
FOOD CONTROL LAW ENFORCEMENT PLAN 2023-2025

1.0 Executive Summary

- 1.1 The Council, as a statutory food authority under the Food Safety Act 1990 and associated statutes, must ensure that it delivers, principally through environmental health, a service which is adequately resourced to meet the requirements of a national Code of Practice (hereafter referred to as FLCOP) issued by Food Standards Scotland (hereafter referred to as FSS). The FLCOP also requires food authorities to have a formal food control law enforcement plan approved by the appropriate Committee.
- 1.2 Our aims are to protect public health and promote the production of safe food onto the market. The food and drink sector is significant to the economy and reputation of Argyll and Bute, and regulation seeks to support compliant businesses and target non-compliant businesses. Notwithstanding this, the Council have a statutory responsibility to deliver a service which meets the requirements of FLCOP.
- 1.3 The Planning, Protective Services and Planning Committee approved the [Regulatory Services Work Plan 2023-25](#) on the 21 June 2023. This overarching plan covered the wide range of priorities across Regulatory Services, included the statutory food control enforcement role carried out by environmental health. The Food Control Law Enforcement Plan 2023-25 provides more detail

1.4 Recommendations

- 1.4.1 Members are asked to recognise the work by environmental health to protect food safety in Argyll and Bute.
- 1.4.2 Members are asked to approve the Food Control Law Enforcement Plan 2023-25 and reaffirm the statutory appointments of the Council's Head of Food Safety, Lead Officer (Food Control) together with the appointments of authorised Officers of the Council, and the Council's Public Analyst, Agricultural Analyst and Food Examiner arrangements.

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2.0 INTRODUCTION

- 2.1 The Council, as a statutory food authority under the Food Safety Act 1990 and associated statutes, must ensure that it delivers, principally through environmental health, a service which is adequately resourced to meet the requirements of a national Code of Practice (hereafter referred to as FLCOP) issued by Food Standards Scotland (hereafter referred to as FSS as appropriate). The FLCOP also requires food authorities to have a formal food control law enforcement plan approved by the appropriate Committee.
- 2.2 The Planning, Protective Services and Planning Committee approved the [Regulatory Services Work Plan 2023-25](#) on the 21 June 2023. This overarching plan covered the wide range of priorities across Regulatory Services, included the statutory health and safety enforcement role carried out by environmental health. The Food Control Law Enforcement Plan 2023-23 provides more detail

3.0 RECOMMENDATIONS

- 3.1 Members are asked to recognise the work by environmental health to protect food safety in Argyll and Bute.
- 3.2 Members are asked to approve the Food Control Law Enforcement Plan 2023-25 and reaffirm the statutory appointments of the Council's Head of Food Safety, Lead Officer (Food Control) together with the appointments of authorised Officers of the Council, and the Council's Public Analyst, Agricultural Analyst and Food Examiner arrangements.

4.0 DETAIL

- 4.1 The food sector in Argyll and Bute differs significantly from many other local authorities, as we have a very large processing and manufacturing sector (fish and shellfish) together with the "normal" retail, catering and tourism related businesses. There are 2419 food business across Argyll and Bute categorised for interventions based on the risk they pose to food safety. This includes 55 approval sector premises, exporting food products internationally, categorised as high risk due to the potential risks from their processes failing to food safety and reputational risks to Argyll and Bute, and to Scotland. There are also 45 other manufacturing and processing food businesses

- 4.2 The requirements for a Council's food safety regulation activities are detailed in the Food Standards Agency Code of Practice and Framework Agreement. They prescribe full compliance with the Code and their expectations, including inspection frequencies for food business operators. The Council do not have sufficient resource to meet the full extent of the Code and from an operation management perspective; we target our resources on areas of greatest risk, at the expense of low risk activities.
- 4.3 The Planning, Protective Services and Planning Committee approved the [Regulatory Services Work Plan 2023-25](#) on the 21 June 2023. This overarching plan covered the wide range of priorities across Regulatory Services, included the food control enforcement role carried out by environmental health. The Food Law Enforcement Plan 2023-25 provides more detail.
- 4.4 The role of the Regulatory Services and Building Standards Manager is to prepare a plan which protects food safety and standards based on available resources as advised by the Lead Officer (Food Control). There are insufficient resources or budget to meet the full requirements of the FLCOP. Accordingly, working with the Lead Officer a risk and intelligence-based approach focussing resources upon areas of highest risk, including high risk FBOs is proposed. Priority will be given to the approved and high risk manufacturing sectors, and businesses who provide to vulnerable groups. Otherwise, the approach will be intelligence-led/informed, responding to incidents and suspected or confirmed outbreaks.

5.0 CHALLENGES

- 5.1 The previous FSS audit report identified that the Council does not have adequate capacity or capability to undertake our statutory responsibilities. This situation remains, despite delivering a food safety improvement plan, with resources remaining a major concern.
- 5.2 There is a resource gap of 5 FTE authorised food control officers between the current establishment and that required to deliver the FLCOP. This is despite creating a new post dedicated to food control in 2022 and the gap has increased with long-term recruitment difficulties across Regulatory Services. At present there is 3 EHO vacancies across the team, equating to 0.7 FTE food safety resource.
- 5.3 This approach to managing risk by targeting available resources is wholly appropriate in our circumstances. There is a risk that a future FSS audit will identify that the plan and food safety arrangements are inadequate to deliver the full range of statutory requirements of food control which could lead to a formal direction from the Minister requiring the Council to take appropriate measures. Discussion with the FSS have identified that they recognise that we have insufficient resources, like many other local authorities, and are supportive of the risk-based approach advocated in the Plan, although they are seeking the Council to increase our food safety resources.
- 5.4 There is a shortfall of 183 FTE across all Scottish authorities and given wide non-compliance with the FLCOP, a national Scottish Authority Food Enforcement Re-Build (SAFER) project has been established between LAs and FSS working collaboratively with the

purposes of identifying how current resources can be most effectively deployed to address national and local priorities, to restore resources in the longer term, to revise the FLCOP and protect food safety and standards most effectively in the future.

- 5.5 Export market. An indirect consequence of EU Exit has been the need for export business to remodel their processes to meet increasing demands for exporting to the EU. As a consequence, many of the large companies are directing consignment through commercial hubs, rather than requesting export health certificates from their local authorities. As a result, the number of export health certificate requests has reduced by 60% in Argyll and Bute, with a subsequent reduction in income.

6.0 **FOOD CONTROL LAW ENFORCEMENT PLAN 2023-25**

- 6.1 The service does not have sufficient budget to provide the resources required to meet the key requirements of the FLCOP and the food safety challenges in Argyll and Bute. This situation is exacerbated by the national shortage of environmental health officer and food safety officers.

The 2023-25 work plan has been developed to minimise the risks by targeting our current resources. The Plan and service priorities are attached Appendix 1 of this report. Key issues to highlight are:

- a. Section 4.1 details the achievements over the last year , including the restart of food enforcement services post-pandemic, targeted enforcement activity, training to increase the competency of our authorised officers, supporting food businesses including attestations and the issue of 587 export health certificates; and the investigation of national and local food incidents or outbreaks.
 - b. Section 5 details the priorities for the duration of this plan. These include a high risk focussed interventions program as outlined in section 5.2.1, a food sampling and monitoring program, and better use of digital technology, including remote verification interventions.
- 6.2 The Council has a formal Service Level Agreement with Glasgow Scientific Services (GSS) for the provision of laboratory services, including the microbiological examination and the analysis of foodstuffs and feed. The Council requires to make statutory appointments for specialist support services and this plan seeks approval of Glasgow Scientific Services and named staff to meet the requirements for a public analyst, food examiner and agricultural analyst. These appointments are detailed in Appendix II of this plan.

7.0 **ENFORCEMENT POLICY**

- 7.1 Our Enforcement Policy seeks to support compliant businesses and to take formal action where there are significant risks or a history of non-compliance. It is founded upon the principles of proportionality, appropriateness, consistency, targeted and risk-based, which are compliant with the Scottish Government's Regulatory Strategic Code.

7.2 The Food Control Law Enforcement Policy has been reviewed and is presented for approval. It meets the requirements of the National Code, the *Scottish regulators' strategic code of practice* and the Council's Enforcement Policy. There are no changes to the policy previously approved by Committee.

8.0 CONCLUSIONS

8.1 The role of Environmental Health is critical in protecting public health, supporting compliant businesses, targeting and enforcing non-compliance, addressing food safety risks and supporting the economy of Argyll and Bute. Much of this work goes unrecognised, and only comes to the fore when there are incidents, food poisoning outbreaks, such as outbreaks of E.coli 0157, Listeria (it is noteworthy that the Council is currently involved in investigating a nationwide outbreak) and export demands where business viability within a fragile economy depends on the service provided.

8.2 The Council do not have sufficient resources to deliver its statutory food requirements and our approach for some years has been to adopt a risk-based approach focussing on high risk priorities. Previous audits by FSS have identified critical resourcing issues and this has been exacerbated by the lack of qualified and experienced environmental, health officers and food safety officers nationally

8.3 The Food Law Enforcement Plan 2023-25 effectively targets our limited resources to provide the best protection for food safety. Whilst the intention is to bring a further report back to Committee on resourcing and performance against the plan, the Regulatory Service's and Building Standards Manager commends the plan and enforcement policy for member's approval.

9.0 IMPLICATIONS

9.1	Policy	Meets the National Code and the Regulatory Performance Agenda
9.2	Finance	None. Plan has been developed to reflect existing budget and available resources.
9.3	Legal	Meets the Council's statutory duty, although the Plan does not meet the full requirements of a food authority under the FLCOP
9.4	HR	None
9.5	Fairer Scotland	
9.5.1	Equalities	None
9.5.2	Socio-economic	None
9.5.3	Islands	None
9.5.4	Climate change	None
9.6	Equalities	None
9.7	Risk	The major risks are lack of available resource and competing operational priorities. These are being managed, with the critical risks being: <ul style="list-style-type: none">i. The Council is not meeting the full requirements of statutory duties and of the FLCOP with significant public health implications in terms of the safety, the authenticity and integrity of food.

- ii. That operational priorities and reactive work continues to increase and diverts resources from our Improvement Plan.
- iii. The consequences of a serious foodborne disease outbreak in Argyll and Bute will impact on the health of the consumer, the reputation of the Council and the food sector, and has potential implications to trade, market and economy.

9.8 Customer Service None

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Appendix 1: Food Control Law Enforcement Work Plan 2023-25