

# Midlothian Council

## Food Service Plan 2023-2024

### Food Service Plan 2023-2024

#### Summary

**Food Standards Scotland (FSS) require each local Food Authority to produce a periodic plan showing how it will meet the duty of the Authority to regulate and enforce food law in its area. This plan is produced following the Framework Agreement on Official Feed and Food Controls by Local Authorities, issued by Food Standards Agency (FSA).**

**The coronavirus pandemic caused the cessation of almost all routine on-site food inspection work from March 2020. This Food Service Plan is a continuation of the restart of the Food Law Intervention Programme, which began in April 2022.**

**This plan covers the Protective Services, Business Regulation Team's food related activities, planned from April 2023 – March 2024. It has been prepared using risk rating data held for each food premises on our Management Information System and following the Local Authority Recovery Process Guidance produced by Food Standards Scotland and Scottish Food Enforcement Liaison Committee (SFELC).**

**With 982 registered food premises within Midlothian, the Business Regulation Food and Safety Team will require to carry out around 300 inspections each year for the next 3 years to stay on target and meet the expectations of Food Standards Scotland. Within this Food Service Plan, between April 2023 to March 2024, 355 registered food businesses would receive a food law intervention.**

**In addition, Midlothian has 11 approved food manufacturers that require significant staff resource to ensure we meet the required standards through a new method of Official Control Verification. As these businesses are seen as our highest risk, the Business Regulation Food and Safety Team will be focusing on delivering these official controls.**

**However, Midlothian Council Food Service has committed to fully engaging with Food Standards Scotland's SAFER project to develop a new approach to food law delivery in Scotland that is fit for the future. Until we receive guidance about this project the Food Service must continue with their planned food law intervention programme. When the SAFER project is initiated, the Food Service will be unable to complete this Food Service Plan in its' entirety.**

**Using the FSS Local Authority Resource Calculation Guidance, dated August 2022, it is estimated that 3.7 FTE qualified food officers would be required to deliver the full range of food law-related activities for this year. The Food Service currently has 2.9 FTE for food activities.**

**As at 1 April 2023 the team has a 1 FTE vacancy. There is also currently 1 FTE on maternity leave, planning to return January 2024, this post is covered by an agency EHO who will cease at the end August 2023. If we manage to fill the vacant post as hoped, in September 2023, we will still have a 1 FTE vacancy until January 2024 due to maternity leave.**

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**Even at full complement with all posts filled, the Business Regulation, Food and Safety Team will have a 0.5 FTE shortfall between the calculated FTE required and the establishment FTE. This shortfall will mean the Service is highly unlikely to fulfil all our statutory duties.**

**Through this period of uncertainty, with ongoing staff vacancies and our commitment to the SAFER project, the Food Service will continue to prioritise our highest risk premises. All planned official controls at our approved premises will be prioritised. All Group 1, Group 2 Band D & E and Group 3 Band D & E food businesses will be inspected within the required timescales. Requests for service that are deemed to be significant/serious will be investigated.**

### Introduction

Retained EU law sets out the obligations that apply to the delivery of Official Food Controls by Local Authorities (also known as Food Authorities), ensuring:

- The effectiveness and appropriateness of Official Controls,
- That controls are applied at appropriate risk-based frequency,
- That they have a sufficient number of suitable qualified and experienced, competent staff and adequate facilities and equipment to carry out their duties properly,
- That staff are free from conflicts of interest.

Local Authorities must have regard to Codes of Practice issued by Ministers on the execution and enforcement of the applicable food laws; and regulations and orders made under it. Food Standards Scotland oversees that Local Authorities have in place arrangements for the delivery of the required Official Food Controls. This Service Plan is also developed in line with the draft Administration and Service Planning, Food Law Code Practice (Scotland) 2020, provided by FSS.

The coronavirus pandemic caused all planned food law intervention work to cease on 20 March 2020 when the Council moved into Category 1 responder mode. Environmental Health Officers (EHO's) were classed as key workers and ceased normal duties to concentrate work on public health control measures.

The requirements of the Health Protection (Coronavirus)(Restrictions)(Scotland) Regulations 2020, which were regulated by local authorities, have been removed. Officers are no longer dealing with COVID-19 related requests. However, Food Service EHO's would be expected to provide assistance again if needed. It is not possible to predict if and when that may happen.

Food Service Officers resumed unannounced inspections, in accordance with the Interventions Food Law Code of Practice (Scotland), in April 2022. Since then the Food Service Plans have been prepared following the 'Local Authority Recovery Project, Recovery Process Guidance' developed by Food Standards Scotland and Scottish Food Enforcement Liaison Committee, issued in December 2020.

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This guidance set maximum time periods, within which every food business must have a planned intervention. Between April 2022 and March 2026, all food premises in Midlothian have been allocated a scheduled intervention. If the Food Service can stay on track with the proposed restart programme, based on our reset date of April 2022, then all Midlothian food businesses will have had a food law intervention by the end of March 2026.

This plan covers the period from 1 April 2023 to 31 March 2024.

### 1.1 Service Aims and Objectives

The aims of the Food Service, delivered by the Business Regulation Team within Protective Services, are to:

- To protect public health by ensuring that food produced and/or consumed in Midlothian, is safe to eat and is described accurately to the consumer,
- Carry out the statutory duties required of Midlothian Council as a Food Authority.

Objectives, to;

- Complete the food law interventions programme planned for April 2023- March 2024,
- Carry out approved premises interventions following the Official Control Verification (OCV) framework,
- Undertake a programme of food sampling from manufacturing premises in Midlothian,
- Contribute to national sampling surveys set by Food Standards Scotland,
- Investigation food related requests for service,
- Investigate instances of food and water borne diseases within Midlothian in a co-ordinated approach with the relevant Health Authorities.
- Respond appropriately to relevant food alerts as required by Food Standards Scotland,
- Ensure all Authorised Officers receive a minimum of 10 hours food related training to maintain competency.

### 1.2 Link to corporate objectives and plans

Midlothian Council has developed a Single Midlothian Plan with a stated vision that;

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- *Individuals and communities in Midlothian will be able to lead healthier, safer, greener and successful lives by 2030.*
- *No child or household need live in poverty.*
- *Midlothian will be a Great Green Place to Grow by achieving our net zero carbon ambitions.*

Annex 1 shows the mapping of Food Service activity to the Single Midlothian Plan outcomes.

Food Authorities have a duty under the Regulatory Reform (Scotland) Act 2014 to contribute to sustainable economic growth. Food Service Officers have regard to the principles of Better Regulation helping businesses to comply and grow sustainably, outlined in the Scottish Regulators' Strategic Code of Practice. This is in line with the Single Midlothian Plan. However, exceptions are in place where this would be inconsistent with the execution of their function to protect public health.

## 2. Background

### 2.1 Profile of Local Authority

Midlothian Council is located to the south of Scotland's capital city Edinburgh and serves a growing population of about 93,150. Midlothian is now pro rata, the fastest expanding area of Scotland for population growth and housing development, with a projected population increase to 103,945 by 2028, an increase of 13.8%. This is compared to 1.8% increase for Scotland as a whole. This brings with it consequent pressures on council services.

Reference: National Records of Scotland - [Midlothian Council Area Profile \(nrscotland.gov.uk\)](https://www.nrscotland.gov.uk)

The Council is one of the smallest in Scotland covering a geographical area of 354km<sup>2</sup>. It shares its borders with East Lothian, City of Edinburgh and Scottish Borders. The main centres of population are currently around Dalkeith, Bonnyrigg and Penicuik with much of the area rural in nature with small towns and villages.

### 2.2 Organisational Structure

An organisational review of Protective Services was completed in 2022. The new organisational structure is seen in Figure 1 and shows the current full time equivalent (FTE) within the Business Regulation Team, as at 1 April 2023.

The Senior Manager Protective Services has been in post since October 2021. The post of Team Manager Business Regulation was created with responsibility for regulatory compliance within Midlothian. From April 2023 this incorporates the Food and Safety Team and Trading Standards Team. The appointed person started in March 2022 and has taken on the role of Lead Food Officer for Midlothian Council. A Principal Officer supports the Team Manager and Enforcement Officers. The Principal Officer within Food and Safety has been in post since March 2023. The Business Regulation Team has allocated Business Support, 0.4 FTE is dedicated to food related administration.

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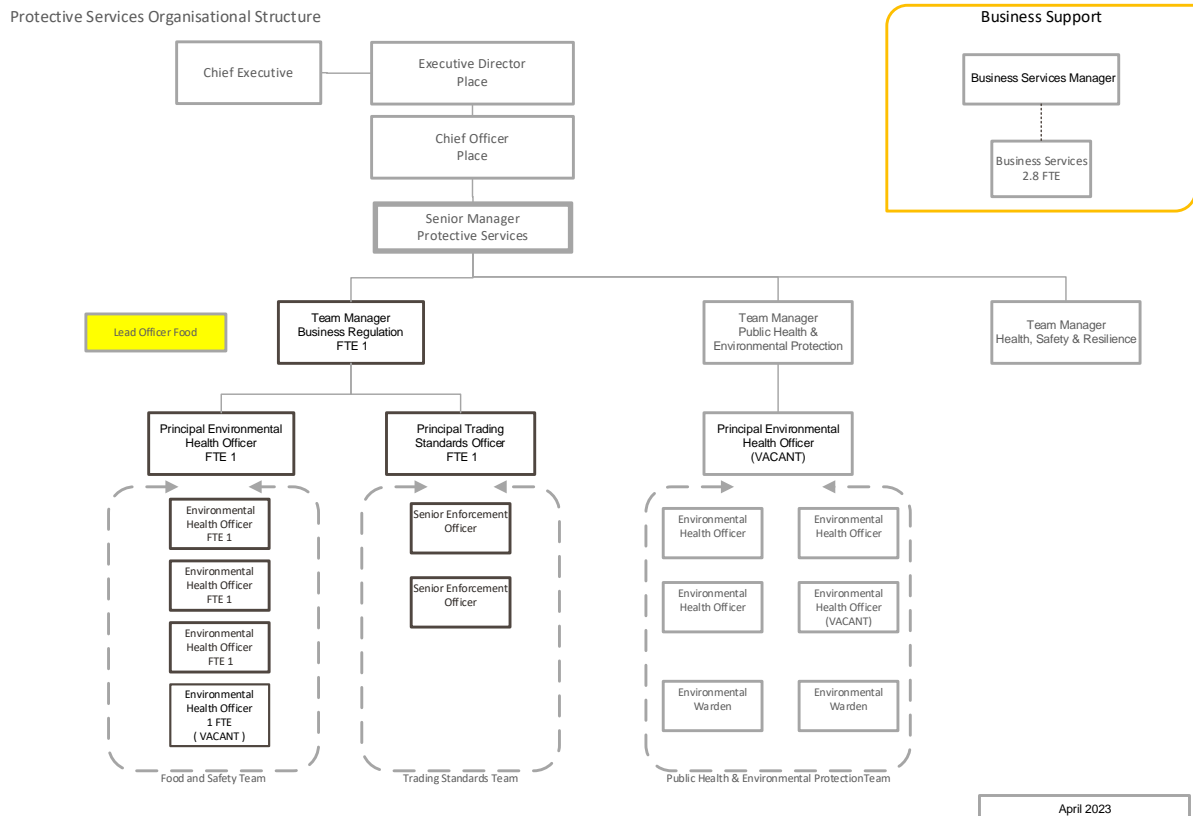


Figure 1. Organisational Structure of Place with current Business Regulation Team Full Time Equivalent (FTE) as at April 2023.

### 2.3 Scope of the Food Service

The Food Service is delivered by the Business Regulation Team of the Environmental Health Service, part of Protective Services in the Place Directorate. The Service is based at Fairfield House, 8 Lothian Road, Dalkeith, EH22 3AA - Tel. 0131 271 3559, email: [foodandsafety@midlothian.gov.uk](mailto:foodandsafety@midlothian.gov.uk).

The Service generally operates during Midlothian Council office hours, 9-5pm Monday to Thursday and 9-3.45pm Friday. However, a certain amount of inspection and reactive work is done out with these hours in order to access businesses that open in the early mornings, evenings or at weekends or to respond to public health concerns.

Outwith core hours, contact for emergency purposes is on an ad-hoc “whom-failing” basis via the Midlothian Contact Centre - Telephone number 0131 663 7211.

The organisational structure, lines of responsibility and establishment of the Environmental Health Service are shown in Figure 1 above.

The range of food activities involved in regulating businesses in Midlothian include;

- Regular interventions with food business to check compliance with food law including safety, hygiene, food composition and labelling.
- Approval of our highest risk businesses handling products of animal origin.

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- Licensing of certain premises i.e. mobile street traders
- Sampling of food to check on hygiene, composition and labelling.
- Investigation of complaints from the public about food, food labelling and food premises.
- Investigation of food related cases of infectious diseases.
- Detection and investigation of food related fraud and food crime.
- Enforcement of the legislation in relation to the above activities.
- Providing advice and assistance to new or existing food business operators and to the public.
- Scrutiny of planning and building warrant applications relating to matters of food safety

The Food and Safety team is also responsible for;

- Enforcement of Health and Safety legislation in many workplaces in the Midlothian area, including the investigation of workplace accidents and incidents in those premises,
- Environmental Health Officers contribute to the Council's Safety Advisory Group providing advice to event organisers,
- Enforcement of the Public Health (Scotland) Act and in partnership with NHS Lothian, the investigation and control of certain infectious diseases and other public health concerns,
- Licensing and regulation of residential caravan sites, certain activities covered by Civic Government licencing and zoos.

Enforcement Officers are authorised by the Council to enter premises, inspect and take samples, serve legal notices and make reports to the Procurator Fiscal. Any formal action taken is in line with our Food Enforcement Policy.

City of Edinburgh, Scientific Services are appointed by Midlothian Council to provide services of examination and analysis of samples.

### 2.4 Demands on Food Service

#### Service User Profile

As of 1 April 2023, 982 food business were registered and operating in Midlothian.

From 2005 – 2023 there had been a net year on year rise in food businesses, see figure 2. The rate of increase has slowed since the pandemic. Within the year from April 2022 to March 2023, 112 food businesses ceased trading and 77 new food businesses registered.

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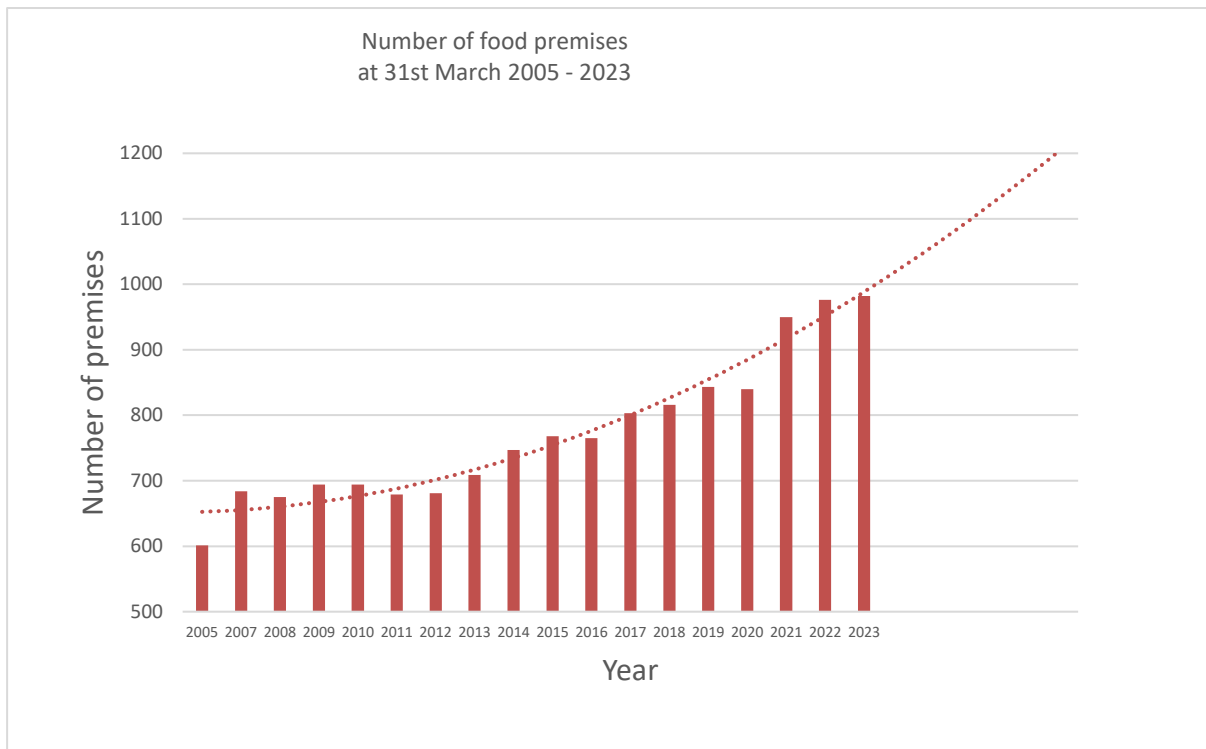


Figure 2 Number of food businesses registered with Midlothian Council from 2005 – 2023

The majority of the food premises in the area are small to medium enterprises. Most of these businesses rely on regular contact from the Business Regulation Team for advice and guidance on the legal requirements for food and safety.

There are 11 premises located in the area approved for the manufacture and supply of high risk products of animal origin to other food businesses and potentially national and international markets. A small number of food businesses export to non-EU countries.

### Changes to Enforcement Practice

The Interventions Food Law Code on Practice (Scotland) introduced the new Food Law Rating System (FLRS) in April 2019 and changed the way in which food businesses are risk rated after an inspection. The risk rating of each food business will still determine the frequency at which it is inspected. However, all food businesses are now assessed on a wider range of aspects of food law covering hygiene, composition, labelling requirements and the risk of fraud. This new risk assessment scheme is expected to result in increased frequency of inspections for the higher risk businesses. Businesses deemed to be of the highest risk at their programmed inspection, due to serious non-compliance, will receive intensive interventions, with further full inspections within 1 month and 3 months.

FSS Local Authority Recovery Process Guidance sets out 6 risk-based priorities from highest to lowest risk (see Annex 2). The Food Service will monitor and report on the highest risk of these, i.e. Priority 1 and Priority 2 at the end of the 12 month plan. The Food Service will also monitor the progress, quarterly by the cumulative percentage of planned food premises inspections achieved in each month, for all priority categories.

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These changes have required updates to the Management Information System used by the Food Service (UNIFORM - IDOX) to cope with this and there will be a transitional period as food businesses are moved from one assessment regime to another. It is anticipated that all food businesses will be risk rated under the new FLRS system within 48 months of restarting the Food Law Intervention Programme.

The Interventions Code does not apply to food establishments at the level of Primary Production or Approval. The way in which Official Controls are applied to approved premises has changed with more frequent, in depth interventions now required. Each premises will require numerous visits within an annual cycle. A significant amount of officer time is needed to continue the implementation of this new process, with 2 officers required for each of these interventions. At present there are 11 approved premises within Midlothian, with a further business requiring assessment.

### Future Demands

Regulation of businesses is regularly changing and with it the demands on ensuring compliance. Midlothian Council Food Service will prioritise any national or local driven outcomes, including compliance with new legislation or improved compliance with existing legislation. The acceptance of this will be risk based and will take account of any additional burden and/or additional resource required.

A consultation on the provision of mandatory calorie information within the 'out-of-home' sector is ongoing. This is being considered to help reduce diet-related health inequalities. As Food Service Officers are already visiting food premises on a regular basis and enforcing existing food law they are seen by Scottish Government as best placed to provide support and guidance to business to fulfil this requirement. This will need further time resource to ensure officers are trained and competent before then spending time with businesses to help them apply any new legislation.

A pilot of whole systems approach to Type II diabetes prevention in Mayfield and Easthouses is planned to begin in 2023. This aims to improve access to healthy food. It is planned for Food Officers to engage with targeted food businesses to promote the use of MenuCal, an online tool to help reduce the number of calories offered in 'out-of-home' foods.

### Central Government Initiatives

Midlothian Council Food Service will prioritise central government initiatives in compliance with the Food Law Code of Practice, based on risk assessment and where resources allow.

With the pressures facing Scottish Food Authorities, FSS has proposed SAFER, Scottish Authorities Food Enforcement Rebuild, a collaborative approach to implement a new model of Food Law delivery in Scotland. This will be a comprehensive overhaul of the way in which the Food Service operates.

Midlothian Council Food Service will participate in central government initiatives proposed by Food Standards Scotland in regard to SAFER.



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It has been intimated that this work will begin in Q3/Q4 of 2023 and will be a significant project, involving considerable officer time. Given the scale of the work proposed, when this project is initiated, it is anticipated that the Food Service will be unable to complete this Food Service Plan in its entirety. A temporary relaxation of the current food enforcement regime will be required. To ensure the safety of food provided in Midlothian, the Food Service will continue to prioritise planned interventions of the highest risk food businesses; approved premises, priority 1 and 2 category premises and serious food related incidents.

Although this work will pose a short term reduction in food law enforcement in lower risk premises and cases, it will ensure a more robust long term solution designed to protect individuals and communities in Midlothian which will enable them to lead healthier and safer lives.

FSS have advised that the main focus of the performance and monitoring audit for this year will be to verify and validate the implementation of any specific direction given by FSS.

There was agreement at the meeting of SoLACE on 16 December 2022 to endorse the participation of Environmental Health colleagues in this work and the related temporary relaxations that can be introduced on a risk basis to create the capacity for this work.

### 2.5 Enforcement Policy

The Authority has a documented Food Enforcement Policy which was approved by Council on 8 March 2022. It will be due to be reviewed in April 2024. This sets out how the Food Service will deal with non-compliance with food law and how we intervene to bring businesses back into compliance. Authorised Officers make enforcement decisions in line with Midlothian Council's Food Enforcement Policy.

## 3. Service Delivery

### 3.1 Interventions at Food Business Establishments

This plan covers the period from 1 April 2023 until 31 March 2024.

The Food Service plans to carry out 355 interventions at Midlothian food business to assess their compliance with food law. This includes planned interventions at premises; risk rated under the Food Law Rating Scheme (FLRS), those classed as 'missed' during the Coronavirus pandemic and newly registered food businesses. Table 1 shows the breakdown of the number of interventions planned in each priority category.

Planned Food Interventions April 2023 – March 2024	
Priority Category	Number of planned interventions
Highest Risk Premises Priority 1	10

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High Risk Priority 2	37
Medium Risk Priority 3, 4 and 5	291
Lowest Risk Priority 6	17
Total	355

Table 1, Breakdown of Priority Category and Number of Interventions Planned

Priority categories are set with proposed timescales (see Annex 2) by which premises in each category must receive an intervention. Rescheduled dates have been set, within Midlothian Council's Management Information System, for any premises that 'missed' their inspection, to ensure they receive a planned intervention within proposed timescales. If the programme remains on track and the current vacancy filled to provide a full complement of staff all the food businesses (registered with Midlothian Council by April 2022) are scheduled to have had a food law intervention by end March 2026.

Prior to the Coronavirus pandemic the Food Service had good quality, up to date risk ratings for the majority of the food businesses in Midlothian.

In the second year of the restart, from 1 April 2023 - 31 March 2024, the Food Service will again prioritise the known highest risk food businesses that operate within Midlothian. This includes priority 1 and priority 2 category businesses.

At 01 April 2023 there are 47 of these businesses in these categories that will receive a planned intervention in 2023/24.

It is anticipated that the number of unplanned interventions will increase throughout this year due to the identification of serious non-compliances, as evidenced in year 2022 – 2023. These non-compliant businesses will thereafter need to receive 'intensive' interventions at specified intervals, namely within 1 month of the initial inspection followed by another full inspection after 3 months. The worst, highest risk premises will have an additional intervention after another 6 months. It is impossible to predict at present how many premises this may relate to. In year 1 the number of food businesses with serious failures doubled from that originally planned, thought to be due to a decline in standards as a result of the legacy of the pandemic coupled with the increased cost of living.

Priority 3, 4 and 5 category businesses have been allocated an intervention date within the proposed time periods set out in the FSS recovery guidance. These are spread evenly throughout 12, 18, 24, 36 and 48 months in line with the guidance. Within the current years plan, 291 medium risk premises (priority 3, 4 and 5) would receive an intervention.

Priority 6 category businesses are the lowest risk, they include small retailers selling pre-packed foods and childminders and home caterers preparing and selling low-risk

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ambient foods. If resources allow and staff levels increase, due to a successful recruitment campaign, interventions at these lowest risk businesses would be initiated.

As previously shown, the number of new food businesses registering with Midlothian Council is increasing year on year. All newly registered food businesses require a full inspection to allow them to be risk rated under the new system. The Food Service plan allocates resource to inspect 20 higher risk (Group 1 & 2) and 25 lower risk (Group 3) businesses within the year. Depending on the type of food business, officer resource to bring them in line with regulatory compliance can be significant. In the last 6 months Food Officers have been supporting new manufacturing establishments, an application for a new approved premises and food producers using complex processes.

Approved premises who supply products of animal origin are classified as Midlothian Council's highest risk food establishments. Year 2023 – 2024 will see Midlothian Food Service implement phase 2 of the OCV process. This will include detailed review of businesses documented procedures and the introduction of reality check inspections and focused audits. The Food Service will prioritise these planned interventions over other planned work.

All approved premises will receive interventions in line with the Official Control Verification (OCV) Guidance, produced by FSS. This is a methodical approach of auditing the highest risk food businesses to secure high level public health protection and protects the reputation of Scottish food businesses. Implementation of this new process significantly increases the time spent on Official Controls at approved establishments. Utilising the FSS provided resource calculator it has been estimated that 92 days of officer's time will need to be allocated to these 11 premises, this year alone. Midlothian Food Service will move to phase 3 of the process in 2024-2025.

The organisational structure of Business Regulation provides 5.5 FTE officer positions within the Food and Safety team, including management. Currently 4.5 FTE positions are filled within this team and there is 1 FTE vacancy. For the team to fulfill all the food law requirements placed upon them within this current year's plan they would require an (estimated) additional 0.8 FTE. This would be covered by recruitment into the vacant post.

Mindful of the national shortage of Environmental Health Officers Midlothian Council Environmental Health have adopted "a grow our own" approach and are currently supporting a Student EHO through their professional training. It is anticipated that they will complete their training and sit the REHIS Professional Diploma, to qualify as an EHO, in September 2023. Post professional qualification a period of work experience is required before any new officer can be fully authorised.

### 3.2 Food Complaints and Requests for Service

A proportion of the Service's work relates to dealing with requests for service about food related matters. The team receives approximately 450 service requests each year, of which about 50% are food related.

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Food service requests include;

- Complaints about food that people have bought or consumed e.g. foreign bodies in food or alleged food poisoning,
- Complaints about food premises which appear to be being run unhygienically,
- Requests for advice about starting food businesses, legal requirements, food hygiene training, labelling or the layout and fittings of proposed premises,
- Applications for Certificates of Compliance and Licensing of mobile food street traders,
- Scrutinising planning applications and building warrants received by the Council relating to food premises and offering advice to applicants regarding premises layout, fittings etc.,
- Investigating cases and outbreaks of infectious disease, in partnership with NHS Lothian, associated with the consumption of food or water,
- Responding to intelligence concerning food incidents or food fraud from Food Standards Scotland and other local authorities, instigating food alerts for action, product recalls and allergy alerts.

All service requests, where we have a statutory function, must receive a response to determine the extent to which further action is needed. Therefore, this work must take priority over planned inspection work.

Response times are specified for some reactive work. For requests of service received Authorised Officers should make first contact within 5 working days. It has been agreed with NHS Lothian that cases of gastrointestinal infection should be contacted within 2 days of notification, more serious cases of typhoid/paratyphoid, *E.coli* O157/STEC, Cholera 01, Shigella Dysenteries, Listeria, Legionella and Non-Sonnei Shigellas should be contacted on the day of notification. Mandatory health and safety investigations take priority and would be initiated on the day of notification. This would include fatalities or multiple serious injuries in a workplace.

Some requests may result in significant amounts of work being required to resolve them. For example, a complaint about an unhygienic premises which leads to enforcement action and a subsequent report to the Crown Office Procurator Fiscal Service (COPFS) ; a new food manufacturer requiring significant research into the processes involved; a fatal or serious workplace accident; a major infection control or public health incident.

### 3.3 Home Authority

Midlothian Council has agreed to act as Home Authority to a large food manufacturer with the Head Office and decision making base in Bonnyrigg and as such expects to receive communication from Local Authorities.

Where Home Authority agreements exist with other UK local authorities the Food Service will liaise with those authorities where appropriate in investigation food safety or food standards matters.

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### 3.4 Advice to Businesses

The Food Service provides advice freely to Midlothian businesses. Advice and guidance is given during routine food law interventions and in response to service requests from food businesses.

Where new legislation and associated guidance has been produced, the Food Service may plan a targeted intervention to advise affected businesses. For example, In October 2021 changes were introduced to the labelling requirements of food pre-packed for direct sale – that is packed on the premises for sale to walk in customers. This followed a number of deaths across the country involving allergic reactions to food constituents and high profile coverage in the UK media. This is a significant change for businesses such as takeaways and sandwich shops. A targeted email was sent out to 371 businesses in Midlothian that would be affected by this change. Social media posts were sent out on the Midlothian Council twitter feed and the Midlothian Council website was updated to include these changes.

### 3.5 Food Sampling

The sampling of food is an integral part of the work of the Food Service. The sampling plan can cover local outlets, approved premises, manufacturers and also nationally organised campaigns. Unplanned food samples are taken for investigatory purposes often relating to food complaints from members of the public. On average 235 food samples are taken each year for examination or analysis.

Food sample examination involves assessing the microbiology of both ingredients and final products. It can give an indication of the conditions under which it is produced and the levels of hygiene controls during processing and handling both in the environment of the premises and the practices of the people producing it.

Food sample analysis can determine; what a food is made of, whether the ingredients meet legal requirements e.g. % meat or fruit, if foodstuffs are contaminated or adulterated and if labelled or described accurately.

Food samples are submitted to Edinburgh Scientific Services who employ the Authority's appointed Food Examiner, Public Analyst and Agricultural Analyst. The Food Service does not have a dedicated Food Sampling Officer. Authorised Officers from the Business Regulation team take samples from approved premises, see table 2, and manufacturers during food law interventions and purchase samples as part of the national survey.

Annual Sampling from Approved Premises		
Food Sampled	Samples for Microbiological Examination	Samples for Analysis
Processed Milk	8	8
Cream	2	2
Meat Products	6	6
Pizzas and Ready Made Meals	6	6

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Haggis/Savoury Puddings	6	6
Dairy products	4	4
Fish	2	2
Total	<b>34</b>	<b>34</b>

Table 2 – Annual Sampling Plan for Approved Premises in Midlothian

The Food Service participates in sampling surveys organised by Food Standards Scotland, Lothian and Borders Food Liaison Group and the Scottish Food Enforcement Liaison Committee (SFELC).

These sampling programmes and priorities aim to identify trends in the food supply where intelligence data suggests more information is required or a problem may already exist. Sampling is carried out by Local Authority Authorised Officers across Scotland and the results collated centrally. This work is resourced by FSS and is coordinated by SFELC in collaboration with the Public Analyst. The Food Service is awaiting the FSS funded Local Authority National Sampling Programme for 2023 – 2024. An example sampling survey for Midlothian Council can be seen in Annex 3.

### 3.6 Control and Investigation of Outbreaks and Food Related Infectious Disease

Authorised Officers of the Business Regulation Team investigate cases of infectious gastrointestinal illness. The policy is agreed between NHS Lothian Health Protection Team (HPT) and Environmental Health services of the local authorities, City of Edinburgh Council, West Lothian, East Lothian and Midlothian Councils. The standard procedures for the investigation and management of sporadic cases and incidents of gastrointestinal infection are set out in the ‘Sporadic GI Policy’, updated December 2022.

On average Midlothian Food Service receive approximately 22 reported cases of infectious disease per year.

The Service has an agreed ‘Major Outbreak Plan for Lothian’ with NHS Lothian which confirms agreed procedures for the investigation and control of disease outbreak situations. The Joint Health Protection Plan for the Lothian area has been developed with multiple agencies and is an important document which acts as a reference point for assisting in the investigation and control of public health outbreaks and incidents. Authorised Officers work with the Director of Public Health and Consultants in Public Health Medicine to determine control measures to manage the outbreak.

### 3.7 Food Law Incidents

Food incidents are events where there are concerns about actual or suspected threats to safety, quality or integrity of food that could require intervention to protect consumers’ interests. They are dealt with in accordance with the procedures detailed in the Food Law Code of Practice (Scotland).

The Food Service acts in partnership with FSS during food incidents. Responding to ‘Food Alerts for Action’ where food, produced and distributed regionally or nationally,

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may need to be removed from sale by businesses in Midlothian. The majority of incidents notified to the Food Service by FSS are Food Alerts for Information, providing details on product recalls and allergy alerts.

### 3.8 Liaison with other Organisations

The Food Service meets at quarterly intervals with representatives of other local authority food enforcement teams at the Lothian and Borders Food Liaison Group. The group is also attended by representatives from Food Standards Scotland and the Public Analyst. Local liaison groups support the work of the national Scottish Food Enforcement Liaison Committee (SFELC). The Scottish Food Enforcement Liaison Committee supports the work of FSS by providing information and expert advice in relation to food law enforcement. SFELC contributes to the development and implementation of FSS strategies and policies. It also provides a forum for the discussion of relevant topics, sharing best practice guidance, initiating surveys or projects.

Regular liaison meetings also take place with NHS Lothian's Health Protection Team and Scottish Water on matters of public health including infection control. (A similar liaison group arrangement exists with attendance by the Health and Safety Executive)

### 3.9 EU Exit

Following the UK exit from the EU at the end of 2019 existing EU law relating to food enforcement, which comprised the majority of food safety legislation, was relabelled as "Retained EU Legislation". At present, this continues in place with minor variations in Scottish legislation so that there is continuity. This retained Food Law and the obligations it places in the local authority remain matters devolved to the Scottish Parliament. However, the Retained EU Law (Revocation and Reform) Bill introduced by the UK Government in September 2022 is currently going through parliament and could 'sunset' all Retained EU Food Law by end December 2023. The outcome of this is yet unknown.

Unlike other food authorities Midlothian has not been impacted by the export related consequences of the UK becoming a "third country" in relation to the EU. For local authority areas which host businesses dealing in fish and fish products for export the demand for the signing of export health certificates by Environmental Health Officers has been considerable.

However, it is possible that the inspection of imported food could become a requirement where the increased requirement for regulatory food safety checks are deferred to inland authorities rather than dealt with at the point of entry e.g. a sea or airport. This was due to start in July 2022 but has been delayed to the end of 2023.

### 3.10 Food Law promotional work, and other non-Official Controls interventions.

Staffing levels and increased demands on the Food Service have meant that the Food

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Service must prioritise the statutory requirements. Much of the promotional work, including education, awareness campaigns etc. are now limited. However, if staffing levels improve to full complement the Food Service would look to restarting some food safety promotional activities.

The Health and Safety Executive (HSE) determine priority areas for Local Authorities to target interventions that improve health, safety and welfare within workplaces. As part of these targeted interventions the Business Regulation Team plan awareness raising campaigns targeted at Midlothian's highest risk businesses. Increasing compliance in one area e.g., Health & Safety can often have a positive impact in other areas including food safety.

### 3.11 Food Crime and Fraudulent Activities

Food Fraud is a dishonest act or omission, relating to the sale or preparation of food, which is intended for personal gain or to cause loss to another party. Food Crime (serious Food Fraud) is considered to be serious or complex fraud or serious and dishonest regulatory non-compliance in relation to food, drink and animal feed. The Scottish Food Crime and Incidents Unit (SFCIU) exists within FSS to prevent, investigate and detect fraud and deliberate non-compliance within the food and animal food chain.

The Food Service cooperate with and will inform SFCIU at the earliest opportunity of any suspicions they have regarding Food Crime or Food Fraud. There is an anticipated increase in food crime and fraudulent activities as a result of our exit from the EU.

## 4. Finance and Staffing

### 4.1 Financial Allocation

Indicative financial allocation for the Food and Safety Team within Business Regulation for all aspects of work. The budget for the provision of scientific services includes all sampling and services provided to the Environmental Health Service and other services within Midlothian Council.

Direct Staffing costs	275,673
Inspection Services equipment and maintenance costs	4163
Provision for scientific services	41,615
Transport costs	1624
Total	323,075

### 4.2 Staffing Allocation

Historically, the fulfilment of the annual food safety plan has required a minimum of 3.5 full time staff (FTE) working on food enforcement out of a team complement of six (based on data from 2008 to 2018). In 2018, Council financial saving requirements



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made of Environmental Health resulted in a 33% reduction in the number of officers in the Food Service. The risks that could arise from this reduction were brought to Members attention in the reports presented in June 2018 and June 2019.

In 2022 a reorganisation of the Service Area, to Protective Services under Place Directorate, was agreed and initiated. At the inception of this new service Business Regulation, Food and Safety Team comprised of 6 FTE, including a Team Manager and Principal Officer. At this time, 4.5 officers were in post and there was 1.5 FTE vacancies. From April 2023 the Trading Standards Team now sits within Business Regulation. This has effectively reduced the FTE for the Food and Safety Team to 5.5 FTE.

It is projected that to manage and achieve the full range of food law interventions, within this annual plan, would take 3.7 FTE Authorised Officers working on food related matters alone. At the time of creating this plan there is a shortfall of 0.8 FTE for food related matters.

Due to the recent changes in the way the Food Service carries out their Official Controls at all food establishments, the time required to fulfil these requirements will need to be reviewed at the end of each year. A time measurement exercise is being carried out at present, coordinated by FSS, to provide a more accurate estimate of staffing resource needed. It is predicted that the required FTE for food activities will increase.

In addition to conducting planned work the Business Regulation Team must maintain capability to deal with matters which are not food safety related but require a priority response. The pandemic has been an extreme example. Existing staffing levels have meant there is no "spare" capacity for such contingencies and time has to be taken from food inspection work to deal with serious health and safety accidents, public health or environmental incidents, preparing prosecution reports, implementing changes to legal requirements and updating operational procedures.

Taking account of all the requirements placed on the Business Regulation, Food and Safety Team and the current vacancy, at present there is a shortfall of 1.5 FTE Authorised Officers to complete the plan in its entirety. The proposed new structure only allows for recruitment of 1 FTE EHO.

The current vacant EHO position in the Business Regulation Team was previously advertised but there were no suitable candidates. The Environmental Health profession suffers from a succession crisis and recruitment of suitably qualified staff is an issue for all local authorities in Scotland. There is a plan for another recruitment exercise with the hope to bring the Business Regulation Team up to full complement.

At present Midlothian Council is supporting a student EHO through their practical training with the anticipation that they will achieve their Professional Diploma as an EHO by September 2023.

With a longer term view, Midlothian Council will continue to support student EHO's where possible.

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It should also be noted that the directing of available resources to food law intervention work has meant that health and safety interventions, arguably as important for wellbeing, have been increasingly sacrificed. Lower risk food premises inspections may cease altogether. No non-statutory food related activities, are carried out.

### 4.3 Staff Development

The Food Law Code of Practice requires that all Authorised Food Officers obtain at least 10 hours of update training in food related matters during the year to maintain their competency. Use is made of on-line courses, many of them free through FSS. Regular training courses are organised through Royal Environmental Health Institute for Scotland (REHIS) and Scottish Food Safety Officers Association, for a small fee. Research by officers in matters that are unfamiliar to them is also considered Continuous Professional Development.

Compliance with this matter will be achieved.

At present the Business Regulation Team have a training budget of £1250 for 2023-2024.

Regular Food and Safety team meetings will be organised throughout the year 2023-2024, on a bi-weekly basis where possible. These help to impart relevant updates and aid consistency during discussions.

Food Service staff are subject to the Council's appraisal process – Making Performance Matter. This sets and monitors individual performance targets and identifies training and development needs.

## 5 Monitoring

### 5.1 Quality assessment and internal monitoring

The Service relies on the professional skills of its authorised officers for the delivery of the service plan. In order to maintain the quality of the work we do, we;

- Continually review our operational procedures to improve our service delivery and to take into account legislative and procedural changes.
- Evaluate the consistency of our inspections through activities such as accompanied inspections by senior inspectors, team meetings and review of inspection reports to ensure consistency in the work of the Service.
- Ensure that Officers appointed as food inspectors complete at least 10 hours food related training each year as part of the maintaining of their competency.
- Are subject to periodic independent audit by Food Standards Scotland.
- Survey businesses that have been inspected to find out what they thought of the experience.
- Report the performance of a number of our planned objectives to elected members at regular intervals.

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### 6 Review

#### 6.1 Review against the Service Plan

The Food Service Plan will be reviewed annually.

#### 6.2 Areas of Improvement

Any areas identified as requiring action will be detailed as part of the audit and review process. These will be addressed by the Protective Services Manager and the Team Manager Business Regulation as part of the review process and action taken shall range from immediate action to inclusion in the Operational Plan for future years.

Currently in 2023-2024, the Food Service plan to make the following improvements;

- Food Service Policies and Procedures will be reviewed in line with new/updated Codes of Practice and Guidance provided by FSS. This will be on a priority basis based on risk.
- With the review of procedures, potential efficiencies will be considered to reduce Food Officers administrative burdens
- A new procedure of recording Official Controls carried out at Approved Premises will be implemented.
- A new system, Enterprise for Uniform, will be set up on our Management Information System (MIS) to help Food Officers manage their workload and prioritise effectively.

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### Annex 1: Mapping of Food Service activity to the Single Midlothian Plan outcome

	<b>Single Plan Outcome</b>		
<b>Food Service activity</b>	<i>Individuals and communities in Midlothian will be able to lead healthier, safer, greener and successful lives by 2030.</i>	<b>No child or household need live in poverty</b>	<i>Midlothian will be a Great Green Place to Grow by achieving our net zero carbon ambitions.</i>
The regular inspection of food premises for food hygiene and food standards	✓		
The sampling of food and animal feedstuffs to check on microbiological quality and composition	✓		
Investigation of food related cases of infectious diseases	✓		
Investigation of food related fraud		✓	✓
Investigation of complaints from the public about food, food labelling and food premises.	✓		
Enforcement of the legislation in relation to the above activities	✓		✓
Providing advice and assistance to new or existing food business operators and to the public.	✓	✓	✓

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Annex 2 - FSS Priority Category for Food Law Intervention Restart

	<b>Annex 5 Food Hygiene</b>	<b>Annex 5 Food Standards</b>	<b>FLRS</b>	<b>Approved Premises</b>
<b>Priority 1</b>			<p>a) All Group 1 premises following the timescales in the Interventions Food Law CoP,</p> <p>b) Group 2 and 3 Band Es deal with within 1 month of start date.</p> <p>c) Spread all Group 1 Unrated businesses throughout a 6-month period.</p>	<p>LAs which have already implemented OCV – continue/restart the programme and schedule each premises within 12-month period.</p> <p>LAs which have not implemented OCV – start the implementation of OCV for Approved Premises and spread evenly over 12-month period.</p>
<b>Priority 2</b>	Category As spread over 6 months.	Food Standards only premises Category As spread over 6 months.	<p>(a) Group 2 and 3 Band Ds spread over a 6-month period.</p> <p>(b) Spread all Group 2 Unrated businesses throughout a 12-month period.</p>	
<b>Priority 3</b>	Category Bs spread evenly over 18-month period.	Category As spread throughout 12 months.	<p>(a) Group 2, Band C over 18 months and Group 3 Band C over 36 months.</p> <p>(b) Spread all Group 3 Unrated businesses throughout a 24-month period.</p> <p>(c)</p>	
<b>Priority 4</b>	Category Cs spread over 24 months.	Category Bs that are Category Es for Food Hygiene spread over 24-month period.	Group 2 Band B over 24 months and Group 3 Band B over 48 months.	

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<b>Priority 5</b>	Category Ds spread over 36 months	Food Standards only Category Bs spread over 36 months.	Group 2 Band As over the period of up to 48 months.	
<b>Priority 6</b>	Category E premises spread over 48 months	Food Standards only Category Cs spread over 60 months.	Group 3 Band As -decide if they need inspections, if so, spread over 60 months or are no proactive intervention.	

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### Annex 3 – Example of an FSS Funded Local Authority National Sampling Survey

Priority No./ Survey Code	Food Type	Premises Type	Testing parameters	Rationale for sampling	Additional Information	Number of Samples	Minimum Pack size	Sample Schedule (Q2/Q3/Q4)
<b>MICROBIOLOGICAL EXAMINATION</b>								
1. FSS222301	<b>Reconstituted frozen raw coated chicken products</b>	Retailers	Salmonella, generic E.coli	Recent outbreak linked to such products, horizon scanning activities indicate issues with imported poultry meat and products	<ul style="list-style-type: none"> <li>All size retailers (including supermarkets)</li> <li>Sample frozen coated chicken products, such as nuggets, poppets, poppers, goujons, dippers, etc.</li> <li>Must be reconstituted product, <b>do not sample whole cuts</b> of meat</li> <li><b>Do not sample cooked products</b> intended for re-heating</li> </ul>	• 2	• 100g	• Q2
2. FSS222302	<b>Soft and semi-soft ripened unpasteurised cheese</b>	Retailers, Caterers	Listeria monocytogenes detection and enumeration, STEC, generic E.coli	Issues continue to be detected through horizon scanning. Continued surveillance to monitor compliance	<ul style="list-style-type: none"> <li>For retail setting - sampling should be targeted at <b>delicatessens, cheesemongers</b>, but can include <b>supermarkets, with focus on cheese counters</b> where possible.</li> <li>For catering setting - sampling should be targeted at cheeseboards, focusing on <b>unpacked cheeses and cheeseboards</b></li> <li>Sampling should focus on soft and semi-soft ripened cheeses, (blue cheeses, surface-ripened cheeses, etc.)</li> </ul>	• 2	• 100g	• Q3
3. FSS222303	<b>Soft and semi-soft ripened pasteurised cheese</b>	Retailers, Caterers	Listeria monocytogenes detection and enumeration, STEC, generic E.coli,	Issues continue to be detected through horizon scanning. Continued surveillance to monitor compliance	<ul style="list-style-type: none"> <li>For retail setting - sampling should be targeted at <b>delicatessens, cheesemongers</b>, but can include <b>supermarkets, with focus on cheese counters</b> where possible.</li> <li>For catering setting - sampling should be targeted at cheeseboards, focusing on <b>unpacked cheeses and cheeseboards</b></li> </ul>	• 2	• 100g	• Q4

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					<ul style="list-style-type: none"> <li>Sampling should focus on soft and semi-soft ripened cheeses, (blue cheeses, surface-ripened cheeses, etc.)</li> </ul>			
4. FSS222304	<b>Imported ready-to-eat cured meats</b>	Retailers	Salmonella, Listeria monocytogenes detection and enumeration, generic E. coli	Issues continue to be detected through horizon scanning. Gathering data for the PATH-Safe project	<ul style="list-style-type: none"> <li>Sampling should focus on <b>small retailers, delicatessens</b></li> <li>Sampling to include imported RTE cured meat, charcuterie style products, biltong, etc.</li> </ul>	• 2	• 100g	• Q2
5. FSS222305	<b>Imported (non-EU) melon and papaya - whole</b>	Retailers	Salmonella, generic E. coli	Issues detected through horizon scanning. Recent outbreak linked to imported melons. Gathering data for the PATH-Safe project	<ul style="list-style-type: none"> <li>All size retailers</li> <li>Target <b>whole fruit</b>, any melon variety (but especially Galia and cantaloupe) and papaya <b>imported from non-EU countries</b></li> <li>Testing procedure to follow this protocol: 25 g cut-offs from both ends of the fruit (melon/papaya) – the fruit to be then submerged in broth for ~ 30 min and this broth-rinse to be then combined with the 25 g cut-off for incubation of the sample – thus the resulting isolate can come from the end-peels and/or just the surface of the fruit. There was no central fruit flesh used.</li> </ul>	• 1	• 100g	• Q3
6. FSS222306	<b>Imported (non-EU) melon and papaya - pre-cut</b>	Retailers	Salmonella, Listeria monocytogenes detection and	Issues detected through horizon scanning. Recent outbreak linked to imported melons	<ul style="list-style-type: none"> <li>All size retailers</li> <li>Sample <b>pre-cut fruit</b>, any melon variety (but especially Galia and cantaloupe) and papaya <b>imported from non-EU countries</b></li> </ul>	• 2	• 100g	• Q4



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			enumeration, generic E. coli	Gathering data for the PATH-Safe project	<ul style="list-style-type: none"> <li>Preference for fresh fruit, but frozen can be sampled if required due to availability. Do not sample dried fruit.</li> </ul>			
7. FSS222307	<b>Flour</b>	Manufacturers Retailers Bake houses	STEC, generic E. coli	Issues detected through horizon scanning. Gathering data for the PATH-Safe project	<ul style="list-style-type: none"> <li>All retailers, manufacturers and bake houses/bakeries</li> </ul>	• 2	• 100g	• Q2
8. FSS222308	<b>Soft berries</b>	Retailers	Generic E. coli	Gathering data for the PATH-SAFE project	<ul style="list-style-type: none"> <li>All size retailers, farmer markets, farm shops.</li> <li>Sample raspberries, strawberries, blueberries of both domestic and imported origin</li> <li>Test samples as received – without washing</li> </ul>	• 2	• 100g	• Q3
9. FSS222309	<b>Salad leaves</b>	Retailers	Generic E. coli	Gathering data for the PATH-SAFE project	<ul style="list-style-type: none"> <li>Sample bagged or un-bagged products, domestic or imported</li> <li><b>Preference for unwashed</b> products, but washed can be sampled if required due to availability; <b>please include in product description</b> when uploading sample</li> </ul>	• 2	• 100g	• Q4
10. FSS222310	<b>Cooked, sliced ham and beef</b>	Retailers	Generic E. coli	Gathering data for the PATH-SAFE project	<ul style="list-style-type: none"> <li>All size retailers, domestic or imported origin</li> </ul>	• 2	• 100g	• Q2
11. FSS222311	<b>Raw venison sausages and burgers</b>	Retailers	Generic E. coli	Gathering data for the PATH-SAFE project	<ul style="list-style-type: none"> <li>Sampling should be at both small retailers (including butchers) and larger retailers including supermarket, to try to in-</li> </ul>	• 2	• 100g	• Q3

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					clude varied suppliers, but it is understood the number of suppliers of these products may be limited			
12. FSS222312	Raw lamb mince	Retailers	Generic E. coli	Gathering data for the PATH-SAFE project	<ul style="list-style-type: none"> <li>All size retailers, including butchers and supermarkets</li> <li>Domestic or imported samples are acceptable</li> </ul>	• 2	• 100g	• Q4
<b>CHEMICAL ANALYSIS</b>								
13. FSS222313	Imported (non-EU) fishery products	Importers Retailers	Heavy metals (lead, cadmium, mercury) and arsenic	Issues detected through horizon scanning	<ul style="list-style-type: none"> <li>All size retailers, including fish mongers – imported, non-EU products only.</li> <li>Sampling focus on fresh and frozen product. <b>Do not sample</b> tinned, canned, smoked or process products</li> <li>Targeting products such as <b>tuna, swordfish, squid, bivalve mollusc; farmed prawn and shrimp</b>; when sampling crabs and lobster <b>do not collect</b> whole, live animals.</li> </ul>	• 2	• 150g	• Q2
14. FSS222314	Kombucha	Manufacturers Retailers Caterers	Alcohol content	Issues detected through horizon scanning	<ul style="list-style-type: none"> <li>Sampling targeted to <b>smaller producers, independent shops</b>, but can also sample at larger retailers and catering establishments</li> </ul>	• 2	• 500ml	• Q3
15. FSS222315	Fish/shellfish oil based supplements	Retailers	Heavy metals (lead, cadmium, mercury, arsenic) and FAME	Issues detected through horizon scanning	<ul style="list-style-type: none"> <li>All fish (or shellfish if applicable) <b>oil supplements</b>, such as cod liver oil, in either <b>liquid or capsule/tablet</b> form</li> <li>All size retailers</li> </ul>	• 2	• 150g	• Q4

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AUTHENTICITY TESTING								
16. FSS222316	<b>Battered, breaded fin-fish products</b>	Retailers	Fish Speciation	To check that labelling of species is accurate and detect substitution with alternative species.	<ul style="list-style-type: none"> <li>All size retailers.</li> <li>Sampling targeted to fin-fish products with clear specification of species on the label to allow for assessment of compliance.</li> <li><b>Do not sample</b> shellfish products (e.g. do not sample scampi )</li> <li>Samples should be tested for presence of other fish species</li> </ul>	• 2	• 150g	• Q2
ALLERGEN TESTING								
17. FSS222317	<b>Pre-packed for direct sale (PPDS) products</b>	Retailers and caterers	Milk, Gluten, Almond and Cashew	Previous failures and to assess compliance with new legislation covering PPDS products	<ul style="list-style-type: none"> <li>Sample products with no indication of the presence of the allergens being tested (i.e. <b>do not sample</b> products specifically labelled “gluten-free”, we are looking to sample products with no allergen mentioned and test for its presence)</li> <li>Target “<b>on-the-go</b>” foods (sandwiches, salads, baked goods), the products that the PPDS legislation was intended for</li> </ul>	• 1	• 200g	• Q3

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