

<p>Cabinet</p> <p>19 September 2017</p>	
<p>Report of: Ann Sutcliffe, Acting Corporate Director, Place</p>	<p>Classification: Unrestricted</p>
<p>Food Law Enforcement Service Plan 2017/2018</p>	

Lead Member	Councillor Amina Ali, Cabinet Member for Environment
Originating Officer(s)	David Tolley – Head of Environmental Health and Trading Standards
Wards affected	All wards
Key Decision?	Yes
Community Plan Theme	A Healthy and Supportive Community

Executive Summary

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.

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 Service Plan 2017/2018 and Food Sampling Policy attached at Appendix One 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 Environmental Health and Trading Standards 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 food products. 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 at the time of writing has 2,991 food premises which require inspection. The frequency of such inspections is determined by a nationally agreed risk based inspection rating scheme.
- 3.3 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.
- 3.4 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 of the Team has been benchmarked with neighbouring authorities and other sources as detailed in Appendix Two.
- 3.5 Last year the Food Safety Team achieved 81% of all food premises being broadly compliant with food safety legislation. This is the same rate compared to last year.

- 3.6 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 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.
- 3.7 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.
- 3.8 The plan also highlights some of the major successes during 2016/17. 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
 - 97% of all A-C rated Food Hygiene premises inspected
 - 162 food samples were taken as part of the surveillance programme
 - 16 new and 41 renewed Food For Health Awards were issued
- 3.9 The Food Standards Agency requires details of the assessment of resources for all functions within the plan. The resource analysis estimates the gap to be 3.59 full time equivalents for 2017/18. This is the identified resource gap when providing a full inspection and sampling programme. The main reason for the resource gap is due to an increase in demand on the services provided by the Team as outlined below.

Year	Premises	Service Requests	Allergy Alerts	Food Alerts	Food Poisoning
2013/14	2636	1036	47	36	113
2014/15	2797	1171	65	35	123
2015/16	2964	1328	94	53	124
2016/17	2977	1532	123	53	222

During 16/17 the Team achieved:

- £93,000 in fines and costs
- 81% of premises broadly compliant with food law
- 32% of samples found to be unsatisfactory and required follow up
- Service Requests increased by 14%
- Increase in number of food premises

- 3.10 The estimated resource gap calculated is based on the activity carried out in the previous year. With the increase in food premises the Food Team will therefore have to reduce inspection activity in the lower risk food premises and carry out a lower level response into the service requests received.
- 3.11 From 2009-17 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. The scheme resulted in a further 16 new awards being achieved and 41 renewals last year.
- 3.12 An Equalities Impact Assessment checklist has been carried out at Appendix Three

4. COMMENTS OF THE CHIEF FINANCE OFFICE

- 4.1 The report sets out the annual Food Law Enforcement Service Plan for 2017/18 which the Council is required to have in place.
- 4.2. The assessment carried out of the resources required to support the service highlights a funding gap of 3.59 full time equivalent posts. This is based on an estimate of resources requirements. The budget for Food Safety is £623k with additional funding for one post to support food initiatives. The available budget envelope will be used to manage service delivery through focusing less on the lower risk food premises and carrying out less of lower level responses in the area of service request received. The service will need to continue to ensure that all performance levels are maintained at a level prescribed by the Food Standards Agency.

5. LEGAL COMMENTS

- 5.1 The Food Safety Act 1990 ('the 1990 Act') designates the Borough as a food law enforcing authority and creates an obligation to enforce the Act, as such the London Borough of Tower Hamlets has statutory functions in respect of food safety.
- 5.2 The Food Standards Act 1999 gives powers to the Food Standards Agency (FSA) to oversee and monitor how Local Authorities enforce food safety legislation. The FSA acts as regulator for local authorities on Food Safety matters.
- 5.3 The Food Law Code of Practice, produced by the FSA, gives statutory guidance to which local authorities must have regard when engaged in the enforcement of food law. Local authorities must follow and implement the relevant provisions of the Code. The FSA published a revised Food Law Code of Practice (England) on 30 March 2017.

- 5.4 It is a requirement of the FSA under the 'Framework Agreement on Local Authority Food Law Enforcement' for Local Authorities to have Food Law Enforcement Service Plan. Chapter 5.1 of the Food Law Code of Practice sets out the requirements for Food Service Plans. The Plan must be subject to regular review and clearly state the period of time during which the Plan has effect.
- 5.5 The Council must have an up-to-date, documented Food Service Plan which is readily available to food business operators and consumers. The Plan should reflect the requirements detailed in paragraph six of the Regulators' Code (produced by the Department for Business Innovations and Skills, April 2014), which provides as follows:
"Regulators should ensure that their approach to their regulatory activities is transparent
6.1 Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.
6.2 Regulators' published service standards should include clear information on:
a) how they communicate with those they regulate and how they can be contacted;
b) their approach to providing information, guidance and advice;
c) their approach to checks on compliance, including details of the risk assessment framework used to target those checks as well as protocols for their conduct, clearly setting out what those they regulate should expect;
d) their enforcement policy, explaining how they respond to non-compliance;
e) their fees and charges, if any. This information should clearly explain the basis on which these are calculated, and should include an explanation of whether compliance will affect fees and charges; and
f) how to comment or complain about the service provided and routes to appeal.
6.3 Information published to meet the provisions of this Code should be easily accessible, including being available at a single point⁷ on the regulator's website that is clearly signposted, and it should be kept up to date.
6.4 Regulators should have mechanisms in place to ensure that their officers act in accordance with their published service standards, including their enforcement policy.
6.5 Regulators should publish, on a regular basis, details of their performance against their service standards, including feedback received from those they regulate, such as customer satisfaction surveys, and data relating to complaints about them and appeals against their decisions".
- 5.6 This report sets out the Council's annual Food Law Enforcement Service Plan for 2017/2018 and includes benchmark data.
- 5.7 The proposed Plan is aligned with the Food Law Code of Practice, the Regulator's Code and the Council's enforcement policy. It covers all areas of food law that the Council has a duty to enforce and sets out how the Council intends to deliver Official Controls within its area as is also required.

- 5.8 Before adopting the Plan, the Council must have due regard to 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). An Equalities Impact Assessment has been done and a Checklist is at Appendix 3.

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 – 2017/18

Appendix 2 – Benchmark data

Appendix 3 - Equalities Impact Assessment - Checklist

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

None

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