

Chief Executive Officers  
Heads of Food Service  
Lead Food Officers  
REHIS  
SFECLC

FSS/ENF/20/006

30<sup>th</sup> March 2020

Dear Colleagues,

**COVID-19: CONTINGENCY MEASURES FOR DELIVERY OF OFFICIAL CONTROLS IN RELATION TO FOOD**

Given the unprecedented nature of the COVID-19 pandemic and national infection control measures now in place, and the anticipated disruption that will be caused by staff shortages, it is recognised that deviation from certain elements of the Food Law Code of Practice (Scotland) 2019 (the Code), and associated Interventions Food Law Code of Practice 2019, will be necessary for the next 4 months (initial estimate) to ensure Local Authority Environmental Health Services have the ability to undertake wider public health duties related to Covid-19.

The Minister for Public Health and Sport has therefore agreed to allow LAs to deviate from the Code and this agreement covers the following areas which are considered to be reasonable and proportionate in the circumstances:

**Food Law Code of Practice deviations**

- a) Food Law interventions to all care facilities including hospitals, care homes, nurseries, and childminders.
- b) Planned programmed Interventions at all lower risk Group 2 and 3 businesses within the Food Law Rating System (FLRS), and all Crown Establishments.
- c) Low risk primary production activities – exception for dairy farms supplying raw milk for the manufacture of raw milk cheese. This includes on farm inspection to assess compliance against primary production controls.

- d) Approved establishments and other high risk manufacturers may limit access to high risk production areas. Therefore it is recommended that Interventions at Approved establishments, and higher risk FLRS Group 1 businesses, are based on an initial Food Safety Management System and associated documentation audit followed up by physical inspection only if public health concerns are identified.
- e) Intelligence driven Interventions at all food business establishments regardless of category should continue **where possible**. Intelligence will include information that suggests fraudulent activity or imminent risk to public health, e.g. consumer complaints, credible allegations of food poisoning, failed samples of a serious nature that suggest fraud or health risk.

### **Food Law Code of Practice deviations timescales**

The initial deviation period is for 16 weeks from the date of this letter. However the period will remain under review and will be amended where necessary.

### **Food Law Code of Practice deviations recovery plans**

FSS will work with the Scottish Food Enforcement Liaison Committee to agree the broad principles on which recovery plans will be based.

### **Assessing the impact of deviations from the food law code of practice**

It is important that we are able to measure the impact of this decision. Our plans for how this will be achieved are set out in Annex B.

In addition, I would encourage LAs to gather their own data on Interventions due that remain undelivered during this period. I would also encourage you to maintain your Management Information Software system to ensure that data is being captured by the Scottish National Database. I appreciate that this may be challenging for those working from home with potentially limited access to systems. If you are experiencing this difficulty please advise Jacquie Sutton at [Jacquie.sutton@fss.scot](mailto:Jacquie.sutton@fss.scot)

A summary of the Food Law Code of Practice deviations and timescale plans is shown in Annex A, with further detail on how the impact of the deviations will be measured, and how FSS will assist with the input of intelligence that can be used to inform Interventions, is provided at Annex B.

If you have any queries regarding this correspondence please contact me using the contact details contained in this letter.

Yours sincerely



Lorna Murray  
Head of Enforcement Delivery  
Food Standards Scotland

## ANNEX A: FOOD LAW CODE OF PRACTICE DEVIATIONS AND TIMESCALES

Area of Deviation	Action Points	Timescale
Planned Programmed Interventions at all FLRS Group 2 and 3 Businesses and all Crown Establishments.	No planned Interventions to be undertaken.	16 weeks from date of this letter
Low Risk Primary Production activities	No planned Interventions to be undertaken with exception of Dairy Farms supplying raw milk for the manufacture of raw milk cheese	16 weeks from date of this letter
Planned programmed Interventions at Approved establishments and all FLRS Group 1 Businesses.	Recommend that Intervention is based on paper audit and that physical inspection is based on concerns following this or can be followed up at a suitable later date.	16 weeks from date of this letter
<b>Intelligence driven Interventions at <b>all food business establishments regardless of category.</b></b>	Intelligence including information that suggests fraudulent activity or risk to public health e.g. consumer complaints, credible allegations of food poisoning, failed samples of a serious nature that suggest fraud or health risk.	

## **ANNEX B: ASSESSING THE IMPACT OF DEVIATIONS FROM THE FOOD LAW CODE OF PRACTICE**

### **Impact**

It will be important to be able to assess and measure the impact of any agreed deviations from the Food Law Code of Practice. To quantify the current level of official control activity data from the Scottish National Database (SND) will be used to capture the current status of Interventions undertaken across the various categories of the FLRS, and data from the Scottish Food Sampling Database (SFSD) will be used to capture data of food sampling. Data will be captured on a weekly basis with the dataset from 2<sup>nd</sup> March 2020 being used as a baseline.

This data can be monitored during the deviation period to measure impact, and assess the overall effect at the end point.

Monthly figures from Scottish Food Crime and Incidents Unit (SFCIU) on consumer complaints, and information from the Food Crime Hotline, will also be used to identify any potential correlation between these figures and changes in Food Law Intervention numbers. Data from the start point of 2<sup>nd</sup> March 2020 will be used as a benchmark and monitored on a monthly basis.

Monthly figures from FSS policy and science teams on food business queries/concerns will be gathered to identify whether the reduction in Intervention activity, and corresponding opportunity for enforcement officers to provide an educative role, has had an impact on business confidence. Data from the start point will be used to benchmark and monitored on a monthly basis.

### **Intelligence**

FSS will also consider how to add to the evidence base used by Local Authorities to support intelligence based interventions.

Horizon scanning and data from the SFCIU will be utilised, and any intelligence suggesting new business operating models during a 'shut down' phase that may be introducing additional food safety and food information risks, e.g. upward trend in use of delivery services by consumers and resultant capacity strain on food outlets that may be challenged to meet demand but who are pressed to maintain profitability.

Data from social media platforms that suggests additional food safety and food information risks will be assessed.

Information of a serious nature will be communicated immediately with planned reports on a regular basis.