
ABERDEEN CITY COUNCIL

COMMITTEE	Public Protection
DATE	13 June 2019
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Protective Services Food and Feed Regulatory Service Plan 2019/2020
REPORT NUMBER	OPE/19/261
DIRECTOR	Rob Polkinghorne
CHIEF OFFICER	Mark Reilly
REPORT AUTHOR	Andrea Carson
TERMS OF REFERENCE	3.3

1. PURPOSE OF REPORT

- 1.1 The Food Law Code of Practice (Scotland) 2019 requires Local authorities to prepare an annual Service Plan which details the intended activity of the Service based on the resources allocated; this plan must be approved by Committee.

2. RECOMMENDATION(S)

- 2.1 That the Committee: -

Approves the Protective Services Food and Feed Regulatory Service Plan 2019/2020 (Appendix A);

3. BACKGROUND

- 3.1 Food and Feed enforcement services provided by Aberdeen City Council are located in Protective Services, a city-wide service within Operations. The majority of food enforcement work takes place within the Commercial Section of this Service, with a number of enforcement officers also involved in the enforcement of health and safety, port health, licensing and animal health & welfare.

- 3.2 Enforcement of the Agriculture Act 1970 and the animal feed registration requirements is a Trading Standards function. Due to the very small number of relevant establishments within Aberdeen, Aberdeenshire Trading Standards agreed to carry out animal feed enforcement visits in concert with Aberdeen City Council officers. This is because there are an insufficient number of visits required to be carried out in the City that would allow our officers to meet the experience element of Food Standards Scotland (FSS) competency requirements (50% of time spent on feed controls). These visits are joint inspection visits where City officers organise the visits and deal with any advice and enforcement work that stems from them. There are currently no scheduled feed inspections in 2019/2020 however if there were the presence of Aberdeen City Council staff would ensure that such inspections would be carried out in accordance with the Plan.
- 3.3 Following a UK wide review of feed controls, The FSS Board agreed to centralise feed official controls, as the existing fragmented approach was deemed to no longer be effective. A regional delivery model is anticipated, and a feed officer has been appointed by FSS to take this forward in 2019/20.
- 3.4 Local authorities are required by the 'Food Law Code of Practice' to prepare a Service Plan and review their performance against it on an annual basis.
- 3.5 FSS sees the Service Plan as an important part of the process to ensure national priorities and standards of food enforcement are addressed and delivered locally. Service plans also:
- a. Focus debates on key delivery issues;
 - b. Provide an essential link with financial planning;
 - c. Set objectives for the future, and identify major issues that cross service boundaries; and
 - d. Provide a means of managing performance and making performance comparisons.
- 3.6 FSS suggests a common format for Food and Feed Regulatory Service Plans which should assist local authorities in performance reviews under the Best Value regime.
- 3.7 The power to set standards, monitor and audit the performance of enforcement authorities was conferred on FSS by Sections 3 and 25 of the Food (Scotland) Act 2015 and Regulation 7 of the Official Feed and Food Controls (Scotland) Regulations 2009. FSS has established external audit arrangements intended to ensure competent authorities are providing an effective and consistent service for the delivery of official controls and are meeting the general criteria laid out in Regulation (EC) No 882/2004.
- 3.8 It should be noted that FSS has powers, following consultation with Ministers, to issue a Direction to a local authority requiring it to take specified steps to comply with the Code of Practice issued. Directions are enforceable through Court of Session Orders.

4. FINANCIAL IMPLICATIONS

- 4.1 Currently the service as proposed within the Regulatory Service Plan can be provided within the existing budget.

5. LEGAL IMPLICATIONS

- 5.1 The exact implications of EU Exit in relation to the Regulatory Service Plan are still uncertain. However, depending upon the negotiations, the potential implications of EU Exit on future delivery could be very significant. This is particularly the case in relation to the Import and Export of food, as greatly enhanced regimes could be required. Until there is more clarity on the planned arrangements, it is not possible to quantify the impact on the Service. There is the potential for resource to be diverted away from service delivery during 2019/20 to enable appropriate systems and controls to be implemented.

6. MANAGEMENT OF RISK

- 6.1 Failure to provide a Food Regulatory Service Plan and associated implementation of that plan would be classed as a “hazard risk” in accordance with the Enterprise Risk Management model. This could potentially damage the reputation of the Council as well as putting the citizens of Aberdeen at risk if food businesses are allowed to operate unchecked. Ultimately, FSS may, after consulting with Scottish Ministers, direct a Food Authority requiring it to take any specified steps in order to comply with the requirements of food law or Food Law Code of Practice (Scotland). Any such direction is enforceable by an order of the Court of Session under Section 45 of the Court of Session Act 1988. The powers also allow FSS to recover any reasonable expenses incurred by them from the defaulting local authority.

The outcome of EU Exit may also have an effect on the ability to deliver the Service Plan.

	Risk	Low (L), Medium (M), High (H)	Mitigation
Financial	<p>Failure to produce and deliver a service plan could contribute to default powers being exercised and the associated costs.</p> <p>FSS may, after consulting with Scottish Ministers, direct a Food Authority requiring it to take any specified steps in order to comply with the requirements of food law or Food Law Code of Practice (Scotland). FSS may recover any reasonable expenses incurred by them from the defaulting local authority.</p> <p>There may be financial implications depending on the outcome of EU Exit</p>	<p>L</p> <p>M</p>	Produce and deliver against the service plan.
Legal	<p>ACC is bound by statute to deliver a food law enforcement service, including the provision of a service plan.</p> <p>FSS may, after consulting with Scottish Ministers, direct a Food Authority requiring it to take any specified steps in order to comply with the requirements of food law or Food Law Code of Practice (Scotland). Any such direction is enforceable by an order of the Court of Session under Section 45 of the Court of Session Act 1988.</p>	L	Deliver a food law enforcement service, including the provision of a service plan.
Employee	N/A		

Customer	<p>Failure to provide an effective food law enforcement service could result in consumers being exposed to an unacceptable health risk.</p> <p>Failure to deliver the required level of service post EU Exit to businesses exporting product may result in reduced levels of trade.</p>	L M	Provide an effective food law enforcement service
Environment	N/A		
Technology	N/A		
Reputational	Failure to produce and deliver a service plan could contribute to default powers being exercised and the associated reputational damage.	L	Produce and deliver against the service plan.

7. OUTCOMES

Local Outcome Improvement Plan Themes	
	Impact of Report
Prosperous Economy	In addition to securing protection of the public, business compliance with legislation reduces the risk to them of criminal proceedings and/or litigation. It is also beneficial for them individually and for the economy as a whole.
Prosperous People	People who are adequately protected from threats to their health, safety, and mental and economic wellbeing are more likely to prosper than those who are not.

Design Principles of Target Operating Model	
	Impact of Report
Governance	Appropriate oversight of services delivering public protection provides assurance to both the organisation and the public in terms of meeting the Council's statutory duties, and also contributes to compliance with agreed standards.

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	Full EHRIA not required
Privacy Impact Assessment	Not required
Duty of Due Regard / Fairer Scotland Duty	Not applicable

9. BACKGROUND PAPERS

Food Law Code of Practice (Scotland) 2019

10. APPENDICES

Appendix A: Protective Services Food and Feed Regulatory Service Plan 2019/2020

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