

Item: 11

Development and Infrastructure Committee: 7 February 2023.

Food Standards Scotland – Audit of Food Law Enforcement Service.

Report by Corporate Director for Neighbourhood Services and Infrastructure.

1. Purpose of Report

To scrutinise the audit findings by Food Standards Scotland of the Council's Food Law Enforcement Service.

2. Recommendations

The Committee is invited to note:

2.1.

That the Council is a food law authority and has duties and powers, as a regulator, in relation to the enforcement of food law.

2.2.

That Food Standards Scotland is responsible for the audit of local authorities to monitor performance and promote best practice amongst local authorities in connection with food law enforcement.

2.3.

That, in September 2022, the Council was notified that it had been selected for an audit to verify and validate its implementation of the Food Law Code of Practice (Scotland) 2019.

2.4.

The Food Standards Scotland audit report in respect of the Council's food law enforcement service, attached as Appendix 1 to this report, which assigned limited assurance.

2.5.

That officers in the Environmental Health Service have developed an Action Plan in response to the recommendations arising from the audit of the Council's food law enforcement service, which has been submitted to, and agreed by, Food Standards Scotland.

The Committee is invited to scrutinise:

2.6.

The Food Standards Scotland audit report in respect of the Council's food law enforcement service, attached as Appendix 1 to this report, in order to obtain assurance that action is being taken in respect of the recommendations arising from the audit.

3. Background

3.1.

Orkney Islands Council is a Food Law Authority and has duties and powers as a regulator in relation to the enforcement of food law. Food Standards Scotland is responsible for the audit of local authorities to monitor performance and promote best practice amongst local authorities in connection with food law enforcement.

3.2.

In September 2022, the Council was notified that it had been selected for an audit in relation to the implementation of the Interventions Food Law Code of Practice (Scotland) 2019 which would also include the work in connection with the Food Law Recovery Programme following the COVID-19 pandemic.

3.3.

A request for pre-audit documentation was received and complied with, and the audit team arrived in early October 2022. The audit team examined records and documentation, interviewed key officers and accompanied an officer during an official control inspection.

4. Audit Findings

4.1.

A copy of the audit report was received in December 2022 and is attached as Appendix 1 to this report. It includes the full terms of reference for the audit, detailed findings, and an Action Plan developed by officers in the Environmental Health Service, to address the audit recommendations.

4.2.

The audit report made nine recommendations (pages 16 to 20) summarised as follows:

- Review the registration of food premises procedure.
- Complete a revised resource calculation to ascertain how many staff are needed to implement the food law functions of the Council.
- Review the risk ratings for all food establishments to ensure they have been appropriately allocated.
- Create a revised intervention programme (activities to monitor, support and increase food law compliance).

- Create an approved establishments (establishments that handle, prepare or produce products of animal origin) intervention programme.
- Ensure documentation and correspondence with food business operators are kept in one secure place.
- Ensure post inspection records are completed in a timely way.
- Ensure establishments receive an intervention in line with the required frequencies.
- Re-introduce internal monitoring to ensure consistency across the service.

4.3.

As a result of the audit, the Council has been assessed as follows:

Limited assurance	There are weaknesses in the current risk, governance and/or control procedures that either do, or could affect the delivery of any related objectives. Exposure to the weaknesses identified is moderate and being mitigated.
Controls are developing but weak	

4.4.

The audit team noted that a number of matters identified in the audit had already been recognised by the Service and were attributable to legacy issues and lack of staff within the team. They noted that steps were already in place to address some of these issues and the audit team commented in the report as follows:

“It is evident from the audit that the [new environmental health] team are committed to improving the service and working with Food Standards Scotland.”

4.5.

Work has already commenced on the Action Plan, included as Annex A in Appendix 1, and one action has already been signed off as complete by Food Standards Scotland.

5. Human Resource Implications

5.1.

There are no human resource implications arising directly as a result of the recommendations of this report.

5.2.

However, as part of the Action Plan a revised resource calculation needs to be undertaken in line with Food Standards Scotland’s methodology and there is the potential that the resource calculation may indicate a need for additional staff resources to be made available to meet the Council’s statutory duties in connection

with food law enforcement work. This calculation will be undertaken once the food business database has been revised and updated.

5.3.

Following the revised resource calculation, any increase in the staffing establishment will require relevant Council governance approval and appointment to these will be in line with the Council Recruitment and Selection Policy.

6. Corporate Governance

This report relates to the Council complying with governance and scrutiny and therefore does not directly support and contribute to the improved outcomes for communities as outlined in the Council Plan and Local Outcomes Improvement Plan.

7. Financial Implications

7.1.

There are no financial implications arising directly as a result of the recommendations of this report.

7.2.

However, as part of the Action Plan a revised resource calculation needs to be undertaken and there is the potential that the resource calculation may indicate a need for additional resources to be made available to meet the Council's statutory duties in connection with food law enforcement work. Should this be the case it will be discussed with Senior Management in order to make sure risks are understood and resources balanced in a corporate way, keeping in mind the Council has a finite budget, a number of statutory duties and particular priorities it has already committed to resource.

8. Legal Aspects

8.1.

The Council has a statutory duty to secure best value. Complying with recommendations made by an external inspection agency helps the Council meet its statutory obligations to secure best value.

8.2.

The Council is a food law enforcement authority and has a number of powers and duties to enable the regulation of food law. Legislation, including section 40 of the Food Safety Act 1990 (as amended) requires the Council to have regard to the Codes of Practice issued by Food Standards Scotland and the results of audit findings when carrying out its food law regulatory work. Implementing the Action Plan will assist the Council in meeting this requirement.

9. Contact Officers

Hayley Green, Corporate Director for Neighbourhood Services and Infrastructure, extension 2301, Email hayley.green@orkney.gov.uk

Roddy MacKay, Head of Planning and Community Protection, extension 2530, Email rodny.mackay@orkney.gov.uk

Nick Long, Service Manager (Environmental Health), extension 2811, Email nick.long@orkney.gov.uk

10. Appendix

Appendix 1 - Food Standards Scotland – Orkney Islands Council – Audit of Local Authority Implementation of Interventions Food Law Code of Practice (Scotland) Final Report, December 2022.

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

Food Law Enforcement Services

September – October 2022

Final 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.

Contents

1.0	Introduction	5
2.0	Executive Summary	7
3.0	Audit Findings	8
3.2	Section 2. Registration of Food Business Establishments	8
3.3	Section 3. Interventions	9
3.4	Section 4. Food Law Rating System	13
3.5	Section 5. Action Following an Intervention: Minimum Standards of report writing and record keeping	14
3.6	Section 6. Internal Monitoring	14
3.7	Section 7. Items to take back to FSS	15
4.0	Annex A – Action Plan	16
5.0	Acknowledgements	21

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 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). 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 pandemic, 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 the 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)

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.

- 1.7 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

- 1.8 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.
- 1.9 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.
- 1.10 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.
- 1.11 The previous audit of Orkney Islands Council's Food Service was undertaken by Food Standards Scotland in June 2018. The food related audit prior to that was in January 2014.

Scope of the Audit

- 1.12 The audit scope covered:
- 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
- 1.13 The audit examined Orkney Islands 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.
- 1.14 The audit took place on-site over the course of two days.

2.0 Executive Summary

- 2.1 The Authority has a current 2022/2023 Service Plan which was approved by the Head of Planning and Community Protection and the Corporate Director for Neighbourhood Services and Infrastructure.
- 2.2 The current allocation of full-time equivalent (FTE) staff to the Food Service is 1.8. A new member of staff is starting this month which will increase the FTE to 2.8. A resource calculation which had been completed by the Authority but only provided after the audit estimates a total of 4.4 FTE is required to carry out all food law official controls.
- 2.3 The current Intervention Programme was not created in line with the Local Authority (LA) Recovery Project and did not conform with the requirements of the Intervention Code 2019.
- 2.4 Due to the turnover and lack of staff at the LA, no interventions were programmed in line with the restart date outlined in the recovery project on the 1st September 2021. A new Lead Food Officer started in September 2021, with no handover provided on the recovery project process.
- 2.5 Several food law risk rated establishments were found to be incorrectly grouped and banded.
- 2.6 25 Group 0 establishments were found on the Authority's database, however, there is no such Group outlined in the Interventions Code 2019.
- 2.7 The Authority has been unable to inspect all approved establishments within 12 months as prioritised in the LA Recovery project process guidance meaning only 7/38 approved establishments have been inspected in the last 12 months.
- 2.8 6/10 food business establishments were reviewed during the audit as not all of the 10 requested had received a recent programmed food law intervention. One

establishment file reviewed did not have an accompanying inspection form in the premises file.

2.9 Inspection letters reviewed were well and clearly documented detailing contraventions, including timescales for corrective actions and citing the legislation breached.

2.10 Verification checks were carried out professionally and in accordance with the Interventions Code 2019 and Food Law Code of Practice (Scotland) 2019.

Level of Assurance

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

Limited Assurance	
Controls are developing but weak	There are weaknesses in the current risk, governance and/or control procedures that either do, or could, affect the delivery of any related objectives. Exposure to the weaknesses identified is moderate and being mitigated.

3.0 Audit Findings

3.1 The findings reported below detail both corrective and preventive actions which are not confined to addressing specific technical requirements, but also include system-wide measures. 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

Section	Audit Findings – Food Business Registration
2.1.4	A Food Business Registration form is available to the public on the Local Authority's website. The website highlights the 28 day requirement to register before trading and provides the Environmental Health Service's contact details if further information or assistance with the process is required by the Food Business Operator (FBO).

<p>2.1.2</p> <p>2.1.4.2</p>	<p>A documented Registration of Food Business procedure (ref. FHS 007) was provided by the Authority. The procedure describes the actions and responsibilities involved in maintaining a register of Food Premises under Retained Regulation (EC) No 852/2004. The Authority operates a dual paper and Management Information System (MIS) filling system and maintains the original registration form for each food establishment.</p> <p>As required by the Interventions Code 2019, the Authority’s registration of food business procedure did not contain details on the allocation of a Group. Once a Food Business Operator has provided the relevant Food Authority with full details of the activities undertaken the Food Authority should assign the appropriate business grouping in accordance with sub-section 3.7.2 of the Interventions Code 2019 (See Recommendation 1).</p> <p>In addition, the procedure does not specify if a date of registration is recorded on the registration form received by the Authority. During the audit, it was clear that registration forms are date stamped when they are received, and the form is retained in the premises’ paper file. The procedure in place should reflect this process (See Recommendation 1).</p>
<p>2.2.1</p>	<p>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 MIS reports to ensure that up to date information is provided. The Authority has officers who assist with database management and provide MIS reports; however, this is not part of their day to day duties and currently there is no dedicated system administrator for the MIS.</p>

Recommendation

1. Review the Registration of Food Premises procedure to include the allocation of a Group once full details of the activities are provided and to include the date of receipt on the form submitted by the Food Business Operator.

3.3 Section 3. Interventions

Sub section	Audit Findings – Service Planning, Interventions Programme.
3.1.5	The Authority provided a current 2022/2023 Service Plan which was approved by the Head of Planning and Community Protection and the Corporate Director for Neighbourhood Services and Infrastructure.
3.1.5	The current allocation of FTE staff to the Food Service is 1.8. A new member of staff is starting in October 2022 which will increase the FTE to 2.8.

	<p>No evidence of the resource calculation required as part of the LA recovery project was provided at the time of audit and the methodology used was not contained in the Service Plan. This was subsequently received after the audit in November and shows that the Authority estimates a total of 4.4 FTE is required to carry out all food law official controls.</p> <p>As anomalies with the desktop transfer and intervention programme were found during the audit, it is recommended that following a review of steps 1 and 2 of the LA recovery project, the Authority complete a revised resource calculation to ensure that adequate resource is identified to meet all of the requirements of the Intervention Code 2019 and Food Law Code of Practice (Scotland) 2019 (See Recommendation 2).</p>
3.11	<p>The Authority's service plan documents its out of hours' requirements. Out of hours inspections/visits also take place according to risk and business need. This includes out of hours work to support the Council's role as a port health authority.</p>
3.5.3	<p>During the documentation review, it became apparent that some groupings of food establishments were not a true reflection of food business activities. A historically rated Group 3 Band B rated premises was re-rated a Group 1 Band C after inspection by the officer, as it was found that the business was manufacturing jams and chutneys, bakery foods and also providing outside catering. If this premises had not been identified through intelligence and prioritised for inspection, it would not have been inspected for at least 36 months with its current allocated Group 3 Band B rating.</p> <p>Another establishment, a mobile food unit was also allocated a Group 3 Band B, however, on review of the establishment file following a licensing visit, it appears this establishment is likely to be a Group 2 business being a retail/caterer providing open hot food for takeaway.</p> <p>In addition, 56 Group 0s were identified on the MIS database. 31 of these have been identified as primary producers, leaving 25 Group 0 establishments that require an allocation of a Group. These establishments should be reviewed to establish their type of activity and ensure that an accurate Group is allocated. This is to ensure that food businesses deemed to be of higher risk are programmed for inspection as soon as possible. Group 1 and approved establishments must be incorporated into the current intervention programme. Primary Producers should be appropriately risk rated according to the Food Law Code of Practice (Scotland) 2019.</p> <p>A review of the entire desktop transfer and database is recommended to ensure that Groups and Bands have been allocated appropriately in accordance with the Interventions Code 2019 and that inspections that require more frequent intervention are programmed into the current interventions programme (See Recommendation 3).</p>

<p>3.9</p>	<p>The current (April 2022 – March 2023) and previous (September 2021 – March 2022) intervention programmes were not created in line with the LA Recovery Project and the Interventions Code 2019. No interventions were planned from September – December 2021 as there was a significant turnover in staff and management in the Authority at this time. During the period from September 2021 to March 2022, efforts were concentrated on intelligence led interventions, service requests and high risk premises. The Authority describe this period as firefighting.</p> <p>As the Authority had a significant turnover in staff during the recovery planning period, the recovery project process was not followed and steps 1 (desktop transfer) and 2 (creating an intervention programme) were not completed as required. The current intervention programme has not been categorised into the priority frequencies as outlined in the LA recovery project process guidance to include all Group 1 establishments, approved establishments, establishments due for intensive intervention and unrated Group 1 and 2 premises.</p> <p>During the documentation review, a Group 2 D risk rated establishment selected had not received an intervention to date. This premises should have been programmed and inspected within 6 months of restart; however, it still remains outstanding. The Authority must as a matter of priority create a revised intervention programme (See Recommendation 4).</p>
<p>29.1 (Food Law Code of Practice (Scotland) 2019)</p>	<p>The Authority has a total of 38 approved establishments. From September 2021, 7 inspections of approved establishments had been completed to date. As per the recovery project all approved establishments should have been programmed for inspection evenly over a 12 month period from restart (See Recommendation 5).</p> <p>A Group 1 manufacturing butcher establishment reviewed as part of the documentation review was noted as requiring approval under Retained Regulation (EC) No 853/2004 when it was inspected in October 2021. However, the process of approval was not started until September 2022 due to the delays in the business making an application. Email correspondence between the Lead Food Officer and the FBO was provided when requested to account for this period, with evidence of the Lead Food Officer repeatedly requesting approval application and documentation from the FBO. All correspondence with FBOs should be retained in the appropriate file to ensure there is full food business activity history and transparency of communication. As the Authority is running a dual paper and digital filing system, there is a risk that some correspondence and premises documentation may be misfiled. It is recommended that the Authority keep all documentation in one securely controlled location. (See Recommendation 6).</p> <p>On discussions with the Lead Food Officer, this was the second manufacturing butcher deemed as requiring approval which had not been recognised on previous historic inspections by previous officers. The</p>

	Lead Food Officer and Service Manager expressed concerns regarding these circumstances and put this down to legacy issues from the previous Food Law Service prior to September 2021.
3.3.1	<p>Evidence was submitted by the Authority that prior to September 2021, pre-announced food hygiene inspections were being conducted. Since businesses became used to this custom and practice, the requirement to conduct unannounced inspections was made difficult for the current team.</p> <p>In accordance with Article 9(4) of Retained Regulation (EU) 2017/625, the general principle is that all Official Control Interventions must be unannounced. Article 9(4) of Retained Regulation (EU) 2017/625 states that:</p> <p><i>“Official controls shall be performed without prior notice, except where such notice is necessary and duly justified for the official control to be carried out. As regards official controls upon request from the operator, the competent authority may decide whether the official controls are to be performed with or without prior notice. Official controls with prior notice shall not preclude official controls without prior notice”</i></p>
	The Lead Food Officer and Environmental Health Manager started in September and December 2021 respectively. They are aware and have commented on a number of legacy issues and data inaccuracies within the database and the way the system is being used, similar to the findings as documented above. This has partially hampered the full roll out of the recovery plan. Steps are being taken to remedy these issues for both EU trade and approval status. It was evident from the audit, that the team are committed to improving the service and working with Food Standards Scotland.
3.8	One unannounced verification visit was carried out as part of the audit. The food establishment selected was an artisan food retailer with a butcher, fish and cheese delicatessen counter. The establishment sold a number of artisan type products and a number that were locally produced in Orkney. The visit was conducted professionally by the officer and in accordance with the Interventions Code 2019 and Food Law Code of Practice (Scotland) 2019. The officer followed a logical sequence to the visit with opening meetings, assessment of risks and closing meetings. A number of food standards issues were identified and assessed throughout the inspection.

Recommendation

2. Complete a revised resource calculation to demonstrate a projection of the total FTE resource required to satisfy the revised intervention programme.

3. Review food establishments risk ratings and desktop risk ratings to ensure that Groups and Bands have been allocated appropriately.

4. Create a revised intervention programme with reference to the priorities table outlined in the LA recovery project process guidance.
5. Create an approved establishment interventions programme and ensure that approved establishments are inspected at the frequencies prescribed in the Food Law Code of Practice.
6. Ensure that all documentation and correspondence with Food Business Operators is filed in one securely controlled location.

3.4 Section 4. Food Law Rating System

Sub Section	Audit Findings
3.7.1	When inspected, relevant food establishments are now receiving a full food law intervention as per the Interventions Code 2019.
3.7.1	The Authority is using a Food law Inspection form (Version 4) to gather and record sufficient information during the inspection. The form is well documented and covers all aspects of the new food law risk rating. The inspection form also includes the risk rating scores given after the intervention. This is considered good practice and illustrates how the score is being derived from the evidence on the inspection form.
3.7.1.3	Ten food business establishments were requested for review during the audit, however not all of the selected establishments had received a recent food law intervention. Due to this, only six food businesses in total were reviewed as part of the audit. One establishment file reviewed did not (at the time of the audit) have an accompanying inspection form in the premises file (See Recommendation 7).
3.9	A premises rated a Group 2 Band D reviewed as part of the audit, was not inspected in line with the required intervention frequencies. Intervention Programmes should be planned so that establishments receive an Intervention no later than 28 days after the scheduled date, unless they are rated Band E, as detailed in FLRS (See Recommendation 8).
2.3.1	The Authority does not currently implement an alternative enforcement strategy for Group 3 Band A rated establishments. All registered food establishments within Orkney Islands Council should receive a planned programmed intervention.

Recommendation

7. Ensure that a Food Law Inspection form is completed for each Food Law Intervention and maintained in the premises file.

8. Ensure establishments receive an intervention in line with the required intervention frequencies outlined in the Interventions Code 2019.

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

Sub Section	Audit Findings
6.1	All interventions carried out by officers results in a formal written letter sent to the business after the inspection. Whilst onsite, the officers also leave a carbon copy of a handwritten report highlighting the main issues resulting from the inspection.
6.1.2	In general, the quality of the documentation (inspection form and letter) was found to be satisfactory. Inspection letters reviewed were well and clearly documented detailing contraventions, including timescales for corrective actions and citing the legislation breached. Some letters reviewed had photographic evidence of the contraventions identified embedded within the letter which added additional detail and significance. Inspection letters also considered recommendations of good practice.

Recommendation

There were no recommendations for this section.

3.6 Section 6. Internal Monitoring

Sub Section	Audit Findings
6.2	During the audit, the MIS was not accessed as paper files were provided for all establishments. It was noted that in terms of document management and data retention that some of the files contained documents which were outwith the recommended retention period contained within the Code of Practice. It is understood that the Authority is moving to digital files, and it is recommended that some document/data cleansing may be undertaken prior to a move to digital files.
39.2 (Food Law Code of Practice)	<p>Food Authorities must ensure that interventions are carried out to a consistently high standard and that the planned Intervention programme is being maintained.</p> <p>As resources increase, the Authority's formal internal monitoring should be re- introduced to ensure consistency across the service and to ensure that any issues are identified and corrected where required (See Recommendation 9).</p>

Recommendation

9. Re-introduce internal monitoring to ensure interventions are carried out to a consistently high standard and the planned intervention programme is being maintained.

3.7 Section 7. Items to take back to FSS

Section	Audit Findings
	The Authority would welcome further guidance on the Food Hygiene (FH) Information Scheme scoring.
	The Authority commented that the Food Law Risk Rating System is more intensive for Food Hygiene but less intensive for both combined Food Standards & Food Hygiene. Combining the two interventions has saved time as it doesn't require two separate programmes, inspections and inputs to the MIS.
	The Lead Food Officer felt that monthly Band E interventions were not required as a poor performing businesses would receive a number of revisits within the month irrespective of requiring a new food law intervention within a month. The one month intervention was thought to be an overburden when the LA would be engaging with the business anyway.
	Please can Food Standards Scotland consider the number of databases officers are expected to access and see if they can be rationalised down to one, covering intelligence and incident response.

4.0 Annex A – Action Plan

Action Plan for Orkney Islands Council of Local Authority Implementation of Interventions Food Law Code of Practice (Scotland) Audit,

Orkney Islands Council Recommended Point for Action & Priority	Planned Actions	Target Date for Completion	Responsible Officer(s)
1. Review the Registration of Food Premises procedure to include the allocation of a Group once full details of the activities are provided and to include the date of receipt on the form submitted by the Food Business Operator.	The food premises registration procedure has been reviewed and additional boxes introduced onto the form to record (a) the allocated group and (b) date of receipt. A copy of the revised procedure and form has been shared with FSS audit team. All relevant staff have been briefed on the revised procedure and use of the revised form	Completed on 08 November 2022 <i>Audit Assurance: Satisfactory evidence has been provided to demonstrate this recommendation has been actioned. Recommendation Closed.</i>	Lead Food Officer
2. Complete a revised resource calculation to demonstrate a projection of the total FTE resource required to satisfy the revised intervention programme.	A revised resource calculation will be completed as part of the service planning for 2023 and will be included in the Food Safety Service Plan 2023 which will be signed off by Senior Management	31 March 2023	Service Manager / Lead Food Officer
3. Review food establishments risk ratings		31 March 2023	Service Manager, Lead Food Officer,

Orkney Islands Council Recommended Point for Action & Priority	Planned Actions	Target Date for Completion	Responsible Officer(s)
and desktop risk ratings to ensure that Groups and ands have been allocated appropriately.	A series of data cleansing workshops have already commenced during which the team critically examine the data held for every food business on the MIS database with particular emphasis on groups and band allocation. Where examination suggests anomalies, the necessary follow up, including contact with food businesses and field work is taking place to ensure there is confidence in the group and band allocated.	31 March 2023	Food Law Technical Officer, Food Safety Officer
4. Create a revised intervention programme with reference to the priorities table outlined in the LA recovery project process guidance.	This will be prepared and ready for use from the new fiscal year. In the meantime, there will be continued emphasis on dealing with higher risk establishments and reactive work.	31 March 2023	Lead Food Officer and Service Manager
5. Create an approved establishment interventions programme and ensure that approved establishments are inspected at the frequencies prescribed in	This will be prepared and ready for use from the year. We will review the work of the team to make sure priority can be given to the approved establishments interventions programme. A resource calculation (as per recommendation 2) will be used to indicate the	01 January 2023	Lead Food Officer

Orkney Islands Council Recommended Point for Action & Priority	Planned Actions	Target Date for Completion	Responsible Officer(s)
the Food Law Code of Practice.	<p>level of resource required for the programme and should it reveal the resources required exceed those available, this will be brought to the attention of senior management.</p> <p>Routine operational monitoring of the interventions programme will take place at monthly “Food Team Meetings”.</p> <p>A new key performance indicator (KPI) is to be introduced at Directorate level to ensure sufficient and appropriate performance oversight at senior management level.</p>		
6. Ensure that all documentation and correspondence with Food Business Operators is filed in one securely controlled location.	<p>Discussions have already taken place with the Council’s Information Governance officer and a plan is being prepared to move all files into a digital rather than paper format. From 01 January 2023 no further additions will be made to paper files and all documentation and correspondence with FBOs will be retained digitally in the MIS. When a premises is selected for a programmed intervention, the inspecting officer will be responsible for a full file review of the paper file and associated data cleansing, they will then forward that file to be digitised and added to the MIS</p>	01 January 2023	Lead Food Officer, Food Law Technical Officer, Food Safety Officer

Orkney Islands Council Recommended Point for Action & Priority	Planned Actions	Target Date for Completion	Responsible Officer(s)
<p>7. Ensure that a Food Law Inspection form is completed for each Food Law Intervention and maintained in the premises file.</p>	<p>The phasing out of paper files will greatly assist with this action (in support of recommendation 6)</p> <p>The post inspection process procedure is to be revised and all relevant staff trained in its use this will include placing relevant documents in the appropriate [digital] file in a timely way.</p> <p>As part of routine “peer review” internal monitoring activities (see recommendation 9) the timeliness of inspection paperwork being uploaded to the MIS will be checked.</p>	<p>01 January 2023</p>	<p>Lead Food Officer, Food Law Technical Officer, Food Safety Officer</p>
<p>8. Ensure establishments receive an intervention in line with the required intervention frequencies outlined in the Interventions Code 2019.</p>	<p>Now that a new full time member of staff has commenced employment within the team there is a higher probability that interventions can be carried out at the required frequency. However, once the data cleansing activity has been completed (as per recommendation 3) and there is confidence in the dataset held on the MIS a revised resource calculation will be carried out (as per recommendation 2) and any resource gap that will impact the intervention programme will be reported to senior management.</p>	<p>April 2023</p>	<p>Lead Food Officer and the Service Manager</p>

Orkney Islands Council Recommended Point for Action & Priority	Planned Actions	Target Date for Completion	Responsible Officer(s)
	<p>The delivery of the intervention programme will be monitored and reported during monthly “food meetings” with the team and the Service Manager.</p> <p>The risk of “failure to deliver official controls” has been added to the risk register.</p> <p>A new KPI has been developed and added to the KPI set for the Directorate to ensure oversight at Senior Management level.</p>		
<p>9. Re-introduce internal monitoring to ensure interventions are carried out to a consistently high standard and the planned intervention programme is being maintained.</p>	<p>The proposed internal monitoring system has already been shared with FSS audit team and this will be re-introduced from January 2023.</p> <p>The regular food team meeting will provide a forum for any feedback from the monitoring activities to be shared.</p>	<p>January 2023</p>	<p>Lead Food Officer</p>

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.

Auditors: Áine Phelan
Lindsay Matthew

Administration: Neil Douglas

Food Standards Scotland
Audit Assurance Branch

December 2022

Abbreviations

EHM	Environmental Health Manager
EHO	Environmental Health Officer
EU	European Union
FBO	Food Business Operator
FH	Food Hygiene
FLCoP	Food Law Code of Practice
FLRS	Food Law Rating System
FSO	Food Safety Officer
FS	Food Standards
FSS	Food Standards Scotland
FTE	Full Time Equivalent
KPI	Key Performance Indicator
LA	Local Authority
MIS	Management Information System
PI	Programmed Intervention
SEHO	Senior Environmental Health Officer
SND	Scottish National Database