



Agenda Item 5

Food Law Enforcement Services Audit

Falkirk Council

Title: Food Law Enforcement Services Audit
Meeting: Scrutiny Committee
Date: 30 November 2017
Submitted By: Director of Development Services

1. Purpose of Report

- 1.1. The purpose of this report is to present the Food Standards Scotland: capacity and capability audit of Falkirk Council's food law enforcement service.

2. Recommendation

- 2.1. **The committee is invited to consider the Food Standards Scotland Capacity and Capability Audit Report of the Council's food law enforcement service and associated action plan.** (Appendices 1 & 2).

3. Background

- 3.1. Food Standards Scotland (FSS) carries out audits of Local Authority food law enforcement services. This function currently sits within the Environmental Health and Trading Standards unit. The main aim of the audit is to maintain and improve customer protection and confidence by ensuring that local authorities are providing an effective food law enforcement service. The audit assessed the authority's capacity and capability to deliver its food safety function.
- 3.2. Falkirk Council was the second Local Authority to undergo this audit which was undertaken in December 2016 and published in April 2017. An audit report was subsequently published by FSS setting out recommended points for action as well as highlighting areas of good practice. The Council was assigned a rating of Limited Assurance (based on Scottish Government auditing practices) i.e. controls are developing but weak, appendix 3 shows the rating system.
- 3.3. FSS required that an action plan be prepared to address the recommended points for action, this is set out in appendix 2 and sets out for each recommendation corrective and preventative actions. Work is progressing with the action plan in consultation with FSS.

4. Considerations

- 4.1. The audit report details the reason for audit, its scope, findings, recommendations and areas of good practice as well as the authority's action plan for addressing matters identified.

- 4.2. FSS requested evidence and dates of completed or planned actions by 25 August 2017. The updated Action Plan is attached as Appendix 2. A further visit by FSS is planned for the end of November 2017.
- 4.3 Key recommendations from the audit are to ensure that an annual Food Safety Service Plan is produced, that the Food Safety Enforcement Policy is up to date and to ensure that staff training is up to date and relevant to changing specialist or complex manufacturing processes.

5 Consultation

- 5.1 No statutory consultation is required.

6 Implications

Financial

- 6.1 There are no direct financial implications arising from this report.

Resources

- 6.2 There are no direct resource implications arising from this report.

Legal

- 6.3 No implications

Risk

- 6.4 The key risk is failure to an effective food safety service may result in food being produced, processed and distributed within Falkirk failing to be safe.

Implementing the terms of the action plan should deal with these risks.

Equalities

- 6.5 An equality and poverty impact assessment was not required.

Sustainability/Environmental Impact

- 6.6 A sustainability/environmental assessment is not required.

7 Conclusions

- 7.1 Good progress is being made in addressing the recommendations of the audit which will be required to ensure provision of a compliant service.

Director of Development Services

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Date: 20 November 2017

Appendices

Appendix 1 Food Standards Scotland Falkirk Council Food Law Enforcement
Services Capacity and Capability Audit Report 05 – 07 December 2016

Appendix 2 Updated Action Plan August 2017

Appendix 3 Food Standards Scotland definition of assurance categories

List of Background Papers:

The following papers were relied on in the preparation of this report in terms of the
Local Government (Scotland) Act 1973:

- None



Food Standards Scotland

Falkirk Council Food Law Enforcement Services

Capacity and Capability Audit Report

05- 07 December 2016



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'

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.

¹ [\(EC\) No 882/2004](#)

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 Falkirk 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 Falkirk 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 Falkirk Council's Food Service was undertaken by the Food Standards Agency (Scotland) in January 2012. The previous audit to that was in March 2008.

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 Falkirk 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 Falkirk.

Local Authority Background

- 1.8 Falkirk Council is a unitary authority which provides all local services for the Falkirk Council area. Covering 112 square miles, the area's main towns and population centres are Falkirk, Grangemouth, Bo'ness, Denny, Larbert, Stenhousemuir and Polmont. The Council discharges its operational responsibilities as a food authority in relation to food hygiene and food standards enforcement through the Food and Safety Regulation Section of the Economic Development & Environmental Services Division of its Development Services. Some 1394 food businesses are located within the Falkirk Council area. These comprise 67 manufacturers, 6 primary producers, 17 distributors, 294 retailers and 994 restaurants and other caterers.
- 1.9 Falkirk Council has an approved Development Services Food Safety Enforcement policy dated August 2011 which is a high level document stating the Aims and Objectives and also the intent of the policy. There is a finalised Food Safety Service Plan for 2016-2017 and for 2014-2015. However, there was no approved document for 2015-2016, which is a requirement of the Food Law Code of Practice (Scotland). It was explained that this was due to a change in approach arising from the adoption of an Executive and Scrutiny

model of decision making. These documents are supported further by a comprehensive suite of Officer Procedural Notes which provides detailed guidance on how to use enforcement powers.

- 1.10 Within the current departmental management structure, food law enforcement is managed by the Head of Economic Development & Environmental Services. There have been significant changes over the previous 18 months with several key staff leaving the Council or changing positions within the service. This involved one Environmental Health Officer (EHO) moving to the Environmental Protection team in July 2015 as a result of voluntary severance within the section; the Food & Safety Co-ordinator leaving the Authority in September 2015; two EHOs leaving the Authority in December 2015 and March 2016 and the Environmental Health, Trading Standards & Community Safety Manager leaving on 8 April. Measures to address these changes took place with two EHOs employed on temporary contracts on 4 April 2016. The posts of Interim Environmental Health, Trading Standards & Community Safety Manager and Interim Food & Safety Co-ordinator, were provided from internal appointments from 11 April 2016 to present. These interim posts are subject to an internal service review which is scheduled for completion by 31st March 2017.
- 1.11 There are currently six Environmental Health Officers (EHOs) and one Authorised Officer within the Food and Safety Regulation team. The Environmental Health Officers (EHOs) primary focus is food safety although they are multi-disciplined, covering other environmental health duties. Falkirk Council has a busy port within its area and 3 members of the Food Team are assisted by 2 EHOs from the Environmental Protection team work on a rotational basis with responsibility for Port Health. One of the Environmental Health Officer posts is currently vacant however the managers are actively working towards recruiting for this post.
- 1.12 The Council has been in a situation of substantial financial stringency in recent years with £1.25m of staff savings sought within Development Services in the past three years. Policies of non-filling of vacant posts for a period of 6 months and the use of temporary appointments (as against permanent filling of vacancies) have been applied. To address the changes that have been taking place, the management structure and capacity of the Service is being reviewed. In addition to the Service Review there is a Development Services Performance Plan 2016-2019 and also a Workforce Plan 2016-19 which are being used to support the review which is scheduled for completion by March 2017.
- 1.13 Falkirk Council has responsibility for Port Health at Grangemouth. It should be noted that the specific port health food safety related 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 Environmental Health, Trading Standards and Community Services Manager post is being covered on an interim basis following the retirement of the previous post holder and pending the

completion of an on-going service review which is scheduled for completion by April 2017.

- 2.2 The Lead Officer for Food post is also being covered on an interim basis until the result of the service review. This has been the case since April 2016, following the departure of the previous post holder.
- 2.3 A further 2 additional EHO posts are on annual contracts pending the outcome of the Service Review. Discussions took place on the accuracy and equivalency of full time equivalent staff (FTE's) allocated to food safety and it was established that, whilst measures had been taken to fill vacancies and maintain the complement of staff necessary to meet the demands of the service, a detailed, time-based quantification of staff numbers had not been prepared by the Local Authority.
- 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 relatively satisfactory in the short term at the time of audit. It was noted that any reduction in the numbers of FTE's would potentially lead to non-compliance with the Food Law Code of Practice, however actions were underway to ensure compliance.
- 2.5 The 2015 – 2016 LAEMS Report published on 21 November 2016 shows that for Falkirk Council Food Hygiene there were 1394 establishments in total,. The report indicates that 100% of high risk (A & B) hygiene interventions and 98% of all other interventions were achieved. This would indicate that the food hygiene intervention programme was achieving its objectives in that high risk interventions were being completed.
- 2.6 Reactive work in the area of food and health & safety duties undertaken by the Food Officers was discussed. The Local Authority was not able to fully quantify the capacity required to meet reactive demands and so this is likely to have a significant bearing on the delivery of a food safety service. This aspect of work was also to be considered in the course of the review.
- 2.7 The budget information produced by the Authority appeared to show a stable allocation of finance to the service. A vacant post in the Food & Safety Team is being carried over into this year's budget allocation.

Capability

- 2.8 It was evident that 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
- 2.9 The Food Examiner's notified failure of a ready to eat meat product sampled in December 2015 and notified to the Authority in March 2016 was not identified or correctly investigated. The reason for this was that the notification coincided with a change of personnel and the retirement of the Manager.

- 2.10 The audit found that currently the Authority has a Development Services “Service Performance Plan” 2016-2019 which includes a Political, Economic, Social, Technological, Legal and Environmental (PESTLE) review that barely mentions food safety, and where there is a performance measure it is essentially one that the Authorised Officers have limited influence over as it is the Food Hygiene Information Scheme (FHIS) Pass which is a tool designed to drive up compliance amongst Food Business Operators.
- 2.11 There is also a well-developed “Workforce Plan 2016-2019” which identified Workforce turnover, grade/allowance profile and the workforce age profile as areas to be considered.
- 2.12 Food Service plans have remained in draft form for 2 years with no formal approval as required by the Food Law Code of Practice.
- 2.13 Complete evidence of the authorisation process and relevant documentation were not available for all officers and reference to all current legislation was not present. Authorisations collectively should be reviewed and it may be that a simpler, less resource intensive system could be implemented.
- 2.14 Officer activities related to quantitative monitoring of caseloads was reported at Team Meetings, however there was limited formal monitoring of the quality of work allocated or completed. Once the post of the Interim Food & Safety Co-ordinator was put in place monitoring of both both quantity and quality of work recommenced.
- 2.15 For the Approved Establishments within the Authority officers are required to have particular knowledge of the processes within these establishments and not just knowledge of Hazard Analysis Critical Control Point Systems. Complete evidence of such knowledge was not clearly documented.
- 2.16 With a major port within the Authority there are additional food safety requirements on the competent Authority and these include the provision and delivery of specialist knowledge and procedures on imported foods and related items. It was noted that all officers within the Port Health Team have the skills, training and knowledge specific to any Official Controls being carried out.
- 2.17 To assist in the appropriate delivery of enforcement there are a series of documented policies and operational documents available to all Officers in electronic format on a central directory. However the majority of these documents have not been reviewed for some years and would benefit from being updated.

Level of Assurance

- 2.18 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:
- 2.19 The Recommendations within this report detail the weaknesses in the controls that Falkirk Council should address.

Limited Assurance

Controls are developing but weak.

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.

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 had a satisfactory draft Food Safety Service Plan for 2016/2017 that was awaiting formal approval.

The plan for 2015/2016 remained in draft throughout that year and therefore did not receive any formal approval.

- 3.3 As a result of recent management changes where both the Manager and the Food & Safety Co-ordinator had left the Authority, these posts are being filled on an interim basis until April 2017 by continuing internal secondments. The post of Food & Safety Co-ordinator was 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 Some recent management activities had taken place on the production and reporting of regular standing items such as the development and provision of work programmes, monitoring, mentoring and advice.
- 3.5 The Local Authority Intelligence Gathering Questionnaire (June 2016) return to Food Standards Scotland for this Authority indicated that there were 7 EHO posts and one Authorised Officer, although one EHO (0.75 FTE) post was vacant. The Food & Safety Co-ordinator was allocated as 0.8 FTE providing a total of 6.75 FTE in post at that time. The authority should carefully assess the workload figures and allocate an appropriate amount of suitable staff to achieve the required compliance with the Food Law Code of Practice.

- 3.6 The 2015 – 2016 LAEMS Report published on 21 November 2016 shows that for Falkirk Council Food Hygiene there were 1394 establishments in total, with 69 that were recorded on the database having not yet been rated for an intervention. There were 13 Category As, 192 Category Bs, 455 Category Cs, 339 Category Ds and 326 Category Es. The report indicates that 100% of high risk (A & B) hygiene interventions and 98% of all other interventions were achieved. This would indicate that the food hygiene intervention programme was achieving its objectives in that all high risk interventions were being completed.
- 3.7 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 October 2016 there were a small number food hygiene (FH) and food standards (FS) interventions considered overdue (62 FH 93 FS).
 - There were 1369 premises listed on the food premises database, a small number of which were unrated. More premises, 1546 were noted on the LAEMS return, however this included premises that closed during the year.
 - Unrated premises are not all entered onto the intervention programme until visited so it wasn't completely clear how many unrated premises there were from the database, however on further investigation there were 7 in addition to the 70+ that had been entered onto the system.
- 3.8 The Authority advised that where practical, food hygiene and food standards interventions were carried out at the same time, however with regard to food standards the majority of premises are considered low risk. The Authority use Alternative Enforcement Strategies (in the form of a questionnaire) with degrees of follow up for both food hygiene and food standards.
- 3.9 The same LAEMS report for 2015 – 2016 indicated that for Food Standards 570 interventions were achieved with 64 remaining to be done. Enforcement action was taken at 42 premises with 36 receiving a written warning.

Recommended Point for Action: Food Service Plan

The Authority did not have an approved Food Safety Service Plan in place for 2016/17 at the time of the audit

Article 3 Regulation EC No 882/2004

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

- 3.10 The Authority has a scheme of delegation from which appropriately delegated powers are given to the Director of Development Services. The authorisation documents provided varied in format and style and did not include all up to date regulations. The present scheme is very labour intensive which is not modern or streamlined, relying on multiple paper documents with the related

administrative burdens. This scheme is being reviewed with the introduction of a more streamlined electronic system.

- 3.11 The Food Safety Enforcement policy is dated 2011 and had numerous references which are out of date, the policy requires to be reviewed and where necessary should be updated.
- 3.12 The Authority is maintaining its database using an experienced and competent member of staff who is able to produce reports for management. The Interim Food & Safety Co-ordinator has used the database reports to assess the work priorities and to ensure that there is a reasonable allocation of work to all members of the team.
- 3.13 To address the recent staff movements the Authority has provided two temporary EHO posts that have been recently appointed on annual contracts. An additional internal appointment has been made to the post vacated by the Food & Safety Coordinator. Without these posts being filled permanently the current level of performance which is relatively satisfactory in relation to the requirements of the Food Law Code of Practice would be very difficult to maintain.
- 3.14 All of the staffing issues are to be considered following a service review, scheduled to be completed by April 2017.

Recommended Points for Action: Procedures

The Authority has not ensured that all authorisations are up to date

The Food Safety Enforcement Policy is not currently up to date

Article 4 of Regulation (EC) No 882/2004

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 with 3 having advanced HACCP, however one officer had no HACCP training at all. Evidence of satisfactory training in Validation and Verification of Food Safety Management Systems based on HACCP was observed for some officers.
- 3.17 When undertaking interventions in category A food standards establishments and which are engaged in the manufacture and processing of foodstuffs with documented quality assurance systems, officers should be appropriately trained and able to demonstrate that they are competent to assess quality

assurance systems. The three Officers who have received suitable training should be allocated these food standards premises.

- 3.18 Officers have responsibility for a variety of food business operators, including those approved under Regulation (EC) No 853/2004 - laying down specific hygiene rules for food of animal origin. For Officers carrying out inspections of specialist or complex manufacturing processes the Food Law Code of Practice requires additional training and a demonstration of competence to undertake such inspections. However there was a lack of evidence of additional training and the demonstration of competence to undertake such inspections in the processes involved within these approved establishments relevant to the Authority's area. The authority informed the Auditors that in their opinion provision of this type of training nationally has been limited in recent years.

Recommended Point for Action: Training

The Authority should access and evidence additional training and be able to demonstrate competence in terms of inspection of specialist or complex manufacturing processes.

Article 6 of Regulation (EC) No 882/2004
Section 4 of the Food Law Code of Practice (Scotland) 2015.

Good practice

The Authority organises training events for internal and external enforcement officers:

- a) an annual Food Safety event (involving officers from across Scotland) in order to assist officers meet the minimum 10 hours CPD requirements.
- b) a Port Health Training Day for trainee EHOs on a bi-annual basis.

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

- 3.19 The Authority has Policies, Officer Procedural Notes, Guidance Notes, and Inspection procedures for both food hygiene and food standards. Examples of these produced for the audit were in the main dated 2011 and as a result require review and re-issue once they contain relevant references and are fit for purpose. However it was noted a start has been made on updating many of the procedures.
- 3.20 The Authority has an internal monitoring procedure which is currently being updated; a draft version was available at audit.

- 3.21 The requirements of the procedure in terms of qualitative monitoring have not been consistently followed since 2011; however there has been a recent effort by the Interim Food & Safety Co-ordinator to ensure some qualitative internal monitoring resumes. This has resulted in the Interim Food & Safety Co-ordinator being better informed about the delivery of the service and to take action as appropriate. Quantitative monitoring has been completed and is evidenced primarily within Team Meeting minutes.
- 3.22 Officers are discussing enforcement issues and are communicating with each other to ensure some informal monitoring is taking place between themselves and the Interim Food & Safety Co-ordinator.

Recommended Point for Action: Monitoring

The Authority has an internal monitoring procedure in place which is not being fully implemented.

The Procedural notes were not always current and many require a review.

Article 8 of Regulation (EC) 882/2004 (Official Feed and Food Controls)
Section 39 of the Food Law Code of Practice (Scotland) 2015.

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 generally available electronically having been scanned and stored on the database. From the records checked these generally appear to follow the requirements of the Food Law Code of Practice, however in the case of the letters sent, a timescale for achieving compliance is not always provided to the FBO. It was noted however that the majority of interventions result in a report (with timescales) being left with the FBO.

Recommended Point for Action: reports

The Authority have a system for providing reports to food business operators, however the letters sent do not always indicate timescales for FBO to achieve compliance.

Article 9 of Regulation (EC) 882/2004 (Official Feed and Food Controls)
Section 28 of the Food Law Code of Practice (Scotland) 2015.

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

- 3.24 A real time un-announced verification check was carried out at a high risk 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.

- 3.25 The various matters that arose during the inspection were dealt with confidently and professionally by the Officer. The main finding was that there was a considerable quantity of food beyond its marked use by dates, this was voluntarily disposed of during the audit by the Food Business Operator.

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

- 3.26 The Authority sends samples for examination and analysis to Glasgow Scientific Services. Records for results of unsatisfactory samples reported in the previous 6 months were viewed during the audit and it was noted that the authority had actioned these sample failures.
- 3.27 A sampling policy, programme and officer procedural notes were in place.
- 3.28 It was identified from the Food Surveillance System that there had been a reported failure for pH, water activity and salt content of a chilled ready to eat Modified Atmosphere Packaging meat product sample in March 2016. This related to a sample submitted to the laboratory in December 2015. The Authority were unable to demonstrate that this had been followed up appropriately once notified by email by the laboratory. A similar cooked chicken product from the same approved establishment was sampled following the audit and similar results in terms of pH, water activity and salt content were received. This was investigated and it was identified that the sample had not “failed” as additional controls were in place.

Recommended Point for Action: Sampling

The Authority did not follow its sampling policy for the notified failure of a high risk ready to eat product.

Article 11 of Regulation (EC) 882/2004
Section 38 of the Food Law Code of Practice (Scotland)

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

- 3.29 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

- 3.30 The Authority has a Food Enforcement Policy in place supported by Procedures and guidance notes, however as previously mentioned these

would benefit from being reviewed and where necessary updated on a regular and frequent basis.

- 3.31 The set of Guidance Notes submitted and reviewed (version 4 of October 2011) are comprehensive and include a particularly clear flow chart that make the seizure and detention process simple to understand and follow. There is also reference to “Foreign Market Food” which is relevant as the LA have a Port Health function where imported foods of non-animal are inspected. However some of the references in the document have been superseded and require review and updating.
- 3.32 There were 11 establishments subject to Hygiene Improvement Notices, 4 subject to a Remedial Action Notice, 5 subject to voluntary closure and 272 establishments subject to written warnings from the 766 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 low figure for written warnings has been the subject of investigation within the Authority when submitting their latest annual return and it would appear that there is some inconsistency in coding the type of work by individual officers, which is now being suitably addressed.
- 3.34 The Authority uses Alternative Enforcement Strategies (in the form of a questionnaire) for both Food Hygiene and Food Standards. There is a procedure to follow for this which was not subject to audit at this visit.

Good practice

The Authority has documentation for seizure and detention and “Foreign Market Food” which is very clear and relevant.

Auditors: Graham Forbes
Marion McArthur
Kevin McMunn

Food Standards Scotland
Audit Branch

Action Plan for Falkirk Council: Capacity and Capability Audit, December 2016

Recommended Point for Action	Planned actions	Target date for completion	Responsible Officer(s)
<p><u>Food Service Plan</u></p> <p>The Authority did not have an approved Food Safety Service Plan in place for 2016/17 at the time of the audit</p> <p>Article 3 Regulation EC No 882/2004</p>	<p>Corrective action:</p> <p>The Authority has approved the Food Service Plan for 2016/17</p> <p>Preventative action:</p> <p>The Head of Service will ensure the Food Service Plan receives the necessary approval annually.</p>	<p>Completed</p> <p>Annually</p>	<p>Food & Safety Co-ordinator</p> <p>Manager/Head of Service</p>

Action Plan for Falkirk Council: Capacity and Capability Audit, December 2016

Recommended Point for Action	Planned actions	Target date for completion	Responsible Officer(s)
<u>Procedures</u>			
The Authority has not ensured that all authorisations were up to date.	Corrective action: The Authority has updated and re-issued all authorisations. Preventative action: Work has also continued on improvements to the current authorisation system where authorisations will be held and approved electronically. This system will ensure a simpler process for updating legislative changes	Completed 30 September 2017	Food & Safety Co-ordinator Manager/Head of Service
The Food Safety Enforcement Policy is not currently up to date	Corrective action: The Food Safety Enforcement Policy is being reviewed and updated and will be approved by the Council (after elections).	30 September 2017	Food & Safety Co-ordinator
Article 4 of Regulation (EC) No 882/2004	Preventative action: The Food Safety Enforcement Policy will be reviewed on an annual basis and reported to the Head of Service. Where required the Food Safety Enforcement Policy will be updated.	Annually	Manager/Head of Service

Action Plan for Falkirk Council: Capacity and Capability Audit, December 2016

Recommended Point for Action	Planned actions	Target date for completion	Responsible Officer(s)
<p><u>Training</u></p> <p>The Authority should access and evidence additional training and be able to demonstrate competence in terms of inspection of specialist or complex manufacturing processes.</p> <p>Article 6 of Regulation (EC) No 882/2004 Section 4 of the Food Law Code of Practice (Scotland) 2015.</p>	<p>Corrective action:</p> <p>Records of training have been updated where possible and will be maintained electronically. The Authority will continue to source appropriate training where required and ensure that records are maintained.</p>	<p>31 December 2017</p>	<p>Food & Safety Co-ordinator/Manager</p>
	<p>Preventative action:</p> <p>The Authority shall ensure that training needs and competency is assessed and recorded annually at the APDS for each officer. In addition, sufficient officers will be involved in the inspection of specialist or complex manufacturing processes to ensure that competency is maintained for the Authority.</p>	<p>Annually</p>	<p>Food & Safety Co-ordinator /Manager</p>
	<p>The Authority shall ensure that the necessary budget and time shall be allocated for relevant training.</p>	<p>Annually</p>	<p>Head of Service/Director of Development Services</p>

Action Plan for Falkirk Council: Capacity and Capability Audit, December 2016

Recommended Point for Action	Planned actions	Target date for completion	Responsible Officer(s)
<p><u>Monitoring</u></p> <p>The Authority has an internal monitoring procedure in place, which is not being fully implemented.</p> <p>The Procedural notes were not always current and many require a review.</p> <p>Article 8 of Regulation (EC) 882/2004 (Official Feed and Food Controls) Section 39 of the Food Law Code of Practice (Scotland) 2015.</p>	<p>Corrective action:</p> <p>Some internal monitoring has been taking place. The Internal Monitoring Procedure is being reviewed in line with the FSS Internal Monitoring Advice for Local Authority Food and Feed Law Enforcement Services March 2017 and will be fully implemented.</p>	30 June 2017	Food & Safety Co-ordinator
	<p>Preventative action:</p> <p>As part of Service Planning, the Authority shall ensure that staffing levels are adequate to allow time to be allocated to internal monitoring activities.</p>	Annually	Head of Service/Director of Development Services
	<p>Corrective action:</p> <p>The Procedural Notes will be reviewed and where necessary updated.</p>	30 June 2017	Food & Safety Co-ordinator
	<p>Preventative action:</p> <p>The Procedural Notes shall be reviewed annually as part of the Service Planning. The Authority</p>	Annually	Food & Safety Co-ordinator
			Head of Service/Director of Development Services

	shall ensure that staffing levels are adequate to allow time to be allocated to the review of policies, procedures and Officer Procedural Notes.	Annually	
Recommended Point for Action	Planned actions	Target date for completion	Responsible Officer(s)
<p><u>Report</u></p> <p>The Authority have a system for providing reports to food business operators, however the letters sent do not always indicate timescales for FBO to achieve compliance.</p> <p>Article 9 of Regulation (EC) 882/2004 (Official Feed and Food Controls) Section 28 of the Food Law Code of Practice (Scotland) 2015.</p>	<p>Corrective action:</p> <p>The standard letter has been amended to ensure that timescales are indicated for each contravention on the typed Inspection Reports.</p> <p>Preventative action:</p> <p>All Officers have been reminded of the requirements for Reports in terms of the Code of Practice.</p> <p>The Internal Monitoring (as detailed above) will assist with ensuring that the timescales are routinely added to all Inspection Reports.</p>	<p>Completed</p> <p>Completed</p> <p>Ongoing</p>	<p>Food & Safety Co-ordinator</p> <p>Food & Safety Co-ordinator</p> <p>Manager/Food & Safety Co-ordinator</p>

Recommended Point for Action	Planned actions	Target date for completion	Responsible Officer(s)
<p><u>Sampling</u></p> <p>The Authority did not follow their sampling policy for the notified failure of a high risk ready to eat product.</p> <p>Article 11 of Regulation (EC) 882/2004 Section 38 of the Food Law Code of Practice (Scotland)</p>	<p>Corrective action:</p> <p>The notified failure was investigated and it was identified that the sample had not “failed” as additional controls were in place in terms of the MAP high risk ready to eat product.</p> <p>Preventative action:</p> <p>Sample results are now copied to another Officer (currently the main Sampling Officer) as well as being sent to the generic Lab Results mailbox. In addition, an electronic record is maintained for all samples, which is updated when results are received. This allows the Authority to see at a glance the samples, which have not yet been reported.</p> <p>Access to the Lab Portal has also been arranged for all officers to ensure they can track their individual samples.</p>	<p>Completed</p> <p>Completed</p>	<p>Food & Safety Co-ordinator</p> <p>Food & Safety Co-ordinator</p>

Updated Action Plan in response to the Falkirk Council Food Law Enforcement Services Capacity and Capability Audit Report 05- 07 December 2016 prepared by Food Standards Scotland

Recommended Point for Action	Planned actions	Target date for completion	Updated Action
<p><u>Food Service Plan</u></p> <p>The Authority did not have an approved Food Safety Service Plan in place for 2016/17 at the time of the audit</p> <p>Article 3 Regulation EC No 882/2004</p>	<p>Corrective action:</p> <p>The Authority has approved the Food Service Plan for 2016/17</p> <p>Preventative action:</p> <p>The Head of Service will ensure the Food Service Plan receives the necessary approval annually.</p>	<p>Completed</p> <p>Annually</p>	<p>No further action required.</p> <p>An approved Service Plan is in place for 2017/18.</p>

Recommended Point for Action	Planned actions	Target date for completion	Updated Action
<p><u>Training</u></p> <p>The Authority should access and evidence additional training and be able to demonstrate competence in terms of inspection of specialist or complex manufacturing processes.</p> <p>Article 6 of Regulation (EC) No 882/2004 Section 4 of the Food Law Code of Practice (Scotland) 2015.</p>	<p>Corrective action:</p> <p>Records of training have been updated where possible and will be maintained electronically. The Authority will continue to source appropriate training where required and ensure that records are maintained.</p> <p>Preventative action:</p> <p>The Authority shall ensure that training needs and competency is assessed and recorded annually at the APDS for each officer. In addition, sufficient officers will be involved in the inspection of specialist or complex manufacturing processes to ensure that competency is maintained for the Authority.</p> <p>The Authority shall ensure that the necessary budget and time shall be allocated for relevant training.</p>	<p>31 December 2017</p> <p>Annually</p> <p>Annually</p>	<p>Training is on-going with officers attending relevant courses/events.</p> <p>APDS (Achievement & Personal Development Scheme) will be revised and updated for all officers by end October 2017.</p> <p>The budget and time allocated for training within 2017/18 has been maintained from 2016/17.</p>

Annex 1**Definition of Assurance Categories****Assurance**

Substantial Assurance <i>Controls are robust and well managed</i>	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.
Reasonable Assurance Controls are adequate but require improvement	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.
Limited Assurance Controls are developing but weak	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.
Insufficient Assurance Controls are not acceptable and have notable weaknesses	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.