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Ref : CC1617/778/09

07 March 2017

Dear Sir

Food Standards Scotland : Capacity and Capability Audit of Local Authority Official Controls in relation to Regulation (EC) No 853/2004 on official controls performed to ensure the verification of compliance with feed and food law

Food Standards Scotland (FSS) have the remit to oversee Local Authority food law enforcement activities to ensure appropriate local services are in place. An audit of your Authority's food law enforcement service was carried out on 16-18 January 2017 and I enclose the final and agreed report which had no recommendations to make.

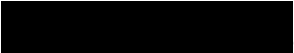
As there were no recommendations made from this audit, the audit file has now been formally closed. It is anticipated that you will arrange for this report to be presented to elected members within the appropriate local public committee.

The report will be placed on the Food Standards Scotland website at www.foodstandards.gov.scot one month from the date of this letter and we may issue a press release at that time.

I would like to thank all of the staff within the Food and Health team and the Head of Safer and Inclusive Communities for their support and contributions to this audit as there was a high level of participation and co-operation at all times.

If you require any further information please do not hesitate to contact me.

Yours sincerely


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Food Standards Scotland

**Inverclyde Council
Food Law Enforcement
Services**

**Capacity and Capability Audit
Report**

16-18 January 2017



Foreword

Audits of Local Authorities food law enforcement services are part of Food Standards Scotland arrangements to improve consumer protection and confidence in relation to food and feed. These arrangements recognise that the enforcement of UK food law relating to food safety, hygiene, composition, labelling, imported food and feeding stuffs is largely the responsibility of Local Authorities. These Local Authority regulatory functions are principally delivered through Environmental Health and Trading Standards Services.

UK Local Authority Food Law Enforcement data is collected via the Local Authority Enforcement Monitoring System (LAEMS) and is published on the Food Standards Agency website. FSA continue to collect this data for Food Standards Scotland.

<https://www.food.gov.uk/enforcement/monitoring/laems/mondatabyyear>

The audit scope is detailed in the audit brief and plan issued to all Local Authorities under reference FSS/ENF/16/014 on 12 October 2016. The main aim of the audit scheme is to maintain and improve consumer protection and confidence by ensuring that Local Authorities are providing an effective food law enforcement service. This audit was developed to assess Local Authority capacity and capability to deliver the food service.

The Audit scheme also provides the opportunity to identify and disseminate good practice and provide information to inform Food Standards Scotland policy on food safety, standards and feeding stuffs.

Specifically, this audit aimed to establish:

- An evaluation of the organisational, management and information systems in place to ensure they are effective and suitable to achieve the objectives of the relevant food law;
- Assessment of the capacity and capability of the Local Authority to deliver the food service;
- The provision of a means to identify under performance in Local Authority food law enforcement systems;
- The assistance in the identification and dissemination of good practice to aid consistency;
- The provision of information to aid the formulation of Food Standards Scotland policy.

Food Standards Scotland audits assess Local Authorities' conformance against Regulation (EC) No 882/2004¹ on official controls performed to ensure the verification of compliance with feed or food law and the Food Law Code of Practice (Scotland) 2015'

¹ [\(EC\) No 882/2004](#)

It should be acknowledged that there will be considerable diversity in the way and manner in which Local Authorities may provide their food enforcement services reflecting local needs and priorities.

Following the audit it is expected that for any recommended points for action the Local Authority will prepare and implement an action plan which will incorporate a root cause analysis of any non-compliance. A template for this is provided at the end of this report.

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1.0 Introduction

- 1.1 This report records the results of the audit at Inverclyde Council with regard to their capacity and capability to deliver food enforcement, under relevant sections of Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed or food law. The audit focused on the Authority's arrangements for meeting certain operational criteria, particularly on staffing related issues, registration and approval of food business operators, enforcement actions, interventions, procedures for carrying out official controls and transparency about their enforcement activities.
- 1.2 The report has been made available on the Food Standards Scotland website at:
www.foodstandards.gov.scot/food-safety-standards/regulation-and-enforcement-food-laws-scotland/audit-and-monitoring#la

Reason for the Audit

- 1.3 The power to set standards, monitor and audit Local Authority food law enforcement services was conferred on Food Standards Scotland by Sections 3 and 25 of the Food (Scotland) Act 2015 and Regulation 7 of The Official Feed and Food Controls (Scotland) Regulations 2009. This audit of Inverclyde Council was undertaken under section 25 (1-3) of the Act, and Regulation 7(4) of the Regulations as part of the Food Standards Scotland audit programme.
- 1.4 As a designated competent authority as defined within Schedule 5 of the Official Feed and Food Control (Scotland) Regulations 2009 local authorities are required to comply with Article 4(6) of Regulation (EC) No 882/2004. In order to help local authorities fulfil this requirement, (as part of its central role under the Food (Scotland) Act 2015 and Official Feed and Food Control (Scotland) Regulations 2009) Food Standards Scotland will continue to deliver external audit arrangements (as done previously under Food Standards Agency). This however, does not preclude Local Authorities (LA's) from implementing their own audit regimes and in fact this will be encouraged. Food Standards Scotland's audit role therefore fulfils two different requirements.
- 1.5 The last audit of Inverclyde Council's Food Service was undertaken by the Food Standards Agency (Scotland) in June 2015 The previous audit to that was in Aug 2011

Scope for the Audit

- 1) Does the Local Authority meet certain operational criteria – such as:
- having a sufficient number of staff who are suitably:
 - qualified
 - experienced
 - competent
 - authorised

- ensuring that staff are free from conflict of interest
 - having contingency plans for emergencies
 - having appropriate legal powers
 - having suitable facilities and equipment
- 2) ensure that staff receive appropriate and on-going training
 - 3) ensure effective and efficient co-ordination with other competent authorities and between different units of a single authority, as applicable
 - 4) have procedures in place for the registration/approval of establishments
 - 5) take appropriate action where businesses do not comply with the law
 - 6) carry out internal audits or have external audits undertaken
 - 7) be transparent about its monitoring and enforcement activity
 - 8) prepare reports of individual controls and provide copies to businesses
 - 9) have, use and update as necessary, documented procedures for carrying out controls
- 1.6 The audit examined Inverclyde Council's arrangements for official controls in relation to Regulation (EC) No 882/2004 on the verification of compliance with feed and food law. The audit included a verification visit to a local food business to assess the capacity and capability of the official controls implemented by the Local Authority at the food business premises and, more specifically, the relationship between Regulation (EC) no 882/2004, the Local Authority Policies and Procedures and the Authorised Officers ability to deliver official controls.
- 1.7 The on-site element of the audit took place at the Authority's offices in Inverclyde.

Local Authority Background

- 1.8 Inverclyde Council have an approved Food Safety Enforcement policy dated 10 March 2015 which is a high level document stating the general enforcement policy, the principles of enforcement, formal approaches, article 5 enforcement and enforcement for training, documentation and structural issues including cleanliness. Within the report there are Formal Action – documented procedures to support the policy
- 1.9 There is a satisfactory Official Food Controls Service Plan for 2016/17 which was approved by the Head of Safer and Inclusive Communities. There are also relevant procedures which describe the actions and responsibilities involved in delivering programmed food hygiene inspections, sampling, investigations and monitoring.
- 1.10 Within the current departmental management structure, food law enforcement is being managed on a six month temporary basis by the Head of Safer and Inclusive Communities, (EHO) who was previously the Health Protection Manager, following the retirement of the previous post holder in December 2016.

The current Food and Health Team leader (EHO) has increased his responsibilities to ensure that the service operates effectively in the absence of a senior manager

- 1.11 Within the Food and Health team there are 2 Environmental Health Officers (EHO's) and one Enforcement Officer. The Environmental Health Officers (EHO's) are multi-disciplined, covering other duties in addition to food safety. One is based in a different team with a shared workload across 2 disciplines

The current Service Plan refers to 2.6 FTE's made up of a proportion of the working time of 6 staff in total.

- 1.12 Inverclyde Council has responsibility for Port Health at Greenock. It should be noted these responsibilities were not subject to audit during our time with the Local Authority.

2.0 Executive Summary

Capacity

- 2.1 The audit found that the Head of Safer and Inclusive Communities post is being covered on an interim basis by the Health Protection Manager following the retirement of the previous post holder and pending the completion of an on-going service review.
- 2.2 The Lead Officer for Food post is covering some of the duties of the Health Protection Manager on an interim basis following
- 2.3 Discussions took place on the full time equivalent staff (FTE's) allocated to food safety and it was established that reactive work is not always recorded, measured or quantified however this does not appear to have an adverse bearing on the capacity to deliver the food service as there were sufficient staff available to deliver the Service Plan.
- 2.4 Based on the Local Authority's intervention programme and the establishment of allocated staff numbers provided prior to audit, together with discussions and reviews of documentation and records, the capacity to deliver the intervention programme was considered satisfactory at the time of audit. Reducing the numbers of FTE's would potentially lead to non-compliance with the Food Law Code of Practice.
- 2.5 The audit found that the Authority has an Official Food Controls Service Plan 2016-2017 which satisfactorily follows the template of the 2010 Framework Agreement on Official Feed and Food Controls by Local Authorities. The demands on the Local Authority are documented as are the Service Delivery interventions planned for the year.
- 2.6 The budget information produced by the Authority appeared to show a stable allocation of finance to the service.

Capability

- 2.7 Authorisation documents for all officers were readily available and these were detailed in a centrally held file. The system used is clear, simple and considered as effective.
- 2.8 Formal monitoring of the quantity or quality of work allocated or completed is carried out regularly by the team leader and the checklists used are based on those previously used by the FSA in Scotland Audit Branch.
- 2.9 Informal monitoring takes place by officers working closely located within a single office.
- 2.10 For the Approved Establishments within the Authority Officers are required to have particular knowledge of the processes within these establishments and not just a knowledge of Hazard Analysis Critical Control Point Systems. Evidence of specific training in the meat products or any associated specialist or complex processing was not readily available however the processes within these establishments are reported as not being technologically sophisticated by the Authority so such training is not yet required.
- 2.11 With a major container port within the Authority there are additional requirements on the competent Authority and these include the provision and delivery of specialist knowledge and procedures on imported foods and related items.
- 2.12 To assist in the appropriate delivery of enforcement there are a series of documented procedures available to all Officers in electronic format on a central directory. The majority of these documents are short, simple and are fit for purpose,
- 2.13 Officers were clear on the Authority's procedure for conducting inspections and adhered to the Authority's Enforcement Policy and inspection procedures. The procedures and documentation provided for inspections were generally being appropriately and consistently followed and completed, the principal exception being the current lack of clarity in the reporting of food standards contraventions.

Level of Assurance

- 2.14 As detailed in the Audit of Enforcement Authorities Policy Document of May 2016 (reference FSS/ENF/16/007) the audit has been assigned as below:

Substantial Assurance
Controls are robust and well managed

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.

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.

Article 3 Regulation EC No 882/2004 - General obligations with regard to the organisation of official controls

- 3.2 The Authority has a satisfactory Official Food Controls Service Plan for 2016/17 which has been approved by the previous Head of Service.

- 3.3 As a result of recent management changes the Health Protection Manager and the Food and Safety Team Leader have taken on new roles or responsibilities on a six month temporary basis.

The post of Food and Safety Team Leader is the designated Lead Officer for Food and was effectively managing the regular workload of the Authorised Officers and also doing a proportion of the required work.

- 3.4 The Local Authority Intelligence Gathering Questionnaire (June 2016) return to Food Standards Scotland for this Authority indicated that there were 2.22 Food Hygiene and 0.56 Food Standards FTE's required and provided.

- 3.5 The 2015 – 2016 LAEMS Report published on 21 November 2016 shows that for Inverclyde Council Food Hygiene there were 674 establishments in total, with 13 that were recorded on the database having not yet been rated for an intervention. There were 1 category A, 73 B's, 263 C's, 143 D's and 181 E's. The report indicates that 100% of high risk (A & B) hygiene interventions and that more than 99% of all other interventions were achieved. (3 / 360 lower risk) This would indicate that the food hygiene intervention programme was achieving its objectives in that risk interventions were being effectively completed.

- 3.6 A live data report was requested from the food premises database at the start of the audit which was promptly provided. On analysis this showed:

- as of the end of December 2016 there were a small number food hygiene interventions considered overdue (32 FH) These were mainly Category E. There were 649 premises listed on the Food Premises database, none of which were unrated.
- For Food Hygiene there were 228 written warnings and 2 Hygiene Improvement Notices and 4 Remedial Action Notice's.
- This reflects the 2015-2016 LAEMS return for FH which details 100% completion of the planned intervention programmes for Cat A and, B, with only

3 at a lower risk missed. With 604 interventions achieved during the year this is considered as satisfactory.

- 3.7 The Authority are one of the participants in the pilot doing food hygiene and food standards interventions at the same time, for food standards the majority of premises are considered low risk. Reports on food standards do not differentiate between requirements or recommendations, as these are listed as points for action. This is an item the authority are actively working on to ensure the Food Law Code of Practice requirements are fully followed. The LA report that the increased work involved by combining hygiene and standards inspections has not yet impacted on the work of the team.
- 3.8 The LAEMS report for 2015 – 2016 indicated that for Food Standards 425 interventions were achieved with 22 remaining to be done. Enforcement action with 112 receiving a written warning with one seizure, detention and surrender of food.

Articles 4(2) to (6) Regulation EC No 882/2004 - Designation of Competent Authorities

- 3.9 The Authority has a scheme of delegation from which delegated powers are given to the Head of Safer and Inclusive Communities. Officer Authorisations are held centrally in a file, with officers carrying an ID card referencing the office document, All documents are clear, concise and appropriate. However the reference to delegated powers for the Food and Environment Protection Act 1985 should be removed as that is within the remit of the Scottish Government.
- 3.10 Discussion took place on the general scheme of authorisation and the LA do not specifically list all legislation but have taken the pragmatic approach of defining the legislation where powers are available. The individual officer authorisation documents are detailed by groupings and for example the Food Hygiene Scotland Regulations list the individual powers appropriately.
- 3.11 The Education and Communities Committee reported in March 2016 that the delegated powers to authorise officers under a number of acts and regulation had been updated.
- 3.12 The Food Safety and Standards Enforcement policy has been approved by the Education and Communities Committee in March 2015 and it is suitably detailed to enable the required enforcement action to be taken effectively.
- 3.13 The Authority is maintaining their database and were able to produce reports for the auditors. The Food and Health Team leader uses the database to assess the work priorities and to ensure that there is a reasonable allocation of work to all members of the team.
- 3,14 The EHO's and the authorised Officer within the team have been in post for a considerable time, leading to a settled and stable team.

Article 6 Regulation EC No 882/2004 – Staff performing official controls

- 3.15 Officers have the appropriate qualifications and copies are retained on file. Documentary evidence was available to demonstrate that all Officers have completed the required 10 hours of continuing professional development as required by the Food Law Code of Practice.
- 3.16 Evidence of formal training in Hazard Analysis and Critical Control Points (HACCP) principles was readily available. The majority of officers had received this training. Only one Officer from outside the food team had no HACCP training at all and is currently not involved in food enforcement. The LA are aware of this and are actively considering suitable alternative training for this. Evidence of satisfactory training in Validation and Verification of Food Safety Management Systems based on HACCP was observed.
- 3.17 When undertaking interventions in the single category A food standards premises, if the business is engaged in the manufacture and processing of foodstuffs with documented quality assurance systems, the Food Law Code of Practice requires an Officer to have been appropriately trained and be able to demonstrate that they are competent to assess quality assurance systems. Several Officers have received suitable training and they should carry out the food standards official controls at the category A rated premises.
- 3.18 Officers have responsibility for a variety of food business operators, including two approved under Regulation (EC) No 853/2004 - laying down specific hygiene rules for food of animal origin. For Officers carrying out interventions in these establishments the Food Law Code of Practice requires competence in the inspection of specialist or complex manufacturing processes. The authority informed the auditors that the officers were experienced in inspecting the establishments and that the processes involved were not technically sophisticated.

Articles 8 (1) and 8 (3) Regulation EC No 882/2004 – Control and Verification procedure

- 3.19 The Authority has Policies and procedures for the range of official controls and compliance with the Food Law Code of Practice. Examples of these short simple documents were produced for the audit and are fit for purpose. However it was noted that most of these were not controlled versions and minor variation was found in different copies of one, this to be amended immediately by the authority.
- 3.20 The Authority has an internal monitoring procedure for letters and reports which is completed by the Food and Safety Team Leader on a monthly basis using FSS Core Audit checklists.

- 3.21 The electronic database is being used to provide quarterly intervention programmes which are monitored by the provision of a variety of reports to determine the delivery of the programme.
- 3.22 Qualitative assessments such as shadowed inspections are taking place when required in accordance with the monitoring procedure. These accompanied inspections are taking place where it is expected that there could be potential complications arising. Officers are discussing enforcement issues and are communicating with each other to ensure some informal monitoring is taking place between themselves and the Food and Safety Team leader.

Article 9 Regulation EC No 882/2004 - Reports

- 3.23 Inspection documentation as either a report or a letter is provided or sent to food business operators (FBO) (as appropriate) following interventions. These records were available either electronically or in hard copy. From the records checked those relating to food hygiene matters generally appear to follow the requirements of the Food Law Code of Practice,
- 3.24 Food standards items on inspection reports were not being given a clear timescale for achieving compliance to the FBO and the guidance on whether the item is a recommendation or a requirement was also not sufficiently precise. The authority suggested that the documentation would be modified without delay to ensure that these items were explicitly shown on the page with the inspection findings. The database coding's for these actions are extensive and satisfactory.

Article 10 Regulation EC No 882/2004 – Control activities, Methods and techniques

- 3.25 A real time un-announced verification check was carried out at a caterer during a programmed inspection. The officer had prepared for the inspection by reviewing the file and records. The Officer involved had carried out the previous intervention at the premises and was familiar with the business.
- 3.26 The various matters that arose during the inspection were dealt with confidently and professionally by the Officer. The main finding was stock control issues and potential cross contamination due to work flow through the kitchen. The Food Business Operator understood the issues and was prepared to change practices to ensure compliance.

Articles 11 (1) to (3) and (5) to (7) Regulation EC No 882/2004 – methods of Sampling and Analysis

- 3.27 The Authority sends samples for examination and analysis to Glasgow Scientific Services.

- 3.28 A sampling policy and programme were in place and were being followed well.
- 3.29 The audit looked at 3 sample failures and found that the Authority had followed these up appropriately and records were provided to verify this. An officer discussion also clarified that the sampling procedure was being followed and highlighted the benefit of an experienced officer investigating a potentially serious microbiological failure.

Article 31 Regulation EC No 882/2004 – Registration/Approval of Feed and Food Business Establishments

- 3.30 The Authority has an electronic database of the food premises within their area. At the time of audit the database appears to be accurate and contains appropriate records.

Article 54 Regulation EC No 882/2004 – Action in case of non-compliance

- 3.31 The Authority has a Food Enforcement Policy in place supported by Procedures and guidance notes, enforcement is in accordance with the Enforcement Principles and few cases result in formal notices.
- 3.32 There were 2 establishments subject to Hygiene Improvement Notice's, 4 subject to a Remedial Action Notice, and 228 establishments subject to written warnings from the 416 premises subject to official control during the previous 12 months. The Officers would appear to be following the Food Safety Enforcement Policy of primarily using education followed by the application of the principles of proportionality, consistency, targeting, transparency and accountability.
- 3.33 The authority do not use Alternative Enforcement Strategies for either Food Hygiene or Food Standards as all premises are subject to official controls.

Auditors: Graham Forbes
Kevin Nagle (Food Standards Agency in Northern Ireland)
Kevin McMunn

Food Standards Scotland
Audit Branch

4.0 Annex A

There is no required Action Plan for Inverclyde Council:
Capacity and Capability Audit, January 2017