



Project Name	Scottish Food Sampling Database (SFSD)	Version	V. 1
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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 Food Sampling Database (SFSD), on Food Business Operators and Authorised Officers.

2. Document metadata

2.1	Name of Project	The Scottish Food Sampling Database (SFSD)
2.2	Author of report	Kasia Kazimierczak Senior Scientific Advisor
2.3	Date of report	31 March 2021
2.4	Name of Information Asset Owner (IAO) of relevant business unit	Jane Horne Food Protection Science and Surveillance Food Standards Scotland (FSS)
2.5	Data Protection Officer	Garry Mournian 
2.6	Date of DPO approval of this report	07/04/2021

3. Date for review of Data Privacy Impact Assessment (DPIA)

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: • A notifiable data protection breach takes place; • There is a change in data protection law; • The DPIA requires updating; or • Any circumstance in the opinion of FSS allows for a review.
3.3	A privacy impact review must be documented and must in the least record: • The date of the review; • The details of the review; • The start and completion dates of the review; • The name of the official carrying out the review; • Findings and recommendations; • Date the review is approved by FSS Data Protection Officer (DPO).

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4. Description of the project

4.1	Description of the work:
	<u>Background</u> Scottish Food Sampling Database (SFSD) is a national database to store results of all food samples, submitted for analysis and/or examination by official control laboratories on behalf of Scottish Local Authorities (LAs). SFSD operates in real time enabling LAs across Scotland to enter their samples datasets into the network application (SFSD Desktop) which transfers this information to the official control laboratories undertaking the analysis/examination. Laboratories, on completion of the required analysis, will upload all sampling and analysis data into the central database. The central database is accessed through a secure web server allowing different levels of access by contributing LAs, laboratories and Food Standards Scotland (FSS). SFSD operates alongside the Scottish National Database (SND), which has been developed by Food Standards Scotland to capture records relating to food law inspections undertaken at Scottish food businesses, which are held on each LA's own Management Information Systems (MISs). Sampling records from SFSD and inspection records held on the Scottish National Database (SND)¹ are linked via premises codes which are unique to individual food businesses.

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
LA Authorised Officer Name and surname	Local Authority

¹ SND is an FSS own platform for collation of data relating to Food Law Enforcement Activity

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LA Authorised Officer Telephone Number	Local Authority
LA Authorised Officer Email Addressed (Mostly generic email addresses)	Local Authority

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

From 1 January 2021, any references to EU Regulations should be read as meaning retained EU law which can be accessed via the [EU Exit Web Archive](#). Retained EU law should be read alongside any EU Exit legislation which was made to ensure that retained EU law operates correctly and is published on [legislation.gov.uk](#).

Statute	Provision	Competent Authority
Regulation (EC) No 2017/625	Article 4– Designation of Competent Authorities	FSS
	Article 6 – Audits of Competent Authorities	FSS
	Article 8 and 11 Confidentiality obligations of the competent authorities and Transparency of Official Controls	FSS
	Article 10 Operators, processes and activities subject to official controls	Local Authority/FSS
	Article 113 Annual Reports	FSA
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
UK General Data Protection Regulation (UK 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

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The Official Feed and Food Controls (Scotland) Regulations 2009	Regulation 4 - Exchanging and Providing Information	FSS
	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 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
UK General Data Protection Regulation (UK GDPR) and Data Protection Act 2018	Article 6(1)(e) (UK GDPR) and Section 8 (DPA 2018) - 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. UK GDPR Principles

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

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Article 5(1)(c) – data minimisation	Yes	The SFSD does not require the collection of any new personal information not directly inputted by the LA authorised officers via SFSD desktop software, or any information already on the Local Authority MIS, and on FSS SND's food Establishment Record.
Article 5(1)(d) – accuracy	Yes	The data is maintained and uploaded from the MIS of the Local Authorities , input from LA authorised officers, encrypted file from Public Analyst Laboratories(PAL), and from the SND's Food Establishment Record
Article 5(1)(e) - storage limitation	Yes	Nothing more than is kept on LA MIS and encrypted file from PAL, is transferred to SFSD. There is also direct input by LA authorised officers to SFSD
Article 5(1)(f) - integrity and confidentiality'	Yes	Access to SFSD 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) 2017/625, 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.
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9. Justification for processing and controlling personal data

9.1	<u>FSS Official functions</u> • 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. • FSS is responsible for having in place and operate contingency plans in the event of a food emergency. • FSS has the function: ○ of monitoring the performance of Local Authorities in enforcing relevant legislation; ○ to develop policies in relation to food matters; ○ to advise, inform and assist the Scottish Ministers and public bodies and officeholders and other persons in relation to food matters; ○ 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 ○ to monitor the performance of, and promote best practice by, enforcement authorities in enforcing food legislation. • FSS has the power to request information relating to enforcement action. • FSS and Local Authorities are permitted to exchange amongst themselves any information received by them in the execution and enforcement of relevant food law.
9.2	<u>What the personal data allows FSS to do</u> • FSS holds this information on SFSD for the purpose of surveillance and policy development, identifying local, regional and national trends in food sampling, to help define and target future sampling programmes and to meet statutory obligations on reporting monitoring results for chemicals and residues in food and feed to EFSA. • SFSD enables FSS to respond to Incidents, ensure effective delivery of Official Controls and food law in Scotland and contribute to food safety nationally.

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	• 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. • The personal data held in SFSD 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. • 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. • 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. •
9.3	<u>What FSS will not be able to do without this data</u> • Not having access to real time and up to date data will not allow FSS to: ○ Identifying local, regional and national trends in food sampling; ○ Define and target future sampling programmes; ○ Ensure that there is no regional variation in the delivery of Official Controls. ○ Respond in a timeous manner to a food incident; ○ Identify a potential incident before it occurs; ○ Linking food Incidents with information shared with agencies such as FSA; ○ Effectively formulate food control policies; ○ Properly advise the Scottish Ministers on matters relating to food safety; ○ Keep the public adequately informed about matters which significantly affect their capacity to make informed decisions about food matters;

10. Principle, General and other FSS statutory duties and powers

Statute	Provision	Competent Authority
Regulation (EC) No. 2017/625	Article 4 - Designation of Competent Authorities and Operational Criteria	FSS
	Article 8 and 11 - Transparency and Confidentiality.	FSS
	Article 113 - Annual Reports	FSS
	Article 10(2)-Registration/Approval of	Local Authorities/FSS

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	Feed and Food Business Establishments	
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 consumption of food and protect the interests of consumers in relation to food and diet. 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. 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. 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.	FSS

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	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. Section 3(e) Duty to monitor the performance of, and promote best practice by, enforcement authorities in enforcing legislation. 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

11. Food 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 updating the Food Law Code of Practice (Scotland) 2015. Following stakeholder consultation the new Code came into operation on 31 st 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

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	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

SFSD collects food sampling data:

- through direct input by the LA authorised officers via SFSD desktop software
- from the Management Information Systems (MIS) from 32 Scottish LAs:
 - Civica
 - IDOX or
 - Northgate Public Services
- from the from Public Analyst laboratories, through submission of an encrypted file
- from the SND's Food Establishment Record

13. How is the SFSD Data protected

Each of the 32 Local Authorities in Scotland use an application supplied by FSS for the secure entry and submission of sampling data. This data is then encrypted and transmitted using a dedicated EncExtract application to Public Analyst Laboratories for analysis. The laboratory processes the samples and returns the results to FSS and the originating LA.

All submissions are controlled by the local authorities and submitted from within their own network. The sample data is encrypted independently of any network protocol ensuring end to end encryption.

The data is stored on Microsoft Azure on 2 databases. One on an Azure virtual machine (postbox database), the other is an Azure MSSQL database (FssFoodFeed). The postbox database backups are automatically taken every 24

hours for disaster recovery and retained for 1 month. The FssFoodFeed database 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.

SFSD data is stored in SQL databases, and is protected by TDE (Transparent Data Encryption) which encrypts the database, the backups, and the logs at rest. Data in transit is encrypted using HTTPS. The data is a mirror of the data held on the LA Management Information Software system, and is provided to the SFSD users in read-only format through the use of secure Web portals.

Within each LA, access to SFSD is controlled by appointed system administrators who can grant access to additional system users where required. It is at each LA's discretion to decide how many users they choose to give access to SFSD.

Data is transferred in an encrypted binary file containing a data file in Extensible Markup Language (XML) format.

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

14. Who has access to the SFSD Data?

LA access to SFSD is controlled by FSS. Access to the SFSD is via unique username and password, using a role based authentication model .

Within each Local Authority two appointed Local Authority system administrators can grant access to additional system users where required. It is at each Local Authority's discretion to decide how many users they choose to give SFSD access. System administrators at each Local Authority will have the ability to configure their code mapping.

The SFSD software has been provided by McLaren West (McW) who continue to maintain the databases, systems, and secure web portals. Two designated McW consultants have access to the system for this purpose. McW will carry out penetration tests to ensure the continuing security of the data.

FSS has no direct access to SFSD. Access to SFSD is limited to the reporting database which is not editable. Access to the reporting database is given on business need basis to FSS staff.

On SFSD, Local Authority users will be able to see information pertaining to their own Local Authority only, except where permission has been granted by other Local Authorities to view specific information. In circumstances where sharing of SFSD information with other Local authorities will be beneficial, FSS will request permission from each Local Authority to share the specific information required. FSS will keep a record of the agreement / disagreement to share information. FSS will only share information pertaining to Local Authorities who have agreed to share. Information pertaining to Local Authorities who have not agreed to share, will not be shared.

The risk of unauthorised use or access to data held on SFSD 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.

SFSD has a built-in function to delete any personal information for records older than 6 years and no longer required to be kept.

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 SFSD from each MIS is updated by the local authority. Both Local Authorities and FSS will control the data.

The accuracy of the information is the responsibility of the LA as required by Food Law and the Food Law Code of Practice (Scotland).

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.

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

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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	Training events	Biennially
Public Analysts	Training events	Biennially
MacLaren West	Contract meetings	Quarterly
FSS Data Protection Team	Meetings	Yearly
FSS team members	Performance review meetings	Twice a year

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
31/03/2021	Kasia Kazimierczak	Final version sent for approval

Approvals

Name	Title	Date	Version
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Jane Horne	Head of Food Protection Science and Surveillance	07/04/2021	V. 1
Garry Mournian	FSS DPO and Head of Food Safety & Standards Policy	07/04/2021	V. 1

Distributions

Name	Title	Date of Issue	Version