

Decision Maker: PUBLIC PROTECTION & ENFORCEMENT PORTFOLIO HOLDER

For pre-decision scrutiny by the Public Protection & Enforcement PDS Committee on 8th

Date: 15th November 2022

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

Title: FOOD SAFETY PLAN 2022-23

Contact Officer: Louise Watkinson Assistant Director Public Protection
Louise.watkinson@bromley.gov.uk
Rob Vale Head of Trading Standards & Commercial Regulation
E-mail: rob.vale@bromley.gov.uk

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 and food standards 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 expectations set out in the Food Standards Agency recovery plan with the intended enforcement and inspection regime, ensuring 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.

2. **RECOMMENDATION(S)**

The Portfolio Holder is asked to:

2.1 Approve the Service Plan 2022 – 2023 for the Food Safety Team (Appendix A)

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.
-

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:
-

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: £132K (total controllable)
 5. Source of funding: Existing revenue budget 2022/2023
-

Personnel

1. Number of staff (current and additional): 7.37 FTE permanent (includes Manager and a vacant 1.0 FTE) plus 0.75 FTE administrator
 2. If from existing staff resources, number of staff hours:
-

Legal

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

Procurement

1. Summary of Procurement Implications: The additional temporary food safety officers are to be recruited through the Council's preferred employment agency.
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Estimated number of users/beneficiaries (current and projected): There are some 3,029 registered food businesses in the Borough that come under the remit of the team for inspection. The protection afforded through 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 The Council is required to produce and approve a work plan (Food Safety Plan) that is in line with the Food Standards Agency Framework Agreement and the Statement of Commitment agreed nationally between Local Authority Representatives and the Health and Safety Executive.
- 3.2 This Food and Safety Service Plan 2022-2023 (Appendix A) covers the key areas of Food Safety and the relevant management arrangements and objectives against which the Council will monitor service delivery, and has been compiled in accordance with the guidance issued by the Food Standards Agency (FSA).
- 3.3 At the time of writing, the Food team is still recovering from the impact of the covid-19 pandemic which will possibly carry on through the next few years.

FSA RECOVERY PLAN

- 3.4 In 2021 the FSA set out a 2 phase recovery plan to assist local authorities re-starting their inspection programme:

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 2024

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.

- 3.5 Phase 2 of the RP will continue until a new food standards delivery model and a revised food hygiene intervention rating scheme are implemented. It is anticipated that the new model will be rolled out nationally from April 2023.
- 3.6 In September 2021 the number of overdue inspections was 932. The total number of inspections (backlog and due) was 2,055. The FSA accepts local authorities may not have the resources to achieve targets within one financial year and have given a 3-year period in which to address the backlog. The Food Safety Service Plan, presented to the Public Protection & Enforcement Portfolio Holder in September 2021 set out ambitions in a work programme with a target of 848 completed overdue premises by March 2022, in addition to the 1,170 due inspections. This was based on an FTE resource of 6.54 and agency staff as budgets allowed.
- 3.7 However, between 1st April 2021 and September 2021 three officers left the service, through retirement and career progression, and recruitment to these posts was hampered by a shortage of qualified officers. Three officers have since been recruited, with starting dates in December 2021, February 2022 and March 2022. However, one of these officers resigned in July 2022 and that post is currently vacant. Food agency staff have been engaged during these periods of vacancies, but again a national shortage of Environmental Health Officers delayed this recruitment process. We were able to recruit two agency in October 2021, one 0.8

FTE, the other on a per inspection agreement, and a further 0.8 FTE in January 2022. These agreements ceased on 31st March 2022.

- 3.8 As a result, the aspirations set out in the Food Service Plan 2021/22 have not been met, with a remaining backlog on 1,089 on 1st April 2022.
- 3.9 Phase 2 of the recovery plan will continue until a new food standards delivery model and a revised food hygiene intervention rating scheme are in place, likely roll out date is 2024.

Demand

- 3.10 In April 2022, there were 3,029 food premises registered in Bromley, many of which are categorised as Small /Medium Enterprises (SME). 541 new premises were registered in 2021/2022, compared to 502 the previous year. (See section 7 of the service plan). There has also been an additional 433 unrated childminder businesses not previously notified to the local authority following changes to Ofsted registration procedures.
- 3.11 The service also undertakes reactive work (including complaint enforcement in the case of non-compliance, managing food incidents and food hazards, food poisoning and infectious disease outbreaks and investigating and managing complaints), food sampling, and ongoing proactive surveillance

Inspections Due this Year

- 3.12 Section 10 of the plan sets out the details of the number of inspections due this year. There are 1,361 due in this period, with 1,089 over due, giving a grand total of 2,450. Table 6 in the plan sets out the detail.
- 3.13 There are 541 Food Hygiene inspections *due* for 2022-23 and a target to complete these by 31st March 2023. There is also a target to complete all overdue category A and B and non-compliant 0-2 rated food businesses in line with the Recovery Plan. This will also include Category A premises for food standards.
- 3.14 We will also inspect all less than broadly compliant Category C and category D businesses as per the deadline dates set by the Recovery Plan (RP). We will prioritise businesses which are the subject of food complaints for inspection.
- 3.15 We will also inspect all broadly compliant Category C and D premises in line with the plan. We will also triage and inspect all newly registered unrated high risk and low risk businesses in line with the Food Law Code of Practice (FLCoP) and RP. This will be dependent upon resources available.
- 3.16 With our current resources of 5.37 FTE and a contractor working for 6 months we predict that we will be able to complete 1,400 inspections. This is subject to successful recruitment and/or maintaining agency staff with under spends from the vacant post.
- 3.17 This leaves an overall shortfall for the outstanding and due and unrated of 1,050. If we keep the current contractor on to the end of 31st March 2023, we predict an additional 300 visits will be completed. This leaves an expected shortfall on 31st March 2023 of 750. This has been communicated with the FSA via regular temperature checks.

Resources

- 3.18 The Food Team is run and managed in-house with 7.37 permanent FTE equivalents (including the Food Safety Manager plus 0.75 FTE administrator).
- 3.19 As mentioned in 3.7 above, the Food team faced significant disruption last year due to retirements and resignations which impacted the ability to meet the targets in the previous plan. Underspends within the divisional budget has permitted the engagement of 2 agency workers for up to the end of September 2022. Given the difficulties in recruitment it is proposed to pause recruitment to the newly vacant post and use any underspends across the public protection division to maintain at least one agency worker post September 2022. However, if this is not possible there will be an impact on the projected targets.

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 controllable revenue budget available to deliver the Food Safety Plan in 2022-2023 is £132k. The budget is in the Food Safety and Food Standards Cost Centre, R58080.

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). 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 are recruited through the Councils preferred employment agency.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	Reports to: ES19061 21 st September 2021