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**Decision Maker:** PUBLIC PROTECTION AND SAFETY POLICY DEVELOPMENT  
AND SCRUTINY COMMITTEE

**Date:** Wednesday 20 January 2016

**Decision Type:** Non-Urgent Non Executive Non-Key

**Title:** REVIEW OF FOOD SAFETY SERVICE

**Contact Officer:** Paul Lehane, Head of Food Safety, Occupational Safety and Licensing  
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**Chief Officer:** Nigel Davies Executive Director of Environment & Community Services

**Ward:** (All Wards);

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1. Reason for report

This report reviews the role and performance of the Food Safety Service setting out the Councils legal (statutory) roles and responsibilities under both domestic and European law in the context of the local, national and international regulatory regimes.

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2. **RECOMMENDATION(S)**

Members are asked to:

Note the report and comment on the resourcing and performance of the Food Safety Service against the requirements of the Food Standards Agency.

### Corporate Policy

1. Policy Status: Not Applicable:
  2. BBB Priority: Excellent Council Quality Environment Safer Bromley Vibrant, Thriving Town Centres:
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### Financial

1. Cost of proposal: Not Applicable
  2. Ongoing costs: Not Applicable:
  3. Budget head/performance centre: Public Protection and Safety Portfolio budget
  4. Total current budget for this head: £246k
  5. Source of funding: Existing Revenue Budget 2015/16
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### Staff

1. Number of staff (current and additional): 5.73fte
  2. If from existing staff resources, number of staff hours: N/A
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### Legal

1. Legal Requirement: Statutory Requirement:
  2. Call-in: Applicable:
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All residents, all food businesses and visitors to the Borough
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

### 3. COMMENTARY

- 3.1 The Food Standards Agency (FSA) was established in 2000 to provide a national body to lead on the development of food safety and food standards and coordinate the work undertaken by Councils and other organisations involved in ensuring food safety.
- 3.2 The Agencies main objective is to protect public health from risks which may arise in connection with the consumption of food (including risks caused by the way in which it is produced or supplied) and otherwise to protect the interests of consumers in relation to food. The FSA define the interests of customers as 'ensuring that food is safe and what it says it is, and we have access to an affordable diet, and can make informed choices about what we eat, now and in the future'.
- 3.3 Food safety has a strong European dimension and the FSA represent England on food safety and standards issues in the European Union. They are also involved in the nutrition and health agenda at a European level. The Councils food safety service enforces a number of European regulations relating to food hygiene and the approval of certain types of premises.
- 3.4 The Councils main responsibilities are under the:

#### Food Safety Act 1990 to

- Enforce food safety law. According to the FSA there are over 56 food safety statutes.
- Appoint a Public Analyst for the testing and examination of food. Kent Scientific Services are appointed as our Public Analyst

#### Food Hygiene and Safety (England Regulations) 2013

- Enforce EU legislation on food hygiene legislation

#### Official Feed and Food Controls (England) Regulations 2009

- Enforce EU legislation on food imported from outside the EU

The FSA sets out the details of the Councils responsibilities as an enforcement authority in three main documents –

- The Framework agreement on Feed and Food Controls by Local Authorities
- the Food Law Code of Practice (CoP), and
- the Food Law Guidance

- 3.5 The Framework Agreement sets out the Agencies expectations of LAs in their delivery of official controls on food law. The Food Law CoP states how LAs enforce food legislation. LAs must have regard to the Framework agreement which reflects the requirements of the Food Law CoP. The Food Law Practice Guidance assists LAs in performing their statutory functions. It complements the CoP but is non-statutory.

#### **Food Safety – The Council's Key Responsibilities**

- 3.6 The Councils keys responsibilities can be summarised as being to:
- Register food businesses
  - Approve food businesses for specified purposes
  - Maintain accurate records in accordance with Data Protection Act 1998 requirements and providing information under the Freedom of Information Act 2000

- Appoint sufficient competent staff to carry out the service plan
- Prepare and publishing an annual food service plan  
(2015-16 attached – Appendix 1)
- Maintain updated documented procedures which are implemented
- Undertake interventions in accordance with nationally agreed risk based frequencies and assess compliance with food legislation (Inspections)
- Take appropriate enforcement
- Follow specific guidance where published
- Undertake sampling for analysis
- Investigate complaints about food
- Investigate complaints about the service
- Provide advice to businesses to assist with compliance
- Undertake internal monitoring
- Promote Food Safety

### **Food Safety Service – Numbers of businesses and Food Safety Officers**

- 3.7 There are approximately 2300 registered food premises in the Borough, most of which are small and medium enterprises (SMEs).

The number of food businesses increases year on year. Two hundred and sixty three (263) new food premises were registered in 2014/15 while 163 closed down (an increase of 100). To date this year 209 new food premises have registered and 81 have closed down (an increase of 128).

As at the 1 April 2015 the team consisted of

- 1 Lead Practitioner
  - 5 Food Safety Officers
  - 1 Part time technical officer ( 0.48 fte)
  - 1 Part time support officer (0.25fte)
- Total 6.73 fte

However, two food safety officer posts were cut from the establishment as part of the saving for the Public Protection Division during the year so the team now consists of

- 1 Lead Practitioner
  - 3 Food Safety Officers
  - 1 Part time technical officer ( 0.48 fte)
  - 1 Part time support officer (0.25fte)
- Total 4.73 fte

- 3.8 Table 1 sets out the number of food premises per full time equivalent food safety officer for the local boroughs. Bromley has the highest ratio with 535 premises per full time officer.

Table 1 Number of Food Businesses per FTE Food Safety Officer			
	No of food businesses*	FTE's **	Premises per FTE
Bromley	2,398	4.48	535
Bexley	1,474	5.20	283
Greenwich	2,060	7.00	294
Lewisham	2,483	7.40	335

\*From 2015 LAEMs return \*\* as at Dec 2015

## **Food Safety Service – Key Activities undertaken**

3.9 The main activities of the food team are to

- Undertake Food hygiene and Food standards inspections
- Respond to food safety incidents
- Issue approvals for premises under product specific hygiene regulations,
- Participate in selected local, regional and national food sampling programmes
- Investigate complaints relating to food premises within the Borough of Bromley
- The investigate complaints about food produced or purchased within the Borough of Bromley
- To act as the Proper Officer for notifiable diseases
- Investigate notifiable food borne infections to determine the source of infection and prevent further spread
- Investigate premises within the Borough where there are possible links to food poisoning
- Provide advice and support to existing and prospective food businesses within the borough on all issues relating to food hygiene and food standards via our website
- Implement the FSAs Food Hygiene Rating Scheme
- Provide food safety advice to consumers via our website

As a consequence of savings made during 2015 we

- Do not provide business or consumers with personal advice and guidance other than through our website
- Have revised the selection criteria for food related complaints, cutting the number we deal with from 441 to 190 per year.
- Do not comply with the FSA inspections of risk rating food businesses in line with the Code of Practice as there is a backlog of C & D rated businesses
- Do not Inspect new low risk business as required by the Code. We deal with them using an alternative enforcement strategy.
- Are now making enforcement decisions based on an increased level of risk and the impact on the impact on the service.

## **Inspections**

3.10 The main focus for the food safety service is to undertake inspections in accordance with nationally agreed risk based frequencies.

3.11 All food businesses are assessed against national criteria to determine the potential risk they present and this is used to set frequencies of inspection. Premises are risk rated A to E and the number as at 1 April 2015 are given in table 2

Table 2 Inspection Frequency and Number of Premises			
Risk Rating	Inspection frequency	Number of premises	Planned inspections due 205-16
A	6 months	8	16
B	12 months	153	153
C	18 Months	667	445
D	24 Months	651	325
E	36 Months	177	AES
Outside the programme but subject to an Alternative Enforcement Strategy (AES)*	Every 3 years	489	Next due in 2016/17
Unrated **	Within 28 days of registration	252	

\*AES = premises rated as E for food hygiene can have be risk assessed by methods other than inspection every three years. We send these businesses a questionnaire.

\*\* Unrated = premises which have not had an inspection.

## Current Performance

- 3.12 The food safety team has been progressively reduced over the last 7 years (from 8.9 fte in 2008 to 4.73 fte in 2015). As we undertake our inspections based on risk, the lower risk businesses ( Risk C, D and E) have not been inspected at the intervals required by the Code (received less attention) with the inevitable consequence that the number of uninspected premises in these risk groups has increased year upon year. Under the FSA Code of Practice these outstanding inspections roll over the next year. Also, under the Code new businesses are required to be inspected within 28 days of registering with us. New premises which are considered low risk, such as home cake bakers, are not inspected at all but are dealt with using a questionnaire. These premises remain as unrated on our database, and continue to increase in number.
- 3.13 We started this year with over 600 outstanding inspections from previous years in addition to the 600 or so premises that will become due under the risk rating scheme. The Service Plan identified this (Appendix 1 Section 3.1) and sets out what we seek to achieve this year. See Table 3 for details of the number of inspections due during 2015/16 and the number inspected at 21 December 2015.

Table 3			
Inspection performance 2015-16			
Risk Group	Outstanding from previous years	Premises due for inspection 2015-16	Inspections undertaken to 21 Dec 15
Risk A	0	8	7
Risk B	26	124	75
Risk C	334	416	176
Risk D	246	54	117
Risk E	233	AES every 3 years	24
<b>Totals</b>	<b>839</b>	<b>602</b>	<b>399</b>
FHOP*	297	N/A	N/A
AES**	203	N/A	N/A

\*FHOP = Food Hygiene outside the programme. These are business which sell low risk food and therefore need to register as a food business but are not typically identified as food businesses e.g. chemists, off licenses etc.

The total number of inspections in each category will include programmed inspections, some of which will have changed category, along with unrated premises which have been rated for the first time. Additionally, although we are not routinely inspecting category E premises, the number inspected will include those inspected following a complaint about the business.

\*\* AES (Alternative Enforcement Scheme)

## Food Hygiene Rating Scheme

3.14 Following inspections the food safety officers issue a Food Hygiene Rating Score (FRHS) to the business based on 3 of the 8 criteria used to determine the Risk category. Businesses are scored between 0 and 5. See Table 4.

Table 4 FHRHS –Number of premises scoring 0-5*					
		Number of Premises at 14 Dec 2015			
Food Hygiene Rating Score	Description	Bromley	Bexley	Greenwich	Lewisham
0	Urgent Improvement necessary	5 (0.3%)	7 (0.6%)	9 (0.6%)	17 (0.9%)
1	Major improvement necessary	93 (5.4%)	30 (2.4%)	87 (6%)	187 (10.3%)
2	Improvement necessary	98 (5.7%)	22 (1.8%)	35 (2.4%)	130 (7.2%)
3	Generally satisfactory	405 (23.3%)	225 (18.3%)	237 (16.4%)	453 (25%)
4	Good	462 (26.8%)	387 (31.4%)	396 (27.3%)	378 (21.0%)
5	Very Good	666 (38.5%)	561 (45.5%)	684 (47.3%)	647 (35.6%)
		1,729	1,232	1,448	1,812

\*As at 14 December 2015

Businesses with scores of 0-2 are considered non-compliant, whereas those scoring 3-5 are compliant.

Table 5 % of Compliant and Non Complaint food businesses				
	Bromley	Bexley	Greenwich	Lewisham
Non complaint businesses %	11.4	4.8	9.1	18.5
Compliant %	88.6	95.2	90.9	81.5

### **This year**

- 3.15 Some temporary additional support for the food team has been made available through flexibility within Public Protection. This support has provided an additional resource for 2 days a week for 6 months to undertake a project to try and address the backlog of uninspected lower risk food businesses. So far 25 of 100 inspections have been completed, 40% of which have resulted in a lower (worse) food hygiene rating score indicating poorer levels of compliance.
- 3.16 Even with this additional support the team will struggle to address the backlog and complete the number of inspections due this year. On current performance I anticipate we will achieve about 600 inspections (79%) of this year's planned programme. Uninspected businesses will roll over to next year and will have to be added to next year's target.
- 3.17 Without some permanent additional resource the food safety team will continue to fail to meet the FSA inspection requirements.
- 3.18 The Team has recently undergone an FSA sponsored Inter Authority Audit looking at the implementation of the Food Hygiene Rating Scheme.

The audit has highlighted our failure to comply with the inspection intervals within the CoP. We have to provide an action plan and a time scale on how this will be addressed by 4/1/16.

### **Consequences**

- 3.19 The FSA monitor local authority performance through the annual Local Authority Enforcement Monitoring Scheme (LAEMS) returns. If they are concerned about our performance they can undertake a formal audit of the food safety service. Where significant failings are found the FSA can formally intervene.
- 3.20 We are currently failing to support businesses with timely interventions and support through advice from officers during inspections. We have also stopped all business advice other than through the council's website. The majority of our businesses are SME's without alternative access to food safety advice so rely on us to provide it.
- 3.21 For many businesses the longer the period between inspections the greater the deterioration in standards and the lower the FHRS score that is issued. This has a financial consequence for businesses particularly SME's and we then receive additional requests for rescores placing a further demand on the already stretched food safety team
- 3.22 There must also be an increasing risk of a serious outbreak of food borne disease in premises that are not being inspected as frequently as they should be. However we do prioritise the higher risk businesses over the lower ones.



#### 4. POLICY IMPLICATIONS

See the body of the report.

#### 5. FINANCIAL IMPLICATIONS

- 5.1 The table below provides the budget and fte's for the food safety team for the period 2014/15 to 2016/17: -

	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>
	<b>6.73 ftes</b>	<b>5.73 ftes</b>	<b>4.73 ftes</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Staffing	285	218	204
Car allowances	15	12	10
Running expenses	18	16	16
	<b>318</b>	<b>246</b>	<b>230</b>

#### 6. LEGAL IMPLICATIONS

The FSA monitors the performance of Councils enforcement functions through the LAEMS returns. Where there are concerns the FSA may set standards, report to the authority on their performance and ultimately can direct the Council as to steps to be taken.

<b>Non-Applicable Sections:</b>	<b>PERSONNEL IMPLICATIONS</b>
Background Documents: (Access via Contact Officer)	Food we can trust FSA Strategy 2015-20