

**Decision Maker:** PUBLIC PROTECTION & ENFORCEMENT PORTFOLIO HOLDER

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

**Date:** Tuesday 7<sup>th</sup> September 2021

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

**Title:** FOOD SAFETY PLAN 2021-22

**Contact Officer:** Nigel Riley Acting Food Safety Manager  
E-mail: nigel.riley@bromley.gov.uk  
Joanne Stowell Assistant Director of Public Protection  
E-mail: joanne.stowell@bromley.gov.uk

**Chief Officer:** Colin Brand Director of Environment & Public Protection

**Ward:** (All Wards);

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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 ambitions within the Council's annual Food Safety Plan, the objective of the plan is to satisfy the FSA that the intended 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.

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2. **RECOMMENDATION(S)**

The Portfolio Holder is asked to:

2.1 Approve the Service Plan 2021-22 for the Food Safety Team (Appendix A).

2.2 Note that the ability to achieve targets is reliant on:

- The ability to maintain staffing levels
- The ability of recruit to vacant posts
- The availability of Officers to work overtime

- The cost of agency staff if Officers are unavailable on overtime (see 3.18)

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### 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: £488k (gross expenditure)
  5. Source of funding: Existing revenue budget 2021/22
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### Personnel

1. Number of staff (current and additional): 8.29 FTE permanent
  2. If from existing staff resources, number of staff hours:
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### 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.

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### 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 The Council is required to produce and approve a work plan (the Food Safety Plan), that is in line with the FSA Framework Agreement and the Statement of Commitment, which is agreed nationally between Local Authority Representatives and the Health and Safety Executive. The plan covers all planned work undertaken within the Housing and Environmental Enforcement work area relating to Food and Health and Safety, however, it does not cover any enforcement arising out of complaints and inspections.
- 3.2 This Food Safety Service Plan 2021-22 (Appendix A) covers the key areas of Food Safety, and the relevant management arrangements and objectives against which the Council will monitor service delivery; it has been compiled in accordance with the guidance issued by the Food Standards Agency (FSA), and includes the effects of the Covid 19 pandemic on the work of the food team in 2020-21 onwards.

### **COVID 19 (CV 19) - Impact**

- 3.3 From the outset of the pandemic, this service was severely impacted in its ability to deliver the usual obligations in relation to Food Safety. The cohort of Officers allocated to this work were immediately identified and delegated by Government, to provide the frontline enforcement response within the majority of Local Authority Coronavirus Regulations.
- 3.4 Throughout the pandemic, the FSA has issued guidance advising Local Authorities as to what they could and could not inspect. On 16th March 2020, the Council made the decision to cease face to face contact with the public in an attempt to reduce the spread of CV19. This was followed by an instruction from the FSA to suspend our inspection programme. Naturally, this impacted the team's ability to inspect, and meant that the usual statutory requirements in relation to food hygiene and safety inspections were amended on an ongoing basis as the year progressed. As such, there were minimal food hygiene inspection requirements placed upon the Council in 2020/21, and a formal Service Plan was not produced. However, during this time period, the Council responded to any high-risk food hygiene complaints in the usual manner.
- 3.5 The food team followed the FSA advice to carry out remote inspections to high-risk premises (rated A-B for food hygiene/standards) and non-complaint premises (with a food hygiene rating of 0-2), to assess their compliance with Food Safety and coronavirus legislation. In addition to this, remote inspections to restaurants, takeaways, home caterers, food retailers and the charity sector were carried out. This was undertaken to assess their level of Food Safety and CV-19 compliance; the team also used Facebook to find premises which were trading within Bromley but unregistered with the team.
- 3.6 Onsite inspections initially resumed in mid July 2020, these included Food Safety and CV-19 enforcement within the food businesses permitted to trade. However, before Officers could return to face-to-face visits to food premises, a CV-19 risk assessment was undertaken to

protect both staff and businesses from the spread of infection. The risk assessment required Officers to carry out a remote assessment prior to conducting their inspection onsite, and this step lengthened the process. In response to the rise of CV-19 post July 20 onwards, onsite inspections of home-based premises were suspended in November 2020, and as the infection rates continued to increase, all inspections were suspended in December 2020. Notwithstanding this, Food Safety compliance continued to be assessed remotely where possible, and full onsite inspection resumed in March 2021, along with the previous CV-19 precautions.

### **The FSA Recovery Plan and Service Delivery/Demand**

3.7 The FSA Recovery Plan (RP) sets out the FSA's guidance and advice to Local Authorities for the period from 1 July 2021 to 2023/24. This superseded the previous guidance and advice on the response to CV-19, which applied until 30 June 2021. The RP comprises of 2 phases, and provides a framework for re-starting the delivery system of the inspection programme in line with the Food Law Code of Practice (FLCoP) for new food establishments, and for high-risk and/or non-compliant establishments, while providing flexibility for lower risk establishments.

3.8 There are two phases to the Recovery Plan:

#### **Phase 1 - 1 July to 30 September 2021**

Prioritise new businesses for interventions based on risk, and develop intervention programme from September 2023 onwards.

#### **Phase 2 – 1 October 2021 to 2023/24**

Continuation of Phase 1, implementing the planned food premises inspection programmes for high-risk category and non-compliant establishments, implementing an intelligence-based approach for low-risk category establishments, and addressing the backlog of inspections (see Appendix A 5.3 - 5.4)

3.9 Phase 2 of the RP will continue until a new food standards delivery model and a revised food hygiene intervention rating scheme are implemented. The new delivery model for food standards is being piloted in England and Northern Ireland until the end of December 2021. Subject to the findings of an evaluation of the pilot and stakeholder consultation, it is anticipated that the new model will be rolled out nationally from April 2023. Work to review and revise the food hygiene intervention rating scheme is planned to commence shortly, with a view to implementation in 2023/24.

### **Demand**

3.10 In April 2021, 2487 food premises were registered in Bromley, many of which are categorised as Small /Medium Enterprises (SME). 502 new premises were registered in 2020/21, which equates to a 34% increase on the number of new businesses (374) registered in 2019-20. This increase is likely to be due to a large number of home-based businesses starting up during the CV19 pandemic.

3.11 In addition to the inspection regime, the service also undertakes reactive work, including: complaint enforcement (in the case of non-compliance), managing food incidents, food hazards, food poisoning and infectious disease outbreaks. In addition they undertake food sampling, and ongoing proactive surveillance.

### **Overdue Inspections**

3.12 As mentioned above, service delivery was seriously affected by the CV19 pandemic. In 2020/21 231 programmed inspections were carried out within food businesses. This compares to 1067 in

2019/20, which represents a 78% decrease. This lower number of completed inspections has resulted in a backlog of 932 inspections. (see Appendix A section 6.1).

### Inspections Due this Year

- 3.13 In addition to the 629 category A-E due this year, 390 new and 160 existing premises remain unrated, and these will require an inspection or assessment (see Appendix A section 6.1).
- 3.14 The total number of inspections (backlog and due) for food hygiene and Food Safety is 2111 (see Appendix A section 6.1 Table 1), however, the FSA RP accepts that Local Authorities may not have the resources to achieve this target within the financial year, and have given a 3-year period in which to address the backlog created by the pandemic, and further achieve the normal inspection targets set by the FSA.
- 3.15 The proposed work programme for 2021-22 is detailed in table 1 below (see Appendix A Table 3 section 7.3)

Table 1 Work Programme

<b>Inspections Due 2021-22</b>			
<b>Workstream</b>	<b>Category or Type of Inspection</b>	<b>Food Hygiene</b>	<b>Resources</b>
1	Category A	0	
2	Category B	17	5.54 FTE
3	Category C	135	
4	Category D	285	
5	Category E	192	0.5 FTE Alternative Enforcement Strategy and inspections
6	Unrated New Premises	390	Triage and allocate high risk
7	Overdue Category C and D	365 (C) 483 (D)	OT through underspend where available
8	Unrated existing premises	160	0.5 FTE
9	Total	<b>2027</b>	

- 3.16 The work programme above exceeds the ambitions within the FSA RP, as their initial targets were expressed as a minimum expectation, and Local Authorities were encouraged to move at a faster pace where possible. With that in mind, the work programme is ambitious, and targets have been adjusted and increased to include the overdue category C and D inspections. The rationale being that the greatest risk is presented within these overdue categories, that it is prudent to address these as a priority, and, to fail to try and address these at this stage will add to the overdue inspections moving forwards.
- 3.17 In order to achieve the targets and to maintain pace, the Food Safety Team have already commenced inspecting high risk/non-complaint food businesses. By aiming to go over and above the initial requirements of the recovery plan, the Team will be safeguarding residents by reducing the risk posed by premises which are overdue a Food Safety inspection, as this delay often leads to a deterioration in hygiene standards.

3.18 The above work programme in Table 1 is undertaken in addition to the routine work of the team. Work streams 1-5 & 8 will require a minimum of 6.54 X FTE Food Safety Officers to deliver. The additional work in workstreams 6&7 (Table 1) will be undertaken on overtime where Officers are available, or potentially via agency staff. This additional work will be funded through the underspend created by vacancies in year. However, the ability to deliver the proposed work programme in Table 1 relies on the following:

- The ability to maintain staffing levels (all workstreams)
- The ability to recruit to vacant posts (workstreams 1-5&8)
- The availability of Officers to work overtime (workstreams 6&7)
- The cost of agency staff if Officers are unavailable on overtime (workstreams 6&7)

It is important to note, that ability to deliver the proposed work programme will also be compromised if the level of enforcement work (as experienced pre-pandemic in 2019-20) returns. As such, the regime will be reviewed and adjusted accordingly in year, and throughout the 3-year grace period to track progress, and respond to risks.

## **Resources**

3.19 The Food Team is run and managed in-house with 8.29 permanent FTE equivalents (including the Food Safety Manager and 0.75 FTE administrator), and staffing resources are covered in full in Appendix A section 10.

3.20

## **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 The total revenue budget available to deliver the Food Safety plan in 2021/22 is £488k, of which £423k is for staffing costs.

## **7. PERSONNEL IMPLICATIONS**

7.1 The ability to achieve the targets set out in the service plan are reliant on retaining existing staff and recruiting to available posts when they become available.

## **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. As Bromley has

had a red audit previously, they will continue to monitor performance closely moving forwards using 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) (FLCoP). 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 previous audit by the FSA was not a formal Direction under Section 40 of the Food Safety Act 1990 but was 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.

<b>Non-Applicable Sections:</b>	
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 Report No. ES19061