

## **REPORT TO EXECUTIVE**

Date of Meeting: 1 September 2020

## **REPORT TO COUNCIL**

Date of Meeting: 20 October 2020

Report of: Director – Communities, Health and Wellbeing, Sport and Leisure

Title: Food Law and Health and Safety Enforcement Service Plan 2020 - 2021

### **Is this a Key Decision?**

No

### **Is this an Executive or Council Function?**

Council Function

#### **1. What is the report about?**

- 1.1 To seek approval for the adoption of the Food Law and Health and Safety Service Plan 2020-21. This statutory plan sets out the Council's regulatory function in respect of food safety and health and safety over the forthcoming year.

#### **2. Recommendations:**

- 2.1 That Executive supports the Food Law and Health and Safety Service Plan 2020-21
- 2.2 That Council approves:
- a) the Food Law and Health and Safety Service Plan 2020/21; and
  - b) the Service Lead – Environmental Health and Community Safety being authorised to change the plan in the light of national guidance and/or to meet operational needs.

#### **3. Reasons for the recommendation:**

- 3.1 The Food Standards Agency Framework Agreement requires the Council to produce a Food Law Enforcement Plan (referred to as the Enforcement Plan). The key aim of the plan is to demonstrate how the Council will fulfil its regulatory obligations in respect of its food safety service.
- 3.2 Section 18 of the Health and Safety at Work, etc. Act 1974 places a duty on the Council to make adequate arrangements for enforcement of health and safety. The Health and Safety Executive (HSE), requires the Council to produce an annual

Health and Safety Service Plan. Responsibility for Health and Safety at Work enforcement lies with the HSE and Local Authorities (LAs). Councils are generally responsible for enforcement at premises in which non-industrial activities are undertaken (e.g. retail premises, warehouses, offices etc.) whilst HSE is responsible for industrial activities.

3.3 The Food Law and Health and Safety Service Plan Statutory Service Plan incorporates:

- the service aims and objectives;
- the Action Plan for 2020/21; and
- the financial arrangement for providing the service.

#### **4. What are the resource implications including non financial resources.**

4.1 The Action Plan will be carried out within the existing resource allocation as detailed in both the Statutory Service Plan and Revenues and Estimates for 2019/20.

4.2 There are no reductions, restructuring and/or redundancy implications as the key changes identified in this report do not give rise to any additional resource requirements as changes are to existing processes. However, in delivering to the changed requirements there may be some training implications for existing staff.

#### **5. Section 151 Officer comments:**

5.1 There are no additional financial implications for Council to consider contained in this report.

#### **6. What are the legal aspects?**

6.1 The Food Standards Agency Framework Agreement requires the Council to produce a Food Law Enforcement Plan (referred to as the Enforcement Plan). The key aim of the plan is to demonstrate how the Council will fulfil its regulatory obligations in respect of its food safety service. In the current Framework Agreement and Code of Practice, the Food Standards Agency indicates that full compliance with all inspection frequencies will be expected

6.2 Section 18 of the Health and Safety at Work, etc. Act 1974 places a duty on the Council to make adequate arrangements for enforcement of health and safety. The Health and Safety Executive (HSE), requires the Council to produce an annual Health and Safety Service Plan. Responsibility for Health and Safety at Work enforcement lies with the HSE and Local Authorities (LAs). Councils are generally responsible for enforcement at premises in which non-industrial activities are undertaken, whilst HSE is responsible for industrial activities.

## **7. Monitoring Officer's comments:**

This report raises no issues of concern to the Monitoring Officer.

## **8. Report details:**

### **Key Achievements in 2019/20:**

#### **8.1 Value for Money**

Environmental Health and Community Safety is delivered at a net cost of 85p per head of the population for food safety and 85p per head of the population for health and safety.

#### **8.2 Programmed Interventions**

The service inspected 569 food businesses during the year. Out of those targeted for inspection 93.74% (569) were inspected. Due to COVID-19 and the necessary lockdown measures being introduced, the remaining inspections were unable to be completed before the end of the financial year.

#### **8.3 Service Requests**

Environmental Health and Community Safety is responsible for investigating complaints relating to food safety, health and safety regulation, infectious disease control and also for providing health promotion and training activities for businesses. 954 such requests were received by the service during 2019/20.

#### **8.4 Sampling**

The authority participates in national and local food-sampling initiatives to monitor the quality of food on sale in the City which is classified as satisfactory, unsatisfactory or unacceptable. Additional samples are taken in response to food complaints and where it is alleged a premises or foodstuff is implicated in a food poisoning incident.

The intelligence led food sampling programme led to 6.9% of the 72 food samples taken being found to be unsatisfactory or borderline. This programme has led to the service intervening at an early stage to help businesses produce food safely.

#### **8.5 Control and Investigation of Outbreaks and Food Related Infectious Diseases**

The service is responsible for the investigation of outbreaks and food related infectious diseases in the City.

Whilst the service has adequate resources to deal with its workload on a day to day basis large scale outbreak requiring an extensive investigation put pressures on the service which can have an impact on the completion of the annual service plan. COVID-19 has resulted in resources being diverted away from food safety and health and safety enforcement. It is likely that this will have an impact on the successful completion of the planned programme of inspections and sampling set out in the service plan without additional resources being allocated.

## **8.6 Education and Awareness**

A key component of proactively engagement is assisting business compliance through education and awareness. The service runs a number of accredited training courses as well as informal workshops to allow business to access the information that they need to operate safely without being an expensive burden to the business. In addition, the service looks to innovative ways of engaging with business to bring about compliance such advice visits accompanied by translators and a joined up approach to health and safety, occupational health and public health with businesses throughout the city.

During 2019/20, 132 delegates attended food and health and safety education and awareness sessions run by the service.

## **8.7 Primary Authority**

The service currently has 5 active Primary Authority Partnerships.

## **8.8 Audit of Food Safety Service**

During February 2020 the Food Standards Agency conducted an audit of the Council, with a particular focus on approved premises. The Authority was selected for audit primarily because it had not been audited by the Food Standards Agency in at least 5 years.

The auditor's key finding were:

The Authority had a range of policies and procedures detailing the delivery of official food controls, demands of the service delivery and included information about approved establishments. These policies and procedures; along with the Environmental Health and Licensing Statutory Service Plan, provided the details as required in the Framework Agreement on Official Feed and Food Controls by Local Authorities.

The Authority had implemented an officer competency assessment system in accordance with the Food Law Code of Practice. Although the Authority was keen on officer Continuous Professional Development (CPD) full documentary evidence was not available for all Authorised Officers.

The Authority had an appropriate documented procedure for the approval of establishments, which followed the Food Law Code of Practice and the Approval of Establishments Guidance for Local Authority Authorised Officers 2016 (FSA Approvals Guidance). Following the criteria specified in the Approvals Guidance, the Authority had carried out a suitable assessment of approved establishments within the borough and all of them required to be approved.

Interventions at approved establishments had been carried out at the frequency prescribed in the Food Law Code of Practice.

The audit made 3 recommendations with respect to

1. competency assessments being appropriately signed, officers' authorisations detail the specific regulations in line with their competency assessments and that the authority ensures that records of continuous professional development are maintained
2. ensuring Food Business Operators were carrying out microbiological sampling of food, processing areas and equipment, as required by (EC) Regulation No. 2073/2005.
3. develop and implement an internal monitoring procedure covering all the elements of the service delivery in order to meet the Framework Agreement requirements.

The auditors also highlighted an area of good practice in the use of a digital cloud-based information management system for the dissemination of the Authority's procedures.

## **8.9 Proposed key activities for 2019/20**

8.9.1 In addition to the traditional intervention methods the following key activities are planned for the service during the forthcoming year:

- Implementation of the transfer to a new Environmental Health Computer System, implementing a more streamlined customer reporting system and removing unnecessary administrative burdens through a more integrated and digitalised approach.
- Maintain high standards in food safety by
  - Continuing to maintain high level (>97%) of broadly complaint food businesses in the city.
  - Enhanced coaching/sampling/training for non-complaint businesses, with caution/prosecution as final action for those who continually flout the law.
  - Continue with intelligence led food sampling programme
- Promoting Safer Workplaces by
  - Inspecting premises regarding the duty to manage asbestos interventions
  - Continue to provide advice and guidance to business to ensure high COVID-19 standards are being maintained
  - Continue to conduct water quality sampling of swimming pools and other water areas
- Co-ordinate multi-agency visits where migrant worker/modern slavery issues are suspected or identified
- Provide support to Public Health England and Public Health Devon in the implementation of the Local COVID Outbreak Management Plan should it be required.

- To look at options to recommence the Environmental Health Training Course programme in a COVID secure way.
- To investigate further Primary Authority Partnership opportunities for the service
- To conduct a review of the Food Safety and Health and Safety Enforcement Policies and Procedures

## **9. How does the decision contribute to the Council's Corporate Plan?**

9.1 The Food Law and Health and Safety Service Plan 2020-21 contributes to all aspects of the Council's Corporate Plan.

## **10. What risks are there and how can they be reduced?**

10.1 The Service Plan specifies targets and priorities to manage risk and establishes staffing levels to achieve the necessary outcomes. The main risk of not achieving the areas outlined in the service plan will be that of public safety, which could lead to serious injury, ill health or death.

## **11. Equality Act 2010 (The Act)**

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal potential impact has been identified on people with protected characteristics as determined by the Act, and an Equalities Impact Assessment has been included in the background papers for Member's attention.

## **12. Carbon Footprint (Environmental) Implications:**

12.1 There are no carbon footprint implications identified in this report.

## **13. Are there any other options?**

13.1 The Food Law and Health and Safety Service Plan must be reviewed on an annual basis as there is a legal duty for the food safety and health and safety elements to be reviewed annually.

Jo Yelland - Director

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## **Local Government (Access to Information) Act 1972 (as amended)**

Background papers used in compiling this report:-

- 1) Legislative and Regulatory Reform Act 2006
- 2) Food Law Code of Practice
- 3) Standard for Health and Safety Enforcing Authorities
- 4) HSC Enforcement Policy Statement
- 5). The Regulatory Enforcement and Sanctions Act 2008
- 6). Regulator's Compliance Code

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