

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

FSS/ENF/21/002

25th March 2021

Dear Colleagues,

## **COVID-19: LOCAL AUTHORITY RECOVERY PROJECT**

I refer to Enforcement Letter FSS/ENF/20/011 sent to all Scottish Local Authorities on 9 December 2020. The said letter referred to the relaxations from the Food Law Code of Practice and the Interventions Code of Practice granted by the Minister during 2020 and set out the proposed Local Authority Recovery Process as designed by the relevant Scottish Food Enforcement Liaison Committee (SFELC) Working Group.

### **Previous deadlines**

FSS/ENF/20/011 and the accompanying Recovery Process Guidance set 4 deadlines by which Local Authorities should have undertaken specific tasks. These were as follows

<b>Process Step</b>	<b>Completion Date</b>
Step 1 – Desktop Transfer	28 February 2021
Step 2 – Creation of an Intervention Programme	28 February 2021
Step 3 – Resource Calculation	31 March 2021
Step 4 – Draft Service Plan	31 March 2021

It is now acknowledged that the aforementioned deadlines are no longer viable.

### **Continuing flexibilities from the Codes**

Following discussion with Local Authorities and considering that Environmental Health services remain central to the enforcement of the Coronavirus Regulations, it was determined that flexibility from certain aspects of the Food Law Codes continues to be necessary. This view was put to the Minister who subsequently agreed that the flexibilities should be extended for a further period. The flexibilities which FSS considers reasonable and proportionate in the current circumstances include deviations from the Code with respect to the following:

- a) Food law interventions to all care facilities including hospitals, care homes, nurseries and childminders. Restricting interventions in this sector will assist with maintaining physical distance requirements and acknowledges the associated risks to these vulnerable groups.
- b) Planned programmed interventions at all risk levels above a C band across all business groups within the Food Law Rating System (FLRS) and all Crown Establishments
- c) Low risk primary production activities – with an 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.

### **Areas where interventions continue to be necessary or appropriate in line with the Codes**

- a) Businesses exporting product of animal origin to the EU;
- b) Intelligence-driven interventions at all food business establishments. Such interventions should be conducted regardless of establishment category when intelligence suggests fraudulent activity or risk to public health, e.g. consumer complaints, credible allegations of food poisoning, pest infestations and failed samples of a serious nature that suggest fraud or health risk.
- c) Observations made and advice provided on key food matters during engagement with food business operators on Covid-related matters. These food matters may include cleaning and disinfection, personal hygiene and control of cross contamination risks.
- d) Remote interventions and desk-top assessments of businesses where resources permit.

## Next steps and restart date

Given that the resumption of a full programme of food law interventions is neither feasible nor desirable at this time, FSS acknowledges that any 'start date' for Local Authority Intervention Programmes should be in line with relaxations against COVID-19 restrictions according to the Scottish Governments Route Map and to the extent that allows food business activity to resume.

Unfortunately, there is no way to predict with certainty at this time, when food establishments will be permitted to trade in a manner close to 'normal'. It is also possible that the easing of restrictions on trading will be on a Local Authority rather than a national basis. The former scenario could see some Local Authorities able to recommence programmed interventions while others are still experiencing trading restrictions – as well as infection suppression measures which might preclude on-site assessment of businesses.

In the light of this continuing uncertainty, FSS has opted to set a **nominal 're-start date' of 1 September 2021**. It is averred that current epidemiological trends as well as Government and scientific projections provide a reasonable level of confidence that 'conventional' food law interventions will be feasible by that time. However, it is acknowledged that Local Authorities might, on either an individual or national basis, be able to recommence interventions before this date. If this were to be the case, there would be no obstacle to bring interventions forward – with a minimal impact upon any Intervention Programme previously created.

## Proposed Deadlines

Process Step	Completion Date
Step 1 – Desktop Transfer	1 July 2021
Step 2 – Creation of an Intervention Programme	1 July 2021
Step 3 – Resource Calculation	1 August 2021
Step 4 – Draft Service Plan	1 August 2021

In the event that recommencement of programmed interventions has to be delayed until after 1 September 2021, Local Authorities would be required to amend their Intervention Programme accordingly with, potentially, significant work involved. It is also acknowledged that an increase in restriction Levels, either locally or national, after recommencement of interventions could create a similar problem. In both cases, Local

Authorities would require to adopt measures which would bring flexibility to their MIS system – thus permitting changes to programmed intervention dates.

## **Preparing for restart**

It is recommended that Local Authorities proceed with the measures covered in the LA Recovery Process Guidance – applying a target ‘Start Date’ of 1 September 2021. Consideration should, however, be given to the possibility of an enforced later recommencement date and/or subsequent breaks in intervention activity.

The aforementioned SFELC Working Group will continue to offer a forum for discussion and the development of strategies to satisfy the requirements of the LA Recovery Process.

Key FSS/SFELC objectives will be to:

- a) Facilitate meetings between Local Authorities and relevant software companies. These meetings will be used to explore options for mass transfer of businesses from Annex 5 to FLRS as well as the feasibility of setting future intervention dates in the absence of a preceding, physical food law intervention;
- b) Facilitate workshop sessions where Local Authority colleagues can describe actions taken in terms of the Recovery Process and share knowledge and good practice;
- c) Maintain regular engagement with FSS Audit;
- d) Provide regular updates on all other aspects of the LA Recovery Process

If you require to discuss any aspects of the Local Authority Recovery Process, please contact Billy Hamilton at [william.hamilton@fss.scot](mailto:william.hamilton@fss.scot)

## **FSS Audit Questionnaire**

FSS is also mindful that a full picture of food law activity, including activity related to EU Exit and COVID-19 interventions in food establishments, should be secured in order to effectively capture Local Authority delivery from the end of March 2020. Consequently, the FSS Audit Assurance team will separately be writing to all LA's with a request to complete an Information Gathering Request. FSS will also, on an ongoing basis thereafter, conduct analysis of interventions relating to key areas of delivery – particularly EU Exit consequences and intelligence-driven interventions.

Yours Sincerely

*Lorna Murray*

Lorna Murray

Head of Enforcement Delivery