

Cabinet 6 October 2015	 TOWER HAMLETS
Report of: Stephen Halsey, Head of Paid Service, Corporate Director – Communities, Localities and Culture	Classification: Unrestricted
Food Law Enforcement Service Plan 2015/2016	

Lead Member	Councillor Ayas Miah, Cabinet Member for Environment
Originating Officer(s)	Andy Bamber – Service Head Safer Communities David Tolley – Head of Consumer and Business Regulations
Wards affected	All wards
Key Decision?	Yes
Community Plan Theme	A Healthy and Supportive Community

1 Executive Summary

- 1.1 This report sets out the Council's annual plan for effective enforcement of food safety legislation. The objective of the plan is to ensure that food is produced and sold under hygienic conditions, is without risk to health and is of the quality expected by consumers.
- 1.2 The Food Standards Agency requires local authorities to have in place a Food Law Enforcement Service Plan. The plan will form a significant part of the criteria against which local authorities will be audited by the Agency to assess their effectiveness in ensuring food safety.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Approve the Tower Hamlets Food Law Enforcement Plan 2015/2016 and Food Sampling Policy attached at the Appendix of the report.

1. REASONS FOR THE DECISIONS

- 1.1 Under the powers given to it by the Food Standards Act 1999 The Food Standards Agency (FSA) oversees and monitors how Local Authorities enforce food safety legislation. The FSA require all Local Authorities to produce and approve an annual plan that sets out how they are going to discharge their responsibilities. The annual plan is at Appendix One.

2. ALTERNATIVE OPTIONS

- 2.1 If the Council takes no action the FSA has the power to remove food safety responsibilities and engage another authority to deliver the service. The likely scenario would be for a neighbouring local authority to be seconded to provide this service. If this did happen the Council would still have to fund the service but would lose Member and management control of it.

3. DETAILS OF REPORT

- 3.1 The Plan incorporates the Council's objectives as set out in the Community Plan and the Consumer and Business Regulations Service Plan. It is particularly relevant to the quality of life and health and wellbeing of residents and visitors to the Borough and increasingly important to the reputation of the boroughs night time economy. It is particularly important in maintaining the reputation of the Borough as a safe place to eat and buy food products. The Plan is there to encourage businesses to maintain high standards and help protect customers. The standard format of the plan will allow easier comparisons with other authorities.
- 3.2 The plan is divided between reactive and proactive work. Reactive work includes consumer complaints and requests for advice or information from the business community, residents, employees in the Borough and tourists. Proactive work comprises mainly the achievement of routine inspection targets. Tower Hamlets has 2,760 food premises which require inspection. The frequency of such inspections is determined by a nationally agreed risk based inspection rating scheme. The plan reviews the previous year out turns and the work planned in the current year.
- 3.3 Last year the Food Safety Team achieved 85% of all food premises being broadly compliant with the food safety legislation.
- 3.4 The plan also covers the wider remit of food safety work including complaints and enquiries, sampling, food hazard warnings, outbreak control, health promotion, training and publicity. These tasks remain relatively constant year on year.
- 3.5 The plan also highlights some of the major successes during 2014/15. Some notable examples are:-

- 100% of all A rated high risk premises inspected for food hygiene/standards
 - 100% of all B rated food hygiene premises were inspected
 - 92% of all A-C rated Food Hygiene premises inspected
 - 210 food samples were taken as part of the surveillance programme
 - 18 new and 37 renewed Food For Health Awards were issued
- 3.6 The main indicator used to assess the Council's performance is the proportion of food establishments in the Borough which are broadly compliant with food hygiene law. The performance trend over the last five years for compliance shows a sustained level in the Borough. The performance for the last five years is as follows:-
- 2010/11 86%
 - 2011/12 86.5%
 - 2012/13 83%
 - 2013/14 85%
 - 2014/15 85%
- 3.7 A range of interventions has been developed aimed at increasing and sustaining this compliance rate. The broadly compliant rate should also be seen within the context of the high turnover rate of food businesses in the Borough and the advanced age of much of the commercial premises. As the rates of compliance has become higher, the rate of year on year improvement has tapered off as the residual businesses present the biggest challenges either from a premises age /condition perspective, or from a business engagement and proficiency perspective.
- 3.9 From 2009-15 funding was received from the Healthy Cities initiative and Public Health budgets to develop a Food for Health Award, which aims to create a culture of healthy food choices for residents/workers in the Borough.
- 3.10 The national "Food Hygiene Rating Scheme" sponsored by the Food Standards Agency allows Local Authorities to publish, using rating criteria, an assessment of the hygiene standards of food premises. The Food Hygiene Rating Scheme has a direct link to the Broadly Compliant indicator. A rating of three or above indicates that the food premises are broadly compliant. It is important to note however that the service cannot be judged on the compliance rate alone as this could set a perverse incentive to lower standards and as set out in 3.7 there are many complex factors impacting on this statistic.
- 3.11 The Food Safety Team has benchmarked its performance with other London Authorities. The benchmark data comes from two main sources, the North East London Food Group and the Which? annual survey (14/15). A summary of this benchmark data and explanation is given in Appendix Two.
- 3.12 An Equalities Impact Assessment checklist has been undertaken on the implications of the plan and this is in Appendix three. As a result of performing

the EIA checklist, the plan and sampling policy, do not have any adverse effects on people who share Protected Characteristics and no further actions are recommended at this stage.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 The report sets out the annual Food Law Enforcement Service Plan for 2015/16 which the Council is required to have in place. There are no specific financial implications emanating from the report. However, the service will need to ensure that the annual plan is delivered within the budgeted resources available and that performance levels are maintained at a level as prescribed by the Foods Standards Agency.

5. LEGAL COMMENTS

- 5.1 The Council is the food authority for Tower Hamlets and is responsible for enforcing and executing the provisions of the Food Safety Act 1990 within the borough.
- 5.2 The Food Safety Act 1990, the Food Safety and Hygiene (England) Regulations 2013 and the Food Safety (Sampling and Qualifications) (England) Regulations 2013 provide a framework for food law enforcement and sampling. The Secretary of State has issued the Food Law Code of Practice (England) under section 40 of the Food Safety Act 1990 and the Council is required to have regard to the relevant provisions of the code in carry out its functions under the Act.
- 5.3 Section 3 of the Food Law Code of Practice provides that food authorities should have an up-to-date, documented food law enforcement policy which is readily available to food business operators and consumers. The policy should cover all areas of food law that the Council has a duty to enforce and should include criteria for the use of all available enforcement options.
- 5.4 Section 6 of the Food Law Code of Practice provides that food authorities should prepare and publish a food sampling policy and make it available to businesses and consumers. The policy should set out the Council's general approach to food sampling and its approach in specific situations such a process monitoring, inspections and complaints. The sampling policy should detail the factors that will be taken into account in formulating the sampling programme, including any national or local consumer issues which will influence the level of sampling to be undertaken.
- 5.5 The proposed food law enforcement plan is aligned with the Council's enforcement policy, adopted by the Mayor in Cabinet in October 2012. The food law enforcement plan and the food sampling policy appear to meet the requirements of the Food Law Code of Practice.

- 5.6 Before adopting the Plan, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty). Information is provided in the report relevant to these considerations.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The equality analysis checklist has been reviewed in respect of this plan and no adverse issues have been identified.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The Council is fulfilling its best value duty by ensuring that staff resources are targeting the higher risk food premises as determined by the national rating scheme. The report details how this targeting is maintaining the current broadly compliant rate across the food premises in the Borough. Officers are using a range of interventions to seek compliance, as detailed in the plan.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There are no environmental impacts with regards to this plan

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 The Council as a Food Authority is required to carry out statutory functions in relation to food safety. The annual plan sets out how the Council will fulfil its obligations under this legislation.
- 9.2 Failure to ensure that the council discharges its responsibilities can have serious consequences for the Council and these are set out below.
- 9.3 Should the Council not exercise its duties and provide a food safety service there is the potential that both unsafe and unscrupulous activities would go unchecked and un-enforced, which may lead to serious food borne illness or disadvantage to the residents, consumers and businesses within the borough.
- 9.4 The Food Standards Agency are charged with overseeing the activities of Food Authorities and may carry out audits of the authority to ensure it is meeting the requirements of The Standard for Food Services set out in the Framework Agreement and its statutory functions.
- 9.5 Should the Council not fulfil its obligations as specified above, the Food Standards Agency may use its powers to take away the functions of the authority and place them with another authority to exercise them on its behalf.
- 9.6 In delivering the Plan, the Food Safety Team is reliant on the Services of other key Teams such as Legal Services, Communications and Public Health to provide support to meet the objectives of the Plan.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

10.1 There are no crime and disorder reduction implications with this report.

11. SAFEGUARDING IMPLICATIONS

11.1 There are no safeguarding implications with this report.

Linked Reports, Appendices and Background Documents

Linked Report

None

Appendices

Appendix 1 – LBTH Food Law Enforcement Plan – 2015/16

Appendix 3 – Benchmark data from North East London Food Group and Which?

Appendix 3 - Equalities Impact Assessment - Checklist

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

None

Officer contact details for documents:

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