

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Communities, Housing and Public Protection Committee
<b>DATE</b>	5 September 2023
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Protective Services Food Regulatory Service Plan 2023/2024
<b>REPORT NUMBER</b>	RES/23/225
<b>DIRECTOR</b>	Steven Whyte
<b>CHIEF OFFICER</b>	Mark Reilly
<b>REPORT AUTHOR</b>	Andrea Carson
<b>TERMS OF REFERENCE</b>	1.1.2 and 1.1.5

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### 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)

That the Committee: -

- 2.1 Approves the Protective Services Food Regulatory Service Plan 2023/2024 as detailed in Appendix A.
- 2.2 Notes the review of performance against the Protective Services Food Regulatory Service Plan 2022/2023 contained within Appendix 2 of the Service Plan 2023/2024.

### 3. CURRENT SITUATION

- 3.1 Food 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; enforcement officers are also involved in the enforcement of health and safety, port health, licensing and animal health & welfare.
- 3.2 There has been significant disruption to service delivery since the start of the Covid 19 Pandemic in March 2020. In April 2020 a Ministerial agreement was secured to allow relaxation of the Food Law Intervention (Inspection) Program, during which routine inspections were suspended to allow resources to be dedicated to Covid 19 related work.

- 3.3 The Service was audited by Food Standards Scotland (FSS) in December 2022 which resulted in the production of an Action Plan. Of the eleven actions requiring attention seven are complete and work is continuing to address the other four. An update on progress with the Action Plan is contained in committee report Food Standards Scotland Audit Action Plan Update RES 23/248 which will be presented at the Communities, Housing and Public Protection Committee on 5 September 2023.
- 3.4 The Service is still in a recovery phase and there is a significant backlog of interventions which is being exacerbated by a national shortage of suitably qualified officers to carry out this work. Interventions will continue to be planned in accordance with the available staff resource. Those interventions in higher priority/risk groups will be addressed first, along with those where valid complaints have been received by the Service.
- 3.5 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.
- 3.6 Food Standards Scotland 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.
- 3.7 FSS suggests a common format for Food Regulatory Service Plans which should assist local authorities in performance reviews under the Best Value regime.
- 3.8 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 retained EU Regulation (EC) 2017/625.
- 3.9 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 ongoing implications of the UK leaving the EU in relation to the Regulatory Service Plan are still uncertain and impact on future delivery could be significant. This is particularly the case in relation to the import of food. 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 to enable appropriate systems and controls to be implemented.

## 6. ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no direct environmental implications arising from the recommendations of this report.

## 7. RISK

The assessment of risk contained in the table below is considered to be consistent with the Councils Risk Appetite Statement

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H)  *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
<b>Strategic Risk</b>	Unable to deliver service due to acute disruptive events	Business continuity plans in place to continue key service provision	L	<b>Yes</b>
<b>Compliance</b>	ACC is bound by statute to deliver a food law enforcement service, including the provision of a service plan.  FSS may, after consulting with Scottish Ministers,	Deliver a food law enforcement service, including the provision of a Service Plan.	L	Yes

	<p>direct a Food Authority requiring it to take any specified steps to comply with the requirements of food law or Food Law Code of Practice (Scotland)</p> <p>Due to resource shortages it is not possible to fulfil all the requirements of the Code of Practice</p>	<p>Interventions are planned in accordance with available staffing resource. Those higher priority/risk groups will be addressed first, along with those where valid complaints have been received by the Service</p>		
<b>Operational</b>	<p>Qualified officers not available to carry out interventions</p>	<p>Only qualified officers undertake regulatory duties. Risk prioritisation of interventions when insufficient officers available. Appropriate training, needs identified through CR+D ,121 discussions, effective management of staff workloads, achievable targets within the Service Plan</p>	M	Yes
<b>Financial</b>	<p>Failure to produce and deliver a service plan</p>	<p>Produce and deliver against the Service Plan.</p>	L	Yes

	<p>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 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>			
<b>Reputational</b>	<p>Failure to produce and deliver a Service Plan could contribute to default powers</p>	<p>Produce and deliver against the Service Plan.</p>	L	Yes

	being exercised and the associated reputational damage.			
<b>Environment / Climate</b>	No significant risks identified			

## 8. OUTCOMES

The proposals in this report have a positive impact on the Council's Delivery Plan.

<b>Aberdeen City Local Outcome Improvement Plan</b>	
	<b>Impact of Report</b>
<b>Aberdeen City Council Policy Statement</b>  <a href="#"><u>Working in Partnership for Aberdeen</u></a>	<p>The proposals within this report support the delivery of the following aspects of the policy statement:</p> <p>A Prosperous City, delivering a interventions programme that assists stimulate sustainable economic development in the food business sector</p>
<b>Prosperous Economy Stretch Outcomes</b>	<p>The proposals in this report support the delivery of LOIP Stretch Outcome 2 – 400 unemployed Aberdeen City residents supported into Fair work by 2026.</p> <p>Conducting an interventions programme and providing advice and support to people starting up new food related businesses will assist them to comply with the relevant legislation. This reduces the risk to them as individuals of criminal proceedings and/or litigation and secures public protection. New business start-ups are beneficial to the economy as a whole.</p>

<b>Regional and City Strategies</b>	The proposals within this report support the Regional Economic Strategy by assisting local businesses to thrive and prosper by providing advice to ensure compliance with relevant legislation. Assistance is also provided by the Service in the form of certification to ensure that businesses can trade globally.
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## 9. IMPACT ASSESSMENTS

<b>Assessment</b>	<b>Outcome</b>
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<b>Integrated Impact Assessment</b>	Full impact assessment not required
<b>Data Protection Impact Assessment</b>	Not required
<b>Other</b>	None

## **10. BACKGROUND PAPERS**

10.1 Food Law Code of Practice (Scotland) 2019

## **11. APPENDICES**

**11.1 Appendix A:** Protective Services Food Regulatory Service Plan 2023/2024

## **12. REPORT AUTHOR CONTACT DETAILS**

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