

Meeting of the Council – 11th October, 2021

Report of the Cabinet

Food and Feed Service Plan 2021/22

Purpose

1. To approve the Food and Feed Service Plan 2021/2022.

Recommendations

2. That the Food and Feed Service Plan be approved and adopted.

Background

3. Local authorities are required by the Food Standards Agency (FSA) to produce and implement annual Food and Feed Service Plans that set out how the authority will deliver food and feed law enforcement functions to ensure national priorities and standards are addressed and delivered locally.
4. The food service consists of inspections of food businesses to ensure compliance with food hygiene and food standards legislation, investigation of complaints relating to food and premises, sampling of foods for microbiological and compositional requirements, the investigation of food borne disease as well as educational and promotional activities. This work is delivered by environmental health officers. There are currently 2,518 registered food businesses in the Dudley borough.
5. The feed service relates to the safety, hygiene, composition and labelling of animal feed intended to be fed to animals entering the food chain and therefore requiring legislative controls to protect human health when meat is consumed. This work is delivered by Trading Standards Officers for 51 premises in the borough that either produce or distribute animal feed, rear food producing livestock or supply surplus food into the animal food chain.
6. Service plans are developed under the framework agreement produced by the Food Standards Agency (FSA) and provide the basis on which local authorities are monitored and audited by the Agency. It is a requirement that food service plans are submitted to Members for approval to ensure local transparency and accountability. No service plan was produced in 2020-21 following guidance from the FSA due to suspension of the routine programme of food inspections between mid-March and

September 2020 due to the Covid-19 pandemic, during which inspections and visits to the highest risk situations were carried out alongside remote interventions, with delivery of the highest priority interventions resuming from September 2020. A full copy of the Food and Feed Service Plan 2021/22 is contained in the Appendix to this report.

Key highlights of performance in 2019-20

7. 96% of high-risk food premises (Category A-C) and 97% of lower risk premises (Category D-E) due for food hygiene/safety inspection were inspected, a total of 1,175 inspections. The considerable back log of lower risk category D & E inspections was reduced during the 2 years to March 2020 with only 38 inspections, mainly lower risk, outstanding at the time the programme was suspended in mid-March 2020. This achievement resulted in the lowest ever number of inspections rolled over into the next year and has placed the service at some advantage in recovering the inspections due programme in the next two years.
8. 909 food standards inspections (for compliance with food composition, labelling and presentation requirements) were carried out. This is the highest number of food standards inspections carried out in any year and has significantly reduced the back log of food standards inspections.
9. 279 microbiological food samples were taken from food premises in the borough with 17 (6%) being unsatisfactory. 20 food standards samples were taken for compositional and labelling compliance with 7 being unsatisfactory. All unsatisfactory samples received appropriate follow up.

Key highlights of performance in 2020-21

10. All of the highest priority work required by the FSA to be delivered during the period of suspension of the inspection programmes was delivered. Inspections and visits were made to all situations deemed to pose a risk to health. 198 food hygiene/safety inspections were carried out during the year, 77 were inspections due and 121 were inspections of newly registered businesses. In addition, 682 food premises received remote interventions, mainly by telephone, where an environmental health officer provided advice and assistance to food business proprietors both on food hygiene and standards compliance and on implementing covid secure risk assessments for staff and customers. It should be noted that much of the hospitality sector was closed due to coronavirus restrictions for much of the year, with restaurants and licensed premises only trading for 4 months during the year.

Compliance & Enforcement 2019-21

11. 300 re-visits were made in 2019/20 and 70 in 2020/21 to premises with unsatisfactory hygiene ratings to check that the required improvements had been made. The overall proportion of food premises in the borough which are broadly compliant with food hygiene legislation (rated 3, 4 or 5) as of April 2021 is 85%. This is lower than the target of 90% due to a back log of newly registered businesses, caused by both an increase in applications to run food businesses from domestic premises and a changeover in ownership of existing businesses during the pandemic. 165 new business food

registrations were awaiting their first inspection in April 2021. This back log continues to be prioritised during 2021/22. All food businesses are counted as non-compliant until they have received their first inspection, hence reducing the back log of newly registered inspections will improve the broad compliance rating. Not counting the unrated new premises, the broad compliance figure for all inspections published on the Food Hygiene Rating Scheme for Dudley is 91.6%. This is broadly comparable to other West Midland local authorities and just below the national average. Dudley consumers can access the results of food hygiene inspections across the UK including Dudley in one visit either via the Council's website or directly to the national website www.foodratings.gov.uk

12. The Council has a clearly laid down enforcement policy, which focuses on providing advice and guidance for businesses to secure compliance. However, where businesses consistently fail to comply with the law or present a severe threat to public health it is important that action is taken to protect consumers. During 2019-20, three food premises were served with Hygiene Emergency Prohibition Notices requiring immediate closure due to pest infestation issues and 5 food safety prosecutions were concluded resulting in fines of £10,810. In 2020-21, two food premises were served with Hygiene Emergency Prohibition Notices requiring immediate closure due to pest infestation issues and 3 food safety prosecutions were concluded resulting in fines of £10,000 with one food business proprietor receiving a suspended custodial sentence.

Priorities in 2021-22 and beyond

13. Recovering the food enforcement service back to normal capacity is a priority following the difficult year in 2020-21, when it is estimated that up to 50% of all food officer capacity on the team was dedicated to meeting the Council's response to the Covid-19 pandemic, in addition to 3.4 FTE contractor EHOs funded via the governments covid funding. There is ongoing commitment to actions in the Dudley Covid-19 Local Outbreak Management Plan in respect of covid outbreak management in workplaces and staffing the Dudley Test & Trace cell. The recovery of the service is however supported by the FSA's Recovery Plan being implemented in two phases between July 2021 to 2023/24. The service planned for 2021-22 exceeds the requirements of the FSA's Recovery Plan.
14. 1,082 food hygiene inspections are outstanding from 2020-21. Although many of these received remote interventions last year, these are not classed as official controls and therefore the outstanding on-site intervention still remains due. This has resulted in an inspection programme of 2,234 inspections due or rolled over into 2021-22, based on an estimate of 240 extra new businesses registering in 2021-22. This annual figure is nearly double the number of food hygiene inspections due in a normal year. However, the FSA's Recovery Plan only requires the highest risk Category A-C inspections to be completed by March 2023.
15. The planned minimum service for 2021-22 is that all new businesses (approx. 165 backlog plus 240 applying in the year) and all Category A & B food businesses will be inspected for food hygiene/safety, a total of 533 food hygiene inspections. The highest category A food standards inspections will be completed as well as food standards inspections in all new businesses, approx. 427 food standards inspections in total. However, should covid response commitments reduce during the course of the year,

the EHO covid contractors would be re-deployed into the food service and increase the number of interventions achieved for the lower risk categories and there is also scope to bring in additional capacity if required later in the year. Interventions would be undertaken for any food business, irrespective of risk category, should information or intelligence suggest that standards have fallen or the risk has increased.

16. The food service will take on board any changes as a result of trade deals agreed in the future between the UK and other nations following EU Exit, including any revised standards and a potential for a mix of standards across various trade deals yet to be negotiated. There could be potential impacts on the food safety inspection programme if increased work to provide health certificates for export to EU countries arises or food consignments coming into the UK via ports are deferred for inspection at the final destination, such as Dudley based cold stores. More food products may be imported from outside the EU as a result of trade deals which will increase imported food inspection checks required to ensure compliance with UK legislation on safety, composition and labelling.

Finance

17. Financial implications from implementing the Food and Feed Service Plan are met from within existing budgets.

Law

18. The Council's duties with respect to protecting consumer interests in relation to food safety/hygiene and standards are set out under the Food Safety Act 1990 and in relation to animal feed enforcement are set out in the Agriculture Act 1970. Powers to enable the Food Standards Agency to monitor and audit local authorities are contained in the Food Standards Act 1999. Section 111 of the Local Government Act 1972 authorises the Council to do anything which is calculated to facilitate or is conducive or incidental to the discharge of any of its statutory functions.

Risk Management

19. Delivery of the food law enforcement service is statutory, and the Food Standards Agency does have power to monitor and audit local authorities' performance and, in the event of underperformance, direct a local authority to perform and in extreme cases can take over or procure a satisfactory service with the costs being charged to the local authority. There is little likelihood of this occurring in Dudley, as the food service has performed well in comparison to other local authorities, meeting or exceeding most statutory targets in previous years. However, with the back log of inspections arising from suspension of the programme in 2020-21 due to the covid pandemic, monitoring of the resourcing of the officer capacity within the service is required and therefore a risk has been raised on the Council's Risk Management System relating to completion of the food hygiene inspection programme in line with minimum requirement of the FSA Recovery Plan between 20021 and 2023/24. Mitigation includes recruitment and retention of officers and additional resourcing if required.

Equality Impact

20. The proposals in this report do not impact on protected groups or conflict with the Council's commitment to equality. Account is taken of the diversity of the ethnic origins of the local food business proprietors and efforts made to assist those whose first language is not English, for example by providing interpretation where necessary. The service contributes towards reducing health inequalities for all residents in the borough by promoting healthy eating. In particular healthy eating is encouraged for children and young persons and also elderly people through the Dudley Food for Health Award. Many of the premises achieving the award in the past are schools, nurseries and residential homes.

Human Resources/Organisational Development

21. There are no implications for Human Resources/Organisational Development. The food and feed service delivery programme as outlined in the Food Service Plan and summarised in this report can be delivered within existing staff resources.

Commercial/Procurement

22. There is minimal impact on the potential to commercially trade. There is no scope at the current time to charge food businesses for registration or for their food enforcement inspections although this is a matter being considered nationally under the Food Standards Agency's programme "Regulating our Future" in terms of businesses potentially bearing the cost of the regulatory system at a future stage. Income for the service is limited to court costs which may be recovered upon successful prosecutions and to charging for the cost of carrying out re-inspections to revise food hygiene ratings where food businesses apply for a new rating prior to their next programmed inspection; the current charge is £179.50. This charge can only cover the cost of the additional work required.
23. There is scope for charging for a Primary Authority partnership arrangement whereby the Authority would act as lead authority nationally in advising a food business on compliance with food legislation; however no Dudley based business has requested this arrangement. The majority of the borough's food businesses are small independent businesses or part of a chain where the head office is outside the borough, which reduces the scope for primary authority arrangements.
24. Advice to businesses, outside of statutory inspections, beyond an initial free hour is charged at an hourly rate, currently £82.65/hour. Few food businesses avail of the advice service beyond the first hour and advice continues to be freely offered to new and other food businesses during inspections to assist small local businesses in complying with the law.
25. The services of the public analyst are procured at 2 yearly intervals and provide the scientific and laboratory expertise for analysis of the food standards samples (approx. 30 a year) at a cost of under £4,000/year. Microbiological samples are processed free of charge up to 312 samples a year through Public Health England's laboratory service.

Council Priorities

26. By ensuring the safety of food and feed produced and consumed within the borough, the delivery of the food and feed enforcement service contributes to delivering the Council Plan priorities of a cleaner, greener place, stronger and safer communities and growing the economy. The service helps maintain public confidence in the standards of our local food industry and provides practical support to businesses in difficult economic times, which helps to ensure fair competition and allow well run food businesses to flourish and contribute to the local economy



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Leader of the Council