

Audit of Operational Delivery

Statement of Resource (Business Agreements)

April – June 2021

Final Report issued October 2021



Foreword

Audits of Food Standards Scotland's Operational Delivery team are part of the arrangements to improve consumer protection and confidence in relation to food and feed.

The audit scope was detailed in the audit brief and plan issued to Operational Delivery on 26 April 2021. The aim of the audit is to maintain and improve consumer protection and confidence by ensuring that Operational Delivery are providing an effective food law enforcement service.

Food Standards Scotland audits assess conformance against retained 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 FSS Manual for Official Controls. The provisions for conducting audits are provided for in Article 6 of retained Regulation (EU) 2017/625.

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:

- 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 points for action, Operational Delivery 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 Food Standards Scotland's (FSS) Operational Delivery branch, with regard to their delivery of the planned arrangements for establishing the Statements of Resource, or Business Agreements (BAs), for all premises/establishments approved by FSS. The overarching criteria which detail the standards that the assessment has been made against, are contained within relevant sections of retained [Regulation \(EU\) No 2017/625](#) and [The Meat \(Official Controls Charges\) \(Scotland\) Regulations 2009 \(legislation.gov.uk\)](#)
- 1.2 The guidance relating to the current planned arrangements and referred to throughout is contained in the following documents as published on the FSS Website: [Business Agreement Guidance](#) and [Guidance Charges for Official Controls](#)
- 1.3 This was a virtual audit, conducted entirely under Covid-19 conditions and restrictions, and as such, there were no physical meetings and only remote review of documentation was possible. This presented a substantial challenge, particularly to the auditors, with everything requiring to be done electronically.
- 1.4 Evidence production was reliant on auditee co-operation and auditor requests. A regular audit would have allowed auditors to select records and documents and make requests based on what was physically observed with the resulting added dynamics involved.
- 1.5 The limitations of this type of audit are many, and as a result, it should be viewed as a restricted process that will require review and further refinement to ensure that all parties involved can understand and benefit from the outcomes in the report. It is essential that where possible, any follow up to this report be physically delivered.
- 1.6 The audit focused on the arrangements for meeting certain operational criteria, particularly guidance, procedures, records, monitoring interventions and transparency about their delivery.

Reason for the Audit

- 1.7 As detailed in the Foreword, Article 6 of retained Regulation (EU) 2017/625 requires Competent Authorities 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 Branch. This audit forms part of that audit programme.

Scope of the Audit

- 1.9 With the current, and future, constraints in place as a result of Covid-19 restrictions, it was agreed that the audit scope would cover:
- An assessment of local plans and procedures in compliance with relevant legislation
 - The verification of application of, and adherence to, documented plans and procedures
 - Assisting in the identification and dissemination of good practice
 - The provision of information to aid future FSS policy and operational development
- 1.10 There was no on-site element of the audit and it was fully conducted remotely.

2.0 Executive Summary

Procedures and arrangements.

- 2.1 The available guidance documents supplied by FSS are current and fully implement legislation but would benefit from updating to provide some clarification on a number of matters. All involved were aware of content and purpose but involvement in annual review should be recorded.
- 2.2 Three Operational Managers (OM) are responsible for the application of these arrangements are working, to ensure that ongoing compliance is being achieved. All OMs demonstrated a full understanding of background and process. As evidenced, the resulting delivery plan is effective and efficient.
- 2.3 The success of the current arrangements is very dependent on the detailed knowledge and experience of the three OMs. There is a need to ensure resilience and a consideration as to future involvement and training for others.
- 2.4 The templates used to construct the Business Agreements do not contain the context and detail used to construct the agreement. Consideration as to a review should be made to include this data as it would verify and validate each Business Agreement and ensure a more transparent approach.
- 2.5 Not all Business Agreements indicated signature or positive assent by the Food Business Operator (FBO) as required by the guidance. The absence of positive assent from an FBO has the potential to be a factor in a later challenge but there is no evidence of this being the case since Business Agreements were introduced in 2015.
- 2.6 Business Agreements are not in place for all plants e.g. the low throughput island plants. The need for these should be reviewed as they could provide a better level

of operational assurance for both FSS and the FBO. If this is not practical then the procedure should be amended accordingly to reflect these circumstances.

- 2.7 There was evidence of a good level of communication between FSS and the FBO with regards to Business Agreements, but not all meetings with FBOs, in which certain key decisions/agreements are made, are documented. Again, this could mean a challenge at a later date, and might pose difficulty.
- 2.8 Other than the guidance intended for the FBO, there are no documented processes or operational instructions for the OMs to follow. Verification and validation checks plus regular liaison with finance teams act as mitigation, but this could still potentially lead to inconsistencies and standards variation.
- 2.9 The current time sheet and the Operational Workflow System (OWS) are not easily used to produce accurate invoicing for businesses. Managers are required on a weekly and monthly basis to reconcile staff working patterns and overtime in order to produce accurate data for Finance. We would consider that the possibility of streamlining this process in future IT solutions is important.
- 2.10 Business Agreement letters sent to FBOs indicate where they may find the FSS produced Business Agreement guidance, but it might be better linking directly to the documents. We would also recommend that hyperlinks be provided on the Business Agreement templates themselves.

Level of Assurance

- 2.11 As detailed in the FSS’s Official Feed and Food Controls Delivery Audit Charter, the audit has been assigned as below:
- 2.12 The Recommendations within this report detail the weaknesses in the controls that Operational Delivery should address.

<p>Reasonable Assurance</p> <p>Controls are adequate but require improvement</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>
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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.

Retained Regulation (EU) No 2017/625

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

Article	Audit Findings
5.1	<p>The available guidance documents supplied by FSS were found to be current and fully implement legislation. All involved were aware of content and purpose but Operational Management involvement in annual review should be recorded formally. A degree of update is required to ensure full compliance with legislative requirements is maintained.</p> <p>It was noted that these are primarily intended as guidance for FBOs.</p> <p>The documents were confirmed as available to all on the FSS website.</p> <p>All interviewees demonstrated a comprehensive knowledge of, and an involvement in, what was clearly a primary component of their role. As evidenced by the historic lack of challenge, and the delivery model, the current arrangements are effective.</p> <p>Monthly management and finance meetings take place to ensure quality, consistency and impartiality are maintained. However, a lack of documented process could still lead to variation.</p> <p>These meetings are underpinned by management checks using OWS to ensure accuracy and performance reporting. The current time sheet and OWS are not easily used to produce accurate invoicing for business. Specifically, managers are required, on a weekly and monthly basis, to reconcile staff working patterns and overtime in order to produce accurate data for Finance. We would consider that the possibility of streamlining this process in future IT solutions is important.</p> <p>A number of inconsistencies were evident with regards to BA content (e.g. operational detail such as line speed, plant layout, seasonality and other information relevant in assessing resource requirement) and the approach to evidencing FBO agreement (the guidance requires signature but this was not always present). Although there is clearly evidence of good, and frequent, communications with FBOs, not all meetings to discuss BA arrangements are recorded. We would consider that this could pose a risk should challenge occur.</p>

	<p>Verbal and documentary evidence was provided to demonstrate that BAs are being updated as required, and to the timescales set by the guidance when action is necessary.</p> <p>There was however, no evidence made available to indicate a written and consistent operational instruction to underpin the above process or the process whereby BAs were drafted and agreed.</p> <p>The success of the current arrangements is very dependent on the detailed knowledge and experience of the three OMs. There is a need to ensure resilience and a consideration as to future involvement and training for others.</p>
5.4	The OMs delivering these controls were all involved in the initial development and approach to this function, but it was noted that no formal training package is available to assist the development of resilience and evidence the performance of the OMs.

Recommendations	
	1. Formal record or sign off by Operational Management when formal guidance is updated or reviewed.
	2. The production of written Operational Instructions and process to ensure consistency and alignment with current guidance. This to include the process for producing and maintaining a BA, and also an agreed protocol for management checking and verification of delivery.
	3. Ensure a written record is made of all meetings and agreements/variations.
	4. Review and consider position with regards to resilience of the OM role.
	5. To demonstrate the appropriate training and approach to any required additional training as necessary for officers involved in BA production and delivery of arrangements.
	6. To ensure that the possibility of streamlining the process (data entry, verification and validation) is considered in future IT solutions.

3.3 Article 9. General rules on official controls

Article	Audit Findings
9	As evidenced verbally, all appropriate risks and information are taken into account when drafting BAs and at review meetings. However, this is not recorded consistently on the current BA

	template, or in any other BA specific format (e.g. meeting record) and we would consider that this could pose a delivery risk in itself.
Recommendation	
7. To review the operational content of the BA template with a recommendation that any premises' specific risks and variations are recorded as a means of improving resilience and better informing management, and staff.	

3.4 Article 15. Obligations of operators

Article	Audit Findings
15	As evidenced, all obligations in this regard, are being met. The OMs appear to have a good working relationship with all FBOs.

3.5 Article 140 – Reporting of Infringements – no findings reported

Article	Audit Findings
140	As evidenced, all obligations, in this regard, are being met.

3.6 Chapter VI - Financing of official controls and of other official activities

Article	Audit Findings
78 General rules	As evidenced, all considerations are being met. As the charging methodology and calculation are not within Operational control, consideration from an audit perspective is not considered as being within the scope of this audit.
79 Mandatory fees or charges	
80 Other fees or charges	
82 Calculation of fees or charges	The OMs are very familiar with the underpinning charging and discounting methodology.
	Of note, however, is the fact that BAs are not in place for all plants e.g. the low throughput island plants which operate seasonally using OVs from local veterinary practices.
85 Transparency	Guidance documents are available on FSS website. Versions confirmed as up to date. BA letters sent to FBOs indicate where they may find the FSS produced BA guidance, but do not link directly to the documents.
Recommendations	

8. A review of the current FBO guidance and instructions should be made to consider whether a BA is always necessary or appropriate, and include the process for agreeing the arrangements to cover remote area premises or low throughput plants with locum OV cover.

The Meat (Official Controls Charges) (Scotland) Regulations 2009

3.7 Regulation 5. Information

Regulation	Audit Findings
5	As evidenced, all required information is being provided by the FBO.

3.8 Schedule 2 - Calculation of the Official Controls Charge

Schedule 2	Audit Findings
3. Declaration by Operators	As evidenced, all required information is being provided by the FBO.
4. Agreements between the Agency and operators concerning the performance of official controls other than audit	The evidence provided indicates that all requirements are being met. As covered previously, this is demonstrated by continuous successful operational delivery. Review and variation was demonstrated as taking place, but there were inconsistencies of process and recording which it was considered might pose issues if challenged.
5. As 4 above, in the case of failure to agree.	<p>There is a review and appeal procedure which is provided in the BA guidance. All three OMs confirmed that there had been no formal reviews or appeals. However, when asked what to do, they pointed to the section in the guidance. FBOs are made aware of the location of the guidance annually, but this is not as a direct link.</p> <p>Although there have been a small number of service failures (e.g. late start by an OV as a result of traffic etc, resulting in a delayed start by the FBO) no action had been taken by the FBOs.</p> <p>With regard to the independent person nominated to deal with an appeal, it was indicated that this person would be a senior manager from Food Standards Agency (FSA), but there would appear to be no formal list. The legislation requires a list of nominated persons to be kept.</p>

	To date, there have been no appeals.
Time costs	Outwith the scope of this audit.

Recommendations

9. Any formal communication to FBOs should contain a direct hyperlink to the current guidance.
10. A list of nominated persons to be produced who would determine the outcome of any appeals.

4.0 Annex A – Action Plan

Action Plan for Operational Delivery’s Statement of Resource Audit (Business Agreements) - April – June 2021

Recommended Point for Action	Planned actions	Target date for completion	Responsible Officer(s)
<p>1. Formal recording or sign off by Operational Management when formal guidance is updated or reviewed. <u>Priority - Low</u></p>	<p>Action Finance to include in the governance when the annual review of the Charging guide is completed.</p>	<p>March 2022</p>	<p>Finance Manager</p>
<p>2. The production of written Operational Instructions and process to ensure consistency and to align with current Guidance. This should include the process for producing and maintaining a BA, and an agreed protocol for management checking and verification of delivery <u>Priority - High</u></p>	<p>OMs to produce desk instructions.</p>	<p>December 2021</p>	<p>Operations Manager</p>
<p>3. Ensure a written record is made of all meetings and agreements/variations</p>	<p>Standard letter listing key changes discussed whether agreed or disagreed, to be introduced.</p>	<p>October 2021</p>	<p>Head of Field Operations</p>

(to be included in action for 2.) <u>Priority - High</u>			
4. Review and consider the position with regards to resilience of the Operational Manager Role <u>Priority - High</u>	Adequate resilience is in place in the current structure with 5 practitioners in place. Head of Operational Delivery to provide list of staff who will provide resilience.	August 2021	Head of Operational Delivery
5. To demonstrate the appropriate training and approach to any required additional training as necessary for Officers involved in BA production and delivery of arrangements <u>Priority - Medium</u>	To be included in desk instructions.	December 2021	Operations Manager
6. To ensure that the possibility of streamlining the process (data entry, verification and validation) is considered in future IT solutions <u>Priority - Medium</u>	Already in OWS replacement plan - RM to contact the IT Projects Manager to request specification document for future IT solution.	August 2021	Operations Manager
7. To review the operational content of the BA template with a recommendation that premises specific risks and variations are recorded as a	Business Agreement template will be modified.	April 2022	Operations Manager

means of improving resilience and better informing management, and staff <u>Priority - Medium</u>			
8. A review of the current FBO guidance and instructions should be made to consider and include the process for agreeing the arrangements to cover remote area premises with locum OV cover <u>Priority - Medium</u>	To be completed at next review in 2022.	March 2022	Operations Manager
9. Any formal communication to FBOs should contain a direct hyperlink to the current guidance <u>Priority – Low</u>	Action transferred to a Finance Manager to include hyperlink in any future correspondence with Food Business Operators.	March 2022	Finance Manager
10. A list of nominated persons to be produced who would determine the outcome of any appeals <u>Priority - Medium</u>	Head of Delivery will provide list of nominated persons to deal with the appeals process.	December 2021	Head of Operational Delivery
All actions were completed following the receipt of evidence from the Operational Delivery Division – April 2022			

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.

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Food Standards Scotland
Audit Assurance Branch

Abbreviations

BA	Business Agreement
EU	European Union
FBO	Food Business Operator
FSA	Food Standards Agency
FSS	Food Standards Scotland
OM	Operations Manager
OWS	Operational Workflow System
OV	Official Veterinarian