

OFFICIAL

Minute

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## Scottish Food Enforcement Liaison Committee Minute

Microsoft Teams  
03 December 2021 10:30 – 13:30

Attendees	
Andy Morrison – The Chair	Lindsay Matthew - Vice Chair & COSLA
Paul Bradley - Honorary Secretary	Tanja Low - Secretariat
Andrea Carson - North of Scotland Food Liaison Group	Andy MacLeod - OCV Methods & Techniques WG and Seafood Official Control WG
Bruce McCall - Scottish Craft Butchers	Christina Anthony - Food Standards Scotland
Helen Henderson - East of Scotland Food Liaison Group	Jane White - Association of Public Analysts in Scotland and Sampling and Surveillance Working Group Chair
Kasia Kazimierczak - Food Standards Scotland	Lorna Murray - Food Standards Scotland
Martin Keeley – REHIS, Food Crime Working Group Chair and Imports Working Group Chair	Mark Eccles - Lothian & Borders Food Liaison Group
Rachel Mirfattahi - Institute of Food Science and Technology (IFST)	Sophie Yule - Food Standards Scotland
William Gilbertson - Food Standards Scotland	William Hamilton – Food Standards Scotland

Apologies	
Abigail Purkis – Food Standards Scotland	Cat Hay - Food and Drink Federation Scotland
Darryl Thomson - UK Hospitality Expert Food Group	David McGhie - SCOTSS Lead Feeds Officer and Feedstuffs Sub-Committee Chair
Gordon King - Scottish Craft Butchers	Hamid Gazem - Food Standards Scotland
Ian McWatt - Food Standards Scotland	Julie Hesketh-Laird - Food Standards Scotland
Karen Wardrope - West of Scotland Food Liaison Group Secretary	Kevin Matheson - Scottish Government
Leon Thompson - British Hospitality Association	Scott Anderson - Scottish Bakers

# Synopsis

## LA Food Sampling Annual Report

- Total number of samples collected has dropped again but the percentage of satisfactory samples has increased for Microbiological, Substitution and Labelling tests, but decreased for Chemical tests.
- Highest unsatisfactory rates for chemical and microbiological tests were in manufacturers/processors
- Unsatisfactory allergen tests were low, but limited testing outside of gluten and milk
- Most common reasons for labelling failure were QUID declaration, Ingredients lists, Nutritional declaration, Food name and Allergen declaration
- It is impossible to tell from the data the root cause of a failure and there is scope for tracking authenticity and traceability

## Regulatory Strategy Programme

- Food Law Code of Practice (FLCoP) Review Phase 3 is focusing on the republication of the FLCoP into subject specific and easier to digest codes
- The aim of the Sustainable Funding programme will be to develop a national framework that can be applied across Scotland to help LAs achieve full cost recovery for OCs
- The Introduction of Compliance Notices for Food Standards is a project to address outstanding recommendation from Scudamore review and gap in current enforcement options available for breaches in Food Standards by providing a graduated and proportion option for enforcement
- The aim is to have new Compliance Notice for Food Standards enacted by Summer 2022. LA training will be provided ahead of the launch
- Comments on the consultation on the introduction of compliance notices are sought

## Other Agenda Items

- Elections are to be postponed until the Terms of Reference are in place
- All Office Bearer post holders are to remain in post until the elections
- SFELC Vice-Chair post is to remain vacant until a new Vice-Chair is appointed due to Lindsay Matthew's retirement
- There has been an increase in enquiries relating to minimally processed foods
- Most LAs are carrying out inspections by appointment only
- Although most LAs are looking to restart their sampling programmes, there are staffing issues
- Suggested dates for future SFELC meetings are:
  - 22 April 2022
  - 03 June 2022
  - 07 October 2022
  - 02 December 2022
  - 10 February 2023

## Agenda Items

Item No.	
1	<b>Chairman's welcome &amp; Apologies for absence</b>
	<p><u>Guest speakers</u></p> <ul style="list-style-type: none"> <li>• William Gilbertson – LA Food Sampling Annual Report (<a href="#">Item No. 4.1</a>)</li> <li>• Christina Anthony – Regulatory Strategy Programme (<a href="#">Item No. 4.2</a>)</li> </ul> <p><u>Apologies</u></p> <ul style="list-style-type: none"> <li>○ Abbie Purkis – Food Standards Scotland</li> <li>○ Cat Hay - Food and Drink Federation Scotland</li> <li>○ Darryl Thomson – UK Hospitality Expert Food Group</li> <li>○ David McGhie - SCOTSS Lead Feeds Officer and Feedstuffs Sub-Committee Chair</li> <li>○ Gordon King – Scottish Craft Butchers</li> <li>○ Hamid Gazem - Food Standards Scotland</li> <li>○ Ian McWatt - Food Standards Scotland</li> <li>○ Julie Hesketh-Laird – Food Standards Scotland</li> <li>○ Karen Wardrope - West of Scotland Food Liaison Group Secretary</li> <li>○ Kevin Matheson - Scottish Government (Food, Drink and Rural Communities Division)</li> <li>○ Leon Thompson - British Hospitality Association</li> <li>○ Scott Anderson - Scottish Bakers</li> </ul>
2	<b>Minutes &amp; matters arising</b>
	Previous minutes from 08 October 2021 were approved
3	<b>Actions outstanding</b>
	<p>Actions 11.2021, 13.2021, 16.2021, 19.2021, 20.2021 and 21.2021 were closed</p> <p>Action 07.2021, 10.2021, 14.2021, 15.2021, 17.2021 and 18.2021 remains ongoing</p> <p>Actions 07.2019 and 14.2019 remains on hold</p>
4.1	<b>LA Food Sampling Annual Report by William Gilbertson</b>
	<p><b>1. Overall Trends</b></p> <ul style="list-style-type: none"> <li>• Total number of samples collected dropped again to 2558 (down from 5319 in 2019/20)</li> <li>• Percentage of satisfactory samples increased for Microbiological, Substitution and Labelling tests, but decreased for Chemical tests.</li> <li>• Samples per 1000 population dropped across Scotland with variation between Local Authority areas.</li> <li>• Retail premises were the most commonly sampled (almost half of samples), then manufacturers followed by restaurants and other caterers.</li> </ul>

- Highest unsatisfactory rates for chemical and microbiological tests were in manufacturers/processors, then retailers, followed by restaurants/caterers; for microbiological testing, restaurants improved from 22% unsatisfactory in 2019/20 to 9% in 2020/21.

## **2. Microbiological testing**

- Most of the unsatisfactory results were for hygiene indicator organisms (123 of 131 failures), mainly in sandwiches, takeaway and ready meals, smoked fish, cooked meat and prepared salads.
- 8 samples failed due to pathogens
  - 2 *S. aureus* in takeaway meal and prepared salad
  - 4 *L. monocytogenes* in RTE meat, ready meal, smoked fish
  - 2 Salmonella in breaded chicken
- No unsatisfactory results for STEC, Campylobacter, *Bacillus cereus*.

## **3. Chemical testing**

- No unsatisfactory results for undesirable substances (511 samples)
- 124 of 814 samples unsatisfactory for constituent tests, top reasons were:
  - High salt and fat (especially in processed meat products)
  - Incorrect salt or acidity (fish and meat)
- 2 of 155 samples unsatisfactory for nutritional components (vitamin and energy declarations).
- 7 of 128 samples unsatisfactory for additives; all were preservatives (nitrates in bacon and sulphur dioxide in sausages).

## **4. Chemical testing – Allergens**

- Vast majority of testing was for gluten and milk.
- 2 of 149 samples unsatisfactory for gluten (in baked goods).
- 6 of 82 samples unsatisfactory for milk (in baked goods and ready meals).
- Less than 10 samples tested for each of: almonds, peanuts, egg, soya, hazelnuts and cashews, all were satisfactory except for 2 samples for peanuts.

## **5. Substitution testing**

- Total of 9 substitution samples failed.
- 6 of 57 samples of prepared lamb dishes failed for meat speciation (presence of beef and chicken), all at takeaway restaurants.
- 2 of 55 fish speciation samples were unsatisfactory, where cod or haddock had been substituted with whiting, both sampled at a manufacturer.

## **6. Labelling**

- High overall failure rate (48%); likely affected by sampling bias (e.g. missing labels, lack of allergen information makes it obvious product will be non-compliant).
- Most common reasons for failure were QUID declaration, Ingredients lists, Nutritional declaration, Food name and Allergen declaration.

## **7. Conclusion**

- Continued decline in sample numbers negatively affects quality of dataset.
- Chemical samples showed reduction in proportion of satisfactory samples
  - Undesirable substances and Additives both low

	<ul style="list-style-type: none"> <li>○ Most unsatisfactory chemical results are more of a risk to long term health (diet)</li> <li>○ Unsatisfactory allergen tests were low, but limited testing outside of gluten and milk</li> <li>• Microbiology, Substitution and Labelling testing all improved in proportion of satisfactory results.</li> <li>• Overall picture is one of a safe and authentic food chain in Scotland.</li> </ul> <p><u>Q&amp;A</u></p> <ul style="list-style-type: none"> <li>• The reason as to why samples are taken is recorded</li> <li>• There is some evidence that sampling is becoming more regular again after Covid restrictions</li> <li>• Sampling occurred after a consumer complaint of a food item became contaminated with peanut. It is unclear how the food product became contaminated.</li> <li>• High failure rate in salt and acidity is a common occurrence and is a concern and there is scope for involvement with industry</li> <li>• It is impossible to tell from the data the root cause of a failure and there is scope for tracking authenticity and traceability. Perhaps via a monthly update from the FSS Food Crime unit and incidents team to the Enforcement team</li> </ul>
4.2	<b>Regulatory Strategy Programme by Christina Anthony</b>
	<p><b>Regulatory Strategy Programme – Presentation Summary</b>  The Regulatory Strategy Programme is a collections of workstreams and projects brought together to bring about transformational change in the regulatory environment. There are four overarching transformation workstreams: Sustainability of Official Controls, Digitalisation and Technology, Regulatory Assurance and Sustainable Funding. Six workstreams out with this: LA Support and Assurance, Shellfish Review, Surveillance, Penalties and Sanctions. Primary Production and Consumer Information Scheme. Programme governed by a Programme Board with representation from FSS, FSA and LAs.</p> <p><b>Food Law Code of Practice (FLCoP) Review Phase 3</b> – focusing on the republication of the FLCoP into subject specific and easier to digest codes. First task: update legal references of current FLCoP and Interventions Code. Second task: Publish new codes starting with Administration and Service Planning and followed by Enforcement (Penalties and Sanctions). Each new code will be consulted on and will contain the relevant guidance sections in an easily accessible annex.</p> <p><b>Sustainable Funding</b> – Currently gauging ministerial appetite to push forward with a project to develop a national framework for Official Controls (OCs) Charging for LA approved and registered premises inspected under FLRS. The aim will be to develop a national framework that can be applied across Scotland to help LAs achieve full cost recovery for OCs. Any national framework will be based on the principles set out in EU Regulation 625/2017. The objective of cost recovery is to reduce the dependency of the OC system on public finances.</p> <p><b>Introduction of Compliance Notices for Food Standards</b> – Project to address outstanding recommendation from Scudamore review and gap in current enforcement options available for breaches in Food Standards by providing a graduated and proportion option for enforcement. This should make better use of both officer and court time and have breaches remediated in a shorter timescale and promote compliance. Project draws on powers to implement Compliance Notices</p>

	<p>regimes as laid out in the Food (Scotland) Act 2015. Draft SSI currently in progress. Public consultation currently live until 16<sup>th</sup> December (link: <a href="https://consult.foodstandards.gov.scot/regulatory-policy/introduction-of-compliance-notices">https://consult.foodstandards.gov.scot/regulatory-policy/introduction-of-compliance-notices</a>). Accompanying Enforcement (Penalties and Sanctions) Code of Practice will be produced. LA training will be provided ahead of launch. Aim to have new Compliance Notice for Food Standards enacted by Summer 2022.</p> <p><u>Q&amp;A</u></p> <ul style="list-style-type: none"> <li>• Comments on the consultation on the introduction of compliance notices are sought (<a href="#">link</a>)</li> <li>• Earned Recognition is in the very early stages of work. Local Authorities will be part of this process</li> <li>• Regulatory Assurance is advocated by Codex and it will be implemented but careful consideration needs to be taken to ensure it is fit for purpose</li> <li>• Andy Morrison and Martin Keeley attend a Shield Safety Group meeting. Their project is moving away from Regulatory Assurance and moving towards consumer confidence where Regulatory Assurance will be revisited</li> <li>• The pandemic has had a big impact on inspections and thus also on the national framework for official control charging. A feasibility study will be part of the scheme.</li> </ul>
<b>4.3</b>	<b>SFELC Office Bearer Elections</b>
	<ul style="list-style-type: none"> <li>• The review of the Terms of Reference is still ongoing as the indemnity clause is being reviewed by FSS lawyers</li> <li>• Elections are to be postponed until the Terms of Reference are in place, which are to be ratified by email</li> <li>• All Office Bearer post holders are to remain in post until the elections</li> <li>• The SFELC Vice-Chair Lindsay Matthew is retiring at the end of 2021. The SFELC Vice-Chair post is to remain vacant until a new Vice-Chair is appointed</li> </ul>
<b>5</b>	<b>Intelligence gathering – Consultations, Horizon Scanning and Safe spaces</b>
	<ul style="list-style-type: none"> <li>• There has been an incident resulting in a death and illness due to improper re-heating of shepherd's pie</li> <li>• There has been an increase in enquiries relating to minimally processed foods. The Risky Foods SFELC Working Group are working on a Charcuterie guidance.</li> </ul>
<b>6</b>	<b>The SFELC Executive update</b>
	<ul style="list-style-type: none"> <li>• There was an in-depth presentation on the Regulatory Strategy Programme and various workteams</li> <li>• A presentation from the team who are looking to consult on mandatory calorie labelling in hospitality establishments was given. Pre-consultation questions are underway</li> </ul>
<b>7</b>	<b>Committee work plan</b>
	<p><b><u>04 February 2022 – Microsoft Teams</u></b></p> <ul style="list-style-type: none"> <li>• Feed update</li> <li>• 6 Month review of restart service planning</li> <li>• Craft Skill Scotland training company Update</li> <li>• Please send in any suggestions for the SFELC Committee work plan to <a href="mailto:SFELC@fss.scot">SFELC@fss.scot</a></li> </ul>

<b>8</b>	<b>Food Standards Scotland update</b>
	<ul style="list-style-type: none"> <li>• FSS board has a new chair. Details to be released in December</li> <li>• Approvals for boarder control posts documentation is being finalised</li> <li>• Penalties and Sanctions training has been delayed</li> <li>• E-learning package is being developed</li> <li>• FSS Christmas campaign will commence WC 06 December</li> <li>• FSS audit will be auditing 3x LAs before the end of the financial year</li> </ul>
<b>9</b>	<b>Sub – Committees: including working groups</b>
	<ul style="list-style-type: none"> <li>• Methods and Techniques Working Group is due to be meeting in the near future</li> <li>• The Seafood Official Control Working Group will reconvene in a couple of months time</li> </ul>
<b>10</b>	<b>Food Liaison Group</b>
	<p><u>Lothian and Borders Food Liaison Group</u></p> <ul style="list-style-type: none"> <li>• Intervention Programme work has resumed</li> <li>• FLRS rating scheme is being used</li> <li>• Inspections are by appointment only</li> <li>• At the time, a lot of LAs were focusing on COP26 preparations</li> <li>• Although most LAs are looking to restart their sampling programmes, there are staffing issues</li> <li>• Next meeting is due nextweek</li> </ul> <p><u>North of Scotland Food Liaison Group</u></p> <ul style="list-style-type: none"> <li>• Same as Lothian and Borders, except LAs did not have much involvement with COP26</li> </ul> <p><u>West of Scotland Food Liaison Group</u></p> <ul style="list-style-type: none"> <li>• None</li> </ul> <p><u>East of Scotland Food Liaison Group</u></p> <ul style="list-style-type: none"> <li>• Same as Lothian and Borders</li> <li>• There has been an increase in Bacto sample failures from hygiene indicators</li> </ul>
<b>11</b>	<b>Update by Non-Enforcement Members</b>
	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>12</b>	<b>AOCB</b>
	<ul style="list-style-type: none"> <li>• The Committee gave their thanks to Lindsay Mathew for all of his contributions and hard work on behalf of SFELC. He will be severely missed and wish him well with his retirement.</li> <li>• Lindsay Mathew gave his thanks to the Committee, stating how much he has enjoyed his time at SFELC and encourages individuals to become SFELC Office Bearers</li> <li>• The increase in fuel prices has had an effect on food crime and is perhaps the cause to the increase in minimally processed foods</li> <li>• Suggested dates for future SFELC meetings are: <ul style="list-style-type: none"> <li>22 April 2022</li> <li>03 June 2022</li> <li>07 October 2022</li> <li>02 December 2022</li> <li>10 February 2023</li> </ul> </li> </ul>

13	Review of Action Points
	<ul style="list-style-type: none"> <li>• <b>Action 22.2021 – Secretariat to invite Luke Henderson to a SFELC Executive meeting to give an update on data analysis with regards to the Metric and Interventions WG.</b></li> <li>• <b>Action 23.2021 - Secretariat to invite Gordon King to a future SFELC meeting to present on Craft Skills Scotland training company as he was unable to attend the meeting on 03 December 2021 as originally scheduled</b></li> <li>• <b>Matter of Record 03.2021 - Terms of Reference to be ratified by email</b></li> <li>• <b>Matter of Record 04.2021 - Office Bearer elections to be postponed until SFELC meeting on 04 February 2022</b></li> <li>• <b>Matter of Record 05.2021 - All Office Bearer post holders to remain in post until the elections on 04 February 2022</b></li> <li>• <b>Matter of Record 06.2021 - SFELC Vice-Chair post to remain vacant until a new Vice-Chair is appointed</b></li> <li>• <b>Matter of Record 07.2021 - The Committee gave their thanks to Lindsay Mathew for all of his contributions and hard work on behalf of SFELC. He will be severely missed and wish him well with his retirement</b></li> </ul>