

Item No.	Classification: Open	Date: September 2009	Decision Taker: Executive Member for Community Safety
Report title:	Food Safety Service Plan 2009 – 2010		
Ward(s) or groups affected:	All		
From:	Strategic Director of Environment and Housing		

RECOMMENDATIONS

1. That the Executive Member approves the Food Safety Service Plan for the year 2009 – 2010, as set out in Appendix 1.
2. The Executive Member notes the Food Safety Service's performance against the Service Plan for 2008 – 2009; and
3. The Executive Member notes the challenges facing the team in 2009 – 2010 due to limited resources. Without additional resources the service cannot meet the expectations of the Food Standards Agency (FSA). This places the Council in a position where there is some risk of censure and intervention, although the risks are considered low. Actions taken to mitigate against their effects are set out in paragraphs 21 to 29 below.

BACKGROUND INFORMATION

4. The FSA Framework Agreement requires the Council to review its performance against the 2008 – 2009 Food Safety Service Plan, identify any variance from the plan and areas for service improvement and to approve the Food Safety Plan for the current year.
5. The plan includes a detailed breakdown of premises for which Southwark Council has enforcement responsibilities and the organisational arrangements to discharge the Council's statutory duties, including proposed inspection and sampling programmes.
6. It also identifies the links that food safety activities have with the themes contained within Southwark's corporate plan.
7. The service has focused on maintaining its current performance in key areas of highest risk. It is meeting statutory targets for inspecting higher risk food premises and remains upper quartile for formal enforcement actions and lowest quartile for service cost compared to central London authorities, based on 2007 – 2008 figures published by Chartered Institute of Public Finance and Accountancy (CIPFA). The intention however of the FSA's Safer Food Better Business (SFBB) programme is to bring food premises into compliance through businesses properly managing their risks, rather than through authorities expending resources on taking formal enforcement action (see paragraph 27). It should be noted that, following reductions in staffing from April 2008, formal enforcement figures will still be higher than average but inspection numbers will have reduced. Despite this we improved our officer inspection performance significantly last year and only reduced overall inspection figures by 125 (including revisits). However, the numbers of businesses that remain uninspected continues to accumulate.

KEY ISSUES FOR CONSIDERATION

Key achievements in 2008 – 2009

National and Local Performance Indicators

8. Performance in the area of food safety is measured not just through local performance indicators, but also by a set of indicators measured by central bodies such as the FSA and CIPFA. See section 6 of the service plan for a full break down of the results of performance indicators. A summary is given below.
9. Two new National Indicators have been introduced in 2008. NI 184 measures food establishments in the area which are broadly compliant with food hygiene law. This indicator will also form the basis of the FSA annual return. A baseline of 70% was established at the end of 2008-09. NI182 measures the number of businesses who are satisfied with the Council's regulatory services. A baseline of 75% for food safety enforcement was established towards the end of 2008 – 2009. We will aim to improve on this during 2009/2010.

Enforcement Action

10. The service has maintained its high levels of enforcement activity with 169 summonses and simple cautions (123 in 2007 – 2008) being served in respect of 19 cases.
11. Six premises were in such an unhygienic condition that hygiene emergency prohibition notices were served, resulting in the premises being subjected to emergency closure (3 in 2007 – 2008) The Magistrates' Court subsequently confirmed the notices and hygiene emergency prohibition orders were issued.
12. One case resulted in the prohibition of the food business owner from being involved in the management of any food business. Two premises were subject to voluntary closures.
13. 152 formal improvement notices were served on 82 food businesses to secure compliance with Food Safety Legislation (198 notices in 2007 – 2008) and informal notices were served on 917 premises.
14. 21 prosecutions relating to 163 food hygiene offences were processed (19 in 2007 – 2008). The prosecutions resulted in total fines of £56,899 with £25,791 costs being awarded to the Council. This is top quartile performance nationally (as measured by CIPFA).

Food Hygiene and Standards inspection programme

15. In 2008 – 2009 901 food hygiene inspections were undertaken. This is approximately 92% of the revised total of previously rated food premises in the food service plan for that year and 46% of the revised unrated total. In addition 628 food standards inspections were undertaken, approximately 49% of the revised total planned

Service requests

16. In 2008 – 2009 the service dealt with 1484 service requests (993 in 2007 – 2008). The target time to respond to service requests is 80% within 24 hours and 100% within 3 days. Achievement is in excess of this target currently.

Infectious Disease

17. 623 cases of infectious disease, including food poisoning, were recorded and 144 were investigated, to identify the source of infection and to give advice to prevent their spread. The service anticipates an increase in infectious disease occurrences and notifications for the period 2009/10 owing to an increase in measles across the South East London sector during 2008 – 2009, a trend that is expected to continue.

Priorities and Risks for 2009 – 2010

18. Section three of the plan documents the statutory requirements for the service. Appendix 1 of the plan contains the food hygiene and food standards inspection programmes and the food sampling programmes. It also sets out the expected performance target with current available resources.
19. The plan also documents relevant national and local regulatory changes for the year ahead and identifies priority areas of work in line with Council priorities.
20. Two vacant posts remain unfunded for a second year due to budgetary restraints. This will impact upon service delivery, resulting in a shortfall of inspections achieved and a reduction in the level of service requests investigated. There is currently a review of Community Safety and Enforcement being undertaken. This aims to address gaps in service delivery.
21. The following paragraphs detail the three major areas of risk that officers believe these reductions to pose and the actions being taken to mitigate their effects. These risks are: risks to public health; risk to reputation and risks of intervention.
22. Risk to public health: The risk of not inspecting these premises is that category C and below premises will not be inspected within the FSA determined inspection time scales. This will mean that there will be a drop in food hygiene standards which will compromise public health because unhygienic premises may not be detected, businesses frequently change ownership and regular inspection is necessary to maintain confidence in the management's ability to ensure legal food hygiene standards. Paragraph 23 and 24 set out how we aim to minimise this risk.
23. To concentrate resources on inspection targets the team has been re-organised so that all officers have a full inspection target, with complaints also being shared across all officers. 75% of requests received will be prioritised for investigation. To achieve this, the service has identified a range of complaint types which it will consider for investigation.

24. The food hygiene inspection target has been changed this year to inspect 100% of the 266 high-risk, categories A and B premises and 100% (84) of not broadly compliant category C premises. The service will also inspect all unrated premises. As of 1 April 2009 there were 382 unrated premises, this will be added to, estimated in the region of 250, throughout the year as the service becomes aware of new businesses. It is anticipated that the service will achieve 43% of the inspections due, and overdue. If further capacity is identified then the remaining category C premises will be prioritised, with those likely to present a greater risk, i.e. catering premises, being the highest priority. By doing this we intend to reduce the risk of not inspecting the premises which are most likely to cause illness.
25. Risk to reputation: This will also have implications for the accuracy of the information provided for consumers on the scores on the doors website and the ability of a business to demonstrate any improvement through improved star rating on the website. This will mainly affect the lower and medium risk premises which do not receive an inspection with statutory time limits. High risk premises are within the inspection programme and their data on the website will be accurate.
26. Failure to meet the expectations of the Food Standards Agency with respect to the inspection programme presents a possibility of an adverse audit report that will be published on the Agency website, together with an action plan for improvement being required. The FSA has plans to audit all local authorities in due course. Therefore Southwark will receive an audit in the future, although this date has not yet been disclosed, and the likelihood of audit will increase year on year. Not meeting FSA targets will also increase this likelihood.
27. It is calculated that around 24% of all businesses have documented food safety management systems in place commensurate with their business and could be considered to be fully compliant. This figure will vary as businesses change ownership and management which will have an effect on the ability to reach targets. The FSA target is for 75% of businesses to be fully compliant, with documented food safety management systems in place, by December 2010, with the remainder working towards full compliance. Our current resources mean that we will be unable to achieve this target, but we are considering alternative forms of action to assist businesses put systems in place. This includes sending out self-assessment questionnaires or making telephone surveys to businesses prior to receiving an inspection and sending out advice to those businesses not targeted for inspection.
28. Our inability to achieve the inspection programme, along with the consequent increased risk of a food poisoning outbreak, present reputational risks to the Council. The mitigating action for the latter issue has been previously detailed. The risk of damage to reputation from adverse publicity stemming from FSA concerns is considered low. However, we must take into account the recent Pennington report following the E Coli outbreak in South Wales during which a young child died, and the recommendations concerning local authority enforcement. Details are contained in the service plan. A meeting has been arranged together with a presentation to be cascaded to all involved parties with a view to discuss actions to be taken. Important points to consider include;

maintaining or improving officer competences; increasing monitoring and improving data base information.

29. The ultimate sanction is for the service to be taken over by the Agency but the risk of this is considered low.

Community Impact Statement

30. Regulatory services are delivered to different communities within Southwark. Through the enforcement of such functions as food safety, food standards and control of infectious diseases the service is actively contributing to community cohesion through health improvements to the community.
31. The Service has completed an equality impact assessment. Priority recommendations have been agreed and an action plan produced. The key objectives of the action plan are to improve the Service's profile and communication methods and to increase the cultural awareness of staff. The aim of these objectives is to promote the service, remove any barriers to for those trying to access the service and to encourage community engagement.
32. There is a potential for different groups to be differentially affected by the service's enforcement responsibilities in that small and medium sized enterprises (SMEs) are more likely to attract a higher risk rating than larger businesses. This is because larger businesses are more likely to employ or contract advisers to control their risks. In Southwark, there are a significant proportion of black and minority ethnic (BAME) businesses that fall within the SME definition and there is a risk that they will receive closer scrutiny from the service than larger companies. Balanced against that risk is that their customers and staff are also likely to be from BAME backgrounds and the service exists to protect their health, safety and economic welfare equally. We will endeavour to provide advice and education to communities and businesses before applying enforcement sanctions by means of informal action such as providing schedules of work containing detailed explanation in plain English. It will need to be borne in mind however that one of the Pennington recommendations was that a 'light touch' approach should not compromise formal enforcement action and thus, safety.

Resource Implications

33. With current levels of funding the food safety team will not achieve the Food Standards Agency's expectation of inspecting all food premises when due according to risk or assisting SMEs comply with new legislation through implementation of "Safer Food Better Business" in order to reach the FSA 2010 target. The risks inherent in this are given in paragraphs 21 to 29 above. The medium term plan to begin to address these resource shortfalls is to redirect resources from existing budgets into the areas of regulatory work that present the highest risk to the health and safety of people in Southwark, which includes food safety. This will be achieved through a restructuring process.
34. The costs of delivering the proposed plan can be contained within the existing budget of the business unit for 2009 – 2010. Meeting FSA expectations fully would require additional funding.

Strategic Director of Communities, Law & Governance

35. The Food Standards Agency has responsibility for setting and monitoring standards of local authority enforcement activity. They have done this by issuing the Framework Agreement on Local Authority Food Law Enforcement. The Agreement requires local authorities to develop service plans to ensure national and local issues are addressed and delivered locally.
36. The report has outlined a number of possible risks which could be faced by the Council as a result of the reduction in the resources of the team tasked with implementing the FSA Framework Agreement. However, it is noted that the risk of damage to the Council's reputation from adverse publicity from FSA's concerns are low and that the re-organisation of the team to concentrate resources on increasing inspection would minimise the other risks identified in the report.

Finance Director (Env/ET/060809)

37. There are no additional financial implications as a result of accepting the proposed food safety service plan.

APPENDICES

No.	Title
Appendix 1	Food Safety Service Plan 2009 – 2010

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment and Housing	
Report Author	Jonathan Toy, Head of Community Safety	
Version	Final	
Dated	August 2009	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Executive Member	Yes	Yes
Date final report sent to Constitutional Officer		