

**Southend-on-Sea City Council**  
**Report of Executive Director**  
**(Neighbourhoods & Environment)**  
**To**  
**Cabinet**  
**On**  
**29 September 2022**

**Agenda  
Item No.**

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Services

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**The Official Feed and Food Control Service Plan 2022-23**

**Relevant Scrutiny Committee: Place Scrutiny Committee**

**Cabinet Member: Councillor Martin Terry- Cabinet Member for Public Protection**

**Part 1 Public Agenda item**

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**1. Purpose of Report**

- 1.1 The Council is the Food Safety Authority under the Food Safety Act 1990 and has a duty to enforce food safety, food standards and feed requirements. The Food Standards Agency (FSA) requires the Council to publish an annual Food Service Plan, requires that this plan be submitted to the Corporate Leadership Team and/or Members for approval, to demonstrate transparency and commitment.
- 1.2 This report sets out the ambitions within the Council's annual Official Feed and Food Control Service Plan 2022-23, the objective of the plan is to satisfy the FSA that the intended inspection regime, ensures that food, in the City, is produced and sold under hygienic conditions, is without risk to health and is of the quality expected by consumers.
- 1.3 The report also highlights the achievements of the Team against the previous year's plan.

**2. Recommendation**

**That Cabinet is asked to:**

- 2.1 Note the achievements against the previous plan 2021-22.
- 2.2 Approve the Official Feed and Food Control Service Plan 2022-23 'The Plan' (Appendix 1), and recommend its adoption by Full Council.
- 2.3 Note that the ability to achieve targets is reliant on:
  - The ability to maintain staffing levels and;
  - The ability of recruit to vacant posts.

### **3. Background**

- 3.1 Service Delivery Plans are recognised by central government as important expressions of a local authority's commitment to the development of their various services. They serve as a quality framework against which a service may be audited and provide a focus on resourcing and delivering aims and objectives. They also establish mechanisms for managing performance.
- 3.2 In January 2001 the FSA produced the Framework Agreement on Local Authority Food Law Enforcement. It included the requirement to prepare a Food Service Plan and prescribed in detail which areas of the service should be covered by the plan.
- 3.3 The Official Feed and Food Control Service Plan (The Plan) is attached at Appendix 1. It provides a framework upon which a scrutinising body, such as the FSA can conduct an official audit. It also sets out, within an overall commitment to quality and continual improvement, the general aims and objectives of the service, the scope and levels of the service and the means by which it is delivered. To this end, it also contains a breakdown of the financial and staffing resources available to deliver the service.
- 3.4 The Plan describes how the service is discharged and details the numbers, types and priority ratings of the City's food premises, the frequencies of planned interventions, sampling programmes, reactive work, including responding to food complaints, food hazard warnings and investigating cases of infectious disease.
- 3.5 The Plan also incorporates the national enforcement priorities for animal feed, with inspections being co-ordinated through the National Trading Standards Board (NTSB) and the FSA. This approach is to ensure that regionally animal feed enforcement is effective, and that there are risk-based controls in place across the Region.

#### **The Impact of Covid-19**

- 3.6 From the outset of the pandemic, this service was severely impacted in its ability to deliver the usual obligations in relation to food safety. The cohort of officers allocated to this work were immediately identified and delegated by Government to provide the frontline response within the majority of Local Authority Coronavirus Regulations.
- 3.7 In addition to the above, they also provided support across the City to assist businesses comply with Covid-19 regulations and controls. This included providing additional help to businesses when they had positive Covid-19 cases in the workplace.
- 3.8 The FSA recognised that the ability to achieve traditional targets would be compromised by the pandemic. As a result, it developed a Recovery Plan (RP) to assist local authorities in prioritising and aligning resources in line with risk, and so bring the food hygiene and standards inspection programme back into alignment with the Food Law Code of Practice (FLCoP).

#### **The Recovery Plan (RP)**

- 3.9 The RP comprises of 2 phases, and sets out the FSA’s guidance and advice to local authorities for the period from 1 July 2021 to 2023/24. This superseded the previous guidance and advice on the response to Covid-19, which applied until 30 June 2021.
- 3.10 The RP provides a framework for re-starting the delivery system of the inspection programme in line with the FLCoP for new food establishments, and for high-risk and/or non-compliant establishments, while providing flexibility for lower risk establishments. The diagram below highlights the phases and actions expected:



- 3.11 From July to September 2021, Phase 1 of the RP prioritised new businesses for interventions based on risk and developed an intervention programme from September 2023 onwards.
- 3.12 Phase 2 of the RP started in October 21 and runs to 2024. This phase includes a continuation of Phase 1 and implements the planned food premises inspection programmes for high-risk category and non-compliant establishments. It also implements an intelligence-based approach for low-risk category establishments and addresses the backlog of inspections. (See Appendix 1, section 3, Table 2 (hygiene) and Table 3 (standards)).
- 3.13 Phase 2 of the RP will continue until the new food standards delivery model and a revised food hygiene intervention rating scheme are implemented. The new delivery model for food standards was piloted in England and Northern Ireland (December 2021), and it is anticipated that the new model will be rolled out nationally from April 2023. Work to review and revise the food hygiene intervention rating scheme is planned to commence shortly, with a view to implementation in 2023/24.

## **Achievements against the 2021-22 Plan**

- 3.14 The Food Team within Regulatory Services played an integral role in responding to the Covid-19 pandemic and maintaining the provision of the food service during the period. Officers from within the service achieved a significant amount in 2021, some of the key achievements were:
- Achieving the Food Standards Agency's 'Recovery Plan' requirements for 2021/2022 for food hygiene and standards;
  - Undertaking additional inspections, which were due in accordance with the Food Law Code of Practice, but not required by the recovery plan in year;
  - Fully supported all premises which were exporting to the EU, this included the additional responsibility of registering and inspecting fishing vessels registered to the Council;
  - Implemented 'Natasha's Law' ensuring officers were competent and communicated with businesses affected by the changes, including access to the FSA toolkit.
  - 130 Covid-19 enquiries dealt with.

## **The Plan 2022-23**

- 3.15 In accordance with requirements within the FSA Framework Agreement, the services provided by the Food Team comprise of a mix of enforcement, intelligence-based work, investigation, advice, and education.
- 3.16 The Plan for 2022-2023 is attached as Appendix 1 and has been written in accordance with the FSA RP phase 2; it continues to focus enforcement action on poorer performing and high-risk businesses.
- 3.17 The Service continues to inspect fishing vessels and approved premises, which assists local businesses to export product to the EU, in addition, it has the required competency to assist Southend businesses to trade with the EU, through the development of an export certification service.
- 3.18 Progress through the Service Plan will be monitored on a monthly basis, and resources re-directed to additional contracted inspections where required.

## **Demands on Officer Time**

- 3.19 The service also undertakes reactive work, including: complaint enforcement (in the case of non-compliance), managing food incidents, food hazards, food poisoning and infectious disease outbreaks. This work is in addition to the inspection regime.

## **Overdue Inspections**

- 3.20 Service delivery was seriously affected by the pandemic. In 2019/20 893 programmed food hygiene inspections took place, this number reduced by 46% in 2020/2021 (482 inspections), and the 665 inspections achieved in 2021/22 (although improving), still represent a 25.5% reduction on the figures achieved in 2019. Having said that, it is important to note that differences between years cannot be viewed as a straight-line correlation, as each category of premises (A-E) has an associated inspection frequency, ranging from every 6 months to every 3 years (see Appendix 1 Table 2). Notwithstanding the varying inspection frequency, it remains a fact that Covid-19 impacted on the inspection regime and has resulted in a backlog of 393 food hygiene inspections. These are being

targeted to bring the inspection programme in line with the Food Law Code of Practice, as detailed in in Section 4.4 of Annex 1.

### Inspections Due this Year

- 3.22 In addition to the 333 category A-E due this year, 181 new or existing premises remain unrated, and these will require an inspection or assessment (see Appendix 1 section 3.14 Table 2).
- 3.22 The total number of inspections (backlog and due) is 512, however, as mentioned in paras 3.8-13, the RP gives Local Authorities until 2024 to address the backlog created by the pandemic, and further achieve the normal inspection targets set by the FSA.
- 3.23 The proposed work programme for 2022-23 is detailed in table 1 below (see Appendix 1 section 2 Table 2):

**Table 1 Proposed Inspection Regime**

<b>Inspection Programme 2022-23</b>		
<b>Workstream</b>	<b>Category or Type of Inspection</b>	<b>Number</b>
1	Category A	4
2	Category B	55
3	Category C	242
4	Category D	32
5	Category E	0
6	Awaiting inspection	181
7	Overdue inspections in line with FLCOP	393
<b>Total Inspections due from 1<sup>st</sup> April 2022 in line with FSA recovery plan</b>		512
<b>Total Inspection due</b>		905

- 3.24 The work programme above meets the requirements within the FSA RP, however, the above work programme is undertaken in addition to the routine work of the team. Work streams 1-7 will require a minimum of 5.3 FTE Food Safety Officers to deliver.
- 3.25 It is important to note, that ability to deliver the proposed work programme will also be compromised if the level of enforcement work (as experienced pre-pandemic in 2019-20) returns. As such, the regime will be reviewed and adjusted accordingly in year, and throughout the 3-year grace period to track progress and respond to risks.

## **Resources**

- 3.26 The Food Team is run and managed in-house and has 5.1 equivalent FTEs to deliver the programme. Staffing resources are covered in full in Appendix 1 section 5.3-5.9. However, it's important to note that this figure fluctuates in year in response to the pandemic control activities, sickness absence, staff leaving.
- 3.27 Table 7 and 8 in Appendix 1 demonstrate that there is a .69 FTE deficit between current resources and the number required to deliver the programme. This deficit is covered by utilising underspend in salaries across Regulatory Services to bring in additional contractors, to meet the inspection programme.

## **4. Other Options**

- 4.1 **Option 1** not produce the Statutory Service Plan. This would be in breach of the requirement as set out in the Framework Agreement on Local Authority Food Law Enforcement, and the work undertaken by the Service would not be endorsed by Members.
- 4.2 **Option 2** approve the Plan as attached in Appendix 1. This Plan sets out the work of the Service, it would be endorsed by Members, and so fully compliant with the requirements set out by the Food Standards Agency. This is the preferred option.

## **5. Reasons for Recommendation**

- 5.1 The Official Feed and Food Control Service Plan is a Statutory document that is required by the FSA Framework Agreement to be produced annually, and to have senior management and/or Member approval. The Plan is in line with the FSA audit findings, agreed by Cabinet on the 18<sup>th</sup> June 2013, and it sets out the priorities for the Service and is available for members of the public to view so that they are aware of what the authority is doing to help ensure that the food they eat is safe.

## **6. Corporate Implications**

### **6.1 Contribution to the Southend 2050 Road Map**

- 6.1.1 The Service Plan contributes to Pride and Joy, Safe and Well and Opportunity and Prosperity. The contribution is through:
- a risk based proactive inspection programme for food businesses which ensures they are providing safe food for residents and for those visiting the City; and
  - a risk based proactive inspection programme for feed businesses which ensures the safe provision of animal feed; and
  - assisting businesses to comply and thrive through the provision of business advice; and
  - supporting events across the City which encourages visitors and residents to enjoy safe foods
  - enforcing against the least compliant businesses to improve the offering of the town; and
  - supporting Public Health in encouraging businesses to offer healthy eating options.

### **6.2 Financial Implications**

- 6.2.1 This Plan will be delivered within the approved 2022/2023 revenue budget Regulatory Services, which is monitored as part of the Council's routine quarterly monitoring.
- 6.2.2 It should be recognised that a wide range of other non-food related services are within the Regulatory Services team budget which include health and safety, licensing, investigation and control of infectious disease, nuisance investigation, private rented sector housing regulation, and pollution control.
- 6.2.3 The Service Plan for 2022-2023 identifies resources allocated to the Statutory Food and Feed Programme and the budget is set within the Regulatory Services' overall budget. The Plan recognises that resource may be diverted in response to incidents of infectious disease where required, and the Service Plan may be altered in response to that demand.
- 6.2.4 Where funding is available the service will apply for funds to undertake surveillance sampling, in line with FSA and DEFRA priorities.

### **6.3 Legal Implications**

- 6.3.1 Powers to enable the FSA to monitor and audit local authorities' enforcement action are contained in the Food Standards Act 1999. This was the statutory basis for the development of the Framework Agreement that was initially established in 2001 and which has been subsequently amended. The statutory requirement for local authorities to develop and maintain annual Food Service Plans is an important part of the process to ensure national priorities and standards are addressed and delivered locally.
- 6.3.2 The Council's Constitution requires the adoption of the official Feed and Food Control Service Plan be reserved to Full Council and is funded from within the existing budget of the service.

### **6.4 People Implications**

- 6.4.1 The report identifies the staffing resource available to the service and how they are deployed in order to meet the Council's statutory responsibilities (see para 3.24).
- 6.4.2 Whilst there are no current vacancies within the Food Team, Paras 3.23 and 6.81 outline that the ability to deliver this plan is reliant on recruiting and retaining suitably qualified officers.
- 6.4.3 Additional resources may be required to support infectious disease outbreaks as with the Covid-19 pandemic. Should this arise, the priorities of the service will be reassessed to meet the statutory inspection programme by securing contracted inspections.

### **6.5 Property Implications**

- 6.5.1 There are no Property implications arising within this report.

### **6.6 Consultation**

- 6.6.1 There are no Consultation implications within this report.

### **6.7 Equalities and Diversity Implications**

6.7.1 Implementation of the Food Service Plan will have no adverse equality implications, as the same levels of advice and support are provided to all food business proprietors from all sections of the community.

6.7.2 Certain sectors of the food trade are predominantly owned by one or other ethnic groups. In order to ensure a consistent and proportionate approach, all decisions are based solely on considerations of risk, public safety, evidence and public interest. All enforcement policies reflect this approach.

## **6.8 Risk Assessment**

6.8.1 Regulatory Services has qualified Environmental Health Officers, who hold specific competencies as required by the FSA. There is a national shortage of qualified Officers, and should the service experience staffing issues resultant of Officers leaving, and then ongoing issues in recruitment, there is a risk that the inspection regime within the Plan will not be delivered.

6.8.2 With any shortfall such as this there may be the perception of public health being put at risk, and a risk of the loss of public confidence in the Council.

6.8.3 In addition, should there be a continued failure to inspect premises, there is a risk that the Council will be served with a Ministerial Direction, but this is rare and considered unlikely at this stage.

6.8.4 Regulatory Services will monitor progress against the plan on a monthly basis, and will report back to Members should concerns arise.

## **6.9 Value for Money**

6.9.1 Regulatory Services deliver an increasingly efficient and effective public health service which strives to promote and sustain a safe, prosperous community for businesses, residents and visitors. Moreover, the Officers within the service food work to create a positive food safety culture which can:

- protect customers from health risks like food poisoning;
- effectively manage food allergen risks in businesses;
- protect brand and reputation from complaints, negative online reviews or media scandal;
- provide businesses with confidence that they are compliant with legislative requirements, and so avoid enforcement and closures;
- help businesses save money from unnecessary food waste from improper storage ;

## **6.10 Community Safety Implications**

6.11 The Regulatory services continues to work collaboratively with partners, these include: the Gangmasters and Labour Abuse Authority; the Inshore Fisheries and Conservation Authorities; the City Centre and marine units of Essex Police, and the charity Justice and Care. The Team contributed to Operation Gull, which was a three-week operation to tackle illegal harvesting of shellfish. The operation was a success and intercepted harvesting groups, individuals and the vehicles used.

6.12 In addition to the above, the team is currently working with the National Fraud Team and other agencies. The Team provides intelligence to the Intelligence Database (IDB) and directly to the Food Crime Unit.



### **6.13 Environmental Impact**

Food related inspections and investigations place controls on commercial food waste which impact on the natural environment, and in line with the Council's Enforcement Policy this work area seeks to ensure that other agencies are engaged where necessary to address specific concerns.

## **7. Background Papers**

- Food Standards Agency Framework Agreement (amendment Five, April 2010).
- Food Law Code of Practice (England) 2017.
- Feed Law Code of Practice (England) (Issued April 2018).
- Environment and Regulatory Enforcement Policy 2021.
- Food Standards Agency Audit and Action Plan - Cabinet Report Dated 18/06/13.

## **8. Appendices**

### **8.1 Appendix 1: Official Feed and Food Control Service Plan 2022-23.**