

**Delegated Decision Notice No 18010
Report of Environmental Health & Licensing
Manager Requesting the Exercise of Delegated
Authority by the Cabinet Member with
Responsibility for Housing & Public Protection.**

16th July 2018

Not Exempt



**Horsham
District
Council**

FOOD SAFETY AND HEALTH & SAFETY SERVICE PLAN 2018/2019

Executive Summary

Local Authorities are required by the Food Standards Agency (FSA) and the Health and Safety Executive (HSE) to prepare an annual Service Plan for approval by the Members. The Service Plan is seen by both the FSA and HSE as an important part of the audit process to ensure that national priorities and standards are addressed and delivered locally. The form of the Plan and its contents are specified in national guidance.

Recommendations

The Cabinet Member with Responsibility for Community & Wellbeing is recommended to adopt the draft Commercial Team Service Plan set out at Appendix 1 of this report as the Council's Food Service and Health & Safety Plan for 2018/2019.

Reasons for Recommendations

- i) To ensure transparency and accountability for the Commercial Team Service Plan and its policies, and
- ii) To comply with FSA and HSE Guidance

Approved by the Cabinet Member for with Responsibility for Housing & Public Protection

Signed: *SIGNATURE REDACTED*

Date: 16th July 2018

Background Papers

- Framework Agreement on Official Feed and Food Controls by Local Authorities. FSA April 2010
- Food Law Code of Practice 2015
- LAC 67/2 (Rev 7) 2018
- HSE National Local Authority Enforcement Code 2011

This proposal affects all wards

Contact: Paul Hobbs, Principal Environmental Health Officer (Commercial Team)
Extension No. 5421 paul.hobbs@horsham.gov.uk

Background Information

1 Introduction and Background

- 1.1 As part of their monitoring of local authority food enforcement the FSA & HSE require local authorities to produce an annual Food Safety and Health and Safety Service Plan that has been approved by Council and will be made available on the Council's website.
- 1.2 Set out at Appendix 1 to this report is the draft Commercial Team Service Plan for 2018/2019 for consideration and approval by the Council. The Plan when it is approved has to be made available to the HSE & FSA for auditing purposes. It will also be available on the Council's website.
- 1.3 Horsham District Council has an obligation to protect the health of the local community and visitors to the district from food safety risks and food fraud by maintaining hygiene checks on local food premises.
- 1.4 The current requirement detailed in the FSA Food Law Code of Practice 2017 is that Authorities should continue to inspect all high and medium risk premises.
- 1.5 The Council also has an obligation to protect the health, safety and welfare of the local workforce and others from risks unsafe working practices by ensuring that employers comply with relevant health & safety legislation.
- 1.6 The Council uses local knowledge to target resources at the riskiest businesses, while national coordination through the Health & Safety Executive helps to ensure that areas of industry most at risk are generally targeted accordingly.
- 1.7 The Council uses a graduated & proportionate approach to improve standards at poor performing businesses. Where necessary we will educate & provided assistance to local businesses to improve safety while taking firm action with businesses that blatantly flout the law or present an unacceptable risk to the public.

2 Relevant Council policy

- 2.1 Horsham District Council Corporate Plan Priorities 2016-19
 - Improve and support the local economy
 - By providing environmental health and licensing services which make a fundamental contribution to the maintenance and improvement of public health, quality of life and wellbeing
- 2.2 Horsham District Economic Strategy 2013 – 2023
 - Create a prosperous and resilient Horsham District economy, by using our economic strengths to attract new investment, while growing and retaining our existing businesses, in order to improve local employment opportunities and quality of life for all

3 Details

- 3.1 The Plan covers all areas of food law that Horsham District Council has a duty to enforce and set out how we as a competent authority intend to deliver Official Controls within our area.
- 3.2 The Plan also covers the full range of interventions we will use to influence behaviours and the management of risk to health & safety. Proactive inspections can be used only for premises with higher risks or where intelligence shows that risks are not being effectively managed.
- 3.3 The Plan enables the Council to use a risk-based, targeted and proportionate approach to their interventions and enforcement in accordance with the principles of good regulation which requires enforcement to be demonstrably targeted, proportionate, consistent, transparent and accountable.
- 3.4 To help to ensure local transparency and accountability, and to demonstrate our contribution to Horsham's corporate objectives, the Service Plan should be approved by the Cabinet Member for with Responsibility for Community & Wellbeing

4 Next Steps

- 4.1 The Cabinet Member with Responsibility for Community & Wellbeing is recommended to adopt the draft Food Service Plan and the Health & Safety Service Plan set out at Appendix 1 of this report as the Commercial Team Service Plan for 2018/2019.

5 Outcome of Consultations

- 5.1 None

6 Other Courses of Action Considered but Rejected

- 6.1 None

7 Resource Consequences

- 7.1 Food businesses have the right to appeal their food hygiene rating score (FHRS) if they feel it is unjust. The appeals procedure may have resource consequences for the department, as the Commercial Team Leader is required to consider each appeal on merit
- 7.2 There is also a procedure to allow businesses to have their food hygiene rating scores re-assessed. This applies in cases where food business operators have made the necessary improvements to address non-compliances identified during the initial visit.
- 7.3 As from the 1st April 2017 we introduced a charge of £145.00 to the business for each re-visit carried out at their request. There is an expectation that as the

business is paying for the re-visit, this will be undertaken without unnecessary delay. A large number of re-visit requests could have resource implications for the department especially if there is a huge demand.

- 7.4 The requirement for Councils to target health and safety interventions on higher-risk areas and greater emphasis on dealing with serious breaches of health and safety regulation ensures that resources are available to target other areas of health and safety as identified by the HSE through a number of non-inspection interventions.
- 7.5 As routine health and safety inspection numbers decrease we have seen an increase of reported accidents in the workplace and complaints from lower risk premises, which no longer receive routine inspections. Officers have been required to deal reactively with matters of evident or potential major health and safety concern. This has had resource implications where we have undertaken the collection of evidence, conducting interviews & attendance in Court following consultation with the Councils Legal Team to initiate legal proceedings.
- 7.6 We are required to set up, maintain and implement a documented procedure for the authorisation of officers based on their competence and in accordance with the relevant Codes of Practice and any centrally issued guidance.
- 7.9 In order to meet our responsibility for the enforcement of food hygiene and health & safety legislation we are required to appoint a sufficient number of authorised officers to carry out the work set out in the service delivery plan. An officer with specialist knowledge must have lead responsibility for the relevant legislation.
- 7.10 The level of authorisation and duties of officers should be consistent with their qualifications, training, experience and the relevant Codes of Practice and any centrally issued guidance. To maintain a suitable level of expertise and competence all authorised officers and appropriate support staff are required to receive the training needed to be competent to deliver the technical and administrative aspects of the work in which they will be involved, in accordance with relevant Codes of Practice and any centrally issued guidance
- 7.11 The Authority are required to make available the necessary facilities and equipment that are required for the effective delivery of all activities associated within the Service Plan including protective clothing, laboratory support, computer software packages, etc.

8 Legal Consequences

- 8.1 The Legislative and Regulatory Reform Act 2006, Part 2, requires the council to have regard to the Principles of Good Regulation when exercising a specified regulatory function. For local authorities, the specified functions include enforcement powers under the Food safety Act 1990 and the Health & Safety at Work Act 1974
- 8.2 In response to any non-compliance that we encounter we are required to have regard to the Regulators Code. The Code states that Regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent.

- 8.3 This requirement does not apply where the regulator can demonstrate that immediate enforcement action is required to prevent or respond to a serious breach or where providing such an opportunity would be likely to defeat the purpose of the proposed enforcement action.
- 8.4 The Principles of Good Regulation have been incorporated into the Environmental Health & Licensing Enforcement Policy, The Food Safety Enforcement Policy and the Health and Safety Enforcement Policy

9 Risk Assessment

- 9.1 As part of its duty under the Food Standards Act 1999 of monitoring the performance of enforcement authorities, the FSA has the powers to request information relating to enforcement action, and to make reports on our performance in enforcing relevant legislation. The Agency is also required to audit enforcement authorities in accordance with Regulation (EC) No 882/2004, and to follow relevant EC regulations, decisions and guidance.
- 8.6 FSA follow-up action normally depends on the level and type on non-conformance identified at an audit. The normal procedure is to develop an Action Plan of measures required to improve. Follow-up arrangements by the Agency may include a revisit to check progress. Where these arrangements identify failure to implement all or part of their action plan, subsequent Agency action is considered on a case-by-case basis. In extreme cases this can result in the FSA taking over the Food Service Delivery from the Council

10 Other Considerations

- 10.1 The Service Plan takes into account the need to protect public safety whilst also having regard to the local economy through actions that are proportionate to risk.