



Food Standards Scotland

Argyll and Bute Council

Food Law Enforcement Services

Capacity and Capability Audit

Report

29th - 31st August 2017

Closed November 2020



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 882/2004¹ on official controls performed to ensure the verification of compliance with feed or food law and the Food Law Code of Practice (Scotland) 2015'

¹ [\(EC\) No 882/2004](#)

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. 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 Argyll and Bute 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

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 Argyll and Bute 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 Argyll and Bute Council's Food Service was undertaken by the Food Standards Agency (Scotland) in August 2013. The previous on-site audit to that was in 2011.

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 Argyll and Bute 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 a verification visit 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 Oban and Kilmory.

Local Authority Background

- 1.8 Argyll and Bute Council is a unitary authority which provides all local services for the Argyll and Bute Council area. The Environmental Health Service has a presence in five offices based in Rothesay, Dunoon, Helensburgh, Lochgilphead and Oban.

It has been recognised by the authority that decentralised offices pose specific challenges to ensure that there is adequate support provided to staff and to ensure and promote consistency. The support required covers induction, training, specialist availability and presence, auditing, monitoring and most importantly the management and direction of staff within the decentralised area offices.

The Regulatory Service Manager with overall responsibility for food safety enforcement is based at the Council's Headquarters in Kilmory. The Council discharges its operational responsibilities as a food authority in relation to food hygiene and food standards enforcement through Regulatory Services

reporting to the Planning, Regulatory Services and Licensing Committee based at the Council's Head office in Kilmory.

Argyll and Bute has a resident population of 86,890 and covers a geographical area of 690,889 hectares, including 23 inhabited islands in the west highlands of Scotland. The Authority makes use of telephone and video conference facilities for staff discussions.

- 1.9 Argyll and Bute Council has a Food Control Enforcement Plan for 2016-2019 which has senior management and elected member engagement and approval by the Planning, Protective Services and Licensing Committee in September 2016. The plan is comprehensive, containing references to issues relating to staff resources, record keeping requirements, review of policies and monitoring. It also highlights the Authority's failure to meet the requirements of the Food Law Code of Practice minimum inspection frequencies for some C rated premises and most D and E rated ones.

The Authority explained that they have experienced significant difficulties over the last 3 years recruiting suitably qualified staff, and has operated with a large number of vacancies over this past period. As a result, resources were deployed to service priorities and as a consequence specific activities were not undertaken. Following an internal review a Food Control Improvement Plan 2016-19 has been developed, this was presented to the auditors for review.

- 1.10 Regulatory Services is managed at a third tier level through the Regulatory Services Manager as Head of Food Safety with the day to day operational management lead for food safety delegated to the Environmental Health Manager (West) supported by the Environmental Health Officer (Food Control and Services Support) who is responsible both for exercising the operational lead in food safety, and for maintaining the qualifications and experiences required by the COP.

Regulatory Services delivers Argyll and Bute Council's statutory food safety law enforcement role in a team which provides the range of services within Environmental Health, Animal Health, Trading Standards and Licensing Standards. This service is located within the Development and Infrastructure Directorate in Planning and Regulatory Service.

Together these arrangements and associated duties satisfy the requirement of the Food Law Code of Practice for the Authority to appoint a Lead Officer for food. In 2015-2016, the Food Service was short of 3.25 Full Time Equivalent (FTE) officers which impacted on performance. Recently, however, these posts have been filled. and a training programme is planned to ensure that staff are appropriately authorised to undertake their duties.

- 1.11 There has been stability at Head of Service level since 2015 and Regulatory Service Manager level since 2010. The Regulatory Services Manager works with two managers based on an East/West split of the local authority area. Environmental Health staff are multi-functional covering all aspects of

Environmental Health duties with no specific food or feed safety law enforcement team as officers undertake generic work.

The Food Control Enforcement plan shows 26 Officers appointed under the Food Safety Act 1990 as authorised food officers. The audit team were informed by the authority that this equated to 8 FTE officers for food hygiene and 1 FTE dedicated to food standards work. In total 14 officers have enforcement powers.

As a result of the Food Control Improvement Plan, an additional temporary resource has been provided, in addition to the existing staffing levels, to assist in taking forward this project.

- 1.12 Authorised Officers for Official Controls have varying levels of authorisations in the area of formal enforcement procedures relating to the service of notices. As a result, there is an inefficient use of resources in an Authority which covers such a large geographical area including island communities.
- 1.13 The Food Control Law Enforcement Plan 2016-2019 states at 6.1 that the budget for delivery of the Food Service in 2016/17 was £451,000 which included a training budget of £2,000. There was no information in this report on future budget provision for 2017-2018. In discussions with the Head of Regulatory Services it was indicated that the Authority would be looking for significant savings in future years.

Separately from the audit documentation the Authority returned a completed "Information Gathering Questionnaire for Local Authorities (June 2017)" in which the exact same figures were provided for the food safety budget for 2017-18.

2.0 Executive Summary

Capacity

- 2.1 The audit team were informed there are currently 8 FTE responsible for Food Hygiene and 1 FTE for Food Standards. The audit team are unable to say if this is sufficient as the Authority had not fully documented the Environmental Health workload in the areas of reactive and non-food work.
- 2.2 The Local Authority has documented in their Food Control Enforcement Plan their failure to deliver its reduced intervention programme due to not having "adequate resources". This evidence, together with discussions and reviews of documentation and records, indicates a failure in part due to the management of existing resources. It was noted that the Food Control Enforcement Plan 2016-2019 does contain an annexe describing a Food Control Improvement Plan which the authority had set a target of achieving 25% completion by March 2017.
- 2.3 Both the Food Control Enforcement Plan 2016/19 and the Local Authority Information Gathering Questionnaire for 2017 state that the Authority considered that there were insufficient qualified staff and this had been an issue for a number of years, the Authority however did not specify what

resources it needs to deliver their food service. It had instead adopted a risk based approach focussing resources to areas of highest risk, which had correctly identified that was not in compliance with the Food Law Code of Practice.

- 2.4 A live database report requested by the auditors during audit showed the following premises were overdue an intervention visit. Cat (A) 3, Cat (B) 19, Cat (C) 31, Cat (D) 193, Cat (E) 310, giving a total of 556 missed intervention visits. The database also showed that 10 premises had no next due date and there are currently 582 standards and 140 hygiene premises unrated. There was also a large percentage of the 68 approved establishments the local authority has referred to in the Enforcement Plan which were overdue their planned intervention.
- 2.5 With regard to Food Standards the number of premises risk rated is considerably lower than those risk rated for Food Hygiene. There are 17 (A) premises 5 of which are overdue. The Authority does not operate an alternative enforcement policy for Food Hygiene or Food Standards interventions.
- 2.6 Reactive work in the area of food and other duties undertaken by the Food Officers was discussed. The Local Authority was able to quantify the numbers of cases involved from retrospective analysis of the database but contend that they are unable to identify the resource required to meet all reactive demands.

Capability

- 2.7 The Policies and Procedures used by the Authority were complex and out of date, in some instances going back to 2005 and quoting out of date legislation. The use of a 20 page Inspection Form for the Caterer / Retailer trade for small caterers and the retail trade in particular, was overly complex as evidenced on two reality visits. The completion of such a form which is then read over by the Food Business Operator and signed by him/her is seen to contribute to a resource management issue as Officers are then unable to subsequently update the record without the FBO's involvement.
- 2.8 The Authority has a policy of induction for new Officers leading to authorisation to undertake particular areas of work and to ultimately serve enforcement notices. Following the audit, information on one Officer going through this process was provided.
- 2.9 The Authority has a documented procedure covering authorisations which is out of date. Information provided within the Food Control Improvement Plan shows one Officer can sign off on Approvals and can serve Hygiene Emergency Prohibition Notices. Of 8 FTE's only 4 (50%) can serve Remedial Action Notices. There is no indication of any Officer subject to the Regulatory Services authorisation procedures being able under The Food Hygiene (Scotland) Regulations 2006 to certify that food has not been produced, processed or distributed in compliance with the hygiene regulations, as per Regulation 27 of said regulations.

2.10 There is a differing level of administrative support for food enforcement work throughout the five sub-offices. This results in some Officers having to type their own letters leading to different resource issues among the offices.

The challenges posed by a decentralised system of offices were not being adequately dealt with. This was evidenced by differing paperwork between the East/West split, interviews with the East/West Managers, no evidence of consistency, monitoring, management and direction of staff and the Officer interviews.

2.11 Internal monitoring of Officer's work both qualitative and quantitative has not taken place for some time, although as part of the Food Control Improvement Plan this was to be rectified from July 2017.

2.12 Officers have responsibility for a variety of food business operators, including 62 Approved Premises under Regulation (EC) No 853/2004 which lays down specific hygiene rules for food of animal origin. For Officers carrying out these interventions the Food Law Code of Practice requires competence in the inspection of specialist or complex manufacturing processes. There are a limited number of Officers involved in interventions within these establishments, many of which are overdue an official control.

2.13 The combination of more than one Officer fulfilling the role of Lead Food Officer within the Authority was not evidenced as working efficiently at the time of audit.

Level of Assurance

2.14 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:

2.15 The Recommendations within this report detail the weaknesses in the controls that Argyll and Bute 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

- 3.2 Argyll and Bute Council has a Food Control Enforcement Plan for 2016-2019 which was approved by the Planning, Protective Services and Licensing in September 2016. The plan is comprehensive, containing references to issues relating to staff resources, record keeping requirements, review of policies and monitoring. It also highlights the Authorities failure to meet the Food Law Code of Practice minimum inspection frequencies for D, E and some C rated premises. It also highlights the challenges of managing such a decentralised area office system.
- 3.3 As a result of previous re-organisations and some management changes the role of the Lead Food Officer was split between managers and the Environmental Health Officer (Food Control and Services Support) / Lead EHO. At the time of the audit this arrangement was demonstrated as not working, as evidenced by the lack of monitoring, shadowing, induction processes, inspection programming, consistency of documentation, authorisation, meeting minutes and availability during the audit itself. The Manager responsible for Food Safety was not able to provide the auditors with sufficient assurances on all aspects of compliance with the Food Law Code of Practice and Regulation (EC) No 882/2004 on Official Controls particularly in relation to the effective implementation of policies and procedures.
- 3.4 The Local Authority Intelligence Gathering Questionnaire (2017) return to Food Standards Scotland for this Authority indicated that there were 8 FTE posts in Food Hygiene and 1 FTE post in Food Standards for the delivery of the food law service. The Authority did not provide details of the resource required and advised that this was under review.
- 3.5 The Food Control Enforcement Plan 2016-2019 as approved by the Planning, Protective Services and Licensing Committee on 20th September 2016 contains a Food Control Improvement Plan (FCIP) that recognises weaknesses in the current arrangements. As part of the implementation of the FCIP a project manager was appointed in March 2017 and a steering group has been established.

The FCIP has associated implementation plans that are raised at monthly review meetings. Monitoring of the plan indicates that from this the authority is aware at the time of audit of the completion rate of these plans.

- 3.6 The 2016 – 2017 LAEMS Report published on 18 September 2017 shows that in Argyll and Bute Council Food Hygiene there were 1994 establishments in total, with 149 that were recorded on the database having not yet been rated

for an intervention. There were 8 Category As, 118 Category Bs, 497 Category Cs, 339 Category Ds and 883 Category Es.

The report indicates that 93% of high risk A and 88% of high risk B hygiene interventions were achieved. Lower percentages were recorded for the remaining 3 categories. There were 312 establishments subject to written warnings and 4 subject to notices. This would indicate that the food hygiene intervention programme was not achieving its objectives in that many interventions were not being completed.

- 3.7 A live database report requested by the auditors during the audit showed the following premises overdue for a hygiene intervention visit. The authority suggested that the D and E categories were as a result of the previous use of consultants.

Category	Number overdue
A	3
B	19
C	31
D	193
E	310

The database also showed that 10 premises had no next due date and there are currently 582 standards and 140 hygiene premises that are unrated.

- 3.8 The Authority advised that food standards interventions were not carried out on a programmed basis. The above LAEMS return reported that 53% of planned interventions were achieved and that 22 establishments were subject to written warnings. The Authority does state that they will use an Alternative Enforcement Strategy in low risk premises; however there was no evidence of the strategy either provided or demonstrated during the audit.

Recommended Point for Action: Intervention Programme

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

Article 3 of Regulation (EC) 882/2004 (Official Feed and Food Controls) Section 27.1.8 of the Food Law Code of Practice (Scotland) 2015.

Articles 4(2) to (6) Regulation EC No 882/2004 – Designation of Competent Authorities

- 3.9 Regulatory Services provided an approved Food Control Enforcement Plan for 2016-2019 which incorporated a Food Control Improvement Plan. Appendix III to the plan contains information on 26 Officers involved in the delivery of Official Controls. Only one Officer is authorised to sign off on Approvals, only one Officer is authorised to serve Hygiene Emergency Prohibition Notices and only four Officers are authorised to serve Remedial Action Notices. This is a

resource issue in an Authority covering such a wide geographical area. No Officer is listed as authorised to take enforcement action under Regulation 27 of The Food Hygiene (Scotland) Regulations 2006.

- 3.10 The plan does recognise that the decentralised area offices pose specific challenges to ensure that there is adequate support provided to field staff and to ensure and promote consistency. This support includes training, specialist support, quality auditing and the management and direction of staff within the decentralised area offices. There was little evidence of such adequate support found at the time of audit. The authority informed the auditors that changes have been made but these were too late for the audit visit.
- 3.11 The Authority operates an East and a West Team to deliver Official Controls there was some evidence of slightly differing forms being used by the Teams. There was also a differing approach by the two managers to the management of their intervention programmes.
- 3.12 At the time of audit discussion took place on the general scheme of authorisation and the method of individual documentation for officers. The individual officer authorisation documents are very prescriptive.
- 3.13 The Authority's database was not up to date and from discussions with Officers and reports requested by the Auditors greater use of the database could help in managing the service by the provision of suitable and effective reports being available and utilised.
- 3.14 Not all of the establishments approved under Regulation EC No 853/2004 were on the Authority's database. The auditors were advised that the complete list of such establishments was held manually and managed separately. This list was provided at audit.

Recommended Point for Action: Competent Authorities

The database used by the Authority does not comply with the Food Law Code of Practice or Regulation (EC) No 882/2004

Article 4 Regulation (EC) 882/2004 Official Feed and Food Controls)
Section 6.2.1. of the Food Law Code of Practice (Scotland) 2015.

Recommended Point for Action: Competent Authorities

The number of Officers suitably authorised for enforcement actions does not comply with the Food Law Code of Practice or Regulation (EC) No 882/2004

Article 4 Regulation (EC) 882/2004 Official Feed and Food Controls)
Section 4.1.1. of the Food Law Code of Practice (Scotland) 2015.

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

- 3.15 Officers' qualifications were not requested by the auditors during the time on site. Some documentary evidence was available to demonstrate that Officers have undertaken relevant training towards completing the required 10 hours of continuing professional development contained in the Food Law Code of Practice.
- 3.16 Some evidence of formal training in Hazard Analysis and Critical Control Points (HACCP) principles was provided. The authority informed the auditors that officers had received training in this area delivered by the Food Control Officer in 2016 and by attendance at FSS provided training.
- 3.17 When undertaking interventions in any category A food standards premises, if the business is engaged in the manufacture and processing of foodstuffs with documented quality assurance systems, 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. The authority should ensure that Officers have received suitable training to allow them to carry out the food standards official controls at category A rated premises.
- 3.18 Officers have responsibility for a variety of food business operators, 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 Food Law Code of Practice requires competence in the inspection of specialist or complex manufacturing processes.

The Authority currently has two Officers involved in interventions at these establishments and as part of their Food Control Improvement Plan had indicated that this would be reviewed. The Auditors discussed the resilience of the authority in this area due to the large number and scope of these premises.

- 3.19 The authority's process of Officer authorisation is inconsistent and laboriously slow to be completed. This has resulted in an unauthorised Officer, serving a Remedial Action Notice. It has also resulted in only one Officer within the Authority being authorised to serve HEPNs.

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

- 3.20 The Authority has Policies and Procedures for a range of Official Controls and compliance with the Food Law Code of Practice. Examples of these documents were produced for audit and were found generally not to be fit for purpose as they were very old (2005 to 2010) and referred to outdated legislation, organisations and methods of work. Discussions and evidence presented indicates that the Lead Officer, managers and Head of Service have not been able to ensure that these documents have been suitably redrafted to allow them to reflect current legislation and practices.

The existing Policies and Procedures are complex and lengthy. They were originally written for a Quality Management System which the Authority were last accredited for in 2006. This should be taken into account in the redrafting process.

- 3.21 The Authority has completed no internal monitoring of significance for some time. However internal monitoring procedures for quality and quantity of enforcement and interventions have been revised but have yet to be implemented. One Area Manager was able to produce documentation as evidence that work programmes were being set, monitored and supported.
- 3.22 The electronic database is being used to provide quarterly intervention programmes, however no evidence was provided to verify these were being monitored by the provision of a variety of reports to determine the delivery of the programme. Food Standards Scotland issued guidance to all Scottish Local Authorities in March 2017 to assist in this process. The guidance is available here: [fss-enf-17-010-internal-monitoring-guidance](#)

Recommended Point for Action: Control and Verification.

The Policies and Procedures were not always current and many require a review. They do not comply with the Food Law Code of Practice or Regulation (EC) No 882/2004

Article 8 of Regulation (EC) 882/2004 (Official Feed and Food Controls)
Section 39.3 of the Food Law Code of Practice (Scotland) 2015

Recommended Point for Action: Control and Verification.

Internal Monitoring Procedures were not being followed. They require be reviewing and implementing. They do not comply with the Food Law Code of Practice or Regulation (EC) No 882/2004

Article 8.3 of Regulation (EC) 882/2004 (Official Feed and Food Controls)
Section 39.4 of the Food Law Code of Practice (Scotland) 2015.

Article 9 Regulation EC No 882/2004 - Reports

- 3.23 Intervention documentation is created as both a carbonised written report left after the intervention and a letter which is sent to the food business operator following an intervention. From the records checked those relating to Food Hygiene matters generally appear to follow the requirements of the Food Law Code of Practice, however the inclusion of a lengthy intervention Report Form, a schedule and an Annex do not make it simple to understand for the Food Business Operator.

- 3.24 A timescale for achieving compliance with each legislative requirement is not always provided as required by the Food Law Code of Practice. This should be introduced as soon as possible as a requirement on all reports and included on the new regular monitoring procedures.

Recommended Point for Action: Reports

The Authority have a system for providing reports to food business operators, however the letters and reports do not always clearly indicate individual 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

- 3.25 The Audit Team undertook two real time un-announced programmed intervention visits with Local Authority Officers at high risk catering premises (Hotels). For both visits the Officers had prepared for the intervention by reviewing the files and the records. Regarding one of the premises the inspecting Officer had not previously carried out an intervention at the premises.
- 3.26 In the case of both interventions the inspecting Officers dealt with the matters arising in a professional, confident and satisfactory manner. The Officers as instructed targeted the completion of the 20 page aide-memoir as a successful conclusion to the intervention. However, by sticking rigidly to this format it detracted from the Officers ability to ask non-scripted questions about a cross contamination issue at a vital time in the intervention process, and in the other case to deal with the building structure and services pre-requisites necessary for an EC No 882/2004 intervention process.

The result of the intervention visit to one of the premises resulted in the service of 3 Hygiene Improvement Notices for failure to meet the required pre-requisites and in the other the disposal of out of date food and the issuing of an improvement required status. The use of the lengthy aide-memoire dictated the process and did not promote an intuitive or logical sequence to the intervention process.

The authority responded that aide memoirs are in use to assist interventions in all food premises and that the existing aide memoir is designed for and suitable for catering premises but requires revision for use in retail food premises.

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

- 3.27 The Authority sends samples for examination and analysis to Glasgow Scientific Services.

- 3.28 The audit looked at a sample failure from an approved establishment producing ready to eat salmon. It found that that the Authority had followed up the failed sample appropriately and records were provided as verification. In an Officer discussion it was clarified that the sample failure had been followed up by an experienced and authorised Officer investigating a potentially complex cause.

Article 31 Regulation EC No 882/2004 – Registration/Approval of Feed and Food Business Establishments

- 3.29 The Authority has an electronic database of the food premises within their area. At the time of audit the database appears to show a substantial number of premises that are overdue. Inconsistencies in the matching of Hygiene and Standards premises and some double entries with premises without a next due visit date. In addition, not all premises approved under Regulation EC No 853/2004 were included on the database.

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

- 3.30 The Authority has a series of Food Enforcement Policies in place supported by Procedures. It has been previously reported in the last three audits which covered Approved Establishments in 2011, and Food Standards in 2013 and Shellfish Sampling also in 2013, that these have been found to be consistently out of date and inappropriate for purpose. These require to be reviewed and updated urgently and then implemented effectively.
- 3.31 There were 2 establishments subject to Hygiene Improvement Notices and 2 to Remedial Action Notices, with 312 establishments subject to written warnings from the premises subject to official control during 2016-17. The Food Control Enforcement Plan requires Officers to follow the Scottish Regulators' Strategic Code of Practice 2015 and to apply the principles of proportionality, consistency, openness and transparency.
- 3.32 The Authority does not use any Alternative Enforcement Strategies (in the form of a questionnaire) for Food Hygiene premises allocated a risk rating of less than 30 under the Food Law Code of Practice scoring system. The database report requested during the audit showed 310 overdue premises in this category that could potentially have been targeted with an official control under such a strategy.

Audit Teams Graham Forbes and Raymond Pang
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**Action Plan for Argyll & Bute Council: Capacity and Capability Audit, August 2017
Updated Action Plan following Argyll and Bute Submission 13th August 2020**

4.0 Annex A

Recommended Point for Action	Planned Actions	Target completion date	Responsible Officer(s)
<p><i>Intervention Programme</i></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 of Regulation (EC) 882/2004 (Official Feed and Food Controls) Section 27.1.8 of the Food Law Code of Practice (Scotland) 2015.</p>	<ol style="list-style-type: none"> 1. Focus on a single Food Control intervention plan to be delivered using available resources, removing the emphasis on geographic areas. 2. Actively manage the interventions programme incorporating quarterly based programme which will target due inspections and the backlog of high and medium risk missed and unrated inspections. 3. Establish a protocol of alternative enforcement for low risk food hygiene and food standards inspections. 4. Initiate alternative enforcement plan as from 01 April 2018. 5. The integration of Food Hygiene & Food Standards is being accelerated in order to address the backlog of high risk Food Standards PIs. 6. Quantify the required resources for delivering food control within Argyll and Bute, including the approved premises sector once the new procedures and policies are in place. 	<p>01/10/2017</p> <p>01/10/2017</p> <p>01/02/2018</p> <p>01/04/2018</p> <p>01/04/2018</p> <p>01/04/2018</p>	<p>Area EH Manager (West)</p> <p>Area EH Managers</p> <p>Area EH Manager (West)</p> <p>Area EH Manager (West) and Lead EHO Food Control</p> <p>Area EH Manager (West) and Lead EHO Food Control</p> <p>Area EH Manager (West) and Lead EHO Food Control</p>
<p>FSS request: As the contract with Buckingham Futures has just ended (03/02/2020) can you demonstrate, via provision of management reports, your improvement in the Intervention Programme and also provide evidence on monitoring of the quality of the contractor to show compliance with the Food Law Codes of Practice (both Food Law and Interventions).</p> <p>Current status; Green Satisfactory evidence was received on 13 August 2020 to demonstrate this recommendation is being suitably actioned.</p> <p>Audit Closed November 2020</p>			

<p>Competent Authorities</p> <p>The database used by the Authority does not comply with the Food Law Code of Practice or Regulation (EC) No 882/2004</p> <p>Article 4 Regulation (EC) 882/2004 Official Feed and Food Controls) Section 6.2.1. of the Food Law Code of Practice (Scotland) 2015</p>	<p>A Uniform database is used by the Council and includes the ability to run management reports. The following improvements have been/will be made</p> <ol style="list-style-type: none"> 1. Review suite of management reports to ensure relevance. 2. Identify high risk premises for Food Standards and ensure that they on the database and programmed in for visits. 3. Implement revised procedure for entering new food business into database and issuing for inspection. 4. Verify all approved food establishments are entered onto the database. 	<p>31/12/2017</p> <p>31/12/2017</p> <p>31/03/2018</p> <p>31/01/2018</p>	<p>Area EH Managers</p> <p>Area EH Managers</p> <p>Area EH Managers</p> <p>Area EH Managers</p>
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FSS request:

As the contract with Buckingham Futures has just ended (03/02/2020) can you demonstrate, via provision of management reports, your improvement in the Intervention Programme and also provide evidence on monitoring of the quality of the contractor to show compliance with the Food Law Codes of Practice (both Food Law and Interventions).

Current status; Green

Satisfactory evidence was received on 13 August 2020 to demonstrate this recommendation is being suitably actioned.

Audit closed 20 November 2020

<p>Competent Authorities</p> <p>The number of Officers suitably authorised for enforcement actions does not comply with the Food Law Code of Practice or Regulation (EC) No 882/2004</p> <p>Article 4 Regulation (EC) 882/2004 Official Feed and Food Controls) Section 4.1.1. of the Food Law Code of Practice (Scotland) 2015</p>	<ol style="list-style-type: none"> 1. Implement revised authorisation procedures as approved in the FCIP. 2. Programmes of training on the Inspection procedures and the integrated Food Control procedures will underpin further authorisations. 3. A programme of training '<i>Enforcement Notices in Scottish Food Law</i>' will underpin further authorisation in enforcement. 4. A programme of training in OCV is underway with all Officers involved in manufacturing enrolled on the FSS OCV programme. 5. On completion of each aspect of training officers will be authorised or re-authorised for the subject covered in the training. 	<p>31/03/2018</p> <p>31/12/2017</p> <p>22/02/2018</p> <p>Awaiting dates</p> <p>Rolling dates</p>	<p>Regulatory Services Manager/Area EH Managers/Lead EHO Food Control</p> <p>Lead EHO Food Control</p> <p>Lead EHO Food Control</p> <p>Lead EHO Food Control</p> <p>Regulatory Services Manager; Area EH Managers and Lead EHO Food Control</p>
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FSS request:
The Authorisation matrix was to be reviewed and completed by 31/1/20, confirmation of any signed off review to be provided, together with one copy of a current authorisation document at each grade of officer within the service involved in any way with the Food Law Codes of Practice, and also evidence that the LA Legal team are satisfied with both the authorisation format and content currently used.

Current status; Green
Satisfactory evidence was received on 13 August 2020 to demonstrate this recommendation is being suitably actioned.

Audit closed 20 November 2020

<p>Control and Verification.</p> <p>The Policies and Procedures were not always current and many require a review. They do not comply with the Food Law Code of Practice or Regulation (EC) No 882/2004</p> <p>Article 8 of Regulation (EC) 882/2004 (Official Feed and Food Controls) Section 39.3 of the Food Law Code of Practice (Scotland) 2015</p>	<p>1. Review and revise all current Policies and Procedures based upon priorities identified by the FCIP steering group.</p>	<p>01/04/2018</p>	<p>Area EH Manager (West) and Lead EHO Food Control</p>
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FSS request:
A copy of the Food Control Manual, as the one we have is still a draft copy, together with evidence of its approval or sign off at an appropriate level.

Current status; Green
Satisfactory evidence was received on 13 August 2020 to demonstrate this recommendation is being suitably actioned.

Audit closed 20 November 2020

<p>Control and Verification.</p> <p>Internal Monitoring Procedures were not being followed. They require reviewing and implementing. They do not comply with the Food Law Code of Practice or Regulation (EC) No 882/2004</p> <p>Article 8.3 of Regulation (EC) 882/2004 (Official Feed and Food Controls) Section 39.4 of the Food Law Code of Practice (Scotland) 2015.</p>	<ol style="list-style-type: none"> 1. Implement the revised and agreed Internal Monitoring Procedure produced in accordance with FSS Guidance on Internal Monitoring Advice for Local Authority Food and Feed Law Enforcement Services. 2. Implement fully the Monitoring Plan 2017/18 that meets the requirements of Food Law Code of Practice or Regulation (EC) No 882/2004. 3. Review Monitoring Plan 2017/18 and report to FS Management Team. 4. Prepare Monitoring Plan for 2018/19. 	<p>Implemented</p> <p>Implemented</p> <p>31/03/2018</p> <p>31/03/2018</p>	<p>Area Managers and Lead EHO Food Control</p> <p>Area Managers and Lead EHO Food Control</p> <p>Area EH Manager (West)</p> <p>Area EH Manager (West)</p>
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FSS request:
A copy of the Food Control Manual, as the one we have is still a draft copy, together with evidence of its approval or sign off at an appropriate level.

Current status; Green
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Audit closed 20 November 2020

<p>Reports</p> <p>The Authority have a system for providing reports to food business operators, however the letters and reports do not always clearly indicate individual timescales for the 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>1. Officers will issue letters and reports in accordance with the requirements of FCOP ensuring compliance timescales are indicated for any identified legal requirements. This will be reinforced at training sessions in December 2017.</p>	<p>31/12/2017</p>	<p>Lead EHO Food Control</p>
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FSS request:
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Current status; Green
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Audit closed 20 November 2020