



Audit Programme Summary Report

Shellfish Traceability

An assessment of local authority food control enforcement concerning the traceability of shellfish harvested in England and Wales

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Foreword

Audits of local authority (LA) feed and food law enforcement functions are part of the Food Standards Agency's arrangements to improve the consistency and effectiveness of enforcement. These arrangements recognise that the enforcement of UK feed and food law relating to feed and food safety, hygiene, composition, labelling, imported food and feeding stuffs is largely the responsibility of local authorities. These local authority regulatory functions are principally delivered through Environmental Health and Trading Standards Services. The Agency's website contains enforcement activity data for all UK local authorities and can be found at:

www.food.gov.uk/enforcement/auditandmonitoring

Agency audits assess LAs' conformance against the Feed and Food Law Enforcement Standard ('the Standard'), the Food Law Code of Practice (FLCoP) and relevant official enforcement guidance. 'The Standard' was published by the Agency as part of the Framework Agreement on Official Feed and Food Controls by Local Authorities and is available on the Agency's website at: www.food.gov.uk/enforcement/enforcework/frameagree. It should be acknowledged that there will be considerable diversity in the way and manner in which local authorities may provide their feed and food enforcement services reflecting local needs and priorities.

The main aim of the audit scheme is to maintain and improve consumer protection and confidence by ensuring that local authorities are providing an effective feed and food law enforcement service. The scheme also provides the opportunity to identify and disseminate good practice and to provide information to inform Agency policy on food safety, standards and feeding stuffs. Parallel local authority audit schemes are implemented and managed by the Agency's offices in all the devolved countries comprising the UK.

The power to set standards, monitor and audit feed and food law enforcement authorities was conferred on the Food Standards Agency by the Food Standards Act 1999 and the Official Feed and Food Control (England) Regulations 2009, along with parallel Regulations for the devolved countries. The Agency's audits of LAs are undertaken under section 12(4) of the Act. Regulation (EC) No. 882/2004 on official controls performed to ensure the verification of compliance with feed and food law includes a requirement for competent authorities to carry out internal audits, or to have external audits carried out. The purpose of these audits is to verify whether official controls relating to feed and food law are implemented effectively. To fulfil this requirement, the Food Standards Agency, as the central competent authority for feed and food law in the UK has established external audit arrangements. In developing these, the Agency has taken account of the European Commission guidance on how such audits should be conducted.¹

¹ Commission Decision 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 (2006/677/EC)

Further information on the Agency's LA audit scheme, including questions and answers on the operation of the scheme and details of good practice identified during audits, is available on the Agency's website at:

www.food.gov.uk/enforcement/auditandmonitoring

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1.0 Background

1.1 General

- 1.1.1 The shellfish industry forms an important part of the UK economy, with high value products being supplied to UK manufacturers, restaurants and retailers. There is also a significant export market providing this produce² to countries outside and within the EU. In 2013, 10698 tonnes of wild shellfish were landed in England valued at just over £6m.
- 1.1.2 As a natural product harvested along many miles of the UK coastline, shellfish harvesting poses many challenges for the industry and regulators, both seeking to provide the best quality sustainable produce, minimising costs whilst still maintaining consumer protection and confidence. Production and harvesting is subject to many uncontrollable variables including changing water quality which can affect the safety of shellfish and weather conditions that may affect harvesting and therefore supply. Once harvested a large proportion of shellfish is sent to approved purification centres to ensure that it meets stringent microbiological criteria set out in relevant EU and UK legislation, prior to human consumption. Purification centres and inspections by regulators therefore play an important role in ensuring the traceability and origin of shellfish sold throughout the UK.
- 1.1.3 Due to its natural origins, shellfish has the potential to harbour a range of potentially harmful human pathogens and toxins including a range of potentially pathogenic bacteria and viruses. The most commonly reported human illness associated with live bivalve molluscs (LBMs) produced in the UK have been attributed to norovirus from raw or undercooked oysters, and diarrhetic shellfish poisoning (DSP) from mussels.

1.2 Reason for the Audit

- 1.2.1 Since 2010 there have been internal FSA reviews, an FSA internal audit and an EU Food and Veterinary Office (FVO) audit of the implementation and delivery of Official Controls relating to (LBMs) in the UK. These have all identified a number of areas where there is scope to address inconsistency in the programmes operating in different countries and improve legislative compliance across the sector. The FSA's Executive Management Team (EMT) reviewed this area in September 2013 and agreed to a UK wide project to address the FSA's objective to reduce the public health and reputational risks associated with UK produced shellfish.
- 1.2.2 A Project Board was established in December 2013 comprising members of policy, delivery and science teams from across the UK to take work forward to improve the consistency and robustness of official controls, address gaps in

² MMO Wild shellfish Landings figures for 2013. Excludes Pectinidae

the evidence base, and develop UK wide policy across all areas of shellfish safety. The Project Board's key responsibilities are to provide overall direction, robust review and challenge, to take project level decisions or to endorse recommendations ahead of decisions that need to be taken at more senior level through the Operations Board.

- 1.2.3 The aim of this programme of audits was to therefore highlight specific issues that need addressing. This work is in line with the FSAs strategy for 2010 – 2015 and beyond, ensuring that food produced or sold in the UK is safe to eat and consumer interests are protected from fraud and other risks.

1.3 Scope and Key Objectives of the Audit Programme

- 1.3.1 The programme comprised of audits of Local Authorities (LAs) in England and Wales focusing on LA food law enforcement service arrangements for delivery of official controls on shellfish traceability.
- 1.3.2 For the purposes of this audit programme shellfish meant (LBMs) which are defined by Regulation (EC) No. 853/2004 as filter feeding lamellibranch molluscs and can include oysters (pacific and native), mussels, clams, cockles and scallops. The scope also included checks on official controls for pectinadae, in particular scallops, and on gastropods such as whelks when available.
- 1.3.3 Traceability and labelling information on selected shellfish (subject to availability) on sale to the final consumer primarily at retailers and catering establishments was used as the starting point to develop four audit trails in England and two in Wales to trace the shellfish back to its place of origin.
- 1.3.4 The programme involved audit assessments at local authorities and reality checks at food business premises. LAs were contacted at relatively short notice of the intention to audit due to the nature of the programme.
- 1.3.5 Due to the importance of the effective delivery of official controls at the point of harvest and the additional controls required, particular emphasis was given to coastal LAs and business systems and procedures in place to ensure the traceability of shellfish originating from the coastal waters surrounding England and Wales and on sale to final consumers in both countries.
- 1.3.6 The programme took place between November 2013 and May 2014 at a range of selected LAs based upon the authority type and geographical location.
- 1.3.7 The audit examined LA delivery of official controls particularly in relation to Article 18 of Regulation (EC) No. 178/2002 and relevant sections of Regulation (EC) No. 853/2004 and Regulation (EC) No. 854/2004 at establishments selling, storing and/or otherwise handling shellfish against

the relevant sections and/or sub-sections of the 'Standard' in Chapter 2 of the Framework Agreement. Audit checks included assessment of :

- **Service planning and delivery**
- **Provision and adequacy of officer training and the authorisation of officers**
- **Implementation and effectiveness of control activities, including inspection/interventions, food inspection and sampling and enforcement related to traceability**
- **Maintenance and management of appropriate records in relation to official controls by FBOs including the food premises database**
- **Liaison arrangements between LAs and other agencies responsible for shellfish controls.**
- **Internal service monitoring arrangements.**

1.3.8 The programme sought to gain assurance that LA food law enforcement services are effective in their control of shellfish traceability, and to disseminate good practice related to food control in this area.

1.4 Audit Methodology and Design

1.4.1 Details of the audit methodology, design, and the evaluation and assessment framework used during the audits are set out in Annex ii.

2.0 Executive Summary

2.1 UK regulators have developed a range of measures consistent with relevant EU legislation to protect the shellfish industry and consumers, including the regulation of harvesting activities. A classification system for microbiological water safety specifically in relation to shellfish harvesting around the UK coastline has been developed and implemented and shellfish harvester registration documentation should help to allow the traceability of shellfish back to its source (see annex i). Information on these matters is freely available to shellfish harvesters, processors, retailers and consumers via numerous websites, including the FSA's own website.

2.2. The delivery of official controls by LAs in England and Wales in relation to shellfish traceability was variable. The audit found a number of examples of good practice which are highlighted in the report but also makes eight key recommendations for both the FSA and LAs to help address the issues found.

- 2.3 It was clear that traceability assessments had formed part of a risk-based intervention strategy for most local authorities in the audit programme. However these had largely focused on foods other than shellfish, notably meat traceability and the traceability and authenticity of alcoholic drinks. This was largely due to the increased profile of these products in recent times and the need to target scarce resources on highest areas of perceived risk.
- 2.4 All LAs in the audit programme had appointed qualified and trained officers to carry out their enforcement duties. Most officers involved in the delivery of official controls at coastal LAs had received some form of specialist training on shellfish controls including traceability, with inland authorities generally relying upon other less specific training courses to provide the necessary competence to assess business traceability systems. Auditors noted a lack of training and advice available for officers specifically concerning traceability investigations and assessment generally and more specifically for shellfish.
- 2.5 Reality visits were made to a number of establishments as part of the audit trail including purification centres, wholesale fish markets, restaurants and market traders. With the exception of one case, all the businesses visited were able to provide appropriate “one up, one down” records relating to the batches of shellfish being traced. Business traceability records generally consisted of paper financial records such as purchase and sales invoices which contained details of the products and volumes involved in all cases.
- 2.6 Official control activities such as sampling and enforcement were being carried out by all the LAs audited. A small number of thorough and comprehensive examples of investigations linked to shellfish traceability were observed. Traceability investigations tended to be reactive and were often found to be complex and resource intensive, sometimes hampered by the lack of information available and difficulties in sharing information between different government departments.
- 2.7 The sharing of intelligence, expertise and knowledge amongst LAs and other agencies is vital to protect the shellfish supply chain and to maintain public confidence in the supply chain. Auditors noted many examples of effective liaison taking place between LAs and other relevant agencies and trade bodies, particularly via specialist Shellfish Liaison Groups. The setting up and maintenance of these groups is essential to providing a network of intelligence on shellfish harvesting and supply. However budget cuts and potential travel restrictions on officers attending meetings all pose a threat to the continued maintenance of these groups.
- 2.8 LAs were able to demonstrate their support for local businesses including those associated with the shellfish supply chain. All LAs provided useful advice on legal compliance to businesses following inspections and other interventions. Several examples were also noted of comprehensive specialist advice being provided to businesses by some coastal LAs on

compliance with shellfish controls including traceability.

2.9 A number of key areas for improvement were also identified;

- Service Plans produced by LAs having significant shellfish harvesting and/or processing in their areas could be further improved by including specific references to traceability and the resources required to deliver these specific official controls fully in accordance with the FLCoP.
- The current system of paper registration for shellfish harvesters and the difficulties in routinely monitoring shellfish harvesting activities along vast stretches of coastline frequently made it difficult in some cases for LAs to provide assurance as to the exact origins of shellfish being landed.
- Many LAs already have good links and work collaboratively with other agencies and organisations to provide intelligence and surveillance of shellfish harvesting activities. These links could be built upon and further developed.
- LA interventions at shellfish establishments focused largely upon other food hygiene issues rather than proactive traceability assessments.
- Establishments falling within lower risk categories for food hygiene based upon food handling practices and the structure of premises were likely to be part of an alternative enforcement strategy, in accordance with the FLCoP. They were therefore less likely to receive suitable traceability assessments for shellfish.
- LA intervention aides-memoir were frequently poorly completed or contained insufficient structured questions or prompts for officers to record their inspection findings regarding traceability assessments.
- It was often difficult to identify businesses specifically selling or processing shellfish making it difficult to accurately assess the scale of the shellfish industry and to target specific campaigns.

2.10 Many of the issues identified concerning record keeping of inspection findings and other official controls could be identified and addressed by the development and introduction of thorough risk-based and proportionate documented internal monitoring. Whilst most LAs had developed and implemented some qualitative internal monitoring procedures, few had extended these to include checks on officers' assessments of business traceability systems and associated risk scoring to ensure that traceability issues are considered.

3.0 Summary of Findings

3.1 Organisation and Management

Service Planning

Coastal Authorities

- 3.1.1 The six audit trails led to the audit of 11 coastal LAs in total being predominantly district authorities in England and unitary authorities in Wales. These authorities had specific responsibilities in relation to shellfish harvested, or with the potential to be harvested, along their coastline. All of the coastal LAs audited had carried out some form of food service planning with only 3 out of the 11 LAs requiring a recommendation to include more detailed information on the scale and nature of their legal responsibilities in relation to shellfish harvesting in their area. All 11 Service Plans assessed contained a clear commitment to risk-based sampling including the sampling of shellfish as required by relevant hygiene legislation and the FLCoP.
- 3.1.2 The main service planning omission, for which all 11 LAs received a recommendation, related to a lack of clear information on the impact of the delivery of official controls in relation to shellfish on available local resources i.e. the full time equivalent staff available compared to the resources assessed by the LA as necessary to deliver the service taking account all statutory responsibilities. In many cases food service planning was insufficiently detailed to determine the level of resource commitment required to deliver the Service in accordance with the FLCoP, including shellfish controls. Staffing and financial allocation are of fundamental importance in underpinning the delivery of a proportionate, risk-based service. Consideration of resources in service planning should provide an objective basis for prioritising known workloads, to inform local resource allocation decisions and crucially, to identify resource shortfalls. Without this information, resource levels were difficult to assess by auditors.
- 3.1.3 However, it was clear from discussion with LA staff that the delivery of official controls in relation to shellfish had a significant impact on LA resources, particularly in terms of the specialist training, sampling and equipment required. It should also be noted that the audit programme was undertaken at a time when significant public spending cuts were being implemented or anticipated.
- 3.1.4 Service Plans for all 11 coastal authorities audited contained details of their risk-based intervention strategies, consisting of full inspections for higher risk establishments and the use of alternative enforcement strategies (AES) such as questionnaires for the lowest risk businesses, usually based upon an assessment of their activities, inspection history and standards of hygiene. County council's generally only inspected higher risk food standards

businesses, focusing resources on intelligence led interventions and projects which could include shellfish traceability and origin issues. Auditors noted that businesses handling and/or processing/ selling shellfish could be present in any risk category for both food hygiene and food standards, from high to very low risk.

Inland Authorities

- 3.1.5 The audit trails led to the audit of seven mainly unitary inland authorities all located in England, each having no direct shellfish harvesting taking place in their area. In addition four county councils were also audited due to their role in the assessment of both traceability and origin claims for a wide range of different food products being produced and sold by businesses in their area. Shellfish Service Plans for six out of seven of the inland unitary LAs were assessed, with all containing only limited reference to traceability.
- 3.1.6 Whilst most of the Service Plans reviewed contained some commitment to risk-based interventions and sampling, only one of the plans contained clear, detailed references to traceability or associated authenticity issues.
- 3.1.7 As with coastal authorities most of the inland LAs audited received a recommendation or advice regarding the need to include more details of the full time equivalent staff available compared to the resources assessed by the LA as necessary to deliver the service, taking account all statutory responsibilities.

Officer Authorisation and Training

Coastal Authorities

- 3.1.8 All of the 11 coastal authorities audited had appointed and authorised suitably qualified officers to deliver official controls in relation to shellfish including traceability. In addition, all but one authority had provided officers with appropriate training on shellfish controls including the purification and sampling of shellfish. However, from discussions with authorities it was clear that they would welcome additional low cost, convenient training on shellfish and traceability controls in particular. Auditors noted the specialist nature of this type of work and found evidence that cuts to resources and front line staff had led to a loss of knowledgeable and experienced officers that may prove difficult to replace in the future.

Inland Authorities

- 3.1.9 As with coastal authorities all inland authorities audited had appointed suitably qualified officers to carry out official controls including traceability. All of the authorities audited except one had also provided officers with some form of past specialist training specifically in relation to shellfish controls, often related to purification centres in their area.

- 3.1.10 Staff training on food standards issues including traceability and origin claims was limited in LAs delivering joint food hygiene and food standards services.

3.2 Shellfish Traceability Control Activities

Harvester Registration

Coastal Authorities

- 3.2.1 Under the current system, local authorities are required to issue shellfish harvesters with registration documents upon request to record details of the person harvesting as well as the date, species, location and volume of the shellfish harvested. Copies of this documentation are then required to accompany batches of shellfish through the supply chain to the point of purification or direct sale. Auditors noted that there is currently no legal requirement for harvesters to return a copy of completed registration documents to the LA. However LAs did provide significant evidence of registration forms being returned to them by harvesters.
- 3.2.2 All the LAs assessed issued registration documents when requested by harvesters apart from one LA which had no active shellfish beds along its stretch of coastline. With the exception of one LA, all the registration forms contained appropriate questions in accordance with the FLCoP, vital in helping to establish the traceability of shellfish at point of harvest.
- 3.2.3 Auditors found little evidence of any routine assessment of registration documents to verify their contents or to support the delivery of appropriate and risk based official controls. Only two of the 11 coastal authorities audited routinely carry out checks and verification exercises with neighbouring authorities on registration documents as part of their delivery of official controls.
- 3.2.4 None of the authorities audited carried out any routine surveillance of the coastline or shellfish harvest areas, other than during sampling visits or specific shellfish investigations. Instead most authorities in England relied upon surveillance and intelligence from the Association of Inland Fisheries and Conservation Authorities (IFCA) and Cefas who routinely carry out monitoring at harvest areas and intelligence from other teams within local authorities. Similarly, in Wales, authorities sometimes liaise with other stakeholders and organisations such as Natural Resources Wales (NRW) and the Welsh Government.

Identifying Relevant Businesses - Food Premises Databases

All Authorities

- 3.2.5 Auditors noted that one county council did not have any records for establishments subject to approval under Regulation (EC) No. 853/ 2004, including shellfish purification centres, on its food standards database.
- 3.2.6 All LAs were able to use their food premises databases to identify the relevant shellfish businesses that had led to the authority's selection as part of the audit trail. However given the seasonal and variable nature of shellfish supply and usage by businesses, some LAs found it difficult to identify all relevant businesses potentially processing, handling or otherwise selling shellfish. There was a significant variation in the number and types of premises identified by the different LAs. LAs tended to rely on local knowledge or a combination of database coding to identify shellfish businesses. One LA had however introduced a specific database code for shellfish businesses.

Good Practice- Database

Colchester Borough Council had developed a database of all its local fishermen in the West Mersea area providing details of the registration documents issued and harvest areas. This provided a useful source of information regarding shellfish harvesting in the area.

Inspections/ Interventions

All Authorities

- 3.2.7 The majority of LAs had developed an inspection aide-memoire for higher risk and medium risk establishments to prompt officers during inspections and to record officer's inspection findings. Nearly two thirds of the aide-memoires reviewed however contained only limited and unstructured prompts relating to traceability in general and no references to shellfish. This made it difficult for officers to demonstrate that business traceability systems had been assessed as part of routine inspections. The majority of LAs also used a specialist aide-memoire for approved establishments including shellfish purification centres. These forms generally contained more detailed and structured questions on traceability in general. Inspection forms developed for purification centres also contained detailed references to shellfish and shellfish traceability. Auditors noted that county council inspection forms had largely been developed and used for higher risk food standards businesses. These generally contained detailed questions on product traceability. Auditors noted that one county council had not

introduced any aides-memoire, relying instead upon notes made in officers' notebooks.

- 3.2.8 The majority of LAs had developed and implemented a questionnaire for the lowest risk businesses in accordance with the FLCoP. However in all cases bar one the questionnaires contained no specific questions regarding product traceability or shellfish. This made it difficult for authorities to demonstrate that shellfish establishments falling into the lower risk categories had been appropriately assessed against the requirements of Article 18 of Regulation (EC) No.178/2002 and the FLCoP.
- 3.2.9 Records relating to the most recent inspections at the businesses identified as part of the audit trail were available at all the LAs audited. However they varied substantially in the amount of detail recorded concerning officers assessments of business traceability systems. Very limited information was generally found for retailers and caterers with far more detailed traceability assessments being recorded at purification centres.
- 3.2.10 Food standards teams in county councils and unitary LAs generally had an intelligence led approach and would investigate shellfish traceability, authenticity and origin claims as the result of complaints or referrals from other authorities and agencies. No examples of specific shellfish traceability or authenticity assessments were seen as part of the audits of county councils. Authenticity exercises had been carried out but these had concentrated on other products, notably meat, fish and alcoholic drinks.
- 3.2.11 All LAs reported that officers would use the confidence in management (CIM) element of the FLCoP Annex 5 risk scoring mechanism to record any concerns with business traceability systems although little specific evidence of this was observed during the audits. Appropriate risk scores had been allocated following inspections in all cases.

Good Practice – Inspection records

The **Borough Council of King's Lynn and West Norfolk** had developed a useful file record sheet for paper premises files which included a specific reference to Article 18 of Regulation (EC) No. 178/2002 and any traceability issues found at premises. This provides a useful record helping the LA demonstrate that it routinely assesses business compliance against the relevant legislation.

Reality Checks

- 3.2.12 As part of the audit programme verification visits with officers from the LAs involved were carried out at 17 businesses in total in England and Wales covering a range of business types including purification centres, wholesalers, market traders, fishmongers and restaurants. The purpose was

to determine the effectiveness of the Authority's implementation of official controls in relation to traceability based on the record of the most recent inspection carried out by officers and to observe business traceability systems in practice to trace the origins of the shellfish selected for the audit trail. As previously mentioned, officers inspection records frequently contained little reference to business traceability systems and therefore, with the exception of approved establishments, there was little traceability information relating to shellfish on the inspection records. Officers and food business operators (FBO's) were however able to demonstrate their knowledge and understanding of traceability requirements during the visits.

- 3.2.13 With the exception of one case involving the sale of a batch of cockles, all the businesses visited were able to produce "one up, one down" records relating to the selected shellfish. The majority of businesses used their financial records as the basis of their traceability system, using a system of paper purchase and sales receipts. In general, due to the scale and nature of their business, the purification centres visited had developed far more complex and robust computerised traceability systems, including internal traceability of shellfish batches to monitor and record details of product movement throughout the process.
- 3.2.14 Although most businesses had a satisfactory traceability system in place, auditors made recommendations in relation to improvements in traceability systems at five of the 17 businesses visited. These recommendations included the keeping of product labels for 60 days after splitting bags into smaller units and improving the identification of individual batches to aid traceability through the supply chain. Auditors also noted that in three cases traceability records such as receipts were not immediately available on the premises and had to be forwarded to auditors after the visit had taken place.

Good Practice – Traceability assessment methods

Suffolk County Council had explored and developed the use of remote traceability checks on food products based on internet checks and requests for businesses to send back relevant documentation to support their online claims. This may be an efficient method that can be applied to the shellfish supply chain. The Authority also utilised economic data such as commodity prices to help inform its intelligence led approach to its food standards intervention strategy.

Sampling

All Authorities

- 3.2.15 Effective routine sampling is considered an essential part of a well-balanced food law enforcement service. Enforcement bodies should prepare a suitable risk based sampling policy and develop and implement a food sampling programme, with due consideration of all the products and premises in the area and any national enforcement priorities.
- 3.2.16 All the LAs audited had some form of sampling policy or statement outlining the authority's commitment to risk based sampling along with annual sampling programmes.
- 3.2.17 All coastal LAs had carried out relevant flesh and water sampling in accordance with relevant legislation and the FLCoP. One authority however had not developed a sampling strategy for all the species of shellfish being harvested on its shoreline and auditors made recommendations to review this situation.
- 3.2.18 Sampling by inland and county councils on shellfish would be largely reactive based upon intelligence or complaints and referrals. In practice, very little evidence of any shellfish sampling was noted during the audits, the focus largely being on meat and meat products and any other products arising from complaint investigations and regional surveys. Generally, samples had been taken by appropriately qualified officers in accordance with the FLCoP and in most cases there was documented evidence of follow-up on unsatisfactory sampling results.

Enforcement

All Authorities

- 3.2.19 All of the LAs audited had an Enforcement Policy in place. Examples of enforcement action and a small number of complex and expensive investigations linked to traceability and shellfish controls were provided by 10 of the 22 LAs audited in total across England and Wales. These actions included the closure of shellfish beds following adverse sampling results and the seizure and tracking of some suspect shellfish and shellfish being illegally harvested. The LAs that had not taken any enforcement action were nevertheless able to demonstrate their understanding of the relevant legislation and enforcement options available to them should the need arise. Auditors did note an issue regarding the sharing of information on vehicle registration details between some agencies in Wales due to information privacy laws, potentially affecting some LA investigations.

- 3.2.20 Several coastal LAs were unsure as to the practical aspects of seizure and destruction of illegally harvested shellfish and would welcome further advice and guidance from the Agency on the matter.

Incidents

All Authorities

- 3.2.21 Audit checks confirmed that in practice authorities responded to incidents, alerts and rapid alerts and had appropriate liaison with the Agency. All LAs had the ability to receive feed alert and Rapid Alert System for Food and Feed (RASFF) notifications electronically.
- 3.2.22 Arrangements for 24 hour cover for food related incidents was in place in all of the LAs audited, although auditors were concerned that in most cases these arrangements were informal and dependent upon the goodwill of officers. The audits did not encompass checking the effectiveness of these arrangements. Most of the Authorities audited had access to a relevant Shellfish Action Group Plan produced in conjunction with the FSA, the Association of Port Health Authorities (APHA), representatives of the shellfish industry and Cefas, which would provide vital detailed information on local shellfish beds and actions to be taken in the case of any shellfish incidents.
- 3.2.23 All LAs were aware of the Agency's Incidents Team and were aware of the importance of providing intelligence to the Team to help build a national intelligence framework. A number of LAs had provided the Agency with intelligence on incidents in the past. Several authorities said they would welcome greater involvement and feedback from the Agency linked to the outcome of traceability investigations.

3.3 Support Activities

Liaison

All Authorities

- 3.3.1 Specialist Shellfish Liaison Groups (SLG's) have been set up operating on a regional basis. The legislative background for these groups is through the FLCoP, as a mechanism through which neighbouring coastal authorities with responsibilities for shellfish harvesting can meet and share intelligence on any shellfish issues including traceability. Other attendees frequently include members from regional IFCA's and Cefas as well as representatives of the FSA, APHA and occasionally trade representatives.

- 3.3.2 Where these groups are in operation they were seen to provide an essential method of sharing intelligence and concerns as well as providing technical advice and support for members. Auditors noted that one SLG had not been in operation in recent times potentially limiting the degree of liaison and intelligence sharing along parts of the Suffolk and Essex coastline. Auditors noted that the county councils audited with responsibilities for food standards that could include coastal shellfish establishments were not generally participating or aware of the existence of SLG's. In Wales the LAs audited regularly liaised with neighbouring LAs as well as some in addition liaising with the All Wales Local Authority Liaison Group and the local shellfish special interest groups.
- 3.3.3 Generally it was found that local liaison arrangements through the various regional liaison groups were working effectively. Inland authorities generally had extensive and essential links through various regional Food Liaison Groups (FLG's) with a range of other organisations including other neighbouring and regional LAs. Other organisations represented at these FLG's regularly included representatives from the FSA along with representatives from other agencies such as Public Health England (PHE) depending on the particular agenda items. Auditors noted the extensive range of topics covered in meetings and found some evidence of traceability and authenticity discussions also being raised as agenda items, although generally these involved meat and other products rather than shellfish.
- 3.3.4 There was only limited evidence of close liaison between some district LAs and their county councils on food standards issues including shellfish traceability and authenticity matters.

Internal Monitoring

All Authorities

- 3.3.5 LAs need to carry out appropriate quantitative and qualitative internal monitoring checks to verify conformance with their legal obligations, official guidance and their own policies and procedures across the full range of service activities including any activities relating to investigations and routine traceability checks. There are also benefits to LA performance management in participating in relevant peer review and inter-authority audit (IAA) schemes, although these are not a requirement within the Standard of the Framework Agreement and have not been established within all LA liaison groups.
- 3.3.6 All of the LAs in the audit programme were carrying out some form of quantitative or qualitative internal monitoring. However, the extent and implementation of LA internal monitoring arrangements were varied. The majority of LAs audited could not demonstrate that qualitative monitoring relating to the official control of traceability generally and relating to shellfish was routinely being carried out. That which could be evidenced, was usually in the form of one-to-one meetings with officers, was generally ad-hoc rather

than systematic, and was often not recorded. Quantitative monitoring had been implemented more effectively through monthly monitoring of inspection targets, six monthly or quarterly reviews of Service Plans, and in some cases periodic reports to higher management and relevant Members. For most of the LAs audited, discussions revealed that routine monitoring was limited and often not documented, with 18 out of 22 LAs in the programme receiving audit recommendations involving the extension of their internal monitoring procedures to cover the full range of food law enforcement activities including traceability and related authenticity assessments and investigations.

Record Keeping

All Authorities

- 3.3.7 Records requested during the audits were generally easily retrievable by auditors with only two LAs receiving a recommendation about missing records or retrievability issues. Inspection records however frequently did not contain sufficient detail to enable auditors to assess if food law enforcement activities relating to traceability had been carried out effectively to determine compliance with legal requirements. Premises records generally did not contain sufficient information on the size and scope of the business and the nature of the activities carried out, including whether or not the businesses were involved in the sale or processing of shellfish and business traceability assessments in accordance with the requirements of the FLCoP.

Other Framework Agreement Delivery Issues

Advice to Businesses

- 3.3.8 The majority of LAs audited were able to demonstrate their support and commitment to local businesses by providing business support advice for FBO's to help them comply with relevant legislation. Several coastal LAs had provided FBO's with detailed information regarding shellfish regulation and hygiene including, in some cases, shellfish traceability requirements. Auditors also noted several examples of detailed and comprehensive training courses and seminars aimed at FBO's and shellfish harvesters developed and delivered by some coastal LAs. Most LAs stated that they provided business advice during inspection visits or reactive visits. Some useful examples of innovative work being carried out by county councils on traceability of other products was noted and could be of use in shellfish traceability assessments made by other LAs.

4.0 Conclusions and Recommendations

- 4.1 Due to seasonal conditions and the time of year, the range of shellfish species selected was small, focusing largely upon live mussels and oysters and the limited scale of the audit means that care must be taken when drawing conclusions from the report.
- 4.2 Eventually auditors were able to trace all the shellfish selected at the start of the audit trails back through each supply chain back to copies of the individual harvester registration forms issued by LAs.
- 4.3 On the whole LAs were implementing the necessary legal controls required by the FLCoP and European legislation. However it was clear however that establishing and verifying the exact origins of shellfish landed along the coastline of England and Wales posed a significant challenge to many LAs in the audit despite authorities on the whole implementing the necessary legal controls required by the FLCoP and European legislation. The current system of harvester registration, and the frequent lack of any external surveillance and verification of harvesters, due primarily to the scale of the task and severe cuts to LA resources, severely limits the degree of assurance that can be obtained by the Agency. Certain business practices such as mixing batches of shellfish at retail without maintaining the necessary traceability records and certain harvest practices, such as the temporary movement of shellfish from different locations to holding areas, adds to the difficulties in establishing the origin of some batches of shellfish.
- 4.4 LAs were endeavouring to implement food control activities that were effective, risk-based and well managed. However, it was clear that reductions in resources and the prioritisation of other food hygiene and food standards risks such as meat traceability, implementation of the Agency's E.coli guidance, pest infestations and the control of cross-contamination risks had led to traceability assessments, specifically in terms of shellfish being perceived as less of a priority than other high profile risks. Auditors were unable to gain assurance that controls relating to traceability and origin claims, other than at approved establishments, were being implemented effectively by a significant number of LAs in the audit programme. This was partly due to poor record keeping in relation to traceability sections of inspection aides-memoire and uncertainties in relation to the accuracy of premises databases.
- 4.5 Implementation of these recommendations by the Agency and LA delivery partners would assist in addressing the Agency's Strategy to 2015 and beyond as well as the strategic objective of ensuring that food produced or sold in the UK is safe to eat and consumer interests are protected from fraud and other risks and in particular the outcome that shellfish is safe to enter the human food chain. The Agency should consider the findings from this report and where appropriate incorporate necessary actions or work streams into the Shellfish Programme of Work.

- 4.6 The majority of LAs had not incorporated the relevant food enforcement information into their Food Service Plans in accordance with the Service Planning Guidance in the Framework Agreement, including the resource allocation required in terms of service demands arising from the delivery of official controls related to shellfish traceability compared to resource availability. In the current financial climate it is essential to consider how statutory food responsibilities are to be met and prioritised. Transparent and realistic consideration of resourcing in Service Planning provides the opportunity to raise the issue with senior managers and Elected Members so that informed decisions are made that do not compromise public health. Other demands on food law enforcement services impact on service provision and risk-based targeted food controls should be considered when planning and delivering services.

Recommendation 1: Service Planning

LAs In areas where there is significant shellfish activity, Service Plans should consider the adequacy of the resource allocation in terms of the demands on the Service including for the delivery of official controls to meet statutory requirements for shellfish traceability.

- 4.7 Given the difficulties in verifying the origin of shellfish currently landed, the Agency should review the current system of registration to seek ways to improve the traceability of shellfish at origin.

Recommendation 2: Harvester Registration

The Agency should:

- 1) Review the current paper based system of issuing registration documents to harvesters to seek a more robust method of control to allow greater assurance and confidence in the shellfish supply chain at the point of harvest and landing.
- 2) Explore ways of further improving the process of harvester registration, sharing and promoting best practice through the Food Law Code of Practice: Practice Guidance.
- 3) Consider the development of a national or regional electronic database for the recording of harvester registration documents to help with regional, national and international investigations into crimes linked to the shellfish industry.

LAs should:

- 1) Working with the current system and where intelligence reports suggest that there may be issues of concern involving shellfish origins or traceability, carry out some form of targeted assessment of registration documents to ensure they accurately reflect the species and volumes available. Intelligence supplied by other agencies such as Cefas and regional IFCA's may be of assistance.

- 2) Where the documents contain forward supplier details, consider routine liaison with the relevant LA to provide greater assurance in the supply chain.

- 4.8 The important role played by regional Food Liaison Groups and in particular shellfish liaison groups was noted by auditors. Not all of these groups are currently active due to cuts to LA resources and changing local priorities. LAs should seek to set up and maintain these groups in accordance with the FLCoP, supported where possible by the Agency. The list of attendees should include all relevant parties including county council representatives where appropriate.

Recommendation 3: Shellfish Liaison Groups

LAs should set up and/or maintain regular meetings of shellfish liaison groups to disseminate good practice, intelligence, and technical expertise.

- 4.9 Although the majority of LAs in the programme had appointed suitably qualified and experienced officers to deliver controls for shellfish including traceability assessments, auditors noted a wide degree of variation in the understanding and interpretation of traceability assessments. It would be useful for the Agency to explore the different methods of assessing business traceability systems and conducting traceability investigations. Suitable practical guidance should then be made available to LAs. The location of training was increasingly important because of travel and accommodation costs. Increased use of online low cost training would assist in terms of delivery and cost effectiveness. Auditors were informed that LAs would welcome a single central source of practical guidance on the delivery of official controls relating to shellfish outlining the duties and expectations of LAs and offering practical advice.

Recommendation 4: Officer training and authorisation

The Agency should:

- 1) Continue to keep the availability and accessibility of relevant training under review and consider the development of online training to ensure officers have the opportunity to remain appropriately trained and competent in accordance with the Food Law Code of Practice.
- 2) Review current guidance on shellfish official controls and traceability to provide a central and easily accessible source of all relevant legislation, guidance and documentation.

LAs To help disseminate good practice and to aid consistency in the delivery of official controls, LAs should, where possible, take advantage of any relevant

free training courses offered by the EU as part of its Better Training for Safer Food (BTSF) initiative and ensure they share any insights gained from such courses.

- 4.10 The scale and nature of the shellfish industry was difficult to ascertain as all locations for businesses selling live shellfish could not be automatically generated or consistently identified by LAs under current arrangements. This makes it difficult to form a national picture of the industry and makes it difficult to provide targeted enforcement aimed specifically at live shellfish processing, handling and sales. In addition, some County Council food premises databases did not include approved shellfish processing establishments including purification centres.

Recommendation 5: Food premises database

LAs- County Councils should liaise with relevant district and unitary councils to ensure that any approved shellfish processing establishments including purification centres are identified on their food premises database and form part of their risk based programme of interventions.

- 4.11 Inspection findings including officers' assessments of business traceability systems were recorded using aides-memoire to prompt officers. The audit highlighted the fact that many authorities were unable to clearly demonstrate that business traceability systems were being assessed against all relevant legislation at each inspection. Inspection aides-memoire frequently did not contain sufficient detail of the officers, judgement and assessment of business compliance with traceability requirements. In most cases, apart from some examples used for product specific approved establishments, routine inspection aides- memoire did not provide enough structured questions to help officers to demonstrate that businesses were being assessed against all the relevant food hygiene legislation including traceability requirements under Article 18 of Regulation (EC) No. 178/2002.

Recommendation 6: Interventions and records

The Agency should

- 1) Consider providing further guidance for officers on risk scoring for traceability including shellfish traceability issues in relevant centrally issued guidance, to help ensure that traceability issues are routinely reflected in food businesses risk scores issued following inspections.
- 2) Review and update Safer food, better business (SFBB) catering and retail packs to ensure the guidance for businesses on practical traceability checks is clear.

LAs should review and develop their inspection aides-memoire to ensure that they provide enough structured detailed questions on traceability

assessments generally and referencing shellfish where appropriate. This review should include aides-memoire and questionnaires used for lower risk establishments selling or handling live shellfish.

- 4.12 Intelligence sharing and liaison amongst different authorities and agencies plays a key role in verifying traceability and helping to identify and prevent food fraud. Although beyond the scope of this audit, auditors noted that despite a large volume of shellfish being harvested in English and Welsh waters being exported to Member States, none of the LAs in the audit programme had recently received any referrals or queries from EU member states regarding shellfish registration documentation or origin claims.

Recommendation 7: Intelligence sharing and working with other agencies

The Agency should:

- 1) Continue to assess the activities carried out and information gathered by other agencies and trade bodies involved in the shellfish industry and explore the potential for sharing information and helping to support LAs delivering official controls in relation to shellfish and shellfish traceability.
- 2) To aid consistency, further develop collaborative working arrangements with other relevant agencies especially regarding surveillance of shellfish beds and the use of specialist equipment such as boats and sampling equipment.
- 3) Seek to maintain links with colleagues in Member States of the EU to help provide assurance of the shellfish supply chain for shellfish being exported to the EU.

- 4.13 In a small number of LAs there were missing and sometimes incomplete records of inspection making it difficult for officers to demonstrate that official controls were being delivered appropriately on each occasion. Documented risk-based and proportionate internal monitoring by LAs can help to identify and rectify these issues.

Recommendation 8: Internal monitoring

The Agency should continue to encourage and support the implementation of Inter-Authority Audit Schemes (IAA) in England to include assessments of the delivery of official controls in relation to traceability in particular shellfish traceability. LAs operating joint food standards and food hygiene services should consider extending the scheme to include relevant food standards issues.

LAs should review and expand risk based and proportionate internal monitoring activities to ensure that records involving shellfish traceability interventions and investigations are reviewed on a regular basis.

Annex i Introduction to Traceability Requirements

Article 18 of Regulation (EC) No. 178/2002 states that:

- Food and feed business operators shall be able to identify any person from whom they have been supplied with a food, a feed, a food-producing animal, or any substance intended to be, or expected to be, incorporated into a food or feed.
- Food and feed business operators shall have in place systems and procedures to identify the other businesses to which their products have been supplied.
- Operators shall have in place systems and procedures which allow for this information to be made available to the competent authority on demand.

Regulation (EC) No.178/2002 introduces the traceability requirement with the objective to ensure food safety and to assist in enabling unsafe food/feed to be removed from the market. Traceability is meant to ensure that targeted and accurate withdrawals or recalls can be undertaken, appropriate information can be given to consumers and food business operators, risk assessment can be performed by control authorities and unnecessary wider disruption of trade can be avoided.

The traceability requirement relies on the “one step back - one step forward” approach which implies for food business operators that:

- They shall have in place a system enabling them to identify the immediate supplier(s) and immediate customer(s) of their products
- A link “supplier-product” shall be established (which products supplied from which suppliers)
- A link “customer-product” shall be established (which products supplied to which customers)

Note: - food business operators do not have to identify the immediate customers when they are final consumers.

In December 2004 the European Community issued guidance on the implementation of Articles 11, 12, 16, 17, 18, 19 and 20 of Regulation (EC) No. 178/2002. The guidance aims to assist all players in the food chain to better understand and to apply correctly and in a uniform way the Regulation.

The guidance makes the following points about traceability:

Food scares (BSE and Belgium dioxin crisis) have demonstrated that the identification of the origin of feed and food is of prime importance for the protection of consumers. In particular, traceability helps facilitate the:

- Withdrawal of food and enables consumers to be provided with targeted and accurate information concerning implicated products.
- Traceability does not itself make feed/food safe. It is a risk management tool to be used in order to assist in containing a feed/food safety problem.
- Traceability has different objectives such as food safety, fair trading between operators and reliability of the information provided to consumers. The Regulation introduces the traceability requirement with in particular the objective to ensure food safety and to assist in enabling unsafe feed/food to be removed from the market.
- Traceability is meant to ensure that targeted and accurate withdrawals or recalls can be undertaken, appropriate information can be given to consumers and food business operators, risk assessment can be performed by control authorities and unnecessary wider disruption of trade can be avoided.
- The Regulation does not compel operators to establish a link (so called internal traceability) between incoming and outgoing products. Nor is there any requirement for records to be kept identifying how batches are split and combined within a business to create particular products or new batches.

Under EU hygiene regulations 852/2004/EC, 853/2004/EC and 854/2004/EC the FSA has the statutory responsibility for the classification of shellfish production and relaying areas and for the official control (OC) monitoring of shellfish harvesting areas through monitoring programmes to ensure shellfish placed on the market for human consumption come from designated harvesting areas and are subjected to the relevant controls. Responsibility for the enforcement of the requirements is delegated to local authorities, and in addition LAs are responsible for shellfish sampling for classification and biotoxin purposes and water sampling.

Specifically, Regulation EC 854/2004 lays down explicit requirements for the classification of shellfish production and relaying areas according to microbiological quality criteria for product. It defines the requirements for classified beds A, B and C; and the treatments required for products from category B and C areas. It requires that classified areas are periodically monitored for microbiological quality and shellfish flesh and water samples must be tested for the presence of certain toxins.

EC 853/2004 requires that:

- Live Bivalve Molluscs (LBMs) are harvested only from classified beds and sets down the post-harvest treatments required for product from class B and C beds.
- All LBMs must be placed on the market via a dispatch centre.
- Each batch of product is accompanied by a registration document, and includes the information it must contain and the procedures to be followed on receipt of a batch at another establishment. It also specifies

how long the documents must be kept. Requirements are set down for purification centres.

- The regulation also includes specification for the wrapping, packing and labelling for shellfish.
- Pectinidae (scallops) can be harvested from outside classified areas and there are specific requirements related to these.

Guidance for local authorities on the implementation of the regulations is set out in the Food Law Code of Practice (FLCoP) (Section 5) and the Practice Guidance (Section 5 and Annex 4).

Linked to traceability, authenticity and the provenance of foods has become increasingly important as consumers daily come into contact with a great variety of foods from around the world. The increasing complexity and length of the food chain, and recent incidents have added to public sensitivity regarding the authenticity of food.

Food authenticity and origin issues fall into one of the following categories:

- Economic adulteration of high value foods
- Misdescription and/or mislabelling of geographical, or species origin
- Non-compliance with the established legislative standards
- Implementation of non-acceptable process practices (e.g. irradiation, freezing).

In the UK, official controls relating to food authenticity are primarily the responsibility of county council and unitary authorities where arrangements for carrying out such functions have been made.

The following legislation contains references and legal requirements for consumer protection in relation to authenticity and product origin claims:

- Council Directive 2000/13/EC of 20 March 2000
- The General Food Law Regulation (EC) 178/2002
- General Food Regulations 2004 (as amended)
- Council Regulations 509/2006 and 510/2000
- Food Safety Act 1990, Fish Labelling Regulations 2013
- The Consumer Protection from Unfair Trading Regulations 2008

Annex ii Audit Methodology and Design

The audits assessed LA implementation of official controls through:

- (i) Use of structured audit protocols and checklists for checks of LA file and database records relating to routine official controls relating to food establishments audits/inspections, sampling and any resulting follow-up enforcement activities
- (ii) Meetings with LA officers
- (iii) Document reviews including all relevant LA food law enforcement service plans, policies and procedures
- (iv) An accompanied reality visit to selected food premises.

Annex iii Local Authorities Audited by Type (November 2013 – May 2014)

The Agency is grateful for the assistance and views provided by officers of the following LAs who were audited during the programme:

| | Local Authority | Type of LA |
|----|---|------------|
| 1 | Colchester Borough Council | District |
| 2 | Borough Council of King's Lynn and West Norfolk | District |
| 3 | Waveney and Suffolk Council District Councils | District |
| 4 | London Borough of Merton | Unitary |
| 5 | Preston City Council | District |
| 6 | Essex County Council | County |
| 7 | Norwich City Council | District |
| 8 | Isle of Anglesey County Council | Unitary |
| 9 | Fylde Borough Council | District |
| 10 | Conwy County Borough Council | Unitary |
| 11 | Coventry City Council | Unitary |
| 12 | London Borough of Tower Hamlets | Unitary |
| 13 | Wyre Borough Council | District |
| 14 | Norfolk County Council | County |
| 15 | Birmingham City Council | Unitary |
| 16 | Suffolk County Council | County |
| 17 | London Borough of Camden | Unitary |
| 18 | Maldon District Council | District |
| 19 | Lancashire County Council | County |
| 20 | City and County of Swansea | Unitary |
| 21 | Cardiff Council | Unitary |
| 22 | Carmarthenshire County Council | Unitary |

Annex iv Summary Report Circulation

All local authorities participating in this audit programme
Local Government Association Regulatory Control Unit (formerly LG
Regulation/LACORS)
Chartered Institute of Environmental Health (CIEH)
Trading Standards Institute
Association of Port Health Authorities (APHA)
Copyright Library
British Library
National Assembly for Wales Library

Annex v Glossary

| | |
|--------|--|
| AES | Alternative Enforcement Strategy |
| APHA | Association of Port Heath Authorities |
| CIEH | Chartered Institute of Environmental Health |
| CPD | Continuing Professional Development |
| Defra | Department for Environment, Food and Rural Affairs |
| EC | European Commission |
| EH | Environmental Health |
| EU | European Union |
| FBO(s) | Food Business Operator(s) |
| FVO | Food and Veterinary Office |
| HACCP | Hazard Analysis Critical Control Point |
| IFCA | Inshore Fisheries and Conservation Authority |
| LA | Local Authority |
| PA | Public Analyst |
| RASFF | Rapid Alert System for Food and Feed |
| TS | Trading Standards |
| TSI | Trading Standards Institute |
| TSO | Trading Standards Officer |
| UKFSS | United Kingdom Food Surveillance System |