

Clive Heaphy
Chief Executive (Acting)
Birmingham City Council

By email: c/o dawn.baxendale@birmingham.gov.uk

13 December 2019

Our ref: 19/11/19/HCS

Dear Mr Heaphy,

Birmingham City Council - Food Safety Service

As you may be aware there has been ongoing correspondence since July 2018 between the Food Standards Agency (FSA) and Birmingham City Council (BCC) about the Council's ability to deliver an effective food safety service. I am writing to bring to your attention our ongoing concerns, and to seek your assurance that appropriate and timely action will be taken to make the necessary improvements to the service.

Copies of the most recent prior correspondence are enclosed for ease of reference.

Given the seriousness of our concerns, previous engagement was at chief executive level and was between Dawn Baxendale, and Jason Feeney, my predecessor at the FSA. This level of engagement equates to Stage 3 of the escalation process that we introduced in March this year for managing local authority performance. A copy of the process is also enclosed.

As you will see, Dawn Baxendale's letter of 20 February 2019 outlines how BCC aimed to tackle a substantial backlog of food businesses awaiting an initial inspection (unrated premises). Having monitored the situation, we are concerned that progress in tackling has not progressed as anticipated.

In addition, a review of BCC's annual local authority enforcement monitoring (LAEMS) return for 2018/19 indicated that there were around 700 overdue hygiene interventions at food businesses (these have been previously rated) at the end of March 2019.

In order to better understand and assess the situation at BCC, Helen Castledine-Smith and Andy Gangakhedkar from our local authority performance management team met with Paul Lankester, Interim Assistant Director Regulation Enforcement, Mark Croxford Head of Service, and Gary James and Nick Lowe, Health and Safety Food Leads, on 28 October this year.

From the update provided and from a subsequent review of BCC's premises database, I remain extremely concerned about the effectiveness of the food safety service being provided by BCC and about the potential risks to public health.

It is evident that the number of unrated premises has now increased to over 1,200, and our analysis suggests that around 86% of these are likely to be high risk businesses in terms of their activities and/or level of compliance with food safety requirements. To add to this, an estimated 1,000 new registrations will be received in 2019/20 which will further add to the number.

Similarly, the backlog of overdue interventions of rated premises is continuing to grow and now stands at more than 1,000 of which around 70% are high risk premises.

In addition to these risks I am concerned that, although the level of enforcement action remains high at BCC, there has been a reduction on previous years. Similarly, there has been a reduction in the number of hygiene complaints received that are being investigated. I appreciate that these reductions may result from the pressure on the service to tackle the backlogs of unrated premises and overdue interventions, but these are also important aspects of the food safety service.

I understand that BCC's own Food Law Enforcement Plan states clearly that the current level of resource is insufficient to meet the standards that the FSA sets for local authorities in the Food Law Code of Practice. I understand also that, despite this, the plan was approved by members in July 2019.

In view of the points above, I must ask for your urgent assurances that sufficient resources will be made immediately available to deal with the backlogs and ensure that currently unrated premises are inspected and that overdue interventions are undertaken.

I must also ask for reassurance that steps will be taken to ensure that the team is sufficiently resourced on an ongoing basis enabling it to provide an effective service and an appropriate level of public health protection.

I appreciate the challenges that BCC faces in regulating so many food businesses, in dealing with high levels of business churn and I am also aware of the recent additional pressures on the service as a result of a food incident involving waste animal products

entering the food chain. I acknowledge the impact both factors have on delivery of BCC's planned inspection programme and would reassure you that we will continue to work with you and support you in addressing the issues of concern in relation to this.

I would be grateful to receive your response by 3 January 2020. If you consider it would be beneficial, I would be happy to ask my office to arrange a meeting between us, involving appropriate officials.

In the meantime, our performance management team will contact Mark Croxford in relation to agreeing a revised action plan to reflect the issues outlined above and to ensure that they are dealt with on a risk priority basis and within an appropriate timeframe.

In line with our new escalation process, I am copying this letter to Paulette Hamilton Cabinet member for Health and Social Care at BCC. I will also be informing our Board at its Business Committee meeting in January, the Local Government Association and colleagues at the Ministry of Housing, Communities and Local Government.

Yours sincerely,



Chief Executive, Food Standards Agency

cc: Maria Jennings – FSA, Director for Regulatory Compliance, People and NI
Michael Jackson - FSA, Head of Regulatory Compliance Division
Mark Croxford - Birmingham City Council, Head of Environmental Health,
Paul Lankester - Birmingham City Council, Interim Assistant Director Regulation Enforcement

