

BIRMINGHAM CITY COUNCIL

**REPORT OF THE INTERIM ASSISTANT DIRECTOR OF REGULATION AND
ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**NOVEMBER 2020
ALL WARDS**

FOOD ENFORCEMENT DURING COVID 19

1. Summary

- 1.1 The Food Standards Agency (FSA) recognise the challenging circumstances that COVID-19 has created and the critical role that local authorities are playing in the wider public health response required to control the pandemic.
- 1.2 Further the FSA is also conscious of the statutory responsibilities that both they and local authorities have to protect public health through delivery of official food controls.
- 1.3 This report details the expectations on food authorities during the current pandemic, with defined priorities in place until January 2021. The report also provides information on how this authority is meeting those priorities.

2. Recommendation

- 2.1 That the report be noted.

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3. Background

- 3.1 Following the commencement of the Covid 19 lockdown in March 2020, much of the planned food enforcement work was suspended. This was in part due to the large number of food premises being closed, to implement safety protocols for our officers, and to facilitate the redeployment of officers to other more pressing duties.
- 3.2 Once businesses started to reopen, the emphasis was placed on undertaking assessments remotely where possible. Further instructions have subsequently been released encouraging the recommencement of food enforcement activities where resources and local restrictions permit.

4 General FSA Instruction

- 4.1 Food Authorities (FAs) are instructed to take the following actions:

1. Where resources are being redeployed to support contact tracing and other COVID-19 activities, the FSA expect Food Authorities to risk-assess their approach in order to follow FSA guidance and advice. Failing to do so could be detrimental to public health, place additional pressure on the NHS and would also put the Food Authority at risk. Heads of Service within each Food Authority should raise this at Chief Executive level to highlight the need to protect resources within food safety teams.
2. Where Food Authorities are unable to deliver the sector specific controls laid down in legislation or follow our advice in respect of the other high priority controls and activities, they must alert the FSA as a matter of urgency.
3. The FSA will be undertaking an assessment of Food Authority performance for 2020/21 and reporting this to the FSA Board as normal. The focus will be on assessing performance against the advice that the FSA have issued during this period and following up with Food Authorities as appropriate.

- 4.2 As a result of the above this authority has set up a Food Restart Project Team using available resources, this team is undertaking food activities in accordance with FSA priorities. In particular, emphasis is being placed on sector specific controls (products of animal origin), and enforcement relating to high risk issues including allergens.

5. Specific Priorities for action

- 5.1 For programmed inspections the period for temporary deviation from the prescribed intervention frequencies set out in the Food Law Code of Practice is extended until 31 January 2021 and will be kept under review. This extends to registered and approved establishments where the frequency of inspection and other onsite interventions are determined using the Food Establishment Intervention Rating Schemes set out in the Food Law Code of Practice. It includes food establishments that have already been risk rated, those that are registered and awaiting the initial inspection/intervention, and any 'new' businesses registering with the local authority.
- 5.2 Food Authorities are expected to prioritise their activities as set out at in the attached table. The focus should remain on physical onsite interventions for high risk and noncompliant establishments. These should be preceded by remote assessment where appropriate to help target what to consider onsite.

- 5.3 The highest priority should continue to be given to:
- ongoing proactive surveillance to obtain an accurate picture of the local business landscape and, where new and emerging risks are identified, undertaking appropriate interventions where there are concerns around public health/consumer protection – this includes at new businesses, those opening after prolonged closure and those changing the nature of their operations
 - urgent reactive work including following up on food incidents and investigating foodborne disease outbreaks or complaints
 - follow up with establishments subject to ongoing formal enforcement action and those overdue/due an enforcement revisit Where local authorities are unable to deliver these high priority controls and activities, they must alert the FSA as a matter of urgency.
- 5.4 Medium priority should be given to undertaking planned due/overdue interventions of high risk and poorly compliant establishments that do not fall into the high priority category above.
- 5.5 For the lowest risk establishments, due interventions can be deferred unless remote assessment suggests that there are serious public health issues that need to be assessed and addressed in which case onsite interventions should be undertaken.
- 5.6 This authority is utilising resources on the highest priority matters, but in addition carrying out medium priority functions when possible. This means that a proportion of programmed inspections are continuing to be undertaken as appropriate in risk and date order.

6. Consultation

- 6.1 The priorities and actions outlined in this report involved consultation between the Food Standards Agency and food authorities across England.

7. Implications for Resources

- 7.1 The resources to undertake food enforcement are reduced due to the redeployment of officers dealing with Covid 19 related actions. The remaining resources are therefore targeted in accordance with the priorities identified by the FSA.

8. Implications for Policy Priorities

- 8.1 Safe food is crucial to the health and safety of citizens and visitors to the City. The reduction in food enforcement activity will have a direct impact on these priorities, nevertheless as indicated resources are being targeted at the highest priority matters. This includes serious safety issues, allergens, incidents and outbreaks.

9. Public Sector Equality Duty

- 9.1 Equality issues are accounted for during food safety activities carried out by officers.

INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers:

Local Authority Framework Agreement - Food Standards Agency 2001

Attachment - Table of Priorities

Table 2: Prioritisation of other official control activities in registered and approved establishments

Activity	Remote	Physical
High priority		
Ongoing proactive surveillance to obtain an accurate picture of the local business landscape: <ul style="list-style-type: none"> • open/closed/recently re-opened/new businesses • change of operation, activities or FBO 	Internet searches, phone calls, information from businesses, complaints, drive-round etc. and other local sources of intelligence	See entry below
Appropriate interventions for establishments where the local authority has concerns around public health/consumer protection as a result of the ongoing proactive surveillance	Actions to facilitate the targeting of what to focus attention on at a subsequent onsite visit: <ul style="list-style-type: none"> • Phone conversation with FBO/staff • Review of documentation - Food Safety Management System, records, invoices etc. • Use of video/photographic evidence where appropriate to do so 	<ul style="list-style-type: none"> • Onsite inspection, targeted (partial) inspection, audit • Giving/updating food hygiene ratings where appropriate to reflect findings • Sampling
Urgent reactive work including following up on food incidents and investigating foodborne disease outbreaks or complaints	Actions to inform the need for an onsite visit: <ul style="list-style-type: none"> • Phone conversation with FBO/staff • Review of documentation - Food Safety Management System, records, invoices etc. • Use of video/photographic evidence where appropriate to do so • Sampling results 	<ul style="list-style-type: none"> • Onsite inspection, targeted (partial) inspection, audit • Giving/updating food hygiene ratings where appropriate to reflect findings • Sampling

Activity	Remote	Physical
Establishments subject to ongoing formal enforcement action	<p>Actions to facilitate the targeting of what to focus attention on at a subsequent onsite visit:</p> <ul style="list-style-type: none"> • Phone conversation with FBO/staff • Review of documentation - Food Safety Management System, records, invoices etc. • Use of video/photographic evidence where appropriate to do so 	<ul style="list-style-type: none"> • Follow-up visit • Sampling
Establishments overdue/due an enforcement revisit	<p>Actions to facilitate the targeting of what to focus attention on at a subsequent onsite visit:</p> <ul style="list-style-type: none"> • Phone conversation with FBO/staff • Review of documentation - Food Safety Management System, records, invoices etc. • Use of video/photographic evidence where appropriate to do so 	<ul style="list-style-type: none"> • Follow-up visit • Sampling

Activity	Remote	Physical
Medium priority		
<p>Establishments rated:</p> <ul style="list-style-type: none"> • all A, all B - all and non-compliant C for hygiene • A / high risk for standards <p>overdue/due an intervention not already captured above</p>	<p>Actions to facilitate the targeting of what to focus attention on at a subsequent onsite visit:</p> <ul style="list-style-type: none"> • Phone conversation with FBO/staff • Review of documentation - Food Safety Management system, records, invoices etc. • Use of video/photographic evidence where appropriate to do so <p>Note</p> <p>Where establishments have the additional score of 22 for consumers at risk for food hygiene but have good levels of compliance (0 or 5 for hygiene, structure and confidence in management), remote intervention may be used to inform the need for an onsite visit rather than to facilitate the targeting of one.</p>	<ul style="list-style-type: none"> • Onsite inspection, targeted (partial) inspection, audit • Giving/updating food hygiene ratings where appropriate to reflect findings • Sampling
<p>Establishments given an 'awaiting inspection' FHRS status including new businesses</p>	<p>Actions to facilitate the targeting of what to focus attention on at a subsequent onsite visit:</p> <ul style="list-style-type: none"> • Phone conversation with FBO/staff • Review of documentation - Food Safety Management system, records, invoices etc. • Use of video/photographic evidence where appropriate to do so 	<ul style="list-style-type: none"> • Onsite inspection, targeted (partial) inspection, audit • Giving/updating food hygiene ratings

Activity	Remote	Physical
Establishments where applying COVID-19 requirements - e.g. social distancing - might impact on food safety or the ability of the local authority to conduct a physical inspection	<p>Actions to facilitate the targeting of what to focus attention on at a subsequent onsite visit:</p> <ul style="list-style-type: none"> • Phone conversation with FBO/staff • Review of documentation - Food Safety Management system, records, invoices etc. • Use of video/photographic evidence where appropriate to do so 	<ul style="list-style-type: none"> • Onsite inspection, targeted (partial) inspection, audit • Possible use of remote assessment when at the establishment where that might help • Giving/updating food hygiene ratings where appropriate • Sampling
Low priority		
Establishments rated: <ul style="list-style-type: none"> • compliant C, all D, all E for hygiene; or • B or C / medium or low risk for standards overdue/due an intervention not already captured above 	<p>Actions to inform the need for an onsite visit:</p> <ul style="list-style-type: none"> • Phone conversation with FBO/staff. • Review of documentation - Food Safety Management system, records, invoices etc.) • Use of video/photographic evidence where appropriate to do so <p>Note</p> <p>In cases where resources permit and it is practical and feasible to do so, actions to facilitate the targeting of what to focus attention on at a subsequent onsite visit:</p> <ul style="list-style-type: none"> • Phone conversation with FBO/staff. • Review of documentation - Food Safety Management system, records, invoices etc.) • Use of video/photographic evidence where appropriate to do so 	<ul style="list-style-type: none"> • Onsite inspection, targeted (partial) inspection, audit • Giving/updating food hygiene ratings where appropriate • Sampling
Alternative enforcement strategies	Issue and review of AES	Possible follow-up to AES response