



<b>Project Name</b>	<b>Scottish National Database (SND)</b>	<b>Version</b>	Draft/ <u><b>Final</b></u>
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# Data Protection Impact Assessment (DPIA)

## 1. Introduction

The purpose of this document is to report on and assess against any potential Privacy Impacts as a result of the use of the Scottish National Database (SND), on Food Business Operators and Authorised Officers.

## 2. Document metadata

2.1	Name of Project	<b>Scottish National Database (SND)</b>
2.2	Author of report	<b>Bryan Campbell, Regulatory Strategy Programme Manager.</b>
2.3	Date of report	<b>07 June 2019</b>
2.4	Name of Information Asset Owner (IAO) of relevant business unit	<b>Bryan Campbell – Food Standards Scotland (FSS)</b>
2.5	Data Protection Officer	<b>Garry Mournian</b> 
2.6	Date of DPO approval of this report	<b>14 June 2019</b>

## 3. Date for review of Privacy Impact Assessment (PIA)

3.1	Unless otherwise provided for at 3.2, a full privacy impact review will take place annually. The first review will take place on the first anniversary of the date the Food Law Code of Practice (Scotland) 2019 came into force and every subsequent anniversary thereafter.
3.2	FSS will carry out a privacy impact review as soon as practicable if one or more of the following occurs: <ul style="list-style-type: none"><li>• A notifiable data protection breach takes place;</li><li>• There is a change in data protection law;</li><li>• The PIA requires updating; or</li><li>• Any circumstance in the opinion of FSS allows for a review.</li></ul>
3.3	A privacy impact review must be documented and must in the least record: <ul style="list-style-type: none"><li>• The date of the review;</li><li>• The details of the review;</li><li>• The start and completion dates of the review;</li><li>• The name of the official carrying out the review;</li></ul>

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	<ul style="list-style-type: none"> <li>• Findings and recommendations;</li> <li>• Date the review is approved by FSS Data Protection Officer (DPO).</li> </ul>
3.4	SND was reviewed in January 2019. FSS decided that capturing the work email address of Authorised Officers (AO) is not required for the functions contemplated by SND. All AO email addresses have been deleted from SND and it is no longer captured.

### 4. Description of the project

4.1	Description of the work:
	<p><u>Background</u></p> <p>The Scudamore Expert Advisory Group (Scudamore Group) was established by Scottish Ministers in February 2013 to review lessons learned from the Horsemeat incident. The Scudamore Group reported its findings in June 2013, which enabled its recommendations to be taken into account in the lead up to the Food (Scotland) Act 2015.</p> <p>In December 2015, FSS considered the 69 recommendations made by the Scudamore Group, which amongst others highlighted the following:</p> <p><u>Recommendation 25</u></p> <p><i>“The New Food Body should ensure that integrated IT systems are in place for recording data relating to Official Controls and other interventions at food businesses. These systems should be <b>mandated</b> for use by all competent authorities in Scotland”.</i></p> <p><i>The response by Scottish Government and FSA Scotland in 2013 stated that “the Scottish Government agrees that further integration of key IT systems would be beneficial. Opportunities for such integration will be explored during transition to FSS and after Vesting Day”.</i></p> <p><u>Recommendation 26</u></p> <p><i>“FSA Scotland should assess whether it was feasible and economic to develop a common database language to enable <b>more effective interrogation and provision of results</b> from the existing IT systems”.</i></p> <p><i>FSA in Scotland responded in November 2013 that “we will assess the feasibility of integrating the existing IT systems with the aim of providing improved data interrogation and reporting”.</i></p> <p>The information captured by the present applications, do not record Official Controls and other interventions data in real time, which hinders FSS ability to</p>

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	<p>respond to an incident as it develops (such as the horsemeat incident). Prior to SND, FSS was effectively distanced from the data it uses, as this information was recorded onto outdated applications hosted by the Food Standards Agency.</p> <p>In February 2016, FSS Senior Management Team decided on the development of a national database, for the purpose of capturing all of the food law enforcement activities undertaken in Scotland in real time.</p> <p>Following stakeholder consultation, the Food Law Code of Practice (Scotland) 2019 came into force on 31<sup>st</sup> January 2019 enabling Local Authorities to populate SND with Official Control and enforcement activity information. The SND has replaced two of the previous systems, which are no longer operable in Scotland with the third to follow as part of the strategic review of the Food Hygiene Information System (FHIS).</p> <p>SND was developed in recognition of the recommendations of the Scudamore Group and the need identified in that report as stipulated in recommendations 25 and 26. SND collects and analyses all Official Control and enforcement activity undertaken by Local Authorities in Scotland.</p>
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### 5. Personal Data to be processed

Personal data	Data source
Food business name	Local Authority
Food business trading name if different from name	Local Authority
Food business operator (FBO) name and surname	Local Authority
Food business address	Local Authority
FBO address	Local Authority
Authorised Officer (AO) name and surname	Local Authority
AO Email address removed in SND Schema V3 as part of post GDPR review (see 3.4 above)	

### 6. Authority to process and control personal data of FBO's

Statute	Provision	Competent Authority
Regulation (EC) No 882/2004	Article 31	Local Authority/FSS

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The Official Feed and Food Controls (Scotland) Regulations 2009 in as far as it relates to the enforcement of the Food Hygiene (Scotland) Regulations 2006.	Regulation 3 and 4	Local Authority/FSS
Regulation (EC) 2016/679 (GDPR)	Article 6(1)(e) - processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. (See 8 and 9 below)	Local Authority/FSS
The Official Feed and Food Controls (Scotland) Regulations 2009	Regulation 4 - Exchanging and Providing Information	FSS
	Regulation 8 - Power to request information relating to enforcement action	FSS
Food (Scotland) Act 2015	Section 26 - Power to request information in relation to enforcement action	FSS

### 7. Authority to process and control personal data of AO's

Statute	Provision	Competent Authority
Regulation (EC) 2016/679 (GDPR)	Article 6(1)(e) - processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. (See 8 and 9 below)	Local Authority/FSS

### 8. GDPR Principles

Principle	Compliant	Description
Article 5(1)(a) - lawfulness, fairness and transparency	Yes	See justification narrative at 16.

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Article 5(1)(b) – purpose limitation	Yes	There will be no further use of the personal data once transmission has taken place outside of the FSS functions.
Article 5(1)(c) – data minimisation	Yes	The SND does not require the collection of any new personal information not already on the Local Authority MIS.
Article 5(1)(d) – accuracy	Yes	The data is maintained and uploaded from the MIS of the Local Authorities
Article 5(1)(e) - storage limitation	Yes	Nothing more than is kept on MIS is transferred to SND.
Article 5(1)(f) - integrity and confidentiality'	Yes	Access to SND is strictly limited as to 2 system administrators and key FSS staff who need access to the information to perform FSS functions.
Article 6(1)(e) - processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.	Yes	The FSS objectives include protecting public health from the risks that may be caused by food. This includes risks resulting from the way food is produced or supplied. To do this, a system of “Official Controls” is in place. Official Controls delivery as defined within Regulation (EC) 882/2004, as are the checks such as inspections, surveillance and sampling, that are carried out to monitor if businesses are complying with the requirements set out in food law. The majority of the checking and monitoring activity is carried out by Local Authorities – known as competent authorities.

### 9. Justification for processing and controlling personal data

9.1	<p><u>FSS Official functions</u></p> <ul style="list-style-type: none"> <li>• FSS is responsible for protecting public health from risks that may be caused by the consumption of food, and it is obligated to ensure the effectiveness and appropriateness of Official Controls on food at all stages of production, processing and distribution.</li> <li>• FSS is responsible for having in place and operate contingency plans in the event of a food emergency.</li> <li>• FSS has the function: <ul style="list-style-type: none"> <li>○ of monitoring the performance of Local Authorities in enforcing relevant legislation;</li> <li>○ to develop policies in relation to food matters;</li> </ul> </li> </ul>
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	<ul style="list-style-type: none"><li>○ to advise, inform and assist the Scottish Ministers and public bodies and officeholders and other persons in relation to food matters;</li><li>○ to keep the public adequately informed about and advised in relation to matters which significantly affect their capacity to make informed decisions about food matters; and</li><li>○ to monitor the performance of, and promote best practice by, enforcement authorities in enforcing food legislation.</li></ul> <ul style="list-style-type: none"><li>● FSS has the power to request information relating to enforcement action.</li><li>● FSS and Local Authorities are permitted to exchange amongst themselves any information received by them in the execution and enforcement of relevant food law.</li></ul>
9.2	<p><u>What the personal data allows FSS to do</u></p> <ul style="list-style-type: none"><li>● SND was initiated as a direct result of the Scudamore Group's recommendations which was commissioned by Scottish Ministers. It builds on the co-operation forged between Scottish Government, Local Authorities, Industry and the FSS during the horsemeat incident.</li><li>● SND enables FSS to respond to Incidents, ensure effective delivery of Official Controls and food law in Scotland and contribute to food safety nationally.</li><li>● The Scudamore Group placed particular importance on FSS ability to develop an integrated intelligence gathering strategy and implement measures to reduce the potential of risks from occurring.</li><li>● Prior to SND this unified view of FBO information representing the whole of Scotland was not possible.</li><li>● The Management Information Software (MIS) and previous central IT platforms did not allow Local Authorities to share data with a cross-Local Authority line of sight, leaving the opportunity for continued food fraud/food crime a high risk to food safety in Scotland.</li><li>● SND is the only platform which allows for effective intelligence based surveillance to take place.</li><li>● The FBO information was identified early in the data analysis phase of SND development in terms of prevention and detection of crime, e.g. having the capacity to directly link a FBO to a particular location or incident is critical, particularly for those operating food businesses in multiple local authority areas in Scotland. This ability to quickly identify FBO's is necessary when dealing with food Incidents, including cases of fraud, food poisoning and allergen alerts, in order that necessary remedial and where applicable, emergency action can be targeted quickly, in order to minimise risk to public health.</li><li>● The personal data held in SND is the only vehicle allowing for monitoring compliance levels and activity of any FBO who has been issued with a prohibition order, due to offences and convictions under Food Law.</li></ul>

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	<ul style="list-style-type: none"><li>• As central competent authority in Scotland, FSS is best placed to exercise effective control of Incidents which may originate in other parts of the UK, but is linked with a FBO in Scotland.</li><li>• Enhances the ability to identify criminal trends and serious organised food crime.</li><li>• Having the capacity to identify to potential food risk as well as criminal trends greatly enhances FSS ability to take proactive and preventative action in advance of a potential Incident occurring.</li><li>• Since September 2016, FSS has been piloting a new Food Law Rating System (FLRS). Similar to SND, this pilot consisted of a weekly return of Local Authority activity including individual AO information. The approach adopted by FLRS was invaluable in raising performance standards, monitoring the performance of Local Authorities, promoting best practice and raising the standard of Official Controls and enforcement functions by AOs.</li><li>• The returns filed under FLRS allows FSS to identify a specific need in training or oversight of an AO ensuring public safety and trust in the food business.</li><li>• Overall having data that links FBO's to the AO that is responsible for delivering Official Controls and enforcement functions are exercised consistently across Scotland reducing regional variation.</li><li>• FSS is also due to implement the OCV (Official Control Verification) method to all food business subject to EU Approval, which will require a greater reliance on the AO information, through use of a resource calculation to determine the Intervention frequency, facilitating a specialist officer network for the issuing of certification for import and export of foods and the subsequent enhanced monitoring of AO performance standards, particularly in a post Brexit landscape with respect to 3<sup>rd</sup> party audits.</li><li>• The personal data held in SND allows FSS to monitor the performance of AOs and Lead Officers as part of our pre-audit programme and to set standards in future audit programmes to be more targeted and efficient.</li><li>• SND allows for less administrative burden on enforcement authorities as the data is captured automatically from the information on the Local Authority (MIS).</li></ul>
9.3	<p><u>What FSS will not be able to do without this data</u></p> <ul style="list-style-type: none"><li>• Not having access to real time and up to date data will not allow FSS to:<ul style="list-style-type: none"><li>○ Respond in a timeous manner to a food incident;</li><li>○ Identify a potential incident before it occurs;</li><li>○ Linking FBO and food crime located in different locations across Scotland;</li><li>○ Linking food Incidents and crime with information shared with agencies such as FSA;</li><li>○ Effectively formulate food control policies;</li><li>○ Properly advise the Scottish Ministers on matters relating to food safety;</li></ul></li></ul>

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	<ul style="list-style-type: none"> <li>○ Keep the public adequately informed about matters which significantly affect their capacity to make informed decisions about food matters;</li> <li>○ Reduce administrative burden on Local Authorities as the only effective way to monitor the performance of, and promote best practice is regular full audits;</li> <li>○ Identify food crime trends;</li> <li>○ Identify AO areas of improvement and training requirements; and</li> <li>○ Ensure that there is no regional variation in the delivery of Official Controls.</li> </ul>
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### 10. Principle, General and other FSS statutory duties and powers

Statute	Provision	Competent Authority
Regulation (EC) No. 882/2004	Article 4 - Designation of Competent Authorities and Operational Criteria	FSS
	Article 7 - Transparency and Confidentiality.	FSS
	Article 44 - Annual Reports	FSS
	Article 31 - Registration/Approval of Feed and Food Business Establishments	Local Authorities/FSS
The Official Feed and Food Controls (Scotland) Regulations 2009	Regulation 7 - Monitoring of Enforcement Action	FSS
	Regulation 8 - Power to request information relating to enforcement action	FSS
	Regulation 11 - Offences relating to regulations 8 and 9	FSS
Food (Scotland) Act 2015	Section 2 - Duty to protect the public from risks to health which may arise in connection with the	FSS

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	<p>consumption of food and protect the interests of consumers in relation to food and diet.</p> <p>Section 3(a) – Duty to develop (and assist Scottish Ministers and public bodies and office-holders) policies in relation to food matters and animal feeding stuffs matters.</p> <p>Section 3(b) Duty to advise, inform and assist the Scottish Ministers and public bodies and office-holders in relation to food matters and animal feeding stuffs matters.</p> <p>Section 3(c) Duty to keep the public adequately informed about and advised in relation to matters which significantly affect their capacity to make informed decisions about food matters.</p> <p>Section 3(d) Duty to keep users of animal feeding stuffs adequately informed about and advised in relation to matters which significantly affect their capacity to make informed decisions about animal feeding stuffs matters.</p> <p>Section 3(e) Duty to monitor the performance of, and promote best practice by, enforcement authorities in enforcing legislation.</p>	
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	Section 16. Power to do anything which it considers necessary or expedient for the purposes of or in connection with its functions.	
	Section 19 - Duty to acquire, compile and keep under review relevant information	FSS
Food (Scotland) Act 2015	Section 20 - Observations with a view to obtaining information	FSS
	Section 21 - Powers for persons carrying out observations	FSS
	Section 23 - Setting performance standards	FSS
	Section 25 - Reporting on enforcement action by others	FSS
	Section 27 - Offences in relation to section 26	FSS
Regulatory Reform (Scotland) Act 2014	Section 5 - details the provisions for the Scottish Regulators' Strategic Code of Practice.	FSS

### 11. Food Law Code of Practice (Scotland) 2019

11.1	The role of the Food Law Code of Practice (the Code) is to ensure an effective, consistent and proportionate approach to the delivery of Food Law and Official Controls by Local Authorities across Scotland, in order to protect food safety and the wider interests of consumers.
11.2	Local authority delivery of Food Law and Official Controls is an essential part of Scotland's infrastructure for Public Health protection. This is the reason for

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	updating the Food Law Code of Practice (Scotland) 2015. Following stakeholder consultation the new Code came into operation on 31 <sup>st</sup> January 2019.
11.3	The Code was issued under section 40 of the Food Safety Act, Regulation 24 of the Food Hygiene (Scotland) Regulations 2006 and Regulation 6 of the Official Feed and Food Controls (Scotland) Regulations 2009 which empowers the Scottish Ministers to issue Codes of Practice concerning the execution and enforcement of Food Law by Food Authorities. It replaces all Codes previously made.
11.4	The Code requires Local Authorities to contribute the data referred to at paragraphs 4, 12 and 39.
11.5	Section 40(2)(a) of the Food Safety Act 1990 requires a local authority to have regard to the relevant provisions of the Code, section 40(3) does allow FSS to consult the Scottish Ministers in relation to non-compliance with the Code, to order the issue of a direction to that local authority requiring it to take steps to comply with the Code. Failure to comply with a Ministerial Direction by a local authority may be sanctioned by order of the Court of Session (see section 45 of the Court of Session Act 1988).
11.6	Local Authorities that do not have regard to relevant provisions of this Code may find their decisions or actions successfully challenged, and evidence gathered during a criminal investigation being ruled inadmissible by a court.

### 12. How will the Personal Data be processed

The SND directly collects food law enforcement activity and the personal data from the Management Information Systems (MIS) operated the 32 Local Authorities in Scotland. All Local Authorities in Scotland operate a MIS system from one the following system providers:

- Civica;
- IDOX; or
- Northgate Public Services.

FSS have worked with each MIS provider to produce a weekly automated process using an application program interface that will pushes the required data directly from each MIS into the SND.

### 13. How is the SND protected

All data is protected by transparent data encryption which encrypts the database, the backups, and the logs at rest. Data in transit is encrypted using HTTPS. The data is be stored with Microsoft Azure on a UK server. Backups are automatically

taken by Azure for disaster recovery. Backup files are retained for a maximum of 35 days. The data is not currently replicated. The specified data captured in the SND is a mirror of the data held on the MIS, and is provided to the SND in read-only format. This does not increase the ability to identify individuals as the information is a copy of that data already held in each MIS.

The risk of loss or corruption of data on SND is low.

### 14. Who has access to the SND?

Within FSS, access to SND is controlled by two FSS system administrators who have the ability to grant access to SND for FSS personnel provided it is within FSS functions and there is business justification to do so

The risk of unauthorised use or access to data held on SND is low and all users are required to sign a confidentiality agreement prior to gaining access.

### 15. How will data be disposed of?

Local Authorities and FSS have well-established processes for the safe storage and appropriate disposal of data compliant with data protection legislation.

### 16. Management and accuracy of the data

The data will be owned and managed by Local Authorities as the competent authority for food law enforcement. The data imported into SND from each MIS is updated by the local authority. Both Local Authorities and FSS will control the data.

### 17. Sharing of data

Part or parts of data may be shared within Scottish Government and UK Government and its agencies as well as EU Commission as permitted within the remit of the law.

### 18. Changes to data handling procedures

There will be no new or changed data collection policies or practices that may be unclear or intrusive or inconsistent with the Food Law Code of Practice (Scotland) 2019.

There will be no changes to data quality assurance or processes and standards that may be unclear or unsatisfactory.

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There will be no new or changed data security access or disclosure arrangements that may be unclear or extensive.

There will be no new or changed data retention arrangements that may be unclear or extensive.

There will be no changes to the medium of disclosure for publicly available information in such a way that the data becomes more readily accessible than before.

### 19. Statutory exemptions/protection

FSS is not aware of any exemptions from the Data Protection Act which would apply to this project.

### 20. Stakeholder Consultation

A formal public consultation was carried out as detailed below :

Local Authority Stakeholders including MIS providers FSS Stakeholders	Stakeholder Event	21 September 2016 – at project initiation.
Local Authority Stakeholders FSS Stakeholders	ENF/17/007	3 March 2017.
Local Authority Stakeholders including MIS providers FSS Stakeholders	Stakeholder Event	4 May 2017 – during database development
Local Authority Stakeholders including MIS providers FSS Stakeholders	Issue of Project Implementation Plan	4 July 2017
Local Authority Stakeholders. FSS Stakeholders.	User Training	March 2018 – SND Training Days

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### 21. Risks identification and incorporation of privacy risks into planning

Risk	Ref	Result
Personal data is inadvertently collected, processed and stored by Local Authorities on MIS as part of their functions as a competent authority.		Acceptable. Data sharing requirements and protocols to be discussed and agreed prior to implementation, including reference to legal advice if/where required.

### DPIA History

#### Completed by

Date	Author	Summary of Changes
07/06/2019	Bryan Campbell	Sent for approval

### Approvals

Name	Title	Date	Version
Lorna Murray	Information Asset Owner (IAO) and Head Enforcement Delivery	14/06/2019	V. 1
Garry Mournian	DPO and Director Corporate Services	14/06/2019	V. 1

### Distributions

Name	Title	Date of Issue	Version