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| <b>Cabinet Decision</b><br>6 November 2013  | <br><b>TOWER HAMLETS</b> |
| <b>Report of:</b> Stephen Halsey, Head of Paid Service,<br>Corporate Director – Communities, Localities and Culture | <b>Classification:</b><br>Unrestricted  |
| <b>Food Law Enforcement Service Plan 2013/14</b>  |   |

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| <b>Lead Member</b>            | <b>Cllr Ohid Ahmed, Deputy Mayor</b>  |
| <b>Originating Officer(s)</b> | Andy Bamber, Service Head, Community Safety<br>David Tolley, Head of Consumer and Business<br>Regulations |
| <b>Wards affected</b>         | All Wards   |
| <b>Community Plan Theme</b>   | A Healthy and Supportive Community  |
| <b>Key Decision?</b>          | No  |

### Executive Summary

- 1.1 This report sets out the Council's twelfth annual plan for effective enforcement of food safety legislation. The objective 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 criteria against which local authorities will be audited by the Agency to assess their effectiveness in ensuring food safety.
- 1.3 Changes to the implementation of the National Food Hygiene Rating Scheme have been highlighted, which may mean that the percentage of broadly complaint of food premises in the Borough will drop initially before improvements being sustained.
- 1.4 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.
- 1.5 Cabinet are requested to consider the Food Law Enforcement Service Plan 2013/14 and Food Sampling Policy 2013/14 and make recommendations as appropriate and approve this plan.

**Recommendations:**

The Mayor in Cabinet is recommended to:-

- 2.1 Approve the Tower Hamlets Food Law Enforcement Plan 2013/2014 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 it is going to discharge its responsibilities.

## **2. ALTERNATIVE OPTIONS**

- 2.1 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. 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. The Plan is there to encourage businesses to maintain high standards and help protect customers. It is particularly important in maintaining the reputation of the Borough as a safe place to eat and buy produce. The standard format of the plan will allow easier comparisons with other authorities.
- 3.2 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.
- 3.3 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 2683 food premises, requiring inspection. The frequency of such inspections is determined by a nationally agreed risk based inspection rating scheme.
- 3.4 Last year the Food Safety team achieved 83% of all food premises being broadly compliant with the food safety legislation.
- 3.5 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.

3.6 During the course of 2012/13 along with all services in the Directorate of Communities, Localities and Culture the Food Safety Service was subject to an efficiency review.

3.7 The plan also highlights some of the major successes during 2012/13. Some notable examples are:-

- § Helping create a safer Borough during the Olympic period.
- § 100% of all A rated high risk premises inspected for food Hygiene/standards.
- § 99.3% of all B rated Food Hygiene premises inspected.
- § Offering Training to several organisations in the Borough.
- § Promotion of the Food for Health Award to start-up businesses in the Portas Markets.
- § Reacting to national scares such as the 'horsemeat scandal' to protect the local food chain.
- § Supporting the growth for food businesses in the Borough.

3.8 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 substantial and rapid improvement in the Borough. The performance for the last five years is as follows:-

|         |       |
|---------|-------|
| 2008/09 | 74%   |
| 2009/10 | 81%   |
| 2010/11 | 86%   |
| 2011/12 | 86.5% |
| 2012/13 | 83%   |

3.9 A range of interventions has been developed aimed at increasing and sustaining this compliance rate. Rate of improvement 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 become higher the rate of year on year improvement has tapered off as the residual businesses will present the biggest challenges either from a premises age /condition perspective, or from a business engagement and proficiency perspective.

3.10 From 2009-13 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. A separate Team has been developed to deliver this initiative within the Environmental Health Commercial Team, we have issued 54 Awards. This work will continue into this year and is part of the Portas Markets initiative.

3.11 The national "Food Hygiene Rating Scheme" announced by the Food Standards Agency has now been implemented. This scheme will allow Local Authorities to publish 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.

- 3.12 The Food Hygiene Rating Scheme has recently been benchmarked with other local authorities in London, in readiness for the scheme to become mandatory for the display of the premises rating score in the 'shop window'. The opportunity for re-rating to occur during a re-inspection will be limited. This will only occur at the request of the business, it is therefore expected that our broadly compliant rate will reduce. We will be notifying the food businesses of this slight change to the system.

#### **4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1. The service will need to ensure that the annual plan is delivered within the budgeted resources to ensure that performance levels are maintained at a level as prescribed by the Foods Standards Agency.
- 4.2. A funding contribution of £60,000 has been made available from the Public Health grant budget. This will enable the continuation of the Healthy Eating Awards secured for the financial year. If activities are to continue in future years the service will need to identify alternative funding sources.

#### **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 Standards Agency ("FSA") is responsible under the Food Standards Act 1999 for monitoring the performance of enforcement authorities in enforcing specified legislation (including the Food Safety Act). The FSA is empowered to request information from the Council relating to its enforcement action. A Framework Agreement has been developed (the 5th amendment of which having been issued in 2010) 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.
- 5.3 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.

- 5.4 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.
- 5.5 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.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1. The Equalities Impact Assessment has been reviewed in respect of this plan and no adverse issues have been identified.

## **7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 7.1 There are no environmental impacts with regards to this plan.

## **8. RISK MANAGEMENT IMPLICATIONS**

- 8.1 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.
- 8.2 Failure to ensure that the council discharges its responsibilities can have serious consequences for the Council and these are set out below.
- 8.3 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.
- 8.4 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.
- 8.5 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.
- 8.6 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.

**9. CRIME AND DISORDER REDUCTION IMPLICATIONS**

9.1 There are no crime and disorder reduction implications

**10. EFFICIENCY STATEMENT**

10.1 There are no efficiency issues relating to this report.

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**Linked Reports, Appendices and Background Documents**

**Linked Report**

None

**Appendices**

Appendix One: Food Law Enforcement Plan 2013-14  
Appendix Two – Equalities Impact Assessment

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

None

**Officer contact details for documents:**

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