

Public Report

Committee Name and Date of Committee Meeting

Officer Decision

Report Title

Food and Feed Service Plan 2020/21

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Paul Woodcock, Strategic Director, Regeneration & Environment

Report Author(s)

Lewis John Coates, Enforcement and Regulatory Services Manager

01709 823117, lewis.coates@rotherham.gov.uk

Janice Manning, Manager, Food, Health & Safety

01709 823126, janice.manning@rotherham.gov.uk

Donna Williams, Acting Principal Environmental Health Officer,

01709 255055, donna.williams@rotherham.gov.uk

Ward(s) Affected

Borough-Wide

Report Summary

The Food Standards Agency (FSA) requires all Competent Authorities to have an up-to-date, documented Food and Feed Service Plan, which is readily available to food and feed business operators and consumers. This plan must be subject to regular review and clearly state the period for which the plan has effect.

Following audit by the FSA in May 2010, the Agency confirmed that the format of the Council's Food Service Plan was in line with the Service Planning Guidance in the Framework Agreement. The Food and Feed Service Plan for 2020/21 follows this outline.

The Food and Feed Service Plan, amongst other things, details the Council's performance during 2019/20 (the previous year) and identifies expected performance for 2020/21 (the current year). This performance is reportable nationally to the FSA through the Local Authority Enforcement Monitoring System and the production of the associated plan is a regulatory requirement.

In March 2020 resources were directed to support the Authority's response to the COVID-19 pandemic. Delivery of the official controls recommenced in September

2020 and performance reports are being provided fortnightly to the Cabinet Member for Waste, Roads and Community Safety.

Recommendation

1. That the delegated key officers approve the Food and Feed Service Plan for 2020/21.

List of Appendices Included

Appendix 1 Food and Feed Service Plan 2020/21

Appendix 2 Equalities Analysis Initial Screening

Background Papers

- [Food Safety Act 1990](#)
- [Food Law Code of Practice \(England\), March 2017](#) currently under review
- [Food Law Practice Guidance \(England\), November 2017](#)
- [Feed Law Code of Practice \(England\) April 2018](#) currently under review
- [Localism Act 2011](#)
- [Regulators' Code 2014](#)

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Name of Committee – Click here to enter a date.

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Council Approval Required

No

Exempt from the Press and Public

No

Food and Feed Service Plan 2020/21

1.	Background
1.1	The Council, as a Competent Authority, is required by the Food Standards Agency to produce a documented and up to date Food and Feed Service Plan which should be reviewed regularly. In addition, the Plan must be available to food business operators and consumers.
1.2	The Council's Food and Feed Service Plan follows the format of the Service Planning Guidance contained within the Food Standards Agency's Framework Agreement. ¹
1.3	<p>The Food and Feed Service Plan:</p> <ul style="list-style-type: none"> • Explains the purpose of the Food and Feed Service. • Links to the Food Standards Agency Framework Agreement. • Matches current resources against existing service level. • Sets targets against which the performance of the service can be measured. • Provides a performance management framework to ensure continuous improvement.
1.4	Delivery of official food and feed controls has been affected by COVID-19 pandemic. In March 2020 following guidance from the Food Standards Agency, all planned feed, food hygiene and food standards interventions were deferred to try and keep the footfall to businesses to a minimum and to enable the staff to focus on urgent reactive work such as investigating clusters and outbreaks, supporting contact tracing and providing advice and guidance to businesses with respect to COVID-19 compliance and the requirements of the food and feed legislation.
1.5	The Authority is following the advice issued by the Food Standards Agency with respect to the premises which should be prioritised. The COVID-19 pandemic has had a significant impact on the delivery of official controls. The Authority operates an on-line registration process and has continued to obtain a picture of which premises are open/closed or have changed their operation or are new businesses. In September 2020, the focus was on resuming physical inspections where resources permitted. Officers are undertaking virtual inspections on the telephone and requesting documents by e-mail. Physical inspections are mainly being undertaken afterwards. Photographs and videos are assisting officers to reduce the time spent at the premises.
1.6	The Food Standards Agency recommend that the Food and Feed Service Plan is presented through Cabinet. However, this is not mandatory and whilst previous Plans have been put before Cabinet; it is understood that it is acceptable to present the Plan as an officer decision.

¹ Food Standards Agency, *Framework Agreement on Official Feed and Food Law Controls*, April 2010

2.0	Key Issues
2.1	The Food and Feed Law: Codes of Practice (England), March 2017 and April 2018 are statutory Codes of Practice requiring 'Competent Authorities' to have up-to-date, documented Food and Feed Service Plans which are readily available to food and feed business operators and consumers. This reflects paragraph six of the <i>Regulator's Code</i> which states that 'Regulators should ensure that their approach to their regulatory activities is transparent'. ²
2.2	<p>The Plan must cover a range of elements including:</p> <ul style="list-style-type: none"> • All areas of food and feed law that the Council has a duty to enforce. • Setting out how the Council intends to deliver 'Official Controls' within its area. • Imported food responsibilities and the control arrangements that are in place. • Reference to the Council's approach to enforcement including its 'Alternative Enforcement Strategy' for dealing with those premises rated as low risk under the Food Establishment Intervention Rating Scheme.
2.3	<p>The Food and Feed Service Plan for 2020/21, attached at Appendix 1, provides detail of performance against the targets set in the 2019/20 Plan. Targets are aligned to risk, with Food Hygiene Category A and B and Food Safety Category A, being higher risk. A summary of performance is as follows:</p> <ul style="list-style-type: none"> • Food Hygiene <ul style="list-style-type: none"> ○ Category A – 93.7% ○ Category B – 98.08% ○ Category C – 96.14% ○ Category D – 91.39% ○ Category E – 86.96% • Food Safety <ul style="list-style-type: none"> ○ Category A – 80% ○ Category B – 95.32% ○ Category C – 79.12% • Feed – 100%
2.4	The Food and Feed Service Plan also provides details of the risk profile of food premises as of May 2020 and subsequently the number of inspections due against each risk category for 2020/21. Categories A and B are the higher risk premises for food hygiene and Category A for food standards. Category U is the unrated premises, these are generally new businesses or premises which have changed their operation. In May 2020 there were only 13 unrated businesses due an intervention, however throughout the year

² Department for Business Innovation & Skills, Better Regulation Delivery Office, *Regulators Code*, April 2014, p6

	there have been many new businesses which have opened/closed or the food business operator has changed, at the end of December 2020 there were 132 unrated premises. The table below details the targets set against each risk category.				
		Food Hygiene	Food Standards	Feed	
		2020/21 Target	2020/21 Target	Category	2020/21 Target
	A	6	3	Inland inspections	12
	B	84	157	PP FEED inspections	6
	C	Not set* (226)	Not set** (335)		
	D*	Not set* (349)	Not applicable		
	E*	Not set** (187)	Not applicable		
	U	13*	Not applicable		
	Key * To be undertaken as resources allow * *Alternative enforcement arrangements allowed				
2.5	Resources are currently being targeted at the Category A, B and non-compliant C premises. However due to restrictions many premises such as public houses and soft play centres have not been open and may not open before the end of March 2021 and consequently will not be inspected. Several premises which have registered during this period have not yet been inspected, have not opened, or deferred their opening date. These unrated premises are being inspected as resources permit. Targets to inspect the compliant Category C along with Category D and E premises have not been set and these inspections will be undertaken as resources allow. Any inspections not undertaken are carried forward into the next financial year.				
2.6	The Food and Feed Service Plan also describes arrangements for: <ul style="list-style-type: none"> • Sampling which contributes to Public Health England 				

	<p>initiatives.</p> <ul style="list-style-type: none"> • Complaints received relating to food and feed. • Promotional activity and advice to business. • Control and investigations of outbreaks of infectious disease. • Food Safety Alerts, incidents, and food fraud.
3.	Options considered and recommended proposal
3.1	The Council is obliged by statute to have a Food and Feed Service Plan however, there is no direction to seek approval through the Council's political process. The decision was made not to require approval by Cabinet and that this should remain at service level. The recommendation is that delegated officers agree the Food and Feed Service Plan 2020/21.
4.	Consultation on proposal
4.1	No consultation has taken place in respect of the Food and Feed Service Plan.
5.	Timetable and Accountability for Implementing this Decision
5.1	If agreed, the Food and Feed Service Plan 2020/21 will be effective immediately.
6.	Financial and Procurement Advice and Implications (to be written by the relevant Head of Finance and the Head of Procurement on behalf of s151 Officer)
6.1	<i>The Food and Feed Service Plan 2020/2021 will be delivered within existing budgets.</i>
6.2	<i>Each year National Trading Standards (NTS) awards the local authority funding from the government to support the delivery of its work stream. In 2020/21 Rotherham was awarded a grant of £4,898 to undertake 18 feed/primary producer inspections. The Authority however does not have three R06 premises (pet manufacturers) that require an intervention and therefore applied for authorisation to inspect different categories, this has been accepted and will reduce the grant funding awarded marginally and increase the number of inspections undertaken by approximately three.</i>
7.	Legal Advice and Implications (to be written by Legal Officer on behalf of Assistant Director Legal Services)
7.1	<i>Section 40 of the Food Safety Act 1990 provides the Secretary of State the</i>

	<i>power to issue Codes of Practice in relation to the execution and enforcement of the 1990 Act. Any Competent Authority that does not have regard to the Code of Practice may find their decisions or actions successfully challenged. In addition, the Food Standards Agency, can give a Competent Authority a direction requiring them to carry out specified steps to comply with the Code of Practice, such specified steps are enforceable against a Competent Authority. There is a corresponding Code of Practice for Feed Law.</i>
7.2	<i>Under the Codes of Practice, each Competent Authority must have an up-to-date, documented Food and Feed Service Plans for food and feed business operators and consumers. The Plan must be subject to regular review and clearly state the period for which it has effect. The Plan should reflect the requirements set out in the relevant Regulators' Code and must cover all areas that the Competent Authority has a duty to enforce and set out how the Authority intends to deliver official controls within its area. Any failure by the Council to implement the Plans may result in the Food Standards Agency making a direction for compliance, which would be done in consultation with the Secretary of State.</i>
7.3	<i>Section 42 of the Food Safety Act 1990 provides default powers. Where the Secretary of State is satisfied that a Competent Authority has failed to discharge a duty imposed upon it by the Food Safety Act 1990 and the authority's failure affects the general interests of consumers of food, he may order another competent authority or the Food Standards Agency to discharge that duty in place of the Authority in default. The substitute Authority will also be permitted to recover any expenses reasonably incurred from the Authority in default.</i>
8.	Human Resources Advice and Implications
8.1	<i>There are no direct HR implications arising from this report</i>
9.	Implications for Children and Young People and Vulnerable Adults
9.1	There are no implications for Children and Young People or Vulnerable Adults.
9.2	It should be noted that the young, the elderly and those with compromised immune systems are particularly vulnerable to failure in food safety and consequent infectious disease.
9.3	Due to Covid-19, visits to certain premises such as care homes which have good levels of compliance are undergoing a virtual inspection to inform the need for an onsite visit, however onsite visits would be undertaken if a potentially serious risk is identified.
10.	Equalities and Human Rights Advice and Implications

10.1	There are no equalities or human rights implications.
10.2	An Equalities Screening Assessment is attached at Appendix 2.
11.	Implications for Ward Priorities
11.1	There are no implications for partners or other directorates.
12.	Implications for Partners
12.1	There are no implications for partners or other directorates.
13.	Risks and Mitigation
13.1.	Failure to have due regard to the provisions of the Code of Practice, presents a risk of decisions or actions being successfully challenged, and evidence gathered during a criminal investigation being ruled inadmissible by the Court.
13.2	Failures to comply with the Code of Practice can result in the Food Standards Agency, after consultation with the Secretary of State, giving direction to a Competent Authority, to take any specified to comply with the Codes.
14.	Accountable Officers
	Name, Job Title: Lewis Coates, Enforcement and Regulatory Services Manager
	Name, Job Title: Janice Manning, Manager, Food, Health & Safety
	Name, Job Title: Donna Williams, Temporary Principal Environmental Health Officer

Approvals obtained on behalf of Statutory Officers:-

	Named Officer	Date
Chief Executive	Sharon Kemp	Click here to enter a date.
Strategic Director of Finance & Customer Services (S.151 Officer)	Named officer	Click here to enter a date.
Head of Legal Services (Monitoring Officer)	Named officer	Click here to enter a date.

Report Authors: Lewis Coates, Enforcement and Regulatory Services Manager,
lewis.coates@rotherham.gov.uk
 Janice Manning, Manager, Food, Health & Safety,
janice.manning@rotherham.gov.uk
 Donna Williams, Temporary Principal Environmental Health Officer,
donna.williams@rotherham.gov.uk

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