Edinburgh Council: Capacity and Capability Audit, April – May 2018

Recommended Point for Action	Planned actions	Target date for completion	Responsible Officer(s)
<p><b><u>Food Service Plan &amp; Food Hygiene Enforcement Policy</u></b></p> <p>The Authority did not have an approved Food Safety Service Plan in place for 2017/18 at the time of the audit.</p> <p>The current intervention programme does not comply with the Food Law Code of Practice or Regulation (EC) No 882/2004.</p> <p>Article 3 Regulation EC No 882/2004</p>	<p><b>Corrective action:</b> Service plan is being completed for 2018 / 2019 and will be submitted to Senior Management.</p> <p><b>Preventative action:</b> The City of Edinburgh Council are now using the Scottish National Database, this will enable us to receive up to date information easier than the use of the LAEMS system to speed up the completion of the Service Plans. The Environmental Health Manager will submit the Service Plan Annually for approval.</p> <p><b>Corrective action:</b> This is a complex issue, mainly caused by the City of Edinburgh Council following the</p>	<p>30 November 2018</p> <p>Annually</p> <p>Immediately</p>	<p>Environmental Health Manager</p> <p>Environmental Health Manager</p> <p>Lead Food Officer</p>

	<p>implementation of the FSA guidance Controlling the Risk of Cross Contamination. The number of missed Category C inspections was discussed with auditors from FSA during an audit in November 2013, no resolution to this issue was available at that time. Headway was made on this list but staff resources have been such that the number has increased.</p> <p>In keeping with annex 5 2.1.7 of the Code of Practice and the FSS Internal Monitoring for Local Authorities, continue to ensure that the higher risk Category C premises and the higher risk unrated premises are included in the inspection programme. Others will be included as resources permit.</p> <p>Review and implement the Alternative Enforcement Policy.</p> <p><b>Preventative action:</b> The City of Edinburgh Council are actively trying to recruit more staff, there have been 2</p>	<p>1<sup>st</sup> April 2019.</p> <p>Subject to full recruitment 31<sup>st</sup></p>	<p>Lead Food Officer</p> <p>Environmental Health Manager / Lead food</p>
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	<p>successful recruitment exercises in the last year and it is anticipated that further recruitment will take place. It is important to ensure that the correct calibre of applicant is employed and as such the recruitment of staff cannot be rushed. The aim is to recruit to full establishment and use the additional resource to deal with unrated and overdue premises over a two-year period.</p>	December 2020	Officer
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Recommended Point for Action	Planned actions	Target date for completion	Responsible Officer(s)
<p><b>Procedures</b></p> <p>The Authority has not ensured that all authorisations are up to date.</p> <p>The Authority did not have satisfactory Enforcement policies for either food hygiene or food standards in place at the time of the audit as these were both out of date and so require to be reviewed and updated.</p> <p>Article 4 of Regulation (EC) No 882/2004</p>	<p><b>Corrective action:</b> Authorisations are under review and will be updated following legal advice. The missing legislation will be added at that time.</p> <p><b>Preventative action:</b> The Lead Officer Food will keep up to date with legislative changes to ensure authorisations are updated timeously.</p> <p><b>Corrective action:</b> All enforcement policies are being reviewed, finalised copies will be made available.</p> <p><b>Preventative action:</b> A document management system will be devised for the review of all Enforcement policies on an annual basis and ad hoc updates will take place when required.</p>	<p>31<sup>st</sup> October 2018</p> <p>Ongoing</p> <p>31<sup>st</sup> October 2018</p> <p>31<sup>st</sup> October 2018</p>	<p>Environmental Health Manager / Lead Food Officer</p> <p>Lead Food Officer</p> <p>Lead Food Officer</p> <p>Lead Food Officer</p>

**Action Plan for City of Edinburgh Council: Capacity and Capability Audit, April – May 2018**

Recommended Point for Action	Planned actions	Target date for completion	Responsible Officer(s)
<p><b>Training</b> The Authority should access and evidence additional training and be able to demonstrate Officer compliance.</p> <p>Article 6 of Regulation (EC) No 882/2004 Section 4 of the Food Law Code of Practice (Scotland) 2015</p>	<p><b>Corrective action:</b> Training records will be updated and officers reminded to record CPD as they go.</p> <p><b>Preventative action:</b> A new method of recording CPD by using APP will be introduced and officers will be regularly reminded of the need to complete and record CPD. A number of officers are signed up to ABC to assist with CPD</p>	<p>31<sup>st</sup> July 2019</p> <p>31st October / Ongoing</p>	<p>Lead Food Officer</p> <p>Lead Food Officer</p>

**Action Plan for City of Edinburgh Council: Capacity and Capability Audit, April – May 2018**

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<p><b>Monitoring</b> The Authority has an internal monitoring procedure in place which is not being fully implemented.</p> <p>The Procedural Notes were not always current and many require a review.</p>	<p><b>Corrective action:</b> Some internal monitoring has been undertaken on a regular basis but may not be recorded as rigorously as it should. The internal monitoring procedure will be reviewed taking into account the FSS Internal Monitoring Advice for Local Authority Food and Feed Law Services March 2017 document.</p>	30 <sup>th</sup> November 2018	Lead Food Officer
	<p><b>Preventative action:</b> The recording of all internal monitoring will take place and records will be maintained electronically. Time will be allocated to ensure internal monitoring takes place as per the reviewed internal monitoring procedure.</p>	Ongoing	Lead Food Officer
	<p><b>Corrective action:</b> The procedure notes are under review, this is a PRD objective for some officers.</p>	30 <sup>th</sup> November 2018	Lead Food Officer

<p>Article 8 of Regulation (EC) 882/2004 (Official Feed and Food Controls) Section 39 of the Food Law Code of Practice (Scotland) 2015.</p>	<p><b>Preventative action:</b> Review of the procedural notes will be added to the document management system and will be reviewed on an annual basis or sooner if changes are required.</p>	<p>Ongoing / Annually</p>	<p>Lead Food Officer</p>
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### Action Plan for City of Edinburgh Council: Capacity and Capability Audit, April- May 2018

Recommended Point for Action	Planned actions	Target date for completion	Responsible Officer(s)
<p><b>Reports</b></p> <p>The Authority has a system for providing reports to food business operators, however the documents do not always indicate timescales for FBO to achieve compliance.</p> <p>Article 9 of Regulation (EC) 882/2004 (Official Feed and Food Controls) Section 28 of the Food Law Code of Practice (Scotland) 2015.</p>	<p><b>Corrective action:</b> Short term, instruction to staff to include times in both the record of inspection forms and letters (update letter template).</p> <p><b>Preventative action:</b> Longer term, add time slots to next print run of record of inspection forms.</p>	<p>31<sup>st</sup> July 2018</p> <p>31<sup>st</sup> December 2018</p>	<p>Lead Food Officer</p> <p>Lead Food Officer</p>

