

Report to Executive

Agenda
Item:

A.1

Meeting Date: 1st July 2013
Portfolio: Environment and Transport
Key Decision: Yes
Within Policy and
Budget Framework YES
Public / Private Public

Title: FOOD LAW ENFORCEMENT SERVICE PLAN
Report of: The Director of Local Environment
Report Number: LE 16/13

Purpose / Summary:

The Environmental Health Service Plan and the Food Safety Enforcement Policy comprise the Food law Enforcement Plan and set out how the Environmental Health Service will deploy its resources in 2013 to 2014 to 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 responsibilities.

Recommendations:

That the Executive:

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

Tracking

Executive:	1 st July 2013 (Decision)
Overview and Scrutiny:	30 th May 2013
Council:	16 th July 2013

1. BACKGROUND

- 1.1 The Food Law Enforcement Plan (the Plan) sets out how the Environmental Health Service will protect food safety in Carlisle during 2013 to 2014. As part of the Food Law Enforcement Plan the “Food Safety Service Plan” (Appendix.1- pages 9 to 12) sits within the full Environmental Health Service Plan and links to the key priority actions of the Carlisle Plan (page.3.). The Service Plan 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). The second part of the Food Law Enforcement Plan is the “Food Safety Enforcement Policy” (Appendix.2.) which outlines the decision process the Environmental Health Officers will go through when breaches of Food Safety Legislation are found. The Food Safety Enforcement Policy is written with regard to the Food Standard Agency’s Framework Agreement with local authorities, the Enforcement Concordant and the Regulator’s Compliance Code.
- 1.2 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.
- 1.3 The Food Standards Agency’s (FSA) Food Law Codes of Practice (2012) 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.

- 1.4 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. The Government is presently consulting on amending the Regulators Compliance Code making it explicit that in carrying out its duties as a regulator the local authority's role is both to ensure compliance and assist businesses to grow.
- 1.5 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 Plan is in Carlisle City Council's Policy Framework in Article 4 of the Constitution.
- 1.6 The Plan covers the period 1st April 2013 to the 31st March 2014 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:
 - i. Agree the key actions of the Environmental Health Service Plan with respect to Food Safety and approve the Food Law Enforcement Policy.
 - ii. Refer the said plans to Council for approval in accordance with the Council's Budget & 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 was considered by the Community Overview and Scrutiny Committee on the 30th May 2013.

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 2013 to 2014.

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 compliance 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.

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: Public Health England; Trading Standards; Defra and other Local Authorities.

Priority 5: Making Carlisle Clean and tidy together

- The Environmental Health Service 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 **Appendix.1. – Environmental Health Service Plan 2013 to 2014**
attached to report: **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 –

Community Engagement –

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 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 implementation of the Food Law Enforcement Service Plan can be met from within existing base budgets for 2013/14.

Environmental Health

Service Plan

2013 to 2014

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Scope of Service

The Environmental Health 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.

Link to the Carlisle Plan

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 compliance code is to use the regulators unique contact with local businesses as a means of ensuring growth as well as compliance. The Environmental Health Service provides free and impartial advice to business on both legal and technical matters relevant to their trade.

Priority 3: Working more effectively through partnerships

- We operate within guidelines and national agreements with partner organisations which include: The Food Standards Agency; the Health and Safety Executive; the Department for Environment and Rural Affairs (Defra); and Public Health England.
- We work in partnership in delivering projects with organisations such as: Cumbria Constabulary; the Environment Agency; Trading Standards; the Dogs Trust; Keep Britain Tidy

Priority 5: Making Carlisle Clean and tidy together

- The Environmental Health teams tackle the safe storage of waste. The Environmental Quality and Food Safety teams ensure domestic and commercial waste is not a public health concern; the

Environmental Health Service Plan 2013 to 2014

Education and Enforcement team tackles illegal practices such as fly tipping, dog fouling and littering.

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 Compliance Code**” applies to all the activities delivered by the Environmental Health Service. A consultation document on amending the Regulators Compliance Code giving greater emphasis to business support is presently taking place (March 2013). We will implement the requirements of the revised Compliance Code.

Key Facts from 2012/2013

Key Services	Key Facts	Key Actions
Food Premises registration	1175 food businesses in Carlisle	
Food and Health and Safety Business Inspections (and follow-up visits)	2079 Carlisle premises regulated under local Authority Health and Safety legislation. 497 Food inspections 4 Health, Safety and Welfare inspections	5 Hygiene Improvement Notices on food businesses. 0 Food detention Notices 2 Health and Safety Improvement Notices
Investigations into cases and outbreaks of infectious diseases	Total of 120 cases	
Respond to Food Alerts issued by the Food Standards Agency	114 food alerts	
Food Sampling	200 samples of local food checked.	
Pest Control	55 contracts 534 notifications of rats 187 wasp notifications	
Workplace accident investigations	94 workplace accidents reported 56 investigated.	
Response to incidents affecting public health	3978 service requests ranging from complaints about noisy neighbours to requests for pest control treatments.	16 Abatement Notices issued protecting the public's health and welfare. 40 PFN issued for littering, 11 for waste receptacle offences and 24 for Fly Posting.
Drinking Water Safety	407 Private water supplies. 11 Supplies risk assessed 113 samples taken 54 parameter failure, 40 wholesomeness failures.	17 notices – re boil water and for improvement of supply
Undertaking of promotional and educational campaigns		Noise Action Week – May Food Safety Week Love Parks Week - July Healthy Cities Week – Sept

Environmental Health Service Plan 2013 to 2014

Inspection for and remediation of 'Contaminated Land'(Part IIA definition) with reference to the Strategy	1214 sites with previous industrial use to be risk rated.	Approximately 5 sites risk rated this year (totalling 500 to date) leaving 750 to rate.
To assess and manage local Air Quality	50 Carlisle sites monitored monthly for Nitrogen dioxide and two sites continually monitored. 1 site monitored continually for Benzene 1 site monitored continually for particulate matter (PM10 and PM 2.5) 6 Air Quality Management Areas	2011 Progress report completed and accepted by DEFRA Updating and screening assessment submitted to DEFRA April 2012 Action Plan submitted to Defra September 2012
To ensure all Prescribed Processes are properly permitted and monitored	68 permitted industrial processes 52 inspections to ensure safe emissions to air.	5 Notices served
To arrange for the funeral of deceased persons where no other arrangements have been made		Advised on 3 funerals 8 funerals organised and deaths registered.
Enforce all relevant dog control legislation and provide a stray dog collection service.	437 stray dogs collected 17 fixed penalty notices for dogs off leads	10 prosecutions for stray dog offences. 37 FPN issued for dog fouling 2 prosecutions
Provision of expert advice to the Development Control Section	226 consultations	
Statutory consultee to the Licensing Section for public nuisance and health and safety	13 consultations and applications for Premises Licences	
Licensed Premises	22 caravan sites registered 2 camping sites registered (tents only) 13 Pet Shops licensed 4 Dog Breeding Establishments 21 Animal Boarding Establishments	
Statistical reporting		Statutory returns for Defra (LAPPC); Drinking Water Inspectorate (Private Water Supplies); Food Standards Agency (LAEMs - food inspections); Health and Safety Executive. Returns for noise complaints also made to the Chartered Institute of Environmental Health.

General Service Plan

Outcome	Key Action	2012/13 Performance:	Target 2013/14	Progress:
<ul style="list-style-type: none"> Support Economic Growth 	Use the Department's face to face contact with Carlisle Businesses to promote business information.	Not recorded	80 % Satisfaction of businesses with Regulatory service Progress recording of business satisfaction in line with former indicator 182.	
	Improve communication between the County's Regulatory Services and the Local Enterprise Partnerships through working through Cumbria's Public Protection Group.	Full representation at Public Protection Group Meetings.	Full representation and contribution at Public Protection Group Meetings. Through the Public Protection Group engage with the LEP.	
	Review the Council's Web Site 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.	Front pages reviewed. Work progressed on other pages	December 2013 All pages reviewed and refreshed.	

Environmental Health Service Plan 2013 to 2014

<ul style="list-style-type: none"> • Healthier Lives 	Work with the Healthy Communities Working Group on actions in delivering the Healthy Cities Improvement Action Plan.	Contributions to Healthy Cities Week and Food Safety training	At least one coordinated campaign	
<ul style="list-style-type: none"> • Support Economic Growth • Clean and Safe Neighbourhoods • Healthier lives • Sustainable food change 	To respond to all service requests within 5 working days	92%	100%	
	Respond to consultations from Licensing and Planning within 28 days.	99%	100%	
	Contribute to the Multi Agency “Problem Solving Groups”	Attendance at meetings and contributions made	Active assistance to the Licensing Best Bar None Scheme	
	Provide an informal public health out of hour’s service where circumstances necessitate.			Arrangements made for food hygiene inspections and special events Environmental Health Manager on the Emergency contact lists: Public Health England: Fire; Emergency Planning

Food Law Enforcement Service Plan

The City Council operates its food law enforcement following the “Framework Agreement” with the Food Standard Agency who is the lead national authority on Food Law. The Council also operates within the “Codes of Practice” issued by the Food Standards Agency.

The Council has partnership agreements with Public Health England regarding response to infectious disease incidents.

Outcome	Key Actions	2012/13 Performance:	Target 2013/14	Progress:
Sustainable Food Chain Healthier lives	Inspect 100% food businesses at intervals in accordance with the Food Standard’s Agencies Code of Practice and educate and enforce where necessary.	97%	100%	
	Work toward increasing the number of “broadly compliant” food businesses	93.5%	95%	Corporate Indicator LE050
	Continue to work with and promote the National Food Hygiene Rating System.	Successful transfer 99% of local authorities in England are in the National Food Hygiene	Continued compliance with the Food Standard Agencies branding agreement	Ongoing – food.gov.uk/ratings

Environmental Health Service Plan 2013 to 2014

		Rating System.		
Sustainable Food Chain Healthier lives	To sample foodstuffs for microbiological safety in accordance with local and national need	100%	100%	
	To actively take part in Cumbria Food Liaison Group plan of work	Full Contribution and Attendance at meetings and development of Action Plan	Full Contribution and Attendance at meetings and development of Action Plan Ensure link to Health and Well being Board obesity agenda – Healthy Eating Award progress	
	Undertake basic food hygiene training for hard to reach groups	2 training events completed with 100% pass rate	2 training events for hard to reach groups	
	Participate in “public health” related activity as requested by partners such as the County Council, Public Health	Food Safety Week and Healthy Cities initiatives	At least one campaign per year. Food Safety Week 17 June 2013	

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	England and the Food Standards Agency.			
	Review and refresh the Food Enforcement Policy		Draft to May Executive New Policy Adopted	

Health and Safety Service Plan

Carlisle City Council has responsibility for health, safety and well being regulation at most retail, leisure and storage businesses. 2012 saw the Health and Safety Executive given the authority to direct Carlisle City Council on how it undertakes its responsibilities.

Outcome	Key Action	2012/13 Performance:	Target 2013/14	Progress:
Healthier lives	To review & implement an Alternative Intervention Strategy for those businesses that do not require inspection (in accordance with LAC 67/2 Rev 3 & Cumbria H&SLG)	H&S Intervention Plan complete	Jan 13 - Strategy Produced Monitor progress of Intervention strategy generally and by complaints, accidents, injuries etc.	
	Inspect premises and investigate accidents in compliance with legal responsibilities, and educate, encourage and only enforce in line with the Enforcement Policy			

Environmental Health Service Plan 2013 to 2014

	To contribute & work in partnership by carrying out work as per the Cumbria Health and Safety Liaison Group work plan	<p>Carlisle priorities agreed:</p> <ul style="list-style-type: none"> • Animal contact • Underground LPG storage • Asbestos • Workplace temperatures • Noise at work • Smoking • Warehousing (esp falls and manual handling) 	Progression of action plan – number of initiatives.	
	Work with the Public Health England to improve the safety of skin piercers in Carlisle.	Joint publicity and leaflet produced for the April North Lakes Tattoo show.	Deliver project highlighting risks associated with (non-registered) tattooists.	

Environmental Quality Service Plan

Most of the work undertaken by the Environmental Quality Section is directed by the Department of Environment and Rural Affairs (Defra).

Activity	Key Action	2012/13 Performance:	Target 2013/14	Progress
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<ul style="list-style-type: none"> • Healthier lives • Clean and safe Neighbourhoods 	Air Quality			
	Review Carlisle's Local Air Quality and prepare an Update and Screening Assessment for submission to DEFRA.	Update and Screening Assessment accepted by Defra June 2012	Progress Report completed May 2013 Assess the effectiveness of the Northern Development Route July 2013 Liaise with County Council on promoting alternatives to vehicle use.	
	Progress the Air Quality Action Plan for the 7 Air Quality Management Areas.	Action Plan agreed by Defra	Produce a summary of actions progressed in 2013.	
	Promoting campaign encouraging reducing		Produce a summary of actions progressed in	

Environmental Health Service Plan 2013 to 2014

<ul style="list-style-type: none"> • Healthier lives • Clean and safe Neighbourhoods 	transport pollutants		2013.	
	Local Air Pollution Prevention and Control			
	Inspect 100% of permitted processes in accordance with DEFRA's inspection strategy.	100 % inspection achieved	100% inspection target Review permits to comply with the Industrial Emissions Directive view charges due to the implied permit structure	
	Contaminated Land			
	Address and prioritise contaminated land	5 sites assessed and prioritised. Strategy Updated.	50 potential sites per year assessed and prioritised. work with the Planning Department to ensure housing and other developments only take place on land suitable for use Respond to enquiries regarding possible land contamination	
	Noise and Nuisance			

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<ul style="list-style-type: none"> • Healthier lives • Clean and safe Neighbourhoods 	Revise strategies for dealing with noise nuisances	<p>Attendance at Landlords Forum</p> <p>Advice sheets forwarded for distribution to the Housing Team.</p>	<p>Continue to work with landlords via liaison with the housing team.</p> <p>Raise public awareness regarding noise from dogs etc</p> <p>Attend the Carlisle and Eden crime and disorder partnership meetings</p> <p>Review the procedure for domestic noise investigations.</p>	
	Private Water Supplies			
	Sample and assess 100% of private water supplies in accordance with the DWI Technical Manual.	100%	100%	
	Pest Control	<p>Produced a targeted sewer baiting strategy</p> <p>Identified areas generating greatest rat</p>	Raise awareness of the service and encourage new contracts	

Environmental Health Service Plan 2013 to 2014

		complaints		
	Seagull Control	<ol style="list-style-type: none"> 1. Leaflet Produced 2. Premises where roosting was a concern identified and written to 3. Press releases 	<ul style="list-style-type: none"> • Follow up visits to premises written to in 2012.(April / May2013) • Assessment of controls (June) • Review follow up actions (June) 	Directorate Action
	Fees and Charges Review		<ul style="list-style-type: none"> • Review the pest control fees and charges making recommendations for implementation in 2014/15. 	Directorate Action August
	Licensed Premises			
	Review the web information on application for licences.	100% of Caravan sites had a fire risk assessment		

Education and Enforcement Teams Enforcement Plan

Activity	Key Action	2012/13 Performance:	Target 2013/14	Progress:
<ul style="list-style-type: none"> • Clean and safe Neighbourhoods • Healthier lives 	Progress the Clean Neighbourhood Enforcement Plan	2012/13 Enforcement Plan produced and followed. 37 FPN issued for dog fouling and 2 prosecutions 40 PFN issued for littering, 11 for waste receptacle offences and 24 for Fly Posting	Reduction in dog fouling incidents and complaints compared to 2011/12 benchmark.	
	Deliver a Educational Campaign for dog fouling and littering	1400 delivered educational message on dog fouling and littering	Deliver message to all year 7's	
	Review and update policies.	Fly posting, Fly tipping and litter procedures reviewed.	Introduce orders for abandoned shopping trolleys and illegal distribution of free material Review the procedures for dealing	Directorate Action

Environmental Health Service Plan 2013 to 2014

			with Graffiti offences.	
	Develop a strategy with partner organisations to tackle environmental crimes.	Riverside and PCSO trained for the issuing of FPN.	Attend PSG East and West and CD&ASB – continue to develop partnership working with Riverside and Impact	
	Produce a Strategy and Action Plan for continuing the work of “Clean Up Carlisle and Love Where You Live”			Directorate Action
	Produce working procedures for the revised CCTV System			Directorate Action

ENVIRONMENTAL HEALTH

SCOTT BURNS
Environmental Health Manager

JANET BLAIR
1x FTE Principal EHO
Environmental Quality

1 FTE x Environmental Health Officer
Graeme Little
1 x FTE Pre Reg Environmental Health Officer
Mathew Proudfoot

2 FTE x Technical Officers
Aileen Shiels

Pest Control

1 FTE x Senior Pest Control Operative
Martin Russell-Bromley
2 FTE x Pest Control Operatives
Barry Edmondson
Garry McArthur

MORVEN ANSON
1x FTE Education and Enforcement
Team Leader

Education and Enforcement Officers
X 2 FTE
Jane Rimmer
Michael Saint

CNEO

1.2 FTE x Clean Neighbourhood Enforcement Officers
Andrew Allison 1x PT post
Ray Howie 1 x PT post
(Temp increase in hours to 1.8FTE due to Clean up Carlisle)

Administration
3 x FTE Technical Clerks
Sharon Loryman
Sarah James
Eileen Edwards
Vacant
Diane Thwaites
Lesley Bowron

Temp CCTV Supervisor
Until August 2013
John Nugent

DAVE EDWARDS
1x FTE Principal EHO
Food and Occupational Health

5 FTE x District Environmental Health Officers
Stuart Strange
Margaret Moir
Michael Cunningham
Rebecca McKee
Donna Hastie

FOOD SAFETY ENFORCEMENT POLICY

Carlisle City Council

Environmental Health Service

Local Environment

1.0 POLICY STATEMENT

- 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 Regulator's Compliance Code (April 2008). 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.

2.0 ENFORCEMENT OPTIONS

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) 2008 (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 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. cleaning and record keeping.

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.

An authorised officer will check compliance on the date of expiry of the notice or at the latest, the following day as there may be a challenge if there is any delay i.e. the operator may claim that they complied within the timescale for instance, the provision of hot water.

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 should refer to the Local Better Regulation Office (LBRO) website for details of Primary Authority arrangements, <http://www.lbpro.org.uk/pa-becoming-a-primary-authority.html>

(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:

- The failure of a process within premises;
- The premises contravene food safety legislation and have been or are involved with an outbreak of food poisoning or present an imminent risk of food poisoning; or
- There is a serious infestation by rats, mice, cockroaches or other vermin (including birds) or a combination of these infestations resulting in actual food contamination or an imminent risk of food contamination; or
- There are poor structural conditions or poor equipment and/or poor maintenance of routine cleaning and/or serious accumulations of refuse, filth or other extraneous matter resulting in actual food contamination; or
- There are serious drainage defects or flooding of the premises leading to actual food contamination or an imminent risk of food contamination; or

Any combination of the above or the cumulative effect of contravention, which together represent an imminent risk of injury to health.

In addition, the following matters will warrant the service of a Hygiene Emergency Prohibition Notice:

- a. The consequences of not taking immediate and decisive action to protect the public health would be unacceptable;
- b. There is a demonstrable imminent risk of injury to health
- c. There is no confidence that an unprompted offer by a food business operator to voluntarily close the premises or cease the use of any equipment, process or treatment will be carried out;
- d. The food business operator is unwilling to confirm in writing his/her unprompted offer of voluntary closure.

(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. This is an offence under Regulation 27 of the Food Hygiene (England) Regulations 2006.

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.

(v) 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.

(vi) 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.

3.0 DECISION MAKING AND AUTHORISATION

- 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) 2008.

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.

4.0 WORKING WITH OTHERS TO SECURE COMPLIANCE

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 Compliance 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.

5.0 Complaints

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 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

MATRIX TO DETERMINE FORMAL OR INFORMAL ACTION

CRITERION	SCORE	WTG	TOTAL
Risk to health			
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	
Previous history			
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	
Likelihood of being able to prove due diligence			
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	
Ability of witnesses			
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	
Willingness to prevent a recurrence			
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	3	2	
Not willing to prevent recurrence, no confidence that food business operator is capable of preventing recurrence	4	2	
Probable public benefit			
Publicity is likely to embarrass Council	1	1	
Penalty/publicity will have limited value	2	1	
Penalty/publicity will ensure improvement in the case in question	3	1	
Penalty/publicity will prevent other similar offences	4	1	
Explanation offered by defendant			
Explanation satisfactory, factors appear to have been beyond defendant's control	1	3	
Explanation shows that prevention was possible but that necessary steps had not been taken	2	3	
Explanation poor, blatant failure to control circumstances leading to offence	3	3	
No explanation offered, willful disregard for public health	4	3	

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
TOTAL		

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 Assistant 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.