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**Report to Place Committee**

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**Date of Meeting: 9 September 2021**

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**Subject: Food Control Service Plan End of Year Report 2020-21 and Audit Assurance Information Gathering Exercise Covid-19 Contingency Measures for Delivery of Official Controls 2021**

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**Report by: Strategic Director (Place)**

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**1.0 Purpose**

- 1.1. To provide members with an update on Food Safety at a national and local level, to seek approval of the Council's Food Control Service Plan End of Year Report 2020-21 and note the content of the Covid-19 Audit Assurance Information Gathering Exercise 2021 submitted to the Food Standards Agency in April 2021.

**2.0 Recommendations**

- 2.1. It is recommended the Committee :
- (i) notes the change in the Food Standards Agency procedures for the year 2020-21;
  - (ii) approves the Food Control Service Plan End of Year Report 2020-21 and
  - (iii) notes the content of the Covid-19 Audit Assurance Information Gathering Exercise.

**3.0 Considerations**

- 3.1. The Council has statutory obligations to deliver food safety controls in all food businesses within Clackmannanshire. A "Food Control Service Plan" is required to be produced annually as part of those statutory obligations. The plan outlines how the Council will meet its obligations in relation to food law regulation. Food law regulation is carried out by the Environmental Health service.
- 3.2. At the end of each year a Food Control Service Plan End of Year Report is normally produced to inform the Council how the Environmental Health service has performed against the Food Control Service Plan. However, there has been Ministerial agreement from the Scottish Government that, whilst Environmental Health services contend with regulation of the pandemic

controls, there will be a relaxation of food law regulation from March 2020 until at least September 2021. In view of this, for 2020-21 Food Standards Scotland do not require the end of year report to be written or submitted.

- 3.3. Food Standards Scotland has instead required all local authorities to provide information for an Audit Assurance Information Gathering Exercise. This consists of statistical and contextual information concerning the activity of the Council's food law regulatory work for 2020-21. This information allows Food Standards Scotland to fulfil its statutory duty to provide audit assurance on the effectiveness of food law regulation. The report is set out in Appendix 1
- 3.4. Whilst an official Food Control Service Plan is not required for 2020-21, it was decided, given the extraordinary circumstances the service has faced this year, that an end of year report would be prepared to inform Elected Members of how the pandemic has affected food law regulation. The report, set out in Appendix 2, outlines the food regulation work that Environmental Health has undertaken despite the pandemic, the challenges identified from the changing food business landscape and provides a context to future food law regulation. The Food Control Service Plan End of year report complements the Audit Assurance Information Gathering Exercise.
- 3.5. The end of year report provides an overview of food law enforcement activity for the year to date. It reflects on how the service met the objectives set in the Food Control Service Plan for that year, challenges faced and the outcomes. That information sets the scene for the coming year's Food Control Service Plan. Once again, for 2021-22 the Food Control Service plan is necessarily delayed whilst Food Standards Scotland formulate how local authorities will implement a post-Covid-19 food regulation recovery plan.

#### **4.0 Sustainability Implications.**

- 4.1. Nil

#### **5.0 Resource Implications**

##### **5.1. Financial Details**

The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate.  
YES/NO

Finance have been consulted and have agreed the financial implications as set out in the report. YES/NO

#### **6.0 Exempt Reports**

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

## 7.0 Declarations

## 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 Official Food Control Service Plan 2021 - End of Year Report

## 11.0 Background Papers

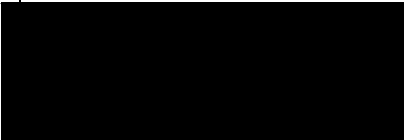
- 11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes ☐ (please list the documents below) No ☒

### Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Andrew Crawford	Team Leader Environmental Health	2581

### Approved by

NAME	DESIGNATION	SIGNATURE
Pete Leonard	Strategic Director (Place)	



## Audit Assurance Information Gathering Exercise Covid-19 Contingency Measures for Delivery of Official Controls 2020-21

It is acknowledged that this has been a very difficult time for Local Authority Environmental Health Services and your help to provide answers that are as accurate as possible would be appreciated.

**The responses to all questions should only cover Food Law work completed by authorised and competent officers**

**When completed the questionnaire should be returned by email to [LAudit@fss.scot](mailto:LAudit@fss.scot) by 30 April 2021.**

These questions are designed to assist Food Standards Scotland in carrying out its Audit Assurance role as required by legislation and also to provide a better understanding of the functions that have been delivered by LAs during the Covid-19 pandemic.

- a) The provisions for conducting audits are provided for in Article 6 of retained Regulation (EU) 2017/625 (as amended).
- b) Under that Regulation, competent authorities shall carry out internal audits or have audits carried out on themselves and shall take appropriate measures in the light of the results of those audits.
- c) The audits are a systematic and independent examination of the delivery of food law and are to be subject to independent scrutiny and carried out in a transparent manner.
- d) The information gathered will help provide assurance that FSS is fulfilling—its statutory obligations as above, and allows FSS to prepare for the future.

**LA Details:**

<b>1.</b>	Local Authority name	Clackmannanshire Council
<b>2.</b>	Name of Lead Food Officer: Contact details for Lead Food Officer	Andrew Crawford 01259 452581 acrawford@clacks.gov.uk
<b>3.</b>	Name and title of Officer completing this return	Helen Henderson Senior EHO
<b>4.</b>	Name and title of Senior Officer verifying the accuracy of this return	Pete Leonard Strategic Director of Place

In order to establish the extent of food law official controls carried out by Local Authorities during the pandemic and since the deviations commenced on 31st March 2020, please provide answers to the following questions.

**If the information being requested is already on SND or with FSS please indicate this in the relevant answer box.**

<b>Section A</b> <b>Planned interventions</b> <b>1<sup>st</sup> April 2020 to 31 March 2021</b>		
<b>A1</b>	The number of Interventions carried out in all Group 1 businesses within the Food Law Rating System (FLRS). <ul style="list-style-type: none"> <li>On or before time in relation to due date</li> <li>Visited but overdue / late</li> <li>Missed completely (i.e. still waiting)</li> </ul>	0 1 0
<b>A2</b>	The overall number of Interventions carried out in businesses within : <ul style="list-style-type: none"> <li>FLRS performance Band D</li> <li>FLRS performance Band E</li> <li>Annex 5 Category A</li> </ul>	13 3 N/A
<b>A3</b>	Details of other interventions that were Official Controls or	Onsite inspections of:

	recorded as FLRS interventions	<p>FLRS 2C – 9  FLRS Grp2 Unrated - 16  Annex 5 FH B – 7  Annex 5 FH C – 27  Annex 5 FH D - 1</p> <p>Documentary Assessment only:  FLRS 2B – 1  FLRS Grp1 Unrated – 1  Annex 5 FH B – 1  Annex 5 FH C – 2  Annex 5 FH D – 1  Annex 5 FH E – 1</p> <p>Revisits following inspections – 54</p> <p>Sampling Visits – 34</p>
<b>A4</b>	<p>The number of FLRS Interventions identified in questions A1 and A2, carried out physically and the number carried out remotely (e.g. document checks).</p> <ul style="list-style-type: none"> <li>• Group 1 Documentary</li> <li>• Group 1 Physically</li> <li>• Band D Documentary</li> <li>• Band D Physically</li> <li>• Band E Documentary</li> <li>• Band E Physically</li> </ul>	<p>2 0</p> <p>2 11</p> <p>0 3</p>
<b>A5</b>	<p>For Approved Establishments (Annex 5), the number of interventions:</p> <ul style="list-style-type: none"> <li>• Total Interventions carried out.</li> <li>• Done on or before time in relation to due date</li> <li>• Visited but overdue / late</li> <li>• Missed completely (i.e. still waiting)</li> <li>• Documentary only checks completed</li> <li>• Physically visited</li> </ul>	<p>1 1 0 0 0 1</p>
<b>A6</b>	<p>The number of intelligence driven interventions carried out.</p> <ul style="list-style-type: none"> <li>• Number of interventions</li> </ul>	<p>42 Visits to businesses &amp; 24 remote engagement for complaints.</p>

	<ul style="list-style-type: none"> <li>Where possible, the No. of FBOs involved</li> </ul>	46 FBOs involved.
<b>Section B</b>		
<b>B1a</b>	The number of interventions for food law which were driven by COVID – 19 and the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020	Unable to provide requested data. But can give the following.
<b>B1b</b>	Or where public health was the main element for the work.	There has been engagement with 278 FBOs during this time period for Covid work.
<b>B2b</b>	<p>The number of proactive contacts and follow-ups with businesses regarding food law controls which formed a significant element of the work,</p> <ul style="list-style-type: none"> <li>The number of Proactive contacts made ie possibly recorded as service requests related to food premises</li> <li>The number of Follow ups</li> <li>Number of FBOs visited for the above</li> <li>Number of FBOs where Covid-19 service request required further food law control interventions</li> </ul>	<p>There have been 451 proactive visits to food businesses for Covid compliance and 146 revisits.</p> <p>Received 253 service requests regarding Covid at a food business. They relate to complaints or requests for advice. 130 resulted in visits to food businesses. The rest were responded to remotely.</p> <p>Covid work has been undertaken by EHOs and Technical Officers at Clacks. As authorised officers, they have raised food law matters as they have been observed. Minor problems were not recorded. Significant issues were recorded as a Food Law service requests.</p>
<b>C1</b>	<p><b>Export Health Certificates:</b></p> <ul style="list-style-type: none"> <li>Number of premises requiring provision of certificates</li> </ul>	1

	<ul style="list-style-type: none"> <li>• Number of certificates issued</li> <li>• FTE requirement in place for certification (e.g. Certifying Officers, Administrative support, additional support)</li> </ul>	<p>EHCs 580 Premises Endorsement Certs 115</p> <p>FTE 1.4 certifying officers plus FTE 0.3 Administrative support available for this task</p>
<b>C2</b>	<p>Any further information that could assist FSS understand the LA environment since 1<sup>st</sup> April 2020 e.g.</p> <ul style="list-style-type: none"> <li>• Committee reports</li> <li>• Covid 19 action plans</li> <li>• Service Delivery Plans</li> <li>• links to publications</li> <li>• links to sources of information</li> <li>• websites updated by LAs</li> <li>• central sources of data etc</li> <li>• Internal reports</li> <li>• Internal presentations</li> <li>• Staff updates</li> </ul>	<p>Official Food Control Service Plan 2020-21</p>

Thank you for providing the requested information. Feel free to make any further comments by email when replying with the questionnaire to [LAaudit@fss.scot](mailto:LAaudit@fss.scot)

Marion McArthur  
Tony Sykes  
Graham Forbes  
Jacqui Angus  
Neil Douglas



# **Place**

## **Development Services**

**Official Food Control Service Plan**

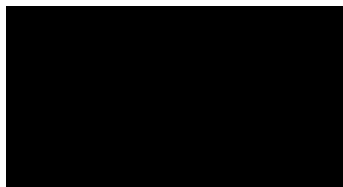
**2020 - 2021**

### **End of Year Report**

### **March 2021**

Approved by Strategic Director of Place

Signed



Pete Leonard

Date

19 May 2021

## **1. Overview**

- 1.1. The aim of Clackmannanshire Council's Environmental Health team is to ensure the production, distribution and service of safe and authentic food within the area and support responsible businesses to flourish.
- 1.2. This year has been extremely challenging for businesses and also the local authority due to the ongoing pandemic. Everyone has had to cope with lock downs, adjust to social distancing and other necessary Covid controls. The Environmental Health team also had to quickly adapt to the enforcement of the Covid emergency measures and ensure this work was prioritised.
- 1.3. There was no food law service plan for 2020-21 due to the uncertainty created by the pandemic. However, this document is a summary of the food law work undertaken during 2020-21.

## **2. Food Law Inspections**

- 2.1. Routine food law inspections ceased back in March 2020 due to Covid. Ministerial approval for this deviation from the code of practice was granted and extended throughout the year<sup>(1)</sup>. However, the team were not permitted to cease delivery of the following interventions:
  - a) Interventions of Approved Establishments and the higher risk Food Law Rating Scheme (FLRS) Group 1 businesses.
  - b) Intelligence driven interventions where there was information to suggest fraudulent activity or risk to public health.
- 2.2. Consequently, the quantity of food law work undertaken throughout the year reduced but it was focused at higher risk establishments or where there were concerns regarding public health. This change in work practice enabled the team to focus on Covid enforcement.
- 2.2. There is only one Approved Establishment within Clackmannanshire and this factory was visited and inspected on time as prescribed by the code of practice.
- 2.3. At the start of the reporting year, there was only one business rated as Group 1 under FLRS. This was due to being only nine months into a three year phased transition of the new rating scheme. A desktop exercise was undertaken to identify all the potential Group 1 businesses. A total of 8 businesses were identified and inspected by desktop assessment only throughout the year. Businesses provided their documented food safety management systems for desktop audit. All follow up was undertaken remotely.
- 2.4. Due to concerns about compliance with food law practices within the hospitality sector and the timescale that they had been left unchecked, the decision was made to restart food law interventions in September 2020. The focus was high street businesses, and particularly those that had been trading throughout the emergency period. Attention was also given to new takeaway establishments that had not previously been inspected. Inspections ceased again in December due to increased Covid levels within the community.
- 2.5. The table 1 below provides the breakdown of businesses that should have been inspected (pre-Covid), the numbers actually completed and by what method of intervention.

Table 1: Food Law Inspections in 2020-21

<b>Premises Risk Rating</b>	<b>Number Planned</b>	<b>Number Inspected desktop audit</b>	<b>Number Inspected on site</b>	<b>% Inspected in year</b>
<b>FH Cat B</b>	17	1	8	53%
<b>FH Cat C</b>	68	2	27	43%
<b>FH Cat D</b>	57	1	1	4%
<b>FH Cat E</b>	25	1	0	4%
<b>FS Cat A</b>	1	0	1	100%
<b>FS Cat B</b>	46	3	17	43%
<b>FS Cat C</b>	43	0	1	2%
<b>FLRS Grp 1B</b>	1	1	0	100%
<b>FLRS Grp 2D</b>	5	0	5	100%
<b>FLRS Grp 2C</b>	53	0	9	17%
<b>FLRS Grp 2B</b>	26	1		4%
<b>FLRS Grp 3D</b>	1		1	100%
<b>FLRS Unrated</b>	14	1	13	100%

- 2.6. Officers completed 23 food law inspections of new establishments and 68 food law inspections of established food businesses. This is only 31% of the inspection workload completed the previous year and highlights the impact caused by the emergency Covid measures. A total of 54 revisits were also undertaken to follow up on significant issues.
- 2.7. Officers found a disappointing level of compliance at a significant number of establishments. In April 2020, there were only 6 businesses on intense interventions. By December 2020, this had increased to 20 and the majority were takeaways. This 233% increase in the number of businesses requiring intense interventions over this short period of time confirmed the concerns that the poorly compliant businesses had been left unchecked for too long and standards had dropped.
- 2.8. The emergency measures have created difficult trading conditions for food business operators. Hospitality has had to cope with multiple closures, and they have all had to implement Covid control measures for staff and customers. A good number of businesses have changed their business model to help them survive and now have an online presence for the first time with distance selling. Officers were conscious of these pressures whilst inspecting.
- 2.9. There has been a continued upsurge with the number of new food businesses registering with Environmental Health throughout the past year. A good proportion is for new or change of ownership of takeaways. We had observed this trend prior to the pandemic and it has continued with many of them are selling on virtual platforms such as Just Eat and Food Hub. But there has also been a growth in businesses based at domestic addresses, also selling virtually on platforms including Facebook Marketplace. Due to the difficulty visiting new businesses and the length of time businesses would need to wait before being inspected, officers engaged with all new food business operators remotely, discussed the food law requirements and how they would apply to their businesses.

### **3. Service Requests**

- 3.1 The team has been responding to food law service requests throughout the year. These range from complaints about food businesses, providing advice to businesses on food law compliance and also guidance to the general public.
- 3.2 Due to Covid, Officers have been dealing with many of these requests remotely. However the team has been mindful of the ministerial guidance and have visited businesses to check compliance when there are concerns about public health or fraudulent activity.
- 3.3 Table 2 below details the types of food law enquiries that the team have received and also the manner in which it was dealt with.

Table 2: Service requests

Type of complaint	Total Number	No. FBOs involved	Number of Interventions on site	Remote Intervention
Complaints about premises	35	29	30	14
Food Complaints	26	17	11	10
Enquiry by businesses	48	44	13	35
Advice to public	24	0	0	24

### **4. Enforcement Actions**

- 4.1. Officers have issued 133 written warnings to business throughout the year, concerning legal requirements that require attention.
- 4.2. No Hygiene Improvement Notice were served.
- 4.3. Three Remedial Action Notices were served due to serious non compliance of the hygiene regulations. This resulted in the temporary closure of each business until the serious issues were addressed.
- 4.4. There were two voluntary closures of food businesses due to significant non compliance of the hygiene regulations.
- 4.5. No reports have been submitted to the Procurator Fiscal in the past year.

### **5. Staff**

- 5.1. Throughout this year, staff have worked remotely from home due to Covid. They all have full remote access to the IT systems. Access to the office has always been available when required by prior approval from the Team Leader.
- 5.2. The Environmental Health team at Clackmannanshire Council is sufficiently resourced to meet the requirements of the Food Law Code of Practice. An EHO left the team back in December 2019 however this post was filled by a new EHO in May 2020.

- 5.3. The new Officer is an Experience EHO but new to food law work so required training and support before being authorised for food law interventions and enforcement. Opportunities to refresh their food knowledge and earn food CPD was provided by access to online courses. The Officer has also completed a program of accompanied inspections with experienced staff for over three months. They also attended the Advanced HACCP course organised by FSS in March 2021. Once food law interventions resume, the aim will be to authorise this Officer to undertake food law interventions with a phased approach.
- 5.4. The rest of the team meet the requirements in terms of qualification and experience for the work they are authorised to do and all have undertaken the required training to meet the Continuing Professional Development needs.
- 5.5. Officers have maintained their CPD throughout this year by accessing online training provided by ABC Training, Food Standards Scotland and the Food Standards Agency. An Officer also successfully completed the Official Controls and Verification course in November 2020.
- 5.6 Officers from Environmental Health have continued to support and contribute to working groups and specialist forums throughout the year. The Senior EHO for Food has continued to chair the East of Scotland Food Liaison Group and also attended the Scottish Food Enforcement Liaison Committee (SFELC) and the SFELC Executive. This Officer has also participated in the SFELC Food Law Recovery Working Group, including the subgroup that focussed on the creation of an intervention program.

## **6. Sampling**

- 6.1. A sampling plan was devised and implemented. Its aim was to obtain samples from local manufacturers, direct resources to the national sampling priorities and also the FSS funded samples. Due to Covid restrictions, the program was tailored so that procurement of samples was straightforward and did not involve staff accessing production areas.
- 6.2. A total of 68 food samples were obtained during this year from 34 businesses. 40 for microbiological examination and 28 for chemical analysis. 97% of the samples were found to be satisfactory. The unsatisfactory results were due to failure of microbiological standards of perishable ready to eat food on sale at supermarkets. One of the failures was due to the presence of *Listeria monocytogenes* in cooked meat and resulted in a product withdrawal by the supermarket involved.

## **7. Export Health Certificates**

- 7.1. Environmental Health issued 580 Export Health Certificates during the year for yeast extracts and flavourings produced at a local factory for distribution worldwide.
- 7.2. In addition, this factory requested Premises Endorsement Certificates for consignments destined for the EU from 1 January 2021. A total of 115 of this type of certificate have been issued.

## **8. Covid**

- 8.1 Covid has presented significant unexpected challenges to all sectors including local authority. The Environmental Health team quickly adjusted to the shift in priority to Covid enforcement and supporting the Public Health team at Forth Valley Health Board. Covid work has correctly taken priority over all other areas of routine work, including food law.
- 8.2 The team has undertaken an extensive proactive program of Covid interventions throughout the year covering many different sectors. Although the focus has not been only food establishments, a total of 278 food businesses have been approached by the team during this year for this purpose. The majority of these were retailers or hospitality. A total of 451 proactive visits were undertaken and followed up with 146 revisits.
- 8.3 In addition to the proactive work, the team also received 253 Covid service requests relating to food businesses. They related to complaints or the businesses themselves looking for advice. This reactive work created an additional 130 visits to food businesses. The remainder of the service request were responded to remotely.

## **9. Conclusion**

- 9.1 The team is aware that the food landscape has changed within Clackmannanshire during the pandemic. Although routine food law inspections have ceased, we have kept track of the changes and have a good understanding of the current level of compliance in the area. This has been achieved due to the following:
- The team has had an extensive presence out in the community proactively enforcing Covid legislation, including within food businesses in the hospitality and retail sectors. There has been proactive engagement with a considerable number of food businesses and as the staff are trained food Officers they have always raised food law issues observed whilst also dealing with Covid compliance, or been available to discuss any questions raised by the food business operator.
  - The targeted food law inspections completed between September and December confirmed the concerns about compliance within the poorly compliant establishments.
  - The remote audits with the Group 1 businesses maintained communication with the manufacturers and higher risk establishments.
  - Officers have responded on a risk basis to food law complaints and the team has continued to receive quality local intelligence from multiple sources including the public, the traders, and other agencies.
  - Surveillance of the online presence of local businesses.
  - Remote engagement with new businesses that are awaiting inspection.

## References

1. FSS/ENF/20/006 Covid-19: Contingency Measures for Delivery of Official Controls in Relation to Food  
FSS/ENF/2020-009 Covid-19: Contingency Measures for Delivery of Official Controls in Relation to Food – Extension to deviations  
FSS/ENF/20/010 Covid-19: Contingency Measures for Delivery of Official Controls in Relation to Food – Extension to deviations  
FSS/ENF/21/002 Covid 19: Local Authority Recovery Project