

## ABERDEEN CITY COUNCIL

---

|                           |  |
|---------------------------|--|
| <b>COMMITTEE</b>          | Public Protection Committee                                |
| <b>DATE</b>               | 28 April 2021  |
| <b>EXEMPT</b>             | No   |
| <b>CONFIDENTIAL</b>       | No   |
| <b>REPORT TITLE</b>       | COVID-19 Update – Environmental Health & Trading Standards |
| <b>REPORT NUMBER</b>      | OPE/21/087   |
| <b>CHIEF OFFICER</b>      | Mark Reilly  |
| <b>REPORT AUTHOR</b>      | Andrew Morrison  |
| <b>TERMS OF REFERENCE</b> | 3.1  |

---

### 1. PURPOSE OF REPORT

To provide an update on the Environmental Health and Trading Standards response to COVID-19, noting that the update is current with Scottish Government directions and guidance as at date of submission.

### 2. RECOMMENDATION(S)

- 2.1 That the Committee notes and endorses the update of Protective Services' (Environmental Health & Trading Standards) response to COVID-19.

### 3. BACKGROUND

- 3.1 Environmental Health and Trading Standards have continued focusing on the COVID-19 pandemic since March 2020. Environmental Health and Trading Standards are a Critical Service and accordingly were not stood down so that it could provide a public health focused service primarily in relation to Covid-19 throughout. Appropriate safeguards, risk assessments and Personal Protective Equipment (PPE) have been in place to support this operation being conducted safely. It has been a joint effort between the Environmental Health & Trading Standards teams. The significant role of Trading Standards along with Environmental Health in responding to the pandemic cannot be overstated. Throughout this report, the term Officer should be interpreted as referring to both Environmental Health and Trading Standards.

## Legislation

- 3.2 Scottish Government introduced the current legislation, the [Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) Scotland Regulations 2020](#) in November 2020 replacing the [Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Scotland\) Regulations 2020](#). The regulations have subsequently been amended 19 times. The regulations and accompanying guidance provide for a system of five levels of restrictions from Level 0 to Level 4. Due to the peak of the second wave, an enhanced Level 4 was introduced. They provide for restrictions on businesses and also restrictions on the movement and gathering of the public. The regulations provided for enforcement of the business restrictions by both Local Authorities and Police Scotland, whilst only Police Scotland could enforce the requirements relating to the general public. Within Aberdeen City Council (ACC), as per all Scottish Local Authorities (LAs), the business restrictions have been enforced by officers from Environmental Health and Trading Standards.
- 3.3 The [Health Protection \(Coronavirus, Restrictions\) \(Directions by Local Authorities\) \(Scotland\) Regulations 2020](#) were introduced on 28 August 2020. With the enforcement guidance and appeals procedure in place, local authorities can use these powers where it is necessary and proportionate to do so.
- 3.4 For the purposes of this report, the term the Covid Regulations should be considered in relation to the initial regulations, the relevant amended regulations, and/or the new regulations as appropriate.

## Approach to Enforcement

- 3.5 An agreement with Police Scotland provides for LAs to take primacy for enforcement of the business rules, with Police Scotland only undertaking enforcement in emergency situations. The exception to this relates to the requirement for face coverings to be worn within certain premises. The enforcement of this provision is reserved to Police Scotland.
- 3.6 Enforcement of the Covid business restrictions is undertaken in relation to both the Covid Regulations themselves and also relevant Health & Safety legislation. A UK wide agreement was implemented with the Health & Safety Executive, that in relation to premises that fall within their remit (manufacturing, farming, construction, schools, colleges and universities etc) the Covid restrictions would be enforced by them. The exception to this was premises that were trading whilst required by the regulations to remain closed, as Health & Safety legislation could not be used in these circumstances.
- 3.7 In line with all Scottish LAs and Police Scotland, ACC has taken a '4 Es' approach to enforcement. This consists of Engagement, Education, Encouragement and Enforcement. Formal enforcement is only utilised where other approaches have failed to achieve the desired outcome. Since the last report in October, the following formal enforcement action has been undertaken.
- Directions were served in relation to four hospitality premises. These directions were served in relation to the apparent breach of Covid restriction by customers.
  - A Prohibition Notice was served in relation to a business which was trading whilst required to be closed.
- 3.8 Environmental Health and Trading Standards have continued to enforce the restrictions and provide support, advice and assistance to businesses in relation to compliance with the restrictions.

- 3.9 To date, 5,250 interventions with businesses have been undertaken. This has been supplemented by e-mails to the various sectors, social media messaging, website updates and webinars. A breakdown of the intervention data is included in Appendix 1. This has necessitated diverting resources from other statutory duties across Environmental Health and Trading Standards based on a public health prioritisation. Priority areas of work have been maintained alongside the Covid response.
- 3.10 Two additional fixed term Public Health Compliance Officer posts have been created and recruited to assist with the enforcement of business restrictions. These posts have been financed through a specific Scottish Government grant.

### **Hotels for Managed Isolation of International Travellers**

- 3.11 Aberdeen Airport is one of three hubs for international travellers arriving or returning to Scotland. With limited exceptions, travellers require to isolate within a dedicated hotel facility for at least 10 days and be tested twice for Covid. Officers have been undertaking interventions to ensure that the hotels, security and transport operations have appropriate and effective controls to operate in a Covid secure manner.

### **Route Map**

- 3.12 Following the Scottish Government's announcement on 16<sup>th</sup> March 2021, the Environmental Health and Trading Standards teams immediately started formulating a plan to support the safe re-opening of businesses in line with the route map. This will involve pre-emptive communications by e-mail, social media and updates on the website targeted at the relevant sectors in the period immediately before they can re-open or the restrictions on the sector change. Where appropriate, webinars will also be organised to assist businesses with preparations. Immediately following changes being implemented a suite of pro-active inspections and assessments will be undertaken to relevant premises. Due to the scale of the issue, it will not be possible to assess every premises. Premises will be selected through a combination of random selection and intelligence based related to previous compliance, complaints etc. The Service will of course continue to respond timeously to requests for advice from businesses, and complaints regarding non-compliance will be assessed and investigated as appropriate.
- 3.13 The Service is liaising with colleagues from Aberdeenshire and Moray Councils to share resources and deliver a pan Grampian approach where possible.

### **LRP Recovery Sub-Group**

- 3.14 The Grampian Local Resilience Partnership has established a short-life Recovery "Staycations" Sub-Group to manage risks in relation to increased visitor footfall across the Grampian area, including the movement of residents of Grampian, as the restrictions start to ease from 2nd April. This is managing risks in five thematic areas: Venues (tourist attractions, hospitality, accommodation); Traffic Management; Travelling Visitors; Public Health and Safety; and Open Spaces. Through workstream leads across all partners, the Sub-Group is planning how to open up the North East in a way that optimises safety and minimises risk for both visitors and residents. The Environmental Health Manager is providing the Environmental Health and Trading Standards input to the group on behalf of the three LAs. This work aligns with the actions planned at 3.11 above to support businesses.

## **Scottish Elections**

3.15 Officers are working with colleagues in the Elections Unit, Aberdeenshire & Moray Councils, and the Public Health team of NHS Grampian to ensure that effective arrangements are in place to for voting and the count for the Scottish Elections on 6<sup>th</sup> May to be undertaken in a Covid secure manner.

## **Liaison Arrangements**

3.16 Officers represent Environmental Health and Trading Standards as national representatives at regular Scottish Government led Regulators Forum to help shape policy and guidance in relation to business restrictions. The Environmental Health and Trading Standards teams have also continued to help lead the LA enforcement response throughout Scotland. Officers from both Environmental Health and Trading Standards are key participants in the expert group of the Society of Chief Officers of Environmental Health in Scotland (SoCOEHS) and the Society of Chief Officers of Trading Standards in Scotland (SCOTSS) (the ETC-19) which ensures consistency across Scotland and provides a focal point for communications with Scottish Government and other partner organisations. The main activities undertaken are:

- Provision of enforcement advice to LA colleagues and the formulation of FAQs;
- Collation of data on interventions, complaints and enforcement action undertaken;
- Consultation on Scottish Government, Partner and Industry guidance; and
- Liaison with Scottish Government.

3.17 Additional frequent liaison arrangements are in place within Grampian with colleagues from NHS Grampian, Police Scotland, and Aberdeenshire and Moray Councils.

## **EU Exit**

3.18 Officers have continued to provide leadership on a national basis in relation to the preparation for EU Exit, the delivery of Export Health Certification and the supporting processes since 01/01/21, and preparation for Import controls from 01/10/21.

3.19 Officers have provided support to businesses in the City involved in exporting fishery products to the EU. This has involved ensuring compliance with the requirements, providing advice on support on the necessary processes, provision of export certification and the provision of attestations to support certification at export hubs, facilitating groupage of consignments.

## **Impact on Staff and Other Duties**

3.20 Significant resource has been devoted to ensuring public health is protected through the application of the regulations and guidance in relation to the business restrictions. This has required the resources to be diverted from other statutory duties and performance indicators. In some areas, for example, food law, specific derogations have been provided, but in other areas this has been undertaken on the basis of prioritising on the public health priority. Visits to domestic premises have been limited to emergency situations. As we start to recommence 'Business as Usual' activities, this will require to continue to be balanced against additional demand on the Council to ensure compliance with Covid related legislation and guidance.

3.21 Although resource has been diverted from routine activity to support the Covid response, other priority areas have continued to be undertaken. These include:

- high priority public health complaints such as blocked drains causing sewage to back up in to domestic properties;
- product safety and doorstep crime; and

- serious food hygiene complaints
- 3.22 Scottish Ministers through Food Standards Scotland (FSS) provided derogations in relation to routine food law official controls. On 25<sup>th</sup> March, FSS wrote to LA Chief Executives confirming that the resumption of a full programme of food law interventions is neither feasible nor desirable at this time. FSS acknowledges that any 'start date' for Local Authority Intervention Programmes should be in line with relaxations against COVID-19 restrictions according to the Scottish Governments Route Map and to the extent that allows food business activity to resume. It is not possible to predict with certainty at this time, when food establishments will be permitted to trade in a manner close to 'normal'. It is also possible that the easing of restrictions on trading will be on a Local Authority rather than a national basis. The former scenario could see some Local Authorities able to recommence programmed interventions while others are still experiencing trading restrictions – as well as infection suppression measures which might preclude on-site assessment of businesses. In the light of this continuing uncertainty, **FSS has opted to set a nominal 're-start date' of 1 September 2021**. It is averred that current epidemiological trends as well as Government and scientific projections provide a reasonable level of confidence that 'conventional' food law interventions will be feasible by that time. However, it is acknowledged that Local Authorities might, on either an individual or national basis, be able to recommence interventions before this date. If this were to be the case, there would be no obstacle to bring interventions forward.
- 3.23 Officers have worked extremely hard under difficult circumstances and tight deadlines to ensure that effective controls are implemented. This has necessitated very long hours and significant evening and weekend working. Officers across Environmental Health and Trading Standards have put themselves forward to deliver this. Officer workloads will continue to be carefully managed to ensure the capacity to provide the service is maintained.

### **Aberdeen Scientific Services**

- 3.24 In addition to the impact on Environmental Health & Trading Standards, the pandemic has also impacted on the laboratory arm of Protective Services. During the initial period of lockdown the laboratory was stood down with the exception of urgent analysis and examinations required for significant public health issues including for example the analysis of hand sanitisers to ensure they met legal requirements and were effective. The laboratory explored a number of novel opportunities to assist with the co-ordinated response to the pandemic. These included the offer of staff to assist with contact tracing, and to assist within NHS laboratories, the production of hand sanitiser and the potential to undertake the analysis of Covid swabs on half of oil sector clients. Unfortunately, these opportunities were not realised as there were legal and compliance barriers that could not be overcome and clients amending their plans.
- 3.25 In order to support business clients, with essential and some statutory sampling, the laboratory operations have expanded back towards normal operations, with effective Covid controls in place.
- 3.26 LA sampling activity has remained low throughout the pandemic and has primarily been focused on Private Water Supplies.
- 3.27 In February, the laboratory was subject to the annual UKAS accreditation audit. For the second year running, Covid necessitated this being a virtual audit. The initial audit report has been received and an action plan developed to resolve the few issues identified. A report on the UKAS accreditation will be provided to a future Committee.

3.28 The laboratory undertakes an annual customer satisfaction survey. The responses this year have identified an exceptional degree of satisfaction in the service provided. Given the very challenging conditions that the laboratory has been operating under this year, this is an outstanding achievement.

#### 4. FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications arising from the recommendations of this report. Funding, for two additional fixed term Public Health compliance officer posts has been provided by Scottish Government. Additional expenditure related to the Covid response has been captured with finance. In line with other Scottish LAs, the response to Covid-19 has predominantly achieved by diverting existing resources from other statutory roles by prioritising the public health response to Covid-19. However, officers have been undertaking considerable excess hours in order to deliver the necessary public health protection measures, which has necessitated a mixture of overtime payments and TOIL from within existing budgets.

#### 5. LEGAL IMPLICATIONS

5.1 There are no direct legal implications arising from the recommendations of this report.

#### 6. MANAGEMENT OF RISK

6.1 The capacity to respond to the Covid-19 pandemic has only been possible by prioritising this activity over other areas of statutory work. As the need to recommence these activities increases, the ability to manage this effectively could be compromised.

6.2 Additionally, the fact that routine activities to protect public health and consumer safety have to a large extent been suspended increases the potential for public health and consumer safety in these areas to be compromised.

6.3 Activity continues to be prioritised primarily on the basis of public health risk, with activity in relation to high risk areas continuing to be undertaken.

6.4 EU Exit has also placed additional responsibilities on Protective Services in relation to exports.

| Category              | Risk   | Low (L)<br>Medium (M)<br>High (H) | Mitigation   |
|-----------------------|--|-----------------------------------|--|
| <b>Strategic Risk</b> |  |                                   |  |
| <b>Compliance</b>     | Risk that statutory duties for Environmental Health and Trading Standards are not met. | H                                 | Resources are focused on public health, consumer protection and essential business support. SG and CoSLA kept informed of service prioritisation |

|                     |  |   |   |
|---------------------|--|---|---|
| <b>Operational</b>  | Risk of staff being overworked   | M | Officer workloads managed to ensure the welfare of staff and capacity to provide the service is maintained.   |
| <b>Financial</b>    | Additional costs associated with enforcement of Covid-19 business restrictions | M | Additional costs captured within financial returns.   |
| <b>Reputational</b> | Risk of negative publicity regarding enforcement of Covid-19 controls          | M | Resources prioritised to Covid-19 business restrictions. 4Es approach to enforcement of the requirements. Consistency of approach across Scottish LAs and Police Scotland |

## 7. OUTCOMES

| <b><u>COUNCIL DELIVERY PLAN</u></b>                      |   |
|--|---|
|  | <b>Impact of Report</b>   |
| <b>Aberdeen City Council Policy Statement</b>            | The activity outlined in this report supports the ACC Policy Statement through protection of public health, provision of advice and support to businesses and enforcement of the business restrictions  |
| <b>Aberdeen City Local Outcome Improvement Plan</b>      |   |
| Prosperous Economy                                       | The activity outlined in this report supports the Prosperous Economy element of the LOIP through provision of advice and support to businesses in relation to the business restrictions, assessing the controls implemented, undertaking a 4Es approach to enforcement and ensuring that businesses within Aberdeen can operate safely in relation to Covid-19. |
| Prosperous People  | The activity outlined in this report supports the Prosperous People element of the LOIP by ensuring effective public health protection measures are implemented across business establishments in the City, both in relation to the workforce and the general public. The activity has supported businesses re-opening and operating safely.                    |
| Prosperous Place   | The activity outlined in this report supports the Prosperous Place element of the LOIP by ensuring that appropriate assurances were in place to facilitate reopening of the hospitality sector  |
| <b>UK and Scottish Legislative and Policy Programmes</b> | The activity outlined in this report supports the Scottish legislative and policy programme through provision of an effective and proportionate enforcement of the regulation and promotion of the guidance.  |

## 8. IMPACT ASSESSMENTS

| Assessment                                | Outcome                             |
|---|-------------------------------------|
| Impact Assessment                         | Full impact assessment not required |
| Data Protection Impact Assessment         | Not required                        |
| Duty of Due Regard / Fairer Scotland Duty | Not applicable                      |

## 9. BACKGROUND PAPERS

[Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) Scotland Regulations 2020](#)  
[Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Scotland\) Regulations 2020](#)  
[Health Protection \(Coronavirus, Restrictions\) \(Directions by Local Authorities\) \(Scotland\) Regulations 2020](#)  
[Health Protection \(Coronavirus, Restrictions\) \(Aberdeen City\) Regulations 2020](#)  
<https://www.gov.scot/coronavirus-covid-19/>

## 10 APPENDICES

Appendix 1 –Covid-19 Interventions undertaken by ACC Environmental Health & Trading Standards

## 11. REPORT AUTHOR CONTACT DETAILS

Name Andrew Morrison  
Title Protective Services Manager  
Email Address andrewmorrison@aberdeencity.gov.uk  
Tel 01224 522490



## Appendix 1

### Covid-19 Interventions undertaken by ACC Environmental Health & Trading Standards

|                             | Requests from business | Enquiries / complaints about business | Open premises - interventions | Intervention follow ups | Social media releases | Written warnings | Prohibition notices | Directions |
|-----------------------------|------------------------|---------------------------------------|-------------------------------|-------------------------|-----------------------|------------------|---------------------|------------|
| Period 1 - 26/3 - 1/5/2020* | 0                      | 103                                   | 751                           | 25                      | 0                     | 0                | 0                   |            |
| Period 2 - 2/5 - 15/5*      | 0                      | 30                                    | 238                           | 50                      | 0                     | 0                | 0                   |            |
| Period 3 - 16/5 - 29/5      | 19                     | 28                                    | 432                           | 14                      | 29                    | 0                | 0                   |            |
| Period 4 - 30/5 - 12/6      | 26                     | 22                                    | 313                           | 13                      | 20                    | 2                | 1                   |            |
| Period 5 - 13/6 - 26/6      | 15                     | 34                                    | 183                           | 26                      | 12                    | 0                | 0                   |            |
| Period 6 - 27/6 - 10/7      | 9                      | 13                                    | 111                           | 2                       | 21                    | 0                | 0                   |            |
| Period 7 - 11/7 - 24/7      | 12                     | 17                                    | 205                           | 2                       | 13                    | 0                | 0                   |            |
| Period 8 - 23/7 - 7/8       | 48                     | 100                                   | 560                           | 1                       | 12                    | 0                | 0                   |            |
| Period 9 - 8/8 - 21/8       | 23                     | 34                                    | 110                           | 5                       | 9                     | 0                | 0                   |            |
| Period 10 - 22/8 - 4/9      | 50                     | 62                                    | 393                           | 19                      | 16                    | 0                | 0                   |            |
| Period 11 - 5/9 - 18/9      | 53                     | 39                                    | 58                            | 3                       | 12                    | 0                | 0                   |            |
| Period 12 - 19/9 to 2/10    | 49                     | 56                                    | 77                            | 0                       | 13                    | 0                | 0                   |            |
| Period 13 - 3/10 to 16/10   | 36                     | 38                                    | 38                            | 0                       | 7                     | 0                | 0                   |            |
| Period 14 - 17/10 to 30/10  | 31                     | 38                                    | 21                            | 1                       | 5                     | 0                | 0                   |            |

|                                    |     |     |      |          |     |   |   |   |
|------------------------------------|-----|-----|------|----------|-----|---|---|---|
| Period 15 -<br>31/10 to<br>13/11   | 16  | 80  | 18   | 0        | 2   | 0 | 0 | 1 |
| Period 16 -<br>14/11 to<br>27/11   | 19  | 51  | 42   | 0        | 0   | 0 | 0 | 3 |
| Period 17 -<br>28/11 to<br>11/12   | 11  | 37  | 16   | 0        | 0   | 0 | 0 | 0 |
| Period 18 -<br>12/12 -<br>8/1/21   | 65  | 70  | 17   | 1        | 5   | 0 | 0 | 0 |
| Period 19 -<br>9/1/21 -<br>22/1/21 | 43  | 46  | 55   | <u>1</u> | 8   | 0 | 0 | 0 |
| Period 20 -<br>23/1/21 -<br>5/2/21 | 5   | 16  | 45   | 0        | 6   | 0 | 0 | 0 |
| Period 21 -<br>6/2/21 -<br>19/2/21 | 8   | 17  | 44   | 1        | 2   | 0 | 1 | 0 |
| Period 22 -<br>20/2/21 -<br>5/3/21 | 10  | 13  | 35   | 2        | 3   | 0 | 0 | 0 |
| Totals                             | 548 | 944 | 3762 | 166      | 195 | 2 | 2 | 4 |