



Food Standards Scotland

Fife Council
Food Law Enforcement
Services

Capacity and Capability Audit
Report

15-17 Aug 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](#) 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.

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 Fife 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 Fife 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 (LAs) from implementing their own audit regimes and in fact this is encouraged. Food Standards Scotland's audit role therefore fulfils two different requirements.
- 1.5 The last audit of Fife Council's Food Service was undertaken by the Food Standards Agency (Scotland) in September 2013. The food related audit prior to 2013 was in 2009.

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 Fife 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 one verification visit to a local food business, with two officers 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 Kingdom House, Glenrothes.

Local Authority Background

- 1.8 Fife has a population of around 367,000 and adjoins the Councils of Perth & Kinross and Clackmannanshire. Major towns in Fife are Kirkcaldy, Dunfermline, Glenrothes, Cupar and St. Andrews. It is a diverse region with economic and geographical differentiation between the industrial communities in Central and West Fife and the primarily farming communities in the East. The privatisation of the former naval base and Royal Dockyard at Rosyth together with the development of Rosyth as a commercial port handling a goods ferry to the continent as well as cruise ships and merchant shipping requires specialist input. The re-opening of Kirkcaldy port in 2012 has facilitated the direct importation by sea of grain to the flour mill.

The East of Fife has retained its farming and fishing industries. The area between St Monans and St Andrews has developed as a tourist attraction with major new tourist facilities and hotels near St Andrews.

From the Service Plan of 13 May 2016, there were 4262 premises in Fife registered as food businesses ranging from small retail businesses to large

internationally respected hotels. The Council discharges its operational responsibilities as a food authority in relation to food hygiene and food standards enforcement through the Food and Workplace Safety Team based in Kingdom House, Glenrothes. From the 2016-17 Local Authority Enforcement Monitoring System (LAEMS) return, there were some 4443 food businesses located within the Fife Council area. These comprised of 42 primary producers, 168 manufacturers, 3 Importers/Exporters, 60 distributors, 888 retailers and 3282 restaurants and other caterers.

- 1.9 Fife Council has a draft Food Health and Safety Business Plan for 2017-2018 which has not yet been formally approved. There was no service plan produced in 2016-17. 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 In alignment with the Council's aims and objectives, Protective Services must set, review and implement their own aims and objectives in line with the Scottish Regulators' Strategic Code of Practice, created by powers under the Regulatory Reform (Scotland) Act 2014. The Strategic Objective of the Service, in relation to food and feed safety, is to improve the hygiene standards of food and feed businesses by achieving a year on year increase in the number of broadly compliant premises.
- 1.11 The Scottish Regulators Strategic Code of Practice (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 applies to the (devolved) regulatory functions of regulators which includes Local authorities (excluding planning authority functions). The Code requires that regulators 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. Regulators to whom the Code applies must 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, must follow this Code.
- 1.12 The Corporate Aims and Service Strategic Objectives will be achieved by meeting the following objectives.
- To work with businesses to improve the hygiene standards of food and feed businesses through a blend of education and enforcement;
 - To support and improve food quality via a positive programme of food and feed standards inspections and provision of advice;
 - To work with the Food Standards Scotland to promote high standards of food and feed hygiene and quality;
 - To complete 100% of all programmed highest risk food safety inspections within the targeted timescales.

- 1.13 Within the current departmental management structure, food law enforcement is managed by the Senior Manager Protective Services, then the Service Manager Environmental Health (Food and Workplace Safety) and finally a Lead Officer Environmental Health (Food and Workplace Safety).
- 1.14 There are currently 10.73 Authorised Officers, plus 1.65 additional support officers. The primary focus of Environmental Health Officers (EHOs) in the team is food safety although they are multi-disciplined, covering other environmental health duties.
- 1.15 The budget for food safety in 2018-19 is £498,628 (approximately 50% of the Environmental Health (Food & Workplace Safety) Team budget) which is a reduction of approximately 7.4% from the previous year. However, as a result of posted efficiency savings across Protective Services of £250,000, expected spend is likely to be decreased during 2018/19.

2.0 Executive Summary

Capacity

- 2.1 The audit found that the Environmental Health resources (including staff) for conducting Official Controls was insufficient to achieve the requirements of the Food Law Code of Practice (Scotland) 2015 and Regulation (EC) 882/2004 of The European Parliament.
- 2.2 The Lead Officer for Food post is filled by a Service Manager who is an Environmental Health 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 With the imminent departure of the Head of Food Service – Senior Manager Protective Services, the authority should ensure that they have provided adequate capacity to enable the workload performed by this postholder to be suitably maintained.
- 2.4 Discussions took place on the numbers of full time equivalent staff (FTEs) and the vacant posts. It was established that the service had been repeatedly required to reduce the number of posts available, resulting in a report to the Budget Working Group from the Head of Food Service entitled Protective Services Savings of 15 November 2017.
- 2.5 Based on the information provided prior to the audit, regarding the numbers of businesses in the Local Authority's intervention programme and the number of staff that the Local Authority has in post, as well as discussions and reviews of documentation and records, the capacity to deliver the intervention programme was considered unsatisfactory at the time of audit.
- 2.6 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. It was noted that this is a recurring non-compliance with the Food Law Code of Practice since the previous audit in 2013.

- 2.7 The most recent LAEMS Report (2016–2017) published on 29 June 2017 show that for Fife Council there were 4443 establishments in total. The report indicates that 3114 food hygiene interventions were carried out at 1746 premises and 918 food standards interventions were carried out at 805 premises.
- 2.8 A database query carried out during the audit indicated that for food hygiene there were 60 high risk A & B category, 114 category C, 766 category D and 1343 category E food premises overdue for an official control.
- 2.9 Food Hygiene data indicated that there were 4325 premises listed on the Food Premises database, of which there were 2283 Food Hygiene interventions overdue and 272 unrated (amounting to 2555 premises in total) which is well over 50% of the premises on the database.
- 2.10 Food standards data indicated that for the 4234 premises on the database, 1832 were considered as being overdue and 272 unrated, with 1 being a high risk A rated business. There were fewer premises on the database for food standards than there were for food hygiene which is unusual.
- 2.11 The budget information (for food activities) produced by the Authority appeared to show a reducing allocation of finance to the service, steadily falling from £635,000 in 2014/15 to just under £500,000 in 2018/19. This equates to an approximate 21% reduction.

Capability

- 2.12 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, although out of date, were generally being appropriately and consistently followed and completed.
- 2.13 The Authority is very active in sampling and has a sampling policy and programme in place. Sample results which highlighted problems were suitably addressed by an EHO/FSO. Further discussion about a sampling campaign that the Authority had followed and then raised to a Food Alert level with FSS, demonstrated good knowledge of HACCP, specialist processing techniques and a willingness and capability to follow the Enforcement Policy and take formal action to protect public health.
- 2.14 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. They 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, making

performance comparisons and provide information on an authority's service delivery to stakeholders, including businesses and consumers.

- 2.15 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 forum or suitably delegated Senior Officer level. Records should be kept to show that service plans have received appropriate approval.
- 2.16 Evidence of the authorisation process and relevant documentation was available for Officers. However, references to some legislation were not present. Collectively, authorisations should be reviewed and updated.
- 2.17 To assist in the appropriate delivery of enforcement, there is a series of documented policies and operational documents available, however these are generally dated 2011 which pre-dates the 2015 Food Law Code of Practice. The majority of these documents require an urgent review, and where required, action, to ensure compliance.

Level of Assurance

- 2.18 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:
- 2.19 The Recommendations within this report detail the weaknesses in the controls that Fife Council should address.

<p>Limited Assurance</p> <p>Controls are developing but weak</p>	<p>There are weaknesses in the current risk, governance and/or control procedures that either do, or could, affect the delivery of any related objectives. Exposure to the weaknesses identified is moderate and being mitigated.</p>
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3.0 Audit Findings

- 3.1 The findings reported below detail both corrective and preventive actions which are not confined to addressing specific technical requirements but also include system-wide measures.

Article 3 Regulation EC No 882/2004 – General obligations with regard to the organisation of official controls (Establishment Intervention Procedures)

- 3.2 The Authority has a Food Safety Service Plan for 2016 - 2017 which was approved on 9th June 2016. There was no 2017 - 2018 service plan and the 2018-2019 plan was still in draft.
- 3.3 During the Audit it became clear to the auditors that the Head of Food Service – Senior Manager Protective Services, was shortly to leave the Local Authority. As a significant person in the effective functioning of the Service, it would be advised based on Auditor experience, that the LA should provide a suitable, sufficient and effective replacement for the post with the minimum of delay.
- 3.4 The post of Service Manager Environmental Health (Food and Workplace Safety) was the designated Lead Officer for Food and was managing the regular workload of the Lead Officer Environmental Health (Food and Workplace Safety), who in turn managed the authorised officers involved in food law enforcement.
- 3.5 The Local Authority Information Gathering Questionnaire's for 2017 and 2018, returned to Food Standards Scotland for this Authority, indicated that there were the following numbers of staff. Based on the risk ratings for the total number of food premises on the database which require an Official Control to ensure compliance with food safety legislation, the authority do not have an appropriate number of suitable staff to achieve the required compliance with the Food Law Code of Practice.

	Hygiene FTE's		Standards FTE's	
	required	in post	required	in post
2017	11.5	11.23	2.1	1.9
2018	11.38	11.0	1.5	1.38

- 3.6 The 2016 – 2017 LAEMS Report shows that for Food Hygiene, there were 1536 inspections and audits, 1364 verification and surveillance visits, 135 sampling visits and 79 advice and education visits that year. The premises profile from that return and a database report done at the beginning of the onsite audit provides a risk profile as follows:

	LAEMS 2016-17	Audit August 2018
A	35	34
B	426	482
C	973	985
D	1033	1144
E	1635	1680

Unrated	339	272
Total	4441	4597

- 3.7 The 2016 – 2017 LAEMS Report shows that for Food Standards, there were 696 inspections and audits, 94 verification and surveillance visits, 128 sampling visits and 0 advice and education visits that year. The premises profile from that return and a database report produced at the beginning of the onsite audit provides a risk profile as follows:

	LAEMS 2016-17	Audit August 2018
A	3	6
B	307	329
C	3702	3899
Unrated	431	272
Total	4443	4506

- 3.8 A live data report was requested from the premises database on arrival and this was provided mid-way through day one. This showed, on analysis by the auditors, that at the time of this audit there was a large number of food law interventions considered overdue. These are:

Rating	A	B	C	D	E	Unrated
Overdue hygiene	9	51	144	766	1343	272
Of a total	34	482	985	1144	1680	
Overdue standards	1	72	1759	n/a	n/a	272
Of a total	6	329	3899			

The authority uses Alternative Enforcement Strategies (AESs) for some lower risk premises. For broadly compliant category D premises, they will generally alternate between receiving a verification and surveillance visit, which can be upgraded to a full intervention during the visit, and an AES.

- 3.9 The Authority has separate food hygiene and food standards intervention programmes and where these overlap within a reasonable time, it is usual to combine the 2 interventions and send out a single letter, however with regard to food standards, the majority of premises, apart from the 6 rated A, are considered low risk.
- 3.10 For these 6 higher risk food standards premises, records indicated these are inspected or planned by different officers, although not all with the appropriate quality assurance training as required by the Code of Practice.
- 3.11 Enforcement action, in the form of a written warning, was recorded at 311 premises inspections (both food hygiene and food standards), as required by the Food Law Code of Practice.

Recommended Points 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 of Regulation EC No 882/2004

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

- 3.12 The Authority has two schemes of delegation; one is the Fife Council List of Officer Powers effective from 8th March 2018 which is a broad description for Environmental Health and allows the designation of employees to carry out the functions assigned to the Council as the local food authority. In general, this appropriately delegates powers in the Appendix; however some of the legislation quoted is no longer applicable and so needs to be updated.
- 3.13 The Service level specific powers delegated to Officers is dated March 2018 and is V8. This refers to legislation quoted as normally including any subsidiary Acts, Orders or Regulations. Again, some of the legislation quoted has been superseded so requires to be updated.
- 3.14 Discussion took place on the scheme of authorisation. Officers carry a card stating they are from Fife Council, providing details of where queries can then be directed to within the department. The officer authorisation is listed by individual powers according to the post level. These authorisations list the individual powers from the Food Hygiene (Scotland) Regulations regarding service of notices.
- 3.15 The Service Manager - Environmental Health (Food & Workplace Safety) is the designated Lead Officer for Food and is an experienced EHO.
- 3.16 The recently submitted Information Gathering Questionnaire of July 2018 shows the number of authorised officers is 12.38 FTE. The LA consider that having had long term vacancies in 2016-17, which were filled by recruiting 2 new EHOs, and having a part time EHO become full time, followed by a series of long term absences has stretched the resilience and capacity and resulted in a re-prioritisation of official control interventions. A retirement at EHO level in the last few months will result in a re-designation of the post as a Lead Officer (team management level).

- 3.17 The team needs to develop a system to manage changes to the workforce, particularly departures, in order that they do not adversely affect the ongoing provision of the service.
- 3.18 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.

Recommended Points for Action: Procedures

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

Article 4 of Regulation (EC) No 882/2004

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

- 3.19 Officers appear to have the appropriate qualifications and copies were provided as requested. Officers have completed the required 10 hours of food based continuing professional development as required by the Food Law Code of Practice. There is a very strong emphasis on collective training across a broad range of subjects. This has been delivered through attending events, web based training, individual personal learning, in house activities and cascade training based on other training. Some officers have completed a variety of food standards based training.
- 3.20 Evidence of formal training in Hazard Analysis and Critical Control Points (HACCP) principles was requested and it was noted that 14 Officers have received level 4 HACCP training with many also having attended the Level 2 FSAS training. Evidence of satisfactory training in Validation and Verification of Food Safety Management Systems based on HACCP was observed for five Officers. These officers had attended a FSS funded training course on Official Control Verification in Food Manufacturing.
- 3.21 There is a mixture of experience and service within the LA, with officers being well trained in-house with a variety of training methods, including cascade training being used.

Good practice

The Authority has a commitment to providing and delivering appropriate training through a variety of methods to ensure that authorised officers are competent to deliver official controls. Cascade training, using a variety of officers to deliver, was widely used.

- 3.22 When undertaking interventions of category A food standards establishments, which are 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. Lead Auditor qualifications are held by several officers.

- 3.23 The Local Authority has responsibility for 32 approved products establishments under Regulation (EC) No 853/2004 - laying down specific hygiene rules for food of animal origin, across a variety of product types. 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.
- 3.24 It is practice for Officers to visit these Regulation 853 premises in pairs, similarly for butchers' premises. It was noted on butchers' premises that officers working in pairs split the workload into system review and process. It was clear that this particular systematic approach did not fully suit the business concerned subject to the reality visit.

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

- 3.25 The Authority has policies and procedures in place containing information and instructions for the official controls and food law that it carries out. However these are generally dated 2011 and so are out of date and require an urgent review.
- 3.26 Those produced and reviewed are short and easy to follow and would be effective when updated to reflect the current Food Law Code of Practice requirements and legislation in force.
- 3.27 The authority is not fully implementing internal monitoring of official controls as detailed in the applicable procedure.
- 3.28 Quantitative monitoring, however, is being recorded, reported and taking place regularly with a high level of detail. This monitoring is suitably evidenced by the database being used to provide monthly and/or quarterly intervention programmes which can be monitored by running a series of standard reports. Anything non-standard is requested from IT and may take some time to be delivered.
- 3.29 The recent FSS Internal Monitoring advice has been adopted with the Lead Food Officer compiling a file of internal monitoring. This reflects scoring issues, letter writing, and is recorded in the Food safety – Monitoring system inspection/intervention auditing form. Not many of these have been done and those completed have been completed on an ad-hoc basis.
- 3.30 Officers are regularly discussing enforcement issues, communicating with each other and conducting dual interventions to ensure consistency and informal monitoring is taking place between themselves and their managers.

Recommended Point for Action: Monitoring

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

The policies and procedures 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

- 3.31 Inspection paperwork is presented or sent to food business operators (as appropriate) following interventions as either a hand written report left at the Official Control or as a letter written later based on a variety of aide memoires used. These records were available electronically having been scanned and stored on the database.
- 3.32 From the records checked, the Food Safety Inspection Form did not provide specific reference to European legislation (e.g. 852/2004). In addition, the letters did not always provide reference to food standards legislation against which the business was inspected. The Food Law Code of Practice requirements for an indication of individual timescales for compliance are not always indicated on the form or the letter.
- 3.33 Aides memoires used are detailed and in some cases overlapping when used simultaneously, for example at Butchers inspections. Officers were found to be completing these forms satisfactorily. Copies were readily available, usually from the database.
- 3.34 Letters are being sent to the Food Business Operator within a reasonable time of the official control, despite the documented lack of dedicated administration support in the information gathering questionnaire and the interviews with the officers.

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, nor appropriate legal references.

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)

- 3.35 One real time reality check was carried out at a high risk butcher with two officers. For this intervention, the Officers had separately carried out previous interventions at the premises and as a result they were familiar with the business documentation, systems and premises. They had both prepared for the inspection by reviewing the file and records.
- 3.36 The various matters that arose during the inspection were dealt with confidently and professionally by the Officers, who individually asked or discussed issues with the FBO. This also included the handling of difficult matters raised by the FBO. The main findings related to the subjects of food safety management systems, product durability, cleaning and temperature control. A Record of Inspection report was left with the business and followed up with a letter within two weeks. The risk rating category remained at a B (annually).

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

- 3.37 The Authority is very active in sampling and sends samples for examination and analysis to Dundee Scientific Services.
- 3.38 A sampling policy and programme are in place. Sampling is generally carried out by an unauthorised sampling officer with investigations by an EHO or Food Safety Officer (who was last involved with the premises where appropriate), if the result requires more input.
- 3.39 Some sample results were discussed and it was found that these highlighted problems which were then suitably addressed by an EHO/FSO. Further discussion about a sampling campaign that the LA had followed and then raised to a Food Alert level with FSS demonstrated good knowledge of HACCP, specialist processing techniques and a willingness and capability to follow the enforcement policy and take formal action to protect public health.

Good practice

The Authority has demonstrated a thorough knowledge of official controls, specialist food manufacturing techniques, science based sampling results and their own enforcement policy when dealing with a product that resulted in Food Standards Scotland issuing a Product Recall Information Notice.

Article 31 Regulation EC No 882/2004 – Registration/ Approval of Food Business Establishments (Database)

- 3.40 The Authority has an electronic database of the food premises within the area. At the time of audit the database appears to be accurate and contains appropriate records, showing many overdue interventions, for food hygiene. These were mainly in the C, D and E categories as detailed above. The food standards programme was also considerably behind schedule. Both systems showed a considerable number of unrated premises which should be inspected and given a risk rating within the work programme.

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

- 3.41 The Authority has an Enforcement Policy (May 2011) in place for both hygiene and standards supported by Procedures and guidance notes. These precede the existing Code of Practice and require to be reviewed and, where necessary, updated on a regular basis in line with changes to legislation and centrally issued guidance. The LA is fully prepared to serve notice, prohibit trading, remove food from sale and detail legal contraventions across food hygiene in particular.
- 3.42 Data submitted as part of the most recent LAEMS return (2016-17) showed that for food hygiene, there was 5 establishments subject to a Remedial Action Notice, 1 establishment subject to a Hygiene Improvement Notice, 8 subject to voluntary closure and 299 establishments subject to written warnings from the 1746 premises subject to official control during the previous 12 months.
- 3.43 For Food Standards, the return had much less detail, showing only 1 Prohibition Order and 12 written warnings from the 805 premises subject to official controls. This is likely to be a coding error on the returns based on the electronic database records. The database had been corrected but not in time for the return.
- 3.44 Information provided by the authority during the audit indicated that there had been 10 Remedial Action Notices served in 2017-18 with 7 so far in 2018. Hygiene Improvement Notices had been served 3 times in 2017-18, with 5 Voluntary closures in 2017-18 and 2 so far in 2018. There had been 4 voluntary surrender notices in 2017-18 and 2 so far in 2018.
- 3.45 The Officers would appear to be following the 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.

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Food Standards Scotland Audit Branch

4.0 Annex A

Action Plan for Fife Council: Capacity and Capability Audit, August 2018

Recommended Points for Action	Planned actions	Target date for completion	Responsible Officer(s)
<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><i>Article 3 of Regulation EC No 882/2004</i></p>	<p>Draft and submit Service Delivery Plan to appropriate committee.</p>	<p>March 2019</p>	<p>Service Manager - Environmental Health (Food & Workplace Safety)</p>
<p>The current intervention programme does not comply with the Food Law Code of Practice or Regulation (EC) No 882/2004.</p> <p><i>Article 3 of Regulation EC No 882/2004</i></p>	<p>Carry out a review of current capacity, activities, resources etc.</p> <p>Thereafter draft and implement an improvement plan.</p>	<p>May 2019</p> <p>October 2019</p>	<p>Service Manager - Environmental Health (Food & Workplace Safety)</p> <p>Lead Officer - Environmental Health (Food & Workplace Safety)</p>

<p>The Authority has not ensured that all authorisations are up to date.</p> <p><i>Article 4 of Regulation EC No 882/2004</i></p>	<p>Review current authorisations against Food & Feed Law Guide</p> <p>Draft required amendments and submit for updating of Council/Service documents.</p>	<p>March 2019</p> <p>May 2019</p>	<p>Service Manager - Environmental Health (Food & Workplace Safety)</p> <p>Lead Officer - Environmental Health (Food & Workplace Safety)</p>
<p>The Authority has an internal monitoring procedure in place which is not being fully implemented.</p> <p><i>Article 8 of Regulation (EC) 882/2004 (Official Feed and Food Controls)</i> <i>Section 39 of the Food Law Code of Practice (Scotland) 2015.</i></p>	<p>Review current activities and update procedure accordingly.</p>	<p>April 2019</p>	<p>Service Manager - Environmental Health (Food & Workplace Safety)</p> <p>Lead Officer - Environmental Health (Food & Workplace Safety)</p>
<p>The policies and procedures were not always current and many require a review.</p> <p><i>Article 8 of Regulation (EC) 882/2004 (Official Feed and Food Controls)</i> <i>Section 39 of the Food Law Code of Practice (Scotland) 2015.</i></p>	<p>Review an update taking account of ongoing phased Food law Code of Practice review.</p>	<p>June 2019</p>	<p>Service Manager - Environmental Health (Food & Workplace Safety)</p> <p>Lead Officer - Environmental Health (Food & Workplace Safety)</p>

			Workplace Safety)
<p>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, nor appropriate legal references.</p> <p><i>Article 9 of Regulation (EC) 882/2004 (Official Feed and Food Controls)</i> <i>Section 28 of the Food Law Code of Practice (Scotland) 2015.</i></p>	<p>Initial briefing to team to ensure inclusion of appropriate timescales and legislation within reports.</p> <p>Review report templates</p>	<p>October 2018</p> <p>April 2019</p>	<p>Service Manager - Environmental Health (Food & Workplace Safety)</p> <p>Lead Officer - Environmental Health (Food & Workplace Safety)</p>