



Food Standards Scotland

Local Authority Food Law Enforcement Services

Sampling Activity Audit

Brief and Plan

September 2019



Introduction

- 1.1 The power to set standards, monitor and audit the performance of enforcement authorities was conferred on Food Standards Scotland by Sections 3 and 25 of the Food (Scotland) Act 2015 and Regulation 7 of The Official Feed and Food Controls (Scotland) Regulations 2009¹.
- 1.2 Regulation (EC) No 882/2004² on official controls performed to ensure the verification of compliance with feed or food law includes a requirement for competent authorities to carry out internal audits or to have external audits carried out.
- 1.3 To fulfil this requirement Food Standards Scotland, has established external audit arrangements in respect of competent authorities. These arrangements are intended to ensure competent authorities are providing an effective and consistent service for the delivery of official controls and are meeting the general criteria laid out in Regulation (EC) No 882/2004.
- 1.4 In developing these audit arrangements Food Standards Scotland has taken account of the European Commission guidance, 2006/677/EC³, on how such audits should be conducted.
- 1.5 The Food Scotland Act 2015 provides Food Standards Scotland with statutory powers to strengthen its influence over enforcement activity and to ensure national priorities and objectives will be delivered at a local level. It gives Food Standards Scotland powers to carry out the following duties:
 - *set standards of performance in relation to enforcement of feed and food law*
 - *monitor the performance of feed and food law enforcement authorities*
 - *require information from Local Authorities relating to food law enforcement and inspect any records*
 - *enter authority premises, to inspect records and take samples of records*
 - *publish information on the performance of enforcement authorities*
 - *make reports to individual authorities, including guidance on improving performance*
 - *require Local Authorities to publish these reports, and state what action they propose in response*
- 1.6 The audits will be a systematic and independent examination of the delivery of food law by Local Authorities in Scotland.

¹ <http://www.legislation.gov.uk/ssi/2009/446/contents/made>

² [\(EC\) No 882/2004](#)

³ [Commission Decision 2006/677/EC](#)

Aims and Scope

2.1 The aim of the audit programme will be to determine whether sampling activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve the objectives of the relevant food legislation and centrally issued Guidance.

2.2 The specific aims of this audit programme are to:

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

2.3 Regulation (EC) No 882/2004, states that competent authorities, in this case Local Authorities should have in place certain controls. A summary of the relevant controls for this audit programme are listed below:

- 1) meet certain operational criteria – such as:
 - having a suitable Service Plan which references sampling
 - the preparation and publishing of a food sampling policy
 - the suitability of the sampling policy (including resources, formulation, approach etc)
 - the availability of the food sampling policy
 - the appointment of a suitable Public Analyst
 - the preparation and delivery of a sampling programme detailing intended food sampling priorities
 - the provision and implementation of a sampling procedure
 - sampling activities as Official Controls
 - the recording and monitoring of sampling activities
 - sampling activities as non-official controls (surveillance, monitoring and providing advice to FBOs)
 - provision of appropriate arrangements for the custody and handling of OC samples
 - sampling related communications with FBOs

Audit Criteria

3.1 The audit criteria is the legislation, policies, procedures or other requirements used as a reference against which audit evidence is compared, i.e. the standards against which the auditee's activities are assessed. For the purposes of this audit the main reference will be:

- The Food Law Code of Practice (Scotland) 2019 which provides relevant guidance to Local Authorities on discharging their duties.
- Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules as amended, extended or applied at the date of making of The Official Feed and Food Regulations (Scotland) 2009 in so far as it relates to food.
- The Official Feed and Food Control (Scotland) Regulations 2009 in so far as they relate to food.

Selection of Local Authorities for Audit and Notification

4.1 All Local Authorities will receive a questionnaire requesting information relating to sampling activities which will then be subject to review. Supplementary evidence may then be requested as applicable.

4.2 In some cases a follow up visit may be required to discuss elements of the information received. If this is the case the Local Authority will be contacted and a mutual time agreed.

Audit documents

5.1 To aid the effective operation of the audit plan an audit checklist has been developed by the auditors. The checklist contains the areas to be examined and will be used to record evidence gathered during both the desktop and any onsite parts of the audit. The Checklist will be published on the Food Standard Scotland Website.

Audit process

6.1 The audit will focus on examining evidence to verify compliance with planned arrangements and assess whether the planned arrangements are suitable to achieve the objectives.

6.2 The audit will include:

- A desktop assessment of the implementation of the relevant sections of the legislation and Guidance listed in the Audit Criteria. Auditors will

make use of the audit checklist to collect evidence to assess compliance with planned arrangements, effective implementation and suitability to achieve objectives.

- An on-site visit at those LA's considered as requiring this, based on the supplied information, sampling history, SFSD (UKFSS) information or other references.
- At the onsite visits providing feedback of findings to the designated audit liaison officer or a nominated representative. This allows the auditee the opportunity to clarify any audit findings and resolve any potential points of confusion or disagreement prior to the closing meeting.
- At the onsite visits a closing meeting to be held with relevant Local Authority officers. The auditors will provide a summary of their provisional findings, in particular, recommendations for improvement and areas of good practice.

Follow-up action

- 7.1 A cumulative report of the exercise will be prepared and published on the Food Standards Scotland website. To address recommendations made by the auditors any affected Local Authority should draw up an appropriate action plan. The actions should include risk-based prioritisation and specific time scales for completion of **corrective or preventative** actions.
- 7.2 There will be an expectation that Local Authorities will use root cause analysis techniques when deciding which actions will effectively address recommendations. The Food Standards Agency has developed a Root Cause Analysis eLearning module for authorised officers. It is available at <https://rcatraining.food.gov.uk/#home> which might be of some assistance.
- 7.3 Food Standards Scotland will monitor implementation of this audit and in some circumstances, follow-up assessments/re-visits to a Local Authority may be required.

Publication of audit reports

- 8.1 Information on Local Authority official control delivery performance will be placed in the public domain. A copy of the audit report and action plan (if required) will be placed on the Food Standards Scotland website at: <http://www.foodstandards.gov.scot/food-safety-standards/regulation-and-enforcement-food-laws-scotland/audit-and-monitoring>

Complaints and disputes

- 9.1 If any Local Authority is dissatisfied with any aspect of the audit, including the conduct of the audit and/or the auditors, it should initially take the matter up with the Lead Auditor and then, if necessary, the Head of Audit.
- 9.2 If matters are not resolved at this level and if the Local Authority remains dissatisfied it should formally raise the matter with the Head of Audit within a further 10 working days so that formal negotiation may take place.
- 9.3 If, after this stage, the Local Authority remains dissatisfied, it may refer the matter to the Chief Operating Officer & Deputy Chief Executive of Food Standards Scotland within a further 10 working days.

Note: Pending the resolution of any dispute, it is expected that the Local Authority would implement those elements of its action plan not subject to dispute to ensure other improvements are not delayed.