



**Food Standards Scotland**

**South Ayrshire Council  
Food Law Enforcement  
Services**

**Capacity and Capability Audit  
Report**

**21-23 February 2017**



## Foreword

Audits of Local Authorities food law enforcement services are part of Food Standards Scotland arrangements to improve consumer protection and confidence in relation to food and feed. These arrangements recognise that the enforcement of UK food law relating to food safety, hygiene, composition, labelling, imported food and feeding stuffs is largely the responsibility of Local Authorities. These Local Authority regulatory functions are principally delivered through Environmental Health and Trading Standards Services.

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

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

The audit scope is detailed in the audit brief and plan issued to all Local Authorities under reference FSS/ENF/16/014 on 12 October 2016. The main aim of the audit scheme is to maintain and improve consumer protection and confidence by ensuring that Local Authorities are providing an effective food law enforcement service. This audit was developed to assess Local Authority capacity and capability to deliver the food service.

The Audit scheme also provides the opportunity to identify and disseminate good practice and provide information to inform Food Standards Scotland policy on food safety, standards and feeding stuffs.

Specifically, this audit aimed to establish:

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

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

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<sup>1</sup> [\(EC\) 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 South Ayrshire Council with regard to their capacity and capability to deliver food enforcement, under relevant sections of Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed or food law. The audit focused on the Authority's arrangements for meeting certain operational criteria, particularly on staffing related issues, registration and approval of food business operators, enforcement actions, interventions, procedures for carrying out official controls and transparency about their enforcement activities.
- 1.2 The report has been made available on the Food Standards Scotland website at:  
[www.foodstandards.gov.scot/food-safety-standards/regulation-and-enforcement-food-laws-scotland/audit-and-monitoring#la](http://www.foodstandards.gov.scot/food-safety-standards/regulation-and-enforcement-food-laws-scotland/audit-and-monitoring#la)

### Reason for the Audit

- 1.3 The power to set standards, monitor and audit Local Authority food law enforcement services was conferred on Food Standards Scotland by Sections 3 and 25 of the Food (Scotland) Act 2015 and Regulation 7 of The Official Feed and Food Controls (Scotland) Regulations 2009. This audit of South Ayrshire 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 South Ayrshire Council's Food Service was undertaken by the Food Standards Agency (Scotland) in May 2012. The previous audit to that 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 South Ayrshire 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 a local food business 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 South Ayrshire.

### **Local Authority Background**

- 1.8 South Ayrshire Council have a Trading Standards and Environmental Health Regulatory and Enforcement Policy dated 18 August 2015 which is a high level document stating the graduated approach and the key principles by which compliance is achieved. The policy specifically refers to the Scottish Regulators' Strategic Code of Practice and an extract from this is clearly detailed in the introduction to the policy which states the high level operational approach that "regulators should adopt a positive enabling approach in pursuing outcomes that contribute to sustainable economic growth." The principles of good enforcement are listed and described as openness, targeting, helpfulness, proportionality, consistency and accountability. The authority, as a general principle, will publicise serious non-compliance to highlight risk.
- 1.9 There is a Food/Feed Service Plan in place for 2015/2018 which was authorised by the Trading Standards and Environmental Health Manager. The plan is satisfactory as it follows the Framework Agreement Guidance in format and content, with an additional section on "Areas for Development"

- 1.10 Within the current departmental management structure, food law enforcement is being managed by the Trading Standards and Environmental Health Manager who has a Team Leader responsible for the food law operational delivery work carried out by the 8 Environmental Health Officers (EHO's), and a second Team Leader, a Senior Food Safety officer and 4 Food Safety Officers in the team.
- 1.11 The EHOs are multi-disciplined, covering other duties in addition to food safety. They are authorised under the Food Law Code of Practice (Scotland) commensurate with their training and experience.
- 1.12 South Ayrshire Council has responsibility for Port Health at Prestwick Airport. It should be noted these responsibilities were not subject to audit during our time with the Local Authority.

## **2.0 Executive Summary**

### **Capacity**

- 2.1 The audit found that the 8 EHO's, the Senior Food Safety officer and the 2.5 FTE Food Safety Officers are being effectively managed within a stable and experienced management structure.
- 2.2 The Lead Officer for Food is responsible for day – to – day delivery of food hygiene and food standards enforcement. It was established that work is recorded and quantified to ensure the delivery of the food service as required by the Service Plan.
- 2.3 Based on the Local Authority's intervention programme and the establishment of allocated staff numbers provided prior to audit, together with discussions and reviews of documentation and records, the capacity to deliver the intervention programme was considered satisfactory at the time of audit.
- 2.4 The audit found that the Authority has a Food Safety Service Plan 2015-2018 which satisfactorily follows the template of the 2010 Framework Agreement on Official Feed and Food Controls by Local Authorities. The demands on the Local Authority are documented as are the Service Delivery interventions planned for the year.
- 2.5 The budget information produced by the Authority appeared to show a stable allocation of finance to the service.

### **Capability**

- 2.6 The Scheme of Delegation from December 2016 delegates powers to Panels (Committees) and the Regulatory Panel exercises the Council's functions for Environmental Health. Each Authorised Officer has clear, concise and appropriate Authorisation documents which were readily available and these

were detailed in centrally held files for each authorised officer. The system used is clear, simple and considered as effective.

- 2.7 Monitoring of the quantity and quality of work allocated or completed is carried out regularly by the team leader and there are a variety of different systems used to ensure consistency and quality are monitored and reported. This is important as inspection reports are reviewed by the local media and subsequently publicised by them.
- 2.8 Effective discussions and co-operation takes place by officers working closely located within a single office.
- 2.9 For the Approved Establishments within the Authority, Officers are required to have particular knowledge of the processes within these establishments and not just knowledge of Hazard Analysis Critical Control Point Systems. Evidence of specific training in associated specialist or complex processing was available.
- 2.10 Although not subject to detailed scrutiny the presence of a major airport within the Authority presents additional requirements on the competent Authority and these include the provision and delivery of specialist knowledge and procedures on imported foods and related items and associated authorisations.
- 2.11 To assist in the appropriate delivery of enforcement there are a series of documented procedures available to all Officers in electronic format on a central directory. The majority of these documents are detailed and contain hyperlinks to other reference sources.
- 2.12 Officers were clear on the Authority's procedure for conducting inspections and adhered to the Authority's Enforcement Policy and inspection procedures. The procedures and documentation provided for inspections were generally being appropriately and consistently followed and completed.

### **Level of Assurance**

- 2.13 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:

**Substantial Assurance**  
***Controls are robust and well managed***

Risk, governance and control procedures are effective in supporting the delivery of any related objectives. Any exposure to potential weakness is low and the materiality of any consequent risk is negligible.



### 3.0 Audit Findings

- 3.1 This report contains conclusions stemming from the audit findings. Conclusions address the compliance with the planned arrangements, the effectiveness of their implementation and the suitability of the planned arrangements to achieve the stated objectives as appropriate.

#### Article 3 Regulation EC No 882/2004 - General obligations with regard to the organisation of official controls

- 3.2 The Authority has a satisfactory Food/Feed Service Plan for 2015/2018 which has been approved by the Trading Standards and Environmental Health Manager on 29/06/2016.
- 3.3 There have been no recent management changes at Trading Standards and Environmental Health Manager or Team Leader level which has ensured continuity in developing service plans and providing a management structure for the service. The Team Leader is the designated Lead Officer for Food and was effectively managing the regular workload of the Authorised Officers.
- 3.4 The Local Authority Intelligence Gathering Questionnaire (June 2016) return to Food Standards Scotland for this Authority indicated that there were 5.4 Food Hygiene and 5.4 Food Standards FTE's required and provided. The Local Authority considered that there were sufficient qualified staff and that there had been no recruitment of officers in the 3 years that the questionnaire covered.
- 3.5 The Service plan is very well detailed in the Service Delivery section with the breakdown of inspection frequencies, number of premises in each risk band and the associate number of programmed inspections.
- 3.6 The 2015 – 2016 LAEMS Report published on 21 November 2016 shows that for South Ayrshire Council in Food Hygiene there were 1533 establishments in total, with 66 that were recorded on the database having not yet been rated for an intervention. There were 13 category A, 53 B's, 411 C's, 299 D's and 595 E's. The report indicates that 100% of high risk (A & B) hygiene interventions were being completed. The return indicated that there were 96 premises outside the programme. There were 1289 interventions achieved with 52 due interventions outstanding.
- 3.7 For Food Standards 620 inspections and audits were achieved with 185 other official controls being carried out. A written warning was required at 158 establishments.
- 3.8 For Food Hygiene Enforcement Actions there were 419 written warnings and 22 Hygiene Improvement Notices and 2 voluntary closures.
- 3.9 The Service Plan states that due to implementing a cross contamination strategy (between September 2012 and March 2015) there are 450 premises where the programmed inspection for food hygiene was delayed. These inspections are for lower risk premises and are to be factored into the 2015-2017 inspection programme by officers.

- 3.10 A live data report was requested from the food premises database at the start of the audit which was promptly provided. On analysis this showed:
- There were a small number food hygiene interventions considered overdue (53 FH). These were mainly Categories D and E. There were 1381 premises listed on the Food Premises database, none of which were unrated.
- 3.11 The Authority are one of the participants in the pilot doing food hygiene and food standards interventions at the same time, for food standards the majority of premises are considered low risk. Reports on food standards differentiate between requirements or recommendations, and each is given a timescale for compliance. The LA report that the work involved in combining hygiene and standards inspections has had little impact as that was their strategy before joining the pilot study.
- 3.12 The authority has a variety of effective working systems that promote good practice, these include a system of peer reviews which are structured and work well, using root cause analysis during team meetings, having a business support officer provide up to 3 months advice for new businesses and giving team members ownership of the sampling programme and the reporting of their project.

#### **Good practices**

The use of Peer Reviews and Reflective learning, an awareness and use of Root Cause Analysis and the active period of support and guidance provided by an officer for new food businesses are considered as being good practice.

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

- 3.13 The Authority has a scheme of delegation from December 2016 in which delegated powers have been distributed to Panels (Committees) and the Regulatory Panel exercises the Council's functions for Environmental Health. The documents are clear, concise and appropriate.
- 3.14 This committee can further delegate to Officers and the Executive Director – Economy Neighborhood and Environment has been delegated the powers of the Council which includes the general delegation to sign and to issue authorisation to officers to exercise statutory powers. This allows the Director to authorise Heads of Service or Managers any of the individual delegated powers related to food safety.
- 3.15 Discussion took place on the general scheme of authorisation and the method of individual documentation for officers. The individual officer authorisation

documents are appropriately detailed for the Food Safety Act and the Food Hygiene (Scotland) Regulations as the list of individual powers are listed.

- 3.16 The certificate of Appointment and Authorisation also lists authorisation under other regulations, one of which is The Imported Food Regulations 1997, which were revoked entirely in 2005 by the Official Feed and Food Controls (Scotland) Regulations.
- 3.17 The Food Safety and Standards Enforcement policy was approved by the Education and Communities Committee in March 2015 and it is suitably detailed to enable the required enforcement action to be taken effectively.
- 3.18 The Authority is maintaining their database and was able to produce reports for the auditors. The Team Leader uses the database to assess the work priorities and to ensure that there is a reasonable allocation of work to all members of the team.
- 3.19 The EHO's and the authorised officers within the team have been in post for a considerable time, leading to a settled and stable team.

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

- 3.20 Officers have the appropriate qualifications and copies are retained on file. Documentary evidence was available to demonstrate that all officers have completed the required 10 hours of continuing professional development as required by the Food Law Code of Practice.
- 3.21 Evidence of formal training in Hazard Analysis and Critical Control Points (HACCP) principles was readily available. The majority of the 11.5 officers involved in food safety enforcement had received some form of this training, Evidence of satisfactory training in Validation and Verification of Food Safety Management Systems based on HACCP was observed for 2 officers.
- 3.22 When undertaking interventions in the single category “A” food standard 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. Several Officers have received suitable training and they should carry out the food standards official controls at the category A rated premises.
- 3.23 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 approved establishments the Food Law Code of Practice requires competence in the inspection of specialist or complex manufacturing processes, Officers who have conducted Official Controls at approved establishments have received a variety of appropriate training in specialist/complex processes.

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

- 3.24 The Authority has policies and procedures for the range of official controls and compliance with the Food Law Code of Practice. Examples of these detailed documents were produced for the audit and are fit for purpose. However it was noted that the errors which were present in the printed documentation were not duplicated by the electronic database which provided correct copies of reference documents and forms when requested by the auditors.
- 3.25 The Authority has a comprehensive internal monitoring procedure for many aspects of the work of the team, including letters and reports.
- 3.26 The electronic database is being used to provide ongoing intervention programmes which are monitored by the provision of a variety of reports to determine the delivery of the programme.
- 3.27 Qualitative assessments such as shadowed inspections are taking place when required in accordance with the monitoring procedure. These accompanied inspections are routinely taking place where it is expected that there could be potential complications arising. Officers also participate in reflective learning and peer review focus at the regular technical meetings to ensure that there is discussion and consistency. These team meetings have a Standard agenda and are minuted to ensure records are maintained.

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

- 3.28 Inspection documentation is created as both a report and a letter which is provided or sent to food business operators (FBOs) following interventions. These records were available electronically. From the records checked those relating to food hygiene matters generally appear to follow the requirements of the Food Law Code of Practice.
- 3.29 Food standards items on inspection reports were being given a timescale for achieving compliance to the FBO and the guidance on whether the item is a recommendation or a requirement was sufficiently precise.

### Article 10 Regulation EC No 882/2004 – Control activities, Methods and techniques

- 3.30 A real time un-announced verification check was carried out at a caterer during a programmed inspection. The officer had prepared for the inspection by reviewing the file and records. The officer involved had carried out the previous intervention at the premises and was familiar with the business.
- 3.31 The various matters that arose during the inspection were dealt with confidently and professionally by the officer. The main finding was the incorrect supply of chicken pieces and potential cross contamination due to the use of a non-compliant bactericidal detergent in the kitchen. The Food Business Operator understood the issues and was prepared to change practices to ensure compliance. The cleaning and disinfection issue was remedied at the time of

inspection and the Local Authority where the supplier of the chicken was based was contacted and informed of the issue found.

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

- 3.32 The Authority sends samples for examination and analysis to Glasgow Scientific Services.
- 3.33 A sampling policy and programme were in place and were being followed.
- 3.34 The audit looked at 2 sample failures and found that the Authority had followed these up appropriately in one case and records were provided to verify this. A second case had not been followed up in accordance with the sampling procedure.

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

- 3.35 The Authority has an electronic database of the food premises within their area. At the time of audit the database appears to be accurate and contains appropriate records.

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

- 3.36 The Authority has a Food Enforcement Policy in place supported by Procedures and guidance notes, enforcement is in accordance with the Enforcement Principles and few cases result in formal notices.
- 3.37 The authority actively publicise the outcome of interventions by way of Twitter. The Authority have a score of 100% on the Food Hygiene Information System, this unusually high pass rate was satisfactorily explained during the audit. Once inspected and risk scored the establishment is provided with this information as an Inspection Rating. The Food Business Operator then nearly always contacts the LA within the appeal period to correct the situation and generate a Pass. The local press actively monitor the LA Twitter feed and publish the information from the inspection report.
- 3.38 There were 22 establishments subject to Hygiene Improvement Notices, and 419 establishments subject to written warnings from the 758 premises subject to official control during the previous 12 months. The Officers would appear to be following the Food Safety Enforcement Policy of primarily using education followed by the application of the principles of proportionality, consistency, targeting, transparency and accountability.
- 3.39 The authority does not use Alternative Enforcement Strategies for either Food Hygiene or Food Standards as all premises are subject to official controls.

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