

BIRMINGHAM CITY COUNCIL

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

15 JUNE 2016
ALL WARDS

FOOD LAW ENFORCEMENT PLAN 2016/2017

1. Summary

- 1.1 The Local Government Act 2000 requires each Food Authority to identify its strategy and the resources required to fulfil its Food Safety function each year in the form of a Food Law Enforcement Plan.
- 1.2 The Food Law Enforcement Plan for 2016/2017 which is attached to this covering report includes a review of the food safety activity carried out in 2015/2016.

2. Recommendation

- 2.1 That the Food Law Enforcement Plan be agreed.

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3. Background

- 3.1 The Food Law Enforcement Plan sets out the City's commitment to Food Safety Enforcement for the year ahead.
- 3.2 The plan shows the number of food hygiene and food standards interventions which will be required and identifies those areas of work which are considered essential to protecting food safety in Birmingham.
- 3.3 The plan includes the targets that were set for last year (2015/2016) and reviews performance against them.

4. Consultation

- 4.1 The work outlined in this report involves consultation with interested parties such as the Food Standards Agency, DEFRA, and Public Health England.

5. Implications for Resources

- 5.1 Whilst the exact costs are difficult to forecast we estimate that the plan will be delivered within the resources available to your Committee at a ratio of 11.8 full time equivalent officers.

6. Implications for Policy Priorities

- 6.1 Safe food is not only crucial to the health and safety of citizens and visitors to the City but the work which is referred to in the Food Law Enforcement Plan is also consistent with other policy priorities including economic success, staying safe and being healthy.
- 6.2 It is important that all groups within Birmingham, as well as visitors to the city, are offered suitable standards of food quality and hygiene to allow them the healthy lifestyle opportunities to which they are entitled. By targeting food safety interventions according to business risk ratings every effort is made to ensure safe food for all.

7. Public Sector Equality Duty

- 7.1 Equality issues are accounted for during food safety activities carried out by officers.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers:

Local Authority Framework Agreement - Food Standards Agency 2001

FOOD LAW ENFORCEMENT PLAN 2016-2017

1. Background

- 1.1 All local authorities are required to produce a Food Law Enforcement Plan which sets out the measures the authority will take to safeguard food safety during the forthcoming financial year and reviews the targets set for the previous year.
- 1.2 Birmingham has approximately 7,560 food premises including manufacturers, wholesalers, retailers and caterers, ranging from small and medium sized businesses to major concerns and this includes 81 food businesses which need specific approval. In addition many other businesses change hands throughout the course of a twelve month period, and currently there are 988 unrated food businesses requiring inspection and rating. This provides a constant challenge to ensure that all food businesses are included in the regular food inspection programme.
- 1.3 As well as carrying out food hygiene and food standards inspections, all food complaints relating to adulteration, composition, labelling, fitness and quality are investigated. An annual food and water sampling programme is carried out to ensure that microbiological, chemical and compositional standards are met, including nationally co-ordinated surveys. All reported outbreaks and sporadic cases of suspected food poisoning are also investigated.
- 1.4 Food safety activities are undertaken in line with the 'Better Regulation Agenda' brought in by the Regulatory Enforcement and Sanctions Act 2008, i.e. being proportionate, accountable, consistent, transparent and targeted. The Act, therefore, places greater emphasis on providing advice and guidance to food businesses in addition to firm but fair enforcement.

2. Demands on the Food Service

- 2.1 Each Local Authority has different demands which impact on the delivery of the food safety service and within Birmingham these include:
 - Ensuring that the statutory inspection targets are met in respect of such a large number of food premises in the largest local authority in England and Wales.
 - Ensuring that an equitable service is delivered in a multi-cultural City so that information on food hygiene and technical advice is accessible to all food traders.
 - Dealing with a high turnover of food businesses and proprietors within the City and maintaining an accurate database to ensure that all food premises are inspected.

2.2 The reduction in officer numbers within Environmental Health will impact on the service, particularly in respect of planned activities

3. **Introduction to The Food Law Enforcement Plan for 2016/2017**

3.1 The priorities for ensuring food safety in Birmingham for 2016/2017 are to:

- Carry out a programme of food hygiene interventions for the year.
- Investigate all requests for assistance in relation to food hygiene, food standards and food complaints, including sporadic cases and outbreaks of infectious disease.
- Carry out a comprehensive food and water sampling programme.

3.2 The work plan to safeguard food in Birmingham during the forthcoming year is detailed in Appendix 1.

3.3 Some of the figures, such as those for requests for assistance, infection control cases and food alerts given in Appendix 1 are not targets, as these will depend on the number of complaints and requests made which can obviously vary, but are the expected numbers based on the figures for 2015/2016.

3.4 The aim is to achieve a level of food safety in Birmingham that is consistent with the City Councils vision of a safer and healthier city.

4. **Food Premises Interventions**

4.1 Under the Statutory Food Law Code of Practice, all food premises are categorised according to an intervention rating score. This determines the frequency of primary food hygiene interventions, from 6 months to 3 years, and depends on the type of food business, the type of food processing or handling undertaken, hygiene and structure of the premises and how well risks are controlled.

4.2 These criteria are assessed and scored in Birmingham to give food businesses a rating under the 'National Food Hygiene Rating Scheme' (visit www.ratings.food.gov.uk). The scores for 6428 premises are available via the ratings website and since the launch officers have also been issuing window stickers for display in food premises for all businesses. The ratings range from 0 (urgent improvement necessary) to 5 (very good).

4.3 Currently, 85.56% of rated food businesses in Birmingham are classed as 'broadly compliant', which leaves approximately 1,091 which are not, this figure includes 856 0-1 rated premises. Officers will be concentrating on those worst premises i.e. those in the 0-1 range by carrying out additional interventions and taking enforcement action where necessary in order to raise standards to 'broadly compliant'

- 4.4 The authority will continue to utilize a range of interventions depending on the previous history of the food business. These interventions include inspections, audits, monitoring, surveillance, verification visits, advice and guidance and information/intelligence gathering. The intervention programme will be as indicated below.

The higher risk category A to D premises will still be subjected to full inspections. This includes inspections of premises requiring approval, manufacturers and larger more complex food businesses, these types of businesses add an additional 30 officer days per month demand on resources.

In relation to Category E rated premises, we will critically review the nature of the businesses and base our interventions as follows:

- those businesses with no inspectable risk (vending only, bookmakers retailing drinks only, chemists) will be removed from the programme;
- full inspection of low risk child care establishments following referral from Ofsted;
- full inspections of any premises subject to a food hygiene complaint;
- full inspection of 10% of category E premises where open food is handled;
- the remaining premises will be subject to a self-assessment questionnaire by correspondence.

988 unrated food businesses – these are new registration businesses and those discovered operating that have not yet been inspected.

An identified backlog of 312 category D inspections.

An identified backlog of 4,305 category E interventions, these will be analysed to remove any with no inspectable risk. The remaining will be completed over the next 3 years, with 10% being subject to full inspections with the remaining to be self-assessment.

Approximately 500 new registrations expected this year.

- 4.5 Food standards inspections which cover the quality, labelling and composition of food are rated differently but, where possible, these will be carried out at the same time as food hygiene inspections. Particular emphasis will be placed on food standards during inspections of manufacturers. Officers will also check on the traceability of products and their authenticity during inspections, to detect and reduce food fraud.
- 4.6 The food hygiene and food standards interventions which are required during 2016/2017 are given in Appendix 1.

5. Food Related Complaints and Requests for Assistance

- 5.1 Investigations are carried out into complaints about poor hygiene in food premises and in response to requests for assistance from food proprietors who need additional advice about their business. The number of complaints reached an all-time peak last year of 2,622.
- 5.2 In addition, an average of 455 complaints are received each year from members of the public who are concerned about the food they have bought or eaten. These are investigated on health risk basis and are often complex investigations involving other Local Authorities, national companies and importers where food has originated from outside Birmingham or the UK. The main aim of these investigations is to find out whether the complaint is indicative of a general problem which could have serious implications for public health at a local, regional or national level and to take steps to control any further risk. Where the issue is low risk, investigations will be delayed until the next programmed inspection.
- 5.3 The FSA operates a system to alert the public and food authorities to problems concerning food which does not meet food safety requirements or which is inadequately labelled and where a product recall has been issued. Many of these are for information only where the company concerned has been able to trace and recall most of the product, but some require local authority involvement to contact retailers or caterers to ensure the food is removed from sale. With such a large number of caterers and retailers in the City, this can prove a challenging and time consuming exercise. Where a large scale response is required this will impact on other demands of this plan.

6. Home/Primary Authority Principle

- 6.1 The Service supports the Home Authority Principle set up by LGR (Local Government Regulation) and the Primary Authority Principle set up by BRDO (Better Regulation Delivery Office). This means that a formal partnership arrangement is set up so that one local authority becomes the main point of contact to give the business advice on food policy matters and to advise other local authorities on any complaints they may be investigating within their area.
- 6.2 Regulatory Services has formal partnerships for food safety and food standards matters with:
- Mondelez - chocolate and confectionery manufacturer
 - Wing Yip - Chinese importer and wholesaler
 - Walter Smith (Birmingham) Ltd - retail butcher
 - Valerie Patisserie - Bakery
 - Hand Made Burger Co. - Restaurant chain
 - Virgin/ Cross Country Trains - Catering outlets on train services
 - Greggs - Bakery (informal partnership at present)
 - Thai Leisure Group - restaurant chain

- Interstate Hotels - restaurant chain
- Black and White - restaurant chain (proposed)
- Enterprise Inns - Pub Chain (proposed)
- Jimmy Spices - restaurant chain (proposed)

6.3 This is a resource intensive exercise as additional meetings and inspections are required in order to properly advise both the business and other local authorities. Where Primary Authority Partnerships have been agreed, we operate a cost recovery system from the company, with approximately £28,000 recovered this year. For this reason we are looking at converting our existing Home Authority arrangements to Primary Authority Partnerships. We are not able to make a profit on these arrangements, they are purely cost recovery. The principle is supported through our contact with businesses involved in the Greater Birmingham and Solihull Local Enterprise Partnership.

6.4 In addition, Birmingham is the originating authority for approximately 150 food manufacturers, whereby the Home Authority principles are applied, although formal partnerships have not been established with these companies. We have a statutory duty to deal with referrals from other Local Authorities where products manufactured in Birmingham are sold in other areas, and problems are identified. There is no requirement for these businesses to enter into a formal partnership arrangement.

7. Food Sampling

7.1 A food and water sampling programme will be developed during the year in conjunction with Public Health England (PHE) and the Public Analyst.

7.2 The sampling programme will be restricted to national and regional surveys co-ordinated by PHE and CENTSA, the surveys planned and numbers of samples proposed have yet to be agreed due to funding restrictions. There has been a year on year reduction in sampling, from 589 in 2013/2014, 163 in 2014/2015, 61 in 2015/2016 to an unknown number planned for this year. The aim of the programme is to ensure that food and drink supplied, manufactured and sold within Birmingham meets regulatory standards in terms of microbiological safety, labelling, composition and quality, and are accurately described, giving consumers accurate information when purchasing food products.

8. Control of Infectious Diseases

8.1 All outbreaks and sporadic cases of food poisoning and suspected food poisoning are investigated, including potentially serious infections such as typhoid, paratyphoid, dysentery and E. coli 0157. Officers work in close liaison with the Consultants in Communicable Disease Control, Public Health doctors and nurses of the Health Protection Agency to protect the public health of people who live and work in or visit the City. Joint guidelines have been produced to ensure that all cases of infectious disease are investigated

thoroughly. Reciprocal training is carried out to train professionals for both Regulation and Enforcement and the Health Protection Agency.

9. Food Premises Database

- 9.1 It is important that the food premises database is kept as up to date as possible so that all food premises are inspected regularly. To achieve this a range of initiatives are carried out including the registration process, area surveys and officer's working proactively to identify new food premises in their districts. This additional surveillance ensures that new food businesses which have not registered are identified so that they can be included in the food inspection programme.
- 9.2 A number of issues were highlighted relating to the recording of premises on the database, and the ratings applied. A management report has been developed that identifies anomalies in relation to the information held about food businesses, including the ratings applied. This report will be run quarterly and any such anomalies will be corrected. This will ensure that the database is up to date and returns to the FSA are accurate.
- 9.3 There are 98 unrated food businesses that have been identified on the database. These are being included in the inspection programme which will improve the integrity of the database and the returns to the FSA. A regular report will be run to identify unrated premises, to ensure that steps are taken to manage this situation in future.

10. Advice to Businesses

- 10.1 In accordance with the Enforcement Policy, advice is offered wherever possible to food businesses, to assist them in complying with relevant law and the principles of good practice. This advice may be given during inspections or when requests for assistance are received directly from established food traders or from those considering setting up new food businesses.
- 10.2 A special starter pack to help new or proposed food businesses has been developed which is available on the City Council's website (www.birmingham.gov.uk/foodsafety). A wide range of other online leaflets in community languages is also available. The pack is also provided to new businesses at initial inspections when appropriate.
- 10.3 In addition, the food safety web pages on BCC's website provide more information and advice to food businesses and consumers and where to find additional support, such as from the Food Standards Agency.
- 10.4 Officers also work closely with the Events Division to ensure that food and health and safety at large outdoor events in Birmingham are assured. An information pack has been developed for traders to receive in advance and on-the-day inspections will be carried out at events such as Vasaikhi, Eid

Mela, Frankfurt Christmas Market and Taste of Birmingham. The demand in this area of work has increased and the trend continues this year with very high profile events in the city. Additional resources have not been identified to cover this demand and will therefore impact on other parts of this plan.

11. Food Safety and Standards Promotion

- 11.1 Queries from the public will be responded to on food safety matters as part of the overall request for assistance service.
- 11.2 As part of our partnership with Public Health the authority will continue to explore ways to encourage food outlets to provide healthier choices on their menus.
- 11.3 Due to changes in labelling regulations all food business will be required to provide greater information to consumers about allergenic ingredients. Following a significant on-going education programme in the city to prepare businesses for this change, this process will now step up to include planned enforcement at premises deliberately flouting the legislation.

12. Review of work undertaken in 2015/2016

Inspections and legal action

- 12.1 Appendices 1 and 2 give detailed information on the food safety work carried out during 2015/2016.
- 12.2 Some 3,087 food hygiene inspections were carried out in 2015/2016 and 2,674 food standards inspections. This represents 87% of the programmed inspection target and also included a number of low risk inspections to premises not included in the programme but where complaints had been received. The shortfall included Category E premises that are low risk, and overdue Category D premises that are planned to be completed this year.
- 12.3 Officers though concentrated on ensuring that the genuine low scoring premises were improved, by carrying out additional inspections and taking enforcement action where necessary. Although these premises are not automatically re-rated the current rate of improvement after officer action stands at 72%.
- 12.4 Birmingham has 81 food businesses which require specific EC approval. These are premises which produce or store high risk meat, fish or dairy products on a wholesale basis. This is a slight increase compared to last year's figure of 76, this is expected to increase further as a rise in applications has been noted. This process usually involves a number of inspections, a review of the company's food safety management system and an assessment of other conditions before approval can be granted and requires a more in-depth knowledge of assessing food safety systems. These types of premises

were responsible for E.Coli outbreaks investigated by Professor Pennington and represent the highest risk to food safety

- 12.5 During 2015/2016, 116 premises were found to present an imminent risk to health and were closed immediately until all necessary works were carried out. This is significantly above the average number of closures which are normally carried out in Birmingham and a very large increase on last year. Although this could be considered a large number, compared to the total number of inspections carried out, (3087) it only represents 3.75% of premises which seriously failed to meet basic hygiene requirements and put their customers at risk.
- 12.6 31 premises were prosecuted for food hygiene and food labelling related offences, with total fines amounting to £106,761 and costs recovered of over £31,000. In addition 10 businesses received a simple caution. This is a 50% increase in the number of prosecutions compared to previous years.
- 12.7 One of the particular reasons for the rise in enforcement activity was a project to inspect a number of overdue Category A-C premises identified in last years plan. These businesses had a significantly higher proportion subjected to enforcement, including closure, prosecution and the service of legal notices. This demonstrates the importance of regular interventions to ensure food safety. A full report on this project and outcomes will be reported to committee.

Food and water sampling

- 12.8 A range of surveys have been carried out to investigate the microbiological safety of food products as well as composition and labelling. The sampling programme has included surveys of food manufactured in Birmingham as well as a number of surveys on healthy eating claims
- 12.9 As part of the sampling programme, 8 food and water surveys were carried out comprising 122 samples in total. Of these, 16 were unsatisfactory i.e. 13% due to high bacterial counts or adulteration. This is a slightly lower failure rate than in previous years but at a rate that demonstrates the improved targeted and intelligence led programme. All of the issues identified were raised with the companies concerned and their home authorities and follow up action taken to ensure that problems were rectified and where necessary food products removed from sale.

Food Hygiene Rating Scheme

- 12.10 The ratings website where hygiene scores for businesses are displayed features over 6,000 food businesses. As part of the scheme officers issued window stickers for all businesses in the scheme. We continue to support the introduction of legislation requiring the mandatory display of ratings stickers.

Training

- 12.11 All officers who carry out food inspections have received training in food safety, although this was less than the 10 hours required, and the ever-popular Birmingham Practical Food Inspection courses were held in June 2015 in conjunction with Birmingham University and Wolverhampton University.

Project Work

- 12.12 Officers have worked in partnership with the Council's events division, an officer was appointed to offer specialist advice concerning food safety at the major outdoor events which took place in the City including, the Christmas German Market, the Vaisakhi celebrations and the Birmingham Carnival. Over 60 inspections were carried out of food businesses at the German Market to ensure the event was a success.
- 12.13 In addition officers from The Food Lead Team have been working with Severn Trent and the Council's events team to address the issues of water supply at outdoor events. Where potable water is supplied it is required to meet drinking quality standards, even where it is not supplied for drinking purposes.
- 12.14 Officers have worked with traders on the Bull Ring Indoor Market to improve the efficiency and effectiveness of temperature control equipment to ensure that products sold remain safe. Further work has been undertaken to improve the hygiene ratings of businesses at the Bull Ring Indoor Market. This is funded by the markets.

13. Trends

- 13.1 Appendix 3 gives statistical information showing the trends in a number of areas of food safety since 2010. The number of food premises in Birmingham and the interventions required has been fairly steady. The number of interventions carried out in 2015-2016, due to excluding the low risk inspections, was 87% of the actual target.
- 13.2 The number of Emergency Prohibition Notices served has fluctuated over the past 6 years, with an average of 51 served per year. The number served in 2015-2016 was significantly above this average, see appendix 3.
- 13.3 The number of Food Hygiene requests for assistance has continued to rise in comparison to the previous year. The numbers are more than double that received in the early 2000's, perhaps showing an increased public awareness of food hygiene and a demand for high quality, and ease of making complaints via the internet. The number of complaints about food has stabilised this year to just at the six year average.

13.4 The number of sporadic cases of infectious disease has decreased last year, after a big rise in 2010/2011 the numbers have been declining. This highlights the need to continue to direct resources at poor performing food businesses and the importance of food safety in the Service Plan in reducing foodborne infection. The number of reported outbreaks of infectious disease has dropped again this year; this is due to most community outbreaks being investigated by Public Health England.

14. Resources

14.1 The food safety work during 2015/2016 was carried out within existing budgets, except where indicated.

Essential food related work carried out in 2015/2016 and planned for 2016/2017

APPENDIX 1

Activity	No. planned/ expected 2015/2016	No. achieved 2015/2016		Comments	No. planned or expected in 2016/2017
Food hygiene primary inspections, category A (High risk) B C (Medium risk) D E (Low risk) Overdue A-C Overdue D Overdue E Unrated New Registrations TOTAL	 86 455 1176 516 334 109 357 4305 758 500	 86 455 1176 516 0 109 45 0 758 1047	 86 455 1176 516 0 109 45 0 758 1047	The interventions planned for 2016/2016 include all of the category A-D premises. The category E premises are subject to interventions as detailed in the report.. The programme will also include the overdue D premises, new registrations and unrated premises. The remaining overdue E premises will be subject to interventions as detailed in the report.	 129 438 988 732 255 27 312 4305 988 500
Food standards primary inspections	2320	2674		Food standards inspections are carried out at the same time as food hygiene inspections. As the number of food hygiene inspections was in excess of the target for food standards inspections, the number of food standards inspections was therefore increased. All premises classed as high risk for food standards such as food manufacturers were inspected.	2674

Activity	No. planned/ expected 2014/2015	No. achieved 2014/2015	Comments	No. planned or expected in 2015/2016
Requests for assistance: Food hygiene/ standards Food complaints TOTAL	2030 450 2480	2622 460 3082	These are not targets but expected figures – the numbers depend on the demand made by consumers and traders	2622 460
Infection control: Sporadic cases Outbreaks	1211 11	1109 1	Most outbreaks of gastro-intestinal disease are caused by person-to-person spread of viruses which may not be food borne. However, the initial symptoms are the same as for food borne bacterial causes and so all outbreaks are investigated.	1109 1
National food alerts: For action For information TOTAL	3 31	1 73	The numbers depend on alerts issued by the Food Standards Agency	1 73
Food and water sampling	Programme of sampling to be carried out	samples carried out	More details are given in section 12.	The programme will be developed during the year in consultation with the HPA and BCL
Food related training for EHP's	10 hours for each officer	10 hours	All officers involved in food safety enforcement are required by the Code of Practice to complete 10 hours relevant training per year	10 hours per officer

Additional food related work carried out in 2015/2016 and planned for 2016/2017

APPENDIX 2

Topic	Activity in 2015/2016	Planned for 2016/2017 including resources implication (officers days per month)
Healthy Tums in Brum	Competition has been delayed due to PCT funding ending.	No funding anticipated at this stage.
Hygiene scores on the web	There are now 6428 food premises featured on the website, and officers are giving out stickers to all food premises following a programmed inspection	Investigation into charging for revisits. We are awaiting confirmation from the Food Standards Agency. May launch a fee service in conjunction with other West Mids. Authorities
Practical food inspection course	Two courses were provided on the identification and inspection of primary food	2 courses (depending on demand) in conjunction with B'ham and Wolverhampton Universities. (8 days)
Outdoor events	A lead officer has been assigned to liaise with Leisure Services on events such as Vaisakhi, the German Market and the Lord Mayor's show, Taste of Birmingham and to provide advice to mobile traders attending.	As for 2015/2016, additional resources to be directed at ensuring compliance during the German Market. (7 days)
Home/Primary Authorities	Additional work required – liaison with the company, advice given on policy matters and liaison with other local authorities.	Further development of Primary Authority partnerships with additional companies. (12 days)
Meetings at national level and consultation documents: FSA, LGA	Meetings have been attended as required, and consultation documents commented on.	As for 2015/2016 (0.5 days)
Liaison meetings: Water Authorities & CCDC's	Meetings have been attended as required.	As for 2015/2016 (2 days)
Food Fraud	Investigation of complaints.	To investigate the traceability of fresh meat at retail sale, and the labelling and marketing of fresh meat. (3 days)
Private Water Supplies	Monitoring and sampling of private water supplies.	To carry out risk assessments of private water supplies and private distribution networks. (1 day)
Markets business support.	Provide advice and guidance to markets section and market traders to improve compliance	As for 2015/16 (4 days)

Food Safety related statistics 2010/2016

Activity	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	6 year average
Total number of food premises in Birmingham	7790	7158	7379	7505	7330	7564	7454
Programmed/ Primary Food hygiene inspections carried out	4233	4032	3284	3104	2947	3087	3448
Food Standards inspections carried out	2430	2524	3071	2169	2320	2674	2531
Emergency Prohibition Notices served	27	45	38	34	46	116	51
Food safety prosecutions completed at court	31	22	30	19	21	31	25
Food hygiene RFA's dealt with	1752	1758	1807	1210	2030	2622	1863
Food complaints RFA's dealt with	366	482	532	440	450	460	455
Sporadic infectious disease cases investigated	2109	1225	1190	1058	1211	1109	1317
Outbreaks investigated	35	32	23	19	11	1	20
Food alerts received	44	40	44	34	34	74	45