



Report on District Council Food Hygiene Rating Scheme implementation in Northern Ireland



**Belfast
City Council**

13 – 14 August 2019

Contents

1.0 INTRODUCTION.....	3
1.1 Background.....	3
1.2 Reason for audit	4
1.3 Scope and objectives of the audit programme	4
1.4 Audit criteria.....	5
1.5 Overview of Belfast City Council.....	5
2.0 EXECUTIVE SUMMARY	7
3.0 AUDIT FINDINGS	8
3.1 Organisation and Management	8
<i>Auditor Competence and Training</i>	<i>8</i>
<i>Authorised Officers</i>	<i>8</i>
<i>Internal Monitoring.....</i>	<i>9</i>
<i>Control Procedures.....</i>	<i>9</i>
3.2 Delivery of the Food Hygiene Rating Scheme.....	9
<i>Food Hygiene Interventions.....</i>	<i>9</i>
<i>FHRS.....</i>	<i>9</i>
<i>Enforcement</i>	<i>11</i>
<i>FHRS Complaints.....</i>	<i>11</i>
Annexe A - Glossary	13

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 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.
- 1.1.3 When conducting audits of competent authorities, the FSA follows the detailed guidelines set out in an EC Decision 2006/677/EC³.
- 1.1.4 The Framework Agreement on Local Authority (LA) Food Law Enforcement⁴ 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

¹ [Food Standards Act 1999 c.28](#)

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

³ [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](#)

⁴ [Chapter 5 of the Framework Agreement on Local Authority Food Law Enforcement: 'Audit Scheme'](#)

1.2 Reason for audit

- 1.2.1 The Food Hygiene Rating Act (Northern Ireland) 2016 includes a requirement under section 14 for each DC to keep the operation of the Act under review and the FSA must, within three years of the commencement of the scheme becoming mandatory, review the operation of the Act throughout Northern Ireland.
- 1.2.2 Belfast City Council was selected for audit at this stage in the audit programme because:
- It was one of the newly formed councils not audited since its formation in 2015.
 - It is representative of a council with a significant rural profile in Northern Ireland.

1.3 Scope and objectives of the audit programme

- 1.3.1 The specific objectives of this audit programme are to:
- Review the operation of the Act as set out in section 14 of the Act, including -
 - How the act is operating in each District Council (DC) area
 - Notifying FBOs of food hygiene rating and re-rating
 - Providing the FBO with information following registration or application
 - The operation of the appeals mechanism (notifications, timing and the process around determining appeals)
 - Review the process for ensuring FBOs duty to display rating is effective
 - Review the fixed penalty notice process, including -
 - Use of hierarchy of enforcement
 - Issue of the fixed penalty notice
 - Compliance with notice
 - Assist in the identification and dissemination of good practice to aid consistency
 - Provide a means to identify under performance in DC's food law enforcement systems
 - Provide information to aid the formulation of Agency policy
- 1.3.2 The audit includes 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 council's delivery of food law enforcement activities are also covered.

- 1.3.3 Three councils have been included in the audit programme that will run between June and August 2019.

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:
- The Food Hygiene Rating Act (Northern Ireland) 2016
 - The Food Hygiene Rating Regulations (Northern Ireland) 2016
 - 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 Belfast City Council policies and procedures

1.5 Overview of Belfast City Council

- 1.5.1 Belfast City Council is Northern Ireland's smallest in terms of land area at approximately 132.5km²⁵. It has a population of 341,877 people⁶. The population density the highest of all eleven councils at 2,581 people per km². The city is the major centre for both employment and entertainment in Northern Ireland with two thirds of the population of Northern Ireland being within 50km of the city.
- 1.5.2 Within the city boundary is the Port of Belfast, Ireland's busiest port and a significant port within the United Kingdom. The area of the Port consists of 1,000 acres of water 2,000 acres of land and over 8,000 linear metres of quays. Around two thirds of Northern Ireland's seaborne trade, and a quarter

⁵ [Office for National Statistics - Standard Area Measurements](#) Retrieved July 2019

⁶ [NI Statistics and Research Agency - Components of Population Change](#) Retrieved July 2019

of that for Ireland as a whole, is handled at the port which receives almost 6000 vessels each year and over 24 million tonnes of cargo.

- 1.5.3 Belfast is Ireland's busiest ferry port with 1.5 million passengers and over half a million freight units annually and is also the leading dry bulk port with regards to imports of grain, animal feeds, coal, fertilizers and cement. Additionally, over 95% of Northern Ireland's petroleum and oil products are handled at the Port. The City has become one of the main cruise destinations in the UK attracting 115 cruise ship visits in 2018 carrying 185,000 passengers and generating around £24.5 million for the local economy.
- 1.5.4 There are approximately 3808 registered food establishments and 16 approved establishments in the district. These businesses include, hotels, restaurants, takeaways, manufacturers, retailers, wholesalers, and distributors/transporters.

2.0 EXECUTIVE SUMMARY

- 2.1** Belfast City Council had a comprehensive system in place for recording food officers' competency and training.
- 2.2** The council had introduced a scheme of delegation in 2015 and had clearly delegated authority to officers for the delivery of official controls.
- 2.3** The council had developed and implemented a documented procedure that described how internal monitoring was carried out within the food service. Comprehensive records were available for all of the activities covered by the procedure.
- 2.4** Belfast City Council had a comprehensive 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. These procedures covered all the required aspects of the Food Hygiene Rating Scheme (FHRs).
- 2.5** The auditors found very good levels of detail in the records for interventions carried out at food establishments. An examination of the activities to support the operation of the FHRs indicated the council had implemented a FHRs which provided clear communication to FBOs regarding the scheme, their FHR scores and how FBOs could request re-ratings and appeals.
- 2.6** The council had a comprehensive range of procedures that addressed all aspects of enforcement activities which covered the FHRs. In all cases examined, informal and formal enforcement action had been carried out in accordance with the council's hierarchy of enforcement policy.

3.0 AUDIT FINDINGS

3.1 Organisation and Management

Auditor Competence and Training

- 3.1.1 Auditors examined specific training records for three food officers. All three 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)⁷, and included activity specific training.
- 3.1.2 The officers had also provided evidence of qualifications as required by paragraph 4.4 of the FLCoP.
- 3.1.3 Belfast City Council had a system in place for recording each food officer's assessment of competency. The auditors specifically examined the competency assessment records for three 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 Belfast City Council's scheme of delegation had been implemented in March 2015 and was at version 2.2 as of January 2018. This scheme of delegation covered the process of delegating authority from the council to individual officers. The officers given delegated authority for food related legislation under this scheme of delegation were the Director of City and Neighbourhood Services and the Director of City Services.
- 3.1.6 The council had produced a list of legislation in appendix B of the scheme of delegation, which allowed these officers to be generally authorised under the Food Safety (Northern Ireland) Order 1991 (as amended) and the European Communities Act 1972.
- 3.1.7 The authorisations for three officers were examined. The auditors noted all officers were generally authorised in respect of the Food Safety (NI) Order 1991 and the Local Government Act (Northern Ireland) 2014 and specifically

⁷ [Northern Ireland Food Law Code of Practice](#)

under the Regulations relating to food made under the Act, including the Food Hygiene Regulations (NI) 2006, the Food Hygiene Rating Regulations (NI) 2016.

Internal Monitoring

- 3.1.8 The council had provided, as part of the PVQ, a documented procedure which described how the competence and activities of food officers was monitored.
- 3.1.9 Evidence of internal monitoring, including accompanied / joint inspections, the review of approved establishments, complaints about the food service, enforcement notices and staff meetings.

Control Procedures

- 3.1.10 Article 8 of Regulation (EC) No. 882/2004 states the competent authority shall carry out official controls in accordance with documented procedures. Belfast City Council had a comprehensive range of policies, procedures, forms and guidelines that covered the range of control procedure subject areas listed in Annex II, Chapter II of Regulation (EC) No. 882/2004.
- 3.1.11 In addition, the council 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
 - Document control

3.2 Delivery of the Food Hygiene Rating Scheme

Food Hygiene Interventions

- 3.2.1 Records for eleven establishments were examined by the auditors. This examination included reports left with the FBO, checklists used to record details of inspections and communication / letters sent to FBOs.
- 3.2.2 In all cases appropriate levels 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.

FHRS

- 3.2.3 The FSA produced guidance for district councils on the implementation and operation of the FHRS, called '*Implementation and operation of the statutory Food Hygiene Rating Scheme in Northern Ireland. Guidance for district*

councils⁸. District councils are required to follow this statutory guidance at all times to ensure its consistent implementation and operation of the FHRs.

- 3.2.4 When examining the records for the eleven establishments the auditors specifically reviewed the council's activities in relation to FHRs from 2016 until the present.
- 3.2.5 In each relevant case we examined how the council providing the FBO with information following registration or application, how they notified and explained to the FBO their food hygiene rating or a re-rating after an intervention.
- 3.2.6 A FHRs rating can only be given following specific interventions, namely an inspection, partial inspection or audit in line with the Food Law Code of Practice (Northern Ireland). The rating is based on the food hygiene scoring system found in section 5.6.1 of this code.
- 3.2.7 The following elements of the 'food hygiene intervention rating scheme' are relevant to calculating the food hygiene rating:
 - level of (current) compliance with food hygiene and safety procedures (including food handling practices and procedures, and temperature control)
 - level of (current) compliance with structural requirements (including cleanliness, layout, condition of structure, lighting, ventilation, facilities etc.)
 - confidence in management/control procedures
- 3.2.8 The auditors reviewed the food hygiene rating given at each relevant intervention carried out in the eight establishments since the statutory FHRs was implemented in October 2016. After discussing the ratings and re-ratings given by officers during interventions, particularly the score for confidence in management, the auditors were satisfied the FHR scores were appropriate in all cases.
- 3.2.9 The council's operation of the FHRs appeals mechanism, including how an FBO can appeal a FHR score, the timing and the process around determining appeals was examined and found to be suitable to achieve the purposes of the scheme.
- 3.2.10 We examined Belfast City Council process for two FHRs appeal and the auditors noted both appeals had been suitably processed.

⁸ <https://signin.riams.org/connect/revision/so05m/Environmental-Health/Statutory-FHRs-in-Northern-Ireland-Guidance-for-district-councils>

Enforcement

- 3.2.11 Belfast City Council had provided the auditors with a comprehensive range of procedures that addressed all aspects of potential enforcement activities, including how they resolve breaches of the Food Hygiene Rating Act (Northern Ireland) 2016 through the hierarchy of enforcement. This ranged from informal, through the issue of FHRs warning letters, to formal enforcement, through the issue of Fixed Penalty Notices (FPN).
- 3.2.12 Section 11 of the Act gives authorised officers the discretion to issue FPN in respect of offences under sections:
- 10(1) - failure to display a valid FHR sticker or
 - 10(2) - displaying an invalid FHR sticker
- 3.2.13 The Council provided the details of the number of FHRs warning letters and FPNs they had issued in the last two years as part of the audit PVQ. One hundred and twenty warning letters were issued to ninety-seven FBOs between August 2017 and July 2019.
- 3.2.14 The auditors examined the records for four FHRs Fixed Penalty Notice and found the notices had been served in accordance with the council's procedures and the FHRs guidance.
- 3.2.15 From discussion with the Council the auditors noted they had procedures consistent with other enforcement units in the Council in the use of FPN which encouraged the use of reminder letters in the event of non-payment and acceptance of late payments in order to secure high payment rates and avoid prosecution.

FHRs Complaints

- 3.2.16 Belfast City Council had a food complaints procedure which also covered complaints in relation to the FHRs. Six complaints relating to the FHRs were examined. All six complaints had been suitably investigated by council officers.

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Annexe A - 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.
FHRS	Food Hygiene Rating Scheme
Food Law Code of Practice (Northern Ireland) April 2016 (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)	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. Everything we do reflects our vision of Safe Food and Healthy Eating for all.

Framework Agreement	The Framework Agreement consists of: Chapter One Service Planning Guidance Chapter Two The Standard Chapter Three Monitoring of Local Authorities Chapter Four Audit Scheme for Local Authorities The Standard sets out the Agency's expectations on the planning and delivery of food law 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 2016 (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.