



Report to Policy Committee

Author/Lead Officer of Report: Jennifer Marshall Team Manager Food Hygiene and Infectious Disease, Louise Ashton Team Manager (J/S) Trading Standards Commercial, Ian Ashmore Head of Environmental Regulation and Licensing.

Tel: MS teams call or email
Jennifer.marshall@sheffield.gov.uk ,
Louise.Ashton@sheffield.gov.uk,
ian.ashmore@sheffield.gov.uk

Report of: Richard Eyre – Director of Street Scene and Regulation
Report to: Waste and Street Scene Policy Committee
Date of Decision: 21st of June 2023
Subject: Decision on the proposals in the 2023/2024 Food Plan to fulfil Sheffield City Councils statutory duties with respect to Food Safety and Food Standards in Food Businesses

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given? EIA ID: 2148				
Has appropriate consultation taken place?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below: -				
<p><i>“The (report/appendix) is not for publication because it contains exempt information under Paragraph (insert relevant paragraph number) of Schedule 12A of the Local Government Act 1972 (as amended).”</i></p>				

Purpose of Report:

SCC is a statutory body in respect of delivering food controls, and we are required to follow guidance from the Food Standards Agency (FSA) with respect to Food Hygiene and Standards, including a requirement to deliver a Service Plan including a programme of inspection of food businesses for 23/24.

During the covid pandemic there were periods when routine work was suspended and many businesses closed, which has adversely impacted many Councils' inspection programmes. There are also national shortages of qualified staff which are affecting us. The enclosed plan has our proposals for fulfilling our Hygiene and Standards responsibilities over the next year, including how we propose to respond to the backlog in food visits that remain.

Recommendations:

That the Waste and Street Scene Policy Committee:

- a) Approve the Service Plan including the risk-based food programme proposals in the attached report concerning Food Safety and Standards; and,
- b) Note the necessary overspend in this area to enable statutory duties to be met and the backlog to be reduced which will be mitigated by savings achieved elsewhere in Street Scene and Regulation in 23/24

Background Papers:

None

Food Service Plan 2023/24

Lead Officer to complete:-	
1	<div style="display: flex;"> <div style="flex: 1;"> <p>I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.</p> </div> <div style="flex: 1;"> <p>Finance: James Lyon</p> <hr/> <p>Legal: Patrick Chisholm</p> <hr/> <p>Equalities & Consultation: Ed Sexton</p> <hr/> <p>Climate: Victoria Penman</p> </div> </div>
	<p><i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i></p>
2	<div style="display: flex;"> <div style="flex: 1;"> <p>SLB member who approved submission:</p> </div> <div style="flex: 1;"> <p>Ajman Ali</p> </div> </div>

3	Committee Chair consulted:	Joe Otten
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Committee by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
Lead Officer Name Ian Ashmore		Job Title: Head of Environmental Regulation and Licensing
Date: 06/06/2023		

1. **PROPOSAL**

- 1.1 To deliver a risk-based Service Plan for 2023/2024 with respect to Food Safety and Food Standards interventions.
- 1.2 Food safety covers the microbiological safety of food and water and potential cross contamination (of allergens). Food standards includes composition, labelling (including allergens) and nutritional content.
- 1.3 Businesses have been severely impacted by the pandemic and the subsequent cost of living situation and have seen a significant decline in the levels of compliance, with business closures at a record level. In addition, previous cost-effective ways of delivering our food inspection programme which in Sheffield was delivered using a mix of inhouse for higher risk work and contractors for lower risk visits, have been badly disrupted during the pandemic and there is a national shortage of food qualified contractors.
- 1.4 The pandemic created local and national issues for food programmes, so the Food Standards Agency (FSA) amended statutory guidance and gave more flexibility to councils during the pandemic. They published a recovery plan for food business inspections on how councils should get back on track and what was a priority.
- 1.5 We have largely met the milestones for Food Standards (albeit some risks remain) and we met all but the final milestones for Food Hygiene, carrying a deficit of 207 establishments rated C and broadly compliant. These are generally good businesses, presenting a medium to low risk so are usually conducted by our contractors. The FSA expect us to now return to the standard operating model in 2023/4 so we have an increased number of inspections due this year.
- 1.6 We had been largely unable to rate most new premises/premises that have changed ownership within the FSA expected 28-day target however we did provide them with information and advice in the meantime.
- 1.7 Our contractors failed to meet their targets during the previous year, due to a lack of staff caused by a slow post pandemic return to the profession by many self-employed specialists. We have since procured a new 4-year contract for medium to lower risk interventions which is intended to address the risks we face by carrying backlogs, and we have already allocated the outstanding work.
- 1.8 The FSA delivery model for Food Standards is changing during 2023/24, with the FSA publishing the new Food Law Code of Practice on 08.06.23.

- 1.9 In relation to Food Hygiene the changes will not be effective during the 2023/2024 period and so the delivery model for this year is unchanged by the new code, although with the ending of the measures put in place for the recovery from the pandemic, we are again now required to fulfil all our programme each year, with flexibilities only in respect of the very lowest risk interventions.
- 1.10 It is anticipated that the new delivery model for Hygiene will be implemented from 2025, and a new plan will be produced at that point to reflect this. We expect that our current triage and risk-based programme will align with the anticipated new model.
- 1.11 We propose to use all flexibilities currently available to us and are working towards removing the backlogs caused during the Pandemic. Details of mitigation we have delivered is contained in the plan.
- 1.12 We ask for consideration of the alternatives we have considered below. The risk-based plan will reduce our backlogs but will not fulfil our statutory obligations. Although primary responsibility for safe food practices rests with food businesses, there remains a residual risk to public health and there is also a potential reputational risk if we are unable to deliver our preventative work and any food safety incident occurs at an establishment we have not inspected within a timeframe where a visit would be required.

1.2 **Food Standards**

- 1.2.1 Major changes are expected to Food Standards delivery in 2023/24 as it is anticipated that the new Code of Practice will a new delivery model from quarter 3 of 2023. Details of the new model and FSA expectations of Local Authority food standards delivery will be contained in the new Food Law Code of Practice, published on 8.6.23.
- 1.2.2 It is anticipated that the new delivery model will significantly change the way in which food standards official controls are delivered and will require a major overhaul of the risk rating system which will have additional resource implications for Sheffield.
- 1.2.3 Until the new requirements for food standards delivery are fully digested and understood, the authority intends to follow Food Standards Agency advice to return, where resources allow, to work towards the priorities of the current Code of Practice. Our resources will be used to 'apply a risk-based and intelligence led approach to our prioritisation of interventions as we work towards re-aligning with the Code.' In practice, this means we will be prioritising interventions according to the milestones outlined in the period of the Recovery Plan and prioritising other interventions, e.g. allergen interventions, based on local risk assessment and available intelligence while having due regard for the Code. (Food Standards Agency 2023).

1.2.4 There are currently a significant number of premises awaiting a revisit where an initial hygiene and cross contamination inspection highlighted other potential allergen issues. We have taken a risk-based approach to reducing these and visits demonstrate the majority of businesses have rectified their problems although some risks remain.

1.3 Food Hygiene

1.3.1 Although we have met much of the recovery plan from the FSA, there is a legacy from the suspension of routine work during the Pandemic, of overdue food interventions in addition to the new yearly programmes, which we are required to clear. The reduction in compliance during the Pandemic has also led to a large increase of businesses found to be an imminent risk to health, necessitating closure, which puts considerable pressure on current resources.

1.3.2 Sheffield City Council has a legal duty to ensure that food safety legislation is enforced throughout the City. This is generally achieved by a schedule of programmed inspections in line with Food Standards Agency guidance and dealing with any reactive work such as complaints and other intelligence that may be received regarding food safety and standards issues in the City.

1.3.3 The Food Standards Agency (FSA) are the central government regulator responsible for monitoring local authority performance to ensure we work in accordance with published codes of practice. They acknowledged the impacts of the Covid pandemic, providing a recovery plan removing the obligation until 31/03/2023 to fulfil all outstanding interventions. However local authorities are expected to realign their work in accordance with the published codes of practice after that date.

1.3.4 As such this year we have both new inspections due and the ones carried forward. SCC had amassed over 3,000 overdue interventions during this time and will have at least 3000 new interventions added during the scope of the plan.

1.3.5 Food safety interventions in Sheffield have previously been completed by a combination of in-house officers performing high risk duties and private contractors undertaking lower risk tasks with support from the Food Team. We relied on the external contractors to complete the majority of our yearly interventions. **This business model was cost effective and worked very well, enabling us to achieve a high level of compliance with requirements, such that 2019/20 saw the lowest level of outstanding interventions in 15 years.**

1.3.6 However, Contractors were not working for much of the pandemic, and subsequently many officers have not returned to the Profession. There is now a deficit of suitably qualified food specialist officers.

- 1.3.7 A new 4-year contract has been secured from 01/04/2023 to increase contractor capacity, however this is not sufficient to significantly reduce the overdue backlog, as Contracting resources have not yet returned to earlier levels and may never do as there are simply not enough qualified staff remaining nationally.
- 1.3.8 We have taken considerable steps to mitigate the public health and legal risks associated with not completing high risk interventions. We interviewed for an additional Food Officer in early June and expect to appoint.
- 1.3.9 We have trained enforcement officers to visit newly registered businesses, providing information to assist them in complying with their subsequent inspection, and signposting them to the services of Business Sheffield, as many are found to be affected by the cost-of-living crisis and at risk of cutting corners.
- 1.3.10 We are using the enforcement officers to visit low risk businesses with a detailed questionnaire as an alternative to an official inspection. This is enabling us to even out the volume of lower risk visits required over time, freeing officers and contractors to concentrate on official controls.
- 1.3.11 We are actively working with Business Sheffield to assist businesses to give them the best opportunity to provide safe food, be legally compliant and cause their businesses to thrive. We are looking how other teams can help survey our Authority for indications of noncompliance and providing signposting information to all teams that might interact with food businesses.
- 1.3.12 To address our aging workforce situation, and the national shortage of qualified staff we must succession plan. We are considering a range of training and apprenticeship options to provide competent qualified officers. We have already trained one food safety officer via a new pathway and agreed a part time secondment to our food team as an interim measure.
- 1.3.13 The proposals therefore reflect the increased costs associated with outsourcing, and include temporary and permanent recruitment, succession planning and overtime for existing staff. The plan highlights that despite taking a risk-based approach to our inspections there is a considerable risk we will be unable to deliver all the required inspections next year. We understand a number of other councils will be in a similar position.
- 1.3.14 To deliver our statutory work and tackle the increased programme for this year, we will need to recruit at least 2 further food qualified staff and this will be a further budget pressure this year.
- 1.3.15 Employing temporary food qualified staff to tackle the backlog in the short term is unlikely to be a solution due to shortages in the profession so there are few people willing to take temporary work.

1.3.16 2 permanent additional food staff G8/9 will cost around £100k PA and would deliver between 920 and 1380 additional visits per annum per year depending on how bad standards have deteriorated in premises

2. HOW DOES THIS DECISION CONTRIBUTE?

2.1 The benefits of the proposals are outlined above. These all help deliver key elements of the council's one year delivery plan, particularly issues concerning health, education, and skills, and supporting economic growth.

2.2 This Food Plan supports the 22/23 delivery plan in the following areas:

- Healthy lives and wellbeing for all
- Clean economic growth

2.3 Specifically

-Integrating service delivery to improve wellbeing by disseminating information on food inspection, hygiene, safety & standards promotion etc.

-Contributing to sustained clean economic growth by both creating and increasing demand for healthier foods and ensuring a standard that encourages businesses to trade.

-Improving business profitability through improving hygiene standards and increasing customer satisfaction.

-Increasing the opportunity for all to have a healthier lifestyle.

2.4 Also, ensuring that standards are maintained in all food businesses gives encouragement to growth of existing business, and the advice element is crucial in helping new or current businesses flourish in Sheffield, supporting the priority of economic growth.

2.5 There are significant health related elements contained in the Food Plan since food is fundamental to all. Wholesome food is necessary for survival and healthy diet choices can have a significant impact on overall health, including obesity levels and associated illnesses. The Food Plan enforcement aspect addresses the issues around the wholesomeness of food, and the promotional arm looks at informing people in order that they can make the right choices.

2.6 Businesses have struggled to recover from post pandemic staff shortages, and cost of living rises. This is evident in the scale of food business failures and closures.

- 2.7 Our teams understand the pressures on businesses and strive to educate and support their efforts to comply with legislation. We offer referrals to Business Sheffield where financial difficulties are identified.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 There are limited avenues for consultation, given the regulatory frameworks. However, the Food Standards Agency scrutinises our plans and performance quarterly and provides feedback which is shared with our Director. We remain in regular contact with them and we will send them the 23/24 plan once it is approved and they may have further questions then.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality Implications

- 4.1.1 Residents need to have access to safe and wholesome food wherever they live in the city. A robust food intervention programme ensures equality of access to safe food. The plan is risk based and aims to ensure public safety and has universal benefits. An initial EIA has been completed.

4.2 Financial and Commercial Implications

- 4.2.1 The additional recovery proposals are unfunded and will worsen the Councils revenue budget position on an ongoing basis. The Street Scene & Regulation service will need to find savings to mitigate this cost. It is proposed that in year savings across Street Scene & Regulation will be used in mitigation.

5. Legal Implications

- 5.1 Local Authorities have duties to undertake programmes of Official Controls and interventions in line with the requirements of the Food Safety Act 1990. The FSA is a non-ministerial Government Department who oversee Local Authority activity with regard to Public Health risks arising in connection with the consumption of food and the protection of consumer interests in relation to food. Ultimately the FSA can intervene where it believes a Local Authority is not meeting its legal obligations.
- 5.2 Primary responsibility to comply with food law rests with the business, and responsibility for breaches would lie with the operators. However, there is a considerable reputational and public health risk associated with inspection backlogs.

5.3 As well as the prevention issues mentioned in the report, increasing staffing to reduce the size of the backlog and speed up the pace of recovery will reduce these risks.

6 Climate Implications

6.1 These proposals have limited climate impact. An impact assessment was conducted and a full assessment is not required.

7. Other Implications

7.1 Delivery of the plan is dependant on the availability of appropriately qualified skilled officers, both in house and via our contract.

7.2 There is a national, recognised skill shortage. We have an ageing workforce and urgently need to fill training pathways to ensure future service delivery. We are committed to providing resilience to our teams by creating opportunities for trainees and apprentices.

7.3 This does not address the possibility of Contractors failing to source sufficient officers to deliver the current programme, however, the increase in our resource and costs is intended to mitigate against the highest risks and the additional staff will provide resilience and reduce health risks.

8 **ALTERNATIVE OPTIONS CONSIDERED**

8.1 As part of a wider structural review, we are reviewing the organisation of Food Standards and Hygiene delivery to ensure best value and the most efficient use of resources. This is also required to minimise the overall regulatory burdens on businesses. A combined hygiene and standards visit would reduce standards backlogs but would reduce the number of hygiene visits – the cost benefits will be shared with members in June

8.2 We could choose to not follow the Food Law Code of Practice guidance, however, as highlighted above the FSA would be likely to directly intervene to ensure the requirements of the Code were followed. This would be a reputational risk and would not be in the best interests of our residents.

8.3 Previous Project Management studies have reviewed the cost benefits of the use of Contract staff versus in house staff and concluded that the hybrid model provides best value for money. However, given current problems we need to recruit additional inhouse staff.

- 8.4 If our Contractor is unable to provide additional resource during the plan, we will inevitably carry forward at least 1100 medium to low-risk interventions which we are required to complete by statute. Employing additional ‘food competent’ officers to concentrate on medium to low-risk interventions, would allow us to clear the backlogs and be in a safer position by 2024/25 so that is what we propose to do. It is proving difficult to recruit temporary staff due to national shortages of contractors hence the need to take on additional permanent staff.
- 8.5 Flexibilities in the Current Code of Practice allow us to use alternative means of conducting the lowest risk interventions which we will do.

9. REASONS FOR RECOMMENDATIONS

- 9.1 We are required to produce a Service Plan setting out amongst other things how we will meet our obligations in terms of activities such as inspections.
- 9.2 Previously, we made full use of the flexibilities given us by the FSA during the pandemic and have met most of the recovery plan milestones in the FSA plan. However, the return to regular inspection programmes and frequency this year requires us to deliver an unprecedented number of inspections at a time when there are reduced qualified staff nationally. As such we will continue to take a risk-based approach and do all we can to reduce risk to public health. To deliver the programme, will inevitably mean an overspend. A risk-based approach to tackling the large number of inspections will be taken. To deliver the large number of visits we will need to take on additional staff to meet these statutory guidelines.
- 9.3 We believe these proposals meet the requirements to produce a statutory food plan:

‘The plan must cover all areas of food law the Competent Authority has a duty to enforce, be documented in accordance with Chapter 2 of the Practice Guidance and the Framework Agreement. It must set out how the Competent Authority intends to deliver and resource official food controls and other official activities in its area and address any variance in meeting the outcomes of the previous service plan. A performance review must be carried out at least once per year and be documented. The plan must be submitted for approval by a relevant member forum or relevant senior officer’ (Food Law Code of Practice (England) (issued March 2021)

Appendix A

Sheffield City Council Food Plan 2023/24