

REPORT TO EXECUTIVE

Date of Meeting: 6 September 2022

REPORT TO COUNCIL

Date of Meeting: 18 October 2022

Report of: Director – Net Zero and City Management

Title: Food Law and Health and Safety Enforcement Service Plan 2022 - 2023

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

- 1.1 To seek approval for the adoption of the Food Law and Health and Safety Service Plan 2022-23. 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 2022-23 and RECOMMENDS that Council approves:
- (a) the Food Law and Health and Safety Service Plan 2022/23; 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 2022/23; 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 2022/23.

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 for the Monitoring Officer

John Street (Deputy Monitoring Officer)

8. Report details:

Key Achievements in 2021/22:

8.1 Programmed Interventions

Coronavirus restrictions from April 2020 onwards prevented the completion of a large number of planned food interventions.

The service inspected 438 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.

The Food Standard Agency's Recovery Plan sets out how local authorities should resume food interventions post-Covid. The planned intervention programme from October 2021 to the end of March 2023 is as follows:

- All Category A food businesses to receive an onsite intervention by 31 March 2022 – this has been complied with in Exeter
- All Category B food businesses to receive an onsite intervention by 30 June 2022 – this has been complied with in Exeter.
- Less than broadly compliant Category C food businesses (i.e. those with a food hygiene rating of 0-2) to receive an onsite intervention by 30 September 2022 – the service is on course to achieve this at the time of writing this report.
- Less than broadly compliant Category D food businesses (i.e. those with a food hygiene rating of 0-2) to receive an onsite intervention by 31 December 2022
- Broadly compliant Category C food businesses (i.e. those with a food hygiene rating of 3-5) – where the premises has two consecutive ratings of 5, one intervention may be missed (i.e. the intervention moved forward 18 months)
- Other broadly compliant Category C food businesses to receive an onsite intervention by 31 March 2023
- Broadly compliant Category D food businesses – no intervention unless intelligence suggests an increased risk.
- Category E food businesses – no intervention unless intelligence suggests an increased risk.
- Where resources allow, interventions will be undertaken in line with the Food Law Code of Practice, starting with broadly compliant Category D food businesses.

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. 584 such requests were received by the service during 2021/22.

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.

75 food samples were conducted along with 6 monthly sampling of all swimming pools within the city.

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.

73 infectious disease notifications were received by the service in 2021/22, 58% of which related to Campylobacter – the most common cause of bacterial foodborne illness in the UK. Five E.coli O157 (a bacteria which can cause severe food poisoning symptoms) cases were investigated, including a food handler who required exclusion from their job until recovered.

Devon County Council's Tactical Management Group notified the service of 98 potential Covid outbreaks with links to workplaces.

A total of 28 letters were delivered by hand to confirmed Covid cases in Exeter with whom Devon County Council's Test and Trace team had been unable to establish contact.

8.5 Primary Authority

The service currently has 7 active Primary Authority Partnerships.

8.9 Proposed key activities for 2022/23

8.9.1 Maintain high standards in food safety by:

- Achievement of the inspection programme outlined in the FSA's Covid Recovery Plan (see 5.3.4 for details).
- 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.
- Continuing with an intelligence-led food sampling programme

8.9.2 Promote safer workplaces by

- Focussing on the duty to manage asbestos, commercial gas safety and outdoor electrical safety during routine food hygiene inspections whenever appropriate.
- Continuing to provide advice and guidance to business to ensure high Covid-19 standards are being maintained.
- Carrying out an audit of Exeter tattooists to ensure that good standards of health, safety and infection control are maintained

- Continuing to conduct water quality sampling of swimming pools and private water supplies.
- 8.9.3 Co-ordinate multi-agency visits where migrant worker/modern slavery issues are suspected or identified
- 8.9.4 Review and refresh the means of business engagement and training using innovative means to help business recover.
- 8.9.5 To investigate further Primary Authority Partnership opportunities for the service.

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

- 9.1 The Food Law and Health and Safety Service Plan 2022-23 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.

Director – Net Zero and 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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