

# Audit of the Local Authority Delivery Division

## Egg Hygiene Official Controls

2023/2024 – Audit 2

Final Report issued: September 2024



## Foreword

This audit is part of the annual programme of audits directed at the official food and feed controls delivered by Food Standards Scotland (FSS) as competent authority and is carried out by FSS's Audit Assurance Division.

These assess conformance against Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law and the associated planned arrangements.

Article 6 of this Regulation requires that to ensure compliance with the Regulation competent authorities shall carry out internal audits or have audits carried out on themselves and shall take appropriate measures in the light of the results of those audits.

The audit scope was detailed in an audit brief and plan issued to the auditee (in this case the Local Authority Delivery Division) on 1st August 2023.

The aim of the audit is to maintain and improve consumer protection and confidence by ensuring that the Local Authority Delivery Division is providing effective delivery of official controls and enforcement of Egg Hygiene in registered establishments.

The audit scheme also provides the opportunity to identify and disseminate good practice and provide information to inform FSS's policy on food safety, standards and feeding stuffs.

Specifically, this audit aimed to establish:

- Verification that official controls are carried out in compliance with planned arrangements.
- Verification that planned arrangements are applied effectively.
- Verification that planned arrangements are suitable to achieve the objectives of official controls.

Following the audit, it is expected that for any recommended point for action, FSS will prepare and implement an action plan which will incorporate a root cause analysis of any non-compliance. A list of recommendations is provided in the action plan template at the end of this report.

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## 1.0 Introduction

- 1.1 This report records the outcomes of the audit of FSS's Local Authority Delivery Division, regarding their delivery of Hygiene Official Controls on Egg Production Units.
- 1.2 The operational delivery of this function is carried out by the Scottish Government's Poultry Unit (SGPU), on behalf of FSS, via a Memorandum of Understanding agreement (MoU) signed by both parties.
- 1.3 The overarching criteria which detail the standards that the assessment has been made against are contained within the relevant sections of:
  - The Food Hygiene Regulations (Scotland) 2006.
  - Regulation (EU) 2017/625.
  - Regulation (EU) 852/2004.
  - Regulation (EU) 853/2004.
- 1.4. The planned arrangements to be assessed with regards to delivery of these criteria were primarily contained within:
  - The MoU.
  - FSS-Hygiene Inspections – SGPU Field Staff Guidance on FSS Egg Hygiene Inspections.
  - Food Standards Agency (FSA) / FSS 3 Country Guidance on Egg Hygiene.
- 1.5 This audit was initially planned as a combination of documentary assessment, the remote interview of FSS and SGPU staff responsible for operational management of the service and on-site reality check. However, the Avian Influenza prevalence in Scotland indicated the need to drop the on-site element of the audit on a precautionary bio-security basis.
- 1.6 Given the above, the primary focus of this report is on the arrangements covering assignment of function and other aspects of this responsibility as legislated under Regulation (EU) 2017/625.

### **Reason for the Audit**

- 1.7 As detailed in the Foreword, Article 6 of Regulation (EU) 2017/625 requires Competent Authorities (CAs) to carry out internal audits or have audits carried out on themselves.

1.8 The audit programme covering the official controls delivered by FSS is carried out as an internal audit by FSS's Audit Assurance Division. This audit forms part of that audit programme.

### **Scope of the Audit**

1.9 It was agreed that the audit scope would cover:

- An assessment of policies plans and procedures for compliance with relevant legislation.
- An assessment of the arrangements in place between FSS and SGPU to ensure they are suitable.
- The verification of, application of, and adherence to, documented policies, plans and procedures.
- An assessment of the monitoring and reporting arrangements for the delegated function.
- An assessment of the capacity and capability of the SGPU to deliver the controls.
- The identification and dissemination of good practice.
- The provision of information to aid future FSS policy and operational development.

## **2.0 Executive Summary**

2.1 The primary, and major concerns, identified during this audit relate to the delegation and management of this function by FSS through the Local Authority Delivery Division.

2.2 All evidence provided indicated that the operational element delivery by the SGPU is carried out effectively with appropriate internal monitoring in place. Their operation procedure is recognised as representing an example of good practice for format and approach.

2.3 This function has been delegated according to Regulation (EC) No 882/2004. This legislation has now been repealed and replaced by Regulation (EU) 2017/625. Auditors consider there is an urgent need to consider the impact this has on this delegation arrangements. Specifically, auditors would ask for an exploration of how the current arrangements sit within Articles 28-30, and whether this delegation is as a delegated body or as natural persons. If the former, then we would query the apparent omission of the ISO 17020 requirement and whether sufficient powers (with appropriate support to deliver) have been given. If the latter, then we would query the current arrangements covering enforcement.

- 2.4 There are also legal obligations on FSS as delegating authority. A primary concern is the inadequate evidence provided for the level of official control verification demonstrated by FSS. As evidenced, this is currently focussed primarily on monitoring and managing financial aspects of the arrangements. There would appear to be little evidence of any oversight as to whether controls are effective, appropriate and being delivered with an expected level of quality and consistency. We consider that this needs to be addressed as a matter of high priority.
- 2.5 The operational instructions used by the SGPU are drafted based on FSA-FSS guidance produced in 2009 with a recent letter of comfort from FSS addressing concerns as to how current this guidance is. We would ask for this guidance, and the associated MoU, to be reviewed and updated.
- 2.6 The enforcement action involving a series of Hygiene Improvement Notices taken in 2020 raises issues around the adequacy of delegated powers, and also concerns around the level of training and support provided to SGPU during this period. We consider a thorough review as being necessary to ensure appropriate and effective enforcement is achieved.
- 2.7 This enforcement action taken in 2020 highlighted the need for efficient and effective coordination and cooperation with other CAs to deliver a robust enforcement action.
- 2.8 There is a need for improved coordination and cooperation between FSS, SGPU and other CAs delivering Food and Feed Official Controls on egg producing premises. Specifically, but not exclusively, there would appear to be a need to improve communication between FSS, SGPU and Local Authorities (LAs) around the latter CAs role in approving Egg Packing Centres (EPCs) which are frequently co-located.
- 2.9 We acknowledge the positive commitment to the audit process and willingness to engage shown by all involved with this audit.

**Level of Assurance**

- 2.10 As detailed in FSS’s Official Feed and Food Controls Delivery Audit Charter the audit has been assigned an Insufficient Assurance outcome.

<p><b>Insufficient Assurance</b></p> <p><b>Controls are not acceptable and have notable weaknesses.</b></p>	<p>There are significant weaknesses in the current risk, governance and or control procedures, to the extent that the delivery of objectives is at risk. Exposure to the weaknesses identified is sizeable and requires urgent mitigating action.</p>
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2.11 The Recommendations within this report detail the limitations in the controls that the Local Authority Delivery Division should address.

2.12 The above assurance category is based upon four categories of audit assurance levels that can be applied in relation to individual reports.

<p><b>Substantial Assurance</b>  <b>Controls are robust and well managed</b></p>	<p>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</p>
<p><b>Reasonable Assurance</b>  <b>Controls are adequate but require improvement</b></p>	<p>Some improvements are required to enhance the adequacy and effectiveness of procedures. There are weaknesses in the risk, governance and/or control procedures in place but not of a significant nature.</p>
<p><b>Limited Assurance</b>  <b>Controls are developing but weak</b></p>	<p>There are weaknesses in the current risk, governance and/or control procedures that either do, or could, affect the delivery of any related objectives. Exposure to the weaknesses identified is moderate and being mitigated.</p>
<p><b>Insufficient Assurance</b>  <b>Controls are not acceptable and have notable weaknesses</b></p>	<p>There are significant weaknesses in the current risk, governance and/or control procedures, to the extent that the delivery of objectives is at risk. Exposure to the weaknesses identified is sizeable and requires urgent mitigating action</p>

## 3.0 Audit Findings

- 3.1 The findings reported below detail both corrective and preventive actions which are not confined to addressing specific technical requirements, but also include system-wide measures. 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.
- 3.2 Findings and resulting recommendations are reported against the relevant legislated requirement.

### **The Food Hygiene Regulations (Scotland) 2006**

<b>Regulations 4 &amp; 5</b>
FSS used these regulations in 2009 to take back CA status for this function from LAs.
Evidence was provided as to the fulfilment of this by publication in the Edinburgh Gazette.

### **Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules as amended.**

<b>Article 4. Designation of competent authorities.</b> <b>Article 28. Delegation by the competent authority of certain official control tasks.</b> <b>Article 29. Conditions for delegating certain official controls tasks to delegated bodies.</b> <b>Article 30. Conditions for delegating certain official controls tasks to natural persons.</b>
FSS is the CA for Egg Hygiene official controls.
The primary concern identified by this audit is that this function was delegated according to Regulation (EC) No 882/2004. This legislation has now been repealed and replaced by retained Regulation (EU) 2017/625.
Under the relevant Articles within this legislation, these official control tasks may be delegated to either delegated bodies or natural persons. The legislation goes on to define the conditions under which this delegation can take place. The auditors are concerned that the current arrangements, as laid out in the MoU, do not fully fit the requirement for either delegation. These arrangements are therefore not compliant.
Specifically, auditors would ask for an exploration of how the current arrangements sit within Articles 28-30 and whether this delegation is a delegated body or as natural persons. If the former, then auditors would query the apparent

omission of the required accreditation standards and whether sufficient powers (with appropriate support to deliver) have been given. If the latter, then the auditors would query the current arrangements covering enforcement and associated delegated powers.

### **Recommendation 1**

**The auditors consider that an urgent review of the current delegation arrangement is required to ensure compliance.**

### **Article 5 General obligations concerning the competent authorities and the organic control authorities.**

The auditors consider that FSS are not fulfilling all the obligations placed upon it as the CA.

#### **Article 5 (1.a-b)**

The auditors found that FSS have only extremely limited procedures in place to ensure the effectiveness, appropriateness, impartiality, quality, and consistency of the official controls being carried out on its behalf.

Those in place would appear to be solely focussed on quantitative aspects of the delivery arrangements. See also Article 12.

#### **Article 5 (1.c)**

The evidence provided to the auditors indicate that SGPU staff are compliant with the Scottish Government's conflict of interest policy. Auditors note that confirmation of this, and any mitigation put in place, has not been requested by FSS.

#### **Article 5 (1.e)**

Operationally, the SGPU would appear to have a sufficient number of qualified staff, at both management and poultry officer level, to deliver and manage the official controls delegated.

The auditors would raise a concern that the Local Authority Delivery Division of FSS are not resourced to provide the required level of support from suitably qualified and experienced staff when dealing with complex enforcement scenarios.

#### **Article 5 (1.f)**

As evidenced no specific equipment or facilities are provided by FSS to the SGPU to ensure efficient and effective delivery of these controls. An equipment list is provided in their operational procedures, but no assessment has been made by FSS as to suitability or maintenance.

FSS and SGPU are currently working collaboratively in the use of digital tablets for officers to record inspection outcomes in real time. The auditors welcome this approach.

#### **Article 5 (1.g)**

The authorisation process in place confers the legal powers set out in the MoU on to individual SGPU staff following completion of agreed training. FSS maintains a list of those authorised and the process would appear to be sufficient.

With regards to these powers, as detailed previously, auditors have concerns over the legal basis of this delegation to the SGPU as either a delegated body or natural persons.

With regards to the enforcement powers of SGPU, the auditors would additionally query whether those available to the SGPU are either sufficient or appropriately supported by FSS and consider that, if these powers are required, a review is necessary to address these concerns.

### **Recommendation 2**

**The auditors recommend that a full review of Article 5.1 requirements is undertaken to ensure compliance with the general obligations of a competent authority.**

#### **Article 5 (4)**

The auditors consider that the basic training package developed by FSS, the additional modules provided by the SGPU, and their probationary system, represents good practice in providing initial competence assurance.

The auditors would however consider that the responsibility of the CA and the delegated body to develop and implement on-going and documented training programmes requires further consideration.

As evidenced in interviews a particular concern related to the accessibility to refresher training and the delivery of enforcement actions.

### **Recommendation 3**

**The auditors recommend a review of training needs and the consideration of an on-going and documented training programme to ensure competence and updating is produced.**

#### **Article 5 (5)**

As evidenced at interview, there is a need for improved coordination and cooperation between FSS, SGPU and other CAs delivering Food and Feed Official Controls on egg producing premises. Specifically, but not exclusively, there would appear to be a need to improve communication between FSS, SGPU and LAs around the latter CA's role in approving EPCs which are frequently co-located. This would appear to be an inconsistent issue, but one which has led on occasion to operational difficulty and a confusion as to responsibility.

The formal enforcement action taken in 2020 also highlighted the need for efficient and effective coordination and cooperation with LAs and other CAs to deliver a robust enforcement action.

### **Recommendation 4**

**The auditors recommend a review with the aim of improving coordination and cooperation between FSS, SGPU and other CAs delivering Food and Feed Official Controls on egg producing premises.**

**Article 33 Obligations of the delegating competent authority.**

No evidence was provided that audits or inspections of the delivery of these controls had been carried out, or considered, by FSS as a means of providing assurance that the tasks were being performed properly.

This is also relevant to the findings of, and recommendations relating, to Article 5.1 requirements, specifically the need to have procedures and/or arrangements in place to ensure the effectiveness, appropriateness, impartiality, quality, and consistency, of official controls and other official activities at all levels.

*Note – “audit” in this Article 33 context references the on-going audit, or inspection, of SGPU by FSS’s Local Authority Delivery Division as a means of determining that delivery is being performed effectively and appropriately. This is entirely separate from the audit function as laid out in Article 6 which requires audit of FSS as CA.*

**Recommendation 2** refers.

**Article 9. General rules on official controls.****Article 10. Operators, processes, and activities subject to official controls.****Article 14. Methods and techniques for official controls.**

The auditors consider that the evidence provided by documentation and interview indicated that the SGPU are delivering these official controls in an appropriate and risk-based manner at an appropriate frequency. This was evidenced by a review of inspection reports, SGPU’s internal monitoring measures, and interview with SGPU management. The auditors are assured that the inspections cover all requirements of Regulation (EU) 852/2004 and Regulation (EU) 853/2004.

An update list of operators is maintained by SGPU but not retained by FSS. This was provided during the audit.

All evidence provided indicated that the official control methods and techniques as set out in the SGPU operational procedures were being followed. The requirements of Article 14 in this regard, are being met.

**Article 11. Transparency of official controls.**

The required information is made available through the Multi-Annual National Control Plan (MANCP) for the United Kingdom. This is available on the FSS website.

**Article 12. Documented control procedures.**

The auditors found that FSS have only extremely limited procedures in place to ensure the effectiveness, appropriateness, impartiality, quality, and consistency of the official controls being carried out on its behalf.

Those in place would appear to be solely focussed on quantitative aspects of the delivery arrangements.

### Recommendation 1 applies.

The auditors found that the documented operational procedures being used by the SGPU were fully compliant with the egg hygiene requirements of Regulation (EU) 852/2004 and Regulation (EU) 853/2004. The structure was well formatted and represented good practice. The control verification procedures being used by SGPU appear to be well implemented and robust.

The operational procedures were drafted based on FSS-FSA guidance published in 2009. Evidence indicated an FSS commitment to review and update this guidance by November 2022 but this has not happened.

### Recommendation 5.

**The auditors would recommend that this overarching guidance be reviewed and updated by FSS as competent authority.**

### **Article 13. Written records of official controls.**

The recording and reporting procedures were as described in the FSS Hygiene Inspection – SGPU Field Staff Guidance. These were found to be suitable for their purpose and compliant with the requirements of this Article.

These auditors recognise the high quality in content and format of the inspection reports generated by SGPU.

A sample of inspection records and communication emails with the Food Business Operator (FBO) demonstrated adherence to these procedures.

### **Article 102. General rules.**

### **Article 103. Liaison bodies.**

### **Article 104. Assistance on request.**

### **Article 105. Assistance without request in the event of non-compliance.**

### **Article 106. Assistance in the event of non-compliance creating a risk or a repeated or potentially serious infringement.**

Whilst no specific concerns were raised in relation to these Articles during this audit, the auditors would consider that, as detailed previously, the need for improved coordination and cooperation between FSS, SGPU and other CAs delivering Food and Feed Official Controls on egg producing premises also includes a need to consider the implications of these Articles in this regard.

### **Article 137. General Obligations of the competent authorities as regards enforcement action.**

### **Article 138. Actions in the event of established non-compliance.**

As evidenced by document and interview, there appears to be a high level of compliance with egg hygiene requirements as inspected. There has been limited enforcement action taken by the SGPU and this has primarily been in the form of advisory or contravention letters.

There has only been one recent occasion when the enforcement action required escalation to formal notices. The delivery of this enforcement action taken in 2020 raises issues which are linked to other sections of this report and should be addressed within those recommendations.

[Recommendation 1, 2, 3, 4](#)

**Article 140. Reporting of infringements.**

There are mechanisms within FSS to enable reporting of actual or potential infringements of this Regulation in line with the requirements of this Article. These are made available to the public.

## 4.0 Annex A – Action Plan

### Action Plan for the Local Authority Delivery Division: Egg Hygiene Audit, 2023/24 – Audit 2

Recommended Point for Action	Planned Actions	Target Date for Completion	Responsible Officer(s)
<p>1. Review of the current delegation arrangement is required to ensure compliance.</p> <p><b><u>Priority: High</u></b></p>	1. Undertake a review of delegation under Regulation EU 2017/625.	31/12/2024	<p>L Murray A Morrison J Morales</p>
	2. Mapping of regulation against the current delegation approach.	31/12/2024	
	3. Gap analysis of delegation process and current arrangements.	31/01/2025	
	4. Options development and appraisal.	31/03/2025	
	5. EMT paper and discussion to secure agreement on options.	31/05/2025	
<p>2. Full review of Article 5.1 requirements is undertaken to ensure compliance with the general obligations of a CA.</p> <p><b><u>Priority: High</u></b></p>	6. Assessment of CA compliance requirements of regulation (EU) 2017/625 Article 5.1.	31/01/2025	<p>L Murray A Morrison J Morales</p>
	7. Map out with gap analysis areas of CA compliance that require adjustment.	28/02/2025	
	8. Develop options appraisal.	31/03/2025	
	9. EMT paper and discussion to agree option and next steps.	31/05/2025	
	10. Develop and deliver implementation plan to address any CA compliance shortfalls identified.	30/06/2025	
<p>3. Review of training needs and the consideration of an on-going and documented training programme to ensure competence and updating is produced.</p>	11. Workshop with LADD and SGPU to assess training gaps and complete a Training Needs Assessment.	30/09/2025	<p>J Morales</p>
	12. From workshop outputs, develop training proposals and draft package for consideration by LA Delivery Division and EMT.	31/10/2025	

<b><u>Priority: Medium</u></b>	13. Liaise with FSS Veterinary Delivery Branch to understand systems in place to develop and deliver training packages and to assess and manage ongoing officer competency.	30/09/2025	
4. The auditors recommend a review with the aim of improving coordination and cooperation between FSS, SGPU and other CAs delivering Food and Feed Official Controls on egg producing premises.  <b><u>Priority: Medium</u></b>	14. Review current engagement between FSS (LADD and Field Operations including Feed and Ops Delivery Branches) and SGPU with a view to determining how this can be improved.	30/09/2025	L Murray A Morrison J Morales
	15. Develop and implement engagement plan to address areas identified for improvement.	30/09/2025	J Morales
5. Overarching guidance be reviewed and updated by FSS as CA.  <b><u>Priority: Medium</u></b>	16. In line with principles of good governance, develop and deliver a guidance review policy and programme for Egg Hygiene activity.	30/09/2025	A Morrison J Morales

**All actions were completed following the receipt of evidence from Local Authority Delivery Division – LADD.**

**Audit has been closed in July 2026**

## 5.0 Acknowledgements

The Audit Assurance Team would like to acknowledge the help and co-operation of FSS officers for their assistance with the conducting of this audit.

Auditors: Pepe Martinez  
Tony Sykes  
Graham Forbes  
Lindsay Matthew

Administration: Neil Douglas

Food Standards Scotland  
Audit Assurance Division

## Abbreviations

<b>CA</b>	Competent Authority
<b>EC</b>	European Community
<b>EPC</b>	Egg Packing Centre
<b>EU</b>	European Union
<b>FBO</b>	Food Business Operator
<b>FSA</b>	Food Standards Agency
<b>FSS</b>	Food Standards Scotland
<b>LA</b>	Local Authority
<b>LA</b>	Local Authority Delivery Division
<b>MANCP</b>	Multi-Annual National Control Plan
<b>MoU</b>	Memorandum of Understanding
<b>SGPU</b>	Scottish Government's Poultry Unit