

## **BIRMINGHAM CITY COUNCIL**

### **REPORT OF THE INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**09 March 2022**  
**ALL WARDS**

### **THE FOOD HYGIENE INSPECTIONS RECOVERY PLAN FOR THE PERIOD OCTOBER 2021 TO MARCH 2023**

#### **1. Summary**

- 1.1 The Recovery Plan sets out the Food Standards Agency's (FSA) guidance and advice to local authorities for the period from 1 July 2021 to 31 March 2023.
- 1.2 The guidance and advice aim to ensure that during the period of recovery from the impact of COVID-19, local authority resources are targeted where they add greatest value in providing safeguards for public health and consumer protection in relation to food. It also aims to safeguard the credibility of the Food Hygiene Rating Scheme (FHRS).
- 1.3 The Recovery Plan provides a framework for re-starting the delivery system in line with the Food Law Codes of Practice (for England, Wales and Northern Ireland) for new food establishments and for high-risk and/or non-compliant establishments while providing flexibility for lower risk establishments. This should be implemented alongside delivery of:
  - Official controls where the nature and frequency are prescribed in specific legislation and official controls recommended by FSA guidance that support trade and enable export
  - Reactive work including enforcement in the case of non-compliance, managing food incidents and food hazards, and investigating and managing complaints
  - Sampling, and
  - Ongoing proactive surveillance.

#### **2. Recommendations**

- 2.1 That the Birmingham City Council Food Recovery Plan be approved, in accordance with the FSA national guidance.

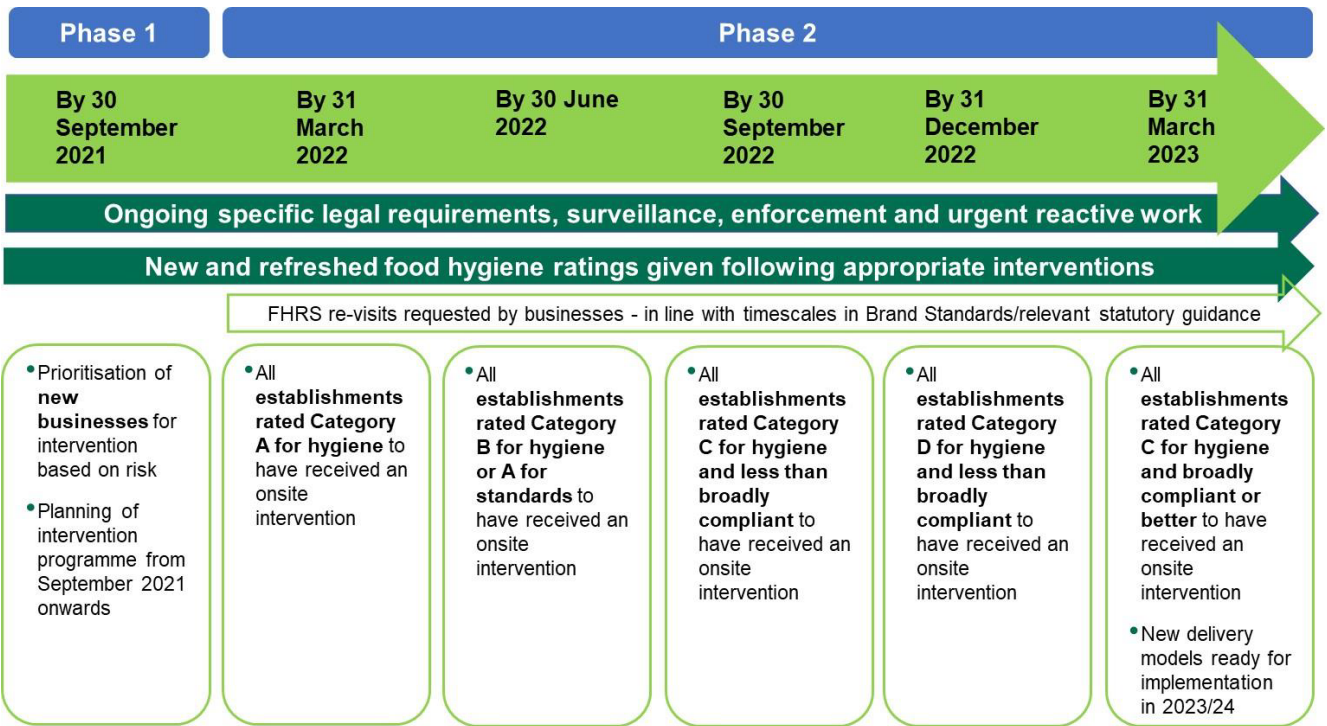
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3. **Background**

3.1 All Local Authorities are expected to have regard to the FSA national guidance and advice when implementing food recovery plans following the cessation of inspections during the pandemic. The current advice applies from 1 July 2021 at which time it superseded the guidance and advice provided in response to the COVID-19 pandemic that applied up to 30 June 2021.

4. **Recovery Plan Timeline**

- 4.1 There are two phases to the Recovery Plan:
- Phase 1 - 1 July to 30 September 2021
  - Phase 2 – 1 October 2021 to 2023/24
- 4.2 Phase 1 was designed as a period of planning for the full commencement of programmed inspections. The time was also used to contact all uninspected businesses, to learn more about their methods and level of risk, to assist with prioritising visits to these premises.
- 4.3 Phase two is the commencement of the programme of visits in accordance with the priorities as detailed in the table below. In essence, Phase 2 will continue until a new food standards delivery model and a revised food hygiene intervention rating scheme are in place. The new delivery model for food standards is being piloted in England and Northern Ireland until the end of December 2021. Subject to the findings of an evaluation of the pilot and stakeholder consultation, 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.



Picture 1: FSA Guidance for LAs in designing their recovery plans.

- 4.4 When intelligence suggests risks have increased (irrespective of the risk category) local authorities are required to undertake interventions to assess and address those risks. This could mean an inspection earlier than the timescale indicated above. This may be where a complaint has been received alleging poor hygiene conditions, or an allergen issue.
- 4.5 When an onsite intervention is undertaken, local authorities should programme subsequent interventions in line with the Codes of Practice.
- 4.6 Local authorities should give new food hygiene ratings where appropriate interventions are undertaken, and the establishment falls within scope of the FHRS.
- 4.7 Where non-compliance is found at any intervention, local authorities should take appropriate action to secure compliance including formal enforcement action as necessary.

## 5. **Other Statutory Duties**

- 5.1 In addition to the commencement of programmed visits, we are also required to maintain a service in the following areas:
- official controls where the nature and frequency are prescribed in specific legislation and official controls recommended by FSA guidance that are undertaken to support trade and enable export
  - reactive work including, enforcement in the case of non-compliance, managing food incidents and food hazards, and investigating and managing complaints
  - sampling in accordance with the local authority sampling programme or as required in the context of assessing food business compliance, and any follow-up necessary in relation to the FSA Surveillance Sampling Programme
  - ongoing proactive surveillance to obtain an accurate picture of the local business landscape and to identify open/closed/recently re-opened/new businesses; as well as businesses where there has been a change of operation, activities or FBO
  - for 'new businesses', consideration of registration information and intelligence with appropriate onsite interventions carried out where there are concerns around public health/consumer protection
  - for 'new businesses' where consideration of registration information and intelligence indicates lower risk, initial visits should be prioritised and undertaken in accordance with the Codes of Practice and Practice Guidance taking account of the flexibilities provided
  - implementing an intelligence/information-based approach for lower risk category establishments
  - responding to FHRS requested re-visits in line with the timelines specified in the FHRS Brand Standard for England or the statutory guidance in Wales and Northern Ireland.

## 6. **Birmingham's Food Recovery Plan**

- 6.1 The inspection plan is included as Appendix 1 to this report. This highlights the planned interventions at previously inspected premises, and those interventions at unrated premises. The risk category applied to the unrated premises is based on work undertaken during phase 1 of the recovery period.

- 6.2 Appendix 1 also highlights the variations and risks inherent in the plan. Contingency plans are in place should the risks become challenging, including the temporary use of agency officers, and the reassignment of officers from other duties.
- 6.3 Monitoring measures are in place to ensure continued progress with the Birmingham food recovery plan is maintained, and to respond to any difficulties that arise.

## 7. **Implications for Resources**

- 7.1 This activity is accounted for in the resources allocated to Environmental Health. Although there has been an investment in Environmental Health of 8 officers this was part of the re-instatement of enough resource to undertake inspections. There are increasing demands placed on officers that are not within our control that impact on resources.

- The National Food Hygiene Rating Scheme colloquially called scores on the doors has been successful and is used by internet ordering companies such as Just Eat, Uber Eats etc. as a control on who is on their smart phone apps. Food businesses that have their FHRs scores of <2 are removed from the respective app. Businesses have stated this can remove between 70% to 90% of their trade. As a result, low scores are routinely challenged by businesses and complaints are made. We work hard to ensure scores are correct but even where they are, the reviews, re-visits and appeals against the reviews all take up time.
- There is an increased demand for re-inspections to reverse low scores and return businesses to the food apps. This means that where a rescore request is received there is now another inspection required within 3 months of this to be rescored, this may be in addition to enforcement revisits that have already been undertaken. A number of these lead to rescoring however some of these lead to further faults being uncovered since the last inspection and then we are back to schedules to remedy defects and re-visit to ensure this is undertaken.
- There was an under estimation on resources required to tackle all of the allergen legislation, and for some businesses with multiple allergens this can double the inspection time and follow-up checks.

## 8. **Implications for Policy Priorities**

- 8.1 Compliant food businesses are not only crucial to the health and safety of citizens and visitors to the city but is also consistent with other policy priorities including economic success, staying safe and being healthy. Non-compliance with food law increases the likelihood of business customers contracting food poisoning and suffering ill health effects.
- 8.2 It is essential that all food businesses in Birmingham are subject to intervention on a regular basis in line with their risk rating.
- 8.3 Environmental Health departments must allocate sufficient resources to the food programme in order to drive up standards of food safety within food businesses in Birmingham and thus reduce the risk of customers becoming unwell.

- 8.4 It is important that all groups within Birmingham, as well as visitors to the city, are offered suitable safety standards in food businesses to allow them to eat out, safely, with confidence.

**9. Public Sector Equality Duty**

- 9.1 Equality issues are accounted for during activities carried out by officers.

**INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: nil

FOOD RECOVERY PLAN 2021 -March 23

Cat		By End March 22	By End June 22	By End Sept 22	By End Dec 22	By End March 23
A		74		74		74
B			479			
C (0-2)				370		
C (3-5)						1332
D (0-2)					167	
D (3-5)						
E						
Unrated		38	543	1867		
Total		112	1022	2311	167	1406

## Variations and Risks

1. Number of current unrated expected to fall following assessments. A large number of unrated are businesses set up during lock-downs at home. Telephone calls indicate approx 30% never operated or closed and do not intend to carry on after lockdown.

2. New unrated not accounted for, these will need to be added, in 2019 we were receiving 100 to 150 per month.

3. We anticipate a high rate of follow up work due to timescale since last inspections, expected increase in revisits, notices, prosecutions and closures. Of these workstreams we could ease the burden by utilising simple cautions rather than formal prosecution but otherwise there is little area here to reduce demand.

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		Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	Jan-23	Feb-23	Mar-23
target 1	Cat A			12	12	12	12	12	14												
	Unrated			5	7	7	7	7	5												
	Completed																				
	Cat A			7	4	10	19														
	Unrated			5	7		10														
target 2	Cat B									120	120	120	119								
	Unrated									148	148	136	111								
	Completed																				
	Cat B			6	4																
	Unrated																				
target 3	Cat C (0-2)													109	261						
	Cat A									12	12	12	12	12	14						
	Unrated			263	261	261	261	261	261			12	38	159	5	85					
	Completed																				
	Cat C (0-2)			3	4																
	Cat A																				
	Unrated			212	119	266	267														
target 4	Cat D (0-2)															55	55	57			
	Completed																				
	Cat D (0-2)			1	0		3														
target 5	Cat C (3-5)															128	213	211	260	260	260

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