

**Independent Scrutiny of the Local Authority  
Audit Process of Audits performed by Food  
Standards Scotland in accordance with the Food  
(Scotland) Act 2015, The Official Feed and  
Food Controls (Scotland) Regulations 2009 and  
Article 4(6) of Regulation (EC) No 882/20004.**

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## 1.0 Background

1.1 Audits performed by Food Standards Scotland (FSS) in accordance with the Food (Scotland) Act 2015, The Official Feed and Food Controls (Scotland) Regulations 2009 and Article 4(6) of Regulation (EC) No 882/2004, are expected to follow the guidelines for the conduct of audit as detailed in Commission Decision 2006/677/EC<sup>1</sup> (hereafter referred to as “the guidelines”).

1.2 Paragraph 5.3 States for Independence:

*“Audit bodies should be free from any commercial, financial, hierarchical, political or other pressures that might affect their judgment or the outcome of the audit process. The audit system, audit body and auditors should be independent of the activity being audited and free from bias and conflicts of interest. Auditors should not audit areas or activities for which they have direct responsibility.*

*All relevant competent authorities should introduce safeguards to ensure that responsibility and accountability for audit and control activities, such as the management and supervision of official control systems, are kept sufficiently distinct.”*

1.3 Paragraph 5.4 states that for Independent Scrutiny of the Audit process: *“In order to check whether it is achieving its objectives, the audit process should be subject to scrutiny by an independent person or body. Such independent person or body should have sufficient authority, expertise and resources to carry out this task effectively. The approaches to independent scrutiny may vary, depending on the activity or the competent authority. Where a body or a committee has been established with a view to independent scrutiny of the audit process, one or more independent persons should be members of such body or committee. Such independent persons should have access to the audit*

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<sup>1</sup> <https://publications.europa.eu/en/publication-detail/-/publication/e4a93d97-92a1-4227-986f-5da09f18ade3/language-en>

*process and be empowered to contribute fully to it. Action should be taken to remedy any shortcomings identified in the audit process by the independent person or body."*

1.4 In September 2018 I was commissioned by the Chief Executive of FSS to undertake an independent scrutiny of the audit process for audit of Local Authorities (LAs) in accordance with the process for this established by FSS.<sup>2</sup> In order to conduct the scrutiny full access was provided to all relevant documentation associated with the LA audit process.

1.5 This report provides:

- An opinion on effectiveness of the audit process.
- An opinion on independence of the audit body/auditors.
- Identification of best practices and areas for improvement.

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<sup>2</sup> <https://www.foodstandards.gov.scot/business-and-industry/safety-and-regulation/audit-and-monitoring>

## 2.0 Executive Summary

### **Effectiveness of the audit process.**

Based on the Audit Charter and following the guidance from the National Audit Systems Network the audit process is supported by a set of comprehensive documented audit procedures to ensure consistency between auditors and to demonstrate that a systematic approach is being followed.

The system enables each of the 32 LAs in Scotland to be audited at least once within a 5-year period and that the audit universe is covered. The introduction of Assurance Categories for each audit has clearly communicated the overall outcome at Chief Executive level.

There is a proper mixture of verified compliance (positive findings) and areas for improvement (negative findings) and the recommendations in the reports examined were based on sound conclusions and were specified in such a manner to address the end-result to be delivered rather than the means of correcting the non-compliance.

### **Independence of the audit body/auditors.**

Within FSS the Audit Branch is positioned within the Operations Directorate and the Head of Audit reports to the Chief Operating Officer, in addition the Branch has a direct line of sight to the Chief Executive with audit findings and summary reports being presented to the Senior Management Team.

As required by the “Independence and Independent Scrutiny” document from the National Audit Systems Network there are appropriate arrangements in place to ensure that FSS is free from any commercial, financial, hierarchical, political or other pressures that might affect the judgement or the outcome of the audit process. The published “Auditor Competency Document” reflects the required general, behavioural and technical skills needed by auditors.

### **Identification of best practices**

A significant recent development within the overall FSS process for audit of LAs is the publication of Root Cause Analysis Advice (July 2018) developed following a workshop organised by FSS in partnership with SFELC. This again refers to the

National Audit Systems Network guidance on this subject on introducing, developing and using RCA.

This supplements earlier guidance on Internal Monitoring Advice (March 2017) which was produced following the Food Enforcement partnership Event in January 2017.

The Audit reports require the identification of compliance and non-compliance against the audit standard, this is clearly either detailed or highlighted within the report as Good practice or as a Recommendations for corrective and preventative action against the specific articles of Regulation (EC) No 882/2004.

### **Areas for improvement**

There are aspects of the audit process which should be considered for improvement, namely:

- Audit programmes currently and historically are based on a risk-assessment of the LAs, this should be altered to be focussed on the official controls themselves.
- Summary reports for a number of programmes have been prepared and submitted to FSS SMT and whilst there is evidence that the reports have been considered it was not always clear what steps had been taken to address policy issues that had been identified through the audit process.
- There is evidence that FSS provides regular updates to all competent authorities on planned audit programmes and the systemic findings when programmes are completed but there is limited evidence of the competent authorities having been consulted on the planning of programmes. It is therefore recommended that consideration should be given to consulting with LAs when planning audit programmes.
- the process for finalising audit reports should be reviewed to ensure more timely agreement of action plans, the approach to follow-up checks to ensure that action plans are closed-out in a timely manner and then the subsequent updated publication of audit reports with finalised action plans.

### **3.0 The Independent Scrutiny Process**

3.1 The process covered the whole audit process, including programming, planning and executing audits, reporting (including approval of reports), corrective action and follow-up. It also covered the different threats to independence and mechanisms to manage them.

3.2 The objectives of the process were to provide:

- An objective evaluation of the effectiveness and independence of the audit process and audit body.
- A critical evaluation of documentary evidence with a specific focus on objectivity of the audit body.
- Feed-back for continuous improvement.
- Confidence that the audit process is meeting the objectives of Article 4(6) of Regulation (EC) No 882/2004.

### **4.0 Systematic Approach**

4.1 In general a systematic approach has been established for the planning, conduct, follow-up and management of audits. The Food Standards Scotland Audit Charter (the Charter), which was introduced in January 2018, provides a comprehensive framework for the organisation and implementation of the audit function and details the audit process and types of audit that will be conducted. Assessment of documentation examined indicated that in practice audit processes are being conducted in accordance with the Charter.

4.2 There is a transparent process in place for the planning of audits, however, historically audit programmes conducted have been based on a risk-assessment of the LAs as opposed to on the official controls themselves. This has been recognised by FSS as an area for improvement and steps are being taken to ensure that in future risk-based priorities are identified in line with the responsibilities of LAs under Regulation (EC) No 882/2004. To facilitate this

approach the audit universe for the audit of LAs has been defined and examination of this indicated that all of the official controls that FSS has central policy responsibility for and that are carried out by LAs have been identified within the audit universe.

- 4.3 An audit programme was developed for 2016-2019. The planning of the substantive elements of the programme, which included audits of LA capacity and capability audits and audits of the effectiveness of planned arrangements, were informed by an intelligence gathering exercise. A strategic analysis of all 32 LAs was undertaken and the intelligence gathered was used to inform audit planning and on-site visits. The programme ensures that each of the 32 LAs in Scotland is audited at least once within a 5-year period and the audit universe is covered, in accordance with the guidelines.
- 4.4 The audit process is supported by a set of comprehensive documented audit procedures to ensure consistency between auditors and to demonstrate that a systematic approach is being followed. The procedures cover:
- preparing for audits
  - generating audit findings
  - implementing audits
  - reporting on audits and;
  - preparation, approval and distribution of audit reports

Review of the documentation and records associated with the 2016-2019 audit programme indicated that all aspects of the audits completed were conducted in accordance with the documented procedures.

- 4.5 The procedures for generating audit findings require the identification of compliance and non-compliance against the audit standard, which in relation to food official controls is Regulation (EC) No 882/2004. Recommendations for corrective and preventative action are raised against the specific articles of this Regulation, supported by any other applicable regulations, The Food Law Code of Practice (Scotland) and guidance issued centrally by FSS.

- 4.6 Procedures are in place to review audit conclusions, in order to identify system-wide strengths and weaknesses in the control system, disseminate best practice and ensure the monitoring of corrective and preventative actions. These procedures require that on the conclusion of each audit programme a summary report and an indication of the assurance category is provided to the FSS Senior Management Team (SMT). Summary reports for a number of programmes have been prepared and submitted to the SMT and whilst there is evidence that the reports have been considered it was not always clear what steps had been taken to address policy issues that had been identified through the audit process.
- 4.7 There was evidence that the audit process was being monitored and reviewed to ensure that the audit programmes' objectives were being met and opportunities for improvement identified and implemented.

## 5.0 Transparency

- 5.1 The documented procedures for the audit process include a clearly defined audit planning process, audit criteria and audit report approval and distribution mechanisms and management and implementation of the audit process is transparent to all relevant stakeholders. The guidelines detail a number of examples of practices for audit bodies to consider to improve the transparency of the audit process and all bar one of these have been adopted. The following documents have been published on the FSS website:

- The Charter
- documented audit body procedures
- audit programmes
- final audit reports
- summaries of final audit reports
- auditee's action plans
- follow-up results



- 5.2 The guidelines suggest that consultation on the planning of audit programmes should be undertaken across competent authorities within Member States, in this case across the 32 LAs in Scotland. Whilst there is evidence that FSS provides regular updates to all competent authorities on planned audit programmes and systemic findings when programmes are completed, through the Scottish Food Enforcement Committee (SFELC) and LA liaison groups, there is limited evidence of the competent authorities having been consulted on the planning of programmes. It is therefore recommended that consideration should be given to consulting with LAs when planning audit programmes.
- 5.3 The guidelines state that when deciding on measures for transparency the need for it should be balanced against the risk of undermining the audit system's ability to achieve its objectives and in order to optimise the benefits it should be combined by balanced reporting. Examination of a number of audit reports indicated that there is a proper mixture of verified compliance (positive findings) and areas for improvement (negative findings).

## **6.0 Independence**

- 6.1 There are appropriate arrangements in place to ensure that FSS is free from any commercial, financial, hierarchical, political or other pressures that might affect the judgement or the outcome of the audit process.
- 6.2 FSS has clear powers to undertake the audit of LAs in Scotland by virtue of the provisions in sections 3 and 25 the Food (Scotland) Act 2015. Similar functions are also contained within regulation 7 of The Official Feed and Food Controls (Scotland) Regulations 2009. The audit function is undertaken by FSS Audit Branch where FSS has central policy responsibility and official controls are designated to LAs, who are competent authorities in their own right as detailed in Schedule 5 of the Official Feed and Food Control (Scotland) Regulations 2009. Given that FSS is a completely separate body from the LA and is not involved in managing or supervising the control systems being audited, the audit body is independent of the official control systems being audited.

- 6.3 Within FSS the Audit Branch is positioned within the Operations Directorate and the Head of Audit Branch reports to the Chief Operating Officer. Responsibility for policy on enforcement delivery by LAs is also positioned within the Operations Directorate and therefore also reports to the Director of Operations. This organisational structure has the potential to give rise to a hierarchical pressure that could compromise the independence of the audit process, however, this is addressed through the Head of Audit Branch having a direct line of sight to the Chief Executive and reporting audit findings and summary reports to the SMT.
- 6.4 Where appropriate and required to ensure the effectiveness of a given audit programme, FSS Audit Branch will supplement the competency available in audit teams through the use of technical experts drawn from within other teams in FSS. Where technical experts are deployed their role is to assist in the delivery of the audit and to give relevant specialist advice, however, the audit process at all times remains under the control of FSS Audit Branch to ensure that independence is maintained. Technical experts are not drawn from LAs.
- 6.5 Examination of audit reports indicated that where the audit team makes recommendations for corrective and preventative action it is for the LA to choose the method to be applied for such action i.e. the method is not prescribed by the audit team, which is in accordance with the guidelines. Follow-up action by FSS Audit Branch is limited to assessing the suitability of the action plan and the effectiveness of its implementation by the LA. Whilst LAs are given the opportunity to comment on draft audit reports they are not in a position to impede the audit programme, findings or conclusions.

## **7.0 Independent Scrutiny of the Audit Process**

- 7.1 In 2018, FSS reviewed its approach for the independent scrutiny of the LA audit process in Scotland. This resulted in the introduction in September 2018 of a revised process that requires the scrutiny to be undertaken by a person independent to both FSS and the LAs being audited, namely The Food

Standards Agency's Head of Regulatory Compliance. By virtue of the nature of this role the holder of this position has extensive knowledge of both the LA landscape, expert knowledge of the official controls delivered by them and a full understanding of the requirements of Article 4(6) of Regulation (EC) No 882/2004. The revised process requires the production of an annual scrutiny report that will be presented to the FSS Audit and Risk Committee and published on the FSS website. This approach satisfies the criteria for independent scrutiny set out in the guidelines.

## **8.0 Implementation of the Audit Process**

8.1 In order to comply with the requirements of Article 4(6) of Regulation (EC) No 882/2004 the audit system should cover the following points set out in Article 2(6):

- Verification of compliance with planned arrangements in order to provide assurances that official controls are carried out as intended and that any instructions given to staff carrying out the controls are followed;
- Verification of the effective implementation of planned arrangements to include on-site operational implementation to assess effectiveness and on-site audit activities to assess the quality and consistency of the controls; and
- Assessment to determine whether the planned arrangements are suitable to achieve the objectives of Regulation (EC) No 882/2004 and in particular the single integrated multi-annual national control plan<sup>3</sup>.

8.2 For each audit programme to be conducted the FSS Audit Branch develops a detailed brief that specifies the scope, objectives and process to be followed and these are published on the FSS website. Individual checklists and protocols are also developed for each specific programme to ensure that audits cover all relevant points and facilitate consistency and effective conduct of audits within the programme. These checklists are comprehensive in nature and detail the

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<sup>3</sup> <https://www.foodstandards.gov.scot/publications-and-research/publications/multi-annual-national-control-plan>

relevant obligations of LAs under Regulation (EC) No 882/2004. They are cross-referenced to other applicable EC Regulations and associated guidance, the Food Law Code of Practice (Scotland) and relevant national legislation.

- 8.3 The audit process involves an evaluation of documentation and evidence relevant to the requirements of the legislation specified in the audit criteria for the programme. Audits are conducted through on-site verification at the LAs offices and on-the-spot verification of activities at the Food Business Operator's establishments.
- 8.4 The audit brief for the LA Capacity and Capability Audit Programme, conducted between October 2016 and March 2019, was reviewed as part of this scrutiny process and the aims and scope of the audit and the audit criteria were found to be clearly and comprehensively described. The overall process for conduct of the audit, including follow-up action, was also clearly described in the brief.

## **9.0 Audit Reporting**

- 9.1 A selection of audit reports from the LA Capacity and Capability Audit Programme, published on the FSS website, were reviewed as part of this scrutiny process. These reports were found to contain clear conclusions stemming from the audit findings and were based on objective evidence gathered during the audit process, with the sources of the evidence clearly referenced.
- 9.2 In addition to detailing conclusions across the scope of the audit a level of assurance of the overall arrangements examined was assigned. The format for specifying the level of assurance was that specified in Scottish Government auditing practices thus ensuring a consistent classification across government audit activities in Scotland.
- 9.3 The recommendations in the reports examined were based on sound conclusions and were specified in such a manner to address the end-result to be delivered rather than the means of correcting the non-compliance.

## 10.0 Follow-up of Audit Outcome

- 10.1 All audit reports contain action plans drawn up by the LA audited and these detail time-bound corrective and preventative action to address weaknesses identified by the audit. The process for agreeing draft audit reports includes an assessment of the suitability of the action plan by the audit team that conducted the audit. The action plans include a risk-based prioritisation and separate timeframes for completion of corrective and preventative actions together with details of the person responsible within the LA for completing each action.
- 10.2 The guidelines state that corrective and preventative action should not be confined to addressing specific technical requirements but should, where appropriate, include system-wide measures. A significant recent development within the overall FSS process for audit of LAs is the identification of areas that would benefit from the use of Root Cause Analysis (RCA), as encouraged by the guidelines. In order to assist LAs to undertake RCA the FSS Audit Branch has produced summary guidance on introducing, developing and using RCA. The guidance document, which was developed following a workshop organised by FSS in partnership with SFELC, refers to the good practice document on RCA published by the National Audit Systems Network.
- 10.3 In order to manage the close-out process for action plans the FSS Audit Branch maintains an audit tracker for all open audits. The audit tracker details the date of each step in the audit process from notification that an LA has been selected for inclusion in an audit programme through to the date of close out. Examination of the tracker for audits conducted in the 2016-2019 audit programme indicated that in the majority of cases the timelines for completion of each stage of the process were adhered to up to the point of issue of the draft report being issued to the LA audited. However, in the case of 8 out of 14 audits the time taken to issue a final report was in the region of 3 months or longer and in one case the time taken was in excess of 5 months. The tracker also provides details of follow-up action taken to verify compliance with action plans and it was also noted that LAs can be slow to complete action plans in a

timely manner and fail to do so in accordance with agreed target dates for completion. It is therefore recommended that (i) the process for finalising audit reports is reviewed to ensure more timely agreement of action plans and subsequent publication of audit reports and (ii) the approach to follow-up checks is reviewed to ensure that action plans are closed-out in a timely manner.

- 10.4 The procedures for managing audit reports require that reports are updated when action plans have been fully implemented and that updated plans are published on the FSS website. Examination of published reports for the 2016-2019 audit programme indicated that this part of the audit process had not been consistently implemented and it is recommended that this issue is addressed.

## **11.0 Audit Review and Dissemination of Best Practice**

- 11.1 The guidelines encourage the implications of audit findings for other sectors and regions to be considered, particularly in Member States where controls are delegated to a number of competent authorities, or are decentralised, as is the case in the United Kingdom. FSS Audit Branch has put in place appropriate arrangements for liaison with the Official Controls Audit Team within the FSA's Internal Audit Unit and the equivalent teams in the FSA's offices in Wales and Northern Ireland, which have responsibility for audit of official controls in those countries. Whilst these arrangements had lapsed during 2018 there is evidence that participation by FSS is again taking place. The Branch also participates in the wider UK Official Feed and Food Controls Auditors Group that has representation from across all government departments that are conducting audits under Article 4(6) of Regulation (EC) No 882/2004.

- 11.2 There is evidence that the FSS Audit Branch is taking appropriate steps to disseminate best practice in accordance with the guidelines and this is underpinned by a statutory obligation to do so under the provisions of The Food (Scotland) Act 2015. In addition to the guidance developed for RCA, FSS, through collaborative working with SFELC, has developed and published Internal Monitoring Advice by Local Authority Food and Feed Law Enforcement

Services<sup>4</sup>. This advice provides helpful guidance on areas of service delivery that have been demonstrated through audit programmes as being critical to effective service management and achieving compliance by food business operators. It is structured in clear and easy to follow manner, identifying the issues, the common problems identified through audit and providing practical useful tips to address them.

## 12.0 Resources

12.1 FSS has sufficient implementing powers (as described in paragraph 6.2) and adequate resources are being made available to establish, implement and maintain an effective audit system to ensure that all LAs are audited over a period not exceeding 5 years. There is evidence that as and when additional resource has been required to deliver a particular audit programme this has been made available to support the permanent complement of staff within the FSS Audit Branch. Where focused audit programmes have been carried out audit teams have included technical specialists to ensure that the necessary expertise was available to fulfil the purpose and scope of the programme (see paragraph 6.4).

## 13.0 Auditor Competence

13.1 In 2018 FSS introduced new arrangements for auditor competency<sup>5</sup> to ensure that all auditors engaged in the delivery of audits have the necessary skills to audit competently. These arrangements are principle based focusing on general skills, behaviours and technical skills, consistent with the criteria in the guidelines and are applied in the selection of auditors and management of auditor competence. They are being applied in practice, however, the assessment and development of competencies of individual auditors is not documented and it is recommended that steps are taken to address this.

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<sup>4</sup> [https://www.foodstandards.gov.scot/downloads/FSSINF10010-\\_Internal\\_Monitoring\\_Guidance.pdf](https://www.foodstandards.gov.scot/downloads/FSSINF10010-_Internal_Monitoring_Guidance.pdf)  
[https://www.foodstandards.gov.scot/downloads/FSS\\_Auditor\\_Competency\\_Document\\_February\\_2018.pdf](https://www.foodstandards.gov.scot/downloads/FSS_Auditor_Competency_Document_February_2018.pdf)

13.2 There are also appropriate arrangements in place to ensure that auditor competency is maintained and consistency is achieved across auditors.