

Food Premises Inspection & Licensing Program

Independent Auditor's Report



May 2023




OFFICE OF THE AUDITOR GENERAL
NEWFOUNDLAND AND LABRADOR

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Objectives

To determine whether the Department of Digital Government and Service NL effectively manages the Food Premises Inspection and Licensing Program; and whether the program has effective monitoring and oversight by the Departments of Digital Government and Service NL and Health and Community Services.

 **Audit Period:** April 2019 through December 2021.

Why this Audit is Important

Each year one in eight Canadians is affected by a foodborne illness which can result in hospitalization or death. It is essential that the province's Food Premises Inspection and Licensing Program is effectively managed to ensure food premises are complying with legislation in order to reduce instances of foodborne illness and protect public health and wellness.

Conclusions

We concluded that the Department of Health and Community Services did not maintain proper oversight of the Food Premises Inspection and Licensing Program. We also concluded that the Department of Digital Government and Service NL did not effectively manage some aspects of program operations, possibly increasing the overall risk to public health.

Health and Community Services' policies and guidelines were found to be outdated. There were no established oversight processes beyond the requirements for Digital Government and Service NL to submit annual reports, which were not received during our scope period. There were no established processes to ensure policies and guidelines are followed by Digital Government and Service NL. The Memorandum of Understanding between the two departments has not been updated since 1999, although it is required to be updated annually.

The departments did not meet regularly; this lack of communication may have made it difficult for both parties to fulfill their roles which could have resulted in the program not being implemented in a way that aligns with health standards, ultimately increasing the risk to public health.

Digital Government and Service NL did not carry out the minimum required number of inspections annually. The department incorrectly calculated inspection statistics which may have indicated better than actual performance. Remote parts of the province were susceptible to extended periods without inspections. Data inaccuracies were found in the records management system.

Physical documentation was not always maintained. There were effectiveness and efficiency issues with the department's records management system. File audits were not conducted and file audit protocol contained gaps. We were unable to determine whether public complaints were handled in accordance with policy. There was no established process for the submission of public complaints. Newfoundland and Labrador makes less detailed information regarding food premises inspection results available to the public, in comparison to some other provinces.

Summary of Recommendations

- Health and Community Services should establish processes to ensure the effective oversight of the Food Premises Inspection and Licensing Program.
- Health and Community Services and Digital Government and Service NL should evaluate the memorandum of understanding annually as required.
- Digital Government and Service NL should establish processes to ensure effective monitoring of the Food Premises Inspection and Licensing Program.
- Digital Government and Service NL should provide Health and Community Services with the required reports in a timely manner as required by the memorandum of understanding.
- Digital Government and Service NL should ensure the licensing and inspection of the food premises, including those in remote locations, is carried out in accordance with legislation, policies, guidelines, and the Memorandum of Understanding.



What We Found

Program Oversight (Health and Community Services)

- The department's policies and guidelines were found to be outdated.
- There were no established oversight processes beyond the requirements to submit annual reports, which were not received during our scope period.
- There were no established processes to ensure policies and guidelines are followed by Digital Government and Service NL.
- The Memorandum of Understanding between the two departments has not been updated since 1999, although it is required to be updated annually.

Program Management (Digital Government and Service NL)

- The majority of food premises tested operated under licences, however, we identified some premises that were operating without a valid licence for a period of time.
- Digital Government and Service NL did not carry out the minimum required number of inspections annually.
- Digital Government and Service NL incorrectly calculated inspection statistics which may have indicated better than actual performance and provided them to Health and Community Services.
- Remote parts of the province were susceptible to extended periods without inspections.
- Critical hazards and non-critical deficiencies identified during inspections were handled appropriately for our sample.
- Data inaccuracies were found and physical documentation was not always maintained.

Program Monitoring (Digital Government and Service NL)

- There were effectiveness and efficiency issues with the department's records management system.
- File audits were not being conducted and file audit protocol contained gaps.
- We were unable to determine whether public complaints were handled in accordance with policy, given there was no established process for the submission of public complaints.
- In comparison to some other provinces, Newfoundland and Labrador makes less detailed information regarding food premises inspection results available to the public.
- Digital Government and Service NL did not provide Health and Community Services with annual reports as required.



After reading this report, you may want to ask the following questions of government:

1. What actions is the Department of Health and Community Services taking to ensure public health and wellness is protected from foodborne illness?
2. When will the Department of Health and Community Services update its policies, procedures, and agreements with respect to inspection programs?
3. How will the Department of Health and Community Services ensure that the Department of Digital Government and Service NL implements the Food Premises Inspection and Licensing Program as intended?
4. Is the Department of Digital Government and Service NL considering enhancing transparency by providing more detailed information to the public on the results of food premises inspections?
5. How will the Department of Digital Government and Service NL improve inspection completion rates?



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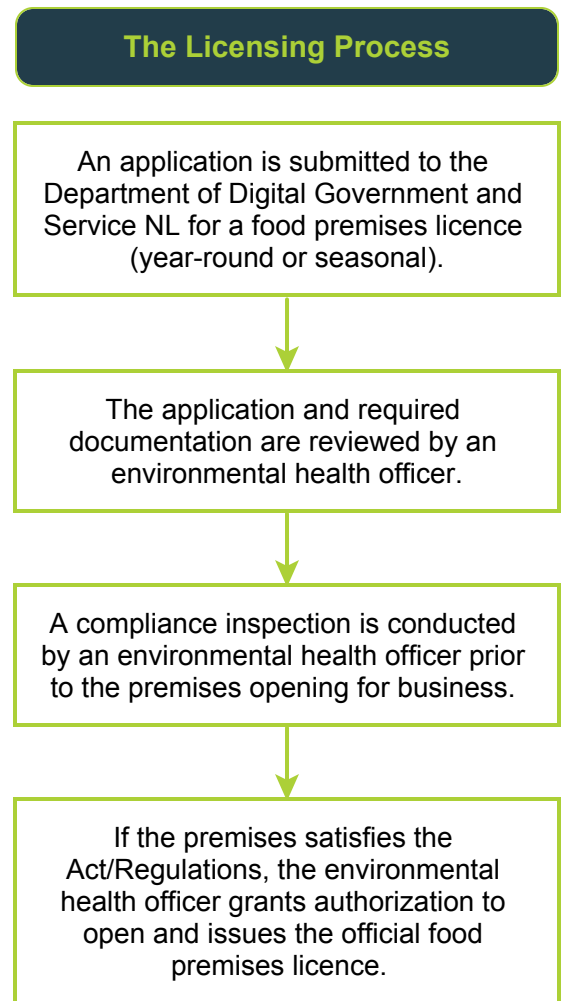
Background

The Food Premises Act (the Act) and the Food Premises Regulations (regulations) govern Newfoundland and Labrador's Food Premises Inspection and Licensing Program. The purpose of the legislation is to protect the health of Newfoundlanders and Labradorians by ensuring that food premises adhere to health standards for food handling service, preparation, and storage. Each year, one in eight Canadians are affected by a foodborne illness, which can result in hospitalization or death. It is essential that the program is effectively managed to ensure food premises in the province are complying with legislation in order to reduce the instances of foodborne illness.

The Food Premises Act defines a food premises as “a place where food is prepared, manufactured, handled, cut, processed, packaged, displayed, stored, offered for sale, sold, or served and include hotels, restaurants, catering vehicles, mobile preparation premises, temporary facilities, retail food stores, tents, booths, ships, tour boats, bakeries, breweries, wineries, bottling establishments, drinking establishments, dairies, creameries, pasteurizing plants and meat packing premises”.

Licences are issued to food premises when it is determined that they meet the Act's definitions, requirements and regulations. There are generally two types of licences – year-round and seasonal. The Act and regulations do not apply to temporary facilities, such as those established for fairs, concerts, or other events that last less than seven consecutive days, as well as certain home-based businesses.

In 1995, a Memorandum of Understanding was signed (revised in 1999) to establish responsibilities and accountabilities between the Departments of Health and Community Services (Health and Community Services) and Digital Government and Service NL (Digital Government and Service NL) for a wide variety of inspection/investigation programs under the authority of Health and Community Services, including the Food Premises Inspection and Licensing Program. The mandate for the program is the responsibility of Health and Community Services, and that department develops the policies that are used throughout the program. Digital Government and Service NL, working with Health and Community Services and provincial regional health authorities, is responsible for implementing the program, and developing procedures for operations. Digital Government and Service NL's environmental health officers are responsible for licensing and inspecting food premises in accordance with the policies and procedures. Digital Government and Service NL maintains a physical file for food premises documentation, and uses a records management system to record food premises applications, licences, and inspection data.



Source: Prepared by the Office of the Auditor General

Background

The inspection process ensures compliance with the Act, regulations and standard health guidelines on an ongoing basis once a food premises is issued a licence. The frequency of food premises inspections for year-round premises depends on the level of health risk assigned by environmental health officers. A Food Premises Risk Categorization Questionnaire is used in conjunction with Health and Community Services' Risk Assessment guidance to determine the level of health risk. The questionnaire determines the risk rating of low, moderate, or high, which sets the minimum inspection frequency:

- High-risk premises are inspected four times annually
- Moderate-risk premises are inspected twice annually
- Low-risk premises are inspected once every two years

Seasonal food premises, which operate for less than six months in a year and are not assessed by level of risk, are inspected once annually.

Table 1 shows the location and risk category of the province's licenced food premises and the number of required inspections.

Table 1: Minimum Inspections Required Per Year by Risk Category For 9 Months Ending December 31, 2021

Region	Low Health Risk	Moderate Health Risk	High Health Risk	Seasonal	Total April 1 – Dec. 31, 2021
St. John's & Mount Pearl	376	955	24	221	1,576
Harbour Grace	63	271	4	76	414
Central	292	386	21	215	914
Clareville	133	204	6	98	441
Labrador	71	127	2	30	230
Western	223	356	18	139	736
Total Food Premises	1,158	2,299	75	779	4,311
Minimum inspection frequency	1 per 2 years	2 per year	4 per year	1 per year	
Total Minimum Annual Inspections Required	579	4,598	300	779	6,256

Source: The Department of Digital Government and Service NL (unaudited)

Our audit of the Food Premises Inspection and Licensing Program covers the time period of April 1, 2019, to December 31, 2021. Our report focused on two objectives related to program management: monitoring, and oversight with five criteria used for assessment (see Appendix A for additional details). Our audit procedures included selecting a sample of 60 food premises that were licenced during the audit period and conducting tests to ensure they were licenced correctly and if documentation was properly completed and maintained. We also selected a separate sample of 60 food premises that were active during the audit scope period and conducted tests to ensure they were inspected according to policy and documentation was properly completed and maintained. As well, we selected a sample of 45 temporary permits, including home-based businesses, and tested whether they were appropriately classified.

Summary of Key Findings

Program Oversight (Health and Community Services)

- Food Premises Inspection and Licensing policies, procedures, and guidelines were outdated.
- No established processes to allow effective oversight of the Food Premises Inspection and Licensing program besides the annual report requirement per the Memorandum of Understanding.
- No established formalized process for conducting periodic checks to ensure that Health and Community Services' policies and guidelines were being followed.
- MOU had not been updated annually as required; the most recent version was created in 1999.
- Health and Community Services did not always enforce compliance with the Memorandum of Understanding.

Program Management (Digital Government and Service NL)

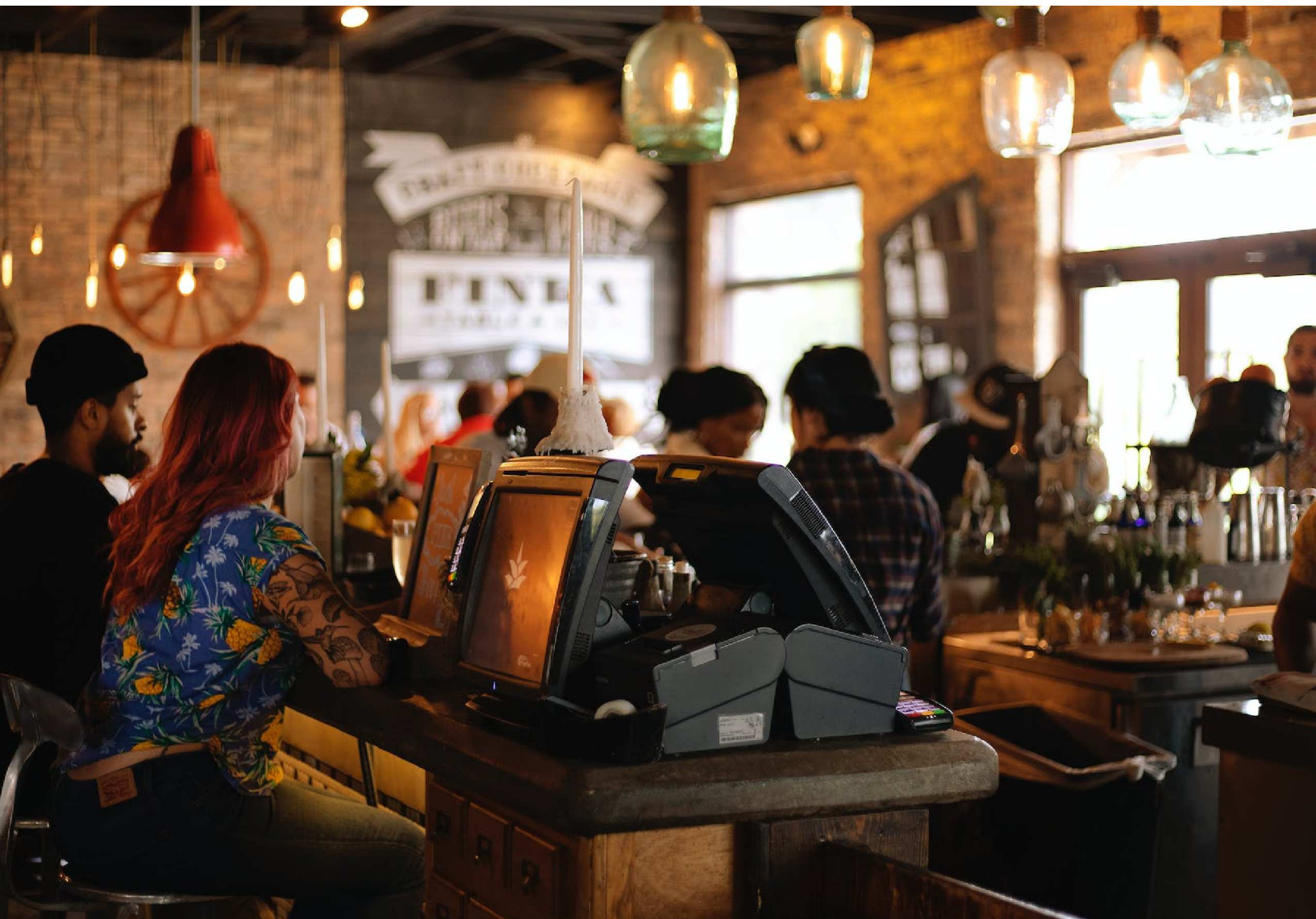
- The majority of food premises that we tested appeared to have operated under licences per the legislation.
- The minimum required number of annual inspections were not completed.
- The calculation used for the 'percentage of inspections completed statistic' was inaccurate, which served to bias results positively for all risk categories and office locations.
- For our inspection sample of 60 food premises, we found inspections happened less frequently than required for 13 year-round food premises (22 per cent).
- A premises' geographic location affected program execution and remote parts of the province were susceptible to extended periods without inspection.
- Three food premises in Labrador had not been inspected in accordance with the required minimum inspection frequency; one of these had not been inspected since October 2014 and there was no evidence to suggest that any alternative method had been used to satisfy the inspection requirements.
- Occurrences of critical hazards and non-critical deficiencies identified during inspections were handled appropriately for our sample.
- We could not determine if all of the required documentation for licensing had been submitted to Digital Government and Service NL as required by the regulations for 14 food premises within our sample.
- For eight of our 60 food premises inspection samples (13 per cent), inspections had not been entered into Digital Government and Service NL's records management system in a timely manner.
- For 19 of our 60 food premises licence samples (32 per cent) there was no evidence that a licence authority form had been issued.
- For 17 of the 60 licence samples (28 per cent), there was a delay in issuing the licence after a successful compliance inspection, ranging from one and a half months to two years.
- For five samples, the environmental health officer used a supplemental form rather than the required detailed inspection form, which has less information demands for documenting the inspection.
- We found that all of the field offices did not track temporary facilities and home-based business registrations. Further, we found that the remaining offices that tracked temporary facilities and home-based businesses, did not follow consistent tracking procedures.
- Supporting documentation for 30 (67 per cent) of our 45 temporary facilities and home-based business samples had been destroyed.



Summary of Key Findings

Program Monitoring (Digital Government and Service NL)

- Issues with the effectiveness and efficiency of the records management system were identified.
- Digital Government and Service NL did not conduct file audits, with almost 91 per cent of the required audits not completed.
- The audit protocol for food premises' contained gaps.
- Digital Government and Service NL did not keep complete and consistent records pertaining to complaints. As a result, we were unable to determine whether complaints were handled in accordance with Health and Community Services' Complaint Investigation Policy and the Memorandum of Understanding.
- There were no established processes for the general public to submit food premises complaints.
- There were no established processes to analyze workloads, in order to inform management of staffing levels across the province.
- Digital Government and Service NL did not provide Health and Community Services with the 2020 or 2021 annual reports until May of 2022; the Memorandum of Understanding required these to be submitted at the end of each fiscal year.
- There appeared to be missed opportunities to communicate between Digital Government and Service NL and Health and Community Services.



Findings - Program Management

Objective 1 To determine whether the Department of Digital Government and Service NL effectively manages the Food Premises Inspection and Licensing Program.

Criteria 1 The Department of Digital Government and Service NL manages the licensing of food premises in accordance with legislation, policies, guidelines and the memorandum of understanding.

Criteria 2 The Department of Digital Government and Service NL manages the inspection of food premises in accordance with legislation, policies, guidelines and the memorandum of understanding



What We Expected

We expected that Digital Government and Service NL would ensure that all active year-round or seasonal food premises were operating with a valid licence as required by legislation and Health and Community policies. We also expected that Digital Government and Service NL would have assessed temporary facilities and home-based businesses for exemption from the legislation and keep records of these exemptions.

We expected that year-round food premises would be assessed for public health risk; that food premises would have inspections conducted at the correct frequency based on their health risk rating and per departmental policy; and that when multiple inspections were required, that they would occur uniformly throughout the year. We expected that all food premises would be inspected as required, regardless of location in the province. We expected that when critical hazards and non-critical deficiencies were identified in inspections, they would be addressed as required by Health and Community Services policies.

We expected food premises information would be adequately maintained in Digital Government and Service NL's records management system; application information and inspection results would be entered and communicated accurately, appropriately, and on a timely basis; and that food premises' records would not be duplicated. We expected that official licences were issued and mailed to applicants in a timely manner.





What We Learned

Licensing

We found that the majority of food premises that we tested appeared to have operated under licences per the legislation. We found five of 60 food premises licence samples (8 per cent) operated for a period of time without having a valid food establishment licence. For one sample, Digital Government and Service NL failed to process the licence application, even though it had been submitted in June of 2017, the department failed to notice the issue until November 2021 when the owner requested a copy of their licence. For two of the five missing licences, an environmental health officer identified the premises operating without a licence while performing other inspection services in the premises' areas. It is unknown how long they were operating without a licence. For the remaining two food premises, ownership had changed but Digital Government and Service NL did not enforce the food premises to go through the process for getting a new licence. The Act states that food premises licences are intended to be issued to specific individuals and are non-transferable. For one of these two food premises, the department issued a new licence even though the premises did not complete a new compliance inspection, breaching the requirements of the Act.

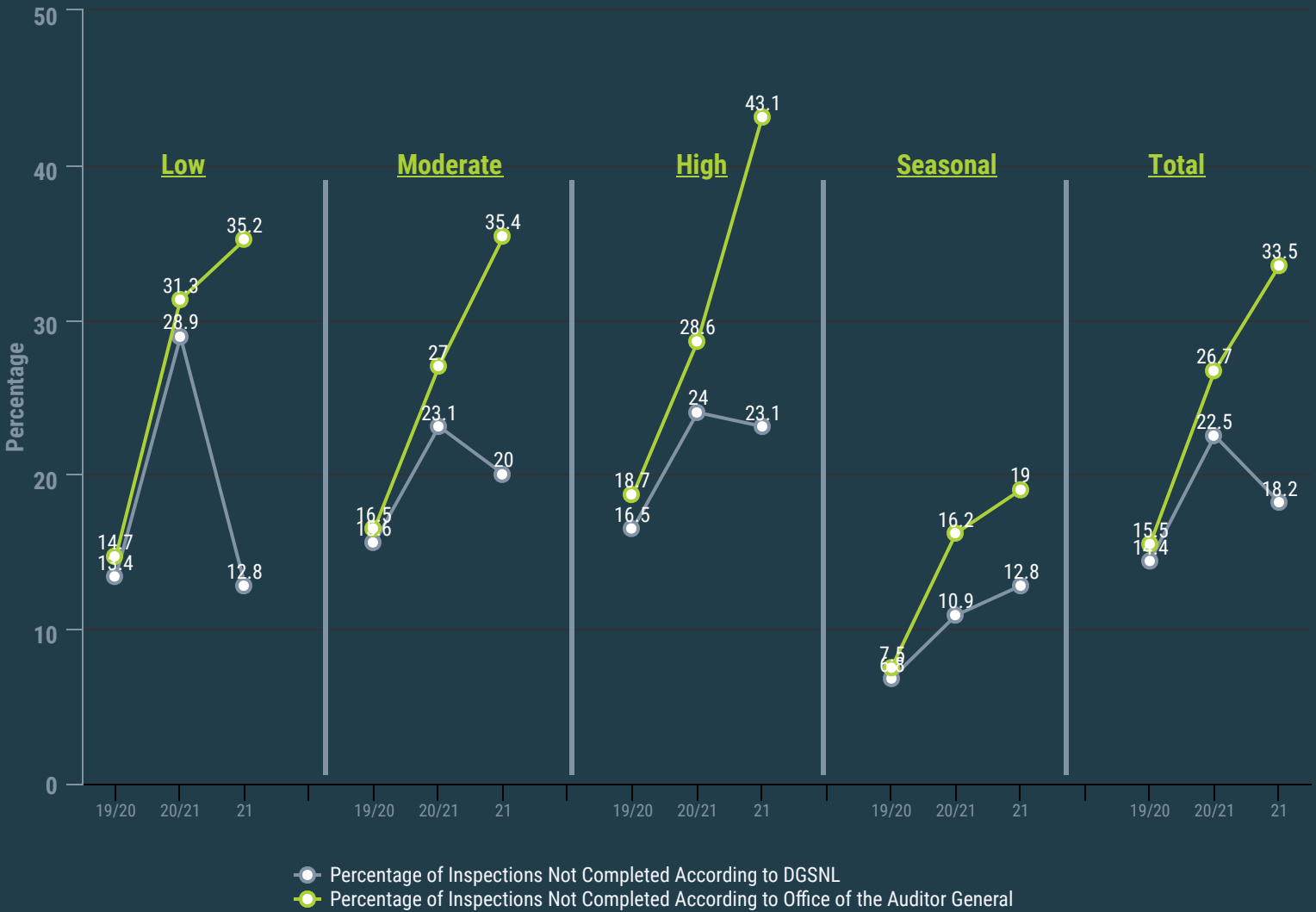
Inspections

We found that Digital Government and Service NL did not carry out the minimum required number of inspections annually. The percentages of inspections not completed for fiscal years 2020, 2021 and at December 31, 2021 were 15.5 per cent, 26.7 per cent and 33.5 per cent respectively, of which the high-risk category had the highest percentage for two of the three periods.

We also found that the calculation Digital Government and Service NL used for their percentage of inspections completed statistic was inaccurate, which served to bias results positively for all risk categories and office locations - in some cases as high as 15 per cent. Further, for the nine months ending December 31, 2021, we found inconsistencies in how the inspections were classified in the department's records. As a result, the calculation of the percentage of inspections completed by risk category and office location had a greater positive bias than the previous two years of up to 39 per cent. When we inquired about this, department officials indicated that a data cleanup was the cause of this increased positive bias.

The statistics incorrectly calculated by Digital Government and Service NL were reported to the Department of Health and Community Services as per the requirements of the Memorandum of Understanding. We recalculated these statistics, as depicted in Graph 1.

Graph 1 - Comparison of Inspections Not Completed Rates



Source: Office of the Auditor General of Newfoundland and Labrador based on reports provided by Digital Government and Service NL (unaudited)

* In March 2020, the COVID-19 pandemic was declared which impacted how food premises operated. On February 11, 2021, the Chief Medical Officer of Health wrote to Digital Government and Service NL asking them to consider any pandemic-related requests for environmental health officers' actions to take priority over other routine environmental health work, including regulatory inspections, until the Public Health Emergency was over. Although the department's specific pandemic response is out of our scope, it is worth noting that it may have influenced the percentage of inspections completed during that period of our audit (February 2021 to December 31, 2021).

For our inspection sample of 60 food premises, we found inspections happened less frequently than required for the respective risk categorization for 13 year-round food premises (22 per cent). Of these 13 premises, we found that four of the missed inspections were inspections used to determine risk categorization; their risk ratings were as follows:

- one premises was classified as high risk
- nine were classified as moderate risk
- three were classified as low risk

Policy states that if the required minimum frequency cannot be met then the environmental health officer is supposed to notify regional management in writing that the premises cannot be inspected and the reason why. This was not completed for any of the 13 food premises that had not been inspected at the required minimum frequency. We also found that for the 13 food premises, inspections were not conducted at consistent intervals throughout our scope period, contrary to the risk assessment guidance.

We found that a premises' geographic location affected program execution. In particular, remote parts of the province were susceptible to extended periods without inspections. The risk assessment guidance indicated that, with respect to the frequency of inspections, remote areas of the province that cannot be reached on a regular basis by motor vehicle may have their inspection frequency reduced and specifically mentions Labrador's North coast as an example. However, the guidance does not define what is an acceptable reduction. Department officials indicated that if inspections cannot occur, then an effort will be made to ensure compliance with legislation; this could include, for example, phone calls and sending pictures. Department officials were unable to provide us with an official list of all of the communities and areas that are considered remote and may have less frequent inspections regardless of risk categorization. However, we were provided with some examples:

- Labrador communities - Norman Bay, Williams Harbour, Mud Lake, Black Tickle, Schefferville, Battle Harbour and the entire northern coast
- Newfoundland communities - Gaultois, François, McCallum, Rencontre East, St. Brendan's, Fogo Island, Pilley's Island, Grey River, and Lapoille.

We found three food premises in Labrador had not been inspected in accordance with the required minimum inspection frequency; one of these premises had not been inspected since October 2014 and there was no evidence to suggest that any alternative method had been used to satisfy the inspection requirements.

With respect to critical hazards and non-critical deficiencies identified during inspections, Digital Government and Service NL handled the issues appropriately for our sample. A critical hazard is an issue that is identified during an inspection that must be addressed at the time of the inspection or controlled in a manner that will not pose a food safety threat. Examples of critical hazards are temperature and hygiene issues. A non-critical deficiency is an issue identified during an inspection that must be addressed before the next routine inspection, or by a date specified by the inspector, for example, equipment and facility issues.

We found that ten of our 60 food premises inspection samples (17 per cent) had critical hazards identified during inspections. For all ten of these food premises, the environmental health officer indicated that the critical hazard(s) had been corrected or controlled on completion of the inspection. For one sample that had a critical hazard on three consecutive inspections, we found that the required follow-up steps (per policy) occurred appropriately. Similarly, for 20 of the 60 food premises inspection samples (33 per cent) that had non-critical deficiency(ies) identified, all were dealt with appropriately and according to policy.

Documentation

We found documentation and record-keeping issues with the program. We found that, for 14 of the 60 licence samples (23 per cent), Digital Government and Service NL did not keep physical copies of all of the required documentation to support licence applications, such as floor plans, specifications, and municipal services approvals. We also found that these samples did not have attachments uploaded to the records management system. **As a result, for these 14 food premises, we could not determine if all of the required documentation for licensing had been submitted to Digital Government and Service NL as required by the regulations.**

Digital Government and Service NL could not locate the physical folders/copies for three of our 60 food premises inspection samples (five per cent). We also found that four of the 60 samples (seven per cent) were missing one or more inspections from their physical folders. Environmental health officers use paper forms to document the inspections, and then enter the information into the records management system at a later date; some data entry is completed by administrative staff.

We found seven instances of duplicate food premises records in the Digital Government and Service NL records management system. Further, for six of our sample of 60 (ten per cent), we found staff had entered some incorrect information into the records management system.

We found for eight of our 60 food premises inspection samples (13 per cent), inspections had not been entered into Digital Government and Service NL's records management system in a timely manner. The delays in entering the information for these eight food premises ranged from four weeks to 15 months. Similarly, for two of our 60 food premises licence samples (3 per cent), we found two compliance inspections that had not been entered into the records management system for several months.

We found that 19 of our 60 food premises licence samples (32 per cent) were missing evidence that the licence authority form had been issued and therefore may not have had proof of licence on the premises while they were waiting for an official licence. Licence authority forms are issued to food premises during their compliance inspections as proof of licence until their official licence is issued and delivered. **We also found that for 17 of the 60 licence samples (28 per cent), there was a delay in issuing the licence after a successful compliance inspection. The delay ranged from one and a half months to two years.**

We also found four of our 60 food premises inspection samples (seven per cent) had inspection reports completed on the wrong inspection report form. Similarly, in the licence sample of 60 premises, there was one compliance inspection that was completed using an incorrect form. **For these five samples, the environmental health officer used a supplemental form, which had less information demands for documenting the inspection, than the required detailed form.**

We found that the required inspection form did not have a checkbox prompting the environmental health officer to check whether ownership of the food premises had changed. The Act states that a licence is intended to be issued only to a specific person with respect to a specific premises and is not transferable.

We assessed temporary facilities and home-based businesses to evaluate whether they met the definitions as per the Act and regulations. If temporary facilities and home-based businesses meet definitions in the Act and regulations, they are exempt from the inspection process related to food premises. **We found that all of the field offices (Grand Bank, Marystown, Lewisporte, Springdale, Stephenville, St. Anthony, Port aux Basques, Labrador City), the Grand-Falls Windsor area office, and the Happy Valley–Goose Bay regional office did not track temporary facilities and home-based business registrations.**

Further, we found that the remaining offices (St. John's / Mount Pearl, Harbour Grace, Gander, Clarenville, and Corner Brook) that tracked temporary facilities and home-based businesses, did not follow consistent tracking procedures. For example, some locations tracked the event that each temporary permit applied to, while others did not. Some locations tracked permit start and end dates, as well as the date a permit was issued, while others only tracked the issue date. Some locations tracked the environmental health officer that issued the licence, while others did not.

We attempted to determine if the temporary facilities and home-based businesses that Digital Government and Service NL considered exempt from the Act actually met their respective definitions. **We selected a sample of 45 temporary facilities and home-based businesses and found that the supporting documentation for 30 (67 per cent) had been destroyed by Digital Government and Service NL due to a lack of physical space.** When we inquired as part of this audit, Digital Government and Service NL advised that they considered these as non-regulatory records and therefore excluded them from the retention policy. We did not, as part of this audit, assess whether exemption decision documentation should be retained. For the 15 temporary facility and home-based business samples that the department was able to provide documentation, we found that all 15 met the definition for exemption as per legislation.



Why It Matters

It is important to ensure that all food premises in Newfoundland and Labrador are appropriately licenced and adhere to established food safety standards to mitigate any risk to the public of contracting a foodborne illness.

It is important that food premises be assessed for risk and categorized, as per the schedule defined by the program's policies. If a premises goes without inspection or is not inspected in accordance with established frequency requirements, the risk of an incidence of foodborne illness increases. It is equally important that food premises located in remote locations are inspected to ensure the public health safety of all the public. Since the risk of foodborne illness increases when critical and/non-critical hazards go undetected, inspections are an important means to detect and correct these hazards.

It is important for all food premises to obtain a licence because it ensures through the compliance inspection process the premises has met the requirements to operate safely. It also acts as an agreement between the Province and the licensee that the food premises will continue to meet those requirements going forward and prompts the first year of the inspection process. If a food premises is operating without a licence, it means that it may not have been inspected.

Delays in issuing licences mean that a food premises is not able to demonstrate that they are legally allowed to operate. This may result in the premises losing business, or unnecessary complaints being made by the public about the premises. Similarly, ensuring that registered temporary facilities and home-based businesses meet the Act's definition to be considered exempt is important for reducing the risk that these food premises actually fall within the scope of the legislation and are required to be inspected accordingly.

It is important for environmental health officers to use the correct forms when conducting inspections so that vital steps and checks in the inspection process are not missed and critical and non-critical hazards are detected. Retaining appropriate documentation ensures the requirements of the legislation, policies, and guidelines are met at critical junctures of the Food Premises Licensing and Inspection Program. Maintaining timely and accurate information is an important aspect of program management as it impacts the inspection frequency, supports the establishment of monitoring processes and assists resourcing decision-making and adherence to departmental agreements.



Findings - Program Monitoring

Objective 2 To determine whether the Food Premises Inspection and Licensing Program has effective monitoring and oversight.

Criteria 1

The Department of Digital Government and Service NL has monitoring policies, processes and systems in place and effectively monitors the Food Premises Inspection and Licensing Program.

Criteria 2

The Department of Digital Government and Service NL provides adequate information to the Department of Health and Community Services to allow appropriate oversight of the Food Premises Inspection and Licensing Program.



What We Expected

We expected that Digital Government and Service NL's records management system would be configured to enable appropriate program monitoring. We also expected that Digital Government and Service NL would have conducted assessments and evaluations of the program as required by the department's own audit protocol.

We expected that Digital Government and Service NL would have handled complaints in accordance with Health and Community Services' policies and guidelines. To complement this, we also expected that Digital Government and Service NL would have established formalized processes to allow the public to submit food premises complaints.

We expected that Digital Government and Service NL made information readily available to the public, such as a searchable database that highlighted closures and violations with regulations, which would enable the public to make informed decisions regarding food premises.

We expected that Digital Government and Service NL would provide Health and Community Services with an annual report containing accurate statistical and narrative information on program activities at the end of each fiscal year, as required by the Memorandum of Understanding. We also expected that in cases where a food premises was closed by Digital Government and Service NL due to non-compliance with regulations, Health and Community Services would have been notified of the closures in accordance with the policy. Additionally, we expected routine exchanges of information between the Department of Digital Government and Service NL and Health and Community Services, as outlined in various areas of the Memorandum of Understanding.



What We Learned

Records Management System

We found issues with the effectiveness and efficiency of Digital Government and Service NL's records management system. The current system was not configured to enable remote fieldwork, perform some key administrative functionality, or allow for efficient program monitoring. For example, the system did not have the ability to create custom reports; did not work via tablet when in the field; had no self-service function within the software; and the ability to send email notifications from the system was not functional. Also, the system did not allow more than four electronic files per food premises to be uploaded at one time.

File Audits

Digital Government and Service NL's audit protocol requires department officials to conduct quarterly audits of randomly selected files from the various inspection programs carried out in a region. **We found that Digital Government and Service NL did not conduct audits accordingly, with almost 91 per cent of the required audits not completed.** Only seven of 77 (nine per cent) of the required quarterly file audits were completed during our scope period:

- St. John's / Mount Pearl – 0 of 11 (zero per cent)
- Harbour Grace – 4 of 11 (36 per cent)
- Clarenville – 1 of 11 (9 per cent)
- Gander – 0 of 11 (zero per cent)
- Grand Falls–Windsor – 0 of 11 (zero per cent)
- Corner Brook - 2 of 11 (18 per cent)
- Happy Valley-Goose Bay – 0 of 11 (zero per cent)

No file audits were completed at all within our scope period at four of the seven regional offices:

- St. John's / Mount Pearl
- Gander
- Grand Falls–Windsor
- Happy Valley-Goose Bay

Department officials acknowledged this shortfall and they advised that file audits would not resume until approximately July 2024, when a new audit protocol will be implemented.

We found that the audit protocol for food premises' contained other gaps. For example, the protocol did not clearly state what managers should do if there were no high-risk, moderate-risk, or seasonal premises to audit in a given period. The protocol also did not clearly state what follow-up actions should be taken when a deficiency was identified during a file audit. Examples of file deficiencies would be if an inspection report was not completed in full, or if the inspection was completed using the incorrect form. When we examined the file audits for the offices that conducted audits during our scope period (Harbour Grace, Clarenville, and Corner Brook), we found these regions had different procedures for dealing with these gaps. Further, the protocol did not consider the number of food premises within regions. Rather than considering each region based on the number of food premises they covered, three files were selected for audit each quarter per region.

Complaints

We found that Digital Government and Service NL did not keep complete and consistent records pertaining to complaints. As a result, we were unable to determine whether the department managed complaints in accordance with Health and Community Services' Complaint Investigation Policy and the Memorandum of Understanding. Two of the seven regional and area offices did not track and log complaints, specifically Happy Valley–Goose Bay and Corner Brook. For the five offices that did track complaints (St. John's / Mount Pearl, Harbour Grace, Clarenville, Gander, Grand Falls–Windsor), it was often difficult or impossible for us to determine which complaints were food related, given they were tracked as part of department-wide complaints and not specifically by complaint type.

There were also inconsistencies in what types of complaint data Digital Government and Service NL gathered across regions. The St. John's / Mount Pearl regional office provided us with two different versions of complaint listings for our audit scope period, both of which contained complaints that were not present in the other version. Furthermore, we selected seven complaints from the St. John's / Mount Pearl tracking sheet and requested further support. Of these seven samples, department officials could not provide documentation to support the action taken to address five of the requested complaints.

We also found that there were no established processes for the general public to submit food premises complaints. For example, there was no dedicated phone line or website to submit complaints. Complainants submitted emails or called Digital Government and Service NL's general phone line, other departments or ministers' offices, and specific environmental health officers directly. We noted that other Canadian provinces such as Alberta and Manitoba have online portals so the public can submit complaints and requests online.

We found that other provinces provided more detailed information related to food premises inspection results compared to Newfoundland and Labrador. For example:

- some provinces clearly list closures, warnings and violations on their public access website, while Digital Government and Service NL lists violations only within the individual food premises inspections results;
- some provinces display inspection results for three years, while Digital Government and Service NL display only two years' worth of information;
- some provinces display hazard codes, and use plain language, while Digital Government and Service NL does not; and
- some provinces have the option to show search results by table or map of the province, while Digital Government and Service NL does not provide a search feature.

Workloads

As per the Memorandum of Understanding, Digital Government and Service NL were accountable to Health and Community Services for ensuring that the program was implemented in an efficient and effective manner, with appropriate staffing levels. **We found that Digital Government and Service NL did not have an established process to analyze workloads, in order to inform staffing levels across the province.** Environmental health officers are responsible for a variety of services in addition to performing food premises inspections, and the distribution of services varies by region. For example, environmental health officers in rural areas of the province were also responsible for conducting water and sewer sampling. Also, environmental health officers located in larger centres may have clerical assistants to help with data entry and record keeping, whereas environmental health officers in rural communities do not have administrative resources available to them. The department last attempted to complete a workload analysis in 2013 but found it difficult due to these noted differences.

Communications Between Departments

We found that Digital Government and Service NL did not provide Health and Community Services with the 2020 or 2021 annual reports until May of 2022; the Memorandum of Understanding required these to be submitted at the end of each fiscal year. As noted earlier, the information contained in the annual statistics reports did not accurately reflect completed inspection statistics. Further, Health and Community Services was unaware that the information they were receiving was inaccurate.

We also learned that during our audit scope period, there was one closure of a food premises due to its failure to comply with food safety regulations. Digital Government and Service NL, as required by guidelines, notified Health and Community Services of this closure. However, the province's Medical Officer of Health was not sent a copy of the inspection reports, which was also a requirement of the same guidelines.

We also found that there were missed opportunities to communicate between Digital Government and Service NL and Health and Community Services. The Memorandum of Understanding requires both parties to meet regularly about the program. We found that representatives from both departments met only three times over the 33 month audit scope period to discuss program related topics.



Why It Matters

It is important for a public health safety program to be monitored to ensure that officials are adhering to policies and procedures. If file audits are not being completed, opportunities may be missed to improve licensing and inspection processes, as well as to ensure that the goal of the program - to reduce the risk of foodborne illnesses - in accordance with policies and procedures is being met.

Administrative functionality supports efficient management of the food premises inspections and licensing program. For example, custom reports provide an efficient way for management to access the information they need. Digital Government and Service NL officials use reports for managing monthly schedules, workloads and reporting to the Department of Health and Community Services. Enabling environmental health officers to work more effectively would include access to the system while in the field, which could result in overall program efficiency and less risk of error and loss of information. Similarly, online and self-service options for food premises operators would support opportunities for Digital Government and Service NL to save time when corresponding and updating account information from food premises owners/operators.

Inspection processes happen at a point in time, but non-compliance can happen anytime. As such, addressing public complaints is an important part of ensuring public health and safety as it relates to food premises. If there is no dedicated method to submit public complaints, it is difficult to ensure that food premises complaints are being addressed. Also, making detailed inspection information readily available promotes transparency and allows the public to make informed decisions regarding food premises.

Health and Community Services is responsible for the Food Premises Licensing and Inspection Program, while Digital Government and Service NL is responsible for implementing the program; without the adequate exchange of information between the two departments, it is difficult for both to fulfill their roles. For example, if changes are made to processes used in implementing the program, without communication between the departments, processes may not align with current health standards. Also, if Health and Community Services is not provided with timely and accurate statistical program information, then they cannot monitor the execution of the program while ensuring public safety, as per their mandate.



Findings - Program Oversight

Objective 2

To determine whether the Food Premises Inspection and Licensing Program has effective monitoring and oversight.

Criteria 3

The Department of Health and Community Services has effective oversight of the Food Premises Inspection and Licensing program.



What We Expected

While Digital Government and Service NL is responsible for implementing the Food Premises Inspection and Licensing program, Health and Community Services is responsible for its mandate. We would have expected Health and Community Services to have effective oversight processes to satisfy the expectation of public health safety as it relates to food premises, especially since it relies on another department. Specifically, we would have expected Health and Community Services' policies and guidance documents would be current. For example, the policies and guidance that relate to conducting risk assessments, licensing and documentation would be reviewed and appropriately updated.

We expected that Health and Community Services would have established processes to monitor the Food Premises Inspection and Licensing program. We expected that Health and Community Services would have established performance indicators and reporting requirements in addition to inspection completion results, such as the number of critical hazards identified, the number of food premises complaints received, and the time taken to address them.

We also expected that Health and Community Services would have evaluated the Memorandum of Understanding annually as required and enforced compliance as it relates to the Food premises inspection and licensing program.



What We Learned

Policies and Procedures

As stated in the background, Health and Community Services is responsible for the policies by which the licensing and inspection program is conducted; Digital Government and Service NL is responsible for their operational procedures. **We found that Health and Community Services Food Premises Inspection and Licensing policies, procedures, and guidelines were outdated.** Some had not been reviewed for applicability and updated in several years; some documents were published over 20 years ago as indicated in the sample shown in the table below.

Table 2: Outdated Health and Community Services Policies and Guidelines

Documentation title	Year published
Risk Assessment Worksheet and Definitions	2008 (partially updated in 2012 and 2014)
Licensing of Food Premises Policy	2002 (partially updated in 2014)
Inspection Data Records Policy	2002
Inspection / Documentation Policy	2002
Classes of Food Premises Policy	2002
Closure and Non-compliance Guidelines	2014
Public Market Guidelines	2011

Source: Office of the Auditor General

The Food Premises Risk Categorization Questionnaire was used to determine the risk category and required inspection frequency of premises. We found that the Food Premises Risk Categorization Questionnaire, as part of the Risk assessment worksheet guidance, has not been updated since 2012. In 2021, food safety training became mandatory for some food premises but no change was reflected on the risk questionnaire. Departmental officials indicated that environmental health officers may have still considered food safety training when determining risk categorization. In situations where this resulted in a low-risk score, we were informed that some environmental health officers have elected to add extra inspections to compensate for the lower score, although there is no guidance from Health and Community Services to do so. We also learned that Digital Government and Service NL's records management system's input forms were not updated to include whether food premises operators had completed a food safety course, and there were no repercussions if operators did not have proof of completing a food safety course.

We found that Health and Community Services had not updated its risk assessment protocol for the risk point system on the Risk Categorization Questionnaire that was updated in 2012. The risk score determined the frequency of inspections of food premises. The risk scoring ranges were adjusted by Digital Government and Service NL in practice and in the records management system, however, the change was not documented in Health and Community Services risk assessment guidance.

Oversight Processes

We found that Health and Community Services had not established any processes to allow it to provide oversight to the Food Premises Inspection and Licensing program besides the annual report requirement per the Memorandum of Understanding. For example, the department had not established performance indicators and other clearly defined reporting requirements that would assist with oversight of the program. **Also, we found Health and Community Services had not established a formalized process for conducting periodic checks to ensure that its policies and guidelines were being followed.** As noted above, we found that representatives from both departments met only three times over the 33-month audit scope period to discuss program-related topics.

We also learned that the Memorandum of Understanding had not been updated annually as required. The most recent version was created in 1999. When asked as part of our audit, Health and Community Services advised that an updated version is currently being drafted. **Also, we found that Health and Community Services did not always enforce compliance with the Memorandum of Understanding.** For example, as noted earlier in our report, Digital Government and Service NL had not provided Health and Community Services with the 2020 or 2021 annual reports until May of 2022.



Why It Matters

When policies and guidelines are outdated, they may not reflect current food premises inspection and licensing best practices. They may also not be aligned with current legislation or the actual activities of Digital Government and Service NL. This situation can result in inconsistent application and an increased risk to public health and safety. For example, when risk assessment guidance does not align with current practices, food premises may be incorrectly categorized for risk, resulting in incorrect inspection frequencies and the possibility of critical and non-critical hazards going undetected.

Without established processes including, for example, establishing key performance indicators or reporting requirements, a department is unable to provide effective oversight of their programs. Further, it would be difficult to determine if the program is being properly executed and if its mandate of ensuring public health and safety is being achieved.

Any agreement between a mandated department and a service provider - be it through a service level agreement, contract, or Memorandum of Understanding with another department - requires evaluation, monitoring, and timely corrective action to ensure it is effectively operating. If the agreement is not being monitored, evaluated, and updated regularly, the needs of the mandated department may not be met, making it difficult to fulfill oversight requirements and ultimately achieve the mandate. In this case, it could result in increased risk to public health through ineffective or inefficient program delivery.

Conclusions

Our audit concluded that the Department of Health and Community Services did not maintain proper oversight of the Food Premises Inspection and Licensing Program, while the Department of Digital Government and Service NL did not effectively manage some aspects of the operations of the program. Overall, this may have increased the risk to public health in the province.

Health and Community Services is responsible for the mandate of the program through policy guidance and oversight of program delivery by Digital Government and Service NL. With that responsibility comes a public expectation that Health and Community Services does everything within its power to ensure that public health is not compromised as it relates to food premises. In our opinion, Health and Community Services did not maintain effective oversight of the program. For example, many policies, procedures, and guidelines were significantly outdated and the department had no process in place to periodically assess whether the program was operating according to policy. The department also did not put forth any updates to the Memorandum of Understanding since 1999, despite there being a requirement that it should be updated annually.

The departments also did not regularly meet to discuss the program. We found that representatives from both departments met only three times over the 33-month audit scope period to discuss program-related topics. Further, the Memorandum of Understanding requires Digital Government and Service NL to provide Health and Community Services with annual reports as a means to facilitate communication. However, they did not provide Health and Community Services with the 2020 and 2021 annual reports until May 2022. This lack of communication may have made it difficult for both parties to fulfill their roles, which can result in the program being implemented in a way that does not align with health standards, ultimately increasing the risk to public health.

Digital Government and Service NL did not complete the required minimum number of inspections during our scope period. The percentages of inspections not completed for fiscal years 2020, 2021 and at December 31, 2021 were 15.5 per cent, 26.7 per cent and 33.5 per cent respectively, of which the high-risk category had the highest percentage for two of the three periods. There are portions of the province considered remote where food premises are not being inspected as often as they should be. In one example, we found a food premises in a remote location that had not been inspected since 2014. If a food premises is not inspected at the required minimum frequency, critical hazards could go unaddressed, increasing the risk to public health and safety.

Digital Government and Service NL also did not effectively monitor the program. For example, they did not conduct the majority of the required licence and inspection file evaluations. They did not have an established process for receiving complaints from the public.

Recommendations

Recommendation 1.

The Department of Health and Community Services should establish processes to ensure the effective oversight of the Food Premises Inspection and Licensing Program.

Department Response:

The Department of Health and Community Services agrees with the Auditor General's recommendation and will establish program standards, performance indicators, and monitoring processes in collaboration with Digital Government and Service NL.

Recommendation 2.

The Department of Health and Community Services and the Department of Digital Government and Service NL should evaluate the Memorandum of Understanding annually as required.

Department Response:

The Department of Health and Community Services and the Department of Digital Government and Service NL agree with the Auditor General's recommendation.

Recommendation 3.

The Department of Digital Government and Service NL should establish processes to ensure effective monitoring of the Food Premises Inspection and Licensing Program.

Department Response:

The Department of Digital Government and Service NL agrees with the Auditor General's recommendation.

Recommendation 4.

The Department of Digital Government and Service NL should provide the Department of Health and Community Services with the required reports timely as required by the Memorandum of Understanding.

Department Response:

The Department of Digital Government and Service NL agrees with the Auditor General's recommendation.

Recommendation 5.

The Department of Digital Government and Service NL should ensure the licensing and inspection of the food premises, including those in remote locations, is carried out in accordance with legislation, policies, guidelines and the Memorandum of Understanding.

Department Response:

The Department of Digital Government and Service NL agrees with the Auditor General's recommendation.

Appendix - About This Audit

Why this Audit is Important

The mandate for the Food Premises Inspection and Licensing program is the responsibility of Health and Community Services. Digital Government and Service NL, working with Health and Community Services, are responsible for implementing the program. The Department of Digital Government and Service NL, through its Government Service Centres, is responsible for the licensing and inspections of food premises in Newfoundland and Labrador. We audited the Food Premises Inspection and Licensing program because food safety is a key aspect of public health and the prevention of illness. Each year, one in eight Canadians is affected by a foodborne illness, which can result in hospitalization or death. Therefore, it is essential for the department to effectively manage the program; ensuring food establishments in the province are complying with legislation in order to reduce the instances of foodborne illness.

Objectives

The objectives of our audit of the Food Premises Inspection and Licensing program were to determine whether:

1. The Department of Digital Government and Service NL effectively manages the program; and
2. The program has effective monitoring and oversight.

Criteria

The Office of the Auditor General developed criteria for this audit based on our understanding of the subject matter, pertinent legislation, departmental policies and procedures, the Memorandum of Understanding, reviews of literature including reports of other legislative auditors, as well as consultations with officials from the Department of Digital Government and Service NL and the Department of Health and Community Services. The Office of the Auditor General defined five criteria regarding two objectives. The senior management of both departments accepted the criteria as suitable.

The Office of the Auditor General assessed whether the Department of Digital Government and Service NL effectively managed the Food Premises Inspection and Licensing program against the following criteria:

- The department manages the licensing of food premises in accordance with legislation, policies, guidelines and the Memorandum of Understanding.
- The department manages the inspection of food premises in accordance with legislation, policies, guidelines and the Memorandum of Understanding.

The Office of the Auditor General assessed whether the Food Premises Inspection and Licensing program had effective monitoring and oversight against the following criteria:

- The Department of Digital Government and Service NL has monitoring policies, processes and systems in place and effectively monitors the Food Premises Inspection and Licensing program.
- The Department of Digital Government and Service NL provides adequate information to the Department of Health and Community Services to allow appropriate oversight of the Food Premises Inspection and Licensing program.
- The Department of Health and Community Services has effective oversight of the Food Premises Inspection and Licensing program.

Scope and Approach

Our audit planning began in December 2021; the audit plan was finalized in April 2022. The audit period covered from April 2019 to December 2021. We conducted our audit using a risk-based approach based on our understanding of the entity. Our audit plan did not specifically test program delivery in light of the COVID-19 pandemic.

Appendix - About This Audit

Our audit procedures included conducting interviews with department officials, an examination of policies and procedures, standard health guidelines, statistical information, legislation, the Memorandum of Understanding, correspondence, reports, information notes and briefing notes. Our procedures also included a detailed examination of system data and information and other documentation held by the Department of Digital Government and Service NL related to food premises, including risk assessments, correspondence, licensing applications and inspection reports. Sampling selections were non-statistical and judgmental.

Our audit did not include the licensing and inspections of dairy farms as food premises as these are within the responsibilities of the Department of Fisheries, Forestry and Agriculture, not the Department of Health and Community Services. Our audit also did not include the licensing and inspections of slaughterhouses, water bottling plants, and the manufacture of ice, as these types of facilities do not get inspected with the same risk assessment process as the types of establishments that are included in our scope.

Audit Standards

This independent assurance report was prepared by the Office of the Auditor General of Newfoundland and Labrador on the management and oversight of the Food Premises Inspection and Licensing program. Our responsibility was to independently audit these areas to provide objective information and recommendations. The senior management of the Department of Digital Government and Service NL and the Department of Health and Community Services acknowledged their responsibility for the audit subject matter and the terms of the audit, including audit objective, scope, and approach.

This audit was performed to a reasonable level of assurance in accordance with the Canadian Standard on Assurance Engagements 3001 – Direct Engagements set out by the Chartered Professional Accountants of Canada and under the authority of the Auditor General Act, 2021.

The Office applies the Canadian Standard on Quality Management 1. This standard requires our Office to design, implement, and operate a system of quality management, including policies and procedures regarding compliance with ethical requirements, professional standards, and applicable legal and regulatory requirements.

In conducting the audit work, we have complied with the independence and other ethical requirements of the Rules of Professional Conduct of the Association of Chartered Professional Accountants of Newfoundland and Labrador.

Management Representation

The Deputy Ministers of the Department of Digital Government and Service NL and the Department of Health and Community Services confirmed that senior management had provided the Office of the Auditor General with all the information they were aware of that had been requested or that could significantly affect the findings or conclusions of the audit report.

Date Conclusion Reached

We obtained sufficient and appropriate audit evidence on which to base our conclusions on May 10, 2023, in St. John's, Newfoundland and Labrador.



DENISE HANRAHAN, CPA, CMA, MBA, ICD.D
Auditor General

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Promoting positive change and accountability in the public sector through impactful audits.

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To promote accountability in government's management and use of public resources and encourage positive change in its delivery of programs and services.

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Above all else, the Office of the Auditor General must have independence, credibility and integrity. These are essential to everything we do; critical to our success. The Office of the Auditor General complies with professional and office standards to produce relevant and reliable audit reports. The Office of the Auditor General's independence of government, in fact, and in appearance, provides objective conclusions, opinions and recommendations on the operations of government and crown agencies. Our staff work in a professional and ethical manner, ensuring respect, objectivity, trust, honesty and fairness.

Audit Team

The Auditor General wishes to thank the diligent audit team who performed their work with independence, credibility and integrity:

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