

Decision Maker: PUBLIC PROTECTION & ENFORCEMENT PORTFOLIO HOLDER

For pre-decision scrutiny by the Public Protection & Enforcement PDS Committee on

Date: Tuesday 10th September 2019

Decision Type: Non-Urgent Non-Executive Key

Title: FOOD SAFETY SERVICE PLAN 2019 TO 2020

Contact Officer: Karen Ryan Lead Practitioner Food Safety Team
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Chief Officer: Colin Brand Director of Environment & Public Protection

Ward: (All Wards);

1. Reason for report

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. The Food Standards Agency (FSA) requires the Council to publish an annual Food Safety Service Plan and that such plans have senior management or member approval.

This report sets out the Council's annual plan for effective enforcement of food safety legislation. The objective of the plan is to satisfy the FSA that the intended enforcement and inspection regime, ensures that food, in the Borough, is produced and sold under hygienic conditions, is without risk to health and is of the quality expected by consumers.

The plan has been developed to reflect progress made against the Action Plan submitted to the FSA September 2017 and to show the total resource available to the Council to deliver the service demands and review the outcomes of the service in the previous year.

2. **RECOMMENDATION(S)**

The Portfolio Holder is asked to:

2.1 Approve the Service Plan for the Food Safety Team.

- 2.2 Note the progress made against the resubmitted Action Plan - September 2017, agreed with the Food Standards Agency.
- 2.3 Note that the ability to achieve targets is reliant on maintaining the staffing levels and the ability to recruit to the vacant food safety posts.

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:
 2. BBB Priority: Children and Young People Excellent Council Quality Environment Safe Bromley Vibrant, Thriving Town Centres Healthy Bromley Regeneration:
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Financial

1. Cost of proposal: N/A
 2. Ongoing costs: N/A
 3. Budget head/performance centre: Food Safety
 4. Total current budget for this head: £575k
 5. Source of funding: Existing revenue budget 2019/20
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Personnel

1. Number of staff (current and additional): 7.54 FTE permanent and 3.0 FTE Temporary
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Statutory Requirement: Legal Requirement: Statutory Requirement:
 2. Call-in: Applicable:
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Procurement

1. Summary of Procurement Implications: The additional temporary food safety officers ordinarily need to be recruited through the Council's preferred employment agency, however, if they cannot provide the appropriately qualified officers, approval to use additional agencies has been agreed.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 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.

Ward Councillor Views

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

3. COMMENTARY

- 3.1 Following the outcome of a Food Standards Agency (FSA) Audit of the Food Safety Service in April 2017, an action plan was agreed by the Portfolio Holder (29 June 17 Report ES 17041) . Following this, the Executive (9 August 2017) agreed to the additional resources sought as part of that report, and funding was given for 2 extra full time permanent and three full time temporary food safety officers for up to 18 months, to implement the action plan and clear the backlog of inspections, however, due to the national shortage of available qualified officers, an extension was agreed.
- 3.2 An updated action plan was submitted to the FSA and the Food Safety Service annual service plan was updated to reflect this (Report 27 September 2017 ES17071). In September 2018 the FSA reviewed the progress of the team against the updated action plan; the FSA noted the efforts that had been made and acknowledged the impact that the recruitment issues had on the progress to date. They further advised the Team to focus on completing the A -D inspections that were due and the overdue C-D inspections; in agreeing this strategy, they accepted that the focus would be shifted away from inspecting unrated premises; The Food Safety Plan for 2018-19 was amended to reflect this (Report 4 December 2018 ES 18093).
- 3.3 As stated in the FSA Action Plan, the main issue for the authority in 2017 was the number of overdue inspections and the number of unrated premises. In April 2018 there were 677 overdue food hygiene inspections. As a result of the refocus, and by employing a discrete pay per inspection regime, and with Officers working on overtime, significant progress was made against last year's action plan, and the number of overdue inspections for April 2019 was 69 (a reduction of 93%); these will be inspected this year. As such, the focus is now in reducing the unrated low risk businesses (approx. 425), and also for businesses placed outside of the inspection programme (for example chemists that sell sweets approx. 290). To facilitate this, a project is being undertaken to assess how many of these unrated businesses are still trading, as many may have closed without notifying the authority. Once a current number is established, their present food safety risk will be assessed and premises will be added to our inspection programme where required. The inspection of the established relevant unrated businesses will be delivered by a discrete project which should be completed by March 2020. The team has submitted the delivery plan to the FSA; they have noted the significant improvements made regarding overdue premises, and have indicated that the 2017 Action Plan will be signed off once the delivery plan has been approved.
- 3.4 The Food Team is run and managed in-house with 7.54 X permanent FTE equivalents, and 1.98 X FTE agency staff (3 X FTE agency staff are budgeted for); staffing resources are covered in full in section 6 of the Food safety Plan 2019-20. A minimum of 6.8 X FTE competent food safety officers are required to deliver the 2019-20 inspection programme (1,104) and to ensure a backlog of inspections does not build up in the future. In addition to the programmed inspections, the team also carries out additional routine work, responds to food poisoning outbreaks, investigates complaints about food businesses and carries out enforcement. The level of enforcement continues to rise year on year, and the marked increase in enforcement activity is directly related to the increased number of inspections made this year to premises which were previously overdue. If the unprecedented enforcement work as detailed in 5.9 of the plan continues at the same or similar rate, and if recruitment and retention issues persist, the ability to deliver the inspection regime will be compromised.
- 3.5 A copy of the annual service plan is attached for Members approval; section 8 shows Progress against the KPI's in the FSA Action Plan since April 2019, section 9 shows the Key Performance Areas for 2019-20. Appendix B provides a performance review for 2018-19 and Appendix C shows the resources needed to carry out the plan.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 4.1 Premises providing food for vulnerable adults and children will continue to be inspected according to the risks they present to food safety.

5. POLICY IMPLICATIONS

- 5.1 Providing a resilient Food Safety Service in compliance with the FSA audit 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 In 2019/20 the Council has a dedicated budget of £412k to run the food safety service. This includes a sum of £6.4k set aside for food sampling and analysis. There are also additional resources of £163k for three temporary staff appointed to clear the backlog of food inspections.
- 6.2 The overall cost of the food service for 2018/19 was £493k, of which £78k was for additional staff.

7. PERSONNEL IMPLICATIONS

- 7.1 We can only achieve the targets set out in the service plan and meet the FSA expectations following their audit if we are able to recruit to available posts and retain staff.

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 resilient service. Once compliant, the FSA have made it clear they will continue to monitor our performance via a balance score card approach and will intervene if our performance deteriorates.
- 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 fails 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 The additional temporary food safety officers ordinarily need to be recruited through the Councils preferred employment agency, however, if they cannot provide the appropriately qualified officers, approval to use additional agencies has been agreed.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	Reports to: ES16008 20 January 2016, PP&S PDS ref ES 17041 29 June 2017 and PP&S PDS ref ES 17071 27 September 17 Report 4 December 2018 ES 18093