



Food Standards Agency in Northern Ireland

Report of a Focused Audit of the Delivery of Official Controls in Approved Live Bivalve Mollusc and Fishery Product Establishments in Northern Ireland

Foreword

Audits of local authorities' food law enforcement services are part of the Food Standards Agency's (FSA) arrangements to improve consumer protection and confidence in relation to food. 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 their Environmental Health Services.

The attached audit report examines the official controls implemented in approved establishments by the Local Authority's Food Law Enforcement Service. The audit assessments included the authority's policies, organisation and management and local arrangements for implementation of official controls in approved establishments, with specific focus on approved Live Bivalve Mollusc (LBM), Fishery Product, and related areas of food law enforcement.

FSA audits assess local authorities' conformance against the Food Law Enforcement Standard ('The Standard'), which was published by the Agency as part of the Framework Agreement on Local Authority Food Law Enforcement. The Framework Agreement and the audit protocols are available on the Agency's website at:

www.food.gov.uk/enforcement/auditandmonitoring

The main aim of the audit scheme is to improve and maintain consumer protection and confidence by ensuring that local authorities are providing an effective food law enforcement service. The scheme also provides the opportunity to identify and disseminate good practice and information to inform Agency policy on food safety.

The report contains some statistical data on food law enforcement activities undertaken by the authority. The FSA's website contains enforcement activity data for all UK local authorities and can be found at: www.food.gov.uk/enforcement/auditandmonitoring

The report also contains an action plan, prepared by the Authority, to address the audit findings.

A glossary of technical terms used within the audit report can be found at Annexe C.

Table of Contents

1.0 INTRODUCTION.....	4
1.1 Reason for the Audit	4
1.2 Scope and objectives of the audit	5
1.3 Background.....	5
2.0 EXECUTIVE SUMMARY	7
3.0 AUDIT FINDINGS	8
3.1 Authorised Officers.....	8
Scheme of Delegation.....	8
Authorisation Procedure	8
Qualifications and Training	8
3.2 Food and Feedingstuffs Establishments Interventions and Inspections.....	8
Approved Establishments	8
Interventions	9
Compliance	10
3.3 Food, Feed and Food Establishments Complaints.....	10
3.4 Food and Feed Inspection and Sampling.....	11
Official Controls - Wild Pectinidae and non-filter feeding live marine gastropods	11
3.5 Records and Interventions	12
Approved Establishments Files.....	12
Reports after inspections	13
3.6 Additional Requirements	14
Issue and Examination of Registration Documents.....	14
Permanent Transport Authorisations (PTAs)	15
Closure Notices.....	15
Fishery Products Charging	16
Animal By products	17
3.7 Reality Check Visits	17
Annexe A – Good Practice	19
Annexe B – Action Plan for Newry and Mourne District Council.....	20
Annexe C - Glossary	28

1.0 INTRODUCTION

1.1 Reason for the Audit

1.1.1 The primary purpose of FSA audits of Enforcement Authorities is to provide assurance that local delivery of official controls for feed and food is compliant with EC and UK legal requirements and official guidance. The detailed guidelines for the conduct of audits of competent authorities are set out in an EC Decision of September 2006¹.

1.1.2 In Northern Ireland, the power to set standards, monitor and audit Enforcement Authorities food law enforcement services was conferred on the FSA by The Food Standards Act 1999² and The Official Feed and Food Controls (Northern Ireland) Regulations 2009³. The audit will be undertaken under section 12 of the Act and regulation 7 of the Regulations.

1.1.3 The Framework Agreement on Local Authority (LA) Food Law Enforcement 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.

1.1.4 The overarching aims of the audit scheme⁴ 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

1.1.5 Newry and Mourne District Council (Newry & Mourne DC) was included in the FSA's programme of audits of local authority food law enforcement services; because Newry & Mourne DC had an establishment profile with a particular concentration of approved fishery product and LBM establishments.

¹ [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](#)

² [Food Standards Act 1999 c.28](#)

³ [SR 2009/427 - The Official Feed and Food Controls Regulations \(Northern Ireland\) 2009](#)

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

1.2 Scope and objectives of the audit

1.2.1 The audit examined Newry & Mourne DC's delivery of official controls in approved LBM and fishery product establishments, with particular reference to Regulations 852/2004, 853/2004, 854/2004, 882/2004 and 178/2002.

1.2.2 In particular:

- Fishery products and LBMs from landing to placing on the market for sale to the final consumer.
- The delivery of official controls against the relevant sections and/or sub-sections of the '*Standard*' in Chapter 2 of the Framework Agreement:
 - Authorised Officers (Section 5)
 - Food and Feedingstuffs Establishments Interventions and Inspections (Section 7)
 - Food and Feed Inspection and Sampling (Section 12)
 - Records and Interventions/Inspections Reports (Section 16)

1.2.3 The audit sought to gain assurance that Newry & Mourne DC's food hygiene law enforcement service systems and arrangements are effective in supporting food business compliance, and that local enforcement is managed and delivered effectively.

1.2.4 Specifically, the audit sought to establish that Newry & Mourne DC:

- Had implemented and applied official controls in relation to the requirements of the appropriate legislation relating to fishery products and LBMs
- Had effectively managed the registration and approval activities required by Regulations (EC) No 852/2004, 853/2004 and 882/2004
- Had carried out interventions that are appropriate, risk-based, and effectively managed
- Had enforcement records that are sufficiently detailed, accurate, up to date, and effectively managed

1.3 Background

1.3.1 Newry and Mourne District council includes much of the south of County Armagh and the south of County Down and has an estimated population of approximately 87,058.

1.3.2 Newry city has a population of 19,760 and is an important service centre providing administrative, commercial and recreational services for the extensive rural hinterland. Other towns in the council area include

Crossmaglen and Bessbrook in County Armagh and Warrenpoint, Rostrevor, Hilltown, Annalong and Kilkeel in County Down.

- 1.3.3 The profile of Newry & Mourne DC's food businesses as of 31 March 2009⁵ was as follows:

Type of Food Establishment	Number
Primary Producers	8
Manufacturers and Packers	66
Importers / Exporters	2
Distributors / Transporters	23
Retailers	266
Restaurants and Caterers	666
Total Number of Food Establishments	1031

- 1.3.4 There were eighteen approved LBM, and fishery product establishments in the Authority's area which required approval under Regulation (EC) No. 853/2004.
- 1.3.5 Following local government reorganisation in Northern Ireland in 1973 a statutory grouping system was set up to support district councils. This system consisted of four regional groups covering the 25 smaller district councils in Northern Ireland. Belfast City Council due to its size was not included in the statutory grouping system.
- 1.3.6 Newry & Mourne DC was a constituent council of Southern Group Environmental Health Committee (SGEHC). SGEHC provided co-ordination, monitoring, and support to its constituent councils, Armagh, Banbridge, Craigavon, Dungannon and South Tyrone and Newry and Mourne.
- 1.3.7 The Food Safety Service was primarily based in the Council offices located at [Monaghan Row, Newry, BT35 8DJ](#). The Council also had an office located at Kilkeel Harbour due to a concentration of approved LBM, and fishery product establishments in Kilkeel.

⁵ Establishment profile information taken from Newry & Mourne DC Local Authority Enforcement Monitoring System (LAEMS) return for 2008 / 2009

2.0 EXECUTIVE SUMMARY

- 2.1** Newry and Mourne DC had a clear 'Scheme of Delegation' from the Council to the Director of Environmental Health. Officers had been authorised correctly in accordance with the Food Law Code of Practice (Northern Ireland).
- 2.2** The Council had a documented procedure for approving establishments subject to Regulation (EC) 853/2004. For all establishment files examined the approval process had carried out within the six months laid down in Regulation (EC) 882/2004.
- 2.3** The Council had a documented procedure for carrying out food hygiene inspections and a review of the inspection records indicated the inspections were carried out by an appropriately experienced and authorised officer and at the correct frequency.
- 2.4** Newry and Mourne DC had a documented food sampling policy and a risk based annual sampling programme.
- 2.5** The Council's establishment file records were easily retrievable. In the majority of cases the approved establishment files contained sufficient records and detail to support the FBO's application for approval and describe the activities carried out by the FBO.
- 2.6** The Council had a process for the issue of registration documents. However records of checks to verify completion, and the use of registration documents by FBOs were not being carried out by the Council.
- 2.7** The Council had a documented procedure for the temporary closure of a shellfish bed and included a requirement for shellfish bed harvester to identify the relevant interested parties for the bed.
- 2.8** Newry and Mourne DC had establishments where charges could be levied under the Fishery Products (Official Control Charges) Regulations (NI) 2007. However charges were not being levied by the Council at these establishments.
- 2.9** The auditors, in conjunction with an authorised officer from Newry and Mourne DC, carried out reality check visits at two approved establishments. The auditors noted the Council's decision to approve both establishments was correct.

3.0 AUDIT FINDINGS

3.1 Authorised Officers

Scheme of Delegation

- 3.1.1 The Council's 'Scheme of Delegation' indicated the delegation of all relevant food law enforcement powers. The power to authorise officers had been delegated to the Director of Environmental Health.

Authorisation Procedure

- 3.1.2 The Council had a documented procedure for authorisation of officers to ensure that officers were authorised on the basis of their qualifications, training, and competency.
- 3.1.3 The records of authorisations were specific and confirmed the limitations of each officer's powers under the Food Safety (Northern Ireland) Order 1991, the Food Hygiene Regulations (Northern Ireland) 2006 and the Official Feed and Food Control Regulations (Northern Ireland) 2009. In addition authorisations had also been conferred generally under the European Communities Act 1972, and specifically under the Regulations relating to food made under that Act.

Qualifications and Training

- 3.1.4 Records of officers' qualifications and training were maintained by the Council. All training records examined contained evidence of a minimum 10 hours relevant training in the last year based on the principles of continuing professional development.
- 3.1.5 It was clear the authorised officer assigned to carryout official controls in approved shellfish and fishery product establishments had a wealth of experience and knowledge specific to shellfish and fishery product establishments.

3.2 Food and Feedingstuffs Establishments Interventions and Inspections

Approved Establishments

- 3.2.1 Article 31(2) (a) of EC Regulation 882/2004 obliges competent authorities to establish procedures for food business operators to follow when applying for the approval of their establishments in accordance with EC Regulation 853/2004. The Council had a documented procedure to be followed when approving establishments subject to Regulation (EC) 853/2004.
- 3.2.2 An examination of five of the eighteen approved LBM, and fishery product establishments indicated the re-approval process had been followed for all five establishments.

- 3.2.3 Point 5.1.17 of the Food Law Code of Practice (Northern Ireland) 2008 (FLCoP) details the responsibilities of FBOs and district councils when there are changes of details or activities in approved establishments.
- 3.2.4 FBOs should ensure district councils always have up-to-date information on establishments including significant changes in activities and closures of establishments.
- 3.2.5 When District councils become aware of either
- significant changes in activities,
 - activities for which the establishment was given approval for but no longer carryout
 - or activities for which the establishment was given approval for but did not carry out since the time of approval
- 3.2.6 The auditors did note three approved establishments which had been granted approval for activities which they either no longer carry out or did not actually carryout since the time of approval. There was also an example of a change of activity at an approved establishment which was not notified by the Council to the FSA in NI.

Recommendation

- (i) The Council should review the activities of those establishments which have either significantly changed or they no longer carry out with a view to amending the scope of the approval granted. Significant changes to activities at approved establishments should be notified to the FSA in NI.

The Authority shall carry out interventions/inspections, and approve or register establishments in accordance with the relevant legislation, Codes of Practice, centrally issued guidance and the Authority's policies and procedures.

[The Standard - 7.2]

Interventions

- 3.2.7 The Council had developed a documented procedure for carrying out food hygiene inspections. The procedure made reference to the process to be followed when carrying out a food hygiene inspection, relevant industry guides and inspection forms to be used.
- 3.2.8 A review of the inspections records of five approved establishments indicated the Council had inspected the approved establishments at the correct frequency.
- 3.2.9 The inspections had been carried out by an appropriately experienced and authorised officer. In the majority of cases the Council had carried out the

inspections using specific approved fishery products and LBM inspection forms.

Compliance

- 3.2.10 In all cases the approved establishments had been correctly risk-rated in accordance with the intervention rating scheme in Annex 5 of the FLCoP following the inspections.
- 3.2.11 However, the recorded scores given did not allow the auditors to distinguish individual scores given against each section of the intervention rating scheme.

Recommendation

- (ii) The Council should record the intervention rating scheme scores in a manner which distinguishes between the individual scores given under each section of the intervention rating scheme

The Authority shall carry out interventions/inspections, and approve or register establishments in accordance with the relevant legislation, Codes of Practice, centrally issued guidance and the Authority's policies and procedures.

[The Standard - 7.2]

3.3 Food, Feed and Food Establishments Complaints

- 3.3.1 Shellfish and fishery product complaints and investigations were handled by the authorised officer assigned by the Council to carryout official controls at approved shellfish and fishery product establishments. The auditors saw evidence of appropriate handling of complaints by the authorised officer.
- 3.3.2 However, the process in place for handling complaints and investigations into complaints relating to approved shellfish and fishery product establishments did not include a method for recording individual complaints and the investigations associated with each complaint.

Recommendation

- (iii) The Council should include a system for recording individual complaints and the investigations associated with approved shellfish and fishery product establishments in its current procedure for handling food complaints. The system should also include complaints and investigations received from outside Newry and Mourne DC's area.

The Authority shall set up, maintain and implement a documented policy and procedure(s) in relation to complaints about food and feed that originate within the UK, and those foods and feed originating from other EU member states, or from third countries and in relation to complaints against feed and food establishments.

[The Standard - 8.1]

3.4 Food and Feed Inspection and Sampling

- 3.4.1 Newry & Mourne DC had a documented food sampling policy which detailed how the sampling programme was developed each year. The sampling programme detailed areas where samples would be selected and the target number of samples to be taken each year.
- 3.4.2 It was clear from the review of the sampling programme and discussions with Council officers that the sampling programme was risk based and took into consideration factors such as establishment activities, planned interventions, resources, and centrally co-ordinated sampling programmes by the FSA.
- 3.4.3 However it was not clear how the number and type of samples actually taken during the year was reconciled against the planned sampling programme.

Recommendation

- (iv) The Council should reconcile actual samples taken during the year against the planned annual sampling programme.

The Authority shall set up, maintain, and implement a documented sampling policy and programme that shall with any centrally issued or relevant guidance and relevant Codes of Practice and shall include reference to its approach to any relevant national sampling programme centrally co-ordinated by the Food Standards Agency.

[The Standard – 12.4]

Official Controls - Wild Pectinidae and non-filter feeding live marine gastropods

- 3.4.4 Chapter III of Annex II to Regulation (EC) No 854/2004 requires official controls, which may include sampling, to be carried out on wild pectinidae and non-filter feeding live marine gastropods at fish auctions, dispatch centres, and processing establishments to verify compliance with the health standards for LBMs laid down in Regulation (EC) 853/2004.
- 3.4.5 Limited information was available to determine the official controls which had been implemented by Newry & Mourne DC with regards to Wild Pectinidae and non-filter feeding live marine gastropods harvested outside classified production areas, although the issue of FBO own checks was being progressed.

Recommendation

- (v) The Council should implement official controls on wild pectinidae and non-filter feeding live marine gastropods at fish auctions, dispatch centres, and processing establishments to verify compliance with the health standards for LBMs laid down in Regulation (EC) 853/2004.

The Authority shall carry out interventions/inspections, and approve or register establishments in accordance with the relevant legislation, Codes of Practice, centrally issued guidance and the Authority's policies and procedures.

[The Standard - 7.2]

3.5 Records and Interventions

Approved Establishments Files

- 3.5.1 The auditors examined the records contained in five approved establishment files. In all cases the establishment files were organised with records easily retrievable.
- 3.5.2 Annexe 12 of the Food Law Practice Guidance (Northern Ireland) 2006 (FLPG) gives guidance on the use of a synopsis for an approved establishment to briefly describe what type of establishment it is, products produced, volume of product, type of trade, number of employees, approval number and what it is approved for.
- 3.5.3 A synopsis of the establishment was available for all five of the establishment files examined by the auditors. However in three cases the synopsis of the establishment was missing information for example, volume of product, approval number, approval activities, and supplier details.

Recommendation

- (vi) The Council should include a synopsis of the approved establishment as referred to Annexe 12 of the Food Law Practice Guidance (NI) 2006 when considering the contents of approved establishment files.

The Authority shall maintain up to date accurate records in retrievable form on all food and feed establishments in its area, and for all relevant checks on imported food and feed, in accordance with Codes of Practice and centrally issued guidance. These records shall include relevant food and/or feed registration and approval information.

[The Standard – 16.1]

- 3.5.4 The FLCoP at point 5.1.6 details how district councils handle applications for approval from FBOs. Paragraph three of point 5.1.6 states: *'District councils should ensure that the food business operator supplies all relevant*

information before an application for approval is determined. This information may be obtained from the food business operator in documentation supplied with the application or during the subsequent on-site visit to the establishment as required by Article 31(2) (b) of Regulation 882/2004.'

- 3.5.5 Annexe 3 of the FLCoP details the conditions necessary for approving a product-specific establishment subject to approval under Regulation 853/2004.
- 3.5.6 Also, the practice guidance, Annexe 3.4, advises that '*District Councils should consider 'infrastructure' to relate not only to the physical structure of the establishment, but also to the systems and services necessary, for the food business to be able to produce safe food. Such systems would include a procedure or procedures based on the HACCP principles, in accordance with Article 5 of Regulation 852/2004.'*
- 3.5.7 Annexe 12 of the FPLG also provides guidance to district councils regarding the content and structure of files produced for establishments which require formal approval.
- 3.5.8 Two of the five approved establishment files examined contained sufficient records and detail to support the application for approval and describe the activities carried out by the FBO. However, in three cases the establishment file records did not contain sufficient records considering the activities for which the establishment had been approved to carry out e.g. evaluation of HACCP procedures, traceability, plans/layout of establishment, registration documents.

Recommendation

- (vii) The Council should refer to Annexe 12 of the Food Law Practice Guidance (NI) 2006 when considering the contents of approved establishment files.

The Authority shall maintain up to date accurate records in retrievable form on all food and feed establishments in its area, and for all relevant checks on imported food and feed, in accordance with Codes of Practice and centrally issued guidance. These records shall include relevant food and/or feed registration and approval information.

[The Standard – 16.1]

Reports after inspections

- 3.5.9 The outcome of an official control must always be reported in writing to the FBO either at the conclusion of the official control or as soon as practicable thereafter, even if the outcome was satisfactory.
- 3.5.10 From an examination of the five approved establishments Newry & Mourne DC had produced a report following an inspection in all cases.

- 3.5.11 From the examination of the approved establishment files the auditors noted the Council had corresponded with two of the five approved establishments following an inspection. Both letters contained statutory requirements and recommendations about good practice.
- 3.5.12 However, there was not a clear distinction in the letters between actions needed to meet statutory requirements and recommendations about good practice. Point 3.1.16 of the FLCoP states there should be a clear distinction in the letters between actions needed to meet statutory requirements and recommendations about good practice.

Recommendation

- (viii) The Council should ensure correspondence sent to FBOs following interventions are formatted to ensure there is a clear distinction between actions needed to meet statutory requirements and recommendations about good practice.

The Authority shall carry out interventions/inspections (as required by the relevant Code of Practice) at all food hygiene, food standards and feedingstuffs establishments in their area, at a frequency which is not less than that determined under the intervention rating schemes set out in the relevant legislation, Codes of Practice or other centrally issued guidance.

[The Standard – 7.1]

3.6 Additional Requirements

Issue and Examination of Registration Documents

- 3.6.1 Point 5.33 of the FLCoP specifies that district councils should keep details of registration documents that are issued to gatherers of live shellfish and periodically check registration documents when shellfish come ashore.
- 3.6.2 The Council had a process for the issue of registration documents, which included controls to verify individuals requesting registration forms for use by shellfish gatherers harvesting within the Newry & Mourne DC area.
- 3.6.3 Point 4.3.3.1 of the FLCoP states: *‘District councils should carry out regular examinations of registration documents to determine their accuracy. The examination of the documents and samples should normally be carried out as part of the inspection of dispatch or purification centres.’*
- 3.6.4 Point 6 of Annexe 6 of the FLPG also provided guidance to district councils on the monitoring of registration documents, in particular in order to detect abuses in the use of registration documents.
- 3.6.5 A review of the inspection records contained in the approved establishment files selected by the auditors indicated the Council had not verified the completion and use of registration documents by FBOs.

Recommendation

- (ix) Correlation checks should be conducted by the Council during interventions at food establishments and vessels at landing to determine the accuracy of registration documents.

The Authority shall carry out interventions/inspections, and approve or register establishments in accordance with the relevant legislation, Codes of Practice, centrally issued guidance and the Authority's policies and procedures.

[The Standard – 7.2]

Permanent Transport Authorisations (PTAs)

- 3.6.6 Point 5.3.4 of the FLCoP details the process district councils may follow when issuing a PTA. The Code of Practice states: *'A district council may issue to gatherers a Permanent Transport Authorisation (PTA) as an alternative to separate movement documents when the gatherer also operates the purification centre, relaying area or processing establishment to which their harvested live bivalve molluscs are being delivered.'*
- 3.6.7 Newry & Mourne DC had issued a number of PTAs, however it was not clear if the Council had considered the requirements of Regulation 853/2004, Annex III, Section VII, Chapter 1, for example the issues considered prior to issuing a PTA and recording the PTAs issued by the Council.
- 3.6.8 One of the PTAs examined had a reference to revoked legislation and referred to an activity no longer carried out by the FBO.

Recommendation

- (x) The Council should record their considerations in their decision to issue PTAs to FBOs. The Council should review the details of current PTAs to ensure they reflect current legislation and cover current activities granted under approval. The Council should review PTAs to ensure they contain up to date information and also maintain a record of the issue of PTAs to FBOs.

The Authority shall carry out interventions/inspections, and approve or register establishments in accordance with the relevant legislation, Codes of Practice, centrally issued guidance and the Authority's policies and procedures.

[The Standard – 7.2]

Closure Notices

- 3.6.9 Point 5.3.6 of the FLCoP details the process district councils may follow when temporarily closing harvesting areas. The FLCoP states *'Annex II, Chapter II, Sections E(b) and (c) of Regulation 854/2004 respectively, require the district council to inform interested parties, such as the Agency,*

producers, gatherers and operators of purification centres or dispatch centres immediately of the closure of any area, and to act promptly to close or re-open production areas. When the closure of a production area is required, the Agency recommends that a Closure Notice should be used as the means to inform interested parties.'

- 3.6.10 Newry & Mourne DC had a procedure in place for the temporary closure of a shellfish bed, including a means of collecting information from the harvester of the relevant interested parties affected by the closure of the shellfish bed. However it was not clear from the procedure the action to be taken to withdraw and / or recall any LBMs from the affected shellfish bed from sale that may already have been placed on the market (nationally or internationally).

Recommendation

- (xi) The Council should amend its procedure for the temporary closure of a shellfish bed to include actions to be taken to withdraw and / or recall any LBMs from the affected shellfish bed from sale.

The Authority shall carry out interventions/inspections, and approve or register establishments in accordance with the relevant legislation, Codes of Practice, centrally issued guidance and the Authority's policies and procedures.

[The Standard – 7.2]

Fishery Products Charging

- 3.6.11 Under the Fishery Products (Official Control Charges) Regulations (NI) 2007 district councils are required to recover costs occasioned by official controls performed on fishery products landed directly in NI.
- 3.6.12 A number of establishments where charges should be levied by the Council were identified during the audit. Charges had been levied on a number of premises up to 2002 but have not been collected for some years due to the administrative difficulties and cost of collection and the necessary public health priority given to other work.
- 3.6.13 It should be noted that the European Commission began a review of EU Regulation 882/2004 in 2009, with special emphasis on Articles 26-29, which cover fee mechanisms for financing official controls. FSA, during its open board meeting in January 2011, discussed the UK's position on charging for official controls.
- 3.6.14 One of the principles discussed in the board paper was the need for a clearer, simpler fee system⁶. The FSA recognise the way fees are calculated within the current legal framework is complicated and lacks clarity, and

⁶ [FSA 11/01/05 - EU and UK Review of Charging for Official Controls - Food Standards Agency FSA 11/01/05 Open Board – 25 January 2011](#)

implementation can be administratively burdensome for the agencies delivering official controls.

Recommendation

- (xii) The Council should determine the charges that should be levied on the establishments affected by Fishery Products (Official Control Charges) Regulations (NI) 2007 and issue invoices to recover these costs.

The Authority shall carry out interventions/inspections, and approve or register establishments in accordance with the relevant legislation, Codes of Practice, centrally issued guidance and the Authority's policies and procedures.

[The Standard – 7.2]

Animal By products

3.6.15 The disposal of animal by products was examined as part of the Council's inspection of shellfish and fish processing establishments, however limited information was recorded on the inspection form to verify the correct disposal of animal by product.

3.6.16 In the majority of cases waste was removed in accordance with the animal by product regulations. However, during a reality check visit to an approved establishment the auditors noted product which had been stored separately but had not been identified as animal by product.

Recommendation

- (xiii) The Council should ensure the inspection and verification of correct disposal of animal by products from approved fishery product and LBM establishments are carried out and recorded on inspections form.

The Authority shall carry out interventions/inspections, and approve or register establishments in accordance with the relevant legislation, Codes of Practice, centrally issued guidance and the Authority's policies and procedures.

[The Standard – 7.2]

3.7 Reality Check Visits

3.7.1 The EC decision which details guidelines for the conduct of audits of competent authorities makes reference to the use of on-site verification visits (or reality checks) as a process for the verification of the effective implementation of planned arrangements and the verification of compliance with and effective implementation of planned arrangements.

- 3.7.2 As part of the audit at Newry & Mourne DC the auditors carried out reality check visits to two approved establishments in the Council's area. The reality check visits were carried out in conjunction with an authorised officer from Newry & Mourne DC.
- 3.7.3 The objectives of the joint reality check visits were:
- To assess, on the basis of the information in the Council's establishment file and through observations made by the auditors during the visit, whether the Council's decision to approve the establishment was correct.
 - To establish the degree of understanding that the authorised officer had in respect of the food safety systems that the FBO of the establishment had in place.
- 3.7.4 For both establishments visited the auditors were able to confirm that the requirements for approval of the establishments as specified in Regulation (EC) No. 853/2004 had been fulfilled and in the opinion of the auditors the Council's decision to approve both establishments was correct.

Auditors:

Kevin Nagle (Lead Auditor) - Corporate Resources Unit
Louise Connolly (Technical Expert) - Primary Production Unit

Food Standards Agency in Northern Ireland

10a-c Clarendon Road

BELFAST

BT1 3BG

Tel: 028 90 41 77 00

www.food.gov.uk

Annexe A – Good Practice

Annexe B – Action Plan for Newry and Mourne District Council

Audit Date: 11, 12, and 15 April 2011

RECOMMENDATION	PLANNED IMPROVEMENTS	DUE DATE
<p>(i) The Council should review the activities of those establishments which have either significantly changed or they no longer carry out with a view to amending the scope of the approval granted.</p> <p>The Authority shall carry out interventions / inspections, and approve or register establishments in accordance with the relevant legislation, Codes of Practice, centrally issued guidance and the Authority’s policies and procedures.</p> <p>[The Standard - 7.2]</p>	<p>Premises activities are being reviewed and amended (where necessary) as inspections progress.</p> <p>However all reviews will be completed by end of January 2012.</p> <p>An updated list of premises and activities will be forwarded at that time.</p>	<p>31 January 2012</p>
<p>(ii) The Council should record the intervention rating scheme scores in a manner which distinguishes between the individual scores given under each section of the intervention rating scheme.</p> <p>The Authority shall carry out interventions / inspections, and approve or register establishments in accordance with the relevant legislation, Codes of Practice, centrally issued</p>	<p>Occasionally the appropriate risk rating form may be missing from the file due to the computerised recording of inspections at a site remote from the Kilkeel office. However the ratings are listed in a file note on these occasions in order as they appear on the form. It would be contended that those familiar with the use of these forms would be able to determine the corresponding scores either from their own familiarity with the forms or from comparison with similar forms in each file. However it will be ensured forthwith that all appropriate information is included in the files.</p>	

RECOMMENDATION	PLANNED IMPROVEMENTS	DUE DATE
<p>guidance and the Authority's policies and procedures.</p> <p>[The Standard – 7.2]</p>		
<p>(iii) The Council should include a system for recording individual complaints and the investigations associated with approved shellfish and fishery product establishments in its current procedure for handling food complaints. The system should also include complaints and investigations received from outside Newry and Mourne DC's area.</p> <p>The Authority shall set up, maintain and implement a documented policy and procedure(s) in relation to complaints about food and feed that originate within the UK, and those foods and feed originating from other EU member states, or from third countries and in relation to complaints against feed and food establishments.</p> <p>[The Standard – 8.1]</p>	<p>Most complaints are directed to the appropriate officer and are received directly by him. Details of the complaints and investigations are in the premises file rather than being held centrally.</p> <p>However all complaints received are now logged in the main complaints system. This included Home Authority referrals.</p>	<p>Ongoing</p>
<p>(iv) The Council should reconcile actual samples taken during the year against the planned annual sampling programme.</p>	<p>Selected premises are sampled based on assessed risk. The programme is set at the beginning of the year and reviewed half yearly.</p> <p>A Sample reconciliation will be carried out at each food team</p>	<p>Forthwith</p>

RECOMMENDATION	PLANNED IMPROVEMENTS	DUE DATE
<p>when considering the contents of approved establishment files.</p> <p>The Authority shall maintain up to date accurate records in retrievable form on all food and feed establishments in its area, and for all relevant checks on imported food and feed, in accordance with Codes of Practice and centrally issued guidance. These records shall include relevant food and/or feed registration and approval information.</p> <p>[The Standard – 16.1]</p>		
<p>(vii) The Council should refer to Annexe 12 of the Food Law Practice Guidance (NI) 2006 when considering the contents of approved establishment files.</p> <p>The Authority shall maintain up to date accurate records in retrievable form on all food and feed establishments in its area, and for all relevant checks on imported food and feed, in accordance with Codes of Practice and centrally issued guidance. These records shall include relevant food and/or feed registration and approval information.</p>	<p>All files are being reviewed as inspections proceed. All files will be updated to include / update necessary information by the end of January 2012.</p>	<p>31 January 2012</p>

RECOMMENDATION	PLANNED IMPROVEMENTS	DUE DATE
[The Standard – 16.1]		
<p>(viii) The Council should ensure correspondence sent to FBOs following interventions are formatted to ensure there is a clear distinction between actions needed to meet statutory requirements and recommendations about good practice.</p> <p>The Authority shall carry out interventions / inspections (as required by the relevant Code of Practice) at all food hygiene, food standards and feedingstuffs establishments in their area, at a frequency which is not less than that determined under the intervention rating schemes set out in the relevant legislation, Codes of Practice or other centrally issued guidance.</p> <p>[The Standard – 7.1]</p>	Being done as inspections proceed.	Ongoing
<p>(ix) Correlation checks should be conducted by the Council during interventions at food establishments and vessels at landing to determine the accuracy of registration documents.</p> <p>The Authority shall carry out interventions / inspections, and approve or register</p>	Some checks carried out at establishments but not recorded – to be recorded on inspection proforma. Checks on landing to be implemented forthwith.	Ongoing

RECOMMENDATION	PLANNED IMPROVEMENTS	DUE DATE
<p>establishments in accordance with the relevant legislation, Codes of Practice, centrally issued guidance and the Authority's policies and procedures.</p> <p>[The Standard – 7.2]</p>		
<p>(x) The Council should record their considerations in their decision to issue PTAs to FBOs. The Council should review the details of current PTAs to ensure they reflect current legislation and cover current activities granted under approval. The Council should also maintain a record of the issue of PTAs to FBOs.</p> <p>The Authority shall carry out interventions / inspections, and approve or register establishments in accordance with the relevant legislation, Codes of Practice, centrally issued guidance and the Authority's policies and procedures.</p> <p>[The Standard – 7.2]</p>	<p>The out of date PTA was an oversight during re-approval – now corrected.</p> <p>Considerations on issue, although not explicitly recorded, are clear from the contents of the files. Beds and plants are both operated by the single FBO and both are within the one LA district.</p> <p>Premises are in compliance with good hygienic practices; however a register has now been implemented.</p>	<p>Done</p> <p>1/11/11</p> <p>1/11/11</p>
<p>(xi) The Council should amend its procedure for the temporary closure of a shellfish bed to include actions to be taken to withdraw and / or recall any LBMs from the affected shellfish bed from sale.</p>	<p>Done</p>	<p>4/10/2011</p>

RECOMMENDATION	PLANNED IMPROVEMENTS	DUE DATE
<p>The Authority shall carry out interventions / inspections, and approve or register establishments in accordance with the relevant legislation, Codes of Practice, centrally issued guidance and the Authority's policies and procedures.</p> <p>[The Standard – 7.2]</p>		
<p>(xii) The Council should determine the charges that should be levied on the establishments affected by Fishery Products (Official Control Charges) Regulations (NI) 2007 and issue invoices to recover these costs.</p> <p>The Authority shall carry out interventions / inspections, and approve or register establishments in accordance with the relevant legislation, Codes of Practice, centrally issued guidance and the Authority's policies and procedures.</p> <p>[The Standard – 7.2]</p>	<p>As FSA has already acknowledged the present system for charging is complicated, lacks clarity and that implementation would be administratively burdensome. When introduced the cost of administration exceeded the income generated but it proceeded.</p> <p>We understand that reintroduction of charging is to be reviewed and it would be wiser probably await the results of the review. However the matter will be drawn to the attention of the council at an appropriate meeting.</p>	
<p>(xiii) The Council should ensure the inspection and verification of correct disposal of animal by products from approved fishery product and LBM establishments are carried out and recorded on</p>	<p>Information resulting from inspection will be recorded in more detail as inspections proceeds.</p>	<p>Ongoing</p>

RECOMMENDATION	PLANNED IMPROVEMENTS	DUE DATE
<p>inspections form.</p> <p>The Authority shall carry out interventions / inspections, and approve or register establishments in accordance with the relevant legislation, Codes of Practice, centrally issued guidance and the Authority's policies and procedures.</p> <p>[The Standard – 7.2]</p>		

Annexe C - Glossary

<p>Audit</p>	<p>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.</p>
<p>Authorised Officer</p>	<p>A suitably qualified Officer who is authorised by the Local Authority to act on its behalf in, for example, the enforcement of legislation.</p>
<p>Eastern Group Environmental Health Committee (EGEHC)</p>	<p>Group Environmental Health Committees were first introduced in 1973 by an Order in Council, was reviewed in 1994, and is known as the Group System. There are four Groups (Northern, Eastern, Southern and Western), plus Belfast City Council.</p> <p>EGEHC is made up of the following constituent councils: Ards, Castlereagh, Down, North Down and Lisburn Councils.</p> <p>The purpose of the Group Committee is to ensure co-ordination of, and monitoring of the provision of environmental health services within each of the constituent council areas and also between Groups.</p>
<p>Food Business Operator (FBO)</p>	<p>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.</p>
<p>Food Fraud Database</p>	<p>This central intelligence system uses a specialist intelligence management program that is used by many other law enforcement agencies, including the Welsh Food Fraud Co-ordination Unit. In addition to having powerful searching capabilities, it is used to detect emerging patterns of fraudulent activity.</p>
<p>Food hygiene</p>	<p>The legal requirements covering the safety and wholesomeness of food.</p>
<p>Food Law Code of Practice (Northern Ireland) August 2008</p>	<p>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) 2007, which empower the Department of Health Social Services and Public Safety to issue codes of</p>

	<p>practice concerning the execution and enforcement of that legislation by district councils. This code is issued as guidance to Local Authorities on the enforcement of food legislation. It relates to Northern Ireland only.</p>
<p>Food Law Practice Guidance (Northern Ireland) June 2006</p>	<p>Food Law Practice Guidance (Northern Ireland) June 2006 (FLPG) is issued by the FSA in NI to assist District Councils with the discharge of their statutory duty to enforce the Food Safety (NI) Order 1991 and Regulations made under it.</p>
<p>Food Standards Agency (FSA)</p>	<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>
<p>Framework Agreement</p>	<p>The Framework Agreement consists of:</p> <ul style="list-style-type: none"> Chapter One Service Planning Guidance Chapter Two The Standard Chapter Three Monitoring of Local Authorities Chapter Four Audit Scheme for Local Authorities <p>The Standard sets out the Agency's expectations on the planning and delivery of food law enforcement.</p> <p>The Monitoring Scheme requires Local Authorities to submit an annual return to the Agency on their food enforcement activities i.e. numbers of inspections, samples, and prosecutions. Under the Audit Scheme the Food Standards Agency will be conducting audits of the food law enforcement services of Local Authorities against the criteria set out in The Standard.</p>
<p>HACCP / FSMS</p>	<p>Hazard Analysis and Critical Control Point (HACCP) is a Food Safety Management System (FSMS) used within food businesses to identify points in the production process where it is critical for food safety that the control measure is carried out correctly, thereby eliminating, or reducing the hazard to a safe level.</p>
<p>LAEMS</p>	<p>Local Authority Enforcement Monitoring System is an electronic system used by local authorities to report their food law enforcement activities to the Food Standards</p>

	Agency.
Live Bivalve Molluscs (LBM)	Bivalves have a shell consisting of two asymmetrically rounded halves called <i>valves</i> that are mirror images of each other, joined at one edge by a flexible ligament called the <i>hinge</i> . E.g. clams, oysters, scallops, mussels,
Local Authority (LA)	an organization that is officially responsible for all the public services and facilities in a particular area
Northern Ireland Food Liaison Group (NIFLG)	NIFLG is a sub-group of the Chief Officers Group (CEHOG), acts on behalf of 26 district councils in Northern Ireland as a co-ordinating body for the Food Control function, and consists of food specialist officers from each of the four Group areas in Northern Ireland, Belfast City Council, a district council representative, and a representative from the Food Standards Agency Northern Ireland.
Pectinidae	A large family of molluscs in the class Bivalvia, known commonly as scallops.
Permanent Transport Authorisation (PTA)	PTAs are used as an alternative to separate movement documents when the gatherer also operates the purification centre, relaying area or processing establishment to which their harvested LBMs are being delivered.
Practice Guidance	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 audit visit, to maximise the effectiveness of the time spent with a local authority.
Registration Document	Under Regulation 853/2004, each gatherer of live shellfish (including pectinidae) to be placed on the market requires a registration document (unless issued with a permanent transport authorisation) to identify each batch that they gather for its movement from the harvesting site. The movement could be either from the harvesting site (a classified bed or area in the case of wild pectinidae) to the

	dispatch centre or relaying area, purification centre or processing centre.
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.