Audit Assurance

Audit Brief & Plan

Local Authority Food Law Enforcement Actions Audit

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Version History

VERSION NO.	DATE	DESCRIPTION OF CHANGES

1. Introduction

1.1 The power to set standards, monitor and audit the performance of enforcement authorities was conferred on Food Standards Scotland (FSS) by section 3 of the Food (Scotland) Act 2015 and Regulation 7 of The Official Feed and Food Controls (Scotland) Regulations 2009.

1.2 In addition, 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 FSS, 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 (EU) 2017/625.

1.4 In delivering the audit function, FSS follows the guidance provided by the Commission on the implementation of the provisions for the conduct of audits under Article 6 of Regulation (EU) 2017/625 and applies a systematic approach in relation to the planning, conduct, follow up and management of audits. All UK Competent Authorities should strive to follow this guidance.

1.5 Further information on the Local Authority (LA) performance monitoring and audit function is contained within the Audit Charter.

2. Audit Background

2.1 LAs have a statutory duty to enforce the requirements of food law. Regulation 5 of the Food Hygiene (Scotland) Regulations 2006 sets out the division of enforcement responsibilities between LAs and FSS in respect of the Hygiene Regulations. Schedule 5 of the Official Feed and Food Controls (Scotland) Regulations 2009 as amended, sets out the competent authority for each of the articles within Regulation (EU) 2017/625. In addition to food safety matters, the Food Safety Act 1990 provides protection for other consumer interests in relation to food.

In enforcing the requirements of food law, LAs must have regard to relevant provisions of the Food Law Codes of Practice (Scotland) and discharge their statutory duties as effectively as possible, using means that are most appropriate to the circumstances.

In fulfilling these duties, LAs should also have regard to the principles of Better Regulation as outlined in the Scottish Regulators' Strategic Code of Practice. This provides a framework for regulation in Scotland.

FSS's statutory duties include oversight of LAs' arrangements for the delivery of Official Controls. This includes performance monitoring (which may include a programme of audits) of LAs' arrangements to meet the requirements of food law, production of audit reports and associated action plans.

2.2 When required, enforcement action is normally taken in accordance with each LA's Food Law Enforcement Policy and procedures. Enforcement should be conducted in a reasonable, proportionate, transparent and consistent manner. Where a food business fails to meet the required food law standards, authorised officers have a range of powers available to them to deal with non-compliance. In deciding the type of enforcement action to take, an authorised officer must have regard to:

- the nature of the breach and the history of compliance of the food business operator; or
- in the case of new businesses, an assessment of the food business operator's willingness to undertake the work identified by the officer.

3. Aim and Scope

3.1 The aim of this audit is to assess and verify the arrangements in place at LAs to ensure the adequate and effective delivery of Official Controls, specifically enforcement actions, in LA establishments. The focussed audit will:

- Verify that official controls are carried out in compliance with planned arrangements;
- Verify effective implementation of planned arrangements by LAs;
- Assess whether planned arrangements are suitable to achieve the objectives of the relevant legislation;
- Disseminate good practice;
- Identify issues that relate to FSS delivery policy and where appropriate, make recommendations which affect those policies.

3.2 It is intended that the scope will cover the following areas as set out in legislation and the Codes of Practice:

- An evaluation of the organisational, planning and management systems in place regarding official control delivery and the LA approach to enforcement in food establishments;
- An assessment of documented policies and procedures;
- Authorisation and competency of officers (qualifications, training & experience) involved in the delivery of official controls;
- Food Enforcement Database (or spreadsheet equivalent records);
- Enforcement Actions including notices served, food seizures, and reports to the CoPFS.
- Internal monitoring arrangements.

4. Review Process

4.1 This audit will focus on examining evidence to verify compliance with planned arrangements, verify that the planned arrangements are applied effectively and assess whether the planned arrangements are suitable to achieve the objectives. This will consist of a documentation review and a findings meeting with the LA. For consistency, a standard audit checklist will be used throughout.

4.2 The Audit process will consist of 3 stages:

Stage 1: Each LA selected for audit will be issued a questionnaire requesting information relating to enforcement activities which will then be subject to review.

Stage 2: This will comprise of a desktop review carried out by the auditors to analyse and review the information received. If further information / documentation is required, auditors will be in contact with the LA to request this during this time. Initial findings from this analysis will inform and direct stage 3.

Stage 3: Meeting with each LA where the auditors will verify the information received and examined in stages 1 & 2 and present their findings.

5. Audit Criteria and Reference Documents

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

- Regulation (EU) 2017/625
- Food Law Code of Practice (Scotland) 2019
- The Food Hygiene (Scotland) Regulations 2006
- Regulation (EC) No178/2002
- Regulation (EC) No 852/2004
- Regulation (EC) No 2073/2005
- The Food Information (Scotland) Regulations 2014
- Regulation (EU) No 1169/2011
- The Food (Scotland) Act 2015

6. Selection of Local Authorities

6.1 The following criteria will be considered when selecting LAs to ensure a representative sample is achieved:

- A geographic spread throughout Scotland;
- Time elapsed since previous audit;
- Other intelligence, e.g. SFCIU input, Inward Missions, Scottish National Database reports, Service Plan (SP) reviews, recalls and alerts etc.

6.2 LAs selected for audit will be notified by means of a letter and will be given 10 working days' notice to respond and provide the documentation requested. Notification will be addressed to the LA's Chief Executive, Head of Service and Lead Food Officer responsible for the LA's food law enforcement activity.

7. Audit Outcome

7.1 All LAs audited will receive a PowerPoint presentation summarising the general discussion and feedback. An overall summary report will be produced on conclusion of the audit programme.

8. Publication of Audit report

8.1 Information on LA official control delivery performance is placed in the public domain. The findings from each audit, including your comments and feedback, will be published on FSS's website and collated into an overall summary report which will be produced and published at the end of the programme at: Audit and monitoring | Food Standards Scotland FSS recommends highlighting the findings of the audit with elected members.