

# Report to Community Overview and Scrutiny Panel FOR INFORMATION ONLY

Agenda  
Item:

Meeting Date: Thursday 11th June 2015  
Portfolio: Environment and Transport  
Key Decision: Yes: Recorded in the Notice Ref:KD  
Within Policy and  
Budget Framework YES  
Public / Private Public

Title: FOOD LAW ENFORCEMENT SERVICE PLAN  
Report of: The Director of Local Environment  
Report Number: LE16/15

## Purpose / Summary:

The Food Law Enforcement Plan sets out how the Environmental Health Service will deploy its resources in 2015 to 2016 to improve hygiene standards, prevent food borne diseases and help people live healthier lives. It seeks to target intervention to tackle local issues whilst ensuring Carlisle City Council achieves its national statutory responsibilities.

## Recommendations:

That the Community Overview & Scrutiny Panel note the contents of this report.

## Tracking

Executive:	01/06 15 & 29/06/15
Overview and Scrutiny:	11/06/15
Council:	14/07/15

# Report to Executive

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Item:

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Title: FOOD LAW ENFORCEMENT SERVICE PLAN  
Report of: The Director of Local Environment  
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## Purpose / Summary:

The Food Law Enforcement Plan sets out how the Environmental Health Service will deploy its resources in 2015 to 2016 to improve hygiene standards, prevent food borne diseases and help people live healthier lives. It seeks to target intervention to tackle local issues whilst ensuring Carlisle City Council achieves its national statutory responsibilities.

## Recommendations:

That the Executive:

- i. Agree the key actions of the Food Law Enforcement Plan and Food Enforcement Plan
- ii. Refer the said plans to Council for approval in accordance with the Council's Budget and Policy Framework.

## Tracking

Executive:	1 <sup>st</sup> June 2015 & 29 <sup>th</sup> June 2015
Overview and Scrutiny:	11 <sup>th</sup> June 2015
Council:	14 <sup>th</sup> July 2015

## **1. BACKGROUND**

- 1.1 Standards of hygiene when eating out was the main concern for members of the public who took part in the 2013 Food Standards Agency's (FSA) Biannual Public Attitudes Tracker Survey. Other concerns from the survey include additives in food, food poisoning, the increasing prices of food and the amount of food waste. The City Council through its Environmental Health Service plays a significant role in protecting the public by its food inspections and infectious disease investigations.
- 1.2 The Food Standards Agency (FSA) Food Law Code of Practice in England provides statutory guidance to the City Council in its role as a "Food Authority" on how we should be carrying out our interventions and official controls. On 7<sup>th</sup> April 2015 the FSA published a revised copy of the code which introduced a new competency framework for authorised food officers. The Lead Officer for food will need consider the relevant competencies needed for the roles of all authorised food officers. Local Authorities will need to implement these competency requirements by 1 April 2016 and this has been included in the Food Law Enforcement Service Plan for 2015-2016.
- 1.3 The Food Law Enforcement Policy sets out how the Environmental Health Service will protect food safety in Carlisle during 2015 to 2016. The Food Law Enforcement Policy seeks to direct resources into achieving the priority outcomes for regulatory services as detailed in the Better Regulation Delivery Office document "Priority Regulatory Outcomes – A New Approach to Refreshing the National Enforcement Priorities for Local Authority Regulatory Services" (November 2011).
- 1.4 Executive will recall that on 1<sup>st</sup> July 2013 the Food Law Enforcement Policy was approved by Executive before being referred to Full Council. The Food Law Enforcement Policy (Appendix 2) outlines the decision process the Environmental Health Officers will go through when breaches of Food Safety Legislation are found. The Food Law Enforcement Policy is written with regard to the Food Standard Agency's Framework Agreement with local authorities and the Enforcement Concordant and the Regulators Code. Following the introduction of the new Regulators Code (2014) and the revised Food Law Code of Practice (England) 2015, the Enforcement Policy has been reviewed and amended. The amendments made relate to a change in definitions and no changes have been necessary to the enforcement policy decision making criteria.
- 1.5 In improving food standards the Environmental Health Service is contributing to ensuring a safe, healthy and sustainable food chain for the benefit of consumers. Service plans are an important part of the process to ensure that national priorities and standards are addressed and delivered locally. Service plans help local authorities to:
  - follow the principles of good regulation;

- focus on key delivery issues and outcomes;
- provide an essential link with corporate and financial planning;
- set objectives for the future, and identify major issues that cross service boundaries;
- provide a means of managing performance and making performance comparisons;
- Provide information on an authority's service delivery to stakeholders, including businesses and consumers.

- 1.6 The Food Standards Agency's (FSA) Food Law Codes of Practice (2015) details national food policy but allows local authorities flexibility over how to deliver the national food controls. The Plan sets out how and at what level official food controls will be provided, in accordance with the Codes of Practice. The "Framework Agreement on Official Feed and Food Controls by Local Authorities" (2010) sets out what the Food Standard Agency expects from Carlisle City Council in delivering official controls on feed and food law.
- 1.7 In 2012 the Food Standard's Agency carried out a review on the delivery of "Official Controls for Food Safety." The FSA have concluded that although under pressure the Local Authorities are able to deliver a food safety service. The FSA Board confirmed the strategic importance of the delivery of official controls and the relationship between the FSA and local authorities.
- 1.8 To help to ensure local transparency and accountability, and to show the Service's contribution to the authority's Carlisle Plan, the Framework Agreement recommends that food service plans are approved at the relevant level established for that local authority. The Food Law Enforcement Service Plan is in Carlisle City Council's Policy Framework in Article 4 of the Constitution.
- 1.9 The Plan covers the period 1st April 2015 to the 31st March 2016 and includes targeted educational and promotional work under taken by the section along with the required food premise inspections.

## **2. PROPOSALS**

### **2.1** That the Executive:

- iii. Agree the key actions of the Food Law Enforcement Service Plan and approve the reviewed Food Law Enforcement Policy
- iv. Refer the said plan to Council for approval in accordance with the Council's Budget and Policy Framework.

## **3. CONSULTATION**

**3.1** Consultation to Date. - The Plan has been drafted in consultation with officers in the Environmental Health Service.

**3.2** Consultation proposed. - The Plan is to be considered by the Community Overview and Scrutiny Committee on the 11<sup>th</sup> June 2015.

## **4. CONCLUSION AND REASONS FOR RECOMMENDATIONS**

**4.1** The recommended key actions have been identified following consultation and reflect the resources available to the Environmental Health Service in the financial year 2015 to 2016.

## **5. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES**

- 5.1** **Priority 1:** Fostering more, high quality and sustainable business and employment opportunities, through growing existing enterprises and bring new ones in.
- A key requirement of the regulators code is to use the regulators unique contact with local businesses as a means of ensuring growth as well as compliance. Through its Service Plan and Enforcement Policy the Environmental Health Service provides free and impartial advice to business on both legal and technical matters relevant to their trade.
  - Hygiene compliance standards and inspections by the City Council's Environmental Health Service are essential for those food companies looking to export overseas.

### **Priority 3: Working more effectively through partnerships**

- In delivering its food safety responsibilities the Environmental Health Service operates within guidelines and national agreements with partner organisations including: the Food Standards Agency; the Department for Environment and Rural Affairs (Defra); and Public Health England.
- The Food Safety Team work in partnership in delivering projects with organisations such as: Cumbria County Council Trading Standards, Cumbria Food Group (made up of all 6 Cumbrian Local Authorities), Public Health England Laboratory (Preston), Public Health England Health Protection Team and the Food Standards Agency.

### **Priority 5: Making Carlisle Clean and tidy together**

- Working alongside other teams within Local Environment, the Food Safety Team tackles the safe storage of waste. The Food Safety team ensures commercial food waste is stored and disposed of correctly.

**Contact Officer: Angela Culleton**

**Ext: Ex 7325**

**Appendices attached to report: Appendix 1 – Food Law Enforcement Service Plan 2015 to 2016  
Appendix 2 – Food Safety Enforcement Policy**

**Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:**

- None

### **CORPORATE IMPLICATIONS/RISKS:**

**Chief Executive's -**

**Deputy Chief Executive –**

**Economic Development –**

**Governance** – The Council has a Food Law Enforcement Service Plan in accordance with the Food Standard Agency's Framework Agreement which applies to local enforcement of

all feed and food laws, and incorporates the latest guidance and standards on feed and food law enforcement. As stated in the report, the Food Law Enforcement Service Plan forms part of the Council's revised Policy Framework and, as such, requires consideration by the relevant Overview & Scrutiny Panel before being referred for approval to Council by the Executive.

#### **Local Environment –**

**Resources** – The costs of implementing and monitoring this Food Law Enforcement Service Plan can be met from within existing base budgets under the control of the Local Environment Directorate in 2015/16.

## **FOOD LAW ENFORCEMENT SERVICE PLAN 2015 - 2016**

**Carlisle City Council**

Environmental Health Service

**Local Environment**



## **1. Introduction**

This Service Plan sets out how Carlisle City Council intends to provide an effective food safety service that meets the requirements of the Food Standards (FSA) Framework Agreement. It covers the functions carried out by authorised officers of the Food and Safety Team under the provisions of the Food Safety Act 1990, the Food Safety and Hygiene (England) Regulations 2013 and relevant regulations made under the European Communities Act 1992.

## **2. Service aims and objectives**

To ensure that all food and drink intended for sale for human consumption that is produced, stored, distributed, handled or consumed in Carlisle City is safe, hygienic and compliant with food hygiene and standards legislation and that all food premises and food handlers comply with the Food Hygiene Regulations. This will be achieved through:

- Programmed inspections
- Targeted interventions
- Investigation of complaints
- Investigation and control of infectious diseases
- Sampling initiatives
- Training
- Advisory visits
- Promotional events
- Fully qualified and competent Food Officers

### **2.1 Links to Corporate Priorities and Plans**

The Food Law Enforcement Service Plan supports and contributes to the Carlisle Plan and the Environmental Health Service Plan. The service provides a range of mandatory and discretionary activities that protect the health and well being of the citizens of Carlisle. This Service links directly to some of the key priority actions of the Carlisle Plan:

**Priority 1:** Fostering more, high quality and sustainable business and employment opportunities, through growing existing enterprises and bring new ones in.

- The Food Safety Service provides free and impartial advice on both legal and technical matters relevant to the trade. A key requirement of the regulators code is to use the regulators unique contact with local businesses as a means of ensuring growth as well as compliance.

**Priority 3:** Working more effectively through partnerships

- We operate within guidelines and national agreements with partner organisations which include: The Food Standards Agency; Public Health England and the Department for Environment and Rural Affairs (Defra).

- We work in partnership in delivering projects with organisations such as: Cumbria County Council Trading Standards, Cumbria Food Group (made up of all 6 Cumbrian Local Authorities), PHE Laboratory Preston, PHE Health Protection Team, Food Standards Agency.

**Priority 5:** Making Carlisle Clean and tidy together

- Working alongside other teams within Local Environment, the Food and Safety Team ensure domestic and commercial waste is not a public health concern

## **2.2 Links to Other Strategies**

The Service seeks to achieve the priority outcomes for regulatory services as detailed in the Better Regulation Delivery Office document “Priority Regulatory Outcomes – A New Approach to Refreshing the National Enforcement Priorities for Local Authority Regulatory Services” (November 2011). Regulators must take into account and give due weight to the priority outcomes when developing policies and operational procedures, setting standards or giving guidance on enforcement.

- Regulatory Priority Outcomes:**
1. Support economic growth, especially in small businesses, by ensuring a fair, responsible and competitive trading environment. **(Direct Link to the Carlisle Plan)**
  2. Improve quality of life and well being by ensuring clean and safe neighbourhoods **(Direct Link to the Carlisle Plan)**
  3. Help people live healthier lives by preventing ill health and harm and promoting public health.
  4. Ensure a safe, healthy and sustainable food chain for the benefit of consumers and the rural economy

The “**Regulators’ Code 2014**” made under section 23 of the Legislative and Regulatory Reform Act 2006, applies to all the activities delivered by the Environmental Health Service. The code requires the Environmental Health Service, along with its principal function of protecting public health, to engage with and support business growth.

All interventions with businesses and members of the community are carried out with regard to the local authority’s commitment to equality of opportunity for local people as stated in the Equal Opportunities Policy.

## **3 Background**

### **3.1 Organisational structure**

The structure of Food and Safety Team can be seen in page 12. The Principal Environmental Health Officer (Food and Safety) is responsible for the day to day supervision of the team and has a lead responsibility for the food hygiene function. The Food and Safety Team also perform other regulatory duties, including Health and Safety, Public Health and nuisance complaints.

### **3.2 Scope of the service**

The Food and Safety Team is responsible for the enforcement of the Food Safety and Hygiene (England) Regulations 2013 and the food hygiene legislation made thereunder.

Carlisle City Council carries out all functions relating to food safety matters, including the following:

- Carrying out interventions e.g. inspections, audits, sampling at food establishments
- Providing advice to food business operators including help on implementing the Food Standards Agency's Safer Food, Better Business food safety management system
- Providing advice to food business operators including help on implementing the most appropriate food safety management system to the business
- Operating inland imported food control at retail and catering establishments etc.
- Registration and approval of food establishments
- Identifying and assessing premises that require approval of specific food products and ensuring that they are issued with conditional and full approval as necessary
- Undertaking food sampling
- Issuing export certificates
- Investigation of complaints concerning food establishments and food handling practices
- Investigation of cases of suspected and confirmed food poisoning
- Providing food hygiene training to Operating a food safety education programme, including the CIEH level 2 Award in Food Safety.
- Liaison with the local authority's procurement team when selecting new food contracts

### **3.3 Demands on the food enforcement service**

The City Council's food safety service is delivered from the 5<sup>th</sup> Floor of the Civic Centre, RickerGate, Carlisle Tel 01228 817559  
Email: [environmentalhealth@carlisle.gov.uk](mailto:environmentalhealth@carlisle.gov.uk).

As of 1<sup>st</sup> April 2015 a total of 1173 food premises are subject to programmed food hygiene interventions as per the table below:

Type of Premises	Number
Distributors/Transporters (F)	16
Manufacturers (C)	20
Producers (A)	15
Retailers (G)	245
Restaurants and other caterers (H)	853
Manufacturer selling by retail (J)	24
<b>Total</b>	<b>1173</b>

The City Council also has 6 “approved” processes subject to Regulation 853/2004.

Ref no	Name	Product	App Number
20131	Nestle	Dairy - Milk powder/cream	VK302
20314	Esk	Dairy - Milk/cream	VK010
20052	Cavaghan and & Gray	Meat / Fish Products	VK001 & VK011
50021	Bells Fishmongers	Fish	VK007
20101	Calder Foods	Meat Products	VK004
20041	Pioneer Food	Meat Products	VK005

All food premises are rated according to their level of risk, as defined by the Food Standards Agency Code of Practice. The risk rating determines the frequency and nature of the interventions that are classed as official controls. The table below provides a summary of the food business risk profile:

Category	Intervention Type	Frequency	Number of premises
A	Full & Partial Inspection / Audit	6 months	2
B	Full & Partial Inspection / Audit	12 months	46
C	Full & Partial Inspection / Audit / Other Official control - Broadly compliant premises	18 months	205
D	Inspection / Audit / Other Official Control (e.g. surveillance, verification, sampling)	24 months	415
E	Inspection / alternative enforcement strategy	36 months	418
UNRATED	Awaiting inspection		44
OUTSIDE	Outside inspection programme		43

Officers will aim to inspect new food premises within 28 days of being notified to the City Council. Each business will be rated in accordance with the Food Law Code of Practice and incorporated into the inspection programme. Officers will decide if a revisit is necessary following an inspection and the Civica database will be used to programme the revisit date. The food sampling programme is an intervention that supports the official controls undertaken by officers.

The Food and Safety Team is also required to meet additional demands arising from local activities, such as inspecting the visiting continental markets and other seasonal festivals.

Officers are required to undertake inspections/interventions outside normal working hours, for example where food businesses operate only at night or at weekends to attend markets and festivals.

The City Council has procedures in place to share its food premises database with the County Council's Trading Standards Department who have responsibility for Food Standards within the District.

In addition to businesses that form part of the programme, the local authority annually inspected approximately 35 new food businesses.

In 2014 -15 the local authority dealt with a range of incidents and enquiries. These are set out in the following table.

Type of Incident / Action	Number
Premises hygiene complaints / Food Complaints	116
FSA Food Alerts (inc Product Recall)	37
FSA Food alerts for action by LA	3
FSA Allergy Alerts	48
Training requests	1
Requests for food advice	72
Infectious disease cases	188
Food and environmental food sampling	121

Summary of non-programmed food hygiene related visits made 2014/15

Type of visit:	Number
Food Hygiene Complaint Visits	77
Food Hygiene Revisits following inspection	59
Food Hygiene Rating Scheme (FHRS) Re-score Visits	6
Food Sampling Visits	75
Food Advisory Visits	72
Food Hygiene Other Visits	25
Total	314

## **4 Service Delivery**

### **4.1 Food interventions**

In the financial year 2015-2016, inspections/interventions are due to be carried out at 712 premises. The target for each category is detailed on page 14.

Risk Category	No of premises
A	2
B	46
C	148
D	243
E	229
Unrated	44
TOTAL	712

These numbers will alter throughout the year as new businesses open and existing businesses close.

Priority will always be given to high risk food businesses and any national or local situations which require urgent attention for example Food Standards Agency food alerts or food poisoning outbreaks.

Category E premises that received a visit at the last intervention date will be contacted by Alternative Enforcement Questionnaire. Those who fail to respond to the questionnaire will be contacted by the department and may ultimately receive an inspection.

Revisits following an inspection will be undertaken by officers when deemed necessary or in response to a requested revisit or appeal under the Food Hygiene Rating Scheme (FHRS). A total of 65 revisits were undertaken in 2014/15 of which 6 were requested revisits under the FHRS.

During the course of delivering the food safety service, officers may need to resort to formal action in some circumstances. During 2014/15 officers issued 155 written warnings for food hygiene contraventions, 5 Hygiene Improvement Notices and requested 2 food businesses to close voluntarily.

### **4.2 Enforcement policy**

The Environmental Health Department adopt the principles laid down in the Enforcement Concordat, which states that enforcement must be fair, consistent and equitable. The local authority's Food Safety Enforcement Policy outlines the enforcement options available for dealing with problems relating to non-compliance with the legislation. The Policy has been written having regard to Government's Regulators Code and can be found on the website: [http://www.carlisle.gov.uk/downloads/env\\_heal\\_food\\_enforcement\\_policy.pdf](http://www.carlisle.gov.uk/downloads/env_heal_food_enforcement_policy.pdf)

### **4.3 Food complaints**

The investigation of customer's complaints regarding food safety is an important area of work for the team. The local authority has a response target of 5 days for such complaints, however more serious complaints/allegations will be visited on the day of receipt where possible. In 2014/15 the local authority dealt with 116 food hygiene related complaints.

### **4.4 Primary and home authority principle**

The Home Authority Principle was developed by food and trading standards authorities to aid consistent enforcement. The scheme provides businesses with a home authority source of guidance and advice and provides a system for the resolution of disputes.

Alternatively, businesses can form a 'Primary Authority' statutory partnership with a local authority to assist with consistent enforcement. The guidance and advice the local authority provides will be taken into consideration by officers carrying out inspections and dealing with instances of non-compliance.

Carlisle City Council fully endorses the Home authority and Primary Authority principle but has yet not received any requests for business support in this area.

### **4.5 Advice to business**

The Food and Safety Team provide advice and support for all food businesses on request. Information is available on the local authority website, [http://www.carlisle.gov.uk/environment\\_and\\_waste/environmental\\_health/food\\_infectious\\_diseases.aspx](http://www.carlisle.gov.uk/environment_and_waste/environmental_health/food_infectious_diseases.aspx). Information leaflets are also available from the Civic Centre Offices. Officers are available to visit businesses to advise on any aspect of food safety and hygiene. Advice is also given during the planning and building control processes. Coaching in Safer Food Better Business is an integral part of the business support package.

### **4.6 Food inspection and sampling**

A food sampling programme is produced every year which outlines the local authority's sampling strategy and approach to specific local and national demands.

The Cumbria Sampling Group co-ordinate the sampling programme for Carlisle, Allerdale, Copeland and Eden. The plan is developed by the group to incorporate priorities identified by Public Health England and the Food Standards Agency.

Microbiological examinations are undertaken by Public Health England, Food, Water and Environmental Microbiology Laboratory, Preston, Royal Preston Hospital, Sharoe Green Lane, Preston PR2 9HT.

In 2014/15 the Food and Safety Team took 122 food samples, 103 of which were reported as satisfactory, 12 unsatisfactory and 7 borderline. Visits are made to those

premises to identify reasons why the food samples will have been unsatisfactory or borderline and repeat sampling is undertaken.

When necessary, food complaint samples are sent to the Public Analyst at Lancashire County Scientific Services, Pedders Way, Ashton-on-Ribble, Preston PR2 2TX for food analysis. The analysis includes testing for food composition and contamination. No samples were submitted for analysis for the period 2014/15.

#### **4.7 Control and investigation of outbreaks and food-related infectious disease**

The Food and Safety Team will investigate food-related infectious disease notifications in accordance with procedures agreed with Public Health England. The response to notifications of illness will be dependant on the severity of illness ranging from immediate response in the case of serious infections e.g. E.coli 0157 & typhoid; to postal questionnaires for cases of campylobacter.

Investigation of outbreaks will be in accordance with the Outbreak Control Plan agreed with the Public Health England.

The table below summarises the number of cases notified to Carlisle City Council in 2014/15.

<b>Disease</b>	<b>Number</b>
Campylobacter	125
Salmonella	8
Norovirus	13*
Hepatitis A	0
Shigella Dysentery	1
E. coli 0157	1
Cryptosporidium	21
Giardia lamblia	7
Giardia duodenalis	8
Other viral	1

\*number of outbreaks e.g. residential homes

There were no confirmed food poisoning outbreaks during 2014/15; however officers of the Food & Safety Team investigated a number of norovirus outbreaks associated with residential care settings.

#### **4.8 Food safety incidents**

Food alerts are issued by the Food Standards Agency to relate information on national food issues to local authorities, the majority being for information only. Food alerts for action require officers to undertake a wide variety of courses of action dependent upon the issue at hand. In 2014/15 a total of 37 Food Alerts were received by the authority, of which 3 required action by the Food & Safety Team.



## **4.9 Liaison with other organisations**

Environmental Health involves a number of stakeholders in the supply and operation of its food hygiene services including:

- Public Health England
- The County Council's Public Health and Trading Standards Departments
- Cumbria Food Liaison Group
- Cumbria Health Protection Liaison Group
- Care Quality Commission
- Cumbria Chamber of Commerce and the Carlisle and Penrith Federation of Small Business
- Food Standards Agency
- Better Regulation Delivery Office
- Carlisle Food City Steering Group

## **4.10 Food safety and promotions**

Carlisle City Council participates in the Food Standards Agency National Food Hygiene Ratings Scheme. The scheme is designed to provide information about business hygiene standards to members of the public but is also a useful tool to drive up performance standards of food businesses. Other promotional initiatives used included:

- Local Healthy Options Award – launched January 2015
- Safer Food Better Business workshops
- Food Safety Week
- Attendance at local events
- Food Hygiene Training

## **5.0 Resources**

### **5.1 Staffing resource**

A structure chart is available on page 12. The number of full time equivalent (FTE) officers estimated to be deployed solely on food safety is set out in the following table:

<b>Officer Post</b>	<b>FTE</b>
Environmental Health Manager	0.2
Principal EHO	0.7
Environmental Health Officer	3.0

### **5.2 Officer development**

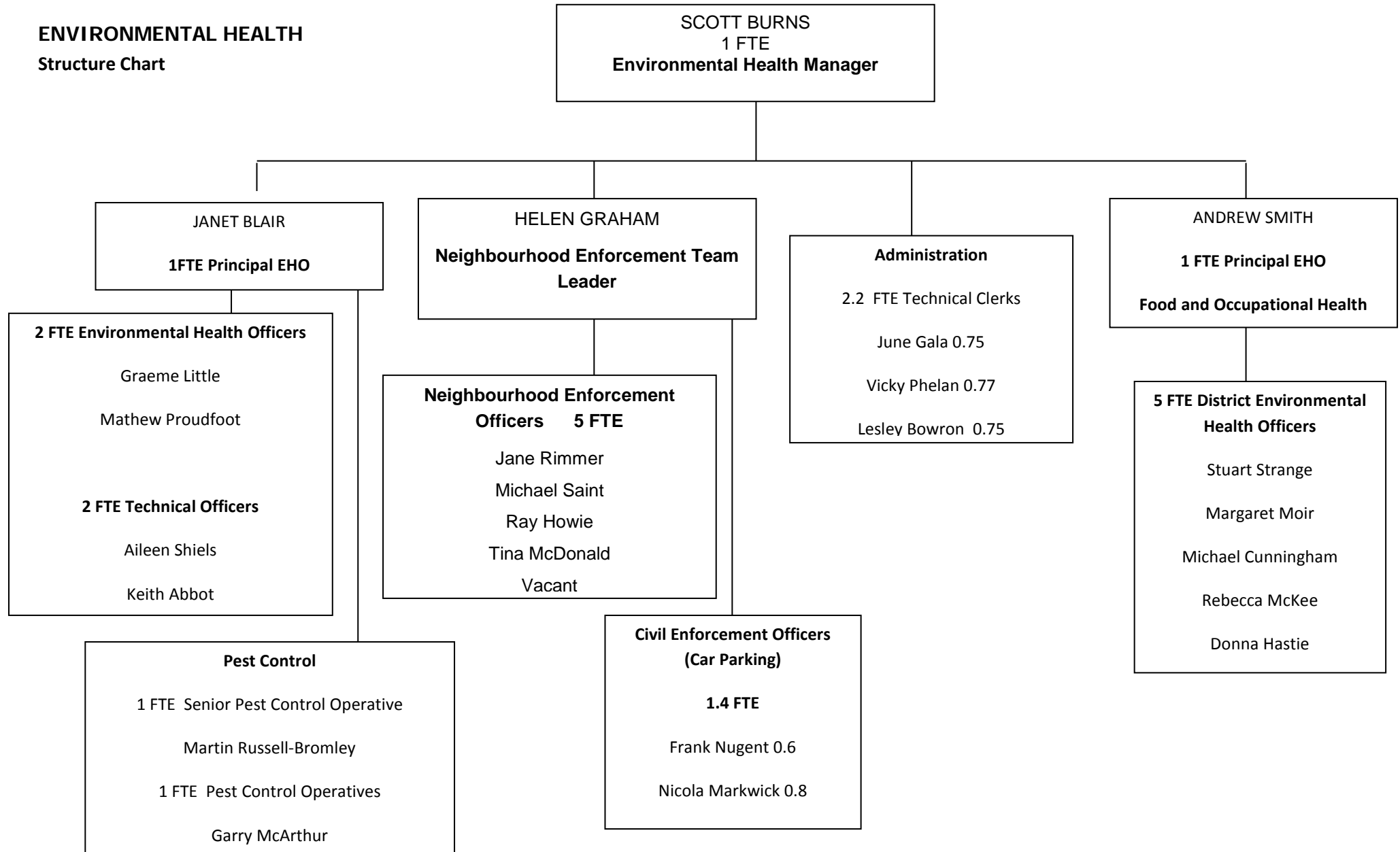
Carlisle City Council are committed to ensuring officers authorised to perform food safety enforcement functions receive relevant structured ongoing training to promote competency, ensure understanding of legislation and technological developments. As stipulated within the Food Law Code of Practice (England) April 2015, all authorised officers will receive a minimum of 10 hours training on food safety issues.

All existing officers have obtained the Certificate of Registration of the Environmental Health Registration Board (EHRB) or the Diploma in Environmental Health award by the Royal Environmental Health Institute of Scotland (REHIS). A record of certificates of registration, qualifications and records of on-going training for authorised officers are stored and maintained by the department. The Principal EHO for Food Safety is required to monitor and report on compliance with our competency requirements. Any essential training needs identified will be provided either in-house or externally.

### **5.3 Quality assessment and performance management**

The Principal EHO and the Environmental Health Manager will monitor quality and performance on a monthly basis. Audit actions will be recorded on the department's database management system (FLARE – Civica App). The Cumbria Food Safety Technical Working Group will provide peer review for standardised food safety enforcement in the County.

**ENVIRONMENTAL HEALTH**  
**Structure Chart**



Outcome	Key Actions	2014/15 Performance	Target 2015/16	Progress
<ul style="list-style-type: none"> <li><b>Support Economic Growth</b></li> </ul>	Use the Department's face to face contact with Carlisle Businesses to promote business information.	<p>94% of businesses inspected agree or strongly agree they were treated fairly.</p> <p>92% of businesses inspected agree or strongly agree they the inspection was helpful.</p> <p>Assisted a FSB event in City Centre.</p> <p>Successful launch of Local Healthy Options Award – food safety officers and food businesses invited to attend the launch event.</p>	<p>85% target for the survey responses to fairness and helpfulness.</p> <p>Develop initiatives with the FSB and the Cumbria Chamber of Commerce.</p> <p>Promote and follow the Business Support Strategy.</p>	.
	Improve communication between the County's Regulatory Services through working through Cumbria's Food Liaison Group and Public Protection Group.	Full representation at Cumbria Food Liaison Group & Public Protection Group Meetings.	Full representation and contribution at Food Liaison Group and Public Protection Group Meetings.	

	Review the Council's Web Site in relation to service provided by the Food & Safety Team to ensure information to the public is relevant and accessible and facilitates e-government for accessing application forms etc and specifying service provision and charges where appropriate.		Review all Food & Safety web pages to ensure information is accurate and reliable.	
	Provide an informal out of hour's service for Food & Health and Safety where circumstances necessitate.	Arrangements made for out of hours food hygiene inspections and special events (e.g. Tattoo Fair), also necessary nuisance visits.	React to out of hours requests where circumstances necessitate.	

<ul style="list-style-type: none"> <li>• <b>Sustainable Food Chain</b></li> <li>• <b>Healthier lives</b></li> </ul>	Inspect food businesses at intervals in accordance with the Food Standard's Agencies Code of Practice and educate and enforce where necessary.		Category A – 100% Category B – 100% Category C – 95% Category D – 95% Category E – 90% <b>through the Alternative Enforcement Programme</b>	
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			Unrated – 100%	
	To respond to all service requests within 5 working days	94%	100%	
	Respond to consultations from Licensing and Planning within 28 days.	96%	100%	
	Contribute to the Multi Agency “Problem Solving Groups”	Attendance at meetings	Active assistance to the Licensing Best Bar None Scheme	
	Continue to work with and promote the National Food Hygiene Rating System.	100% of all registered food businesses within the scope of the scheme are published on FHRS website and issued window sticker.  Continued compliance with the Food Standard Agencies branding agreement	Ensure continued compliance with the Food Standards Agency branding agreement.  100% of all registered food businesses within the scope of the scheme are issued a rating displayed on the FHRS website.	Check on: <ul style="list-style-type: none"> <li>• <a href="https://food.gov.uk/ratings">food.gov.uk/ratings</a></li> <li>• FHRS Web Data Tool</li> </ul>
	To sample foodstuffs for microbiological safety in accordance with local and national need	Participation in PHE coordinated surveys.  122 samples taken: <ul style="list-style-type: none"> <li>• 103 satisfactory</li> <li>• 12 unsatisfactory</li> </ul>	Collect samples as requested by the Public Health England coordinated sampling programme and local	

		<ul style="list-style-type: none"> <li>• 7 borderline</li> </ul>	<p>samples as determined by risk.</p> <p>Continue with the ATP swabbing programme (measures surface cleanliness).</p>	
	To actively take part in Cumbria Food Liaison Group (FLG) plan of work	<p>Representation at all FLG meetings</p> <p>Contributed to FLG work plan</p>	Full Contribution and Attendance at meetings and development of Action Plan	
	Advise and support businesses in the implementation of the Food Information Regulations – Food Allergy provisions	NEW	Provide advice to food businesses on the new requirements of the Food Information Regulations in relation to Food Allergy information – as part of programmed food safety interventions	
	Work with the Healthy Cities Steering Group and Carlisle Food Sub-group on actions in delivering the Healthy Cities Improvement Action Plan	<p>Contributed to Health &amp; Wellbeing Day with a focus on nutrition.</p> <p>Attended event at University of Cumbria – hand hygiene awareness and promotion of the</p>	Continued support of Healthy Cities Steering Group & Healthy Communities Working Group. Participate in at least one coordinated campaign	

	Deliver a Local Healthy Options Award.	Food Hygiene Rating Scheme.  Formal launch of Local Healthy Options Award -13 businesses issued with certificate (9 Gold Awards)	<ul style="list-style-type: none"> <li>• 5 x food establishments to be issued with the Award</li> <li>• promote award as part of routine food safety interventions</li> </ul>	
	Undertake basic food hygiene training for hard to reach groups	16 local Chinese food handlers trained – 100% pass rate achieved.	Undertake basic food hygiene training for a hard to reach group.	
	Formulate and implement a strategy to increase the number of broadly compliant food businesses.	97.4% of all food businesses broadly compliant	Identify all non-compliant businesses / 0-2 FHRS rated food businesses and develop a strategy to improve compliance.  98% of food businesses broadly compliant	
	Participate in “public health” related activity as requested by partners such as the County Council, Public Health England and the Food Standards Agency.	Food Safety Week 2014 – issuing of press release  Christmas Food Safety press release  Attended event at University of Cumbria – hand	At least one campaign per year	



		hygiene awareness and promotion of Food Hygiene Rating Scheme		
	Implement the revisions to the Food Law Code of Practice – (Issued April 2015)	NEW	<p>Identify the key procedural changes to the Food Law Code of Practice and amend internal procedures.</p> <p>Implement the new competency framework for authorised food officers.</p>	
	Investigate the implementation of the UK Food Surveillance System to improve the national reporting of sampling carried out by Carlisle City Council.	NEW	<p>Identify the key benefits and any financial implications of implementing UKFSS &amp; integration with current database management system (FLARE).</p> <p>Identify funding availability from FSA for UKFSS implementation.</p>	
	Adopt the revised Sanitary Accommodation Standard for places of refreshment (Sect 20 Local Govt (Misc Prov) Act 1976	NEW	Arrange for the Sanitary Standard to be adopted through the relevant committee.	

# **FOOD SAFETY ENFORCEMENT POLICY**

**Carlisle City Council**

Environmental Health Service

**Local Environment**

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## **1.0 POLICY STATEMENT**

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- 1.1 Carlisle City Council aims to ensure that food and drink intended for human consumption, that is produced, stored, distributed, handled or sold within the Council's area, is without risk to the health or safety of the consumer. In carrying out its Food Law enforcement the City Council will encourage food businesses and regulated bodies to comply with their food safety obligations and grow as businesses.
- 1.2 This Policy has been written having regard to the Food Standards Agency's Framework Agreement, the Enforcement Concordat and the Regulators Code 2014. Officers will therefore have regard to and implement the principles of proportionality, consistency, transparency and targeting.
- 1.3 Inspections of food businesses and other food safety activities will be in accordance with legislation, statutory Codes of Practice and guidance issued by the Food Standards Agency and the Better Regulation Delivery Office.
- 1.4 The Council fully acknowledges and endorses the rights of individuals and will ensure that all enforcement action is in strict accordance with the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000 and the Police and Criminal Evidence Act 1984 (as amended).
- 1.5 The Council recognises that the particular interests of different consumers within its area will need to be taken account of to ensure that legislation is enforced fairly and consistently. Interpreters will be used where there is difficulty in understanding the English language. Where possible, translated advisory leaflets will be made available. Any visits that are required out of hours will be undertaken as necessary.
- 1.6 We are fully committed to the Home Authority Principle and the Primary Authority Scheme and will utilise the principle whenever enforcement activity is considered, especially where the issue has national implications. We will use inspection plans created under Primary Authority when inspecting relevant businesses.

\*The Home Authority Principle and the Primary Authority Scheme are supported by food and trading standards services throughout the UK. The Primary Authority Scheme has been made under The Regulatory Enforcement & Sanctions Act 2008. A local authority acting as a home or originating authority will place special emphasis on the legality of goods and services originating within its area. It aims to prevent infringements by offering advice and guidance at source in order to maintain high standards of public protection at minimum cost. The Home Authority is the authority where the relevant decision making base of an enterprise is located. The Originating Authority is an authority in whose decentralized enterprise produces goods and services.

- 1.7 All enforcement action will be based on the risk to health and in accordance with this policy. Any departure from this policy must be justified to the appropriate line manager with delegated authority under the Council's constitution. The reasons for any departure will be fully documented and a copy retained on the premises file.
- 1.8 This Policy supports service delivery and intervention plans and procedures, and it will be actively brought to the attention of all relevant staff. The policy is supported in certain areas by additional procedural guidance. A copy of this policy will be made available at Council offices and to any person that requests one. The Policy will also be made available on the Council's website.
- 1.9 This Policy has been drawn up following consultation with stakeholder representatives and has been approved by the Food Safety Team and Members.
- 1.10 This Policy will be reviewed at least every 3 years or when there are changes in legislation or guidance, which make this necessary.

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## **2.0 ENFORCEMENT OPTIONS**

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- 2.1 Authorised officers will consider the most appropriate course of action, which should be taken following inspection or investigation. These include:

- No action
- Informal action and advice
- Formal letter known as informal written notice
- Statutory Notices – Hygiene Improvement Notices, Detention of Food Notices, Remedial Action Notices and Hygiene Emergency Prohibition Notices.
- Issuing and revoking approvals including suspensions and conditional approvals
- Prohibiting operations and processes
- Simple caution (commonly known as formal cautions)
- Prosecution

### **2.2 No Action**

There will be occasions when it is appropriate to take no further action on completion of the inspection or investigation. This will be the case where the risk to health is insignificant and /or the premises, is low risk in nature i.e. no food preparation. A report of inspection should be left on-site or sent soon after the inspection highlighting that the standards of compliance are satisfactory.

## **2.3 Informal Action**

Informal action includes verbal advice, requesting others to act, letters containing recommendations of good hygienic practice, accepting the voluntary surrender of food and the issuing of reports of inspection in accordance with the Food Standards Agency Food Law Code of Practice (England) (FLCOP), issued under Section 40 of the Food Safety Act 1990.

Informal action will be appropriate in the following circumstances:

- (i) The act or omission is not serious enough to warrant formal action.
- (ii) From the past history, it can be reasonably expected that informal action will achieve compliance.
- (iii) The consequences of non-compliance will not pose a significant threat to food safety. Or
- (iv) The food business is operated by a voluntary organization and information is likely to be more helpful and effective than a formal approach.

Verbal advice will be offered where practices do not constitute a breach of the legislation or where advice on good practice, for example within industry guides, good manufacturing practice (GMP) or trade association guidance, has not been followed. Officers providing verbal advice will ensure that they clearly differentiate between those items that are legal requirements and those that are recommendations of good practice.

Verbal advice will be confirmed in writing. This may form part of the Report of Inspection, which is normally left at the end of the visit or sent afterwards.

## **2.4 Formal letters**

Formal letters will be considered appropriate in the following circumstances:

- Where the act or omission is not serious enough to warrant the service of a statutory notice;
- The history or track record of the individual or company means that it can be reasonably expected that a formal letter will achieve compliance;
- The consequences of non-compliance will not pose a significant threat to food safety; or
- The food business is operated by a voluntary organization and a formal letter is likely to be more helpful and effective than statutory notices or legal proceedings.
- If the food business is non-compliant

Any letters shall be written in accordance with FLCOP and practical guidance issued by the Food Standards Agency and other government agencies. They will contain all the information necessary to understand what work is required and why it is necessary. They will indicate the Regulations contravened and the measures, which will enable compliance.

Letters will clearly differentiate between matters, which are necessary to meet statutory requirements and those which are recommendations.

**The opportunity to discuss the contents of the letter with the officer and/or the PEHO will be made available and both contact details will be clearly visible in the letter.**

Letters should be sent to the food business operator within a target date maximum of 10 working days from the inspection/visit.

## **2.5 Statutory Notices**

In certain circumstances, the service of a statutory notice will be appropriate. A range of notices may be used:

- Hygiene Improvement Notices
- Hygiene Emergency Prohibition Notices
- Detention and Condemnation of Food Notices
- Remedial Action Notices
- Warrants to enter premises
- PACE Code B Notices
- Other relevant notices under current Official Food and Feed Regulations, and the Products of Animal Origin Regulations.

### **(i) Hygiene Improvement Notices**

The following factors determine the use of Hygiene Improvement Notices in accordance with the FLCOP.

- a. There are significant contraventions of legislation
- b. There is a lack of confidence that the food business operator or company will respond to an informal approach
- c. There is a history of non-compliance with informal action or formal letters, history of poor risk scores and award scheme ratings
- d. Standards are generally poor with little management awareness of statutory requirements

- e. The consequences of non-compliance could be potentially serious to public health
- f. Effective action needs to be taken as quickly as possible to remedy conditions, which are serious, or deteriorating, even though it is intended to prosecute.

The use of Hygiene Improvement Notices will be related to risk to health and they will not be used for minor contraventions of the legislation. They will not be used where the contraventions might be a continuing one or in transient situations i.e. personal cleanliness of staff or one day festival or sporting event.

Officers issuing Hygiene Improvement Notices will discuss with the food business operator the works to be undertaken and realistic time limits for the completion of the works. The officer will consider alternative solutions of equal effect put forward by the food business operator.

The authorised officer will check compliance as soon as practicable after notification that the work has been completed or at the latest, the day following the expiry of the notice. The authorised officer will confirm in writing that the works have been satisfactorily completed.

Failure to comply with a Hygiene Improvement Notice will result in the instigation of legal proceedings in the majority of cases.

The officer will consider all reasonable written requests for an extension of time of the notice where these are made within the existing time scale.

For notices relating to Article 5 and training requirements, a minimum of 12 weeks timescale will be given to the operator. The timescale for all other legal requirements will be at the discretion of the authorised officer.

The officer will advise the Primary Authority and Home/Lead Authority where relevant, of any actions intended and seek written agreement. Officers will refer to the Local Better Regulation Office (LBRO) website for details of Primary Authority arrangements, <https://primaryauthorityregister.info/par/index.php/home>.

## **(ii) Hygiene Emergency Prohibition Notices**

The use of Hygiene Emergency Prohibition Notices will be deemed appropriate where there is an imminent risk of injury to health and where for example, the

circumstances outlined in the FLCOP (England) and practical guidance are fulfilled. Examples are as follows:

Health risk conditions where prohibition of premises may be appropriate:

- Infestation by rats, mice, cockroaches, birds or other vermin, serious enough to result in the actual contamination of food or a significant risk of contamination.
- Very poor structural condition and poor equipment and/or poor maintenance or routine cleaning and/or serious accumulations of refuse, filth or other extraneous matter, resulting in the actual contamination of food or a significant risk of food contamination.
- Drainage defects or flooding of the establishment, serious enough to result in the actual contamination of food, or a significant risk of food contamination
- Premises or practices which seriously contravene food law and have been, or are implicated, in an outbreak of food poisoning.
- Any combination of the above, or the cumulative effect of contraventions which, taken together, represent the fulfilment of the health risk condition.

Health conditions where the prohibition of equipment may be appropriate:

- Use of equipment for the processing of high-risk foods that has been inadequately cleaned or disinfected or which is grossly contaminated and can no longer be properly cleaned.
- Dual use of complex equipment, such as vacuum packers, slicers and mincers for raw and ready-to-eat foods.
- Use of storage facilities or transport vehicles for primary produce where the storage facilities or transport vehicles have been inadequately cleaned or disinfected.

Health risk conditions where prohibition of a process may be appropriate:

- Serious risk of cross contamination.
- Failure to achieve sufficiently high processing temperatures
- Operation outside critical control criteria, for example, incorrect pH of a product which may allow *Clostridium botulinum* to multiply.
- The use of a process for a product for which it is inappropriate.

### **(iii) Detention and Condemnation of Food Notices**

Authorised officers will use powers to inspect, detain, seize and arrange for the condemnation of food if they have reasonable grounds that the food does not comply with the food safety requirements in the Food Safety Act 1990 and Article 14 of EC Regulation 178/2002.



The procedure for detaining, seizing and arranging for the condemnation of food will be in accordance with FLCOP (England) and Practical Guidance.

A person in charge of food that has been detained or seized for the purposes of condemnation by a Magistrate may be eligible for compensation if:

- The detention of food notice is withdrawn; or
- The magistrate fails to condemn the food; and
- The food has deteriorated in value resulting from the action.

#### **(iv) Remedial Action Notices (RANS)**

It is only appropriate to use these notices for requiring works in food premises approved under EC Regulation 853/2004. A documented procedure covers use of these notices and this must be followed.

#### **(iv) Warrants to Enter Premises**

The Council will apply to the Magistrates Court for a warrant to enter premises if:

- Necessary entry is required at an unreasonable time; and/or
- Entry to a premises is refused; and/or
- Entry is expected to be refused; and/or
- The premises are vacant and entry is required.

#### **(v) PACE Code B Notices**

Notices will be served where it is necessary to search premises to investigate an alleged offence. This is only appropriate in circumstances where Officers have serious grounds for suspecting an offence has already been committed before they visit the premises or act on information provided by another agency. The procedure on service of Code B notices must be referred to by Officers and legal advice sought before use.

## **2.6 Legal Proceedings – Simple cautions and Prosecutions**

Carlisle City Council will consider instigating legal proceedings where there is admissible, substantive and reliable evidence that an identifiable person or company has committed an offence and there is a realistic prospect of conviction. The following circumstances may warrant the institution of legal proceedings:

- The offence involves flagrant breaches of the law, such that public health, safety or well being is put at risk;
- The offence involves a failure to correct an identified potential risk to food safety arising from the processing, cooking, handling or storage of food, having given the offender a reasonable opportunity to comply with the lawful requirements of an authorised officer;
- The offence involves a failure to comply in full or in part with the requirements of a statutory notice;
- Offences have resulted in the service of a Hygiene Prohibition Notice;
- There is a history of similar offences related to risks to the safety of food.

In deciding whether formal action should be taken, Officers should complete the matrix in Appendix I (matrix to determine informal or formal action) and document their decision with the involvement of the appropriate line manager. Once the officer is of the opinion that legal proceedings may be instigated, the case is considered in the light of the following factors:

a. The seriousness of the offence:

- The risk to public health
- The number of identifiable victims
- Failure to comply with a statutory notice served for a significant breach of legislation
- Disregard for the public health for financial reward

b. The previous history of the food business operator or company:

- The offences follow a previous history of similar offences
- Failure to respond positively to past written notices and warnings
- Failure to comply with statutory notices

c. The likelihood of the defendant being able to establish a due diligence defence:

- Practical steps taken or due diligence defence available but there is doubt about its legal validity
- Practical steps taken but there is doubt that the due diligence defence has been achieved
- Practical steps have been taken that are not totally effective, therefore due diligence has not been proved
- No practical step taken, therefore there is no possibility of proving due diligence

- d. The ability of witnesses and their willingness to co-operate:
- Witnesses would rather not be involved in prosecution but might be willing if encouraged
  - Witness would require summons to attend
  - Witness would be willing to attend court but may not be effective under cross examination
  - Witness would be willing to attend and will be effective
- e. The willingness of the food business operator or company concerned to prevent a recurrence of the problem:
- Steps have been taken to prevent a recurrence and there is confidence that these will be effective
  - Steps have been taken to prevent a recurrence but there are doubts that these will be effective
  - Steps to prevent a recurrence have been promised but confidence is low that the promises will be fulfilled
  - The food business operator or company are not willing to prevent a recurrence and there is no confidence that the food business operator is capable of preventing a recurrence
- f. The public benefit and interest of a prosecution and the importance of the case for:
- The likely penalty upon conviction
  - The offender's age and state of health
  - The offender's attitude to the offence
  - Whether it might establish a legal precedent
- g. Any explanation offered by the food business operator or the company:
- Explanation is satisfactory, factors appear to be beyond the control of the defendant
  - Explanation shows that prevention was possible but necessary steps had not been taken
  - Explanation poor, blatant failure to control circumstances leading to offence
  - No explanation offered, willful disregard for public health

Authorised officers must complete the matrix in Appendix III (decision whether to prosecute or issue a simple caution) when any of the circumstances outlined in Appendix II are encountered.

### **Types of Legal Proceedings**

On completion of the matrix in Appendix I, and II, and where formal action is considered to be necessary, legal proceedings may take the form of either a simple caution or a prosecution. The officer, the appropriate line manager, and a legal representative should agree the final decision. On completion of the determination matrix, the officer(s) should follow the standard forms to instruct legal to consider the case with a summary of the facts and initial information. If a PACE interview has occurred as part of the initial decision making process, a transcript should be given to legal along with the initial information. An update on legal opinion should be sought within 2 weeks of this instruction.

### **Simple Cautions**

The Council will offer simple cautions as an alternative to prosecutions in order to:

- Deal quickly and simply with less serious offences
- To divert less serious offences away from the Courts and
- To reduce the chances of repeat offences

The Council will only make the offer of a simple caution where:

- There is sufficient evidence of the offender's guilt for a realistic prospect of conviction
- The offender admits the offence and
- The offender clearly understands the significance of a simple caution and gives informed consent to being cautioned.

Where a food business operator declines the offer of a simple caution, the Council will proceed with a prosecution.

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## **3.0 DECISION MAKING AND AUTHORISATION**

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- 3.1** All Officers who undertake the enforcement options in this policy will have the necessary qualifications, training, experience and competence to do so. All actions will be in accordance with FLCOP (England).

All officers will be issued with a formal written record of their authorisation, signed by either the Director of Local Environment or the Environmental Health Manager. Officers will also be issued with an "Authority to Enter" card with a summary of their available powers of entry.

The enforcement options and levels of authorisation are outlined in Appendix IV.

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## **4.0 WORKING WITH OTHERS TO SECURE COMPLIANCE**

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Officers will work closely with others to secure compliance with food safety legislation. Discussion and liaison may be necessary with the following:

➤ **Consumers and businesses**

The views of our stakeholders are essential in obtaining effective compliance with the legislation. The need to protect the health of the consumer whilst acknowledging the concerns of businesses are recognised and are implicit within this policy and the requirements of the Enforcement Concordat and the Regulators Code.

➤ **Food Standards Agency**

The FSA will be notified of all approvals or any variations issued under product-specific legislation. Under the Food Alert system, the FSA will be notified of any issues, which have a wider concern or where there is a serious localised incident.

➤ **Primary Authority Scheme/Home Authority**

If the premises under inspection or investigation are linked to a Primary, Home or Originating Authority, when officers are considering formal action, they will liaise with the identified authority. Where there is an imminent risk to health, action will be taken immediately and the relevant authority will be notified at the earliest available opportunity.

➤ **Public Health Information**

Infection control advice and epidemiological support will be requested as necessary.

➤ **Health Protection Agency (HPA) and County Analyst**

The expert advice of colleagues within the HPA and the County Analyst may be required in determining the relevant enforcement option. Other specialist organisations e.g. Campden and Chorleywood Food Research Association may assist in investigations.

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## 5.0 Complaints

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Carlisle City Council has an effective complaints procedure and will endeavor to resolve any complaint as quickly as possible. complaints about the service can either be made direct to the Environmental Health Manager by:

**Email** – [environmentalhealth@carlisle.gov.uk](mailto:environmentalhealth@carlisle.gov.uk) or

**Telephone** – 01228 817559

Or through the City Council's official complaints procedure:

**Telephone** – 01228 817000

**In writing** – Free post YGCX – YEYB – Carlisle City Council, Civic Centre, Carlisle, CA3 8QG

**Email** – [complaints@carlisle.gov.uk](mailto:complaints@carlisle.gov.uk)

## MATRIX TO DETERMINE FORMAL OR INFORMAL ACTION

CRITERION	SCORE	WTG	TOTAL
<b>Risk to health</b>			
No risk to health	1	5	
Risk to health possible but unlikely	2	5	
Caused minor ill health, potential for more serious effect in more vulnerable groups	3	5	
Identified or potential serious medical effect	4	5	
<b>Previous history</b>			
Reacted to previous advice, change usually effective	1	4	
Reacts to advice, change not always effective, moderate confidence in management	2	4	
Compliance with previous advice patchy, low confidence in management	3	4	
Failure to respond to previous advice	4	4	
<b>Likelihood of being able to prove due diligence</b>			
Practical steps taken, due diligence possible, some doubt	1	5	
Practical steps taken, but doubt about due diligence	2	5	
Practical steps taken are not totally effective, no due diligence	3	5	
No possibility of proving due diligence	4	5	
<b>Ability of witnesses</b>			
Witness would require summons to attend	1	1	
Witness would rather not attend court but might be persuaded	2	1	
Witness willing to attend but may not be effective under cross examination	3	1	
Witness willing to attend and will be effective	4	1	
<b>Willingness to prevent a recurrence</b>			
Steps taken to prevent a recurrence, confidence that these will be effective	1	2	
Steps taken to prevent recurrence, doubts that these will be effective	2	2	

Steps promised to prevent recurrence, but confidence is low that promise will be fulfilled	<b>3</b>	<b>2</b>	
Not willing to prevent recurrence, no confidence that food business operator is capable of preventing recurrence	<b>4</b>	<b>2</b>	
<b>Probable public benefit</b>			
Publicity is likely to embarrass Council	<b>1</b>	<b>1</b>	
Penalty/publicity will have limited value	<b>2</b>	<b>1</b>	
Penalty/publicity will ensure improvement in the case in question	<b>3</b>	<b>1</b>	
Penalty/publicity will prevent other similar offences	<b>4</b>	<b>1</b>	
<b>Explanation offered by defendant</b>			
Explanation satisfactory, factors appear to have been beyond defendant's control	<b>1</b>	<b>3</b>	
Explanation shows that prevention was possible but that necessary steps had not been taken	<b>2</b>	<b>3</b>	
Explanation poor, blatant failure to control circumstances leading to offence	<b>3</b>	<b>3</b>	
No explanation offered, willful disregard for public health	<b>4</b>	<b>3</b>	

#### NOTES

The weighting is to be used as a multiplier. A separate assessment should be completed for each offence and each food business operator. In many cases the investigating officer may be the only witness and this section should be scored accordingly.

A decision of informal action will follow where the score is between 0 and 34. A decision of formal action will normally follow where the score is between 35 and 84

#### **RECOMMENDATION OF INVESTIGATING OFFICER/PEHO**

##### **INFORMAL /FORMAL ACTION**

**Signed:**

**Date:** .....

#### **ENVIRONMENTAL HEALTH MANAGER**

##### **AGREE/DISAGREE**

**Signed:**

**Date:** .....

#### **DECISION OF LEGAL REPRESENTATIVE**

**Comments:**

**Signed:**

**Date:** .....



### Criteria leading to Formal Action

Where any one of the following circumstances apply, officers must complete the matrix in Appendix III, where a decision will be made as to whether a simple caution will be offered or the offender will be prosecuted.

1. Premises confirmed to be associated with an outbreak of food poisoning, which resulted in serious illness and/or death.
2. Repeated breaches giving rise to significant risk, or persistent and significant poor compliance.
3. Management of food safety is poor and gives rise to significant risk.
4. Following the service of a Hygiene Emergency Prohibition Notice/Order.
5. Following the voluntary closure of premises.
6. Repetition of breach that was subject to Simple Caution.
7. False information supplied wilfully, intent to deceive in relation to a matter giving rise to significant risk.
8. Obstruction of an officer.
9. Formal action is required as a means of drawing attention to the need for compliance with the law and to act as a deterrent to others.

## DECISION WHETHER TO PROSECUTE OR ISSUE A SIMPLE CAUTION

CRITERION	PROSECUTE	OFFER CAUTION
Is the offence serious?	Yes	No
Is the offender an older or disabled person?	No	Yes
Has the offender a previous history of offending?	Yes	No/Unknown
Is the offender willing to prevent a recurrence of the problem?	No	Yes
Would a prosecution be in the public interest?	Yes	No
Is the case likely to establish a legal precedent?	Yes	No
Has the offender offered a reasonable explanation?	No	Yes
<b>TOTAL</b>		

Note

Ring the appropriate response to each criterion and then total the number of rings in each column.

The decision will be based on the total number of rings

**RECOMMENDATION OF INVESTIGATING OFFICER/PEHO****INFORMAL / FORMAL ACTION**

Signed:

Date: .....

**DECISION OF ENVIRONMENTAL HEALTH MANAGER****AGREE/DISAGREE**

Signed:

Date: .....

**DECISION OF LEGAL REPRESENTATIVE**

Comments:

Signed:

Date: .....

## APPENDIX IV

DECISION MAKING AREA	OFFICERS AUTHORISED TO ACT	OFFICERS WHO MUST BE CONSULTED
Informal action and formal letters	Technical Assistants  Environmental Health Officers  Principal Environmental Health Officer –  Environmental Health Manager  Director – Local Environment	Principal Environmental Health Officer –to monitor and audit periodically
Hygiene Improvement Notices	Environmental Health Officers  Principal Environmental Health Officer	Environmental Health Officers  Principal Environmental Health Officer
Hygiene Emergency Prohibition Notices	Environmental Health Officers*  Principal Environmental Health Officer *  Environmental Health Manager*	Principal Environmental Health Officer –  Environmental Health Manager  Legal representative
Simple/ 'Formal' Caution	Environmental Health Officers  Principal Environmental Health Officer  Environmental Health Manager	Principal Environmental Health Officer  Environmental Health Manager  Legal representative
Prosecution	Environmental Health Officers*  Principal Environmental Health Officer*  Environmental Health Manager*	Principal Environmental Health Officer  Environmental Health Manager  Legal representative

\* Minimum 2 years post qualification experience of food safety and currently involved in food safety enforcement.