

Report on	Food Standards Agency Audit
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Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	X

1.0	Purpose of Report
1.1	To inform Members about a recent Food Standards Agency audit on Mid Ulster District Council's Organisation and Management systems for the delivery of Official Controls with respect to food control.
2.0	Background
2.1	<p>The primary purpose of Food Standards Agency (FSA) audits of Enforcement Authorities is to provide assurance that local delivery of official controls for feed and food is compliant with EU and UK legal requirements and official guidance.</p> <p>In Northern Ireland, the power to set standards and monitor Enforcement Authorities' food law enforcement services was conferred on the FSA by The Food Standards Act 1999¹ and The Official Feed and Food Controls (Northern Ireland) Regulations 2009². The audit was undertaken under section 12 of the Act and regulation 7 of the Regulations.</p> <p>This audit programme has been implemented because of the reform of local government, which saw the councils in Northern Ireland (NI) reduce from 26 to 11 in April 2015. It will form part of the FSA in NI's annual audit programme for the next four years. The aim of the audit programme is to determine whether official control activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve the objectives of the relevant food legislation.</p> <p>The specific aims of the is audit programme are:</p> <ul style="list-style-type: none"> • Evaluate the organisational and management systems each of the 11 LAs have implemented to ensure they are effective and suitable to achieve the objectives of the relevant food law. • Assist in the identification and dissemination of good practice to aid consistency • Provide a means to identify under performance in LA food law enforcement systems • Provide information to aid the formulation of Agency policy.
3.0	Main Report
3.1	All eleven new district councils (DCs) in Northern Ireland have been included in the audit programme that will run between March 2017 and June 2020.

¹ [Food Standards Act 1999 c.28](#)

² [The Official Feed and Food Controls \(Northern Ireland\) Regulations 2009](#)

	<p>Mid Ulster District Council (DC) was selected for audit at this stage in the audit programme because:</p> <ul style="list-style-type: none"> • of the number of legacy councils involved in the merger (three – Magherafelt DC, Cookstown DC, and Dungannon and South Tyrone Borough Council) • the geographical size of the Council (third largest council by area) <p>The audit included the assessment of local arrangements for service planning, delivery and review, provision and adequacy of officer training and authorisations and internal service monitoring arrangements. Maintenance and management of appropriate records in relation to the councils' delivery of food law enforcement activities are also covered.</p> <p>The Food Standard Agency Northern Ireland's Report on Mid Ulster District Council's Organisation and Management systems for the delivery of Official Controls in Northern Ireland is attached. A summary of the auditor findings is as follows:</p> <p>Mid Ulster DC had a comprehensive system in place for recording food officers' competency and training.</p> <p>The Council had clearly delegated authority to authorise officers, grant approvals and instigate legal proceedings. Officers had been authorised generally in respect of the Local Government Act (Northern Ireland) and specifically under the Regulations relating to food made under the Act.</p> <p>The Council had developed and implemented a documented procedure that described how internal monitoring was carried out within the food service. However, there were limited records of internal monitoring for the last two years.</p> <p>Mid Ulster DC had a system of policies and procedures that covered the range of control procedure subject areas listed in Annex II, Chapter II of Regulation (EC) No. 882/2004. However, there were issues with some of these procedures, which require reviewing.</p> <p>The auditors found a good level of detail in the records for interventions carried out at FBOs. However, there were some inconsistencies regarding reports left with FBOs after interventions.</p> <p>Mid Ulster DC had a comprehensive range of procedures that addressed all aspects of enforcement activities. In all cases examined enforcement action had been correctly carried out.</p> <p>Sampling records for four establishments were reviewed. The auditors found suitable records, information and follow-up in relation to all sample results. Suitable evidence was available to demonstrate that complaints had been correctly recorded and investigated by the Council.</p> <p>An action plan on addressing the recommendations made by the FSA auditors has been agreed and is included in Annex 1 of the Food Standards Agency report.</p>
4.0	Other Considerations
4.1	<p><u>Financial & Human Resources Implications</u></p> <p>Financial: N/A</p>

	Human: Implementation of action plan to address recommendations highlighted in the FSA Audit report.
4.2	<u>Equality and Good Relations Implications</u> N/A
4.3	<u>Risk Management Implications</u> N/A
5.0	Recommendation(s)
5.1	It is recommended that members note the content of the Food Standards Agency's report is noted.
6.0	Documents Attached & References
6.1	The Report on Mid Ulster District Council's Organisation and Management systems for the delivery of Official Controls in Northern Ireland.

**Food Standards Agency
in Northern Ireland**



Report on District Council Organisation and Management systems for the delivery of Official Controls in Northern Ireland



21 – 23 November 2017

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1.0 INTRODUCTION

1.1 Background

- 1.1.1 The primary purpose of Food Standards Agency (FSA) audits of Enforcement Authorities is to provide assurance that local delivery of official controls for feed and food is compliant with EU and UK legal requirements and official guidance.
- 1.1.2 In Northern Ireland, the power to set standards and monitor Enforcement Authorities' food law enforcement services was conferred on the FSA by The Food Standards Act 1999³ and The Official Feed and Food Controls (Northern Ireland) Regulations 2009⁴. The audit was undertaken under section 12 of the Act and regulation 7 of the Regulations.
- 1.1.3 When conducting audits of competent authorities, the FSA follows the detailed guidelines set out in an EC Decision 2006/677/EC⁵.
- 1.1.4 The Framework Agreement on Local Authority (LA) Food Law Enforcement⁶ sets out the arrangements through which the FSA audits LA enforcement activities to help ensure that LAs are providing an effective service to protect public health.
- 1.1.5 The overarching aims of the audit scheme are to:
- Help to protect public health by promoting effective local enforcement of food law
 - Maintain and improve consumer confidence
 - Assist in the identification and dissemination of good practice to aid consistency
 - Provide information to aid the formulation of FSA policy
 - Promote conformance with the '*Food Law Enforcement – Standard*' and any relevant central guidance or Codes of Practice
 - Provide a means to identify underperformance in LA food law enforcement
 - Promote self-regulation and peer review
 - Identify continuous improvement

³ [Food Standards Act 1999 c.28](#)

⁴ [The Official Feed and Food Controls \(Northern Ireland\) Regulations 2009](#)

⁵ [Commission Decision \(2006/677/EC\) of 29 September 2006 setting out the guidelines laying down criteria for the conduct of audits under Regulation \(EC\) No 882/2004 of the European Parliament and of the Council on official controls to verify compliance with feed and food law, animal health and animal welfare rules](#)

⁶ [Chapter 5 of the Framework Agreement on Local Authority Food Law Enforcement: 'Audit Scheme'](#)

1.2 Reason for audit

1.2.1 All eleven new district councils (DCs) in Northern Ireland have been included in the audit programme that will run between March 2017 and June 2020.

1.2.2 Mid Ulster District Council (DC) was selected for audit at this stage in the audit programme because:

- of the number of legacy councils involved in the merger (three – Magherafelt DC, Cookstown DC, and Dungannon and South Tyrone Borough Council)
- the geographical size of the Council (third largest council by area)

1.3 Scope and objectives of the audit programme

1.3.1 The specific objectives of this audit programme are to:

- evaluate the organisation and management systems each of the 11 DCs have implemented to ensure they are effective and suitable to achieve the objectives of the relevant food law
- assist in the identification and dissemination of good practice to aid consistency
- provide a means to identify under performance in council food law enforcement systems
- provide information to aid the formulation of Agency policy

1.3.2 The audit included the assessment of local arrangements for service planning, delivery and review, provision and adequacy of officer training and authorisations and internal service monitoring arrangements. Maintenance and management of appropriate records in relation to the councils' delivery of food law enforcement activities are also covered.

1.4 Audit criteria

1.4.1 The audit criteria are the legislation, policies, procedures or other requirements used as a reference against which audit evidence is compared, i.e. the standard against which the auditee's activities are assessed. For the purposes of this audit these will be:

- Regulation (EC) No. 882/2004 of the European Parliament on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules
- Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law,

establishing the European Food Safety Authority and laying down procedures in matters of food safety

- The Official Feed and Food Controls Regulations (Northern Ireland) 2009 (as amended), in so far as they relate to food
- Relevant Mid Ulster DC policies and procedures

1.5 Overview of Mid Ulster DC

- 1.5.1 Mid Ulster DC straddles two counties, running from Swatragh in the north to Fivemiletown in the south and from the Sperrin Mountains in the west to the shores of Lough Neagh in the east. The area is represented by forty councillors across 7 District Electoral Areas including Carntogether, Clogher Valley, Cookstown, Dungannon, Magherafelt, Moyola and Torrent. Council offices are in Cookstown, Dungannon and Magherafelt.
- 1.5.2 As the third⁷ largest of the new council areas, Mid Ulster DC covers a geographical area of 1,826km² and serves a population of 145,389⁸. Mid Ulster experienced a population growth of 12.9% from 2005 to 2015 compared to the Northern Ireland average of 7.2%.
- 1.5.3 One third of the residents live in urban areas whilst two thirds inhabit rural areas. The main towns are Cookstown, Coalisland, Dungannon, Magherafelt and Maghera.
- 1.5.4 Employment concentrates on manufacturing, engineering, construction and agri-food industries. A total of 71% of the population aged between 16 and 64 are economically active.
- 1.5.5 At the time of audit, there were approximately 1682 registered food businesses within Mid Ulster DC's area including hotels, restaurants, takeaways, manufacturers, retailers, wholesalers, and distributors/transporters.

⁷ ["Standard Area Measurements \(2016\) for Administrative Areas in the United Kingdom". Office for National Statistics. Retrieved 08 December 2017](#)

⁸ ["Population Estimates for UK, England and Wales, Scotland and Northern Ireland, Mid-2016". Office for National Statistics. Retrieved 08 December 2017](#)

2.0 EXECUTIVE SUMMARY

- 2.1** Mid Ulster DC had a comprehensive system in place for recording food officers' competency and training.
- 2.2** The Council had clearly delegated authority to authorise officers, grant approvals and instigate legal proceedings. Officers had been authorised generally in respect of the Local Government Act (Northern Ireland) and specifically under the Regulations relating to food made under the Act.
- 2.3** The Council had developed and implemented a documented procedure that described how internal monitoring was carried out within the food service. However, there were limited records of internal monitoring for the last two years.
- 2.4** Mid Ulster DC had a system of policies and procedures that covered the range of control procedure subject areas listed in Annex II, Chapter II of Regulation (EC) No. 882/2004. However, there were issues with some of these procedures which require reviewing.
- 2.5** The auditors found a good level of detail in the records for interventions carried out at FBOs. However, there were some inconsistencies regarding reports left with FBOs after interventions.
- 2.6** Mid Ulster DC had a comprehensive range of procedures that addressed all aspects of enforcement activities. In all cases examined enforcement action had been correctly carried out.
- 2.7** Sampling records for four establishments were reviewed. The auditors found suitable records, information and follow-up in relation to all sample results. Suitable evidence was available to demonstrate that complaints had been correctly recorded and investigated by the Council.

3.0 AUDIT FINDINGS

3.1 Organisation and Management

Auditor Competence and Training

- 3.1.1 Auditors examined specific training records for four food officers. All four officers had the required level of continuous professional development (CPD) as required by paragraph 4.10.1 of the Food Law Code of Practice (Northern Ireland) (FLCoP)⁹, which included activity specific training. In most cases officers had completed significantly more than the required level of CPD.
- 3.1.2 The officers had also provided evidence of qualifications as required by paragraph 4.4 of the FLCoP
- 3.1.3 Mid Ulster DC had a system in place for recording each food officer's assessment of competency. The auditors specifically examined the competency assessment records for four food officers. Sufficient detail was provided in these records to provide the auditors with a very good insight into each of the officers' competencies and experience.
- 3.1.4 The competency assessment records covered the following areas:
- Inspection of food establishments
 - Use of enforcement sanctions
 - Sampling
 - Import and export controls
 - Reactive investigations

Authorised Officers

- 3.1.5 Mid Ulster DC had clearly delegated authority to authorise officers on behalf of the Council to the Council's Director of Public Health and infrastructure. The granting of approval to establishments carrying out activities under Regulation (EC) 853/2004 was also delegated to the Director of Public Health and infrastructure. The Council Solicitor had been granted delegated powers in relation to the instigation of legal proceedings.
- 3.1.6 Authorisation had been general in respect of the Local Government Act (Northern Ireland) 2014 and specific under the Regulations relating to food

⁹ [Northern Ireland Food Law Code of Practice](#)

made under the Act, including the Food Safety (NI) Order 1991, the Food Hygiene Regulations (NI) 2006 and Food Hygiene Rating (NI) Act 2016.

- 3.1.7 We did note some enforcement actions that had not been included under the process of specific officer authorisation. Specifically, Fixed Penalty notices under the Food Hygiene Rating Act (Northern Ireland) 2016 and Improvement Notices under The Food Information Regulations (Northern Ireland) 2014.
- 3.1.8 The auditors examined the authorisation records for four officers and noted in all four cases the authorisation documents had been signed by the Director of Public Health and infrastructure.
- 3.1.9 We observed the Director of Public Health and infrastructure was the only person to have received delegated powers to authorise Food Service officers and to grant approvals for establishments carrying out activities under Regulation (EC) 853/2004. While this does not present an issue, it may be prudent to have a second person with the same delegated powers as the Director of Public Health and infrastructure.

Internal Monitoring

- 3.1.10 The Council had recently introduced a documented procedure that detailed comprehensive qualitative and quantitative arrangements for internal monitoring. It is planned to implement this procedure in January 2018.
- 3.1.11 Some evidence was provided for internal monitoring including some accompanied visits and monitoring of establishment file records for the last two years. However, it was not systematic or routine.

Recommendation

- (i) The Council should:

Ensure suitable internal monitoring is carried out on the activities described in the internal monitoring procedure.

Article 8 point 3(a) of 882/2004 – control & verification procedures states competent authorities shall have procedures in place to verify the effectiveness of official controls that they carry out.

Control Procedures

3.1.12 Article 8 of Regulation (EC) No. 882/2004 states the competent authority shall carry out official controls in accordance with documented procedures. Mid Ulster DC had a system of policies and procedures that covered the range of control procedure subject areas listed in Annex II, Chapter II of Regulation (EC) No. 882/2004. In addition, Mid Ulster DC had documented and implemented procedures for the following activities required for the effective functioning of official controls:

- Equipment maintenance and calibration
- Food complaints
- Maintenance of the food premises database
- Reviewing and updating policies and procedures

3.1.13 However, we did note some procedures which needed reviewed to ensure they reflect the activities of the food service, e.g. to update and clarify the information contained within them, e.g. Approvals and Authorisation procedures, flow charts in some enforcement procedures.

3.1.14 We would recommend the Council also review new procedures after a suitable implementation period to ensure they are fit for purpose and reflect the Council's current systems and processes.

Recommendation

(ii) The Council should:

Ensure it regularly reviews its range of control procedures to ensure they are fit for purpose and reflect the activities of the Council. Particularly the procedures for:

- Authorisation of officers
- Approval of establishments
- Illegally Imported food

Article 8 of 882/2004 – control & verification procedures: Competent authorities shall carry out official controls in accordance with documented procedures. These procedures shall contain information and instructions for staff performing official controls including, inter alia, the areas referred to in Annex II, Chapter II.

3.2 Delivery of Official Controls

Approved Establishments

- 3.2.1 Approval records for four approved establishments were examined by the auditors. Approval documentation was provided for three, however we did not receive the approval documentation for one.
- 3.2.2 We also noted two establishments had been granted approval by the Director of Public Health and infrastructure.

Interventions and Control Activities

- 3.2.3 The auditors examined the intervention records for ten food establishments, including reports left with the FBO, checklists used to record details of inspections and communication / letters sent to FBOs.
- 3.2.4 In the majority of cases a sufficient level of detail was recorded to indicate official controls had been carried out correctly and letters sent to FBOs following interventions were clear about legal requirements and advice.
- 3.2.5 In some cases, we observed reports left with an FBO following an intervention that did contained inconsistencies or incomplete information regarding the intervention e.g. identifying the type of intervention carried out and the proposed action to be taken by the Council officer.
- 3.2.6 The auditors reviewed the records for three unrated establishments, based on type of establishment and time since registration. In all cases, suitable reasons were provided to explain why the establishment had not yet been risk rated, e.g. no activity, very low risk activities.
- 3.2.7 During the audit, the Council's food service database was examined and in all cases records and information were found. The Council also had a contract in place with the food service database provider which covered arrangements for both backup of the database and contingency planning.

Enforcement

- 3.2.8 Mid Ulster DC had provided the auditors with a comprehensive range of procedures that addressed all aspects of potential enforcement activities.
- 3.2.9 The records for one Remedial Action Notices (RANs) and three detention notices issued under Regulation 9 of the Food Hygiene Regulations (NI) 2006 were examined. All notices had been drafted, issued and completed as required by the relevant legislation and contained accurate references to legislation.

Sampling and Complaints

- 3.2.10 Mid Ulster DC had provided the auditors with a range of procedures that addressed sampling policies, associated guidance, and the system for food sampling. Sampling programmes were also provided for 2015/16 and 2016/17.
- 3.2.11 The auditors examined the sampling records for four samples and found suitable records, information and follow-up in relation to all sample results.
- 3.2.12 Four food complaints were examined. All four had been suitably investigated and closed.

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Annexe A - Action Plan

Audit Date: 21-23 November 2017

RECOMMENDATION	PLANNED IMPROVEMENTS	DUE DATE
<p>(i) The Council should:</p> <p>Ensure suitable internal monitoring is carried out on the activities described in the internal monitoring procedure.</p> <p>Article 8 point 3(a) of 882/2004 – control & verification procedures states competent authorities shall have procedures in place to verify the effectiveness of official controls that they carry out.</p>	<p>The Internal Monitoring Activities will commence in Quarter 4 of 2017/18 in a systematic manner as outlined in MUDC/FC/PRO/008. The process will be reviewed after 6 months to determine if the frequency stated in the procedure is sustainable and necessary to verify the effectiveness of the controls in place.</p>	<p>Ongoing from Quarter 4 of 2017/18</p>
<p>(ii) The Council should:</p> <p>Ensure it regularly reviews its range of control procedures to ensure they are fit for purpose and reflect the activities of the Council. Particularly the procedures for:</p> <ul style="list-style-type: none"> • Authorisation of officers • Approval of establishments • Illegally Imported food 	<p>The RIAMS system is used within Mid Ulster District Council's Environmental Health Department. Each procedure under Food Control has been uploaded to RIAMS and there is a review date set for each procedure as they are added which will generate an alert to review the procedure at the appropriate interval. This will ensure a periodic review of procedures can be undertaken to confirm that the procedures are fit for purpose and reflect the activities of Mid Ulster District Council. Any amendments which are required prior to the planned review dates will be implemented by the PEHO/SEHO and cascaded to food team</p>	<p>Ongoing process</p>

RECOMMENDATION	PLANNED IMPROVEMENTS	DUE DATE
<p>Article 8 of 882/2004 – control & verification procedures: Competent authorities shall carry out official controls in accordance with documented procedures. These procedures shall contain information and instructions for staff performing official controls including, inter alia, the areas referred to in Annex II, Chapter II.</p>	<p>members via RIAMS and food team meetings. A number of the control procedures have been amended and re-issued as a result of comments and recommendations made by the auditors, in particular:</p> <p>Approval of establishments – attached</p> <p>Illegally imported food – attached</p> <p>Authorisation of officers – the NIFMG procedure has been amended for MUDC and will be reported to council via the Environment Committee for approval. On approval, the procedure will be implemented with immediate effect.</p>	<p>22 January 2018</p> <p>22 January 2018</p> <p>Review in progress</p>

Annexe B - Glossary

Audit	Audit means a systematic and independent examination to determine whether activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve objectives.
Authorised Officer	A suitably qualified officer who is authorised by the Local Authority to act on its behalf in, for example, the enforcement of legislation.
Environmental Health Officer (EHO)	Officer employed by the local authority to enforce food safety legislation.
Food Business Operator (FBO)	This refers to the natural or legal persons responsible for ensuring that the requirements of food law are met within the food business under their control.
Food hygiene	The legal requirements covering the safety and wholesomeness of food.
Food Law Code of Practice (Northern Ireland) April 2012 (FLCoP)	Article 39 of the Food Safety (NI) Order 1991 (the Order), Regulation 22 of the Food Hygiene Regulations (NI) 2006 and Regulation 6 of the Official Feed and Food Controls Regulations (NI) 2009, which empower the Department of Health Social Services and Public Safety to issue codes of practice concerning the execution and enforcement of that legislation by district councils. This code is issued as guidance to competent authorities on the enforcement of food legislation. It relates to Northern Ireland only.
Food Standards Agency (FSA)	<p>The Food Standards Agency is an independent Government department set up by an Act of Parliament in 2000 to protect the public's health and consumer interests in relation to food.</p> <p>Everything we do reflects our vision of Safe Food and Healthy Eating for all.</p>
Framework Agreement	The Framework Agreement consists of:

	<p>Chapter One Service Planning Guidance</p> <p>Chapter Two The Standard</p> <p>Chapter Three Monitoring of Local Authorities</p> <p>Chapter Four Audit Scheme for Local Authorities</p> <p>The Standard sets out the Agency's expectations on the planning and delivery of food law enforcement.</p>
Full Time Equivalents (FTE)	A figure which represents that part of an individual officer's time available to a particular role or set of duties. It reflects the fact that individuals may work part-time, or may have other responsibilities within the organisation not related to food enforcement.
Local Authority (LA)	an organization that is officially responsible for all the public services and facilities in a particular area.
Food Law Practice Guidance (Northern Ireland) October 2012 (FLPG)	Guidance issued by the Food Standards Agency to assist district councils with the discharge of their statutory duty to enforce the Food Safety (NI) Order 1991, Regulations made under it, and food law made under the European Communities Act 1972.
Pre-visit Questionnaire (PVQ)	Used by FSA auditors to request information prior to an <i>audit visit</i> , to maximise the effectiveness of the time spent with a local authority.
Risk rating	A system that rates food premises according to risk and determines how frequently those premises should be inspected. For example, high risk premises should be inspected at least every 6 months.
Service Plan	A document produced by a Local Authority setting out their plans on providing and delivering a food service to the local community.