

Committee/Meeting: Cabinet	Date: 5/12/12	Classification: Unrestricted	Report No: CAB 54/123
Report of: Head of Paid Service– Stephen Halsey Originating officer(s) Environmental Health (Commercial) Service Manager – David Tolley		Title: Food Law Enforcement Service Plan 2012/2013 Ward(s) affected All	

Lead Member	Councillor Ohid Ahmed
Community Plan Theme	A Healthy Community
Strategic Priority	Reduce differences in people’s health and promote healthy lifestyles

1. **SUMMARY**

- 1.1 This report sets out the Council’s eleventh annual plan for effective enforcement of food safety legislation. The formal introduction of the Plan has been delayed this year as a result of the Olympics on the basis that progress on the Olympic critical aspects of the Plan were being reported separately via Olympic impact planning infrastructure. The aim of the Plan is to ensure 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.
- 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 standard against which local authorities will be audited by the Agency to assess their effectiveness in ensuring food safety.
- 1.3 The Food Safety Service is a statutory function and the activities of the Service are monitored by the Food Standards Agency (FSA). If the FSA are not satisfied with the performance of the Service, then they are empowered to take the function away and request that a neighbouring Authority take on the functions. This will result in no control over the provision of the Service, reputation risk and loss of budget.
- 1.4 Accordingly the Cabinet is requested to consider the Food Law Enforcement Service Plan 2012/13 and Food Sampling Policy 2012/13 and make recommendations as appropriate and adopt this plan.

2. DECISIONS REQUIRED

The Mayor in Cabinet is recommended to:-

- 2.1 Approve the Tower Hamlets Food Law Enforcement Plan 2012/2013 and Food Sampling Policy attached at the Appendix of the report.

3. REASONS FOR THE DECISIONS

- 3.1 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 it is going to discharge its responsibilities.

4. ALTERNATIVE OPTIONS

- 4.1 If the Council take no action the FSA have 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.
- 4.2 If this did happen the Council would still have to fund the service but would lose Member and management control of the service. This sanction has rarely been used but when it has been exercised the local authorities have been named and shamed and suffered reputation damage
- 4.3 The Council might adopt a plan in different terms, but the content of the proposed plan is recommended for reasons set out in the report. If the Mayor were minded to consider a different plan, then further analysis may be required prior to decision.

5 THE PLAN

- 5.1 The Plan incorporates the Council's objectives as set out in the Community Plan and the Trading Standards & Environmental Health (Commercial) Service Plan. In particular it impacts on the quality of life in Tower Hamlets and the health of residents and visitors. It helps to ensure that businesses maintain high standards. The standard format of the plan allows easier comparisons with other authorities.
- 5.2 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 of inspections. Tower Hamlets has 2563 food premises requiring inspection. This is a 3% increase from 2011/12. The frequency of such inspections is determined by a nationally agreed risk based inspection rating scheme.

- 5.3 Last year the Food Safety team achieved 86.5% of all food premises being broadly compliant with the food safety legislation. This will place the authority in the top quartile of local authorities.
- 5.4 The plan also covers complaints and enquiries, sampling, food hazard warnings, outbreak control, health promotion, training and publicity.
- 5.5 The plan also highlights some of the major successes during 2011/12. Some notable examples are
- Improving inspection performance.
 - Responding to an increasing number service requests. 1031 were received an increase on the previous year
 - Improving enforcement activity – 21 food premises closures were carried out (17 in the previous year). Businesses and individuals were prosecuted as a result of either programmed inspections or complaint inspections. 11 successful cases were undertaken in 2011/12

6 PERFORMANCE AND ISSUES FOR 2012/13

- 6.1 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 for compliance is steadily improving in the Borough. The performance for the last five years is as follows:-
- 2007/8 57%
 - 2008/9 74%
 - 2009/10 81%
 - 2010/11 86%
 - 2011/12 86.5%
- 6.2 It should be noted that there is a constant challenge to performance improvement by the high turnover rate of food businesses in the Borough and the increasing age of the commercial stock.
- 6.3 From 2009-12 funding was received from the Healthy Cities initiative and the Primary Care Trust Obesity Strategy to develop a Healthy Eating Award, which aims to create a culture of healthy food choices for residents/workers in the Borough. The programme has since been supported through the Food for Health programme funded until March 2013. A separate Team has been developed to deliver this initiative within the Environmental Health Commercial Team and 77 Awards have been made. External funding is currently being sought to keep the project running.
- 6.4 The national "Scores on the Doors" scheme announced by the FSA has now been implemented. This star rating scheme allows Local Authorities to publish an assessment of the hygiene standards of food premises.
- 6.5 Over the last two years the Service worked as part of the Joint Local Authorities Regulatory Services (JLARS). This group were the Olympic Development Agency (ODA) funded joint service that dealt with regulatory

issues inside the Olympic Park. It also worked with partners to develop the response for food safety enforcement in the lead up and during the Olympics. The FSA grant funded the Authority to carry out enhanced sampling activities throughout the Olympic period and to employ two short term contractors to fill the demands on the Service whilst Officers concentrated on the higher risk businesses.

7 COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 The report seeks approval of the Tower Hamlets Food Law Enforcement Service Plan 2012/13 and Food Sampling Policy 2012/13. This should ensure that performance levels are maintained at a level as prescribed by the Foods Standards Agency.
- 7.2 As outlined in section 6.3 the funding for the Healthy Cities initiative has ended. The initiative has since been supported through the Food for Health programme for which funding of £60,000 has been received until March 2013. However, if the initiative is to continue, alternative external funding sources will need to be identified.

8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 8.1 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.
- 8.2 The Food Standards Agency ("FSA") is responsible under the Food Safety Act for monitoring the performance of enforcement authorities in enforcing specified legislation (including the Food Safety Act itself). The FSA is empowered to request information from the Council relating to its enforcement action. A Framework Agreement has been developed which sets out what the FSA expects from local authorities and sets out an audit scheme under which the FSA monitors the activities of local authorities. The FSA requires local authorities to maintain a food law enforcement plan and to report on performance against the plan.
- 8.3 The Food Law Enforcement Plan is based on a template recommended by the FSA and looks at both pro-active work (e.g. routine food hygiene inspections) and re-active work (e.g. responses to consumer complaints). By auditing the Plan, the FSA will be able to provide a report to the European Commission in accordance with obligations under Article 14 of the Official Control of Foodstuffs Directive 89/397.
- 8.4 The Secretary of State has issued the Food Law Code of Practice (England) under section 40 of the Food Safety Act 1990, which makes reference to an authority's service plan. The FSA is empowered to direct authorities to

comply with the code of practice and this potentially provides another basis on which the Council may be required to produce a food law enforcement plan.

- 8.5 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 don't. Information is provided in the report relevant to these considerations.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 As a result of targeted training the Food Safety function is approaching a workforce to reflect the community, which has led to a multi lingual capability.
- 9.2 The service has procedures and training programmes that promote and deliver equal treatment to all businesses
- 9.3 The Food Safety sampling programme has focussed on imported foods that are sold to local communities. This is to ensure imported foods are wholesome and safe.
- 9.4 Food Safety activity is focussed on raising the quality of food businesses in the Borough. Raising the quality of businesses will help customers obtain better value for money and help make businesses more profitable.
- 9.5 Develop training opportunities for women who hold a larger proportion of lower graded positions within the Team,
- 9.6 An equality analysis has been carried out which suggests that all residents in the borough will be positively affected by the proposed plan. No adverse impacts are expected for any groups.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 Food businesses are encouraged to reduce food waste and deal efficiently with the waste they do produce.

11. RISK MANAGEMENT IMPLICATIONS

- 11.1 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.
- 11.2 Failure to ensure that the council discharges its responsibilities can have serious consequences for the Council and these are set out below.

- 11.3 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.
- 11.4 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.
- 11.5 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.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 12.1 There are no crime and disorder reduction implications

13. EFFICIENCY STATEMENT

- 13.1 The completion and implementation of the Environmental Health (Commercial) service review has improved efficiency and the Service is kept under continual review.

14. APPENDICES

- Appendix 1 – LBTH Food Law Enforcement Plan – 2011/12
- Appendix 2 - Equality Analysis Quality Assurance Checklist

**Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012
List of “Background Papers” used in the preparation of this report**

Brief description of “background papers”	Name and telephone number of holder and address where open to inspection.
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No background papers	David Tolley x 6724
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