
Report To:	Environment & Regeneration Committee	Date:	4 May 2023
Report By:	Director, Environment & Regeneration	Report No:	ENV025/23/MM
Contact Officer:	Martin McNab	Contact No:	01475 714246
Subject:	Food Service Plan and Food Standards Scotland Audit		

1.0 PURPOSE AND SUMMARY

- 1.1 For Decision For Information/Noting
- 1.2 The Food Law Code of Practice requires Local Authorities to complete an annual Service Plan detailing the interventions programme for the coming year. They should ensure such a programme is adequately resourced and the overall plan is subject to approval timeously at the appropriate governance level within the Local Authority. The plan for 2023-24 is attached at Appendix 1.
- 1.3 In August 2022 Inverclyde Council was audited by Food Standards Scotland (FSS) with the final Audit Report being issued early in 2023. A copy of the report is attached for information at Appendix 2. The 2023 Food Service Plan completes an outstanding audit action to detail our approach to incorporating new Food Businesses and documenting revisits.
- 1.4 Members will note that the FSS audit has given Inverclyde an amber rating. Officers are of the view that all of the recommendations were of a minor nature with some having been accepted in previous audits with Inverclyde receiving a green rating. It would appear however that FSS policy on audit outcomes has shifted. No authorities have received a “green” rating in the current round of audits. It may be that this reflects greater concerns in FSS about the potential for “third party” audits from the EU post the UK’s EU exit.

2.0 RECOMMENDATIONS

- 2.1 That Committee approves the Food Service Plan
- 2.2 That Committee notes the final audit report from Food Standards Scotland

Stuart Jamieson
Director, Environment & Regeneration

3.0 BACKGROUND AND CONTEXT

- 3.1 The Food Service Plan is an explicit requirement of the Food Law Code of Practice which local authorities are audited against by Food Standards Scotland (FSS), the competent body for food law in Scotland. The plan outlines the inspection programme and the resources available to complete it to satisfy FSS that there are sufficient resources available for local authorities to fulfil their obligations under the Code of Practice.
- 3.2 The Service Plan is generally approved by the Head of Service however as this year's plan implements a specific audit requirement from Food Standards Scotland it is being presented to members for approval.
- 3.3 The audit of the Food Service's implementation of the Interventions Food Law Code of Practice is part of a round of audits currently being carried out by Food Standards Scotland. Members should be aware that no audits to date have resulted in authorities receiving a "green" status. All of the procedural issues raised in the Inverclyde audit report have been addressed with the approval of the new Food Service Plan closing off the final recommendation.
- 3.4 In common with a number of other professional groups in local government there are significant issues with the recruitment and training of Environmental Health Officers (EHOs). This has led to a focus from FSS on the ability of Councils to carry out their obligations under the Code of Practice with some authorities which have significant staffing issues receiving red ratings in audits. Although this is not currently an issue in Inverclyde the amber rating received in the audit is indicative of a disinclination from FSS to rate any authorities as green in the current climate.

4.0 PROPOSALS

- 4.1 That Committee approves the 2023-24 Service Plan.

5.0 IMPLICATIONS

- 5.1 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed:

SUBJECT	YES	NO	N/A
Financial		X	
Legal/Risk		X	
Human Resources		X	
Strategic (LOIP/Corporate Plan)		X	
Equalities & Fairer Scotland Duty		X	
Children & Young People's Rights & Wellbeing		X	
Environmental & Sustainability		X	
Data Protection		X	

5.2 Finance

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
N/A					

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments
N/A					

5.3 Legal/Risk

All local authorities are audited periodically by Food Standards Scotland in its role as the “Competent Authority” for Food Law in Scotland. Any serious shortcomings would have been brought to the Committees attention previously however in the view of officers the issues raised were all minor and procedural.

5.4 Human Resources

None.

5.5 Strategic

None.

5.6 Equalities and Fairer Scotland Duty

None.

(a) Equalities

This report has been considered under the Corporate Equalities Impact Assessment (EqIA) process with the following outcome:

	YES – Assessed as relevant and an EqIA is required.
X	NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, assessed as not relevant and no EqIA is required

(b) Fairer Scotland Duty

If this report affects or proposes any major strategic decision:-

Has there been active consideration of how this report’s recommendations reduce inequalities of outcome?

	YES – A written statement showing how this report’s recommendations reduce inequalities of outcome caused by socio-economic disadvantage has been completed.
X	NO – Assessed as not relevant under the Fairer Scotland Duty.

5.7 Children and Young People

Has a Children’s Rights and Wellbeing Impact Assessment been carried out?

	YES – Assessed as relevant and a CRWIA is required.
X	NO – Assessed as not relevant as this report does not involve a new policy, function or strategy or recommends a substantive change to an existing policy, function or strategy which will have an impact on children’s rights.

5.8 Environmental/Sustainability

Summarise any environmental / climate change impacts which relate to this report.

Has a Strategic Environmental Assessment been carried out?

	YES – assessed as relevant and a Strategic Environmental Assessment is required.
X	NO – This report does not propose or seek approval for a plan, policy, programme, strategy or document which is like to have significant environmental effects, if implemented.

5.9 Data Protection

Has a Data Protection Impact Assessment been carried out?

	YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals.
X	NO – Assessed as not relevant as this report does not involve data processing which may result in a high risk to the rights and freedoms of individuals.

6.0 CONSULTATION

6.1 None.

7.0 BACKGROUND PAPERS

7.1 None.

1. Service Aims and Objectives

<p>1.1 Aims and Objectives</p>	<p>The aims of Inverclyde Council's Planning, Regeneration and Public Protection Service in relation to Food Control are</p> <ul style="list-style-type: none">• To complete the planned inspection programme for 2023/24 – this continues to be a revised programme owing to the COVID pandemic which caused the suspension of the regular programme in March 2020. The programme runs for 12 months until March 2024. The revised programme has been created with reference to the Scottish Food Enforcement Liaison Committee (SFELC) Recovery Process Guidance. Further information on the programme is included in Appendix 1• To work with local businesses in as open and transparent a manner as possible in order to help them where necessary, improve the safety of food and level of compliance with relevant legislation in line with the service's Food Law Enforcement Policy. Our aim is that our enforcement will always be targeted, proportionate, consistent and transparent.• To respond efficiently to complaints about food quality, food premises, food labelling or food composition, originating from premises or purchases made within Inverclyde.• To play a full role in the West of Scotland Food Liaison Group and to co-operate in full with SFELC, Food Standards Scotland and The Society of Chief Officers of Environmental Health (SoCOEH) to improve consistency and best practice in the role of food enforcement among Scottish local authorities.• To continue to provide advice and guidance on all food law matters to the businesses of Inverclyde.
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<p>1.2 Links to corporate objectives and plans</p>	<p>In carrying out the above effectively the service will contribute to the following themes and outcomes of Inverclyde Council's Plan 2023-2028:</p> <p>Theme 1: People</p> <ul style="list-style-type: none"> • People are supported to improve their health and wellbeing • Our most vulnerable families and residents are safeguarded and supported <p>Theme 3: Performance</p> <ul style="list-style-type: none"> • High quality and innovative services are provided, giving value for money • Our most vulnerable families and residents are safeguarded and supported <p>The service also contributors to the Inverclyde Alliance Partnership Plan 2023/33 as follows:</p> <p>Theme 3: Healthy People and Places</p> <ul style="list-style-type: none"> • People live longer and healthier lives
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2. Background

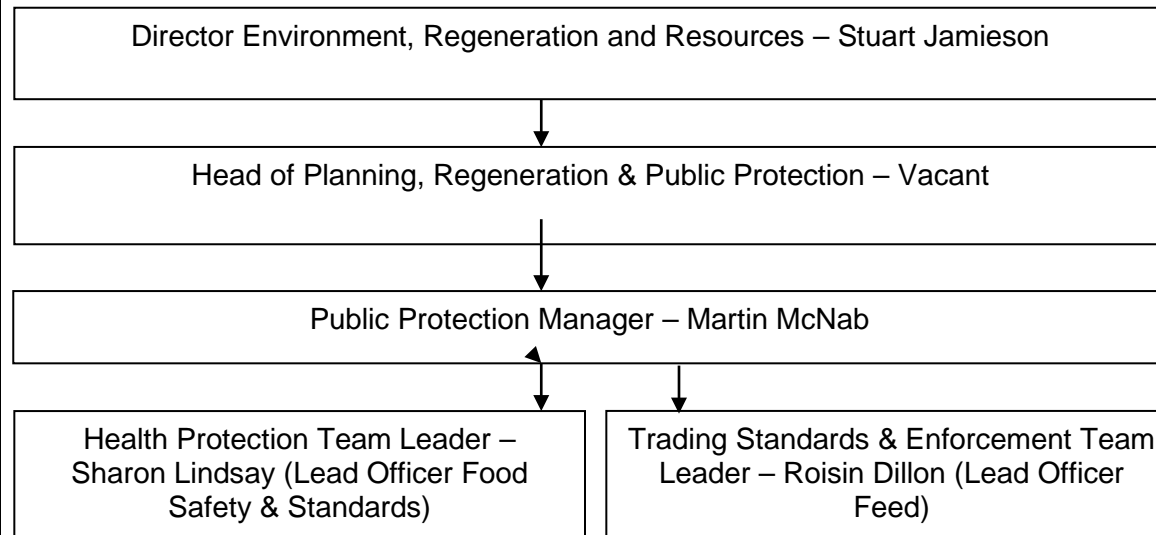
<p>2.1 Profile of the Local Authority</p>	<p>Inverclyde covers an area of 61 square miles stretching along the south bank of the estuary of the River Clyde. Inverclyde is one of the smaller local authorities in Scotland. The main towns of Greenock, Port Glasgow and Gourock sit on the Firth of Clyde. The towns provide a marked contrast to the coastal settlements of Inverkip and Wemyss Bay, which lie to the south-west of the area, and the villages of Kilmacolm and Quarrier's Village which are located further inland.</p> <p>The Council recognises that there are a number of challenges for the area, including population decline. According to the NRS Mid-2021 population estimates, Inverclyde's estimated population was</p>
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76,700 as at 30th June 2021, which is 1.4% of the total population of Scotland. Inverclyde has had the largest population decline of all Scottish council areas over the period 2001/21. Fewer births than deaths is the major driver of population decline locally, however a more positive picture is emerging with regard to migration with the number of people moving into the area estimated to be higher than the number moving out between mid-2016 to mid-2017, mid-2018 to mid-2019 and most recently mid 2020-mid 2021. The age profile of Inverclyde's population is similar to that of Scotland, with an ageing population that is predicted to grow, particularly in the over 75 age group which is set to increase by 55.5% over the next 20 years.

Similar to many areas in Scotland, particularly where there has been a decline in traditional industries, Inverclyde suffers from areas of deprivation and inequality. In the 2020 Scottish Index of Multiple Deprivation 21 (18.4%) of Inverclyde's 114 data zones were in the 5% most deprived data zones in Scotland; this was almost double the level in 2016 when 11 data zones were in the 5% most deprived. Of the seven SIMD domains in SIMD 2020, levels of multiple deprivation in relation to Income, Employment and Health are all particularly high.

2.2 Organisational Structure

The food service falls within the Health Protection Team in the following directorate structure:



Planning, Regeneration & Public Protection is part of the Environment and Regeneration Directorate

	reporting to the Environment and Regeneration Committee.
2.3 Scope of the Feed and Food Service	<p>The Health Protection Team within Public Protection is responsible for delivering all aspects of Food Safety and Standards enforcement within Inverclyde. The team also has responsibility for Health and Safety at Work, Port Health, Infectious Disease Control, Private Water Supplies, Noise Control and Air Quality.</p> <p>The Health Protection Team consists of four Environmental Health Officers, a Food Safety Officer and an enforcement officer.</p> <p>2 EHOs and the Food Safety Officer are primarily involved in food enforcement. Other EHOs and enforcement staff including those from other teams can provide additional capacity should this be required.</p>
2.4 Demands on the Feed and Food Service	<p>Within Inverclyde at 1st April 2023 there were 670 food premises of various types and sizes over which the Council has enforcement responsibility.</p> <p>This includes two premises approved under product specific legislation giving each of these businesses a unique Approval Number. Both are involved in meat products production with one producing meat preparations.</p> <p>Of the 707 premises by classification on 1 April 2023 there were 2 primary producers, 18 manufacturers/packers, 14 distributors, 145 retailers, 185 restaurants & caterers, 89 caring establishments, 10 hotels/guest-houses, 20 mobile food units, 68 pubs/clubs, 81 take-away, 32 schools/colleges and 6 fishing vessels.</p> <p>The food service is currently delivered from Wallace Place, Greenock; normal working hours are 8 a.m. – 6 p.m. Monday to Friday however staff carry out a number of enforcement visits out of hours and at weekends. In the event of a food related emergency, senior members of Public Protection staff are contactable out of hours. Contact numbers are available to both Food Standards Scotland and Greater Glasgow & Clyde Health Board, the latter through the joint Incident Control Plan.</p> <p>The COVID pandemic was a significant additional external factor impacting on the service although the suspension of the food programme in March 2020 allowed resources to be diverted to assisting businesses navigate the various restrictions. As the situation has improved, the resources required for COVID have reduced and the bulk of resources can now be focussed fully on routine Environmental Health work.</p>

	<p>Following EU exit the UK is now a 3rd country when trading with the EU. The operator of the port of Greenock has applied to become a Border Control Post to allow certain goods from the EU to be imported through Greenock. The joint work done in this area by the Port, the Council and other agencies (primarily Food Standards Scotland (FSS) and the Animal and Plant Health Agency (APHA) has been superseded by the UK Government's decision to suspend the imposition of new import controls until at least the end of 2023. We are currently unclear what controls if any will be required at that time. At the time of writing it remains to be seen if the port wishes to progress the development of a Border Inspection Post to allow imports of high risk food and other products from outwith the EU.</p>
<p>2.5 Regulation Policy</p>	<p>The Food Service operates in line with a Food Law Enforcement Policy to ensure that compliance with food law is achieved in a proportionate, transparent and consistent manner. This policy is kept under regular review.</p>

3. Service Delivery

<p>3.1 Interventions at Food Establishments</p>	<p>Food businesses are assigned a rating under the Food Law Rating System set out in the Interventions Food Law Code of Practice (Scotland) 2019.</p> <p>In general terms Group 1 businesses are larger or more complex businesses including manufacturers, exporters and distributors.</p> <p>Group 2 businesses are mostly caterers including restaurants, cafes and takeaways.</p> <p>Group 3 are retailers and other lower risk businesses.</p> <p>Within these groupings, each business is rated according to levels of compliance with A being the most compliant and E the least compliant. This rating determines how frequently the businesses should receive an intervention. A detailed breakdown of planned interventions for 12 months until end of March 2024 is shown in Appendix 1.</p> <p>Inverclyde carried out 99 revisits in the course of 22/23 and would expect a similar number in 23/24.</p> <p>There were 71 new businesses registered during 22/23 – new businesses will be marked as proposed premises on our information system and allocated to officers at team meetings. Priority will be given to perceived higher-risk businesses as determined by information on the registration form.</p>
<p>3.2 Food Complaints</p>	<p>The food service deals with a varying number and type of food complaints from both members of the public about locally purchased food and from other enforcement authorities regarding locally produced food.</p> <p>All complaints are handled in line with our documented policy and are thoroughly investigated. The</p>

	<p>majority of complaints do not result in formal action. In certain circumstances however they may be referred to the procurator fiscal in accordance with the Enforcement Policy.</p> <p>In 2022-23 the service dealt with 30 complaints of which 22 related to the hygiene of food premises.</p>
<p>3.3 Home Authority Principle and Primary Authority Scheme</p>	<p>At present Inverclyde Council has a formal Home Authority agreement with one business based in the area. As with the enforcement policy this requires review to ensure that it remains appropriate following the hiatus caused by Covid 19. Informal arrangements exist with a number of other businesses and we would always seek to respond to all enforcing authority questions on food produced and labelled within Inverclyde in accordance with our enforcement policy.</p>
<p>3.4 Advice to Business</p>	<p>The food service is proactive in advising businesses in the course of normal contacts. We provide advice to businesses considering operating in Inverclyde and can advise on layout and structural finishes. We encourage local businesses to engage with our service on labelling issues and can engage with Trading Standards colleagues and provide weights and measures advice prior to labels being produced.</p>
<p>3.5 Feed and Food Sampling</p>	<p>Inverclyde participates in sampling programmes instituted by a number of bodies, such as the West of Scotland Food Liaison Group and SFELC.</p> <p>All of the analysis is carried out by Glasgow Scientific Services which is a NAMAS accredited laboratory.</p> <p>Inverclyde has a documented policy for sampling. An annual sampling programme is produced as part of the policy.</p> <p>The chemical samples included food samples, food complaints and radiation samples. Sampling is carried out to monitor food poisoning incidents, complaints, manufacturing processes and general hygiene trends. It is strongly based on locally produced foods.</p> <p>Inverclyde has a major port in the Greenock Ocean Terminal which was to become a Border Control Post for the import of goods, including food, from the EU and other countries as previously mentioned. Depending on the type of controls planned in future and also whether there is any proposal to bring in high risk foodstuffs from outside the EU at the port there could be a significant shift of sampling resource to imported foods.</p>

	In 2022/23 61 food samples were taken for bacteriological quality and 65 for composition.
3.6 Control and Investigation of Outbreaks and Food Related Infectious Disease	<p>The Food Section liaises with Greater Glasgow & Clyde Health Board through the Consultant in Public Health Medicine in the investigation of food poisoning incidents within Inverclyde. A protocol is in place dealing with the investigation of isolates. In case of a major outbreak an Incident Control Plan is in place which operates in line with the Guidance on the Management of Public Health Incidents.</p> <p>A major outbreak of food poisoning would inevitably have a long-term impact on the day-to-day work of the section given the relatively low staff numbers. Mutual aid agreements with other authorities in the West of Scotland Regional Resilience Partnership are in place to mitigate the effects of such an event.</p>
3.7 Feed/Food Safety Incidents	Inverclyde is part of an electronic alert system operated by Food Standards Scotland. Contact can be made with the Service Manager and Environmental Health Team Leaders on a 24-hour basis. The Food Section is committed to fully implement the Code of Practice with regard to food safety incidents. Incoming Food Alerts are automatically cascaded to all members of the team.
3.8 Liaison with Other Organisations	<p>To ensure that enforcement action taken by Inverclyde's Food Section is consistent with those of neighbouring authorities, the Food Section participates in the West of Scotland Food Liaison Group which represents 13 of Scotland's 32 authorities and includes representatives from Glasgow Scientific Services, and through the liaison group with the Scottish Food Enforcement Liaison Committee (SFELC) and Food Standards Scotland.</p> <p>There is close Liaison with Greater Glasgow & Clyde Health Board and the other authorities in its area at the Public Health (Health Protection) Liaison Working Group. This group include representatives from Animal Health, SEPA, Scottish Water and Public Health Scotland.</p>

<p>3.9 Food Safety and Standards promotional work, and other non-official controls interventions</p>	<p>We endeavour to distribute any promotional work through the Council's Communications section. Any new legislation will be the subject of targeted mail shots.</p>
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4. Resources

<p>4.1 Financial Allocation</p>	<p>Estimated Staffing Costs for 2023-24 - £134000</p> <p>Travel & Subsistence - £800 (estimated)</p> <p>IT – Food & Feed enforcement's share of annual software licence fees is estimated at £2,000 per annum.</p> <p>Sampling – Overall the Service spent approximately £70000 on sampling in 2021/22 (there is a minimum charge to GSS regardless of the number of samples taken) of which approximately 75% or £52000 is allocated to food sampling. In 2023/24 a similar sampling budget is available for the service as a whole.</p> <p>Other costs including property costs, printing etc. estimated at £8000.</p> <p>No growth is expected beyond any increase in salary costs. It is clearly difficult to estimate the increase in salary costs at this time.</p>
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4.2 Staffing Allocation	<p>At the time of writing there are a total of 2.42 qualified FTEs working in Food. These are made up of a proportion of the working time of 5 staff in total. Of those 4, 3 are authorised at the highest level (to serve EPN/HEPN etc.) and 2 at a medium level (service of IN/HIN/RAN etc).</p> <p>A further 0.2 FTE contribute to the service as support staff/management</p>
4.3 Staff Development Plan	<p>All staff members attend external events for CPD as far as availability allows. Being a relatively small service, staff CPD in food & feed enforcement can largely be gained through a combination of FSS low-cost training events and internal staff development e.g. consistency exercises. Full records are kept of staff training and these are reviewed regularly to ensure that staff with a need to attend particular courses (e.g. FSS HACCP auditing etc.) are identified and given preference when places become available.</p>

5. Quality Assessment

5.1 Quality assessment and internal monitoring	<p>The Food Section currently has a system for monitoring the quality of food hygiene inspection. These are reviewed on a regular basis to take account of any changes in external factors, e.g. Code of Practice requirements.</p> <p>As a small authority, the use of a formal quality system is considered to require a disproportionate amount of officer time and expense to achieve any benefit.</p>
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6. Review

6.1 Review against the Service Plan	<p>It is our intention to review service delivery against this plan and report on performance as appropriate.</p>
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6.2 Identification of any Variation from the Service Plan	The Team Leader Health Protection will identify any variance from the plan and identify the reasons e.g. large food poisoning outbreak or national food crisis.
6.3 Areas of Improvement	Where a review of the service plan highlights an area for improvement this will be incorporated in the plan for the following year.

Appendix 1

Full Time Equivalent Officer Resource

The team comprises 2 EHOS and 1 Food Safety Officer. We have estimated two EHOs spend 0.6 of their Full Time Equivalent time on Food Law. We also have EHOs from other teams doing some food work - 2 spend 0.2 of FTE time. The Food Safety Officer is Food Law only but works 4 days a week (0.82) so we have a total FTE for the service of 2.42.

The guidance on restart suggests that 220 working days is a typical estimate for a year, therefore the FTE for Inverclyde is:
 $2.42 \times 220 = 532.4$ days

With reference to the Official Control Verification Guidance, 1 day is estimated to be equivalent to 7 hours officer time so this provides a total FTE of $532.4 \times 7 = 3,726.8$ FTE hours.

Intervention Times

We have benchmarked the total time taken to inspect each Business Group including travel, admin both before and after, enforcement action, any subsequent revisits, etc. against East Renfrewshire Council which is of a similar size to Inverclyde.

Business Group	Intervention Time (hrs)
1A	14
1B	18
1C	23
1D	27
1E	32
2A	7
2B	7
2C	8
2D	11
2E	14
3A	3

3B	5
3C	6
3D	7
3E	13

Priority Descriptors from Food Recovery Guidance

Priority 1 – All Group 1 businesses within Cop intervals. Unrated Group 1 within 6 months.

Priority 2 – Group 2D and 3D within 6 months. Unrated Group 2 within 12 months

Priority 3 – Group 2C within 18 months, Group 3C within 36 months. Unrated Group 3 within 24 months

Priority 4 – Group 2B within 24 months, Group 3B within 48 months

Priority 5 – Group 2A within 48 months

Priority 6 - Group 3A within 60 months

Current State of Play

The table below shows the interventions due before end of March 2024 (in red). Explanatory detail below the table. Programmed inspections are those businesses which have now been inspected and are back in the food inspection program. Priority 4 inspections are those being brought back in under the recovery plan.

Inspections of priority 1, 2 and 3 businesses were carried out during the first and second stages of the Covid recovery plan between October 2021 and March 2023. There are 31 Priority 3 businesses which were not inspected in 22/23 owing to additional resource required in other businesses.

Business Group – Code of Practice (CoP) interval in brackets	Programmed Inspections	Priority 4 Inspections (including unrated)	Priority 3 Inspections carried over	Total Interventions Due by March 2024	Hours Required
1A (18 months)	1			1	(1x14) 14
1B (12 months)	2			2	(2x18) 36
1C (6 months)					
1D (3 months)					
1E (1 month)					
Unrated Grp 1		1		1	(1x23) 23
2A (24 months)	1			1	(1x7) 7
2B (18 months)	79	156		235	(235x7) 1,645
2C (12 months)	75*		21	96	(96x8) 768
2D (3 months)	9**			9	(9x11) 99
2E (1 month)					
Unrated Grp 2		16***		16	(16x8) 128
3A (60 months)					
3B (36 months)					
3C (24 months)	12		10	22	(22x6) 132
3D (3 months)					
3E (1 month)					
Unrated Grp 3		8		8	(8x6) 48
Total	179	181	31	391	2,900

* Assumed all Group 2C businesses (75) remain 2C or improve, requiring no further interventions during 2023/24.

** Assumed Group 2D businesses (9) become 2C or better (12 monthly or longer) after inspection.

*** Assumed all unrated Group 2 businesses become 2C or better requiring no further interventions during 2023/24.

Strategy until end of March 2024

To complete all programmed inspections, inspecting all Priority 4 businesses and all current unrated businesses by the end of March 2024.

Our experience in 2022/23 was that unrated Category 2 premises became mostly 2Bs and Cs with one 2D. Therefore, we have assumed that all unrated Group 2 businesses will become 2C or better after inspection which would make them next due for inspection in 2024/25 or later. In last year's plan we had anticipated all 2D (3-month frequency) premises to become 2C (12-month frequency) or better after intervention. We had also anticipated 2C premises remaining the same or improving. In reality, some 2C businesses became - and some 2D businesses stayed - 2D or became 2E (1 month frequency). We carried out 18 2D inspections, 1 3D inspection and 3 2E inspections which we had not accounted for in last year's plan. It is possible that a proportion of Group 2 businesses will follow the same pattern this year and require a considerable amount of additional work which cannot be fully accounted for.

Overall - with the movement of businesses up and down the ladder and new businesses - we did 339 food law inspections against a planned total of 274. This has left the service with a number of businesses which were not visited in 22/23 and will therefore be carried over into this year's plan.

We have assumed that all unrated Group 3 businesses will become 3C or better after inspection and risk rating which would make them next due for inspection in Year 2025/26 or later.

This gives a total inspection program of 391 visits. The breakdown is in the table above and requires an estimated FTE officer requirement of 2,900 hours. We also have 2 Approved premises which manufacture meat products. They sit outside the scope of the Food law Rating System – intervention approach is modelled on the Official Control Verification scheme which estimates 20 hours for each business. We have 2 such business due for intervention during 2023/24. The total resource time required for planned interventions is therefore 2,940 hours.

Other Food Law Work

Estimated annual times in hours for additional food law work is detailed below:

Sampling –	
Micro Formal	10 hours
Micro Informal	30 hours
Chemical Formal	10 hours

Chemical Informal	30 hours
Food Complaints	120 hours
Food Incidents	10 hours
Food Alert for Information	5 hours
Food Alerts for Action	10 hours
Infectious disease investigation	50 hours
Complaints against service	10 hours
Food Business registration	120 hours
CPD/Training	120 hours
Management of Food Info Scheme	30 hours
Export Health Certificates	60 hours
Planning/Licensing	60 hours
Total	<u>675 hours</u>

Adding this figure to the interventions total gives a total resource requirement of $2940 + 675 = \underline{3615}$

As this is lower than the calculated FTE of 3,726.8 hours, there is a resource surplus of 111.8 hours or 0.07 FTE. As this is an estimate relying on a number of individual resource requirement estimates the service is confident that the programme can be delivered using resource from within the service as required, notwithstanding the uncertainty of businesses moving to a greater frequency of inspection following a visit.

Inverclyde Council – Audit of Local Authority implementation of Interventions Food Law Code of Practice (Scotland)

Food Law Enforcement Services

August 2022

Final Report issued 04th January 2023



Foreword

Audits of Local Authorities food law enforcement services are part of Food Standards Scotland's arrangements to improve consumer protection and confidence in relation to food and feed. These arrangements recognise that the enforcement of UK food law relating to food safety, hygiene, composition, labelling, imported food and feeding stuffs is largely the responsibility of Local Authorities. These Local Authority regulatory functions are principally delivered through Environmental Health and Trading Standards Services.

The audit scope is detailed in the audit brief and plan issued to all Local Authorities under reference [FSS/ENF/22/011](#) on 22 July 2022. The main aim of the audit scheme is to maintain and improve consumer protection and confidence by ensuring that Local Authorities are providing an effective food law enforcement service. This audit was developed to verify and validate the implementation by Local Authorities of the following planned arrangement: the Interventions – Food Law Code of Practice (Scotland) 2019 (hereafter referred to as the Interventions Code 2019).

The Audit scheme also provides the opportunity to identify and disseminate good practice and provide information to inform Food Standards Scotland policy on food safety, standards and feeding stuffs.

Specifically, this audit aimed to;

- Verify that Local Authorities have implemented the Interventions Code 2019 and fully transferred all applicable food establishments to a food law risk rating.
- Verify Local Authorities' application and adherence to the Interventions Code 2019.
- Identify and disseminate good practice applied by Local Authorities.
- Identify information, evidence and potential recommendations to aid future Food Standards Scotland's policy and operational development.

Food Standards Scotland audits assess Local Authorities' conformance against retained [Regulation \(EU\) 2017/625](#) and the [Food Law Code of Practice \(Scotland\) 2019](#) and the [Interventions Food Law Code of Practice \(Scotland\) 2019](#)

It should be acknowledged that there will be considerable diversity in the way and manner in which Local Authorities may provide their food enforcement services reflecting local needs and priorities.

Following the audit, it is expected that for any recommended points for action the

Local Authority will prepare and implement an action plan, which will incorporate a root cause analysis of any non-compliance.

Root cause analysis is a technique that senior management should use to identify the root causes of non-conformities identified at the audit have been effectively addressed. An important aspect is that there is a need to ensure that the non-conformity does not recur. This should be achieved by the accurate identification of the cause(s) of the non – conformity (i.e. the root cause) and the introduction of effective preventative action.

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1.0 Introduction

- 1.1 The primary objective of this audit was to verify and validate the implementation by Local Authorities of the following planned arrangement: the Interventions – Food Law Code of Practice (Scotland) 2019 (hereafter referred to as the Interventions Code 2019).
- 1.2 The Interventions Code 2019 was issued under Section 40 of the Food Safety Act 1990 (“the Act”), Regulation 24 of the Food Hygiene (Scotland) Regulations 2006 and Regulation 6 of the Official Feed and Food Controls (Scotland) Regulations 2009, which empowers Scottish Ministers to issue Codes of Practice concerning the execution and enforcement of Food Law by Food Authorities.
- 1.3 The Interventions Code 2019 sets out instructions, processes and criteria to which Food Authorities are required to have regard to when they carry out Official Controls relating to all Registered Food Businesses. The Interventions Code 2019 does not apply to establishments at the level of Primary Production or Approval.
- 1.4 Implementation of the Interventions Code 2019 represents Phase 2 of a wider project by Food Standards Scotland to review and overhaul the Food Law Code of Practice (Scotland) 2019.
- 1.5 The Interventions Code 2019 introduced the Food Law Rating System (FLRS). The FLRS combines the rating systems for Food Hygiene and Food Standards into one Food Law Intervention scheme based upon a new Food Business Performance Model that targets resources on high to medium risk and non-compliant businesses. The initial agreed implementation date was 1st July 2019 with ratings to be assigned as Inspection Programmes progressed. Further detail is provided within [FSS-ENF-19-007](#).
- 1.6 During the Covid-19 epidemic Inspection Programmes were halted but as part of the Covid-19: Local Authority Recovery project, four deadlines were set by which Local Authorities were required to undertake specific tasks. Two of these deadlines related specifically to implementation of the Code with a target completion date of 1st July 2021:
1. Desktop Transfer (of Registered Businesses to FLRS)
 2. Creation of an Intervention Programme (as required by the Interventions Code)
- 1.7 The audit aim will primarily cover the following points:

- Verification that official controls are being carried out in compliance with planned arrangements.
 - Verification that planned arrangements are applied effectively.
- 1.8 The final report will be made available on the Food Standards Scotland website at: www.foodstandards.gov.scot/food-safety-standards/regulation-and-enforcement-food-laws-scotland/audit-and-monitoring#la

Reason for the Audit

- 1.9 The provisions for exercising the audit function are provided for in Article 3 of the Food (Scotland) Act 2015. Under that Article, the general functions of Food Standards Scotland include a requirement to monitor the performance of, and promote best practice by, enforcement authorities in enforcing food legislation. Similar powers are also contained within Regulation 7 of the Official Feed and Food Controls (Scotland) Regulations 2007.
- 1.10 Retained Regulation (EU) 2017/625 on official controls performed to ensure the verification of compliance with feed or food law also includes a requirement for competent authorities to carry out internal audits or to have external audits carried out.
- 1.11 To fulfil this requirement Food Standards Scotland, has established external audit arrangements in respect of competent authorities. These arrangements are 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 Regulation (EU) 2017/625.
- 1.12 The previous Audit of Inverclyde Council's Food Service was undertaken by Food Standards Scotland in January 2017. The food related audit prior to that was in 2015.

Scope of the Audit

- 1.13 The audit scope covered:
- Verification that Local Authorities have implemented the Interventions Code 2019
 - The verification of application and adherence to, the Interventions Code 2019
 - An assist in the identification and dissemination of good practice with regards to the Interventions Code 2019

- The provision of information, evidence and potential recommendations to aid future FSS policy and operational development.

- 1.14 The audit examined Inverclyde Council's arrangements for official controls in relation to Retained Regulation (EU) 2017/625, the Interventions Food Law Code of Practice (Scotland) 2019 and the Food Law Code of Practice (Scotland) 2019 on the verification of compliance with feed and food law.
- 1.15 The audit took place on-site over the course of two days.

2.0 Executive Summary

- 2.1 The Authority has an up to date (2022/2023) Service Delivery Plan in place. The Service plan was well documented, adequately resourced and approved, however, certain requirements of the code of practice such as incorporating new Food Businesses and revisits were not documented.
- 2.2 Although it appears that all requirements of new Food Business Registration are followed by the Authority, there was no documented procedure on Food Business Registration. An up to date list of registered food establishments within the Local Authority area is available upon request.
- 2.3 All applicable food establishments within the Local Authority area are now receiving a food law intervention as per the Interventions Code 2019. The Authority has followed the Local Authority Recovery Programme post pandemic and is currently inspecting businesses in Priorities 3 & 4 of the programme.
- 2.4 No specific timescales for corrective actions were being highlighted in inspection reports. At the conclusion of every Intervention, an Authorised Officer should document and discuss any contravention of Food Law with the Food Business Operator (FBO) highlighting the timescale for corrective action.
- 2.5 Revisits were not carried out for a small number of interventions reviewed. It is recommended that revisits are carried out where required and in line with the Code of Practice.
- 2.6 The Authority has an internal quality monitoring system in place, however, this work ceased during the pandemic and has not been reinstated in full.
- 2.7 Verification checks were carried out professionally and in accordance with the Interventions Code 2019 and Food Law Code of Practice (Scotland) 2019.

Level of Assurance

2.8 As detailed in the Audit Charter Document of March 2020 (reference FSS/ENF/18/001) the audit has been assigned as below:

Reasonable Assurance Controls are adequate but require improvement	Some improvements are required to enhance the adequacy and effectiveness of procedures. There are weaknesses in the risk, governance and/or control procedures in place but not of a significant nature.
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3.0 Audit Findings

3.1 The findings reported below detail both corrective and preventive actions which are not confined to addressing specific technical requirements, but also include system-wide measures. Conclusions address the compliance with the planned arrangements, the effectiveness of their implementation and the suitability of the planned arrangements to achieve the stated objectives as appropriate.

3.2 Section 2. Registration of Food Business Establishments

Section	Audit Findings – Food Business Registration
2	<p>An online Food Business Registration service is available on the Local Authority’s website. This briefly highlights the legal requirement of registration and provides the department’s contact details if further information or assistance with the process is required by Food Business Operators.</p> <p>The Food Business Registration form provided covers all the requirements of registration as outlined in the Code of Practice.</p> <p>An up to date list of registered food establishments within the Local Authority area is available upon request and the Authority has data analyst support within the department who can easily run this list along with other Management Information System (MIS) reports.</p>
2	<p>Although it appears that all requirements of new Food Business Registration are followed by the Authority, it was acknowledged that there was not a dedicated procedure on Food Business Registration at the time of the audit. It is recommended that a procedure is put in place documenting the Registration process and detailing the requirements set out in Section 2 of the Interventions Code. (See Recommendation 1).</p>

Recommendation

1. Provide a Food Business Registration Procedure.

3.3 Section 3. Interventions

Sub section	Audit Findings – Service Planning, Interventions Programme
3.1.5	The Authority provided a current 2022/2023 Service Delivery Plan which was determined by the Authority as adequately resourced and approved by the Environment, Regeneration & Resources Committee in August 2022.
3.8.2	The Service Plan did not contain details of new Food Business establishments and how these are to be included in the intervention programme. As per the Interventions Code 2019, the Authority's Service Plan must contain details on how new Food Business establishments are to be included in the Authority's planned Intervention Programme. (See Recommendation 2).
3.1.6	The Service Plan included a detailed intervention programme outlining the Food Business establishment profile and the number of interventions programmed for the current year. However, it did not include an estimation of the number of revisits that will be made. It is recommended that this figure be estimated and included in the intervention programme. (See Recommendation 3).
3.11	The Authority has documented its out of hours requirements in its service plan. The normal working hours are 8am – 6pm Monday – Friday, however, staff carry out a number of enforcement visits out of hours and at weekends.
3.3	Inspections are carried out without prior warning and this requirement is documented in the Authority's food law inspection policy. If an appointment is made, the date and/or timing of the inspection shall be arranged for the optimum time to allow specific processes or operations to be viewed in line with the purposes of the inspection, or for personnel to be in attendance with time available for the inspection process and discussions.
3	The Authority has a comprehensive Food Law Inspection Policy which details the requirements and responsibilities involved in delivering programmed food law inspections in accordance with the Food Law Code of Practice (Scotland) 2019 and the Interventions Code 2019.
3.7	Two unannounced verification checks were carried out during the audit. The first was a revisit to a retail corner shop with an onsite deli style kitchen, serving breakfast rolls and prepacked sandwiches. The officer had carried out a programmed inspection earlier in the month and a

	<p>number of food law contraventions were followed up with. The officer demonstrated a good knowledge of the legislative requirements and specifically issues relating to allergens and new legislative requirements for prepacked for direct sale products.</p> <p>The second verification check was also a revisit. This visit was chosen as there were food standards issues noted on the last programmed inspection that required a follow up. Upon arriving at the establishment, there had been a change in management since the last inspection. The officer conducted the visit appropriately and professionally, addressing all previous food law matters and dealing with issues arising during the visit.</p>
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Recommendation
2. Ensure the Service Plan details how new food businesses will be incorporated into the Intervention Programme.
3. Include an estimation of the number of revisits that will be made in the Intervention Programme.

3.4 Section 4. Food Law Rating System

Sub Section	Audit Findings
3.7.1	All food establishments (<i>with the exception of Approved establishments and primary producers</i>) are now receiving a full food law intervention as per the Interventions Code 2019. The desktop transfer was completed as part of the Local Authority Recovery Programme. Priorities 1 & 2 of the Recovery Programme have been achieved and the Authority is currently working in Priorities 3 & 4.
3.7.1 & 4	<p>Ten food business establishments were selected for review during the audit. The last intervention for each of the ten premises was assessed by means of its accompanying documentation and computer record. For all ten establishments, the last inspection form, letter and risk rating was assessed for compliance against the standard of the Interventions Code of Practice 2019.</p> <p>All seven compliance categories as outlined in the Interventions Code compliance matrix were found to be assessed and a food law risk rating allocated correctly.</p>
3.7.3 & 4.1	An appropriate and detailed food law intervention form is used by officers to gather and record information on the inspection. The form is completed online and is coded with standard phraseology with the option to also insert an officer's own wording. Of the inspection forms assessed, detailed notes were recorded along with the scope of the inspection, and

	<p>demonstrations were made of both compliance and non-compliance with food law.</p> <p>It was, however, noted on review, that the inspection form does not identify the risk rating given after the intervention. For the purposes of quality management, it is recommended that the risk rating is recorded on the inspection form and clearly illustrates how the score is being derived from the evidence gathered and documented on the inspection form.</p> <p>As per the Authority's inspection form, there is a requirement to review two high risk allergen meals / new menu items for compliance against food standard allergen information. This was noted by the auditors as a good practice, however, for five inspections reviewed, the inspections forms showed that this was not being completed. We recommend that this assessment is made during all food law inspections and recorded appropriately on the inspection form.</p>
2.3.1	The Authority does not implement an alternative enforcement strategy for Group 3 Band A rated establishments. All registered food establishments within Inverclyde Council receive an intervention in accordance to its risk rating frequency.

Recommendation

There were no recommendations for this section.

3.5 Section 5. Action Following an Intervention: Minimum Standards of report writing and record keeping

Sub Section	Audit Findings
6.1	The outcome of every programmed inspection assessed was reported in writing to the FBO by means of a letter following the inspection. These were all reported in a timely manner and documented the contraventions found and also included recommendations of good practice.
4.1.10 & 14.6.2 Food Law Code of Practice	It was found during the intervention documentation review that specific timescales for corrective actions were not being provided. For nine of the ten inspections reviewed, there was no specific timescale for corrective actions provided for the contraventions highlighted. The Authority instead provide a standard paragraph at the end of the schedules which states that the requirements should be addressed by the time of the next inspection and where compliance with legislation has been found to be poor, a revisit may be carried out. For some more serious contraventions for example cross contamination, there was no prioritisation given for the businesses as to which contraventions needed to be addressed

	immediately or within a dedicated timescale. At the conclusion of every Intervention, the Authorised Officer should document and discuss any contravention of Food Law with the FBO highlighting the timescale for corrective action. (See Recommendation 4).
4.1.10 & 28.4 (Food Law Code of Practice)	Of the interventions reports reviewed, four interventions were awarded an Improvement Required rating under the Food Hygiene Information Scheme (FHIS) and did not have a planned revisit scheduled or carried out. Where a business is allocated an FHIS Improvement Required rating, it states that major contraventions or reoccurring contraventions from previous inspections affecting consumer safety have been found. This would indicate that there are contraventions that need to be addressed either urgently or within a timely manner. It is the auditors' recommendation that the Authority's policy is updated to reflect the requirements of the code and Food businesses that fail to comply with significant or serious statutory requirements must be subject to appropriate enforcement action and revisit inspection. (See Recommendation 5).
6.1.2	It was found during the review, that inspection letter headings reference food hygiene legislation. Inspection letters should be reviewed to include referenced headings to food law legislation. (See Recommendation 6).

Recommendation

4. A timescale for corrective action should be highlighted to the Food Business Operator for Food Law contraventions.

5. Revisits should be carried out where there is failure to comply with significant and serious statutory requirements or a number of requirements that taken together indicate ineffective management.

6. The inspection letter requires a review and update to include references to Food Law.

3.6 Section 6. Internal Monitoring

Section	Audit Findings
39 Food Law Code of Practice	The Authority's service plan states that there is a system for monitoring the quality of Food Hygiene inspections. However, this has not being carried out since food law interventions restarted post pandemic. To ensure that officers are scoring consistently and for areas mentioned above, such as timescales and that revisits are carried out, the auditors recommend that quality checks and internal monitoring checks are reinstated to ensure consistency across the service and to ensure that any issues are identified and corrected where required. (See Recommendation 7).

Recommendation	
7. Re-establish the internal monitoring system.	

3.7 Section 7. Items to take back to FSS

Section	Audit Findings
	No items raised in this section.

4.0 Annex A – Action Plan

Action Plan for Inverclyde Council’s Audit of Local Authority Implementation of Interventions Food Law Code of Practice (Scotland).

Inverclyde Council Recommended Point for Action	Planned Actions	Target Date for Completion	Responsible Officer(s)
1. Provide a Food Business Registration Procedure.	Draft procedure has been completed.	Completed on 25 th Oct 2022 <i>Audit Assurance: Recommendation Closed. Satisfactory evidence has been provided to demonstrate this recommendation has been completed.</i>	Team Leader Health Protection
2. Ensure the Service Plan details how new food businesses will be incorporated into the Intervention Programme.	Will include a paragraph in the Service Plan for next year as to how new food businesses are incorporated in the Intervention programme.	Next year’s plan – end of March 2023	Environmental Health Officer
3. Include an estimation of the number of revisits that	Will use this year’s revisit number as a guide to project into next year’s plan. However, this	Next year’s plan – end of March 2023	Environmental Health Officer

Inverclyde Council Recommended Point for Action	Planned Actions	Target Date for Completion	Responsible Officer(s)
will be made in the Intervention Programme.	may have to be adjusted as this year's inspections include many historically poor premises (e.g., takeaways) which hadn't been inspected since pre-COVID which may give an unrepresentative figure for revisits. Will assess at year end.		
4. A timescale for corrective action should be highlighted to the Food Business Operator for Food Law contraventions.	<p>The Food Law Code of Practice (14.6.2) says significant and serious contraventions should have a definitive timescale. The Interventions Code (4.1.10) doesn't mention serious and significant contraventions or definitive timescales. Could you clarify which Code takes precedence for this requirement? We will look at a proposed timescale for those contraventions we consider to be significant and serious and add these to our standard paragraphs. This will require discussion on which contraventions are serious and significant and then manually editing the relevant standard paragraphs. Given the resource implications we have set a target date of 31 March 2023. We propose to retain the general paragraph for other contraventions which do not fall into the category of significant and serious.</p> <p>On the 22nd November 2022, a further meeting with FSS/Inverclyde was held to discuss this point. It was agreed to include a timescale for corrective actions for all</p>	End of March 2023	Environmental Health Officer

Inverclyde Council Recommended Point for Action	Planned Actions	Target Date for Completion	Responsible Officer(s)
	contraventions of food law in accordance with the Interventions Code 4.1.10.		
5. Revisits should be carried out where there is failure to comply with significant and serious statutory requirements or a number of requirements that taken together indicate ineffective management.	We feel officer discretion and judgement is paramount in deciding when a revisit is required. However, as part of ongoing internal monitoring, a check will be made of FLRS scores. Any rating which includes a score higher than 3 will be checked for a revisit and, if no revisit done, this will be discussed with the relevant officer. Both Enforcement Policy and Inspection Policy have been updated to reflect this.	End of October 2022	Environmental Health Officer
6. The inspection letter requires a review and update to include references to Food Law.	Will ensure that Food Information Regulations (FIR) are in the headings.	End of November 2022	Environmental Health Officer
7. Re-establish the internal monitoring system.	1 st file check has been carried out & will continue to be carried out monthly.	End of October 2022 <i>Audit Assurance: Recommendation Closed. Satisfactory evidence has been provided to demonstrate this recommendation has been implemented.</i>	Environmental Health Officer

5.0 Acknowledgements

The Audit Assurance Team would like to acknowledge the help and co-operation of all staff involved for their assistance while conducting this audit.

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Food Standards Scotland
Audit Assurance Branch

04 January 2023

Abbreviations

EU	European Union
FBO	Food Business Operator
FHIS	Food Hygiene Information Scheme
FIR	Food Information Regulations
FLRS	Food Law Rating System
FSS	Food Standards Scotland
MIS	Management Information System