

REPORT TO EXECUTIVE

Date of Meeting: 8 July 2021

REPORT TO COUNCIL

Date of Meeting: 21 July 2021

Report of: Director – Net Zero and City Management

Title: Food Law and Health and Safety Enforcement Service Plan 2021 - 2022

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

To seek approval for the adoption of the Food Law and Health and Safety Service Plan 2021-22. 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 2021-22
- 2.2 That Council approves:
 - 1) the Food Law and Health and Safety Service Plan 2021/22; and
 - 2) 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 2021/22; 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 2021/22.

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:

There are no additional financial implications for Council to consider contained within 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:

Given the legal obligations placed on the Council, the Monitoring Officer is happy to support the content of this report.

8. Report details:

Key Achievements in 2020/21:

8.1 Programmed Interventions

Covid-19 severely impacted upon last years' service plan due to resources being deployed to enforce emergency legislation and due to a large number of businesses being closed during the course of the year.

The service inspected 257 food businesses during the year, prioritising those which were either considered high risk or that were new businesses that had not received a previous inspection by the service. Out of those targeted for inspection 42.9% were inspected.

8.2 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. 641 such requests were received by the service during 2020/21.

8.3 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.

However due to Covid-19, the sampling programme was unable to be undertaken as was set out in the plan.

8.4 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.

The service conducted 335 proactive Covid compliance checks in addition to assisting public health with outbreak control measures. In addition 404 service requests were received specifically relating to Covid-19.

8.5 Primary Authority

The service currently has 5 active Primary Authority Partnerships.

8.6 Proposed key activities for 2021/22

- 8.6.1 Implementation of the transfer to a new Environmental Health Computer System, implementing a more streamlined customer reporting system and removing unnecessary administrative burdens through adopting a more integrated, digitalised approach.
- 8.6.2 Maintain high standards in food safety by
 - Achieve over 90% of the planned inspection programme;

- 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; and
- Continue with intelligence led food sampling programme

8.6.3 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 audit of Exeter tattooists; look into possibility of providing a list of registered tattooists on our web site.
- Continue to conduct water quality sampling of swimming pools and other water areas

8.6.4 Co-ordinate multi-agency visits where migrant worker/modern slavery issues are suspected or identified

8.6.5 Review and refresh the means of business engagement and training using innovative means to help business recover.

8.6.6 To investigate further Primary Authority Partnership opportunities for the service

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

The Food Law and Health and Safety Service Plan 2021-22 contributes to all aspects of the Council's Corporate Plan.

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

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:

There are no carbon footprint implications identified in this report.

13. Are there any other options?

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.

Director Net Zero Exeter & City Management, David Bartram

Author: Simon Lane - Service Lead – Environmental Health and Community Safety

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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