

Committee Name and Date of Committee Meeting

Cabinet – 21 October 2019

Report Title

Food and Feed Service Plan 2019/20

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

No, but it has been included on the Forward Plan

Strategic Director Approving Submission of the Report

Paul Woodcock, Strategic Director of Regeneration and Environment

Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

The Food Standards Agency 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 of time for which the plan has effect.

Following audit by the Food Standards Agency 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 2019/20 follows this outline.

The Food and Feed Service Plan details the Council's performance during 2018/19 and identifies expected performance for 2019/20. Performance is reported nationally to the Food Standards Agency through the Local Authority Enforcement Monitoring System.

Recommendations

1. That the Food and Feed Service Plan for 2019/20 and the accompanying Food and Feed Sampling Protocol for 2019/20 be approved.

List of Appendices Included

- Appendix 1 Food and Feed Service Plan 2019/20
- Appendix 2 Food and Feed Sampling Protocol 2019/20
- Appendix 3 Equalities Analysis Initial Screening

Background Papers

- Food Safety Act 1990
- Food Law Code of Practice (England), March 2017
- Food Law Practice Guidance (England), November 2017
- Feed Law Code of Practice (England) currently out in draft form for consultation
- Localism Act 2011
- Regulators' Code 2014

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Overview and Scrutiny Management Board – 16 October 2019

Council Approval Required

No

Exempt from the Press and Public

No

Food and Feed Service Plan 2019/20

1. Background

- 1.1 The Food and Feed Law: Codes of Practice (England), 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, and which reflect paragraph six of the Regulator's Code. The Codes also require the Authority to have a Food and Feed Sampling Protocol in place.
- 1.2 The Service Plan must be available to food business operators and consumers, and the Council should review the Plan regularly.
- 1.3 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
- 1.4 The Service Plan must cover all areas of food and feed law that the Council has a duty to enforce and set out how the Council intends to deliver 'Official Controls' within its area. It must include imported food responsibilities and the control arrangements that are in place. The Service Plan must also include 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.
- 1.5 The Food and Feed Service Plan:
 - Explains the purpose of the Food and Feed Service;
 - Links to the Food Standards Agency Framework Agreement;
 - Matches current resources against existing service levels;
 - Sets targets against which the performance of the service can be measured;
 - Provides a performance management framework to ensure continuous improvement.

2. Key Issues

- 2.1 The Food and Feed Service Plan for 2019/20 is attached at Appendix 1 and provides detail of performance against the targets set in the 2018/19 Plan as summarised in the following tables:

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

Table 1 - percentage of inspections in each programme achieved.

Category	Food Hygiene		Food Standards		Feed	
	2018/19 Target	2018/19 Outcome	2018/19 Target	2018/19 Outcome	2018/19 Target	2018/19 Outcome
A	100%	100%	100%	100%	100%	100%
B	100%	100%	100%	95%	Not applicable	Not applicable
C	100%	100%	Not set**	58%	Not applicable	Not applicable
D*	Not set*	100%	Not applicable	Not applicable	Not applicable	Not applicable
E*	Not set**	53%	Not applicable	Not applicable	Not applicable	Not applicable
U	100%	100%	Not applicable	Not applicable	Not applicable	Not applicable

Key

* To be undertaken as resources allow

**Alternative enforcement arrangements allowed

Table 2 - number of inspections in each programme for 2018/19 for which an intervention is due.

Category	Food Hygiene		Food Standards		Feed	
	2018/19 Target	2018/19 Outcome	2018/19 Target	2018/19 Outcome	2018/19 Target	2018/19 Outcome
A	6	6	2	2	8	8
B	84	84	190	181	Not applicable	Not applicable
C	359	359	Not set** (525)	305	Not applicable	Not applicable
D*	Not set* (772)	772	Not applicable	Not applicable	Not applicable	Not applicable
E*	Not set** (907)	484	Not applicable	Not applicable	Not applicable	Not applicable
U	13	13	Not applicable	Not applicable	Not applicable	Not applicable

Key

* To be undertaken as resources allow

**Alternative enforcement arrangements allowed

- 2.2 Performance is reported nationally on an annual basis through the Food Standards' Local Authority Enforcement Monitoring System. The interim data for 2018/2019 shows that Rotherham undertook 97.68% of all inspections that were due, compared to 83% in Doncaster and 70% in Sheffield. Nationally, the average performance was at 88%.
- 2.3 The 2019/20 Food and Feed Service Plan provides details of the expected performance for the current year. The table below shows the number of inspections which are due an intervention in each risk category. Categories A and B are the higher risk premises. Category U is the unrated premises and is generally new businesses or premises which have changed.

Table 3 - Number of inspections which are due an intervention in each risk category

Risk Category	Food Hygiene	Food Standards	Feed	
	2019/20 Target	2018/19 Target	Category	2018/19 Target
A	14	6	Inland inspections	27
B	104	145	PP FEED inspections	4
C	239	Not set** (130)		
D*	Not set* (381)	Not applicable		
E*	Not set** (164)	Not applicable		
U	14	Not applicable		

Key

* To be undertaken as resources allow

** Alternative enforcement arrangements allowed

- 2.4 The Food and Feed Service Plan also describes arrangements for:
- Sampling which contributes to Public Health England initiatives;
 - 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.
- 2.5 The Food and Feed Sampling Protocol 2019/20, which is attached at Appendix 2, sets out the general approach to food and feed sampling for Rotherham Council. Rotherham Council is committed to monitoring the safety and quality of food and feed, which is either manufactured, sold or supplied within its area, by carrying out sampling.
- 2.6 Suitably qualified, trained and authorised Officers will be responsible for undertaking the food and feed sampling functions of the Council. Samples are taken in compliance with the Food Law Code of Practice (England) 2017 and the Feed Law Code of Practice England (currently in draft) and following internal procedures.
- 2.7 The Food and Feed Service Plan sets out the resources available for sampling, the resources available to undertake sampling are finite, therefore in order to maximise the impact which sampling can have it is our protocol to direct resources to those areas where we believe the greatest overall benefit can be achieved.

2.8 The Food Standards Agency has provided information that details the provisions in relation to food law in the event of the EU exit. In particular, the Agency detail that the European Union (Withdrawal Act) 2018, converts European food legislation into domestic law. In addition, the Agency will update guidance documents to change EU references, institutions, processes and systems, to appropriately reference to UK law.²

2.9 Where, following a food hygiene or standards inspection, a premise closes voluntarily or through enforcement action, this will be publicised via the Council's website, subject to all legal requirements being met.

3. **Options considered and recommended proposal**

3.1 The Council is obliged by statute to have a Food and Feed Service Plan in place. No other options have therefore been considered.

4. **Consultation on proposal**

4.1 No consultation is required in respect of the Food and Feed Service Plan and no public consultation has been undertaken. The Food and Feed Sampling Plan has been to the Public Analyst and Food Examiner for comments.

5. **Timetable and Accountability for Implementing this Decision**

5.1 If agreed, the Food and Feed Service Plan 2019/20 and Food and Feed sampling Protocol 2019/20 will be effective immediately.

6. **Financial and Procurement Advice and Implications**

6.1 The Food and Feed Service Plan 2019/2020 will be delivered within existing budgets.

6.2 Each year National Trading Standards (NTS) awards the local authority funding from the government to support the delivery of its work stream. In 2019/20 Rotherham received a grant of £7,179 to undertake 31 Feed Inspections.

7. **Legal Advice and Implications**

7.1 Section 40 of the Food Safety Act 1990 provides the Secretary of State the 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 in order 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.

² Food Standards Agency, Statement for Local Authorities: The FSA will be updating enforcement documentation produced while the UK was in the EU, 11th July 2019

- 7.2 Under the Codes of Practice, each Competent Authority must have an up-to-date, documented Food and Feed Service Plans and a Sampling Protocol for food and feed business operators and consumers. The Plan must be subject to regular review and clearly state the period of time 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.
- 7.3 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.
- 7.4 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.

8. Human Resources Advice and Implications

- 8.1 There are no direct HR implications arising from this report.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 The young, the elderly and those with compromised immune systems are particularly vulnerable to failures in food safety and consequent infectious disease. The activities as outlined in the Service Plan and Sampling Protocol therefore contribute directly to the well-being of Children and Young People, and Vulnerable Adults.

10. Equalities and Human Rights Advice and Implications

- 10.1 There are no equalities or human rights implications for this report.
- 10.2 An Equalities Screening Assessment is attached at Appendix 3.

11. Implications for Partners

- 11.1 There are no implications for partners or other directorates.

12. Risks and Mitigation

- 12.1 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.

- 12.2 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 measures to comply with the Codes.

13. Accountable Officers

Lewis Coates, Enforcement and Regulatory Services Manager

Janice Manning, Manager, Food, Health & Safety

Approvals obtained on behalf of Statutory Officers:-

	Named Officer	Date
Chief Executive	Sharon Kemp	07/10/19
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	02/10/19
Head of Legal Services (Monitoring Officer)	Bal Nahal	01/10/19

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