

**Decision Maker:** Public Protection and Safety Portfolio Holder

**For Pre-decision scrutiny by the Public Protection & Safety  
PDS Committee on**

**Date:** Thursday 29 June 2017

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

**Title:** **FOOD STANDARDS AGENCY - AUDIT OF FOOD HYGIENE  
SERVICE DELIVERY APRIL 2017**

**Contact Officer:** Paul Lehane, Head of Food Safety, Occupational Safety and Licensing  
Tel: 020 8313 4216 E-mail: Paul.Lehane@bromley.gov.uk

**Chief Officer:** Nigel Davies, Executive Director of Environment & Community Services

**Ward:** (All Wards);

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1. Reason for report

To update Members on the findings of the Food Standards Agency audit of the food safety team undertaken on 27 April 2017.

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2. **RECOMMENDATION(S)**

The Portfolio Holder is asked to

2.1 Note the findings of the Food Standards Agency audit – appendix 1

2.2 Agree the action plan to be submitted to the Food Standards Agency – appendix 2

2.3 Subject to the views of the PDS Committee, consider whether a bid for additional resources be submitted to the Executive as detailed in paragraph 3.8.

## Impact on Vulnerable Adults and Children

1. Summary of Impact: Premises providing food for vulnerable adults and children will continue to be inspected according to the risks they present to food safety.
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## Corporate Policy

1. Policy Status: Existing Policy: The Food Safety Service publishes a service plan annually.
  2. BBB Priority: Children and Young People Excellent Council Safe Bromley Supporting Independence Vibrant, Thriving Town Centres Healthy Bromley Regeneration:
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## Financial

1. Cost of proposal: Estimated Cost £123k for 2017/18, £245k for 2018/19 and then £98k per annum thereafter
  2. Ongoing costs: Recurring Cost: £98k per annum
  3. Budget head/performance centre: Food Safety and Licensing Service
  4. Total current budget for this head: £287.6k
  5. Source of funding: Existing revenue budget 2017/18 and a supplementary estimate
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## Personnel

1. Number of staff (current and additional): Current 5.76ftes (incl 0.76fte admin)  
To comply with the FSA audit requirements a further 2 fte Food Safety Officers and 3 fte temporary Food Safety Officers for 18 months is required.
  2. If from existing staff resources, number of staff hours:
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## Legal

1. Legal Requirement: Statutory Requirement: The Council is the Food Safety Authority under the Food Safety Act 1990 and has a duty to enforce food safety, food standards and feed requirements. Our performance is monitored by the Food Standards Agency against the Food Law Code of Practice.
  2. Call-in: Applicable:
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## Procurement

1. Summary of Procurement Implications:
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): There are some 2600 registered food businesses in the Borough that come under the remit of the team for inspection. The protection afforded though those businesses being inspected extends to everyone who buys or eats food in 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 Member's received a report in January 2016 on the Food Safety Service (Ref ES 16008). Among other things the report highlighted the reduced resources available within the team and the consequent impact on performance and compliance with the Food Standards Agency (FSA) framework agreement, in particular the increase in the backlog of uninspected premises.
- 3.2 At that time the backlog was 600 premises, however these were of a lower risk as the team prioritised high risk premises. Following the report, short term measures were implemented to support the team using contract Food Safety Officers and a full time post was transferred from the Health & Safety team.
- 3.3 Members were advised that the FSA monitors the performance of local authorities through an annual LAEMS (Local Authority Enforcement Monitoring System) return and that the FSA could undertake a formal audit where there are concerns.
- 3.4 The FSA notified the Council that an audit of the Food Safety Service would be undertaken on 27 April 2017. This was prompted by the relatively high numbers of overdue and unrated premises based on data submitted by the Authority to the FSA via the Local Authority Enforcement Monitoring System (LAEMS).
- 3.5 The FSA sent the draft audit report to the Council on 5 June 2017. The Executive Summary is set out below and a copy of the full report is attached to the report as appendix 1.

#### ***Executive Summary***

*This audit of London Borough of Bromley Council sought to gain assurance that key local authority food hygiene law enforcement systems and arrangements were effective in supporting business compliance, and that local enforcement was managed and delivered effectively. The audit focused on the Authority's service organisation, management and internal monitoring arrangements.*

*The Authority had, since 2008, undergone a gradual reduction in terms of staff resources which had resulted in a significant number of overdue and unrated premises. The Authority had compensated for this by concentrating its resources on the higher risk premises. This had resulted in a substantial number of overdue inspections in the lower risk categories and a high number of unrated establishments. Recently, after a Service review, reported to the Council in January 2016, there had been a small rise in staff numbers and the appointment of two temporary contractors. However, the Authority acknowledged that there continued to be a shortfall in resources that needed to be addressed to bring the intervention programme in line with the Food Law Code of Practice (FLCoP).*

#### ***Strengths:***

*The Authority was committed to providing a good quality service, as demonstrated by its participation in inter authority audit, peer review, regional consistency exercises and regional sampling programmes.*

*The Authority had implemented an effective system to ensure officers were authorised commensurate with their qualifications training and experience. A competency matrix linked to authorisation procedures had also been developed and maintained.*

### **Key areas for improvement:**

**Service Planning:** *The Authority needed to improve its service planning arrangements to ensure senior delegated officers and appropriate council member forums are fully aware of any shortfalls in resources and the full demands on the Service.*

*The Authority should carry out a review and ensure that it had enough full time equivalent (FTE) food safety officers to complete the work specified in the annual Service Plan, including outstanding interventions in accordance with the FLCoP. The Authority should ensure that there is resilience in resources to meet the demands on the Service to ensure food safety activities are carried out in line with the FLCoP.*

**Food Premises Interventions:** *The Authority had a significant number of overdue lower risk food hygiene interventions and unrated premises outstanding. The Authority needed to review the overdue interventions including unrated premises and implement a risk based intervention programme to ensure all food premises receive an intervention at the frequency required in accordance with the Framework Agreement and the FLCoP*

**Database:** *The Authority should set up a procedure and implement monitoring to ensure the database is kept accurate and up to date.*

**Internal Monitoring:** *The Authority should review and implement documentary internal monitoring procedures across all areas of food law enforcement. Carry out internal monitoring on a risk basis and ensure that it is fully documented.*

- 3.6 The approach taken by the FSA during their audits has recently changed and they now comment directly on the level of resources available to the Food Safety Service as well as compliance with the Food Law Code of Practice.
- 3.7 Following the audit the FSA requires the Council to prepare an Action Plan indicating how the findings will be addressed, to be reassured that the Food Safety Service has sufficient resources to be resilient and that the backlog of uninspected premises will be dealt with within 12 months.
- 3.8 The Food Standards Agency has requested that a response to the audit along with a draft Action Plan is provided by 3 July.

A draft action plan is attached for discussion and comment at appendix 2.

In order to comply with the FSA audit to address both the backlog of inspections as well as the resilience/compliance issues, additional resources will be required: -

- 2 additional full time permanent food safety officers are needed to provide the resilient service required by the FSA and to meet the requirements of the Food Law Code of Practice on an annual basis. The estimated annual cost for this would be £98k.
- In order to clear the inspection backlog an extra 3 full time temporary food safety officers for up to 18 months are needed. These are likely to be agency staff and the estimated cost would be £221k.

- 3.9 Further details on the Councils legal position are set out in Para 8 (Legal Provisions).

- 3.10 Failure to satisfy the FSA that we are providing a food safety service that meets the Food Law Code of Practice could result in a Direction being issued or the Secretary of State could intervene.
- 3.11 The draft action plan set out in appendix 2 should fully satisfy the FSA. The key being the provision of additional food safety officers. If the level of that resource is less than that recommended the Council will need to satisfy the FSA that it could still meet the Food Law Code of Practice both in addressing the backlog in a timely way and providing a properly staffed and resilient service in the future. The priority for the FSA will be consumer protection.

#### **4. IMPACT ON VULNERABLE ADULTS AND CHILDREN**

- 4.1 The inspection of premises where there are vulnerable adults and children continue to be undertaken based on individual risk assessments, e.g. residential homes, schools and nurseries.

#### **5. POLICY IMPLICATIONS**

- 5.1 Providing a resilient Food Safety Service as the FSA want, supports Building a Better Bromley through being an Excellent Council and maintaining minimum standards in food business helps to ensure Bromley is both safe and healthy.

#### **6. FINANCIAL IMPLICATIONS**

- 6.1 The additional two full time permanent Food Safety Officers will cost £98k per annum, to ensure that the Council provide a resilient service as well as meeting the requirements of the Food Law Code of Practice on an annual basis as recommended by the FSA report.
- 6.2 The cost of employing 3 full time Food Safety Officers for 18 months, to deal with the backlog of uninspected premises would be up to £220k.
- 6.3 The table below summarises the financial implications of the proposal:-

<b>Additional staffing resources</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>
	<b>£'000</b>	<b>£'000</b>	<b>onwards £'000</b>
Permanent food safety officers (2 ftes)	49	98	98
Temporary food safety officers (3ftes)	74	147	0
<b>Total additional staffing resources</b>	<b>123</b>	<b>245</b>	<b>98</b>

- 6.4 Members need to consider whether part of this additional cost can be contained within the existing Portfolio budget.

#### **7. PERSONNEL IMPLICATIONS**

- 7.1 If the Action Plan with its attendant resource implications are approved 2 new full time Food Safety Officer posts will be required and 3 full time temporary food safety officers.
- 7.2 There is national shortage of qualified Food Safety Officers and it may prove difficult to recruit to these posts.

## 8. LEGAL IMPLICATIONS

- 8.1 The Council is the Food Authority under the Food Safety Act 1990. Our performance is monitored by the FSA who have undertaken an audit and published its findings. They will continue to monitor our performance closely until we have reduced our backlog of inspections and have established a resilience service.
- 8.2 The powers of the FSA are derived from Section 40 Food Safety Act 1990. The Secretary of State may issue code of practice as regards the execution and enforcement of the Act and Regulations. This is the 'Food Law Code of Practice (England). Where a Food Authority fail to comply with the Code of Practice the FSA can issue a direction to them requiring them to take specified steps to comply. The recent audit by the FSA is not a formal Direction under Section 40 of the Food Safety Act 1990 but is an informal intervention designed to assist the Council comply with its duties.
- 8.3 The Council as the Food Authority shall have regard to the Code of Practice and shall comply with any direction given by the FSA (Food Safety Act 1990 Section 40(2)).
- 8.4 Under Section 42 Food Safety Act 1990 the Secretary of State may order another food authority or the Food Standards Agency to discharge our duties.

## 9. PROCUREMENT IMPLICATIONS

- 9.1 We need to recruit up to 2 full time (permanent) and 3 full time (temporary) Food Safety officers. As there is a shortage of qualified Food Safety officers, we may have to use the Councils preferred employment agency, if normal recruitment channels are unsuccessful.

<b>Non-Applicable Sections:</b>	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	Review of Food Safety Service January 2016 Ref: ES 16008