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| Title of Report: | Food Standards Agency Audit Report |
| Committee Report Submitted To: | Environmental Services Committee |
| Date of Meeting: | 14th November 2023 |
| For Decision or For Information | For Information |
| To be discussed In Committee | NO |

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|--|------------------------------------|
| Linkage to Council Strategy (2021-25) | |
| Strategic Theme | Improvement and Innovation |
| Outcome | Delivery of Official Food Controls |
| Lead Officer | Head of Health & Built Environment |

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| Budgetary Considerations | |
| Cost of Proposal | N/A |
| Included in Current Year Estimates | N/A |
| Capital/Revenue | N/A |
| Code | N/A |
| Staffing Costs | N/A |

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|----------------------------------|-----------|
| Legal Considerations | |
| Input of Legal Services Required | NO |
| Legal Opinion Obtained | NO |

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|--|--|-----|-------|
| Screening Requirements | Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals. | | |
| Section 75 Screening | Screening Completed: | N/A | Date: |
| | EQIA Required and Completed: | N/A | Date: |
| Rural Needs Assessment (RNA) | Screening Completed | N/A | Date: |
| | RNA Required and Completed: | N/A | Date: |
| Data Protection Impact Assessment (DPIA) | Screening Completed: | N/A | Date: |
| | DPIA Required and Completed: | N/A | Date: |

1.0 Purpose of Report

- 1.1 The purpose of this report to inform Council of the findings of an audit by the Food Standards Agency (FSA) on Council's delivery of official food controls and pre-packed for direct sale activities.

2.0 Background

- 2.1 The FSA is the central competent authority for feed and food law in the UK with powers to set standards and monitor food law enforcement services.
- 2.2 The FSA audits Enforcement Authorities (District Councils in Northern Ireland) to provide assurance that local delivery of official controls for feed and food is compliant with legal requirements and official guidance.
- 2.3 In June 2023 the FSA carried out an audit of Council's food law enforcement activities delivered by Environmental Health Officers in the Food Team with a specific focus on activities related to food businesses providing products Pre-Packed for Direct Sale (PPDS).
- 2.4 Attached as Appendix 1 is the FSA's audit report which made two minor recommendations and gave the overall audit opinion of 'Substantial', the definition of which is detailed below.

Substantial

The sections of the Competent Authority's system for delivering official controls and official control activities covered by the scope of this audit report demonstrate effective implementation of planned arrangements suitable to achieve the objectives of the relevant legal requirements and guidance.

- 2.5 An action plan outlining planned improvements to address the recommendations made is contained within annex A of the report.

3.0 Recommendation

- 3.1 It is recommended that Councils notes the audit report.

Report on District Council Pre-Packed for Direct Sale activities in Northern Ireland



Audit Opinion: **Substantial**

26 – 27 June 2023

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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 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 guidance document on the implementation of the provisions for the conduct of audits under Article 6 of Regulation (EU) 2017/625³.
- 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 Notice on a guidance document on the implementation of the provisions for the conduct of audits under Article 6 of Regulation \(EU\) 2017/625 of the European Parliament and of the Council 2021/C 66/02](#)

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

1.2 Reason for audit

1.2.1 Causeway Coast & Glens Borough Council (BC) was selected for audit because:

- Time since last audit; 5 years⁵; Organisation and Management audit, October 2017.

1.3 Scope and aims of the audit programme

1.3.1 The scope of the audit programme will include an examination of the official controls, official activities and related results that are used by District Councils (DCs) to achieve the objectives of the Legislation reference in the audit criteria.

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 The specific aims of this audit programme are to:

- evaluate DC activities in relation to food businesses providing products Pre-Packed for Direct Sale (PPDS) to consumers
- assist in the identification and dissemination of good practice to aid consistency
- provide a means to identify under performance in council's food law enforcement systems
- provide information to aid the formulation of Agency policy

1.3.4 Two councils have been included in the audit programme that will run between June and August 2023.

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:

⁵ Audit guidance referenced in point 1.1.3 recommends establishing an audit programme that ensures adequate coverage of all relevant areas of activity and all relevant competent authorities regulated by Regulation (EU) 2017/625 at an appropriate risk-based frequency over a period not exceeding five years.

- The Food Information (Amendment No. 2) Regulations (Northern Ireland) 2020
- The Food Information for Consumers Regulation (EU) No 1169/2011
- The Food Information Regulations (Northern Ireland) 2014
- Regulation (EU) No. 2017/625 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
- Food Law Code of Practice (Northern Ireland)
- Food Law Practice Guidance (Northern Ireland)
- Relevant Causeway Coast & Glens Borough Council policies and procedures

1.5 Overview of Causeway Coast & Glens Borough Council

- 1.5.1 The Causeway Coast and Glens BC area stretches east to west from Lough Foyle to the Glens of Antrim and from the Atlantic coast and Rathlin Island in the north to the Sperrins in the south. The Borough covers 1,968 square kilometres and has a resident population of approximately 144,000 people.
- 1.5.2 The Borough is rural in parts with the major populations found in Coleraine, Limavady, Ballymoney, Portstewart, Portrush and Ballycastle.
- 1.5.3 At the time of audit there were 1,828 registered food establishments and 18 approved establishments in the Council's area. These businesses include hotels, restaurants, takeaways, manufacturers, retailers, wholesalers, and distributors/transporters.

2.0 EXECUTIVE SUMMARY

- 2.1** Causeway Coast and Glens BC had implemented both versions of the Competency Framework (CF). The auditors noted officers had correctly used the CF and had been assessed by the Senior Environmental Health Officer (EHO).
- 2.2** The Council had a scheme of delegation which clearly delegated authority to the Director of Environmental Services to authorise officers, grant approvals and instigate legal proceedings. This had been further delegated to the Head of Health & Built Environment.
- 2.3** The Council had developed and implemented a documented procedure that described how internal monitoring was carried out within the food service. Suitable records were available for all the activities covered by the procedure.
- 2.4** Causeway Coast & Glens BC 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 (EU) 2017/625.
- 2.5** The auditors examined eleven food business operator (FBO) intervention records focusing on food standards to identify PPDS activity. There were good levels of detail in the records for interventions carried out at food establishments.
- 2.6** In all cases examined the correct forms and checklists were used and a sufficient level of detail was recorded of the inspecting officer to indicate PPDS official controls had been carried out correctly
- 2.7** The Council had a comprehensive range of procedures that addressed all aspects of enforcement activities.

3.0 AUDIT FINDINGS

3.1 Organisation and Management

Officer Competence and Training

- 3.1.1 Auditors examined training records for three food officers over the last three years. One officer had the required level of continuous professional development (CPD) as required by paragraph 3.7.1 of the Food Law Code of Practice (Northern Ireland) (FLCoP)⁶, and included activity specific training.
- 3.1.2 While two officers had gained some CPD and one of the officers had over 16 years experience in food enforcement there were some issues which when addressed could have provided more CPD.
- 3.1.3 For example, ensuring training had associated CPD time/hours, better utilisation of on-line training, clearer use of the regularly held Council food team meetings to cascade training and for the more experienced officer, self directed CPD such as leading discussions, providing presentations/articles to less experienced team members or at relevant forums.
- 3.1.4 The officers had also provided evidence of qualifications as required by paragraph 4.4 of the FLCoP.
- 3.1.5 Causeway Coast & Glens Borough Council had a system in place for recording each food officer's assessment of competency. When the FSA introduced the latest version of the Competency Framework (CF)⁷ a transition period for assessment against the CF had been provided for officers authorised prior to 01 March 2021 and whose authorisation is not extended to new activities.
- 3.1.6 Three officers' CF were reviewed during the audit. Two officers had been authorised prior to 01 March 2021 and one had been authorised in 2022. The officer authorised in 2022 used the latest version of the CF.
- 3.1.7 The auditors specifically examined the competency assessment record for the 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. There was also evidence of the lead food officer carrying out an assessment of officer CF.
- 3.1.8 While reviewing how the Council used the CF the auditors noted significant time was required to collate and input information into the CF.

⁶ [Northern Ireland Food Law Code of Practice](#)

⁷ Latest version at the time of this audit report was version 2 dated July 2021.

(i) The Council should:

Ensure each officer has received the appropriate levels of training.

Article 5 - General obligations concerning the competent authorities and the organic control authorities of Regulation (EU) 2017/625

4. Staff performing official controls and other official activities shall:

(a) receive, for their area of competence, appropriate training enabling them to undertake their duties competently and to perform official controls and other official activities in a consistent manner;

(b) keep up to date in their area of competence and receive regular additional training as necessary; and

(c) receive training in the subject matters set out in Chapter I of Annex II and on the obligations of the competent authorities resulting from this Regulation, as appropriate.

Authorised Officers

- 3.1.9 Causeway Coast & Glens Borough Council had a scheme of delegation which at the time of audit was at version 6 which came into effect on 01 December 2020. The senior officer given delegated authority for food related legislation under section 5 of this scheme of delegation was the Director of Environmental Services.
- 3.1.10 The council provided a document which indicated the Director of Environmental Services had, on 10 December 2020, further delegated this authority to the Head of Health & Built Environment. The delegation included the powers to authorise officers, grant approvals and instigate legal proceedings.
- 3.1.11 The council had produced a list of legislation in appendix 1 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.
- 3.1.12 The authorisations for three officers were examined. The auditors noted officers were generally authorised in respect of the Food Safety (NI) Order 1991 and the Local Government Act (Northern Ireland) 2014 and specifically under the Regulations relating to food made under the Act, including Food Safety (NI) Order 1991, the Food Hygiene Regulations (NI) 2006 (as amended), the Official Feed & Food Control Regulations (NI) 2009 (as

amended). Authorisations also included the Food Information Regulations (NI) 2014 and subsequent amendments to this legislation.

- 3.1.13 In most cases officer authorisation documents had been appropriately signed. The auditors did observe one officer's authorisation had a section not signed Section 4, part A.

Internal Monitoring

- 3.1.14 The council had provided, as part of the PVQ, a documented procedure which described how the competence and activities of food officers was monitored.
- 3.1.15 Evidence of internal monitoring was provided during the on-site audit, including accompanied / joint inspections, complaints about the food service, enforcement notices and staff meetings.

Control Procedures

- 3.1.16 Article 12 of Regulation (EU) 2017/625 states the competent authority shall carry out official controls in accordance with documented procedures. Causeway Coast & Glens Borough 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 (EU) 2017/625.
- 3.1.17 In addition, the council had documented and implemented procedures for the following activities required for the effective functioning of official controls:
- Food complaints
 - Maintenance of the food premises database
- 3.1.18 From the PVQ information provided by the Causeway Coast and Glens BC the auditors noted the Council did not have a document control procedure but did practice the principles of document control. A procedure describing a control system for all documentation relating to its enforcement activities is one of the requirements of Chapter 2, The Standard, of the Framework Agreement.
- 3.1.19 During the audit, we noted some minor issues regarding document control. For example, a scheme of delegation document delegating authority to the Head of Health & Built Environment did not refer to or indicate the document as under the control of Causeway Coast and Glens BC, the Council's Food Control Prosecutions and Caution procedure (FC/POL/C006) referred to obsolete guidance on issuing cautions while also referring to the most up-to-date guidance. Also, the Council's complaints procedure was provided to the auditors as part of the PVQ information. This document was also available

on the Council's website. The documents had different version control references.

(ii) The Council should:

Review its current practices covering the principles of document control with a view to implementing a documented procedure for the control system for all documentation relating to its enforcement activities.

Chapter II - Subject areas for control procedures, Annex II of Regulation (EU) 2017/625

11. Any other activity or information required for the effective functioning of the official controls.

3.2 Delivery of Pre-Packed for Direct Sale activities

PPDS

- 3.2.19 Not all food establishments were required to implement the requirements for PPDS. The auditors reviewed the Council's food database and selected eight food establishments for further examination. Three of these establishments had PPDS activities in their records.
- 3.2.20 Records for eleven establishments were examined by the auditors on the Council's database. Eight of these establishments' paper-based records were examined further. This examination included reports left with the FBO, checklists used to record details of inspections and communication / letters sent to FBOs.
- 3.2.21 In all cases examined the correct forms and checklists were used and a sufficient level of detail was recorded of the inspecting officer to indicate PPDS official controls had been carried out correctly, Communication letters sent to FBOs following interventions were clear about legal requirements and advice.
- 3.2.22 We would also note the Council was dealing with food businesses interpreting the relatively new PPDS legislation in a pragmatic and logical manner which also included raising these with the FSA.

Enforcement

- 3.2.23 Causeway Coast & Glens Borough Council had provided the auditors with a comprehensive range of procedures that addressed all aspects of potential enforcement activities.
- 3.2.24 The auditors noted some enforcement activity since 01 April 2022, specifically a formal caution and a prosecution. These were not examined in detail as they were not related to PPDS activities.
- 3.2.25 Section 5, Related Documents, of the Council's Food Control Prosecutions and Caution procedure (FC/POL/C006) referred to an out-dated Home Office circular 30/2005, cautioning offenders, The auditors did note however, a reference, in section 6.1, prosecutions, to the latest guidance issued by the Ministry of Justice (MoJ), Simple Cautions for Adult Offenders, dated 08 April 2013.
- 3.2.26 While the Council's use of Formal Cautions was considered appropriate within Causeway Coast and Glens BC jurisdiction the auditors observed further discussion may be beneficial in clarifying how closely the Council takes account of the MoJ guidelines in terms of wording e.g., formal caution versus simple caution, collaborative working with the police and their database, and sharing of information regarding issued cautions with other NI councils. This discussion could include NI councils and FSA in NI.

Complaints

- 3.2.27 Causeway Coast & Glens Borough Council had provided a food complaints procedure in the PVQ information.
- 3.2.28 Three food complaints were examined by the auditors. In all cases evidence was provided regarding suitable investigation and communication with the complainant and food business.

Reality Check Visit

- 3.2.29 A food business was selected for a reality check visit based on their PPDS activities, recently completed intervention and its proximity to the Council offices.
- 3.2.30 During the visit the auditors found the PPDS activities carried out by the food business to reflect those described in the most recent council inspection records. The Council's response to those activities was appropriate.

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Annexe A – Action Plan

| RECOMMENDATION | PLANNED IMPROVEMENTS | DUE DATE |
|---|--|--|
| <p>(i) The Council should:</p> <p>Ensure each officer has received the appropriate levels of training.</p> <p>Article 5 - General obligations concerning the competent authorities and the organic control authorities of Regulation (EU) 2017/625</p> <p>4. Staff performing official controls and other official activities shall:</p> <p>(a) receive, for their area of competence, appropriate training enabling them to undertake their duties competently and to perform official controls and other official activities in a consistent manner;</p> <p>(b) keep up to date in their area of competence and receive regular additional training as necessary; and</p> <p>(c) receive training in the subject matters set out in Chapter I of Annex II and on the obligations of the competent authorities resulting from this Regulation, as appropriate.</p> | <p>Ensure Training Plan is kept up to date</p> <p>Complete a Training Register for each Food Officer</p> <p>Conduct an annual Training Needs Analysis for each Food Officer based on the competency framework and personal development needs</p> <p>Review progress of the training plan at monthly team meetings</p> <p>Review progress of individual training needs at quarterly 'one-to-one' meetings</p> | <p>Ongoing</p> <p>Dec 2023</p> <p>Dec 2023</p> <p>Ongoing</p> <p>Ongoing</p> |

| RECOMMENDATION | PLANNED IMPROVEMENTS | DUE DATE |
|--|--|--------------------------|
| <p>(ii) The Council should:</p> <p>Review its current practices covering the principles of document control with a view to implementing a documented procedure for the control system for all documentation relating to its enforcement activities.</p> <p>Chapter II - Subject areas for control procedures, Annex II of Regulation (EU) 2017/625</p> <p>11. Any other activity or information required for the effective functioning of the official controls.</p> | <ul style="list-style-type: none"> a) Write a documented control procedure b) Identify documents to be controlled c) Set up naming system & apply d) Disseminate procedure with team & set up shared folder e) Archive all other uncontrolled versions <p>Set up timetable for review of document & procedure</p> | <p>March 2024</p> |

Annexe B – Glossary

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| 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 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) | <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 | <p>The Framework Agreement consists of:</p> <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> |
| 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. |

Annexe C – Audit Opinion Descriptors

| Audit Opinion | Definition |
|----------------|--|
| Substantial | The sections of the Competent Authority’s system for delivering official controls and official control activities covered by the scope of this audit report demonstrate effective implementation of planned arrangements suitable to achieve the objectives of the relevant legal requirements and guidance. |
| Moderate | The sections of the Competent Authority’s system for delivering official controls and official control activities covered by the scope of this audit report requires some improvement to fully demonstrate effective implementation of planned arrangements suitable to achieve the objectives of the relevant legal requirements and guidance. |
| Limited | The sections of the Competent Authority’s system for delivering official controls and official control activities covered by the scope of this audit report requires significant improvement to fully demonstrate effective implementation of planned arrangements suitable to achieve the objectives of the relevant legal requirements and guidance. |
| Unsatisfactory | The sections of the Competent Authority’s system for delivering official controls and official control activities covered by the scope of this audit report requires substantial improvement to fully demonstrate effective implementation of planned arrangements suitable to achieve the objectives of legal requirements and guidance. |