
Report to Audit & Scrutiny Committee

Date of Meeting: 6 February 2025

**Subject: Environmental Health
Official Food Control Progress Report**

Report by: Strategic Director (Place)

1.0 Purpose

- 1.1. To present an overview of the progress the Council's Official Food Control Service Plan, April 2024 to March 2025 (appendix 1), submitted to Food Standards Scotland for review in August 2024.

2.0 Recommendations

- 2.1. That the Committee note, comment on and challenge the performance of the Council's food law regulation service.

3.0 Considerations

3.1. Background

- 3.1.1. The Council, as the food law enforcing authority in Clackmannanshire, has a statutory duty to provide a food law regulation service that meets the requirements of Assimilated Regulation (EU) 2017/625, the Food Law Code of Practice (Scotland) 2019 and the Food Law Interventions Code of Practice (Scotland) 2019.

<https://www.foodstandards.gov.scot/publications-and-research/publications/interventions-food-law-code-of-practice-scotland-2019>

- 3.1.2. Food must be manufactured, prepared, distributed and handled by food businesses in accordance with relevant food safety laws. This ensures that food businesses do not pose a risk to public health. Where food businesses contravene food law in Clackmannanshire, the Council's Environmental Health Service must take appropriate regulatory action to remedy the situation in accordance with the Council's Food Law Enforcement Policy.
- 3.1.3. Clackmannanshire Council implemented a recovery program for the restart of Food Law inspections as the delivery of routine interventions ceased during Covid. This work followed direction provided by Food Standards Scotland (FSS) on local authority recovery. It is based on a phased approach to ensure

that resources are focused on businesses which present the greatest risk. The team is continuing to progress through this ongoing programme of work.

3.2. **Review Process**

3.2.1. The review process focuses on examining evidence to verify whether the Council complies with the planned arrangements for food law enforcement and whether planned arrangements are being applied effectively. Checks are carried out to verify and validate that the Codes of Practice are being implemented correctly by the Council.

3.2.2. Analysis of electronic evidence held by the Council and verification of documentation is carried out, to ensure that policies, procedures and codes of practice have been correctly followed during the inspection process.

3.3. **Review Findings**

3.3.1. Progress with the plan is set out in the table below. Appendix 2 contains extracts from “Interventions Food Law Code of Practice (2019)” which provides the rationale behind risk rating and grouping of food businesses, which in turn determines frequency of inspections required.

Group / Band	Number Due in 2024/25	Achieved (%) by end Dec 24
1A	3	100%
1B	2	100%
1C	3	100%
1D	1	100%
1E	0	N/A
Group1 Unrated	1	100%
2A	0	N/A
2B	120	26%
2C	75	86%
2D	32	100%
2E	2	100%
Group2 Unrated	27	100%
3A	0	N/A
3B	48	47%
3C	15	60%
3D	1	100%
3E	0	N/A
Group3 Unrated	9	100%
Approved Establishments	1	100%
Primary Production	1	100%

3.3.2 The Environmental Health Team is on target to complete the inspection program in all categories except for two. These are highlighted as bold in the table above. It should be noted there has been a marked improvement in overall performance in comparison to the previous year reflected in focusing on this work.

3.3.3 Work has been prioritised following FSS recovery guidance. The team is on target to deliver official controls at all higher risk premises. This includes the

Approved Establishment; all Group 1s; intensive interventions within all Groups; and Band Cs in Groups 2 and 3. In addition, the team have been inspecting new businesses. This includes those registered prior to the inspection plan and also those registered during this reporting year.

- 3.3.4 There has been slippage in the inspection programme for compliant businesses in Band 2B and 3B. Both bands contain the largest number of businesses within the inspection program. Although rated as compliant, it has been some time since they were inspected and there is a risk that standards could slip. Given the level of resources available, the team will need to continue to prioritise higher risk premises. However, these Band 2B and 3B businesses will always be visited if any complaints regarding food safety/hygiene issues are received.
- 3.3.5 The team continues to manage the ongoing turnover of businesses. During the 9 month period, 53 businesses have closed or changed ownership, and 31 new businesses have started to trade. This turnover requires significant resources as the majority of new businesses require considerable input from the Environmental Health Team to help them understand and achieve compliance.

4.0 Sustainability Implications

- 4.1. NIL

5.0 Resource Implications

- 5.1. *Staffing*
- 5.2. Staff have been working on a hybrid basis between the office and their home. All Officers have full remote access to the IT systems.
- 5.3. There have been vacancies within the team this financial year. There was a vacancy created within the team due to an internal promotion in June 2023 following retirement of the Team Leader. This post has been advertised but the Council was unsuccessful in recruiting a suitable individual and it remains vacant. Due to the shortage of available Environmental Health Officers within Scotland, it was agreed that this post would be downgraded to a Technical Officer in Public Health. This has led to a saving but will also free up Environmental Health Officers to concentrate more on Food Law related issues. Food safety work also has to be balanced with the Public Health work which is mainly reactive and unplanned. In addition, there has been the loss of a Part-Time Senior Environmental Health Officer in November. This reduction in available resources has and will continue to impact on the team's ability to deliver the full inspection programme.
- 5.4. Food Standards Scotland audited Clackmannanshire's Environmental Health Service in 2022 and even though at that time the Team was fully staffed it was identified through the resource calculation process for food law enforcement that there is a 1.2 FTE resource deficit of Environmental Health Officers identified through the resource calculation process for food law enforcement. As has previously been reported to this Committee, it is contended that a recent change in the rating of food businesses, introduced by Food Standards

Scotland, has increased our inspection liability. It is therefore considered that central government should provide funding for this deficit or revise the new rating system so as to be resource neutral. This was fed back to Food Standards Scotland and is under consideration. Other local authorities are anecdotally of the same view as this service. Food Standards Scotland is still reviewing the rating scheme to ensure that it is “resource neutral” as originally intended.

6.0 Exempt Reports

6.1. Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box)

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all

Our families; children and young people will have the best possible start in life

Women and girls will be confident and aspirational, and achieve their full potential

Our communities will be resilient and empowered so that they can thrive and flourish

(2) **Council Policies** (Please detail)

Development Services Food Law Enforcement Policy 2022 (Appendix 3)

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes No

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

- Appendix 1: Official Food Control Service Plan 24/25
- Appendix 2: Extract from Interventions Food Law Code of Practice (Scotland) 2019
- Appendix 3: Development Services Food Law Enforcement Policy 2022

11.0 Background Papers

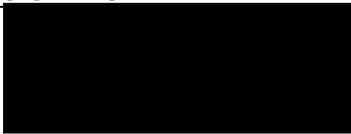
11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes (please list the documents below) No

Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Dawn Brisbane	Team Leader Environmental Health	2579

Approved by

NAME	DESIGNATION	SIGNATURE
Kevin Wells	Strategic Director (Place)	



Place

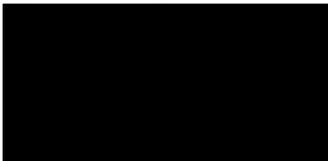
Development Services

Official Food Control Service Plan

1 April 2024 to 31 March 2025

Approved by Strategic Director of Place

Signed



(Pete Leonard)

Date

02 August 2024

Section 1 - Service Aims and Objectives

1. Aims & Objectives

- 1.1. Safe food and drink is something that is taken for granted by the majority of the population. The safety of this fundamental human need relies on a competent, trustworthy and managed supply chain. Regulation of this process is undertaken by Environmental Health professionals working in local authorities. The consequence of failure can be costly in terms of human health, and also public confidence in the food industry and government.
- 1.2. Clackmannanshire Council recognises the importance of ensuring that all food produced and sold within the county is safe. Providing a service capable of carrying out the statutory duties placed upon the Council is fully recognised. This Official Food Control Service Plan underlines the Council's commitment to fulfilling those duties and it covers the key areas of food law regulation for the period 1 April 2024 to 31 March 2025. The Council remains committed to:
 - provide the resources needed to meet the statutory obligations and duties placed upon it to maintain a safe food supply in Clackmannanshire
 - ensure officers are trained and meet the requirements of Continual Professional Development to carry out food control duties
 - ensure officers have sufficient equipment, adequately maintained, to carry out their statutory duties in relation to food control
- 1.3. Clackmannanshire Council's food law service is provided by the Environmental Health team. The team's objectives are to ensure that:
 - Food is safe and authentic
 - Responsible food businesses are enabled to thrive
 - Consumers are empowered to make positive choices about food

These objectives support those contained within Food Standards Scotland's Corporate Plan 2021-24¹.

- 1.4. This Service Plan supports the priorities of Clackmannanshire Council's Place Directorate Business Plan². That Business Plan sets out the main priorities to be pursued and outcomes to be achieved taking account of the Corporate Plan. The Official Food Control Service Plan contributes to the following Corporate Outcomes:
 - Sustainable, inclusive growth
 - Empowering individuals, families and communities
 - Health and wellbeing

Section 2 – Background

¹ Food Standards Scotland - Healthy, Safe, Sustainable: Driving Scotland's Food Future Corporate Plan 2021-24

² Clackmannanshire Council Place Directorate Business Plane 2021-23

2. Profile of Clackmannanshire Council

- 2.1. Clackmannanshire Council is the smallest mainland Scottish Council. The county covers an area of 61 square miles and has a population of 51,540³. It's bounded by the Ochil Hills in the North and the River Forth in the South. Neighbouring authorities are Fife, Perth & Kinross, Stirling and, south of the River Forth, Falkirk. Clackmannanshire is a mix of rural and urban areas with Alloa as the main town. The district is primarily residential in nature with no large industrial sites.
- 2.2. The 2011 census contains details of Clackmannanshire's population statistics and can be found at - <http://www.scotlandscensus.gov.uk/ods-web/area.html>

Organisational Structure

- 2.3. Clackmannanshire Council has three directorates, each managed by a Strategic Director. They are:
- People
 - Place
 - Performance and Partnerships

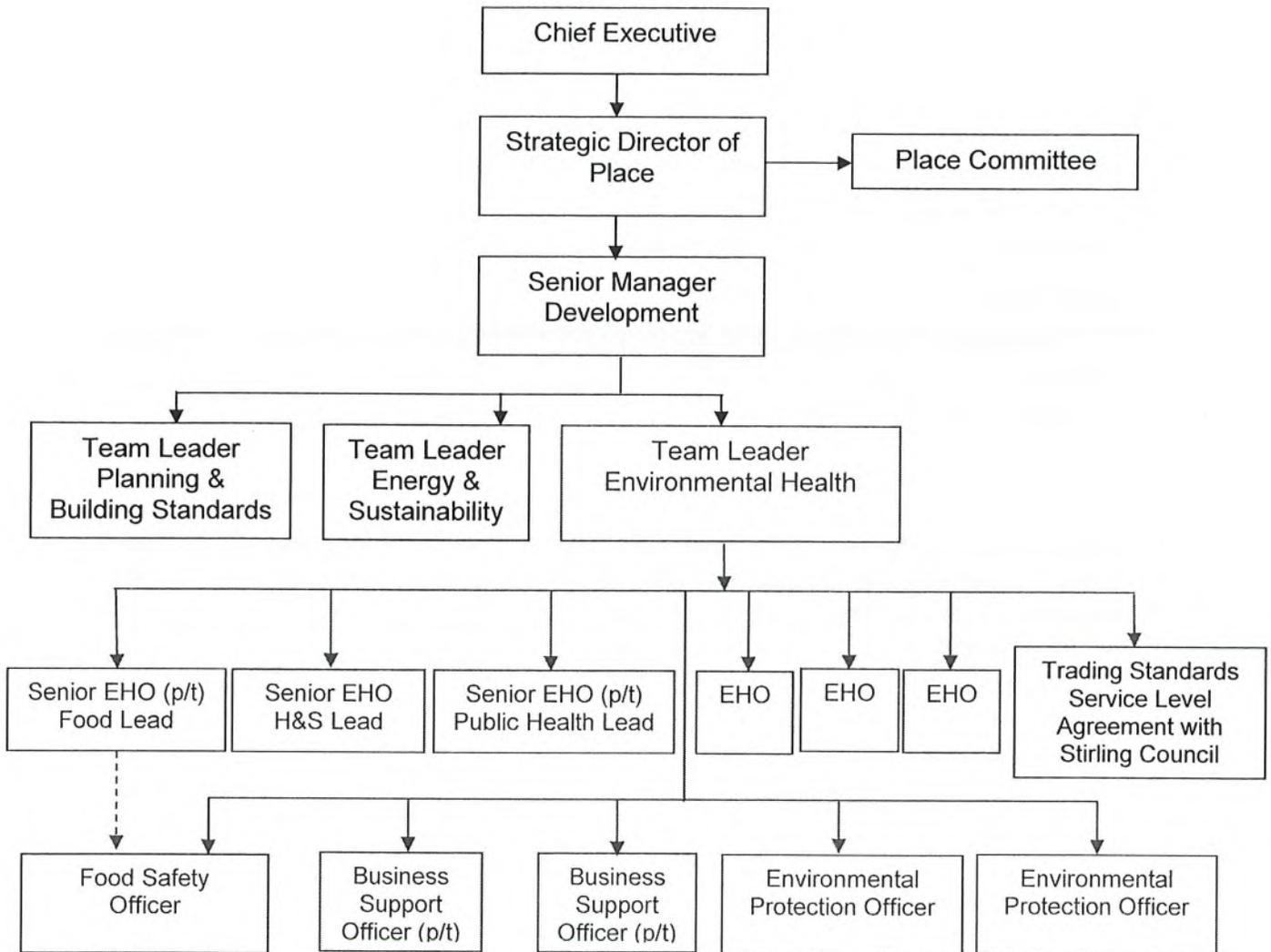
The Place Directorate covers Housing, Property, Development and Environment. Environmental Health is situated within Development Services. This service includes predominantly statutory, front-line services that support community health & safety, well being and economic prosperity. This includes:

- Planning
- Building Standards
- Trading Standards
- Environmental Health
- City Deal / Regional Economic Partnership
- Regeneration
- Climate Change

- 2.4. The Council's Environmental Health Officers and Environmental Health Technical Officer are responsible for the entire range of Environmental Health work, in addition to the delivery of the food control service. They are supported in non-food Environmental Health work by two Environmental Protection Officers. Environmental Health is managed by the Environmental Health Team Leader. The Team Leader is the Council's Lead Officer responsible for delivery of Official Food Controls for food law. A Senior Environmental Health Officer, with specialist food knowledge, has responsibility for routine food control service activities. The Team Leader also manages the service level agreement for the provision of the Trading Standards service within Clackmannanshire which is provided by Stirling Council.
- 2.5. The Structure of Environmental Health within Development Services is detailed in the diagram below. Red writing and red lines denote the Environmental Health staff:

³ National Records of Scotland 2021

Official Food Control Plan 2024-25



Dashed lines denote supervisory duties, solid line denotes management duties.

Scope of the Food Service

- 2.6. The scope of the food law work undertaken by Environmental Health includes:
- Programmed food law inspections of food businesses.
 - Assisting businesses to meet their legal obligations in terms of food law by providing appropriate advice and information
 - Enforcement of the legal requirements in respect of food law through formal regulation, e.g. Hygiene Improvement Notices, Hygiene Emergency Prohibition Notices, Remedial Action Notices, Reports to the Procurator Fiscal, etc.
 - Issue of Food Hygiene Information Scheme ratings
 - Investigation of cases of food poisoning
 - Investigation of food complaints and complaints about food premises
 - Approval of premises in terms of EU Hygiene Regulations
 - Sampling of foods for analysis by Glasgow Council Scientific Services
 - Consultation to the Licensing Board and other Council Services
 - Consultation advice on Civic Government (Scotland) Act 1982
 - Advice on all food law matters to the general public and others
 - Responding to Food Alerts and notification of incidents issued by Food Standards Scotland (FSS)
 - Issue Export Health Certificates for exports to third countries.
- 2.7. As the EHOs are generic officers, they also undertake all other statutory functions required by the service which includes public health, health and safety and statutory nuisance. Officers are also involved with supporting businesses and Forth Valley Health Board with compliance and reacting to complaints and incidents.
- 2.8. The Environmental Health service is located at Kilncraigs, Greenside Street, Alloa, FK10 1EB. Reception is open Monday to Friday 10am to 3pm for public enquiries. Officers work on a hybrid basis between the office and their home. They are required to be based in the office at least 40% of the working week. Staff have full remote access to IT systems for home working. Officers work flexible hours between 8:00am and 6:00pm. Out of hours services are provided when necessary by prior arrangement. There is no formal system of out of hours cover.

Demands on Food Service

2.9. Clackmannanshire has 559 Registered Food Premises. The current profile of these businesses are as follows:

Business Type	Number of Businesses
Approved Establishment	1
Primary Producers	2
Manufacturers and Packers	22
Importers / Exporters	0
Distributors / Transporters	10
Supermarket / Hypermarket	16
Small Retailer	88
Retailers Other	14
Restaurant / Café / Canteen	77
Hotel / Guest House	9
Pub / Club	49
Take-away	56
Caring Premises	86
School / College	27
Mobile Food Unit	12
Restaurants & Other Caterers	90

FLRS Group/Band	A	B	C	D	E	Unrated
1	6	2	3	1	0	0
2	0	178	74	17	0	11
3	85	150	25	0	0	4

Annex 5 Risk Rating	No. Establishments	Risk Rating (FH)
Approved establishments	1	B
Primary Production	2	E

- 2.10. Performance for the service, in terms of food control delivery, is measured by:
- Completion of the annual food law inspection programme within timescales specified in the Code of Practice. Clackmannanshire's target for performance on this standard is detailed in the table below:

Official Food Control Plan 2024-25

	1	2	3
FLRS Band A	100%	80%	0%
FLRS Band B			50%
FLRS Band C	100%	100%	100%
FLRS Band D			
FLRS Band E			
Approved Est	100%		
Primary Production	50%		

- Officers achieving the required 10 hours Continuing Professional Development
- Response times to service requests
- Internal monitoring of officers delivering the food control service by the Senior EHO for food, including accompanied inspections.
- The completion of an annual food sampling programme that is focussed on the safety and quality of food locally produced and sold.

Enforcement Policy

2.11. The Council has produced a Food Law Enforcement Policy which is agreed by the Place Committee. This document sets out what businesses can expect from the enforcement officers whilst undertaking food law work. Enforcement will be applied in a graduated, risk-based manner and resources shall be targeted at those businesses which pose the greatest risk to health.

3. Section 3 - Service Delivery

Inspections at Food Establishments

3.1. In September 2021, Clackmannanshire Council implemented a recovery program for the restart of food law inspections as the delivery of routine interventions ceased during the Covid pandemic. This work was prepared following direction provided by FSS on local authority recovery⁴. It is based on a phased approach and ensures that resources are focussed on businesses which present the greatest risk. The team is the final year of this program of work which is due to be completed by March 2025. Details of the full recovery strategy are in Annex 1.

3.2. The table below details the planned program of food interventions for 2024-25:

⁴ Food Standards Scotland – Local Authority Recovery Project Recovery Process Guidance (Dec 2020)

Official Food Control Plan 2024-25

FLRS Group/Band	A	B	C	D	E	Unrated
1	4	2	3	1	0	0
2	0	120	74	17	0	11
3	16	50	15	0	0	4

Annex 5 Risk Rating	No. Establishments	Risk Rating (FH)
Approved Establishments	1	B

- 3.3. All programmed interventions are by way of inspection, including new unrated businesses. Officers undertake inspections in accordance with Clackmannanshire Council's Enforcement Policy and Inspection Procedure which incorporates the provisions of the Food Law Code of Practice Scotland, Practice Guidance and other centrally issued guidance. The above figures do not include the potential increase in the number of inspection due to businesses being placed on intense intervention (one or three month inspection frequency) due to poor compliance. Nor does it include new businesses that will open during this reporting year which and will require inspection.
- 3.4. It is estimated that officers will be required to undertake at least 142 revisits to follow up on significant contraventions raised during routine inspections. This number is an estimate based on previous history as the need to revisit can only be determined once the initial inspection has been undertaken.
- 3.5. New businesses that register with Environmental Health are entered onto the team's database. The target for all new businesses to be inspected is within 3 months of opening and they shall be allocated on a risk basis.

Food Complaints

- 3.6. The investigation of food complaints is in accordance with the Council's written procedure and all complaints are reviewed and investigated. Action taken shall be proportionate to risk. Based on data from previous years, an estimate of 46 complaints relating to problems with food items or poor practices at a business is predicted. However, this type of work is reactive and can not be planned.

Home Authority Principle

- 3.7. The Council supports the Home Authority Principle and Primary Authority Scheme. It does not act as Home or Primary Authority for any business. Where an officer is considering taking enforcement action which they believe may be contrary to any

advice issued by the relevant Home/Originating or Primary Authority, they will discuss the facts with the relevant Authority before action is instigated.

Advice to Business

- 3.8. Clackmannanshire Council provides advice for businesses either on request or in the course of normal service operation. The Council is committed to providing quality and comprehensive advice to local food businesses and this is reflected in the Enforcement Policy and written procedures.

Food Sampling

- 3.9. A sampling programme is prepared each year which incorporates local producers, exported food, SFELC/FSS national sampling priorities and local issues. Sampling is carried out by the Environmental Health Officers and the Environmental Health Technical Officer in accordance with written procedures. The Council has appointed Glasgow City Council Scientific Services as Food Examiner and Public Analyst and all food samples for examination and analysis are submitted to them.

Control and Investigation of Outbreaks and Food Bourne Infectious Disease

- 3.10. The Council, in partnership with, and led by, Forth Valley Health Board, investigates all reported cases of outbreaks and food related infections. This is in accordance with procedures agreed with Forth Valley Health Board. The Team Leader Environmental Health attends meetings with the Consultant in Public Health Medicine as called.

Food Law Incidents

- 3.11. All food law incidents reported to the Council by local food businesses will be dealt with in accordance with the Council's procedures. These procedures follow the requirements of the Food Law Code of Practice Scotland. The Council's procedures extend to reports of food safety incidents through the alert system operated by Food Standards Scotland. All alerts "for action" are acted upon if relevant to businesses in Clackmannanshire. A record of all alerts is kept electronically.

Liaison with other Organisations

- 3.12. The Environmental Health team maintains positive liaison with many organisations. The food law code of practice requires local authorities to work together with national bodies to contribute to consistency of enforcement. The team works with other local authorities through attendance of the East of Scotland Liaison Group (ESFLG) and the Scottish Food Enforcement Liaison Committee (SFELC). The Senior Environmental Health Officer for Food Safety is the Chair of the ESFLG and is a representative on SFELC. The service is audited by Food Standards Scotland and there is a strong commitment to attend any events organised by this agency. The Council also provides full commitment to supporting working groups.

Food Crime and Fraudulent Activities

- 3.13. The Environmental Health team work with the Food Crime and Incidents Unit at Food Standards Scotland in support of work undertaken on food fraud and food crime. During routine inspections and sampling, Officers are looking for evidence of any attempts to mislead consumers or provide food which is dangerous. The team shall share intelligence with this agency and assist with any investigation as required.

Section 4 – Finance and Staffing

Financial Allocation

- 4.1. The following financial resources are available to the service for **all** Environmental Health Work, including food control delivery and it is not possible to break this figure down any further:

Staff	£498,872
Transport	£2,200
Equipment Maintenance	£4,100
Equipment Purchase	£1,000
Staff Clothing	£570
Materials	£1,500
Training (Centrally Held)	£2,000

- 4.2. The staffing budget has increased slightly from the previous financial year due to pay increase awarded the previous year. Staff numbers remain stable. The training budget has remained the same and is held centrally. These funds are predominantly used for food CPD for authorised officers. Equipment maintenance has decreased slightly due to budget restraints.
- 4.3. Clackmannanshire Council must ensure that services are prioritised on meeting targets and fulfilling statutory obligations to protect people’s health, safety and welfare. Previous years have seen slight reductions in budget but for the period of this service plan the position remains fairly stable. The Council must ensure that it maintains a food control service that meets statutory obligations.
- 4.4. The Council continues to face challenging times and further budget cuts but, at this current time, it is not planned for further reductions in Environmental Health’s staffing levels or budget allocation. The Council is fully committed to meeting statutory duties and any future changes will not impact on its ability to deliver services at that level.

Staffing Allocation

- 4.5. The Environmental Health team at Clackmannanshire Council are generalist officers that adapt and react to the multiple functions that the profession covers. This includes public health, statutory nuisance, health and safety and food control. The team's current staffing levels and the proportion of officer time dedicated to food control work is listed in the table below:

Position	All EH Work (FTE)	Vacant Post (FTE)	Food Control Work (FTE)
Team Leader Environmental Health	1	0	0.3
Senior / Environmental Health Officer	5	1	2.6
Environmental Health Technical Officer	1	0	0.8
Environmental Protection Officer	2	0	0
Total	9	1	3.7

- 4.6. The resources required for delivery of the 2024-25 food control program has been calculated to require 3.7 full time equivalents (FTE). Full details of the resource calculation are available in Schedule 2. Due to the vacant EHO post, the available resource available to deliver the food control program is 3.4 FTE.
- 4.7. The levels of competency and authorisation of staff is as outlined in the Inspection Procedure and Enforcement Policy. The Business Support and Environmental Protection Officers are not authorised in any capacity for food control work.

Staff Development Plan

- 4.8. Clackmannanshire Council is committed to staff development. Training and development needs are assessed during individual Constructive Conversations with staff in accordance with the council's performance management process.
- 4.9. Training will be provided using a range of formats including formal qualifications; external courses delivered in person or online; internal training sessions; shadowing and mentoring. All Officers authorised to undertake food law work shall complete at least 10 hours training annually as part of their continuing professional development (CPD) to maintain competency as required by the Food Law Code of Practice.

Section 5 - Monitoring

Quality Assessment and Internal Monitoring

- 5.1. The Council is committed to providing quality services and has in place a system of internal monitoring. This covers:
- review of files to check that inspection procedures etc. have been carried out;
 - review of all reports submitted to the Procurator Fiscal prior to submission
 - checks on all formal enforcement notices issued;
 - checks on informal reports issued;
 - accompanied inspections and visits to check quality and practices;
- 5.2. The performance of this Authority against the Service Plan will be monitored by:
- comparison of annual inspections against the inspection programme
 - annual review of food sampling;
 - annual review of procedural guidance
 - annual training assessment.

Section 6 – Review

Review against the service plan

- 6.1. The Service Delivery Plan will be reviewed on an annual basis by the Senior EHO for Food Environmental Health to assess its relevance to current operations and targets and will be amended where there are significant changes. The Official Food Control Service Plan will be submitted annually to the Head of Service for approval.
- 6.2. An end of year report will be submitted to the Strategic Director identifying where the service has varied from the Service Plan, the reasons for this and the actions taken as a consequence.
- 6.3. Any areas of improvement of service delivery identified will be set out within the review with proposals for their implementation.

Areas for Improvement / Challenges

- 6.4. The recovery of the food law inspection program following disruption due to the Covid pandemic is a significant undertaking for the team. The recovery period is due to end in March 2025. It is important that Officers are supported throughout this transition so that they deliver a competent service. Over the past few years, the operational and economic pressures have been extremely challenging for the food industry and have resulted in a changing landscape within the food industry which has impacted on the inspection program. Many businesses have started trading online for the first time, some have introduced higher risk processes and cut backs often impact the general standard of compliance.

Official Food Control Plan 2024-25

- 6.5. The recovery is made more complex by the transition to the new food law rating scheme. This new scheme has changed the inspection profile of the businesses due to the different priorities built into the scheme, resulting in many businesses requiring inspection on a more frequent basis. Large or complex businesses are to be inspected more frequently due to their inherent risk. The introduction of intense interventions is effective at securing improvement at poorly performing businesses. However, this involves significant officer time. A significant number of lower risk premises are being risk rated at higher inspection frequencies due to the increased priority placed on food standards. All these factors contribute towards a heavier inspection program moving forward.
- 6.6. The Interventions Food Law Code of Practice (Scotland) does not apply to Approved Establishments. This type of businesses will be addressed in a future Code of Practice which will include the introduction of the Official Control and Verification manual. Implementation of this new inspection regime requires to be fully introduced at Approved Establishments. Officers will require support with this change in working practice.
- 6.7. There has been a vacant EHO post within the team since June 2024 and recruitment has been unsuccessful. This shall impact the performance of the team in the year going forward. All Scottish local authorities are struggling to recruit at this time due to a lack of professional staff being available, and more staff leaving the profession than are currently being educated and trained. Recruitment for this vacant post is a priority for the coming year. As part of the inspection recovery plan, there is a growing number of Group 2B and Group 3B businesses that are outstanding and require to be inspected. Due to the challenges detailed above, and the demand of reactive public health work, priority has been given to ensure resources for planned Food Law inspections is directed to the higher risk businesses, those with a poor history of compliance and also new businesses where the risk is unknown. Although the Band B businesses have been identified as compliant and lower risk, the challenge going forward is to manage and reduce this backlog.

Official Food Control Service Plan prepared by the Senior Environmental Health Officer for Food

Signed:



(Helen Henderson)

Date:

1-8-24.

Official Food Control Plan 2024-25

Official Food Control Service Plan confirmed by the Team Leader Environmental Health

Signed: _____



(Dawn Brisbane)

Date:

01/08/2024

Annex 1 – Food Law Recovery Inspection Plan (September 2021 to March 2025)

Inspection Type		Insp Freq CoP (Months)	Permitted Time Scale for recovery (months)	Total No. business	Year 21/22	Year 22/23	Year 23/24	Year 24/25
Group 1	A	18	18	0	0	As per CoP		
	B	12	12	7	7	As per CoP		
	C	6	6	2	2	As per CoP		
	D	3	3	1	1	As per CoP		
	E	1	1	0	0	As per CoP		
	Unr'd		-	1	1	As per CoP		
Group 2	A	24	48	0	0	0	As per CoP	
	B	18	24	164	41	123	As per CoP	
	C	12	18	101	60	41	As per CoP	
	D	3	6	21	21	As per CoP		
	E	1	1	0	0	As per CoP		
	Unr'd		-	42	42	As per CoP		
Group 3	A	60 / No proactive visit	60	81	0	0	0	Asses s if Req'd
	B	36	48	116	0	0	58	58
	C	24	36	43	0	22	21	As per CoP
	D	3	6	3	3	As per CoP		
	E	1	1	0	0	As per CoP		
	Unr'd		-	27	27	As per CoP		
Approved Establishments		12	12	1	1	As per CoP		
Primary Production		24	-	2	0	2	As per CoP	

Annex 2: Resource Calculation Information

Table 1: Interventions

Inspection Type		Estimate time per intervention (Hrs)	Factor for Witness / Officer Support	No Inspections Planned in 2024/25	Total time to implement plan
Group 1	A	13.5	2	4	108
	B	13.5	2	2	54
	C	19.25	2	3	116
	D	21.75	2	1	44
	E	26.75	2	0	0
	Unrated	21.75	2	0	0
Group 2	A	4.75	1	0	0
	B	4.75	1	120	570
	C	8.5	1.2	74	755
	D	11.75	1.5	17	300
	E	13.9	2	0	0
	Unrated	11.75	1	11	130
Group 3	A	3.5	1	16	56
	B	3.5	1	50	175
	C	6.25	1	15	94
	D	8	1.2	0	0
	E	9.75	2	0	0
	Unrated	8	1	4	32
Approved Establishment		30	2	1	60
Primary Production		5	1	0	0
Total				318	2,494
FTE Officers for Insp					2.3

Official Food Control Plan 2024-25

Table 2: Other Food Law Work out with Inspection Program

Other Intervention Activities	No	Time per activity (hrs)	Total Time (Hrs)
Food Complaints	20	4	80
Complaints re premises	17	4	68
Food Alerts for Action	1	7.5	7.5
Food Alerts for Information	114	1.2	136.8
Food Poisonings	12	3	36
Food Incidents	1	10	10
Sampling: Micro & Chem Formal Satisfactory	2	5.8	11.6
Sampling: Micro & Chen Formal Unsatisfactory	0	15.25	0
Sampling: Micro & Chem Informal Satisfactory	101	3	303
Sampling: Micro & Chen Informal Unsatisfactory	7	5	35
Implementation of new allergen regs October		20	20
Planning Applications re food premises	21	2.5 (+2hr 50%)	105
Licensing S50	4	5	20
Licensing Variation	4	2.5 (+2hr 50%)	20
Public Entertainment	32	5	160
Late Hours Catering Licence	5	0.25	1.25
Market Operators Licence	1	5	5
Advice to business/public/agencies	45	1 (+2hr 50%)	90
CPD/Training Activity		120	120
Total			1229.15
Officer FTE			1.1

Official Food Control Plan 2024-25

Table 3: Food Law Management Activities

Management Activities	No.	Time per activity (Hr)	Total Time (Hrs)
Management of MIS & SND Data		60	60
Internal monitoring		60	60
Complaints against service	1	5	5
Create & manage sampling plan		7.5	7.5
Service Plan, Service Review, Policies,		50	50
Provision of data to FSS Audit Team		12.5	12.5
Attendance at Liaison Groups & Working Groups		30	30
Management of FHS	1.5Hr/month	18	18
Management of Export Certificates	2 Hrs/month	24	24
Production Export Health Certificates	647	0.25	161.75
FOIs & Cllr/MSP/MP enquiries	11	2.5	27.5
Total			456.25
Officer FTE			0.4

5. Food Law Rating System

5.1 The Ladder

Group 1 Business	Performance Levels	Band	Intervention Frequency
<ul style="list-style-type: none"> Manufacturer of High Risk Foods. Manufacturer, Caterer, Processor or Retailer that undertakes a specific method of processing that has the potential to increase the risk to public health beyond that of normal preparation, storage or cooking. Manufacturers of Foods for Specific Groups. All Exporters. Manufacturers, Processors, Importers, Wholesaler, Distributor, Food Broker, Packers of Food at enhanced risk of food fraud, substitution, adulteration or contamination. 	Sustained Compliance	1A	18 Months
	Compliant and confident in compliance going forward	1B	12 Months
	Minor Non-compliance and/or gaps in confidence in compliance going forward	1C	6 Months
	Significant Non-Compliance and/or no confidence in compliance going forward	1D	3 Months
	Sustained non-compliance and/or Issues of Public Health Significance or Fraudulent Activity	1E	Intensive Intervention. 1 Month.
Group 2 Business	Performance Levels	Band	Intervention Frequency
<ul style="list-style-type: none"> All other Manufacturers, Processors, and Caterers. Importers, packers, wholesalers and distributors of high-risk foods not in Group 1. Head Office Business that undertakes a regional/national decision making function. Retailers handling open high-risk foods. 	Sustained Compliance	2A	24 Months
	Compliant and confident in compliance going forward	2B	18 Months
	Minor Non-compliance and/or gaps in confidence in compliance going forward	2C	12 Months
	Significant Non-Compliance and/or no confidence in compliance going forward	2D	3 Months
	Sustained non-compliance and/or Issues of Public Health Significance or Fraudulent Activity	2E	Intensive Intervention. 1 Month.
Group 3 Business	Performance Levels	Band	Intervention Frequency
<ul style="list-style-type: none"> All other retailers, Food Brokers, Importers, packers, wholesalers and distributors. Public Houses and similar Licenced Business not providing catering. Business providing limited refreshments (e.g. tea, coffee, soft drinks) as an adjunct to main activity. Child minders. Supported Living Business. Business producing low risk food based from a domestic dwelling. Bed & Breakfasts. 	Sustained Compliance or Businesses where information available at point of registration, indicates there is minimal inherent risk	3A	No proactive Intervention or 60 months.
	Compliant and confident in compliance going forward	3B	36 Months
	Minor Non-Compliance and/or gaps in confidence in compliance going forward	3C	24 Months
	Significant Non-Compliance and/or no confidence in compliance going forward	3D	3 Months.
	Sustained Non-Compliance and/or Issues of Public Health Significance or Fraudulent Activity	3E	Intensive Intervention. 1 month.

5.7 The Compliance Matrix and Definitions

COMPLIANCE CATEGORY		COMPLIANCE LEVEL				
		5	4	3	2	1
FOOD SAFETY AND PRACTICE PERFORMANCE	CROSS CONTAMINATION PERFORMANCE	<p>Serious (wilful and/ or sustained serious) non-compliance. Any non-compliances that are an immediate risk to consumer health, allow consumers to make unsafe food choices or could give rise to fraudulent gain</p>	<p>Significant non – compliance Any non-compliances which may adversely affect consumer health or which might do so if not remedied quickly. Failure to comply with product or process specific requirements. Food Standards non-compliances where the consumer is misinformed or prejudiced.</p>	<p>Minor non – compliance Technical non-compliances which do not adversely affect consumer health or consumer choice but which require to be remedied.</p>	<p>Generally compliant No non-compliances or only very minor non-compliances which the LA has decided should not be pursued until the next intervention.</p>	<p>Full and continuing compliance and/or evidence of going beyond legislative requirements Evidence of a proactive approach. Evidence of compliance with third party programmes which are recognised as additional or beyond legislative requirements.</p>
	STRUCTURAL PERFORMANCE	<p>Serious lack of control of food safety and/or standards. No appropriate FSMS or failure to follow FSMS.</p>	<p>No appropriate FSMS or general/significant failure to follow FSMS. Significant lack of control of food safety and/or standards.</p>	<p>An appropriate FSMS (HACCP based) is in place and is followed but with minor gaps in scope/use.</p>	<p>Fully Documented appropriate (HACCP based) FSMS in place and followed.</p>	<p>Fully Documented appropriate (HACCP based) FSMS in place and followed with an additional 3rd party accreditation.</p>
	FOOD INFORMATION PERFORMANCE					
	COMPOSITION PERFORMANCE	<p>No confidence. Unwilling to engage with obligations. Serious formal action required at this visit</p>	<p>Little confidence. Willing, but largely unable, to engage with obligations.</p>	<p>Some confidence. Engage with obligations but gaps in technical awareness. Reliant on LA. New Business or FBO.</p>	<p>Confident. Obligations are routinely met. Able to identify and control emerging issues. Good technical awareness.</p>	<p>Full and continuing compliance. Confident. Proactive approach to food safety management. Own or access to technical expertise. Implementation of externally audited FSMS at least equivalent to HACCP.</p>
	FOOD SAFETY MANAGEMENT SYSTEM					
CONFIDENCE IN MANAGEMENT	<p>AVERAGE SCORE</p>	<p>5</p>	<p>4</p>	<p>3</p>	<p>2</p>	<p>1</p>



Development Services

FOOD LAW ENFORCEMENT POLICY

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1. **Introduction**
- 1.1. This policy covers Clackmannanshire Council's enforcement activity in relation to Food Law. Feed enforcement within Clackmannanshire is carried out by Food Standards Scotland. Primary production enforcement is carried out by the Clackmannanshire and Stirling joint Trading Standards service. Clackmannanshire Council discharges its responsibilities as a Food Authority through Place Directorate, Development Services, Environmental Health, Kilncraigs, Alloa, FK10 1EB.
- 1.2. Only officers duly authorised by the Council may enforce food law in Clackmannanshire. Those officers will be subject to enforcement limitations, dependant upon qualification and experience, imposed by the Authorisation of Officers Procedure.
- 1.3. Copies of this Enforcement Policy are available on request from Environmental Health, Development Services, Clackmannanshire Council. Copies are free of charge. Copies are also available from www.clacks.gov.uk
- 1.4. This Food Law Enforcement Policy plays an important part in the Food Law Service Plan, delivering Clackmannanshire's Food Law Enforcement Service. All enforcement action will be targeted utilising the National Food and Feed Compliance Spectrum and will take regard of the Scottish Regulators Strategic Code of Practice.
- 1.5. The Food Law Enforcement Policy ensures the comprehensive and consistent enforcement of food safety within Clackmannanshire in line with the Food Law Code of Practice (Scotland). It is a requirement that all officers delivering food law regulation read, understand and follow the Code of Practice.
- 1.6. In preparing and updating this policy due regard has been taken of the advice issued by Central Government, Scottish Food Enforcement Liaison Committee (SFELC), and Food Standards Scotland (FSS).
- 1.7. All decisions on enforcement action shall only be made after consideration of this Enforcement Policy. Any deviation from the policy will be exceptional, be capable of justification and have been fully considered by the Environmental Health Team Leader, unless to delay a decision may result in significant risk to the public. The circumstances relating to any departure will be comprehensively documented.
- 1.8. Clackmannanshire Council will strive to ensure all food and drink relating to any food business activity within Clackmannanshire is without risk to health and does not mislead the consumer either about its composition or by its presentation.

- 1.9. It is recognised that working in partnership, sharing information and intelligence with other agencies as necessary, is an important part of better regulation.
- 1.10. Clackmannanshire Council acknowledges education is a means of securing improvement in Food Safety Standards and will work with Businesses to help them comply with the law by:
- offering on the spot advice during visits and inspections;
 - answering queries within five working days;
 - distributing electronic information leaflets free of charge.

2. Official Controls

- 2.1. An 'official control' is any form of control that the Council carries out to verify a business's compliance with food law.
- 2.2. The aim of an official control is to prevent, eliminate or reduce to acceptable levels any risks to health presented by food businesses whilst aiming to:
- guarantee fair practices in food trade
 - protect consumer interests, including food labelling and other forms of consumer information.

3. Conflict of Interests

- 3.1. It is essential that all staff carrying out official controls in food law are free from conflicts of interest.
- 3.2. There are many situations in which the interests of an officer or the authority may conflict with the carrying out of official controls. Examples are where an authorised officer provides their own training service for food hygiene; where they give advice to food businesses which is independent and distinct from the advice that is given in the course of carrying out official controls (whether in conflict with that advice or not); or acting as a consultant to food businesses. Conflict may be reduced or negated through the causation being made remote from the Council.
- 3.3. In accordance with the Food Law Code of Practice (Scotland) (January 2019), no officer connected with Food Law delivery in Clackmannanshire may provide consultancy, training or other food related services in Clackmannanshire.
- 3.4. The Council does not provide food hygiene training courses. If they are provided in the future it will be ensured that the service is not promoted by the council in competition with other providers or in any other way which may conflict with the interests of food law delivery.

- 3.5. The council provides a pest control service limited to Council property only and under no circumstances is the service to be offered to local businesses. In any exceptional circumstances that this may be considered necessary the express approval of the Environmental Health Team Leader must be obtained first. Approval can only be given if it is demonstrated there is no conflict with the interests of food law delivery.
- 3.6. The Council will provide no other service to food businesses which could involve a conflict of interests with food law delivery. Any such service provided outwith the Environmental Health Service will be reported to the Senior Service Manager, (Development) for any action required. The Council will not exclusively promote any food related service it provides in competition with other providers in the area.
- 3.7. The Council has procedures in place which will be followed at all times in relation to the regulation of food premises in which the Council is also the Food Business Operator or proprietor. These are detailed below at Section 7.

4. Inspections

- 4.1. The format of inspections is covered by the Food Law Inspection Procedure. This procedure will be adhered to at all times.
- 4.2. Letters will be sent to the proprietor within 15 working days except in cases where it has to be translated by the Translation Service and the translation has not been returned in time. Standard paragraphs for Food Law Inspections are to be used where applicable.
- 4.3. Inspection frequency is determined by the inspection rating of the premises as per Food Law Code of Practice (Scotland) and Interventions Code of Practice as applicable.
- 4.4. Revisits following a food safety inspection may be carried out to check that compliance with statutory requirements have been achieved. Revisits are restricted to those matters which the officer determines are too serious to be left until the next inspection date. This is subject to Paragraph 4.5 below. It is vital to reduce time spent on revisiting to the absolute minimum required for public safety and good regulation. Repeated revisits will require to be justified in the inspection reports. They will be challenged concerning seriousness of contravention, any possible deviation from this policy and detriment to public safety in relation to unresolved matters.
- 4.5. In some circumstances the track record of the Food Business Operator may indicate that significant contravention(s) will be remedied without a further visit being required. In these circumstances the officer must be confident that the matter will be remedied and that food safety will not be compromised by

leaving the premises until the next scheduled inspection. Under these circumstances, and only with prior agreement from the Team Leader, a re-visit may be allowed to pass.

- 4.6. The timing of a revisit will be determined by the nature of risk to public health and the action required to secure compliance. The appropriate enforcement action **MUST** be taken when food businesses have failed to remedy the serious contravention(s), which initiated the revisit.
- 4.7. Inspections other than programmed or revisit inspections may be carried out:
- on request from a proprietor looking for advice;
 - on request from a proprietor for a FHIS Pass Certificate;
 - to reply to a property enquiry for the premises;
 - to investigate a complaint about the premises;
 - to investigate a complaint about food sold from the premises;
 - to inform the proprietor and investigate any unsatisfactory samples submitted to Glasgow Scientific Services for analysis or examination;
 - new premises or change of proprietor will instigate an inspection;
 - where available information indicates an inspection is necessary in the interests of public health and safety
- 4.8. Officers are provided with mobile phones, white overcoats, hair nets, a hat and a pair of safety shoes. Protective clothing shall be worn during inspection, wherever appropriate, or to conform with the Business own policy. Where a Business supplies additional protective clothing this shall be worn.
- 4.9. Officers are provided with probe thermometers and probe wipes.
- 4.10. Officers are responsible for ensuring they are appropriately equipped and are to inform the Team Leader of any deficiencies that need replacement.
- 4.11. Before inspecting premises, Officers shall introduce themselves by showing their photo identification card and explain the purpose of the visit.

5. Enforcement

- 5.1. Clackmannanshire Council will adopt a graduated approach to enforcement using education and advice to secure compliance wherever appropriate. This approach will not be suitable where businesses persistently or deliberately avoid their regulatory responsibilities to gain unfair competitive advantage. Full regard will also be had to the effect of non compliance on public health.

- 5.2. Robust action will be taken against any food business operators who deliberately or recklessly flout the law or where there is a serious risk to the safety of consumers. This will include reporting to the Procurator Fiscal where appropriate.
- 5.3. Officers are required to use the full range of documents outlined in this Policy to ensure their enforcement decisions follow the five principles of better regulation. The principles require regulation to be transparent, accountable, consistent, proportionate and targeted.
- 5.4. The Council commits not to use enforcement actions of any kind as an indicator of performance. This ensures officers are able to use the full range of enforcement options without being influenced by performance monitoring.
- 5.5. Environmental Health Officers, Environmental Health Technical Officer and The Environmental Health Team Leader are authorised to carry out enforcement under The Food Safety Act 1990, The Food Hygiene (Scotland) Regulations 2006 and all other Regulations made thereunder (as amended) subject to being suitably qualified, experienced and competent.
- 5.6. Suitable qualification, experience and competency is as detailed in the Food Hygiene (Scotland) Regulations 2006, The Food Safety (Sampling & Qualification Regulations 2013, the Food Law Code of Practice (Scotland) and Official Feed And Food Control Regulations 2009 (all as amended). A record of officers suitably qualified is at Annexe 1 of the Authorisation of Officers Procedure.
- 5.7. Each Officer receives in-house training and attendance at formal courses or vocational visits. Officers will receive a minimum of 10 hours per year Continuing Professional Development (CPD) for food related subjects. The Environmental Health Team Leader will review progress in relation to adequate CPD for food law enforcement purposes.
- 5.8. All officers have access to suitable, sufficient, and up to date information to enable them to carry out competent inspections including all legislation, codes of practice, industry guides, SFELC guidance, Food Standards Scotland guidance and the internet.
- 5.9. Training needs are assessed during annual Performance, Review & Development interviews with the Environmental Health Team Leader.
- 5.10. Officers shall ensure that all communication, including advice, on enforcement issues is clear, structured and capable of being understood by the recipient.
- 5.11. Where it appears to an Officer that communication in English may be a barrier to compliance he/she will utilise the Language Line call centre via their issued mobile phone. Arrangements for

a translator to attend any site visit may be made with prior consultation and agreement from the Environmental Health Team Leader .

- 5.12. Officers will provide, where available, information leaflets in the proprietors own language.
- 5.13. Where advice is confirmed in writing a clear distinction must be made between statutory requirements and recommendations. However, the approach taken to enforcement will always be consistent with current guidance and the protection of public health remains the paramount consideration.
- 5.14. The Council is guided by the Home Authority Principle. Where the principle cannot be adhered to, concerns would be discussed with SFELC and Food Standards Scotland.
- 5.15. The Council will provide advice for businesses within Clackmannanshire on legal compliance. Officers will liaise with the Home Authority of a Company on issues of advice or enforcement directly related to centrally agreed policies or procedures of that food business.
- 5.16. The Council shall have regard to any information provided from home and/or originating authorities and will notify them of the outcome of any investigation.
- 5.17. There are the following hierarchal enforcement options open to officers:
 - No action at all
 - Verbal advice/warning
 - Written advice/warning
 - Enforcement Notice (where appropriate)
 - Seizure or detention (where appropriate)
 - Report to Procurator Fiscal
- 5.18. In deciding what enforcement action to take, officers will have full regard to Regulation EC 2017/625 which requires the nature of the non-compliance to be considered along with the operator's past record in relation to non-compliance. Regard will also be given to Food Standards Scotland's Regulatory Strategy, The Scottish Regulators' Strategic Code of Practice, The National Compliance Spectrum, The Crown Office publication "Reports to the Procurator Fiscal – A Guide for Specialist Reporting Agencies" and this Enforcement Policy. All of these documents are available to officers for reference.
- 5.19. In relation to new businesses which have no past compliance record, officers will be required to make a professional judgement based on the operator's willingness to comply, deliberateness of any actions to mislead or defraud and the risk to public health.

- 5.20. In all circumstances, having regard to Paragraph 5.16 above, the most expedient and effective enforcement action will be taken to protect health.
- 5.21. In deciding whether or not a business presents a risk to food safety regard shall also be had to:
- the nature of the food
 - the manner in which it is handled
 - the manner in which it is packed
 - any process to which it is subjected
 - the conditions under which it is stored or displayed
- 5.22. Significant risk – in deciding whether or not any risks associated with a business are significant, consideration will be given to the adequacy of controls at critical points in the food process and the possible consequences for food safety if the controls are inadequate. Significant risk in this context means that an incident is more likely to occur than not.
- 5.23. Contraventions may be dealt with informally subject to the following provisos:
- where the consequences of non-compliance will not present a significant risk to health
 - where (from the business's previous record) it can reasonably be expected that compliance will be forthcoming
 - where, due to the nature of the business (e.g. – voluntary organisations) informal action may be more effective
- 5.24. Where the health risk condition (as defined in food safety law) is fulfilled, the primary action of all officers will be to eliminate that risk. This may be by use of one, all or any combination of the following:
- Issue of Emergency Prohibition Notice (or voluntary closure procedures if this is found to be more effective)
 - Seizure or Detention of food (or voluntary surrender procedures if this is found to be more effective)
 - Report to the Procurator Fiscal
- The written procedures dealing with each action are to be followed. Full guidance on the “health risk condition” and examples of use of voluntary procedures and Emergency Prohibition Notices are provided by the Food Law Code of Practice (Scotland).
- 5.25. In the majority of cases contraventions will not warrant immediate formal action such as enforcement notices or report to the Procurator Fiscal. In these circumstances normally the following actions will take place:
- No action at all

- Verbal or Written notification of the contravention including remedial works required.
- Follow-up action to ensure the necessary work is completed (either by re-visit or at the next programmed inspection depending on the seriousness and trigger values for re-visit being met).

5.26. When actions other than enforcement notices or reporting to the Procurator Fiscal are undertaken the guiding principle will be one of helping businesses to understand and comply with their legal obligations.

6. Enforcement Notices

6.1. *Hygiene Improvement Notices*

6.2. Hygiene Improvement Notices shall be served in accordance with the Food Law Code of Practice (Scotland). When serving a Hygiene Improvement Notice regard shall be had for the Scottish Regulators Strategic Code of Practice. Hygiene Improvement Notices will be served under the following circumstances:

- where it is proportionate to the public health risk having consideration to this Enforcement Policy,
- where there is a record of non-compliance with food safety regulations,
- Where the officer believes an informal approach will not be successful.

6.3. While Improvement Notices may be served on the evidence of the authorised officer alone, upon expiry of the notice (where prosecution is likely) the authorised officer will be accompanied by a suitably qualified witness. Except where circumstances have changed such as to cast doubt on the quality of the evidence, all persons failing to comply with Improvement Notices will be subject of a report to the Procurator Fiscal. Improvement Notices will not be signed by authorised officers on behalf of another officer unless the other officer has witnessed the contravention.

6.4. *Remedial Action Notices*

6.5. Remedial Action Notice shall be served in accordance with the Food Law Code of Practice (Scotland). When serving a Remedial Action Notice regard shall be had to the Scottish Regulators Strategic Code of Practice.

6.6. It is important that public health is protected and that the most appropriate action is taken to do this whilst following the principles of better regulation.

- 6.7. Remedial Action Notices will only be served under the following circumstances:
- where it is proportionate to the public health risk having consideration to this Enforcement Policy,
 - where the serving of a Remedial Action Notice is required to ensure urgent action is taken to ensure food safety,
 - where other approaches will not be successful
- 6.8. Remedial Action Notices, once served, must be monitored for compliance. Any failure to comply with a Remedial Action Notice will result in a report to the Procurator Fiscal. In exceptional circumstances and after consultation with the Team Leader Environmental Health, non compliance with the notice will be dealt with by alternative means than a report to the Procurator Fiscal. In these cases the reasons for the decision will be fully documented.
- 6.9. *Hygiene Emergency Prohibition Notice*
- 6.1. All Hygiene Emergency Prohibition Notices shall be served in accordance with the Food Hygiene (Scotland) Regulations 2006. When serving Hygiene Emergency Prohibition Notices, regard shall be had for the Food Law Code of Practice (Scotland) and the Scottish Regulators Strategic Code of Practice.
- 6.2. If an authorised officer, in the course of his/her duties, encounters a situation where there is evidence that the health risk condition is fulfilled (as defined in the Food Hygiene (Scotland) Regulations 2006) that officer will immediately serve a Hygiene Emergency Prohibition Notice. The Food Law Code of Practice (Scotland) gives examples of situations where this might be appropriate action to take but it is up to the authorised officer to decide, based on evidence, if the condition is fulfilled. The Environmental Health Team Leader must be advised immediately, or, in his absence, the Senior Service Manager (Development) of any such notice served or intention to serve such notice.
- 6.3. Hygiene Emergency Prohibition Notices will not be signed by authorised officers on behalf of another officer unless the authorised officer has also witnessed the contravention and is satisfied that the health risk condition is fulfilled along with imminent risk to health.
- 6.4. Voluntary procedures may be used only when there is sufficient evidence to proceed with emergency prohibition procedures. The Procedures for Issue Of Improvement And Hygiene Emergency Prohibition Notices must be followed.

7. Council Premises

- 7.1. When enforcing within Clackmannanshire Council run establishments, a letter, signed by the Environmental Health Team Leader, outlining any contraventions will be sent to the appropriate Senior Service Manager for the service responsible for the food business operation. Any continued failure by that service to satisfactorily remedy the contravention will be escalated in accordance with this Policy to include the appropriate enforcement action.
- 7.2. Any serious breach of food law will be notified by letter addressed to the Chief Executive, drafted by the officer responsible for the enforcement action and signed by the Senior Service Manager (Development) or above Strategic Director, Place. Such letters will require prior approval by the Environmental Health Team Leader who will discuss the matter with the Senior Service Manager (Development).
- 7.3. Serious breaches will include, for example:
- the service of any enforcement notice (including Hygiene Improvement Notice, Remedial Action Notice, etc.);
 - a report to the Procurator Fiscal;
 - service of any fixed penalty notice;
 - any food standards contravention deemed likely to place any potential consumer at risk of harm or distress (e.g. contamination, substitution, food fraud, etc.);
 - any other matter related to food law enforcement which in the opinion of the Team Leader, as Lead Officer for Food, requires to be notified to the Chief Executive.
- 7.4. Any decision by a manager, including the Environmental Health Team Leader, not to send a letter to the Chief Executive, contrary to the recommendations of the officer responsible for the enforcement action, will be fully documented in the file system. This will include full details of the contravention, officer recommendation and reason for not notifying the Chief Executive. A copy of the file record will be sent to the Environmental Health Team Leader who will ensure it is passed to the manager deciding not to notify the Chief Executive and copied to the Strategic Director, Place.
- 7.5. All Council run establishments will be dealt with exactly as any other food business would be dealt with and in full accord with this Policy. All actions and decisions made concerning enforcement at Council run establishments will be transparent. Full records will be kept of all interventions and other regulatory interactions with food businesses run by the Council. These records will be made available to Food Standards Scotland, on

request, in line with that organisation's statutory responsibilities in relation to food.

8. Prosecution

- 8.1. The ultimate decision as to whether or not to prosecute rests with the Procurator Fiscal.
- 8.2. In deciding whether or not there are sufficient grounds to recommend that prosecution be sought by the Procurator Fiscal, due consideration will be given to all relevant centrally issued criteria and guidelines.
- 8.3. A recommendation to prosecute will, in general, be considered for those persons who blatantly disregard the law, fail to achieve a basic compliance with the minimum legal requirements, or who put the public or other groups at a serious risk to health.
- 8.4. Circumstances which are likely to warrant a recommendation to prosecute include:
 - cases where the alleged offence involves a blatant breach of the law such that health is or has been put at risk
 - cases where there has been a blatant breach of the law in respect of product description, packaging or associated issue
 - cases where the offence involves a refusal to comply in full or part with the requirements of an authorised officer
 - cases where the offence involves a failure to comply with the requirements of a statutory notice
 - cases where there is a history of similar offences related to a risk to health or safety or a breach of food standards requirements
 - cases where an officer has been obstructed in undertaking his/her duties
 - cases of repeated failure or refusal to comply with regulation, regardless of seriousness, if this is considered an intentional and deliberate flouting of the law.

9. Quality Management

- 9.1. The Team will maintain a computer database (IDOX Uniform) of all known businesses in the area for which there is responsibility for food safety enforcement.
- 9.2. Officers will keep this database up to date for their work with regard to new premises or the accuracy of details for existing premises using the Idox Uniform Procedure Manual.

- 9.3. The Environmental Health Team Leader (or nominated representative) will carry out internal monitoring of officers work in food law enforcement in accordance with a prepared procedure. The procedure will detail the monitoring records required to be kept to demonstrate officers are applying this Policy and all procedures relevant to food law enforcement.
- 9.4. Any failures to follow this Policy or a procedure will result in action being taken to remedy the failure. This may include re-training or disciplinary proceedings dependant upon the severity of the failure.

10. References

- The Food Hygiene (Scotland) Regulations 2006
- The Food Safety Act 1990
- Regulation EC/178/2002
- Regulation EC/852/2004
- Regulation EC/853/2004
- Regulation EC/854/2004
- Regulation EC/2017/625
- Food Safety (Qualifications & Sampling) (Scotland) Regulations 2013
- Food Law Code of Practice (Scotland)
- The European Commission Guidance Document on Regulation EC/852/2004 (Hygiene of Foodstuffs)
- Scottish Regulators Strategic Code of Practice
- National Food & Feed Compliance Spectrum
- Reports to the Procurator Fiscal – A Guide for Specialist Reporting Agencies