

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

**For Pre-decision scrutiny by the Public Protection & Safety  
PDS Committee on 20th September 2011**

**Date:** 20 September 2011

**Decision Type:** Non-Urgent Executive

**Title:** REVIEW OF THE FOOD SAFETY TEAM

**Contact Officer:** Paul Lehane, Head of Food, Safety & Licesning  
Tel: 020 8313 4216 E-mail: paul.lehane@bromley.gov.uk

**Chief Officer:** Nigel Davies - Director of Environmental Services

**Ward:** N/A

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1. Reason for report

To provide details of the review of the Food Safety function in support of the Cabinet's decision to action the policy options outlined in the Organisational Improvement group's review of the Public Protection Division.

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2. **RECOMMENDATION(S)**

**The Portfolio Holder is asked to: -**

**1. Note review of the Food Safety Team**

**2. Decide which of the two budget saving options should be implemented from the Food Safety Team operating budget.**

### Corporate Policy

1. Policy Status: N/A.
  2. BBB Priority: Safer Bromley. Excellent Council
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### Financial

1. Cost of proposal: Estimated cost Option 1 Cr £32,850 or Option 2 Cr £57,760 to Cr £77,280
  2. Ongoing costs: Recurring cost.
  3. Budget head/performance centre: Food Safety Team
  4. Total current budget for this head: £344k
  5. Source of funding: Existing Revenue Budget 2011/12
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### Staff

1. Number of staff (current and additional): 7.9ftes
  2. If from existing staff resources, number of staff hours:
- 

### Legal

1. Legal Requirement: Statutory requirement.
  2. Call-in: Call-in is applicable
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments:

### 3. COMMENTARY

- 3.1 In May 2011 the findings of an 'Aligning Policy and Finance' review carried out by the Organisational Improvement Team was presented to Cabinet which recommended among other things that the Food Safety function be subject to a review with the aim of saving operating costs.
- 3.2 A review was undertaken by Paul Lehane (Head of Food, Safety & Licensing) and Clive Davison (Assistant Director Public Protection) with the assistance of the Team Coordinators.

#### BACKGROUND INFORMATION

- 3.3 The Food Safety service includes:
- Inspections (food hygiene, food standards and, health and safety "hazard spotting") of food businesses and enforcement action to ensure that food manufactured, prepared and sold is safe and properly labelled, to remove illegally imported and counterfeit food from sale, and to remove health and safety hazards.
  - The monitoring and investigation of infectious diseases in partnership with the South East London Health Protection Agency. The Team Acts as the 'Proper Officer' under The Public Health (Control of Disease) Act 1984 and 2010 regulations (see committee report ES 10199/ Executive minute 161 2 February 2011).
  - The investigation of complaints concerning food premises, food products or allegations of food poisoning.
  - Alerting businesses of food safety hazards, via newsletters/letters/phone calls.
  - Planned and reactive sampling of foods manufactured prepared or sold within the Borough to ensure legal requirements are being met
  - Advice to proposed food businesses and training of caterers in management systems.
  - Promotion of healthier eating (e.g. fast food catering practices) funded by Bromley PCT.

#### **Legal Framework**

- 3.4 The Council, in its capacity as Food Authority has statutory duties to enforce legislation relating to food. The Food Standards Agency, an independent government department, has recently issued guidance about these statutory duties in light of the increasing financial pressure on councils. (See Appendix 1 attached) The Agency or Secretary of State may give a Food Authority a direction requiring them to take any specified steps in order to comply with their statutory functions in relation to food. **The Secretary can also order that the statutory functions of a Food Authority be carried out by the Secretary of State or the Food Standards Agency and not by the Food Authority.**
- 3.5 The Food Standards Agency has also issued a Code of Practice which sets out how Food Authorities in England and Wales should work, the key points of which are:

- **Food Hygiene and Food Standards interventions/Inspections**

Food hygiene and standards inspections/interventions should be determined by a rating scheme and assessment criteria. The frequency of inspections/interventions ranges from 6 months for high risk premises (category A), to 24 months for (category D) premises. Low risk (category E) premises are not included in the intervention programme but must be subject to an

alternative intervention strategy/ intervention, every 3 years for food hygiene. Very low risk premises are placed outside of the inspection programme. Inspections/Interventions are required to take place within 28 days of their due date. New unrated premises or premises with a change in ownership are also required to be inspected within 28 days of registration with the Food Authority.

- **Qualifications & Competency**

Food Officers must be authorised in writing and must be suitably qualified, experienced and competent. Minimum levels of qualification, post-qualification experience needed to undertake formal enforcement actions is set out together with the minimum level of post qualification training required per year to maintain competency in food law enforcement.

Environmental Health Officers are qualified to carry out the full range of food work once suitably experienced in food law enforcement. This includes serving Hygiene Improvement, Hygiene Emergency Prohibition, and seizure and detention notices. 2 years post qualification experience in food law enforcement is required before food officers can enforce Emergency Prohibition procedures which may result in premises being closed on the spot. Officers inspecting specialised or complex processes must receive additional training and demonstrate their competency.

Food officers holding the Higher Certificate in Food can inspect all categories of food business but currently can not be authorised to seize or detain food or carry out Emergency Prohibition procedures. Food officers holding the Ordinary Certificate in Food can not be authorised to inspect high risk category A & B premises, seize or detain food or carry out Emergency Prohibition procedures.

All food officers must undergo at least 10 hours of post-qualification training per year to maintain competency in food law enforcement.

Contracted or temporary staff must meet the same minimum qualification, experience and competency requirements.

- **Sampling**

Effective routine food sampling is seen as an essential part of a food service and the council is required to publish a sampling policy. Food samples can be taken for the purposes of surveillance, monitoring, providing advice to food Businesses and to pursue legal action where an offence has been committed. The code of practice states that the council (Food Authority) should commit sufficient resources to carry out its food sampling programme. The Bromley Food Team currently participates in, National, pan London and local sampling surveys and have the flexibility to respond to emerging issues.

- **Food Hazards & Alerts**

The Food Standards Agency notifies the council (Food Authority) of food alerts involving food hazards or incidents, specifying the actions that must be taken including acting outside of office hours, if required.

- **Monitoring**

The Food Standards Agency closely monitors the performance and standards of councils via the Local Authority Enforcement Monitoring System, a web based system for reporting food enforcement activities. The Food Standards Agency also audit councils and publish reports including action plans. The FSA audited 40 councils (Food Authorities) in 2010, 5 of which were London Boroughs. Comments raised from audits of the London Food Authorities include failure

to assess service demands and estimate resources needed, insufficient staff to carry out the food law service, overdue food inspections, unrated premises, revisits not carried out in a timely fashion, complaints about food premises not investigated in a timely fashion, insufficient internal monitoring of the food service activities, insufficient officer training to maintain competency.

3.6 The Food Safety Team currently consists of 6.5 fte Environmental Health Officers, 0.5fte Technical Officer and 0.92fte Administrative Officer.

3.7 Under the Food Standards Agency Code of Practice all food businesses are risk rated at each inspection and then subject to periodic inspections. The table below sets out the 2011/12 inspection programme

| Risk Category     | Inspection frequency   | No. of food premises as at 01.04.11 | No. of inspections due from 01.04.11 to 31.03.12. |
|-------------------|--|-------------------------------------|---|
| Category A risk   | 6 months   | 3                                   | 6   |
| Category B risk   | 12 months  | 168                                 | 168   |
| Category C risk   | 18 months  | 991                                 | 718   |
| Category D risk   | 24 months  | 274                                 | 162   |
| Category E risk   | 36 mths or Alternative Enforcement Strategy and 10% at 36 mths | 272                                 | 9 +Alternative Enforcement Strategy               |
| Unrated risk      | Awaiting inspection  | 55                                  | 55  |
| Outside Programme | Too low risk to warrant inspection.                            | 273                                 | -   |
| Total             |  | 2036                                | 1118  |

In addition, about 10% of food businesses change ownership every year and warrant new inspections. Members should note that premises not inspected at the appropriate time do not then fall outside the scheme. If the inspections due in any one year are not achieved, they roll-over to the next year's inspection programme.

3.8 In 2010/11, the team carried out 960 food hygiene inspections and 498 follow-up visits, issued 817 schedules of improvement / formal notices, responded to 540 Service Requests, submitted 108 food samples for analysis, trained 84 caterers in the FSA's Safer Food Better Business management system, responded to 500 notifications of infectious diseases, of which 76 cases and 3 outbreaks of food poisoning and were investigated, carried out 774 health and safety "hazard spotting" inspections, carried out a healthier frying practices project, funded by Bromley PCT.

3.9 In the last 6 years, the team has dealt with 5 major food poisoning outbreaks:

- Hayes Primary School: Outbreak of E. Coli O157 in which affected 43 children and resulted in the temporary closure of the school.
- Chapter One: Outbreak of Salmonella which affected 15 customers and resulted in a successful prosecution.

- Cannock House Nursery: Outbreak of Salmonella which affected 139 children and resulted in a successful prosecution.
- Bulls Head: Outbreak of Campylobacter which affected 29 guests at a wedding reception and resulted in a successful prosecution.
- Contract Caterer: Outbreak of Campylobacter at a private party linked to a caterer based in L.B. Lewisham. This resulted in successful prosecution of caterer for obstruction of LB Bromley officer when investigating the outbreak.

3.10 As a consequence the fatal E.coli food poisoning outbreak in Wales in 2005 councils are being requested by the Food Standards Agency to audit the written hazard analysis systems of food businesses. This is time consuming for Food Safety Officers particularly as many businesses have yet to implement such systems and require considerable support and guidance.

3.11 The Food Safety team have recently had some high profile prosecutions such as a fingernail and piece of finger found in salad (Pizza Express) and the Illegal slaughter of sheep. The team are currently preparing three prosecution cases. Two involving food businesses where severe rodent / cockroach infestation were found along with very poor hygiene standards. One of which was subject to an Emergency Closure procedure. The third case involves a large retailer where a foreign body was sold in a loaf of bread.

## **SAVINGS OPTIONS**

### **3.12 Option 1a - Reduce the Admin Support - Total savings £27,170**

The team has an establishment of 0.92 fte administration support but have been operating with with 0.42fte (15hrs) since December 2009 when the holder of post No 001052 retired and the post was frozen. This post could be deleted from the establishment with a saving of £10,340.

The remaining admin post 0.5 fte No 001049 became vacant in July 2011 and could also be deleted, offering a further saving of £16,830. Essential administration covering infectious disease notifications will have to be carried out by the remaining divisional administrators.

#### Risks for Option 1a.

Admin support has already been reduced to the minimum with the freezing of post No 001052. The current level of admin support provides a first point of contact and advice, processing food registration applications and infectious disease notifications. If these posts are cut the functions will have to be undertaken by qualified staff impacting on their inspections and complaint investigations. Alternatively, these functions will have to be incorporated into the Licensing Support functions which is already operating at capacity following the deletion of one post in April 2011.

### **3.13 Option 1b - Reduce the Food Sampling and Analysis Budget - Total savings £5,680**

The Team responds to complaints about food manufactured, prepared or sold in the Borough and they also support National, Regional and local coordinated sampling. There is currently a budget allocation of £11,680 for the analysis of food complaints and purchase and analysis of samples.

Having reviewed the current approach to the investigation of complaints and our participation in the sampling surveys, it is suggested that a minimal service could be offered with a budget of £6,000.

### Risks for Option 1b.

The option offers a minimal risk, as we retain a capacity to respond to complaints and participate in selected sampling programmes. This option does not affect our ability to respond to outbreaks of food poisoning as any analysis required as part of an outbreak is undertaken by the Health Protection Agency specialist laboratories free of charge.

### **3.14 Option 2 – Option 1 plus the reduction of the number of Food Safety Officers – Total Savings between £57,760 and £77,280**

There are currently 6.5 fte posts occupied by qualified EHOs and 1 technical Officer (0.48 fte). Each officer has an inspection work load based on 155 inspections (pro rata for the those who are less than 1fte). This has been compared with the staff / workload / performance for other local Boroughs which is set out in the table. In addition each member of staff will respond to complaints and investigations of Infectious diseases,

If Members wish to pursue further savings then this could be achieved by the deletion of a Food Safety Officer post. Within this option there are two possibilities

1. One Full time qualified Environmental Health Officer saving between £38,800 - £44,430
2. Post No 001006. A part time fully qualified and very experienced Environmental Health Officer / Co-ordinator. Saving £24,910

| Borough   | Total number of Food Businesses | % of Inspections achieved | % Broadly Compliant (2 stars or higher) | Written Warnings | Food Inspectors (fte)                            | Admin Staff                   |
|-----------|---------------------------------|---------------------------|---|------------------|--|-------------------------------|
| Croydon   | 2949                            | 83.1                      | 80.05                                   | 176              | 9  |                               |
| Bromley   | 1984                            | 92.96                     | 85.78                                   | 610              | 6.98 (Including Infectious Disease control)      | .98                           |
| Greenwich | 1885                            | 79.49                     | 83.96                                   | 495              | 13 (but the team also covers health and Safety ) |                               |
| Lewisham  | 1765                            | 87.24                     | 73.72                                   | 229              | 8  | 0.5 fte                       |
| Bexley    | 1297                            | 85.90                     | 79.8                                    | 26               | 4.0 (Excluding Infectious Disease control)       | Shared with Trading Standards |

## Risks for option 2.

The deletion of a Food Safety Officer post will have a significant impact on front line services. The number of high risk food safety inspections will be cut by 155 for a full time officer or 53 high risk for a part time Food safety Officer. These figures will grow year on year. There would also be a consequential reduction in the number of complaints and food poisoning cases that could be investigated. As such this option will result in a reduction in our capacity to meet statutory responsibilities.

Members will need to be mindful of the 'Reputational' risk associated with reducing our ability to undertake routine preventative inspections and respond to complaints and investigate outbreaks. Tandridge District Council is currently facing a legal challenge following the E Coli outbreak at Godstone animal petting farm where it is alleged the Council failed to respond promptly.

The inspection shortfall will accumulate year on year as the Food Standards Agency currently requires us to inspect all of the businesses due in any one year and to carry over any that are not inspected. Predicted Inspection shortfall forecast

| Year        | Full time Food Safety Officer | Part time food safety Officer |
|-------------|-------------------------------|-------------------------------|
| 2012 -2013  | 155                           | 53                            |
| 2013 -2014  | 310                           | 106                           |
| 2014 - 2015 | 465                           | 159                           |
| 2015 - 2016 | 620                           | 212                           |
| 2016 - 2017 | 775                           | 265                           |

If option 2 were to be implemented in addition to option 1 (deleting admin support) the impact on front line services (inspections, complaints / investigations) is likely to be greater as the remaining Food Safety Officers are likely to be assisting with essential administration duties as well.

## 4. FINANCIAL IMPLICATIONS

- 4.1 The current budget for the Food Safety Team is £344k.
- 4.2 Sections 3.12 to 3.14 of this report provides the detail of two options for potential savings for the food safety service.
- 4.3 Option 1 will result in savings of £32,850 from the deletion of 0.92fte administration support and a reduction of the food sampling and analysis budget.
- 4.4 Option 2 will result in savings of between £57,760 and £77,280 from the combination of Option 1 plus the reduction of one food safety officer post.

## 5. LEGAL IMPLICATIONS

The Council is the Food Authority and has statutory duties to enforce food related legislation and Infectious disease. Options 1 a and 1b have a minimal impact on the performance of these functions. Option 1b will result in a reduction in our capability but would not prevent us from



meeting the minimum requirements. Option 2 will result in a reduction in our capacity to meet statutory responsibilities.

## 6. PERSONNEL IMPLICATIONS

Option 1 involves the deletion of 2 posts (No 001052 and No 001049). As both posts are currently vacant there are no direct personnel implications, but the work undertaken by these post will have to be covered by other officers.

Option 2 would result in the redundancy of one person.

|   |                              |
|---|------------------------------|
| <b>Non-Applicable Sections:</b>                       | <b>POLICY IMPLICATIONS</b>   |
| Background Documents:<br>(Access via Contact Officer) | [Title of document and date] |

