

Midlothian Council Food Law Enforcement

Review of Food Service plan 2023 - 2024

Food Standards Scotland (FSS) require each local Food Authority to produce a periodic review of the authority's annual plan showing how it met the duty of the Authority to regulate and enforce food law in its area. The coronavirus pandemic caused the cessation of almost all routine on-site food inspection work from March 2020 until October 2021. This review covers the period from 1 April 2023 to 31 March 2024, the second year of the food law interventions programme restart post pandemic lockdown.

1.0 Introduction

- 1.1 The role of the food service is to ensure that food businesses protect the public of Midlothian from harm that might arise from food – be that food borne infection, lack of labelling of allergens, fraud or contamination. We do this by regular interventions and inspections of businesses, taking samples of food, through providing advice and by investigating complaints and concerns. Food Officers have enforcement powers to compel compliance with the law and to report those committing an offence to the Crown Office Procurator Fiscal Service. The customer base for our inspection, sampling and other regulatory activity is all of the food businesses operating in Midlothian.
- 1.2 The Food Standards Agency Framework Agreement on Official Feed and Food Controls requires food authorities to report on the performance of their Food Service each year.
- 1.3 This review reports on the activity of the Food Service within the Protective Services, Business Regulation Team during the financial year 2023 - 2024.
- 1.4 During the year of this plan the Business Regulation Food and Safety Team had a vacancy of 1 FTE, almost 20% of our workforce. In addition, 2 members of the team were on long term absence.
- 1.5 An experienced external agency Environmental Health Officer (EHO) contractor was engaged to carry out food law interventions between April 2023 and August 2024 to cover one of the long-term absences. Unfortunately, we were unable to extend this contract to provide longer cover.
- 1.6 The national shortage of qualified EHOs is currently an issue for all local authorities in Scotland and is of major concern to the profession. To help alleviate this, Midlothian Council adopted a “grow our own” policy.
- 1.7 The student EHO who was taken on by Midlothian Council to complete their practical training, gained a first-class honours degree in Environmental Health and passed their Diploma in Environmental Health to become a qualified EHO. They have been employed by Midlothian Council in the Business Regulation Team, Food and Safety. Under the terms of the Statutory Food

Law Code of Practice (Scotland) it will take a further 2 years of food related work experience to become a fully authorised officer.

2.0 Food Business profile

2.1 As of 31 March 2024 there were 990 registered food businesses in Midlothian.

The number of food businesses in Midlothian continues to grow although this has slowed since the Coronavirus pandemic (Figure 1). Between April 2023 and March 2024, 96 new food businesses registered and 92 food businesses ceased trading.

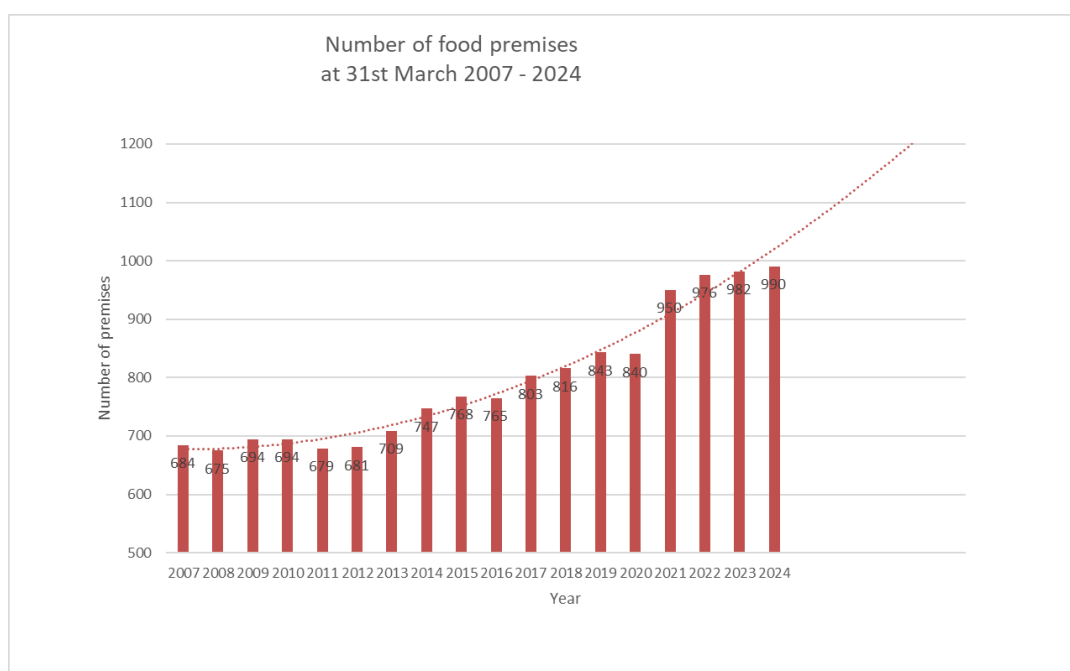


Figure 1 – Number of Food Business Registered in Midlothian by Year

- 2.2 Although food business operators are required by law to notify the authority when they cease trading few do. Information about changes in ownership is gathered from new registrations of existing premises where the Food Business Operator (FBO) changes or when officers visit.

3.0 Performance against service plan objectives

Objective 1: Complete Programmed Food Law Interventions

- 3.1 In the year 2023- 2024 the Food Service planned to inspect 355 food businesses to assess their compliance with food law (food hygiene and food standards). The Service completed 100% of the inspections planned at the highest risk premises in priority 1 & 2 categories, by quarter 3.
- 3.2 Of the 355 interventions planned between April 2023 and March 2024, 143 were not completed within the year. However, during the year the Food Service completed 312 food law interventions. Throughout the year the team

picked up additional interventions due to serious non-compliances or new food businesses registering with the Service. To protect public health these took priority over the lower risk planned interventions.

- 3.3 Within this second year of the restart programme, 16 food premises were found to have significant or sustained non-compliances (risk rated band D or E). These premises required intensive intervention with 2 or more inspections carried out to support and encourage each business to improve compliance. An additional 27 interventions were carried out, 10 enforcement notices and 1 voluntary closure were issued for the most serious contraventions.
- 3.4 The poor standards found in these premises is thought to be due to a decline in standards as a result of the Coronavirus pandemic. Several of these were food businesses taken over or started by persons with little or no knowledge and understanding of food safety. This is also coupled with the negative impact of the increased cost of living.

Objective 2: Approved Premises Intervention

- 3.5 Year 2023 - 2024 was the second year, Phase 2, of implementing Food Standards Scotland (FSS) new Official Controls Verification (OCV) interventions at approved premises within Midlothian. During the year the method and recording of these interventions has been developed using the 'OCV Implementation Guide' provided by FSS and Scottish Food Enforcement Liaison Committee (SFELC).
- 3.6 All of our higher risk approved premises; manufacturing meat products and dairy products, were inspected or audited at least once within the year. Food safety management systems were requested from business, including Hazard Analysis Critical Controls (HACCP) to research and assess the complex processes involved. This approach is very time consuming with each of these visits requiring 2 officers.

The majority of the lower risk approved establishments i.e. cold stores received at least 1 intervention and documentation was requested to allow assessment in Phase 2.

- 3.7 Due to the reduced available staff, additional intensive food law interventions and other conflicting work activities, which took priority, enforcement resources had to be diverted so not all the planned OCV interventions were achieved in full.
- 3.8 The new method for approved premises intervention will continue to be developed within the coming year, 2024-2025 Phase 3, and priority will be given to delivering the planned OCV interventions. It is predicted that

additional time will need to be allocated to these high-risk premises in future years as we continue to implement this.

Objectives 3 and 4: Complete Sampling from Manufacturing Premises in Midlothian and National Sampling Plans

- 3.9 During the year a total of 97 food samples were taken. This includes 45 samples taken for the Food Standards Scotland National survey and 52 samples taken from Midlothian's approved premises and manufacturers.
- 3.10 Of the results we have received as at 12 April 2024, around 6% of the samples taken have been reported as unsatisfactory, see table 1 for examples.

Labelling/Compositional Contraventions	
Minced Meat	Meat content too low. Too much fat, incorrectly labelled meat and/or fat content.
Allergens	Egg found in 'egg free' meal
	Milk found in drink made with 'dairy free' milk alternatives

Table 1 - Examples of sample 'failures' April 2023 – March 2024

- 3.11 At the time of review, the results of 6 composition and labelling samples had not yet been received.

Objective 5: Commence Investigation of Food Related Requests for Service within Target Working Days

- 3.12 The Food and Safety Team received 385 service requests during the year, of which 236 (61%) related to food matters. These were received from Midlothian residents, businesses and other council departments.
- 3.13 The Food Service was able to respond to 81% of food related service requests from Midlothian residents and businesses within the target response time of 5 working days.
- 3.14 There is still a significant number of service requests being received from other council departments. Of the total number of requests for the team almost 40% were associated with the Safety Advisory Group (SAG) and licensing process.

In addition, the service also received 61 reports of accidents in workplaces. The majority do not meet our criteria for investigation and could be dealt with swiftly, 3 required visits and further investigation.

Objective 6: Investigate Food and Water Borne Disease in Co-ordination with Health Authorities

- 3.15 Between April 2023 and March 2024, 51 notifications of food related illness were received from the Health Protection Team at NHS Lothian, see figure 2. This is over double the average for Midlothian Food Service who on average receive approximately 22 reported cases of infectious disease per year.

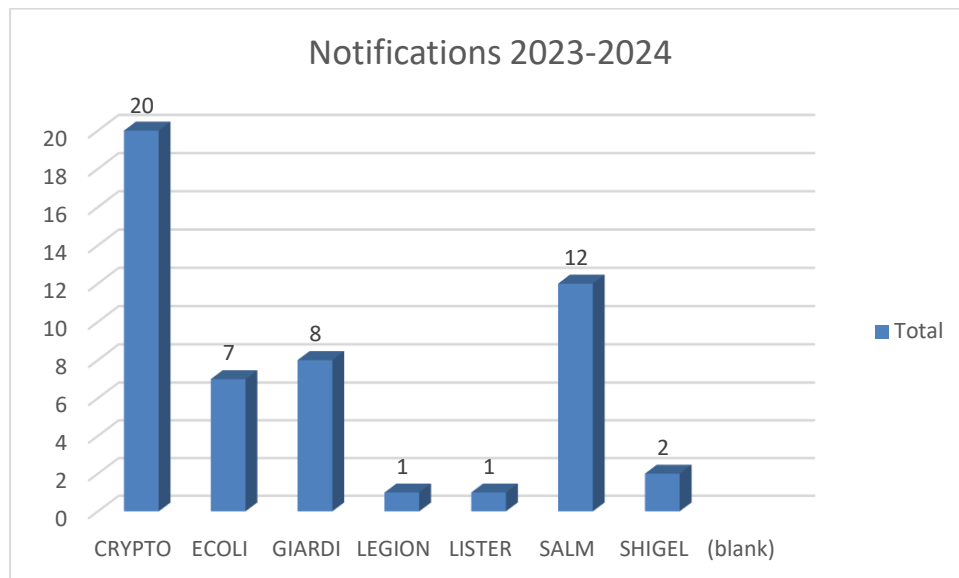


Figure 2 – Number of Infectious Disease Notifications between April 2023 – March 2024

- 3.16 Despite the increase in reported cases there were no identified food related outbreaks. However, in October the Food Service received a Health Protection Alert from Public Health Scotland relating to a UK-wide increase in cases of cryptosporidiosis. There was no common source identified but it was suggested that this may be due to travellers returning to the UK.

Objective 7: Respond to Food Alerts by Food Standard Scotland

- 3.17 In June 2023 the Food Service was alerted to an incident where donner meat from an unapproved premises was potentially being supplied to takeaway premises. Any product found was to be withdrawn from the market due to food hygiene, labelling and traceability contraventions. Our Principal EHO worked throughout the weekend and made contact with 17 food businesses within Midlothian to identify if any affected product had been supplied. We were able to confirm that no such product had been supplied to those Midlothian businesses.
- 3.18 The Food Service was made aware, by FSS in November, of the possible use of an unauthorised novel food Butterfly Pea flower in alcohol products manufactured in Midlothian. After discussion with FSS and the sharing of information the decision was made, due to the low food safety risk and a new Food Business Operator, to approach the business informally and provide advice. A visit was made to advise the FBO of their legal responsibilities and a

follow up letter sent to confirm their intention to cease the use of the product and find an alternative.

Objective 8: Ensure all Authorised Officers Receive a Minimum of 10 hours Food Related Competency Training

- 3.19 All Food Officers gained 10 hours of food related training. This includes for example, research on new emerging topics or complex processes and new learning at food liaison groups.

4.0 Enforcement Activity

- 4.1 The enforcement activity required during 2023 - 2024 is summarised in Table 2. The previously reported increase in intensive interventions, due to poor and unsatisfactory standards found at food premises, has seen a continuation in enforcement activity required.

Enforcement Activity	19-20	20-21	21-22	22-23	23-24
Remedial Action Notices	2	1	2	8	9
Food Detention Notices	0	0	0	0	0
Hygiene Improvement Notices	1	2	5	8	1
Emergency Hygiene Prohibition Notices	0	0	0	0	0
Voluntary Closures	0	0	0	1	1
Reports to the Procurator Fiscal Service	0	0	0	1	0
Food surrenders or seizures	0	0	1	1	1

Table 2 - Type and Number of Enforcement Actions taken April 2023 – March 2024

- 4.2 Remedial Action Notices which have the effect of stopping a food business, or a process within the business, from continuing until matters of concerns are rectified were served on businesses for serious food hygiene issues that required to be resolved immediately including lack of hot water and significant pest issues. The Hygiene Improvement Notice requiring improvement within a defined timescale was due to failure to have adequate systems in place to ensure food safety. All enforcement notices were complied with.

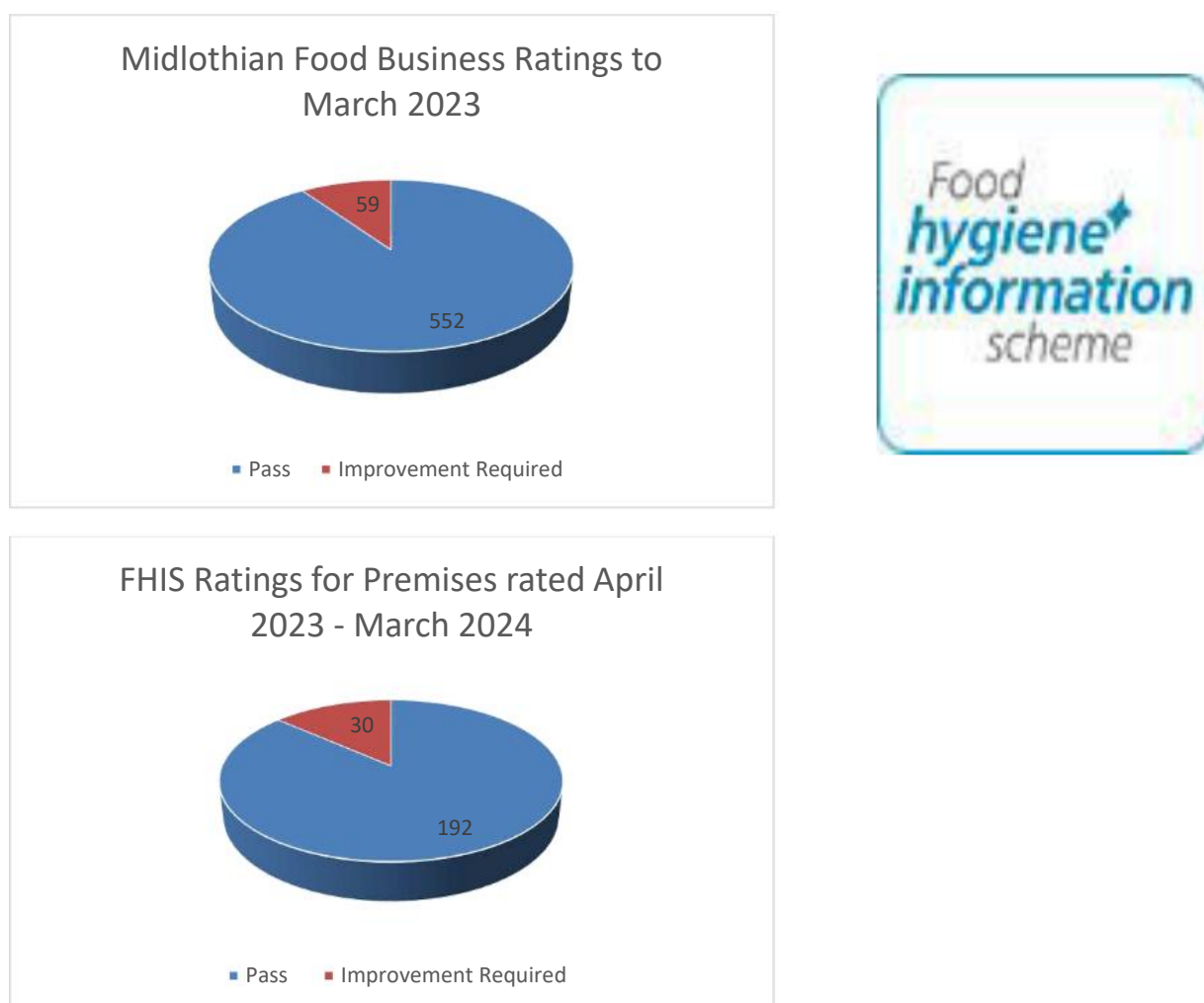
5 The Food Hygiene Information Scheme (FHIS)

- 5.1 The Food Hygiene Information Scheme (FHIS) remains in operation across Scotland. This scheme allows consumers to view the outcome of the

assessment made of any business within the scheme when it was last inspected by the Food Service. Businesses can choose to display a certificate at the premises and consumers can check the rating for any premises covered by the scheme on the Food Standards Scotland website at [Food Hygiene Information Scheme | Food Standards Scotland | Food Standards Scotland](#). Businesses are awarded either a “Pass” certificate or an “Improvement Required” rating.

- 5.2 In previous years Midlothian has had an overall PASS rate of around 88%. The ratings for the 611 relevant Midlothian food business that have been rated, at the end of March 2023, show a 90% PASS rate, illustrated in Figure 4. At present due to the ‘missed’ inspections some data contributing to this calculation is historic. For comparison, the FHIS ratings for this year alone are also presented in Figure 3, showing 86% of Midlothian food businesses achieving a PASS rating.

Figure 3 – Food Hygiene Information Scheme Ratings 2023



- 5.3 As at April 2024, there were 63 premises showing as “Awaiting inspection” that have yet to receive a food law intervention.