

Report



Cabinet Member for Licensing and Regulation

Part 1

Date: 28 February 2020

Subject Food Service Delivery Plan 2019/2020

Purpose To advise the Cabinet Member of the Food Service Delivery Plan and to seek approval of the plan for the financial year 2019/2020

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Ward City Wide

Summary The Food Service Delivery Plan (a Service Plan) governs the work of food hygiene and food standards work programme and requires formal approval by the Cabinet Member. "The Framework Agreement on Official Feed and Food Controls by Local Authorities" issued by the Food Standards Agency requires the Council's Food/ Feed etc. plans to be approved.

Proposal That the Cabinet Member formally approves the Food Service Delivery Plan for 2019/2020

Action by Head of Law & Regulation

Timetable Immediate

This report was prepared after consultation with:

- Head of Law & Regulation
- Head of Finance
- Head of People & Business Change

Signed

1. Background

- 1.1 Newport City Council's Regulatory Services have a wide remit, taking the many and diverse statutory functions of Trading Standards, Animal Health, Environmental Health, Licensing and Community Safety.
- 1.2 Regulatory Services carry out a wide range of enforcement initiatives, including a number of high profile prosecutions, but balances this with an intervention and monitoring programme for businesses' legal obligations, and for consumers' rights.
- 1.3 Officers work to protect the rights and the safety of the City's residents, workers, visitors and the local environment. Officers interact with everyone who comes into Newport and with people from much further afield who buy or use goods and services originating from the City.
- 1.4 The Services Aims are to:
 - Create and maintain a fair and safe (trading) environment and community for Newport's residents, visitors and responsible businesses.
 - Bring businesses into a state of being broadly compliant with Regulatory Services legislation and alleviate anti-social behaviour.

2. Requirement for Approval of Food Service Delivery Plan

- 2.1 For Food Safety, Communicable Disease, Feed Standards and Food Standards it is required that local authorities produce service plans to help to ensure local transparency and accountability and to show their contribution to the authority's corporate plan. The Food Standards Agency requires that "plans and performance reviews should be approved at the relevant level established for that local authority, whether that is Member, Member forum, or suitably delegated senior officer level."
- 2.2 "Records should be kept to show that service plans have received appropriate approval".
- 2.3 This is set out in 'The Framework Agreement on Official Feed and Food Controls by Local Authorities' issued by the Food Standards Agency.
- 2.4 Powers enabling the Agency to monitor and audit local authorities are contained in the Food Standards Act 1999 and in the Official Feed and Food Controls Regulations.
- 2.5 The service was recently audited and the Food Standards Agency noted that the plan had not been appropriately approved. A direction was provided to the Authority to rectify the oversight.

3. Specific Food Hygiene issues in 2019/2020

- 3.1 The Food Law Code of Practice Wales requires that all High Risk Food Premises inspections are undertaken in the financial year in which they are due. Food Premises are risk-rated to determine inspection frequencies, with A-rated premises being those with the highest risk. This financial year the following numbers of inspections are due:
 - A-rated premises: 20
 - B-rated premises: 60
 - C-rated premises: 262

In addition to these initial inspections, based on data from previous years, it is likely that 130 revisits will be required to deal with areas of non-compliance with legislation by food

businesses. These revisits are essential to deal with issues that could jeopardise public health.

- 3.2 The Food Safety team will also aim to inspect D-rated premises that become due for an inspection during the year, as well as continuing to endeavour to inspect new businesses within 28 days of starting to trade. Performance on the latter has been improved greatly over the previous 2 financial years as a result of diverting some resources from a limited number of C-rated premise inspections and the challenge is now to maintain this performance.
- 3.3 This approach is extremely resource intensive and leaves very little flexibility to respond to other local priorities within the resources that are available in Newport.
- 3.4 As explained in the Food Service Delivery Plan, there are insufficient resources to deliver all of the food hygiene interventions required by the Food Law Code of Practice. The Food Safety team is not planning to inspect all of the D-rated premises this financial year and is not able to complete interventions at the lowest risk (E-rated) premises. The planned work is set out at Appendix 1 to the Delivery Plan. Therefore, this report seeks approval of the work programme.

4. Specific issues for Trading Standards Food Standards in 2019/2020

- 4.1 The Trading Standards approach to enforcement focuses on the importance of maintaining the integrity of the food chain integrity and this is a priority for the service. Officers will use various methods and approaches to achieve this outcome, including; include proactive inspections; project work; sampling; investigating complaints; and completing investigations where offences have been noted.
- 4.2 The Food Law Code of Practice Wales requires Trading Standards Officers to inspect each high risk premises on an annual basis (within a year of the premises' previous inspection) and also 50% of medium risk businesses and 20% of other businesses. There is also a requirement to visit each new business within a month of the date it starts to trade.
- 4.3 Following year-on-year failures to complete the Food Standards intervention programme officers have made a concerted effort to deliver the complete programme. It is envisioned the service will be in the top quartile of local authority performance within 3 years. (Current performance is quartile 3). It is acknowledged that the risk of the use of undeclared allergenic ingredients is increasing; and that the risk is greatest within the category C premises. Based on the Intelligence Operating Model put in place by National Trading Standards there is now a correlation between the need to inspect retailers and caterers for this particular issue and the very real risks of allergy non-compliance. The recent restructure has seen a concentration of resources on the issue of Food Standards. This has been at the cost of Fair Trading and other work. It is hoped that the improvement programme will allow the service to reach acceptable performance levels and then allow officers to put more resources back into other non-Food Standards work.
- 4.4 In the previous reporting year; Trading Standards achieved a third quartile performance with a rate of 41%. The service was placed 112 out of a list of 183 authorities. In relation to interventions achieved for all category A premises (high risk premises); Trading Standards achieved a score of 100% along with 100 other local authorities. In relation to interventions achieved for all category B premises; Trading Standards achieved a third quartile performance with a rate of 58%. The service was placed 110 out of a list of 183 authorities. In relation to interventions achieved for all category C premises; Trading Standards achieved a third quartile performance with a rate of 30%. The service was placed 118 out of a list of 183 authorities.

- 4.5 For unrated premises there is an improvement needed for 2019-20 and beyond. A programme has been established to visit the premises and ensure they have been risk assessed.
- 4.6 The Consumer Protection Team have made Food Standards work their focus for the next few financial years. It is the desire to ensure that the service operates within the second quartile consistently and aims for the first quartile as an aspiration. As referenced already, the work on unrated businesses needs correcting; this will be done.
- 4.7 It is worth noting that out of 183 authorities the top two authorities in terms of prosecutions each secured 5 successful outcomes. Newport Trading Standards came-in at third with 4 prosecutions. Also it has been noted that the level of warnings are being under-reported. Comparing Newport City Council with the other authorities (based on the assumption everyone else is doing this correctly), Newport should be expected to report 100-120 warnings each year. This will be targeted.
- 4.8 The final major improvement will be in the area of the database. 2019-20 saw the movement of the Trading Standards database to the Commercial Premises database (the home of the Food Hygiene work). This has reduced duplication and the risk of support staff failing to enter the double record.

5. Specific issues for Trading Standards Animal Feed in 2019/2020

- 5.1 Trading Standards has the responsibility for delivering Animal Feed Legislation Enforcement. For the forthcoming year the service plan and the funding will be provided by the Food Standards Agency Wales. The service plan will direct officers to complete a work programme of inspections and sampling; and also conduct official samples at the port. For this reason, there is no need to include the animal feed service delivery plan within this report.

6. Financial Summary

There is no direct financial impact arising from this report. The delivery of this work will be funded within existing revenue budgets.

7. Risks

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
That relevant Plans are not scrutinised and sanctioned as required and the Council is criticised by external agency/agencies.	Medium	Low	This report seeks to ensure that Plans are given appropriate oversight and support.	Head of Law and Regulation
That the Council is criticised for not delivering all Food Hygiene interventions as required by the Food Law Code of Practice Wales.	Low	High	This report (and the appended Food Service Delivery Plan) explains that resources are limited and it is not possible to meet the requirement. However resources will continue to be directed	Head of Law and Regulation

			using a risk-based approach i.e. away from lower risk work.	
That the Council is criticised for not delivering all Food Standards inspections as required by the Food Law Code of Practice Wales.	Low	High	The service has been realigned and will be able to complete its official controls in a more efficient way; however, there will be a period of adjustment which is expected to last until 2022.	Head of Law and Regulation

8. Links to Council Policies and Priorities

- 8.1 The Food Service Delivery Plan reflects the Council's commitment to protect the public, support business and improve the wellbeing of the city. The Plan and the regulatory work set out within it, link with the following plans/policies:
- 8.2 Newport City Council's Corporate Plan (the most relevant theme is "A thriving city" and the most relevant Well-being objective is "To enable people to be healthy, independent & resilient).
- 8.3 Well-being Plan 2018-2023. The most relevant Well-being objective is: "Newport has healthy, safe and resilient environments".

9. Options Considered/Available

9.1 Option1

To approve the Regulatory Services Food Service Delivery Plan in order that the Plan is given appropriate scrutiny and support as required by the Food Law Code of Practice Wales.

9.2 Option 2

Not to approve the Regulatory Services Food Service Delivery Plan.

10. Preferred Option and Why

10.1 Option 1 above

To approve the Regulatory Services Food Service Delivery Plan in order that the Plan is given appropriate scrutiny and support as required by the Food Law Code of Practice Wales. This will satisfy the Food Standards Agency when the Authority is next audited.

Comments of Chief Financial Officer

Approval of the plan will have no adverse financial impact as delivery will be funded through existing budgets and monitored as part of the Council's overall monitoring processes.

Comments of Monitoring Officer

There are no legal implications. At a higher strategic level, the key performance measures and service objectives for Regulatory Services are set out in the Law and Regulation Service Plan, which is approved annually by the Cabinet Member and is subject to monitoring by Scrutiny in accordance with the Council's performance management framework. In accordance with the FSA Framework Agreement, the Council is required to produce annual service plans for Food Safety, Communicable Disease, Feed Standards and Food Standards and to have them formally approved

at an appropriate level within the organisation. Therefore, the Cabinet Member is required to formally consider and approve the Food Service Delivery Plan which covers all of these areas.

The Plan clearly identifies that there are insufficient resources to deliver all of the food hygiene and food standards interventions required by the Food Law Code of Practice. Therefore, available resources are being concentrated in carrying out inspections of higher risk food premises and intervention work is being prioritised according to risk. The Report and the Plan also set out a number of agreed actions that will be taken to address issues identified as a result of the recent FSA inspection review and, in particular, the accuracy of the data for food standards interventions.

Comments of Head of People and Business Change

There are no direct HR implications contained within this report.

The report seeks approval for the Food Service Delivery Plan for 2019/20, which governs the work of food hygiene and food standards. All local authorities are required to produce a service plan to show their contribution to corporate and other strategic plans. Ensuring the safety and quality of Newport's food offer contributes to the Council's well-being objectives and to the interventions in the city's Well-being Plan including Newport Offer and Strong Resilient Communities, as well as the priorities of Safer Newport City Council which is to ensure public protection and safety. The report has considered the five ways of working as required in the Well-being of Future Generations Act and meets the national well-being goals of a prosperous Wales and a healthier Wales.

Scrutiny Committees

No consultation with Scrutiny Committees has been undertaken.

Equalities Impact Assessment and the Equalities Act 2010

No Equalities Impact Assessment is necessary.

The proposed to deliver this statutory regulatory work has no more impact on those with protected characteristics than any other group or individual.

Children and Families (Wales) Measure

The proposal set out in this report has no more impact on children or families than any other group or individual.

Wellbeing of Future Generations (Wales) Act 2015

Well Being Assessment:

- **Long term:** The Plan sets out regulatory work for this financial year but this is part of regulatory work that must be undertaken every year and therefore it has impact beyond one year.
- **Prevention:** The Plan sets out how inspections and interventions will be delivered in order to prevent members of the public from illness and possible death.
- **Integration:** The work of Environmental Health and Trading Standards are integrated as set out in the Plan.
- **Collaboration:** This regulatory work is delivered by all local authorities and in collaboration with the Food Standards Agency Wales.
- **Involvement:** This regulatory work encourages businesses to improve their compliance with legislative requirements and best practice.

Crime and Disorder Act 1998

The proposal set out in this report has no impact on crime and disorder.

Consultation

No consultation is necessary.

Background Papers

None.

Dated: 14 February 2020

List of Appendices

Draft Food Service Delivery Plan