

# **FOOD LAW ENFORCEMENT IN SCOTLAND**

## **A Report on The Administrative and Enforcement Arrangements**

**This report was jointly prepared under the direction of:**

**The Scottish Food Enforcement Liaison Committee**

**The Royal Environmental Health Institute of Scotland**

**The Society of Chief Officers of Environmental Health in Scotland**

**Food Standards Scotland**

**Official Control Laboratories**

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# EXECUTIVE SUMMARY

This report:

- Outlines food law enforcement arrangements in Scotland.
- Identifies the structure designed to deliver a uniform approach in Scotland.
- Demonstrates the positive partnership between Local Authorities (LA), the Scottish Government (SG), Food Standards Scotland (FSS), trade organisations, consumer groups and other interested organisations.
- Illustrates Consistency, Performance, Service Delivery and Best Value.
- Demonstrates the comprehensive approach to Enforcement Officer training.
- Highlights the different legislative approach within Scotland under the umbrella of EC & UK legislation.
- Demonstrates support for Food Standards Scotland.

# 1.0 BACKGROUND

## 1.1 Introduction

The purpose of this report is to outline the arrangements in Scotland for protecting public health and wider consumer interests in relation to food safety and food standards in order to demonstrate that there is a different approach to enforcement from that which exists elsewhere in the UK.

In addition, it is the aim of this report to highlight the support given to industry and in particular small business in meeting their responsibilities, which is designed to raise industry standards.

## 1.2 Legislative Framework

Legislation on food is directed from Europe and there are EC Regulations dealing with both general and specific areas. In the UK the enabling legislation is the Food Safety Act 1990 and the European Communities Act 1972. From these Acts there are Regulations dealing with hygiene, compositional standards, labelling, temperature, specific foods etc. In support of these Regulations there is a Statutory Food Law Code of Practice and Practice Guidance specifically for Scotland and also UK Industry Guides to assist enforcers to apply the law in a consistent manner. Whilst the legislation is EC wide there is a distinctive approach to enforcement in Scotland as opposed to England. (The most notable example being the ban since 1982 of the sale of raw milk in Scotland).

## 1.3 Interested Organisations

Food legislation is principally enforced through Scottish Local Authorities (LA) and is delegated to Directors/Heads of Environmental Health to manage local service delivery arrangements. The training and education of Environmental Health Officers (EHOs) and Food Safety Officers (FSOs) working in food law enforcement is the responsibility of the Royal Environmental Health Institute of Scotland (REHIS), the professional body which governs Environmental Health practice in Scotland. REHIS is a registered Scottish charity independent of government whose aim is to protect and improve public health in Scotland through education, training and qualifications in Environmental Health.

The Scottish Food Enforcement Liaison Committee (SFELC) was formed in 2002 in order to ensure, as far as practicable, a consistent approach to enforcement and to co-ordinate sampling and surveillance. The Committee closely liaises with Food Standards Scotland (FSS) and consumer organisations to achieve this goal.

## **2.0 ADMINISTRATION AND ENFORCEMENT**

### **2.1 Local Authority Enforcement**

In Scotland and Northern Ireland unlike England and Wales, there is a unitary approach to food law enforcement, delivered via unitary councils. This reflects the fact that the Environmental Health function in Scotland has responsibility for enforcing all food legislation including food safety, food standards and dairy hygiene.

This unitary approach, together with close liaison with Food Standards Scotland, encourages an efficient service which promotes consistency. The enforcement of food safety legislation within the red meat sector at abattoirs and cutting plants is the responsibility of Food Standards Scotland. Local Authorities remain the enforcing body for food information legislation in these businesses.

### **2.2 Environmental Health Officers and Food Safety Officers**

Within Scottish Local Authority Environmental Health services, EHOs, supported by FSOs, enforce food legislation and offer advice and support to businesses seeking compliance with the standards being applied. Both EHOs and FSOs have to satisfy the academic and professional standard set by Royal Environmental Health Institute of Scotland (REHIS) and the Scottish Food Safety Officers Registration Board (SFSORB) respectively, to ensure only qualified and competent officers are allowed to practise.

### **2.3 Co-ordination**

As there are 32 councils in Scotland, there is a need to ensure that there is a consistent approach applied in different parts of the country. This is achieved through Food Standards Scotland Policy and Guidance, SFELC Guidance and Food Standards Scotland Food Law Code of Practice (Scotland) and Practice Guidance. The Food Law Code of Practice (Scotland) recognises SFELC's role as co-ordinating body for Scotland and advises Food Authorities to seek the Committee's advice on interpretation of the law and technical issues relating to food.

### **2.4 Quality and Consistency**

Scottish Local Authority Environmental Health services strive to ensure that the quality and consistency of their food enforcement function is maintained to a high standard. This is achieved through the adoption of Food Standards Scotland policy and guidance, SFELC guidance, performance indicators, best value, benchmarking, service reviews, etc.

## **3.0 SCOTTISH FOOD ENFORCEMENT LIAISON COMMITTEE (SFELC)**

### **3.1 Background**

The Scottish Food Enforcement Liaison Committee (SFELC) was formed in 2002 to support the work of Food Standards Scotland (FSS), by providing information and expert advice in relation to food law enforcement and so to contribute to the development and implementation of FSS's Strategies and Policies for fulfilling its core functions in respect of food safety and consumer protection in Scotland. In addition, the Committee provides a successful forum to maintain and develop links with key stakeholders who can provide the necessary expertise for discussion and initiation of projects, surveys and investigations into food quality, safety and standards and feedingstuffs.

### **3.2 Membership**

Membership of the Committee reflects the key stakeholders in the promotion of food safety and consumer protection with representation from:

- Association of Public Analysts Scotland
- Citizens Advice Scotland
- Consultant in Public Health Medicine Group
- Convention of Scottish Local Authorities
- Food Standards Scotland
- Health Protection Scotland
- Hospitality and Retail Sectors including British Hospitality Association & Scottish Retail Consortium
- Institute of Food Science and Technology
- Local Food Liaison Group Representatives
- National Farmers Union Scotland
- Royal Environmental Health Institute of Scotland
- Food and Drink Federation of Scotland
- Scottish Food Industries including Scottish Bakers & Scottish Federation of Meat Traders Association
- Scottish Government Rural Payments & Inspections Directorate
- Society of Chief Officers of Environmental Health in Scotland
- Society of Chief Officers of Trading Standards in Scotland

Nominated members may be represented by substitutes where necessary and the membership structure is reviewed on an annual basis to ensure that the appropriate key stakeholders are represented.

### **3.3 Objectives**

SFELC works to support and influence the policies of Food Standards Scotland in order to improve the effectiveness and consistency of food and feed law enforcement in Scotland. In doing so, the Committee proactively seeks to influence the development of FSS policies which affect enforcement issues by providing advice based on its collective opinion.

### **3.4 Remit**

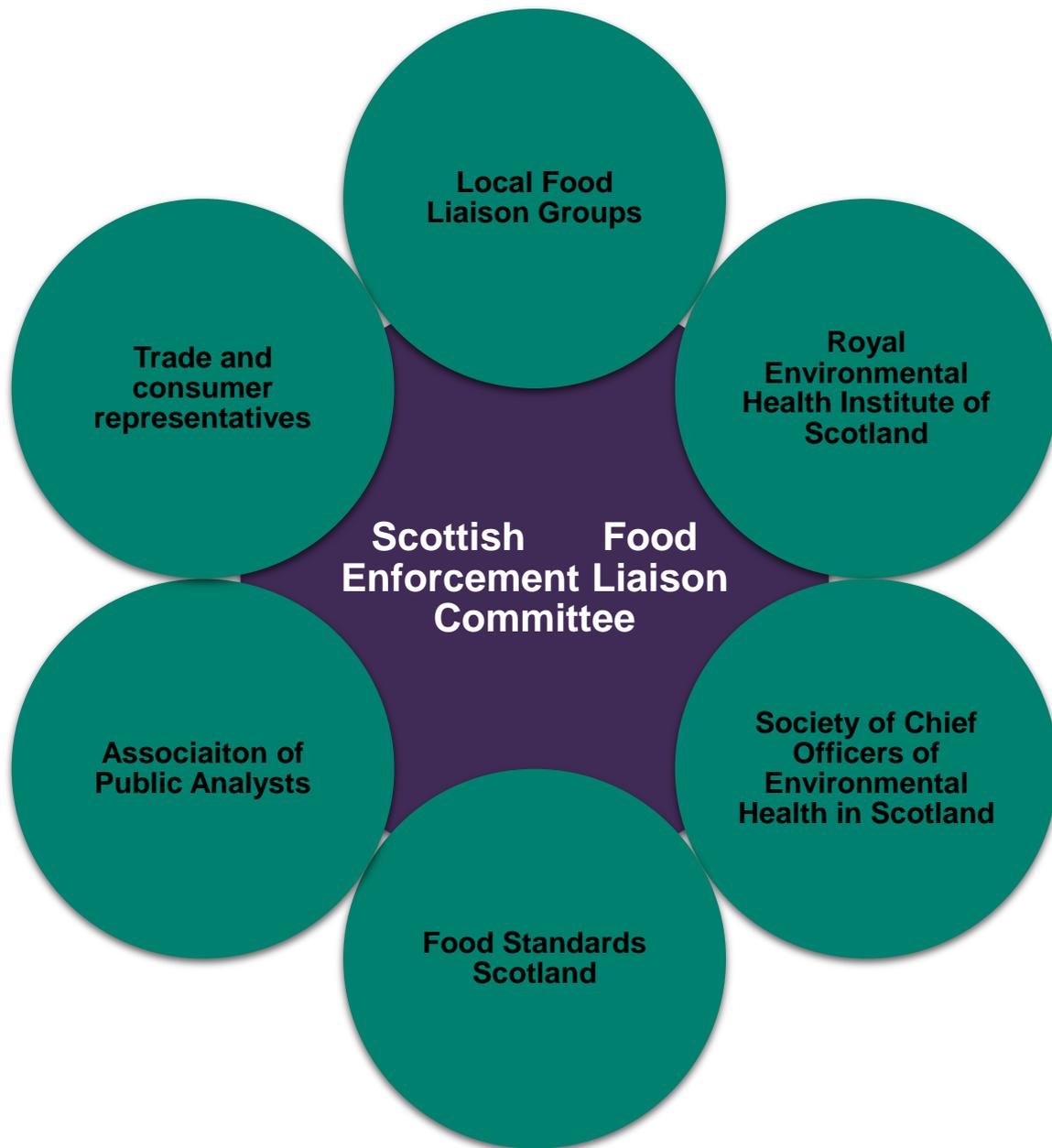
The Committee shall:

- Meet on a regular basis. The Committee shall ordinarily meet no fewer than four times per annum.
- Contribute to the development of Food Standards Scotland strategies to improve their effectiveness.
- Promote the consistency of Food and Feed Law Enforcement in Scotland.
- Assist in the establishment and maintenance of an effective enforcement infrastructure and facilitate communication networks.
- Consider and propose new enforcement mechanisms and approaches and produce recommendations for their implementation.
- Consider any other issues relevant to the working relationship between Food Standards Scotland, Food and Feed Law Enforcement, the food industry and consumers in Scotland.
- Comment on relevant draft legislation, guidance and reports produced by Food Standards Scotland and other relevant agencies.
- Support and direct the work of its Sub-committees, working groups and any other bodies set up under the auspices of the Scottish Food Enforcement Liaison Committee.
- Support diet and nutrition initiatives in Scotland and co-ordinate the involvement of enforcement authorities.
- Agree and implement a work plan every year.

### **3.5 Surveillance**

The Food Standards Sub-committee discharges SFELC's work on food labelling, composition and sampling and co-ordinates the sampling activities for Scotland's 32 councils through 4 local Food Liaison Groups.

The UK Food Surveillance System (UKFSS) is a database of sample and analysis information for the food samples taken as part of each Local Authority's sampling plan and continues to provide data to aid the Scottish enforcement community in developing targeted sampling programmes. This information is used by Local Authorities to improve food safety and standards. This work also helps to form appropriate policy aimed at protecting consumers based on an assessment of risk, and informs what immediate actions are required to protect consumers from new or emerging food risks.



## **4.0 Royal Environmental Health Institute of Scotland (REHIS)**

### **4.1 Background**

The Royal Environmental Health Institute of Scotland was formed in 1983 following an amalgamation of the Royal Sanitary Association of Scotland (founded in 1875) and the Scottish Institute of Environmental Health (founded 1891).

REHIS is focused on improving and protecting health and wellbeing in Scotland through education, training and qualifications in environmental health. The main aims of the Institute are to promote the advancement of all aspects of health and hygiene, to stimulate interest in public health, and to disseminate knowledge on health matters to the benefit of the community.

The Institute is the awarding body for the Environmental Health Profession in Scotland and maintains, by examination or otherwise, high standards of professional practice and conduct on the part of Environmental Health Officers. It is a UK Competent Authority for the professional titles 'Environmental Health Officer' and 'Chartered Environmental Health Officer'.

To ensure that the Scottish dimension in environmental health is recognised, the Institute maintains close links with colleagues in England, Wales, Northern Ireland and the Republic of Ireland.

Membership of the Institute is open to all persons who are engaged in or interested in any aspect of environmental health. Predominantly orientated towards local government with the majority of its members being Environmental Health Officers employed by Scottish councils, membership also includes Consultants in Public Health, Veterinary Surgeons, Food Safety Officers, Meat Inspectors, Public Analysts and an increasing number of people employed in the food industry particularly as trainers and educators.

### **4.2 Environmental Health Officers**

EHOs who enforce food law within Scotland must now have successfully obtained a Degree in Environmental Health, accredited by REHIS, and successfully passed the professional examination set by The Royal Environmental Health Institute of Scotland.

Before an EHO can apply to sit the professional examination, the student must produce written evidence of successfully completing the structured practical training set out by the Institute and submit a portfolio of work for assessment of competencies. Qualifications required for food law enforcement are set out in the Food Law Code of Practice (Scotland) 2015. The Code of Practice fully recognises professional and technical qualifications overseen by REHIS. The Scottish Food Enforcement Liaison Committee has developed a comprehensive matrix of competencies for all aspects of food law enforcement to complement the Code of Practice and REHIS has provided guidance on the training and qualifications that it oversees to meet the competencies identified.

Before a local authority can authorise an Environmental Health Officer to serve appropriate Notices in terms of the Food Safety Act 1990 and the Food Hygiene (Scotland) Regulations 2006, the officer must demonstrate to the authority the required experience and knowledge. This would normally mean that the officer has been involved in food law enforcement matters for at least two years.

#### **4.3 Continuing Professional Development for Environmental Health Officers**

The Institute administers a Scheme of Continuing Professional Development (CPD) for EHO members, which demonstrates that officers are continually updating knowledge, skills and competence in accordance with technological and legislative developments in the field of food safety and food standards.

Chartered EHO status is awarded to members who achieve the requisite number of hours over a period of three consecutive years and who commit to comply with regulations governing professional conduct and discipline. CPD is recorded, audited and verified on an annual basis.

#### **4.4 The Scottish Food Safety Officers' Registration Board**

The Scottish Food Safety Officers' Registration Board was formed in 1995 following the Government's requirement for Food Safety Officers to have a recognised qualification in food hygiene inspection. The Board, a committee of REHIS, comprises nine members drawn from a wide range of disciplines engaged in food safety.

The principal duties of the Board are to determine the standard to be attained by a person applying for the award of the subjects required under the terms of the Food Law Code of Practice (Scotland).

#### **4.5 Authorised Food Safety Officers**

Before a local authority can authorise a person other than an EHO to carry out hygiene inspections of food premises, it must be satisfied that the person is competent to do so, is suitably qualified and possesses the necessary experience to undertake the duty. All such officers must have undertaken a period of structured practical training with a food enforcement authority for a period of not less than 6 months. Thereafter, the person must obtain a Higher Certificate in Food Premises Inspection awarded by the Scottish Food Safety Officers' Registration Board.

The Higher Certificate is a qualification awarded by the Scottish Food Safety Officers' Registration Board on successful completion of an assessment through which the ability of the candidate to demonstrate the knowledge, skills and understanding needed to inspect high risk food premises as defined in the Food Law Code of Practice (Scotland) is determined. A similar system is in place for the Higher Certificate in Food Standards Inspection.

Persons carrying out inspections of higher risk food premises must demonstrate underpinning academic knowledge through the possession of a BSc or HND in Food Science or Food Technology recognised by the SFSORB and have an appropriate level of knowledge in the following areas:

- Underpinning Science and Mathematics, including Statistics.
- Hygienic Design of Buildings and Equipment.
- Food Microbiology, Food Poisoning, Food Science & Technology.
- Inspection Techniques including HACCP & Risk Assessment.
- Criminal Law and Food Law including enforcement practice.

#### **4.6 The Skills Required for Environmental Health Officers and Food Safety Officers**

Persons carrying out inspections of food premises falling into risk categories A and B according to the inspection rating scheme in Annex 5 of the Code must be able to:

- Recognise, identify, evaluate and monitor hazards and deficiencies and assess risk.
- Be aware of, plan and carry out an appropriate audit of a complete food safety management system.
- Identify failures to meet the standards laid down in relevant legislation.
- Investigate, analyse and resolve problems; apply the law.
- Advise, educate and make appropriate and consistent judgements.
- Decide on appropriate interventions.

#### **4.7 Inspection Techniques**

Officers are expected to demonstrate knowledge of inspection and auditing techniques. In particular they are expected to demonstrate:

An appreciation of the importance of planning inspections and audits, and the stages involved including how inspections and audits should be conducted.

An ability to judge conditions found during inspections and audits against statutory requirements and standards of good practice and be able to communicate findings and any proposed action clearly.

#### **4.8 Continuing Professional Development for Food Safety Officers**

REHIS operates a Scheme of Continuing Professional Development for non EHOs including FSOs members which will help them to demonstrate that they are continually updating knowledge and skills in accordance with technological and legislative developments in the field of food safety.

## **5.0 Society of Chief Officers of Environmental Health Officers in Scotland (SOCOEHS)**

### **5.1 Background**

The Society of Chief Officers of Environmental Health in Scotland was officially constituted in 1997 and is an association of senior professional officials responsible for Environmental Health representing the 32 Scottish Local Authorities. The Society meets on a regular basis to:

- Provide professional advice and guidance on Environmental Health matters in Scotland;
- Share work experiences and good management practices.

### **5.2 Role**

The Society is a body established to enable Chief Officers of Environmental Health from all Scottish Local Authorities to:

- Network, and thereby share experiences and promote good management practice;
- Keep under consideration how the Environmental Health Service in Scotland can be developed and delivered in the most efficient and effective manner, based on the analysis and interpretation of performance and related information;
- Provide professional advice and guidance on environmental matters to the Convention of Scottish Local Authorities, the Scottish Government and other Government Departments and Agencies directly or by appointed advisers;
- Act as a voice for the local authority Environmental Health Service in Scotland;
- Advise the Royal Environmental Health Institute of Scotland on the professional and managerial needs of the Environmental Health Service; and
- Obtain expert briefing on matters relating to the management of the Environmental Health Service.

Specifically, in relation to Food Law enforcement, the Society:

- Contributes to a safe public health landscape by providing strategic direction to all Local Authority Environmental Health services;
- Engages with a wide range of government, regulatory, consumer, business, and third sector organisations, mixing operational and technical expertise with policy work, in order to ensure the effective and consistent delivery of official controls;
- Maintains oversight of the regional liaison groups; and
- Ensures members are suitably represented in national committees and working groups, chairing where appropriate.

## **6.0 FOOD STANDARDS SCOTLAND (FSS)**

### **6.1 Introduction**

FSS was established as the public sector food body for Scotland by the Food (Scotland) Act 2015 as a non-ministerial office, part of the Scottish Administration, alongside, but separate from, the Scottish Government. The FSS is funded by Scottish Government and provides information and advice on food safety and standards, nutrition and labelling. Its primary concern is consumer protection with a vision of creating a food and drink environment in Scotland that benefits, protects and is trusted by consumers.

### **6.2 Purpose**

FSS's purpose is defined in the Food (Scotland) Act 2015. The 2015 Act gives FSS three objectives:

- to protect the public from risks to health which may arise in connection with the consumption of food;
- to improve the extent to which members of the public have diets which are conducive to good health; and
- to protect the other interests of consumers in relation to food.

The Act provides FSS with the legitimacy to carry out activities to help achieve these objectives, and in doing so, to protect consumers and help them to have better health.

The Act also identifies a number of general functions for FSS:

- to develop and help others develop policies on food and animal feed;
- to advise the Scottish Government, other authorities and the public on food and animal feed;
- to keep the Scottish public and users of animal feed advised to help them make informed decisions about food and feed stuffs
- to monitor the performance of food enforcement authorities.

### **6.3 Role and responsibilities**

The FSS is responsible in Scotland for all aspects of policy relating to food and feed law and works in close partnership with Scottish Government to deliver dietary policy in Scotland. It also enforces food law at slaughterhouses and cutting premises requiring veterinary supervision and monitors delivery of food and feed law enforcement by local authorities and other enforcement authorities. FSS carries out hygiene enforcement, principally in relating to fresh meat at Approved Establishments. It has oversight of all food and feed law enforcement activities carried out by local authorities. The FSA has powers of default and direction if there were to be serious failings in the delivery of enforcement. In practice, FSS works closely with local authorities in Scotland, principally through the Scottish Food Enforcement Liaison Committee (SFELC) to ensure that a constructive and informed approach is taken to the development of enforcement delivery. FSS provides formal

direction to local authorities principally through the Food Law Code of Practice (Scotland), (2015) and the Feed Law Enforcement Code of Practice (Scotland), 2016. The Food Law Code of Practice is supplemented by Practice Guidance and by published correspondence which advises on specific issues as they arise. FSS also works collaboratively with SFELC and REHIS to provide a programme of appropriate food law training for enforcement officials.

#### **6.4 Audit of Food Law Enforcement**

The Food Standards Act 1999 and the Official Feed Food Control (Scotland) Regulations 2009, which implement Regulation (EC) No 882/2004, give FSS powers to monitor and audit local authorities. The Act provides the FSS with statutory powers to strengthen its influence over enforcement activity and to ensure national priorities and objectives are delivered. Local Authorities are audited against the Food Law Code of Practice (Scotland) 2015 and the Feed Law Enforcement Code of Practice (Scotland) 2016 which sets out the minimum standards of performance expected from local authorities across the full range of their food and feed law activities.

**6.5** The Royal Environmental Health Institute of Scotland, The Society of Chief Officers of Environmental Health in Scotland, the Scottish Food Enforcement Liaison Committee and the Official Control Laboratories continue to support Food Standards Scotland and hope that it will meet its vision of creating a food and drink environment in Scotland that benefits, protects and is trusted by consumers.

**6.6** In addition to the above, the sponsors of this report trust that confidence will continue to be placed in a local, democratically accountable food law enforcement service.

## 7.0 Official Control Laboratories (OCL)

### 7.1 Introduction

Currently there are four local authority funded Official Control Laboratories (OCLs) providing Public Analysts, Food Examiners and Agricultural Analysts for the 32 local authorities across Scotland.

All four laboratories have been notified to the European Commission as OCLs and as such meet the requirements of Regulation (EC) No. 882/2004. They all have UKAS accredited quality management systems to ISO17025 standard and provide a broad range of scientific analytical and examination services relating to public health and consumer protection, including:

Appointment of Public Analyst, Food Examiner and Agricultural Analyst;

Comprehensive analytical and examination service for foods and feeding stuffs, waters, environmental issues and other consumer issues;

For foods, this covers analytical testing for a wide range of chemical contaminants, additives and nutritional analysis, as well as the full range of microbiological pathogen and indicator organism testing.

It is vital that the public sector is in a strong position to prevent or react to major incidents e.g. microbiological food outbreaks such as E. coli, food authenticity scandals (e.g. Horsemeat) or outbreaks of Legionella.

The Public Analyst services are a vital part of this public protection role, working closely with colleagues in Environmental Health, Food Standards Scotland and other public service professionals, to ensure the safety and quality of food produced and sold in Scotland.

The laboratories provide representation on SFELC as well as the sub-committees, Food Liaison Groups and SFELC Working Groups. Laboratories provide a coordination role in the delivery of sampling plans and surveys and are very much an integral component of the enforcement process.

### 7.2 Qualifications and Experience of Staff

The majority of technical staff employed in Public Analyst laboratories in Scotland are qualified to at least degree level in Chemistry, Microbiology or a related discipline.

Due to the OCL status they also have to undergo rigorous training in the specific procedures used, as well as demonstrating continuing competence in everything they do. This involves participation in collaborative trials with other OCLs and National Reference laboratories and in external performance assessments schemes. All laboratories undergo an annual audit carried out by the United Kingdom Accreditation Service (UKAS) which has been appointed by the competent authority to act on its behalf.

### **7.3 Public Analysts**

Public Analysts are required to direct the analysis and report on Official Control samples.

Public Analysts are a statutory appointment made under The Food Safety Act 1990 and the qualifications are laid down in the Food Sampling & Qualifications Regulations.

Currently, the Mastership in Chemical Analysis (MChemA) is the professional qualification which demonstrates the competency of an individual to act as a Public Analyst.

The MChemA is administered and awarded by the Royal Society of Chemistry ([www.rsc.org/mchema](http://www.rsc.org/mchema)).

The syllabus addresses the requirements for scientific control of the whole food chain. It includes food, agricultural analysis and the science of water as far as it impacts on food preparation and direct consumption. The qualification examines the application of analytical chemistry and microbiology in the context of the regulatory framework in the UK.

In view of the broad scope of the responsibilities of the present day Public Analyst, it is important that candidates have adequate experience in a Public Analyst laboratory or other similar laboratory. The majority of people who qualify have worked for several years in a PA lab before embarking on the qualification.

### **7.4 Food Examiners**

Food examiners are required to direct and report on Official Control samples.

The Food Safety (Sampling & Qualifications) (Scotland) Regulations 2013 specifies the qualifications, combined with a period of at least three years' experience in an appropriate laboratory as the requirements to be appointed as a Food Examiner.

### **7.5 Continuing professional development**

A scheme of Continuing Professional Development for Public Analysts is administered by The Association of Public Analysts (APA), alternatively the RSC and other professional scientific bodies requires their members to evidence their CPD to maintain their Chartered status.

## 8.0 CONCLUSION

**8.1** The partnership between all contributing parties is considered to be a major factor in the protection of public health in Scotland for several years.

**8.2** The Royal Environmental Health Institute of Scotland, Food Standards Scotland, SFELC, the Society of Chief Officers of Environmental Health in Scotland and Official Control Laboratories are committed to maintaining the strong links and co-operation which will continue to provide this protection throughout Scotland as it relates to food.

**8.3** If clarification or any further information is required on this report please do not hesitate to contact:

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