
Report to Audit & Scrutiny Committee

Date of Meeting: 20 April 2023

Subject: Food Standards Scotland Audit of Environmental Health

Report by: Strategic Director (Place)

1.0 Purpose

- 1.1. Present an overview of the audit of the Council's food law regulation service carried out by Food Standards Scotland in September 2022 and published on 16 January 2023

2.0 Recommendations

- 2.1. That the Committee note, comment on and challenge the performance of the Council's food law regulation service.

3.0 Considerations

3.1. ***Background to Audit***

- 3.1.1. The Council, as the food law enforcing authority in Clackmannanshire, has a statutory duty to provide a food law regulation service that meets the requirements of retained Regulation (EU) 2017/625, the Food Law Code of Practice (Scotland) 2019 and the Food Law Interventions Code of Practice (Scotland) 2019.
- 3.1.2. Food must be manufactured, prepared, distributed and handled by food businesses in accordance with relevant food safety laws. This ensures that food businesses do not pose a risk to public health. Where food businesses contravene food law in Clackmannanshire the Council must take appropriate regulatory action to remedy the situation in accordance with the Council's Food Law Enforcement Policy.
- 3.1.3. Food Standards Scotland has a statutory duty under the Food (Scotland) Act 2015 to monitor the performance of, and to promote best practice by, food law enforcing authorities when enforcing food legislation. They fulfil this duty by carrying out audits of the food law enforcing authorities to ensure they meet the criteria laid out in retained Regulation (EU) 2017/625.

3.1.4. The audit is carried out at regular intervals, the previous one for Clackmannanshire being in April 2015. This audit was performed over two days during September 2022 and examined the Council's arrangements for official controls relating to food law and the Codes of Practice.

3.2. **Audit Process**

3.2.1. The audit process focusses on examining evidence to verify the Council complies with the planned arrangements for food law enforcement and whether the planned arrangements are being applied effectively. Checks are carried out to verify and validate that the Codes of Practice are being implemented correctly by the Council.

3.2.2. Analysis of documented evidence held by the Council and verification interviews with staff are undertaken. On-site "reality checks" are carried out, visiting businesses that have been inspected to ensure that policies, procedures and codes of practice have been correctly followed during the inspection process.

3.2.3. End of audit meetings are held to clarify the audit findings and allow for feedback to be given. Potential confusion or disagreement is resolved at this point and a summary of audit findings is provided.

3.2.4. A report is made to the Council making recommendations and providing an assessment of the Codes of Practice implementation. A final report is agreed and published on the Food Standards Scotland website. This was published on 16th January 2023 for Clackmannanshire Council.

3.3. **Audit Findings**

3.3.1. A "Level of Assurance" rating is given at the end of the audit. This can be:

- Substantial Assurance (Green)
- Reasonable Assurance (Yellow)
- Limited Assurance (Amber)
- Insufficient Assurance (Red)

3.3.2. Clackmannanshire has been assessed as "Yellow – Reasonable Level of Assurance". To provide some context to this, recent audit findings for other local authorities are:

- 2021 Stirling – Red – Insufficient Assurance
- 2021 East Renfrewshire – Yellow – Reasonable Assurance
- 2022 Scottish Borders – Red Insufficient Assurance
- 2022 Perth & Kinross – Yellow – Reasonable Assurance
- 2018 Fife – Amber – Limited Assurance
- 2018 Falkirk – Amber – Limited Assurance

3.3.3. The primary driver for Clackmannanshire’s “Yellow” rating is a 1.2 FTE resource deficit of Environmental Health Officers identified through the resource calculation process for food law enforcement. As will be seen at “Annex A – Action Plan, Point 1” of the Audit Report, the Environmental Health service disagrees that the deficit is a matter for the Council to address. The service contends that a recent change in the rating of food businesses, introduced by Food Standards Scotland, has increased our inspection liability. It is, therefore, a matter for central government to fund the deficit or revise the new rating system so as to be resource neutral. This has been fed back to Food Standards Scotland and is under consideration. Other local authorities are of the same view as this service, although that is anecdotal. Food Standards Scotland is now reviewing the new rating scheme to ensure that it is “resource neutral” as originally intended.

3.3.4. The remaining four items required to be addressed within the Action Plan at Annex A of the Audit Report were of a minor nature and immediately rectified.

4.0 Sustainability Implications

4.1. NIL

5.0 Resource Implications

5.1. *Financial Details*

5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes

5.3. Finance have been consulted and have agreed the financial implications as set out in the report. Yes

5.4. *Staffing*

6.0 Exempt Reports

6.1. Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box)

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all

Our families; children and young people will have the best possible start in life

Women and girls will be confident and aspirational, and achieve

their full potential

Our communities will be resilient and empowered so
that they can thrive and flourish

(2) **Council Policies** (Please detail)

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?
Yes No

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Appendix 1: Food Standards Scotland, Clackmannanshire Council – Audit of Local Authority implementation of Interventions Food Law Code of Practice (Scotland), Food Law Enforcement Services, September 2022 Final and Closed Audit Report issued December 2022

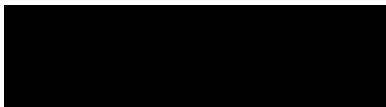
11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)
Yes (please list the documents below) No

Author(s)

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Approved by

NAME	DESIGNATION	SIGNATURE
Pete Leonard	Strategic Director (Place)	

Clackmannanshire Council – Audit of Local Authority implementation of Interventions Food Law Code of Practice (Scotland)

Food Law Enforcement Services

September 2022

Final and Closed Audit Report issued December 2022



Foreword

Audits of Local Authorities food law enforcement services are part of Food Standards Scotland's 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.

The audit scope is detailed in the audit brief and plan issued to all Local Authorities under reference [FSS/ENF/22/011](#) on 22 July 2022. 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 verify and validate the implementation by Local Authorities of the following planned arrangement: the Interventions – Food Law Code of Practice (Scotland) 2019 (hereafter referred to as the Interventions Code 2019).

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;

- Verify that Local Authorities have implemented the Interventions Code 2019 and fully transferred all applicable food establishments to a food law risk rating.
- Verify Local Authorities' application and adherence to the Interventions Code 2019.
- Identify and disseminate good practice applied by Local Authorities.
- Identify information, evidence and potential recommendations to aid future Food Standards Scotland's policy and operational development.

Food Standards Scotland audits assess Local Authorities' conformance against retained [Regulation \(EU\) 2017/625](#) and the [Food Law Code of Practice \(Scotland\) 2019](#) and the [Interventions Food Law Code of Practice \(Scotland\) 2019](#)

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

Following the audit, it is expected that for any recommended points for action the Local Authority will prepare and implement an action plan, which will incorporate a

root cause analysis of any non-compliance.

Root cause analysis is a technique that senior management should use to identify the root causes of non-conformities identified at the audit have been effectively addressed. An important aspect is that there is a need to ensure that the non-conformity does not recur. This should be achieved by the accurate identification of the cause(s) of the non – conformity (i.e. the root cause) and the introduction of effective preventative action.

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1.0 Introduction

- 1.1 The primary objective of this audit was to verify and validate the implementation by Local Authorities of the following planned arrangement: the Interventions – Food Law Code of Practice (Scotland) 2019 (hereafter referred to as the Interventions Code 2019).
- 1.2 The Interventions Code 2019 was issued under Section 40 of the Food Safety Act 1990 (“the Act”), Regulation 24 of the Food Hygiene (Scotland) Regulations 2006 and Regulation 6 of the Official Feed and Food Controls (Scotland) Regulations 2009, which empowers Scottish Ministers to issue Codes of Practice concerning the execution and enforcement of Food Law by Food Authorities.
- 1.3 The Interventions Code 2019 sets out instructions, processes and criteria to which Food Authorities are required to have regard to when they carry out Official Controls relating to all Registered Food Businesses. The Interventions Code 2019 does not apply to establishments at the level of Primary Production or Approval.
- 1.4 Implementation of the Interventions Code 2019 represents Phase 2 of a wider project by Food Standards Scotland to review and overhaul the Food Law Code of Practice (Scotland) 2019.
- 1.5 The Interventions Code 2019 introduced the Food Law Rating System (FLRS). The FLRS combines the rating systems for Food Hygiene and Food Standards into one Food Law Intervention scheme based upon a new Food Business Performance Model that targets resources on high to medium risk and non-compliant businesses. The initial agreed implementation date was 1st July 2019 with ratings to be assigned as Inspection Programmes progressed. Further detail is provided within [FSS-ENF-19-007](#).
- 1.6 During the Covid-19 epidemic Inspection Programmes were halted but as part of the Covid-19: Local Authority Recovery project, four deadlines were set by which Local Authorities should have undertaken specific tasks. Two of these deadlines related specifically to implementation of the Code with a target completion date of 1st July 2021:
 - Desktop Transfer (of Registered Businesses to FLRS).
 - Creation of an Intervention Programme (as required by the Interventions Code).
- 1.7 The audit aim will primarily be to cover the following points:

- Verification that official controls are being carried out in compliance with planned arrangements.
- Verification that planned arrangements are applied effectively.

1.8 The final report will be 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

1.9 The provisions for exercising the audit function are provided for in Article 3 of the Food (Scotland) Act 2015. Under that Article, the general functions of Food Standards Scotland include a requirement to monitor the performance of, and promote best practice by, enforcement authorities in enforcing food legislation. Similar powers are also contained within Regulation 7 of the Official Feed and Food Controls (Scotland) Regulations 2007.

1.10 Retained Regulation (EU) 2017/625 on official controls performed to ensure the verification of compliance with feed or food law also includes a requirement for competent authorities to carry out internal audits or to have external audits carried out.

1.11 To fulfil this requirement Food Standards Scotland, has established external audit arrangements in respect of competent authorities. These arrangements are intended to ensure competent authorities are providing an effective and consistent service for the delivery of official controls and are meeting the general criteria laid out in retained Regulation (EU) 2017/625.

1.12 The previous Audit of Clackmannanshire Council's Food Service was undertaken by Food Standards Scotland in April 2015.

Scope of the Audit

1.13 It is intended that the audit scope will cover:

- Verification that Local Authorities have implemented the Interventions Code 2019.
- The verification of application and adherence to, the Interventions Code 2019.
- An assist in the identification and dissemination of good practice with regards to the Interventions Code 2019.
- The provision of information, evidence and potential recommendations to aid future FSS policy and operational development.

- 1.14 The audit examined Clackmannanshire Council's arrangements for official controls in relation to Retained Regulation (EU) 2017/625, the Interventions Food Law Code of Practice (Scotland) 2019 and the Food Law Code of Practice (Scotland) 2019 on the verification of compliance with feed and food law.
- 1.15 The audit took place on-site over the course of two days.

2.0 Executive Summary

Registration of food business establishments

- 2.1 A documented procedure exists, which documents the process including action on receipt of a completed registration form, allocation of business group and allocation for inspection.
- 2.2 An up to date list of registered food establishments within the Local Authority area is available upon request and the Authority can easily run this list along with other Management Information System (MIS) reports to ensure that up to date information is provided.

Interventions

- 2.3 The Authority provided a current (Sep 21 – Mar 23) Service Delivery Plan which was approved by The Strategic Director of Place on 30/08/22.
- 2.4 In terms of resourcing, the current allocated resource is 3.7 Full Time Equivalent (FTE). The estimated resource required to recover the inspection programme post Covid and implement the new Food Law Rating Scheme, which has resulted in an additional demand on resources, is 5.8 FTE. Clackmannanshire Council consider that this level of resourcing is not achievable so a phased approach to the recovery of the inspection programme has reduced this demand to 4.9 FTE. This will be the required resource to deliver the new FLRS.

Food Law Rating System

- 2.5 All food establishments (*with the exception of Approved establishments and primary producers*) are now receiving a full food law intervention as per the Interventions Code 2019. The desktop transfer was completed as part of the Local Authority Recovery Programme. Priorities 1 & 2 of the Recovery Programme have been achieved and the Authority is currently working on Priorities 3 & 4.
- 2.6 Verification visits carried out as part of the audit were conducted professionally and in accordance with the Food Law Code of practice. Officers followed a logical sequence to the visits with opening meetings, assessment of risks and closing meetings. Good questioning was noted throughout and officers had good

engagement with food business operators. Food standards matters were identified and there were appropriate assessments made on allergen management and pre packed for direct sale requirements.

Action Following an Intervention: Minimum Standards of report writing and record keeping

- 2.7 Every intervention carried out by officers results in a written non carbonised report (NCR) highlighting the scope of the inspection, the main issues identified during the inspection, the Food Hygiene Information Scheme (FHIS) status awarded and the officer's contact details in the event that the business has any questions or requires clarification.
- 2.8 It was found during the intervention documentation review that specific timescales for corrective actions were not being provided in written warnings to businesses. Prioritisation needs to be given to businesses as to which contraventions need to be addressed immediately, for example cross contamination, or within a dedicated timescale for contraventions that can be addressed over a longer timescale.
- 2.9 The inspection form and written report form need to be updated to include references to Food Law. Similarly, written warning letter headings should contain references to all applicable food hygiene and food standards legislation. It is also considered good practice to include an e-mail contact address for officers, should businesses wish to make contact, send evidence that work has been completed, etc. by electronic means.
- 2.10 Revisits were carried out for six of ten food law inspections reviewed. The Authority's policy around revisits was documented in the Service Plan, where it is estimated that officers will be required to undertake at least 170 revisits per annum.

Internal Monitoring

- 2.11 To ensure that officers are scoring consistently, in the areas mentioned above such as priority timescales and revisits are carried out, we recommend that quality checks and internal monitoring checks are further reinstated to ensure consistency across the service and to ensure that any issues are identified and corrected where required.
- 2.12 As part of the Authority's internal monitoring procedure, formal team meetings should take place as required and on a more regular frequency than at present.

Level of Assurance

- 2.13 As detailed in the Audit Charter Document of March 2020 (reference FSS/ENF/18/001) the audit has been assigned as below:

Reasonable Assurance	
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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.
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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.

3.2 Section 2. Registration of Food Business Establishments

Sub Section	Audit Findings
2.1.2	A documented procedure exists, which documents the process including action on receipt of a completed registration form, allocation of business group and allocation for inspection. It covers actions to be taken with regard to businesses that are outwith the Council's area, missing information, third party applications and any changes to activities following registration requiring the MIS to be updated accordingly.
2.1.4	<p>An online Food Business Registration service is available on the Local Authority's website. This highlights the legal requirement of registration and provides the department's contact details if further information or assistance with the process is required by Food Business Operators. The registration form used by the Authority is boxed to enable applicants to print letters and numbers more legibly, which the Authority considers to have been beneficial.</p> <p>The Food Business registration form provided did not contain a General Data Protection Regulation (GDPR) Privacy Notice as outlined in the Code of Practice Annex 8 Model Application Form for the Registration of a Food Business Establishment (P216-217) An amended Food Business registration form containing a link to Clackmannanshire Council's GDPR Privacy Notice was prepared and provided during the audit.</p>
2.2.1	An up to date list of registered food establishments within the Local Authority area is available upon request and the authority can easily run this list along with other Management Information System (MIS) reports to ensure that up to date information is provided.

2.3	The Authority operates on a paper free basis, so registration forms are no longer stamped but are scanned and given a specific code. The date of scanning to the Idox Document Management System (DMS) equates to the date of receipt. As a safeguard, hard copies are retained for twelve months before being destroyed. The Administration Team enters the food registration details into Uniform and sends an acknowledgement letter as confirmation of receipt with an Awaiting Inspection certificate for FHIS, if required.								
2.3	Applications for Registration received from third parties such as Just Eat are not entered into the Food Business Establishment register. Such applications are treated as intelligence and the area Officer is asked to engage with the potential new Food Business Operator to secure a fully completed food registration for the business if required.								
2.3	On receipt of a completed application form, the Authority schedules an inspection of the establishment prioritised in terms of risk, the LA Recovery Plan, available resources and local intelligence as per the targets set out in the table below: <table border="1" data-bbox="400 916 1249 1149"> <thead> <tr> <th>FLRS Group</th> <th>Timescale for Initial Inspection</th> </tr> </thead> <tbody> <tr> <td>Group 1</td> <td>1 month</td> </tr> <tr> <td>Group 2</td> <td>2 months</td> </tr> <tr> <td>Group 3</td> <td>3 months</td> </tr> </tbody> </table>	FLRS Group	Timescale for Initial Inspection	Group 1	1 month	Group 2	2 months	Group 3	3 months
FLRS Group	Timescale for Initial Inspection								
Group 1	1 month								
Group 2	2 months								
Group 3	3 months								
2.4	Any changes to details previously supplied e.g. a change of operator, a change to the activities carried out in relation to food, the closure of an establishment, etc. results in the MIS being updated accordingly. Evidence was provided that the total number of registered food establishments stated in the service plan (589) had reduced to 568 on the Uniform system by 12/9/22 due to businesses closing.								

Recommendation

There were no recommendations for this section.

3.3 Section 3. Interventions

Sub section	Audit Findings – Service Planning, Interventions Programme.
3.1.5	The Authority provided a current (Sep 21 – Mar 23) Service Delivery Plan which was approved by The Strategic Director of Place on 30/08/22.

3.1.5	<p>In terms of resourcing, the current allocated resource is 3.7 FTE but the estimated resource required for full implementation of FLRS is 5.8 FTE.</p> <p>The Authority intends to implement a phased approach to its inspection programmes over four years, to help accommodate pressures, such as the backlog of new businesses, an observed decline in standards in poorly compliant businesses and businesses that have changed their business model as a result of difficult trading conditions. This approach is consistent with Food Standards Scotland recovery guidance and will ensure that resources are focussed on the businesses that present the greatest risk.</p> <p>The phased approach to the recovery of the inspection program reduced the demand to 4.9 – 5.1 FTE staff until 2023. It is this level of resource 1.2 FTE deficit that will be required to deliver the new rating system in full once the initial recovery pressures have been addressed. (See Recommendation 1)</p>
3.1.6	<p>As per the Interventions Code 2019, the Authority’s Service Plan contains details as to how new Food Business Establishments are included in the Authority’s planned Intervention Programme.</p>
3.1.6	<p>A detailed intervention programme outlining the food business establishment profile and the number of interventions programmed for the current year was provided. The Service Plan included an estimation of the number of revisits that will be made.</p>
3.3	<p>Inspections are carried out without prior warning and this requirement is documented in the Authority’s Food Law Inspection Procedure. If there are problems gaining access, then consideration may be given to making arrangements to visit.</p>
3.3	<p>Inspections of food businesses based at domestic premises shall be prearranged with a minimum of 24 hours’ notice unless there is intelligence that there could be a significant health risk.</p>
3.3	<p>Inspection of the Prison is by prior arrangement due to security implications and the personal safety of the Authorised Officer. Contact is to be made with the Catering Manager for access.</p>
3.3	<p>The Authority has documented its out of hours’ requirements in its service plan. The normal working hours are 9 am – 5 pm Monday – Friday. Officers work flexible hours between 8 am and 6 pm. Interventions out-of-hours are provided when necessary by arrangement with officers although there is no formal system for out-of-hours cover.</p>
3.7	<p>The Authority’s approach to Intervention dates, as detailed in the Food Law Inspection Procedure is that all inspections, except Band E businesses, are to be completed no later than 28 days after the scheduled date. Where this may not be possible, officers are to ensure</p>

	that the Team Leader is given details of the premises and the reason it cannot be inspected in time at least seven days before the final possible date of inspection. This allows alternative arrangements to be made.
3.8	<p>Two unannounced verification checks were carried out during the audit. The first was a revisit to a pub/bistro. The officer had carried out a programmed inspection earlier in the month and a number of food law contraventions were followed up with. The officer demonstrated a good knowledge of the legislative requirements and specifically issues relating to allergens.</p> <p>The second verification check was to a retailer that had been inspected the previous month. This visit was chosen due to its previous food law compliance history and also as there were food standards issues noted on the last programmed inspection, specifically regarding pre-packed for direct sale (PPDS). The officer conducted the visit appropriately and professionally, addressing all previous food law matters and dealing with new issues arising during the visit.</p>

Recommendation

1. Consider addressing the current resource deficit of 1.2 FTE officers, identified via the original resource calculation, required to deliver the new FLRS implementation in full.

3.4 Section 4. Food Law Rating System

Sub Section	Audit Findings
3.5	All food establishments (<i>with the exception of Approved establishments and primary producers</i>) are now receiving a full food law intervention as per the Interventions Code 2019. The desktop transfer was completed as part of the Local Authority Recovery Programme. Priorities 1 & 2 of the Recovery Programme have been achieved and the Authority is currently working in Priorities 3 & 4.
3.7.1	<p>10 food business establishments were selected for review during the audit. The last intervention for each of the 10 premises was assessed by means of its accompanying documentation and computer record. For all 10 establishments, the last inspection form, letter and risk rating was assessed for compliance against the standard of the Interventions Code of Practice 2019.</p> <p>All 7 compliance categories as outlined in the Interventions Code compliance matrix were found to be assessed and a food law risk rating allocated correctly.</p> <p>It was however noted during the review, that the inspection form includes the risk rating matrix and scores given after the intervention. For</p>

	purposes of quality management, it is considered good practice that the risk rating is included on the inspection form. This clearly illustrates how the score is being derived from the evidence on the inspection form.
3.7.1	As detailed in the Food Law Inspection Procedure, should an officer establish during a planned inspection that a business is to be scored five for one or more of the compliance categories, and therefore becomes a Band E, the officer can focus on the categories of serious non-compliance and only risk rate against the categories covered. The remaining categories are to be assessed at the next routine inspection.
3.7.2	The backlog identified in the Service Plan of 70 new businesses requiring to be inspected has been reduced to two and the target date for completion of these is estimated to be 31/12/22. The number of new unrated businesses being filtered into the programme based on capacity is currently sitting at 10, with estimated completion by 31/03/23.
3.7.3	The Food Law Inspection Procedure states that if an Officer considers that a business should be rated as a Band 3A, they are to liaise with the Senior EHO for Food regarding the suitability of this rating. The Primary Inspection Form shall be annotated with the outcome of the discussion.

Recommendation

There were no recommendations for this section.

3.5 Section 5. Action Following an Intervention: Minimum Standards of report writing and record keeping

Sub Section	Audit Findings
6.1	Every intervention carried out by officers results in a written non carbonised report (NCR) highlighting the scope of the inspection, the main issues identified during the inspection, the FHIS status awarded and the officer's contact details in the event that the business has any questions or requires clarification.
	The inspection form and written report form need to be updated to include references to Food Law. Similarly, written warning letter headings should contain references to all applicable food hygiene and food standards legislation. It is also considered good practice to include an e-mail contact address for officers, should businesses wish to make contact, send evidence that work has been completed, etc. by electronic means. It was considered beneficial that the FLRS scoring matrix had been incorporated within the inspection form. (See Recommendation 2)
6.1	It was found during the intervention documentation review that specific timescales for corrective actions were not being provided in written

	warnings to businesses. Prioritisation needs to be given to businesses as to which contraventions need to be addressed immediately, for example cross contamination, or within a dedicated timescale for contraventions that can be addressed over a longer timescale. (See Recommendation 3)
	Revisits were carried out for six of ten food law inspections reviewed. The authority's policy around revisits was documented in the Service Plan, where it is estimated that officers will be required to undertake at least 170 revisits per annum.
	Of the inspection forms reviewed, there was evidence to show that officers are checking issues such as allergen compliance, prepacked for direct sale, general labelling and traceability. Detailed notes were recorded along with the scope of the inspection, and observations were made of both compliance and non-compliance with food law. The Auditors considered that the Authority's inspection form could be enhanced to include a requirement to review two high risk allergen meals / new menu items for compliance against food standard allergen information.

Recommendation

2. The inspection form and written report form require to be updated to include references to food law legislation. Similarly, written warning letter headings should contain references to all applicable food hygiene and food standards legislation. It is also considered good practice to include an e-mail contact address for officers.

3. Specific timescales for corrective actions require to be provided in written warnings to businesses.

3.6 Section 6. Internal Monitoring

Section	Audit Findings
39 Food Law Code of Practice	The Authority's service plan states that there is a system for monitoring the quality of Food Hygiene inspections by the Senior EHO for Food, including accompanied inspections. Some evidence was provided that this is being carried out since food law interventions restarted. To ensure that officers are scoring consistently, areas mentioned above such as priority timescales and revisits are carried out, we recommend that quality checks and internal monitoring checks are further reinstated to ensure consistency across the service and to ensure that any issues are identified and corrected where required. Some issues were identified in that officers were not, in every case, detailing the scope of the inspection in letters or ticking partial inspection as opposed to full inspection in the written reports. (See Recommendation 4) .

	As part of the Authority’s internal monitoring procedure, formal team meetings should take place as required and on a more regular frequency than at present. Minutes of four food meetings were provided covering a period between November 2019 and April 2021. Formal food team meetings had lapsed in 2022, partly as a result of recovery from the Covid pandemic, logistical issues with booking rooms, staff absence and competing work demands, such as housing checks for the relocation of Ukrainian families and require to be resurrected either via Teams or face to face. (See Recommendation 5)
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Recommendation	
4.	Quality checks and internal monitoring checks require to be reinstated to ensure consistency across the service and to ensure that any issues are identified and corrected where required.
5.	As part of the Authority’s internal monitoring procedure, formal team meetings should take place as required and on a more regular frequency than at present.

3.7 Section 7. Items to take back to Food Standards Scotland

1.	FSS to review food law delivery to mitigate the increased demand FLRS places on existing resources. It is the Authority’s position that demand is not sustainable without a commitment to funding by central government or adjustments to the new rating system.
2.	The recovery is made more complex by the transition to the new food law rating system. This new system has changed the inspection profile of the businesses due to the different priorities built into the scheme, resulting in many businesses requiring inspection on a more frequent basis. Large or complex businesses are to be inspected more frequently due to their inherent risk. The introduction of intense interventions is effective at securing improvement at poorly performing businesses. However, this involves significant officer time. A significant number of lower risk premises are being risk rated at higher inspection frequencies due to the increased priority placed on food standards. Also, the option to extend the inspection frequency to two years for highly compliant businesses has changed. A business will need to demonstrate over a period of three inspections that they have sustained a high level of compliance before they can be placed on this lower inspection frequency which will take at least five years. All these factors contribute towards a heavier inspection program moving forward.
3.	The Authority believes that the principles around FLRS are sound, but is clear that FLRS requires additional resources due to the higher number of visits required. They disagree with the statistician's report that was

	<p>produced at the end of the pilot that said it would be resource neutral. That is not what has been found in practice.</p> <p>If asked, their suggested change to ladder inspection frequencies would be to lengthen the inspection frequency for Group 2 B and 2 A to 24 and 36 months respectively. That would ensure resources are focussed on the higher risk establishments and give Local Authorities more space to complete the inspection program.</p>
4.	<p>The recovery of the food law inspection program will be a significant undertaking for the team and shall take four years before the full plan will have sufficiently recovered. It is important that Officers are supported throughout this transition so that they deliver a competent service. The changing landscape of the food industry will have an impact on the inspection programme. Many businesses have started trading online for the first time, some have introduced higher risk processes and there has been an increase of home based caterers.</p>
5.	<p>The Interventions Food Law Code of Practice (Scotland) does not apply to Approved Establishments. This type of businesses will be addressed in a future Code of Practice which will include the introduction of the Official Control and Verification (OCV) manual. Food Standards Scotland has provided direction for a phased approach to this new style of intervention. At this time, Authorities are required to undertake desktop assessments of documented food safety management systems at these establishments and then followed up with an assessment onsite of practices. Officers will require support with this change in working practices.</p>
6.	<p>From the 1 October 2021, new legislation on improving allergen information on pre-packed foods for direct sale was introduced. This legislation is often referred to as Natasha's Law as it was introduced following the tragic death by anaphylactic reaction of Natasha Ednan-Laperouse. Many of the small to medium businesses based in Clackmannanshire will require support with this change in law and the team shall dedicate time to assist them.</p>
7.	<p>FHIS – the Authority considers that central guidance should be provided on this. In the absence of central guidance, they have devised their own procedure, which has been shared with FSS for comment.</p>
8.	<p>3A establishments – the LA do not feel that it is appropriate to send a letter notifying the business of this rating. If a letter is sent advising them there is minimal inherent risk and no future inspections are planned, the business might complain if the Authority goes back to check or investigate a complaint. Clackmannanshire shall engage with these businesses remotely every 5 years, as a check, because things can change/diversify over time and if required, we will inspect. For example, halls that</p>

	registered previously have been found to be operating as food banks and community cafes.
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4.0 Annex A – Action Plan

Action Plan for Clackmannanshire Council: Audit of Local Authority Implementation of Interventions Food Law Code of Practice (Scotland)

Clackmannanshire Council Recommended Point for Action	Planned Actions	Target Date for Completion	Responsible Officer(s)
<p>1. Consider addressing the current resource deficit of 1.2 FTE officers, identified via the original resource calculation, required to deliver the new FLRS implementation in full.</p>	<p>A new Food Law Rating Scheme was introduced by FSS in 2019. Clackmannanshire was part of the pilot for this scheme which was assured would be resource neutral. Practical application is showing this is not the case and that the new inspection frequencies are producing a greater demand on resources. Also, the calculation to determine resource need has not yet been finalised by FSS so the calculation itself remains dubious. It remains, however, that the new inspection frequencies are the most likely cause of the increased resource requirement. In support of this argument, our resources were adequate prior to the new FLRS, and it is only since its introduction this deficit has been identified. Whereas we welcome the new scheme and believe it is the correct approach to food law enforcement, it requires the inspection frequencies to be revised by FSS to produce a resource neutral</p>	<p>Clackmannanshire Council have considered this recommendation and have decided that no action is necessary for them at the present time.</p>	<p>Andrew Crawford</p>

Clackmannanshire Council Recommended Point for Action	Planned Actions	Target Date for Completion	Responsible Officer(s)
	position. Alternatively, central government must fund the extra resource required to achieve full delivery of the new scheme in its existing form. We do not accept that this is a failing of the service and it is not for this authority to address the deficit.		
2. The inspection form and written report form require to be updated to include references to Food Law legislation. Similarly, written warning letter headings should contain references to all applicable food hygiene and food standards legislation. It is also considered good practice to include an e-mail contact address for officers.	This has been rectified. Officers have been trained and instructed on ensuring that all relevant food law is referenced in written reports and letters. Email contacts for officers have been included. This will be reinforced at the next team meeting and also through internal monitoring.	Completed	Andrew Crawford/Helen Henderson
3. Specific timescales for corrective actions require to be provided in written warnings to businesses.	This has been rectified. Officers have been trained and instructed on ensuring that all corrective action timescales are included on written warnings. This will be reinforced at the next team meeting and also through internal monitoring.	Completed	Andrew Crawford/Helen Henderson
4. Quality checks and internal monitoring checks require to be reinstated to ensure	This has been rectified. Quality checks have been reinstated and the internal monitoring procedure reviewed and implemented.	Completed	Andrew Crawford/Helen Henderson

Clackmannanshire Council Recommended Point for Action	Planned Actions	Target Date for Completion	Responsible Officer(s)
consistency across the service and to ensure that any issues are identified and corrected where required.	Internal monitoring was only suspended during the Covid pandemic when routine work was diverted to deal with the pandemic. Records of all internal monitoring will be kept in accordance with the procedure.		
5. As part of the Authority's internal monitoring procedure, formal team meetings should take place as required and on a more regular frequency than at present.	This has been rectified. Quality checkTeam Meetings have been reinstated and a minimum of one meeting every other month has been programmed for the next 12 months. Ad-hoc meetings outwith this programme will be held as required. All meetings will have agendas and minutes recorded and saved for future reference. Team meetings were only suspended during the Covid pandemic when routine work was diverted to deal with the pandemic.	Completed	Andrew Crawford/Helen Henderson
Satisfactory evidence was received from Clackmannanshire Council on the 2nd December 2022 to allow for the closure of Recommendations 2-5			

5.0 Acknowledgements

The Audit Assurance Team would like to acknowledge the help and co-operation of all staff involved for their assistance while conducting this audit.

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Food Standards Scotland
Audit Assurance Branch

14th December 2022

Abbreviations

DMS	Document Management System
EHM	Environmental Health Manager
EHO	Environmental Health Officer
EU	European Union
FHIS	Food Hygiene Information Scheme
FLCoP	Food Law Code of Practice
FLRS	Food Law Rating System
FSO	Food Safety Officer
FSS	Food Standards Scotland
FTE	Full Time Equivalent
GDPR	General Data Protection Regulation
LA	Local Authority
LFO	Lead Food Officer
MIS	Management Information System
NCR	Non Carbonised Report
OCV	Official Control Verification
PI	Programmed Intervention
PPDS	Prepacked for Direct Sale
SEHO	Senior Environmental Health Officer
SND	Scottish National Database