

Members' Library Service Request Form

Date of Document	30 th October 2024
Originator	Lynn Crothers, Service Manager - Protective Services
Originator's Ref (if any)	
Document Title	Environmental Health (Business Compliance) Service Plan 2024-25

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Additional information:

Authorised By	Caroline Rodgers
Designation	Head of Communities
Date	30/10/24

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REPORT TO: Members' Library Service

MEETING DATE: December 2024

BY: Head of Communities

SUBJECT: Environmental Health (Business Compliance) Service Plan 2024-25

1 PURPOSE

- 1.1 The purpose of this report is to make Elected Members aware of the obligation upon the Council to approve an annual Food Service Plan; and to seek approval for the Environmental Health (Business Compliance) Service Plan 2024-25, which includes the Food Service Plan and those Plans pertaining to the other functions of the Service.

2 RECOMMENDATIONS

- 2.1 That Elected Members note:
- the content of this report, including the appended Environmental Health (Business Compliance) Service Plan 2024-25, in accordance with the legal obligations placed on East Lothian Council through the Food Law Code of Practice (Scotland), and;
 - the decision by the Head of Communities to approve the Environmental Health (Business Compliance) Service Plan 2024-25, setting out how the council meets its further obligations under the code.

3 BACKGROUND

- 3.1 Since 1 April 2015, Food Standards Scotland (FSS) is responsible for all strategic and policy aspects of food standards, food safety and feed safety in Scotland. This is a responsibility previously undertaken for the whole of the UK by the Food Standards Agency.
- 3.2 There are specific legal obligations placed on local authorities in regard to delivering food safety official controls. Section 1 of the Food Law Code of Practice (Scotland) requires the statutory obligations covered to be brought to the attention of local authority officials and/or elected member

bodies responsible for agreeing budgets or other service arrangements relevant to the delivery of official controls.

3.3 The obligations that apply to the delivery of official controls by local authorities include ensuring:

- The effectiveness and appropriateness of official controls.
- That controls are applied at an appropriate risk-based frequency.
- That they have a sufficient number of suitably qualified and experienced competent staff and adequate facilities and equipment to carry out their duties properly.
- That staff are free from conflicts of interest.
- That they have access to an adequate laboratory capacity and capability for testing.

3.4 The Environmental Health (Business Compliance) Service Plan outlines how these obligations are being met and pursued within East Lothian. The structure of the plan is determined by guidance contained within the framework agreement.

3.5 Whilst the primary responsibility for managing both food safety and health and safety risks lies with the business who creates the risk, Environmental Health Services have an important role in ensuring the effective and proportionate management of risks, supporting business, protecting their communities, and contributing to a wider public health agenda.

3.6 The undertaking of health and safety inspections in commercial businesses is divided between the Health and Safety Executive (HSE) and the Environmental Health Services of local authorities (LA). The remits are laid out in The Health and Safety (Enforcing Authority) Regulations 1998, which determines the enforcing authority by the main activity undertaken by a business.

3.7 From April 2013, enforcing authorities, including East Lothian Council, were required to comply with the principles and standards set out in the National Local Authority Enforcement Code (National Code). The National Code provides direction to Environmental Health Services to meet these requirements, and report on compliance. The Code is given legal effect as HSE guidance to local authorities under Section 18(4)(b) of Health and Safety at Work etc. Act 1974.

3.8 The key role of the Environmental Health Service is public health protection and safety. The Service Plan gives an overview of how this is delivered in East Lothian. The mission statement for the Service is:

The aim of the Business Compliance team is to protect public health within our communities and those who visit East Lothian through the delivery of a professional regulatory service that supports and promotes a vibrant local economy via the provision of advice, education, engagement and enforcement to fulfill the Council's statutory obligations.

3.9 The Service Plan identifies the different aspects and approaches of service delivery to ensure a rounded, balanced and effective approach to public health protection and safety. The Plan reflects the risk based prioritisation

of the service, recognising that in some cases, not all aspects can be delivered.

- 3.10 The changing nature of demands upon the Service requires a flexible approach to balancing often competing priorities.
- 3.11 Officers continue to take a constructive and professional approach to such matters, and through prioritisation, effective work planning and delivery, the Service has ensured satisfactory performance across its remits.
- 3.12 Dealing with risks to public health and safety along with an increasing workload remains a significant challenge for the Service, as does capacity and resilience in the event of a major incident such as the E. coli outbreak in 2022. However, the challenge and demand continues to be positively managed and also supported by officers. This is achieved through established work priorities, improved efficiency and effectiveness in work planning and actions, ensuring appropriate and balanced enforcement action, supporting businesses where possible to work safely, and supporting officers in dealing with difficult and complex public health protection work. The priority focus remains on targeting higher risk food businesses.
- 3.13 The Environmental Health (Business Compliance) Service Plan 2024-2025 ensures the Service focuses resources at priority areas of work and takes the most effective action to protect public health when risks are identified.

4 POLICY IMPLICATIONS

- 4.1 The work undertaken by the Environmental Health (Business Compliance) Service in conformance with this Plan contributes towards the East Lothian Plan Single Outcome Agreement.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – None.
6.2 Personnel – None.
6.3 Other – None.

7 BACKGROUND PAPERS

- 7.1 Environmental Health Service Plan 2024-25

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DATE	30 October 2024

Food Law Service Plan 2024/25

1.0 Overview

The Environmental Health (Business Compliance) team administers East Lothian Council's statutory functions in respect of a wide range of Environmental Health duties including Food Safety, Public Health and Health and Safety at Work.

In order to follow the recommendations of the Food Law Code of Practice (Scotland) and the obligations on competent authorities contained in Regulation (EC) No 2017/625, East Lothian Council is required to develop and approve an annual service plan. The structure of the service plan is determined by the guidance contained within the national Framework Agreement on Local Authority Food Law Enforcement.

2.0 Aims and Objectives

2.1 Service Aims

The aim of the Business Compliance team is to protect public health within our communities and those who visit East Lothian through the delivery of a professional regulatory service that supports and promotes a vibrant local economy via the provision of advice, education, engagement and enforcement to fulfil the Council's statutory obligations.

2.2 Service Objectives

The service aims will be achieved through the following objectives:

- To deliver a programme of food law interventions including the inspection of food premises on a risk-based frequency.
- To ensure any action following an intervention is consistent, transparent and proportionate to the risk as per our Enforcement Policy found [here](#)
- To provide local businesses with advice and support to achieve a satisfactory level of compliance with their food law obligations.
- To respond to and seek to resolve complaints made about foodstuffs and food business taking appropriate and proportionate action in accordance with our Enforcement Policy.
- To deliver a planned risk-based sampling programme using local and national intelligence to target known and emerging risks to food safety.
- To investigate cases of notified infectious illness to identify potential sources and work with partner agencies to prevent its spread.
- To investigate reported accidents, complaints in accordance with our Enforcement Policy
- To carry out targeted interventions in relation to Health and Safety at Work in accordance with the current National Local Authority Enforcement Code.

- To participate in local and national liaison groups in relation to sharing intelligence, best practice and improve consistency.

2.3 Links to Corporate Plans and Objectives

The East Lothian Council Plan (2023-2027) has a vision to achieve;

an even more prosperous, safe and sustainable East Lothian, with a dynamic and thriving economy, that enables our people and communities to flourish.

This vision is based around **three overarching objectives**;

- *Recovery and renewal from the Covid-19 pandemic.*
- *Reducing poverty and inequality.*
- *Responding to the climate emergency.*

And **four thematic objectives**;

- *Grow our economy*
- *Grow our people*
- *Grow our communities*
- *Grow our capacity*

These objectives are underpinned by the Council's values; –

Enabling, Leading and Caring.

The Business Compliance Team contributes to the Council's corporate objectives and outcomes by;

- Supporting and advising businesses.
- Maintaining confidence in the food / tourism sectors.
- Protecting the people who live in and visit our communities, particularly those who may be vulnerable.
- Delivering an effective and responsive service that is mindful of environmental impacts.

3.0 Background Information

3.1 Local Authority Demographics

East Lothian is one of the fastest growing local authority areas in Scotland, with a population of approximately 110,000 and 49,000 households.

Significant house building programmes are increasing the resident population, many of whom commute to Edinburgh. It is a popular tourist area with approximately 82km of fine coastline and numerous golf courses.

The main towns are: Musselburgh, Tranent, Prestonpans, Cockenzie/Port Seton, North Berwick, Dunbar and Haddington. There are many small villages and much of the area is rural in nature.

The main industries and commercial activities are based around the public sector (Council & NHS), power generation, quarrying/ cement manufacture, agriculture/ food, local shops and offices together with the service industries supporting tourism and leisure activities.

East Lothian shares its borders with Midlothian, City of Edinburgh and Scottish Borders council areas together with the Firth of Forth.

3.2 Scope of the Service

The Business Compliance team carry out a range of food- related activities which includes:-

- The routine inspection of registered food premises for food safety.
- The approval and inspection of certain food manufacturers producing food products of animal origin.
- The sampling of food and water to check on microbiological quality and composition.
- The investigation of complaints from the public in accordance with our Enforcement Policy and procedures.
- The investigation of food related cases of infectious diseases/food poisonings.
- The enforcement of the legislation in relation to the above activities.
- The provision of advice and assistance to the public and new or existing food business operators.
- The provision of Export Health Certificates and attestations for local businesses.
- The investigation of reported accidents and infectious diseases in accordance with our policy and procedures. This may be in conjunction with other partnership agencies.

The team also has responsibility for the enforcement of Health and Safety legislation in certain premises in the East Lothian area as well as duties under Public Health legislation in liaison with Lothian NHS Health Protection Team with regards to Infectious Diseases e.g. E. coli outbreaks, cryptosporidium etc.

The service is delivered from the Council Headquarters at John Muir House, Haddington between the hours of 9am to 5pm Monday to Thursday and 9am to 4pm on Friday. Food-related interventions are carried out outwith these hours where there is a requirement to do so e.g. at commercial and community events such as Golf Open Championships, Community Gala Days, Farmers Markets etc.

East Lothian Council has a 24-hour contact centre where senior members of staff can be contacted out of hours or in the event of an emergency.

3.3 Food Business Profile in East Lothian

There are 1240 registered Food Businesses within the area and the distribution of these Food Premises are:

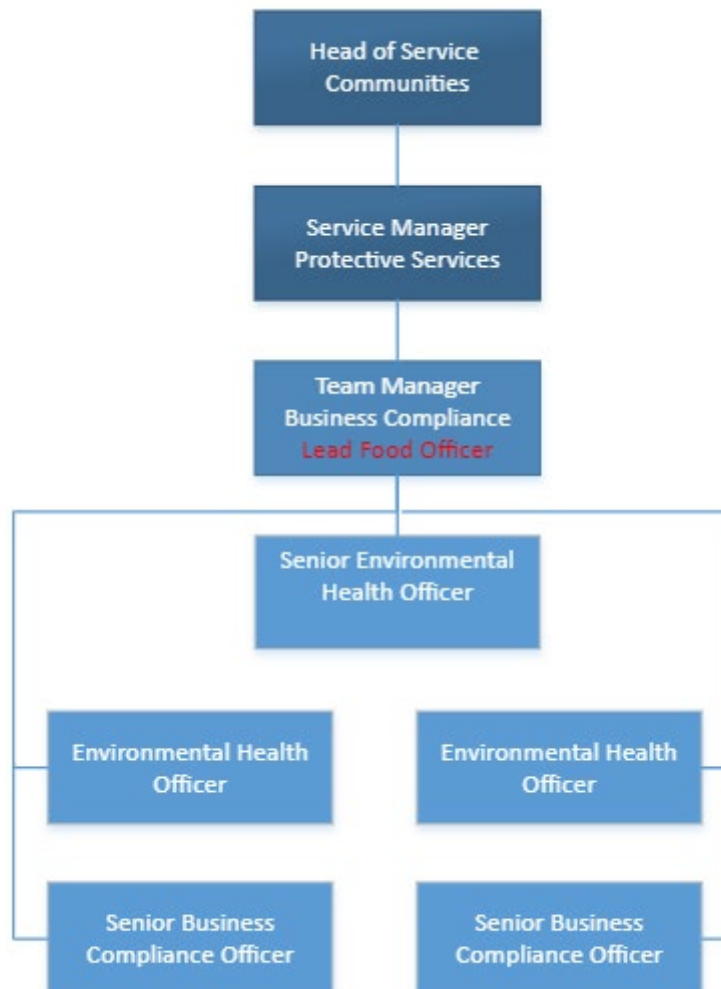
- 492 catering businesses
- 240 retail premises
- 185 caring premises
- 99 manufacturers
- 80 mobile units, including catering vans
- 56 fishing vessels and primary production
- 50 schools and colleges
- 38 Importers/Exporters/Distribution
- 10 Approved Establishments

Of the 1240 registered food businesses, there are currently 10 premises in East Lothian which hold approval status under Regulation (EC) No 853/2004. These approved premises have to meet more stringent legal requirements as they process or handle products of animal origin. To gain approval, these premises are subject to Official Control Verification (OCV).

The Approved premises in East Lothian include:

- 4 fishery products businesses,
- 3 meat businesses,
- 1 dairy business and
- 2 egg packing stations.

3.4 Organisational Structure



4.0 Delivery Programme 2024/25

4.1 Registration of Food Businesses

Food Premises are generally obliged to register with this authority at least 28 days prior to opening. Once registered with this authority and, depending upon the nature of the premises, an officer will endeavour to visit the premises to discuss food safety issues within the period prescribed in our operating procedures.

Many new businesses registered with the service during the COVID-19 pandemic and these businesses are in the process of being inspected, which is expected to continue into 2024/25.

It is likely that there are some unregistered food businesses operating within this authority. These are likely to be very small businesses operating through Social Media or similar. Where such businesses are brought to our attention, they are contacted and advised of their legal obligations including registration.

4.2 Programmed Interventions

The Service is currently in a recovery phase as we deal with the legacy service impacts of responding to the Covid-19 pandemic. This resulted in a pause in the food interventions programme which recommenced on the 1st August 2022.

The risk rating system for Food Businesses has been revised in the past few years and this new Food Law Rating System (FLRS) replaces most of the previous Annex V risk rating system, which required separate risk ratings and inspection frequencies for Food Hygiene and Food Standards. The new FLRS is a combined rating system for Food Hygiene and Food Standards and each local authority is obliged to convert to the new rating system. This is being implemented as each business premises is due for routine inspection.

Food Manufacturers and Primary Production premises (dairies, cereal farmers, fishing boats etc.) still require the Annex V rating system rather than the FLRS system.

For the 2024/25 Financial year in relation to food safety the officers are due carry out routine visits to

- 110 high risk or approved premises,
- 420 medium risk premises and
- 277 low risk premises.

Visit numbers will vary if the outcome of a routine visit results in the need to carry out additional visits to achieve compliance. This may lead to a decrease in the number of low risk visits undertaken.

Food Standards Scotland (FSS) are currently in the process of consulting with various organisations (including both Scottish Government and all 32 Scottish LA's) in relation to their Scottish Authorities Food Enforcement Rebuild (SAFER) programme. There is a significant, and growing, disconnect between the demands placed on the food law enforcement regime and the resources available to deliver it. SAFER is a comprehensive, wide ranging and ambitious programme of work to redesign the food law enforcement environment, to increase resources, reduce demand and improve efficiencies and is being developed in conjunction with FSS/Scottish Government and Local Authorities (LA's). The SAFER programme is intended to create a system which better reflects current resource availability whilst providing the appropriate degree of public health protection and the requisite assurance in the Scottish food industry. East Lothian Council will continue to actively participate in these SAFER discussions and workshops, as this project will

be transformative for all Food Services within Scotland.

The Business Compliance team's resources will continue to be targeted at those premises within the food business community that present the greatest risk to consumers thereby focussing on the inspection of Approved Premises and High Risk food premises.

4.3 Investigation of Complaints

The Business Compliance team receives a number of complaints each year about unsatisfactory food or food premises.

These complaints are investigated in line with the Council's documented enforcement procedures www.eastlothian.gov.uk/info/210568/environmental_health . Complaints about food very rarely result in formal action. However, the investigations into the complaints do help identify failings in food processing and handling which require to be rectified to prevent further problems occurring in the future, and can be the starting point of food recalls.

Based on previous trends, it is estimated that approximately 75 complaints will be received in 2024/25 and these will be managed within the existing resources of the team.

4.4 Food Sampling Programme

The sampling of foodstuffs for microbiological, chemical composition and labelling assessments forms an important part of the work of the Service. It provides "end point" monitoring of food safety and the standards of food production. It is targeted at high risk premises (including approved premises), higher risk foods, foods where emerging risks have been identified and food complaints.

Sampling procedures are carried out in line with the Authority's documented procedure and in accordance with the Food Law Code of Practice. The Authority samples food from outlets within the district and participates in local and nationally organised food sampling campaigns whenever resources allow.

Food samples are submitted to Edinburgh Scientific Services who employ the Authority's appointed Food Examiner, Public Analyst and Agricultural Analyst.

4.5 Control & Investigation of Foodborne Illness / Outbreaks

The service will take steps to investigate all cases of food poisoning and food borne illness that they are notified of including E. coli O157, Salmonella etc. The service is normally notified by the Health Protection Team in NHS Lothian.

Each case is investigated on an individual basis and if required, food, water and other relevant materials may be sampled where deemed appropriate as part of the investigation.

Officers from the team may also be invited by NHS Lothian to attend a Problem Assessment Group (PAG) or Incident Management Team (IMT) in relation to an outbreak and may have to take steps to minimise the spread of an outbreak.

4.6 Responding to Incidents

Food incidents are dealt with in accordance with the procedures detailed in the national Food Law Code of Practice at [Food Law Code of Practice \(Scotland\) | Food Standards Scotland | Food Standards Scotland](#) and further guidance is available at [Food incident management | Food Standards Scotland | Food Standards Scotland](#)

Where there is a serious incident, Food Standards Scotland will be notified which may result in a product recall. The service also receives regular FSS updates in relation to food alerts.

The service also works in partnership with the Scottish Food Crime & Incidents Unit of Food Standards Scotland and, when incidents occur, the service will react accordingly.

4.7 Non-Official Control Activities

- Officers in the service respond to all requests for advice and information from both the public and businesses regarding issues. All requests are logged and updated by the officer allocated the enquiry.

Business advice is seen as an integral part of how the service engages with local businesses and an opportunity to educate business owners in relation to food safety, and health and safety at work.

- Officers issue Export Health Certificates to local food manufacturers looking to export products.
- The service participates in the **Food Hygiene Information Scheme (FHIS)** [Search a local authority area - East Lothian | Food Hygiene Ratings](#) which was established in East Lothian in March 2009. This is a national scheme to advise consumers of the food hygiene performance of the food business they use or intend to use. Each business is rated following a hygiene inspection and the business either receives a Pass or Improvement Required certificate to display. The information is also published on line by the Food Standards Agency and Food Standards Scotland. A Pass classification has been adopted as one of the criteria for a business to be listed in the East Lothian Food and Drink Directory at [Directory – East Lothian Food and Drink \(scotlandsfooddrinkcounty.com\)](#)

Approximately 66% of East Lothian food businesses are part of the scheme and of those 95% have a Pass status. It should be noted that, due to various reasons and notably the COVID-19 pandemic, officers have not physically inspected some lower risk food premises for several years. The scheme does not currently extend to manufacturers and most domestic based food premises. Certificates can only be issued when the premises are physically inspected by an officer.

FSS are currently reviewing the FHIS scheme to bring it up to date with the new Food Law Rating Scheme (FLRS).

- Officers both chair and attend national and local Professional Liaison Groups including Food Safety, Public Health (Prevention and Control of Infectious Diseases), and Health and Safety. In addition, there are various working groups under these national and local professional groups which officers may be required to attend and includes advising on new legislation, emerging issues etc.

The Protective Services Service Manager is a board member of both the Professional Institute Royal Environmental Health Institute of Scotland (REHIS) and the Society of Chief Environmental Health Officers Scotland (SoCOEHS).

4.8 Enforcement Policy

The Authority has a previously approved documented Enforcement Policy and Service Charter [Environmental health | East Lothian Council](#) that sets out how the food service will deal with infringements of the legislation and will intervene to bring the operation back into compliance.

We regulate the activities of food businesses through a mix of enforcement and advisory action using the 4E's principles – engage, explain, encourage and, as a last resort, enforce.

In line with the enforcement policy, officers are required, when necessary, to take appropriate enforcement action. This may include service of notices, closure of premises, and reports to the Procurator Fiscal leading to prosecutions and officer time spent in court.

5.0 Resource Capacity & Capability

5.1 Budget Allocation

Estimated Expenditure for 2024/25:

- Staffing Costs - £346 500
- Expenses (mileage) - £3 500
- Other Expenses (Equipment & Communications) - £3 700
- Training - £2 500
- Sampling - £22,462
- IT System / software - £22 000

Estimated Income for 2024/25:

- Export Certificates £15 000

5.2 Staffing

The team consists of;

- 1 FTE Team Manager,
- 1 FTE Senior Environmental Health Officer (SEHO),
- 2 FTE Environmental Health Officer (EHO), of which one position is vacant.
- 2 FTE Food and Safety Officers (FSO),

Operationally, this equates to 3.6 FTE dedicated to food safety related interventions (not including management and support resource). Based on a typical working year of 220 days and 5 hours productivity per day, this equated to annual resource of 3960 hours. It is anticipated that, at the beginning of the financial year 2025-26, the vacant EHO position will be advertised.

5.3 Staff Training & Development

All officers in the service participate in the Council's Personal Review and Development (PRD) process, which provides a framework for the Team Manager and their officers to discuss performance, future goals and priorities, and professional / personal development opportunities.

The Team Manager also holds monthly one-to-one meetings with each officer to discuss workload and monitor progress with PRD objectives.

In addition, Food Competent officers are required to complete at least 10 hours of Food Training every year in order that they keep their competency and comply with the Food Law Code of Practice. This is monitored by the Team Manager. As part of this training, officers will attend FSS courses and other food related training courses and events/conferences.

In accordance with Council Policy, team members are required to undertake regular training modules provided on the Council's Learn-Pro platform such as Public Protection, equality and diversity and data protection.

Monthly Team meetings are an opportunity for officers to share experience and promote consistency.

5.4 Information & Records Management

The Council's food law database is currently provided by iDox Uniform software (on a rolling contract) and is automatically linked to the Scottish National Database (SND) where all data relating to official controls and other interventions at food businesses across all Scottish Authorities is held centrally in one place for consumers to access.

Last year the Council moved to a 'hosted' system meaning that the software is now cloud-based and independent of in-house servers. This has resulted in improved performance of the database and greater support from the software company.

Protective Services also underwent a full service review in 2022/23 which recognised the importance of system support as well as the continuous improvement of processes and procedures. This led to the establishment of a Development Team which provides day to day system support and also support with service development projects.

6 Performance & Quality Assurance

6.1 Performance Indicators

At a corporate level, the Council has developed a Strategic Performance Monitoring Framework which collates a set of performance indicators that are reported throughout the year to Council's Policy and Performance Review Scrutiny Committee. In relation to the delivery of Official Controls, the following performance information is reported;

- the percentage of planned high risk food premises interventions achieved as an outcome measure. This relates to Food Hygiene, Food Standards and FLRS.
- the number of Infectious Diseases that are reported to the authority by the local Health Board for Environmental Health (EH) to investigate.

6.2 Monitoring & Quality Assurance

The Team Manager endeavours to accompany officers at least once per annum to monitor the quality of the inspections and to check the inputting of records onto our software system.

Business and consumer feedback highlights area of performance which informs the focus of monitoring and quality assurance activity.

7.0 Review

7.1 Service Plan Review

This plan will be reviewed annually at the end of each financial year. It is intended to produce the following year's annual plan by 30 June annually.

7.2 Service Plan Variation

The team regularly reacts to incidents and, as such, these incidents usually demand that the normal inspection workload can't always be completed. Therefore, the plan may have to be varied depending upon customer demand and/or new legislation being delegated to the service to enforce.

7.3 Implementing Improvements

The Service aims to implement legitimate identified improvement requirements.

The Team Manager works closely with the Development Officer to review current processes and activities and identify and implement improvements.

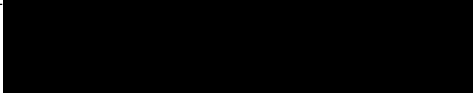
8.0 Document Approval

Author (Lead Food Officer)	Andrew Douglas
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Signature	
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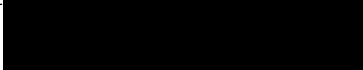
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Reviewed (Service Manager)	Lynn Crothers
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Signature	
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Date	31 October 2024
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Approved (Head of Service)	Caroline Rodgers
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Signature	
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Date	31 October 2024
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9.0 Document Control

Title	Food Law Service Plan 2024/25
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Document Type	Service Plan
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