



**Reading**  
Borough Council

Working better with you

# Food Service Plan 2018-19

Drawn up in accordance with the Food Standards Agency's Framework Agreement (April 2010)

## **1. FOOD SERVICE AIMS AND OBJECTIVES**

- 1.1 The council has a statutory duty to enforce food law, overseen and audited by the Food Standards Agency. The council must produce a plan setting out how it will deliver its functions. This document aims to discharge the duty for Reading Borough Council and has been written in accordance with the Food Standards Agency's Framework Agreement, which is based on statutory Codes of Practice.

It is the council's aim to protect the health of residents, visitors and those working in the town through the efficient and effective enforcement of food safety laws in the Borough.

- 1.2 Key to the way the service is delivered is consideration of the five principles of good regulation:

- Targeting, via risk based approach
- Proportionality
- Accountability
- Consistency
- Transparency

### **1.3 Objectives**

To ensure that standards required by legislation are met and that preventative health measures are adopted and maintained by businesses.

To achieve the key aims, the following objectives have been adopted:

- To prevent unsafe food reaching the public through the application of mandatory duties and discretionary powers.
- To ensure food is correctly labelled and complies with appropriate compositional requirements.
- To direct resources to the highest risk food premises and activities and to improve standards by the effective use of the enforcement powers available.
- To ensure a consistent approach to food inspections by officers.
- To ensure that officers are qualified, adequately trained and competent.
- To highlight bad practice in food businesses.
- To ensure consumers are given information as to the hygiene conditions at food premises in the Borough through the use of the Food Hygiene Rating Scheme.
- To encourage and facilitate the training of food handlers and proprietors of food businesses.
- To encourage and facilitate the improvement of food safety and food standards by the use of a paid service for bespoke advice.

- To proactively respond to changes and proposals for improvement in UK and EU legislation.
- To promote the Primary Authority Partnership Scheme.
- To work with our partners including Public Health England.

#### **1.4 Links to Corporate Objectives and Plans**

1.4.1 The Council has a number of priorities which sit within the Corporate Plan 2018-21. The delivery of the Food Service plan links to the following priorities:

- ***Securing the economic success of Reading*** by:

Encouraging the adoption of good practice at all stages in the food production chain and

Providing guidance and advice to potential and existing food businesses

- ***Protecting and enhancing the lives of vulnerable adults and children*** by:

Minimising the incidence of food poisoning and food borne illness

- ***Keeping Reading's environment, clean, green and safe*** by:

Ensuring that all food and drink offered for sale meets compositional and quality standards

Working with partner agencies to eliminate food fraud.

Preventing the use of prohibited substances or inappropriate substitution of ingredients in food products

Promoting high standards of hygiene in food businesses

Ensuring that all food and drink offered for sale is safe for human consumption.

Ensuring that all food businesses comply with relevant statutory requirements

Ensuring that all food businesses operate with the benefit of relevant licensing, approval and consent arrangements

Developing collaborative working arrangements to minimise the risks to health associated with the consumption of contaminated, poor quality or unsafe food and drink.

To achieve this aim, the Food Safety Team will:

- Inspect all food premises and businesses in accordance with the adopted risk assessment and re-inspection programmes

- Participate in the national Food Hygiene Rating Scheme (FHRS) in order to enable members of the public to make informed choices about where they eat or purchase food
  - Initiate appropriate enforcement action to secure compliance with the relevant legal requirements
  - Prepare and implement sampling programmes for food that is produced, stored, distributed, handled or consumed;
  - Aim to effectively discharge the Council's statutory duties, functions and responsibilities relating to the enforcement of Food Safety legislation
  - Aim to effectively discharge the Council's statutory duties, functions and responsibilities in relation to the control of spread of communicable disease and food poisoning.
- 1.4.2 The Council also recognises the risks associated with failing to deliver this plan and this is detailed in the Directorate's risk register.

## **2. BACKGROUND**

### **2.1 Profile of the Authority**

2.1.1 Reading Borough Council was created as a unitary authority in April 1998 and figures from the last census indicate it has a population of 155,698. Unemployment (those claiming job seekers allowance) in the town is below the national average at 3.5%; 14% of the town has a main language other than English and the age group with the highest numbers is 25-34 years old.

The town centre is one of the largest in the South of England, attracting many shoppers and visitors to the area. Reading has a University as well as a college. Many of the small food businesses around the University do the bulk of their trade during term time.

2.1.2 Manufacturing industry has declined over the years and the area is now the centre of high technology within the Thames Valley. There are no large food manufacturers in the town.

2.1.3 There is excellent access to the road system via the M4 (East/West) and the nearby M3 and A34 (North/South). The Rail station has undergone a major upgrade and was re-opened in 2015 with 9 through platforms and 6 terminus platforms. In December 2019 the Elizabeth line run by Transport for London (TFL) will connect directly to Reading giving direct transport links to Central London and Shenfield and Abbey Wood in the East of London.

2.1.4 Businesses in Reading utilises its good transport links and close proximity to Heathrow Airport to transfer their raw ingredients and products. There are also UK distribution centres for Waitrose frozen products and Tesco ambient products within the town, further highlighting its excellent geographical location and communication links.

2.1.5 Reading is a market town, the market operating four days per week, and has a flourishing twice monthly Farmers' market where producers from the surrounding locality sell their own produce. There are also 2

weekly food markets as well as an annual chilli festival and specialist food festival.

- 2.1.6 The town hosts a number of festivals and cultural events which bring visitors and itinerant traders to the area. The most significant music festival is Reading Festival which is the 2<sup>nd</sup> largest festival in the UK after Glastonbury.

## **2.2 Organisational Structure**

- 2.2.1 The Council has an approved constitution setting out how the Council operates, how decisions are made and the procedures followed to ensure that these are efficient, transparent and accountable to local people. A copy of the Council's constitution is available at:

<http://www.reading.gov.uk/constitution>

- 2.2.2 The Scheme of Delegations sets out who is responsible for making decisions, including the authority for the service of enforcement notice. A copy of the Scheme of Delegations is available at:

<http://www.reading.gov.uk/media/3769/Delegations-Register/pdf/180720DelegationsRegister.pdf>

- 2.2.3 The Council operates a Committee Structure, with the Food & Safety Team reporting to the Housing, Neighbourhoods & Leisure (HNL) Committee. The councillor with responsibility for Food & Safety is the Lead Councillor for Health, Wellbeing and Sport.

- 2.2.4 The officer with lead responsibility for food matters and whose contact details have been notified to the Food Standards Agency (FSA) is Lisa Richards, Licensing, Food & Safety Manager. Duncan Willby, Principal EHO in the section also shares the Lead food officer role.

## **2.3 Scope of the Food Service**

- 2.3.1 The Food & Safety Team deals with food safety, some aspects of food standards relating to caterers, infectious disease, special treatments, safety at sports grounds licensing and health and safety at work. Trading Standards has responsibility for activities such as food standards, fair trading, product safety, metrology, animal health, animal feed, petroleum and consumer advice.

- 2.3.2 Both the Food & Safety and Trading Standards teams are active leads in the Primary Authority Partnership Scheme. The Environmental Health Staff provide assured advice for Food Hygiene and Safety while the Trading Standards team provide advice on Food Standards.

- 2.3.3 The Licensing, Food & Safety Manager is responsible for managing the topic area of food within Regulatory Services. Approximately 50% of the Food & Safety Team is directed at official controls for food safety and approximately 20% of the Trading Standards Service is directed at food standards work.

- 2.3.4 The service is based at:

Regulatory Services  
Reading Borough Council  
Civic Offices  
Reading

RG1 2LU

Tel: Food Safety Enquiries 0118 937 3787

Food Standards Enquiries 03454 040506

E-mail: [consumerprotection@reading.gov.uk](mailto:consumerprotection@reading.gov.uk)

Website [www.reading.gov.uk](http://www.reading.gov.uk).

The office is open Monday to Friday from 0900 to 1700 hours. The emergency 'out of hours' telephone number is 0118 937 3737 where there is a duty officer available to deal with emergency only food matters as appropriate.

## **2.4 Demands on the Food Service**

2.4.1 There are annual variations on demand based on a broad range of factors. The Borough has seen the overall number of businesses increase and there is a relatively high turnover, particularly in the takeaway sector. The table below details the number of food premises contained in each category:

Type of premises	Number of Premises
Primary Producer	0
Manufacturer/Packer	13
Food Importer/Exporter	4
Food Distributor/Transporter	17
Supermarket/Hypermarket	37
Small Retailer	236
Retailer Other	100
Restaurant, Café, Canteen	308
Hotel , Guest House	34
Pub, Club	118
Takeaway	168
Caring Establishment	159
Schools, Colleges	69
Mobile Unit	52
Restaurant, Caterer Other	99

Total	1414
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- 2.4.2 There are 5 businesses which have received approval under one or more of the product specific regulations namely fishery products, live bivalve molluscs, minced meat & meat preparations, milk products and cold store/rewrapping plant. This is broken down to: 1 meat, 2 fish, 1 bivalve molluscs and 2 cold store and rewrapping establishments. These premises are inspected in line with their risk rating. One establishment has fish and bivalve molluscs approval.
- 2.4.3 There are approximately 7 outdoor events per year, mainly during May to September, where Food & Safety staff and/or Trading Standards staff attend and carry out inspections including food inspections and food sampling. These events occur during weekdays and weekends.
- 2.4.4 The Borough is multi-cultural and contains a wide range of food premises managed and run by many diverse ethnic groups. Many retail premises target these populations and many registered home caterers prepare food dishes from their home countries. There are an increasing number of food brokers and the Council is endeavouring to identify them.
- 2.4.5 Many businesses operate outside office hours and in which case will be inspected during those periods.

## **2.5 Enforcement Policy**

- 2.5.1 The Council has previously adopted the Enforcement Concordat, which has subsequently been updated to the Regulators Compliance Code. The Corporate Enforcement Policy is supplemented by specific food law enforcement policy that can be found in Appendix 1 of the Food Service Plan.
- 2.5.2 The Regulators' Code sets out the following main provisions:
- Regulators should carry out their activities in a way that supports those they regulate to comply and grow
  - Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
  - Regulators should base their regulatory activities on risk
  - Regulators should share information about compliance and risk
  - Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
  - Regulators should ensure that their approach to their regulatory activities is transparent

### **3. SERVICE DELIVERY**

#### **3.1 Premises Inspections**

- 3.1.1 The Council's policy is to inspect all food premises that are due for inspection based on the minimum frequency as set by in the Food Law Code of Practice. However resources will always be directed towards higher risk activities and this may result in some lower risk activities being delayed. The aim is to ensure compliance with the legal requirements covering the safe handling and production of food, the quality, composition, labelling, presentation and advertising of food and of the materials or articles in contact with food.
- 3.1.2 As the designated food authority, the Council discharges its duty under the Food Safety Act 1990 and EC 854/2004 by carrying out regular, primary food hygiene and food standards inspections of high risk premises.
- 3.1.3 The number of new premises that register with the Local Authority is approximately 4 per week or about 200 per year making a significant contribution to the number of new premises/ those that have changed ownership on the database.
- 3.1.4 The Food Law Code of Practice rating scheme is used for Food Safety as well as food Standards.
- 3.1.5 For Food hygiene, over 87% of premises are rated as 'broadly compliant'. This is when the hygiene, structure and confidence in management scores are less than or equal to 10, 10, 10. This number has steadily increased over the decade as non-broadly complaint premises are targeted. In the last 18 months, the broadly compliant figure has started to decline again with many more poor performing businesses being identified.
- 3.1.6 For Food Standards, over 58% of premises are rated as broadly compliant. This figure has been dropping as new catering premises have remained unrated in favour of inspecting import/exporters, small retailers and small home businesses setting up.
- 3.1.7 There are also a number of food hygiene and food standards inspections that have been given a non-inspectable risk (NIR) score. Examples of these premises include for food hygiene, importers based in the Borough where there is just an office and no storage or distribution of the product in the Borough (food broker). Also inspections that are carried out at outdoor events.
- 3.1.8 Category E food hygiene inspections and category C food standards inspections can be carried out via an alternative enforcement strategy or using an official control such as inspection, partial inspection or audit. Where the alternative enforcement strategy is chosen, a visit is made by a Regulatory Support Officer or newly qualified authorised officer who will complete the questionnaire with the business. Childminders are not inspected after their initial inspection and where possible are sent a questionnaire.



3.1.9 Officers will have due regard to the FSA guidelines on the importation of food when carrying out routine inspections, will consider traceability of food products and will be mindful of the implications of food fraud or unauthorised (in the EU) ingredients.

**Food hygiene**

3.1.10 The frequency of food hygiene inspections is determined by the risk rating system stipulated in the code of practice. Risk categories may change if food handling activities change, consumer complaints are received or other non-compliance is identified. The number of inspections due in 2018/19 is:

<b>Category/ Frequency</b>	<b>Number of inspections Planned 2018/19</b>	<b>Number of broadly compliant premises due for inspection</b>
A / at least every 6 months	14	0
B / at least every 1 year	45	17
C / at least every 18 months	157	133
D / at least every 2 years	255	250
E / Alternative Enforcement Strategy	74	74
Non Inspectable Risk (NIR)	37	-
Unrated <sup>1</sup>	240	-
<b>Total</b>	<b>785</b>	<b>474</b>

1 This number includes an estimate of new premises registering in year.

3.1.11 The service has made a commitment to target a proportion of its resource at those premises that score 0-2 on the Food Hygiene Rating Scheme. Improving these premises will reduce the number of high risk inspections required in year.

### **Food Standards – labelling and composition**

3.1.12 The frequency of food standards inspections is determined by the risk rating system stipulated in the Code of Practice. The number of inspections due in 2018/19 are:

<b>Category/ Frequency</b>	<b>Number of planned Inspections due 2018/19</b>	<b>Number of broadly compliant premises due</b>
A / at least every 1 year	2	2
B / at least every 2 years	231	165
C / alternative enforcement strategy	472	445
Non-Inspectable Risk (NIR)	209	-
Unrated	264	-
<b>Total</b>	<b>968</b>	<b>641</b>

3.1.13 The following targets for food premises inspections due to be visited are:

Category A	100%
Category B/C	10%
Category Unrated	60%

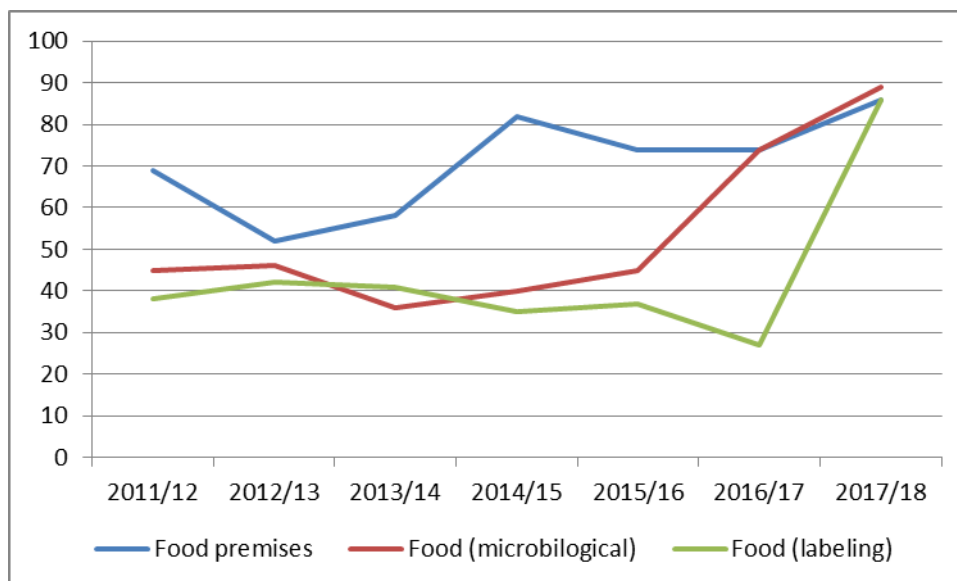
3.1.14 Consumer issues that are identified as warranting specific targeting are reflected in the annual or quarterly sampling programme. New legislative requirements are accommodated within the inspection programme and any specific action needed is appropriately assessed. Additional professional training needs are provided where appropriate.

3.1.15 As the Borough is predominantly urban there are no fertilizer feeding stuffs premises to visit. Retail surveillance of goods is conducted during routine inspection visits.

### 3.2 Food Complaints

3.2.1 There is a documented food complaint procedure. All food complaints are investigated in accordance with the Food Law Code of Practice, practical guidance and in house procedures. Complaints that are identified as posing an immediate risk to health are responded to within one day. Other food complaints are investigated and responded to within 5 working days. The Primary Authority/home authority principle is employed where the food is manufactured in another borough.

3.2.2 The graph below details the trends for food complaints received since 2011/2012:



3.2.3 Estimates for the coming year suggest the figures for food standards will remain constant whilst the number of microbiological food complaints has significantly increased.

### 3.3 Primary Authority Partnerships

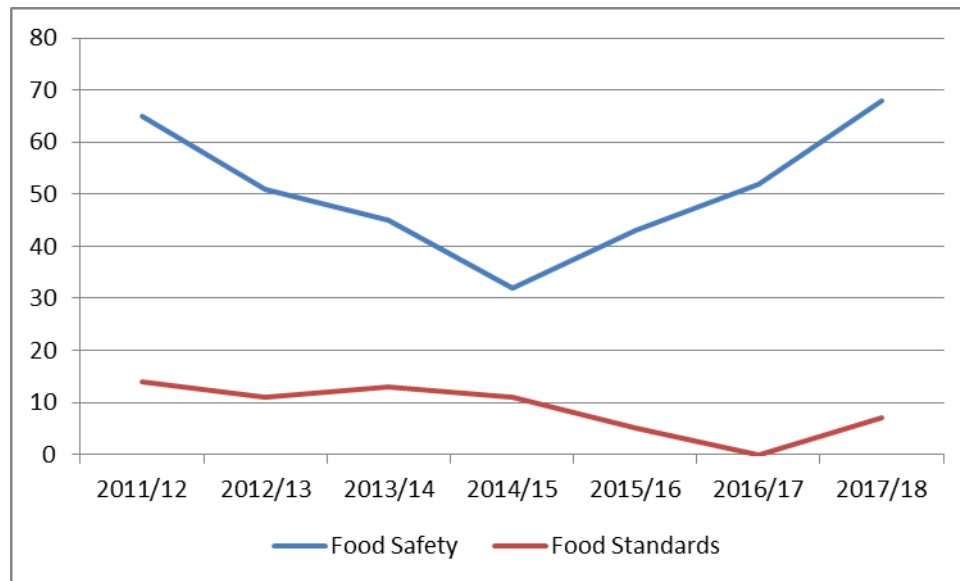
3.3.1 The Authority no longer offers a home authority partnership arrangement and has converted all partnerships to Primary Authority Partnerships (PAPs). In addition the authority has taken new partnerships where it would have previously not qualified to be the home authority because the location of the businesses head office is not in the local authority area.

3.3.2 There are 26 partnerships predominantly in the hospitality industry of which 12 cover food hygiene and safety and 7 cover food standards. The most significant and active partnerships are with JD Wetherspoon, Greene King and Stonegate Pub Company.

3.3.3 Each partnership has a work plan and officers have regular meetings with the company to discuss enquiries from other councils and progress the work plan.

### **3.4 Advice to Business**

- 3.4.1 The enforcement policy states that the Service will provide advice to businesses in the first instance to assist them in complying with the law and to help them maintain high standards of food safety or standards.
- 3.4.2 Businesses can contact the team, where they will be directed to advice leaflets and other information available on the website. If they food business operator requires further advice, a paid for service is offered.
- 3.4.3 The number of requests from businesses for advice on food and drink are detailed in the graph below:



### **3.5 Food and Feeding Stuffs Sampling**

3.5.1 Food samples are taken in accordance with the authority's sampling procedure and the joint annual sampling plan. Sampling programmes have been developed and implemented to:

- Assess the microbiological quality of food produced and offered for sale;
- Determine the compositional standards and descriptive integrity of food.

3.5.2 The sampling plan reflects the following requirements:-

- (i) the procurement of samples taken during food hygiene and food standards inspections, taking into consideration the FSA guidelines for imported food and feed controls.
- (ii) specifically targeting foods produced and distributed nationally, from producers and manufacturers based in Reading.
- (iii) in response to consumer and business complaints regarding food standards and food hygiene, and

- (iv) the participation in agreed national, regionally co-ordinated and local sampling programmes and in particular projects concerning imported foods.
  - (v) the Rapid Alert System for Food & Feed (RASFF) annual and quarterly reports.
- 3.5.3 The plan may be changed from time to time during the year to reflect new or changes in legislation and other local or national issues of concern.
- 3.5.4 Food samples are procured in accordance with the Code of Practice and legislation as appropriate.
- 3.5.5 Samples for microbiological analysis are sent to the food examiner at:  
Public Health England  
Food, Water and Environmental Microbiology Services, Porton  
Porton Down  
Salisbury  
SP4 0JG  
Tel 01980 616766
- 3.5.6 In order to maintain best value for its analytical services the Authority has appointed the following Public Analysts;
- (i) Worcestershire Scientific Services  
Unit 5  
Berkeley Business Park  
Wainwright Road  
Worcester  
WR4 9FA  
Tel. 01905 765765  
Email: [scientificservices@worcestershire.gov.uk](mailto:scientificservices@worcestershire.gov.uk)
  - (ii) Hampshire Scientific Services  
Hyde Park Road  
Portsmouth  
Hampshire PO5 4LL  
Tel. 023 9282 9501

### **Food Safety – Microbiological Sampling**

- 3.5.7 Resources are allocated through Public Health England. Microbiological food sampling projects are co-ordinated within the sampling county liaison group. The PHE Porton laboratory carries out the analysis of the samples.
- 3.5.8 For 2018/19 the food sampling budget for microbiological analysis is £6,500.00 which is held on account by PHE.
- 3.5.9 The Food Safety service aims to take approximately 60 samples for microbiological analysis during 2018/19.
- 3.5.10 There are fewer than 20 private water supplies in Reading. Most are considered low risk. The private water supplies sampling officer will discuss sampling requirements with the Licensing, Food & Safety

Manager and the officer with special responsibility for sampling before this is carried out

### **Food Standards Quality and Compositional Sampling**

3.5.11 The Trading Standards manages a coordinated annual sampling programme through Trading Standards South East Group (TSSE) and a local sampling programme. Any local sampling is shared with TSSE and other members of the group are invited to also take part in the sampling.

3.5.12 The total budget for food standards and feeding stuff sampling for the year 2018/19 is £9,000.

3.5.13 Local Sampling projects for 2017-2018 include meat adulteration and gluten free meal claims. The Council are also taking part in TSSE projects including allergens, coconut waters and food supplements.

### **3.6 Investigation of Outbreaks and Control of Food Related Illnesses and Infectious Diseases and Food Poisoning Outbreaks**

3.6.1 The Service investigates all notifiable food poisoning incidents and outbreaks associated with food occurring in Reading. Officers will liaise with the Consultant in Communicable Disease Control (CCDC) in the investigation of diseases or outbreaks and where it is necessary to exclude infected persons from work or children from school in accordance with the Berkshire Joint Infectious Disease Outbreak Control Plan (2013).

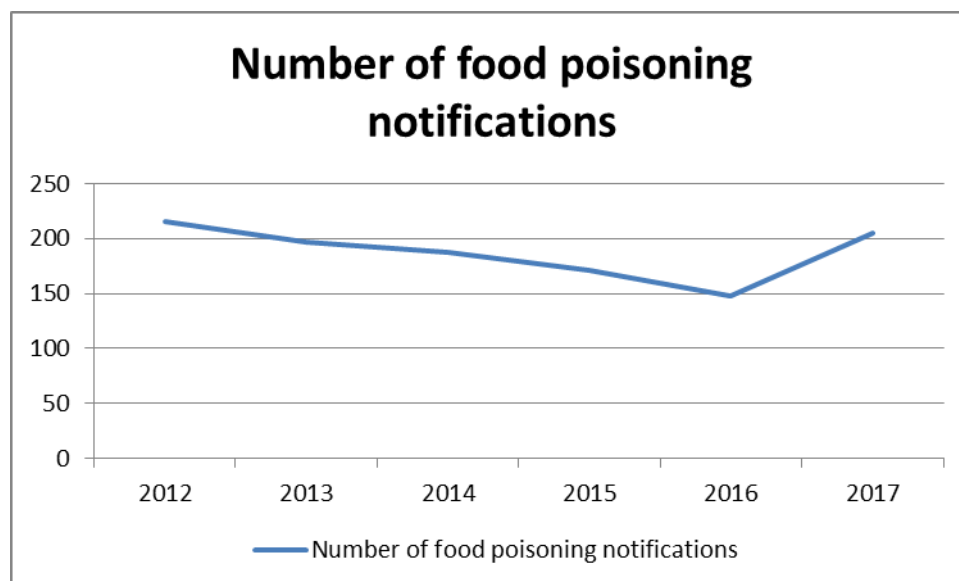
3.6.2 Investigations into infectious disease aim to:

- (i) Determine whether the infected person works with food or cares for others particularly if the others are a vulnerable group.
- (ii) Identify the source of infection
- (iii) Prevent spread or reoccurrence of the infection
- (iv) Take formal action in appropriate cases where breaches of food legislation have contributed to a food poisoning outbreak
- (v) Provide information to affected persons.

3.6.3 The target for response is as follows:

Food Poisoning outbreaks	100% in 1 day
Food Poisoning (cases)	80% in 1 day 100% in 2 days

### 3.6.4 Food Poisoning Notifications



3.6.5 The forecast projection for 2018/19 year end and there after is a further fall in numbers as cases are increasingly managed by Public Health England, Thames Valley (TVPHE) via a single case protocol arrangement. The Local Authority is only called upon for cases of lower risk food poisoning such as *Bacillus cereus*, *Clostridium*, *Giardia*, *Salmonella* and *Shigella* as well as to assist TVPHE in finding the source of other cases such as *Cryptosporidium*.

3.6.6 The number of outbreaks is projected to increase as genome typing of bacteria links cases nationwide, which previously had no common themes.

### 3.7 Food Safety Incidents

3.7.1 All food safety incidents are dealt with in accordance with the Food Safety Act Code of Practice and Practical guidance on food hazards and the procedure for food safety incidents. The team is committed to responding to appropriate notifications of food hazards and working with the FSA and food businesses to ensure that food is safe to eat.

3.7.2 The team will receive Food Alerts (FAFA), Product Recall Notices (PRIN) and allergy alerts via the FSA mailbox, which is sent to the food team email box and forwarded within 24 hours to competent officers. The Food Lead Officer or Senior Officer in charge will determine what action needs to be taken on the Food Alert. Generally such situations are dealt with through voluntary co-operation or surrender of the food.

## **Food Fraud**

- 3.7.3 The Council is committed to detecting fraudulent activity. This includes various illegal acts committed for economic gain including false labelling, establishments operating illegally, illegal importation of foods and diversion of meat products into the animal feed chain via the bakery production.
- 3.7.4 Whistle-blower, anonymous complaints or partial information is taken seriously and collated or followed up.

## **3.8 Liaison with Other Organisations**

- 3.8.1 Arrangements are in place to ensure consistency with other organisations and by officers delegated to represent the Council. This is achieved through membership of local specialist groups.
- 3.8.2 The Regulatory Services Manager attends and participates in the Berkshire Environmental Health Managers Group. One of the Berkshire Managers has specialist responsibility for food safety and attends the Berkshire Food Safety Liaison Group once per year.
- 3.8.3 The Licensing, Food & Safety Manager attends and participates in the Berkshire/Oxfordshire Food Safety & Health and Safety Liaison Group that will meet 3-4 times per year. One of the members of this group aims to go to the food sampling group at least once per year to provide strategic direction.
- 3.8.4 The officer with specialist responsibility for sampling attends and participates in the Berkshire Food Sampling Groups.
- 3.8.5 The Trading Standards food specialist or lead food officer attends and participates in the Regional Food Focus Group of TSSE which meets 2 times per year.
- 3.8.6 The service has regular contact with professional bodies, the Chartered Institution of Environmental Health and the Trading Standards Institute as well as the national regulators Food Standards Agency and the Office of Product Safety and Standards.
- 3.8.7 For imported or exported foods, the team liaises with relevant port of entry local authorities where action is required as well as the Animal & Plant Health Agency (APHA).
- 3.8.8 A representative for the team sits on the Safety Advisory Group (SAG) which covers all festivals and community events within the town and offers support or advice regarding food safety.



### **3.9 Food Promotion**

#### **Food Hygiene Rating Scheme**

- 3.9.1 The Authority has run and issued awards for good standards of hygiene in food premises since 1975. In 2011 the authority joined the national Food Hygiene Rating Scheme (FHRS) run by the Food Standards Agency. The rating is given at the end of routine or partial inspections in the form of a window sticker including information about the scheme and how their rating is made up. The information is uploaded to the website approximately once every 4-6 weeks. Premises can request a revisit if they are not satisfied with their rating. On payment of a fee another full inspection will be carried out within 3 months.
- 3.9.2 Since 1999 the Food & Safety team has successfully run in collaboration with Festival Republic and Central Fusion, a separate Alfresco Award for the food traders at Reading Festival. In 2011 the award was expanded to encompass the principles of the Food Hygiene Rating Scheme and a new pink coloured sticker unique to Reading Festival was designed. Each year any traders achieving 5 rating will be given a unique Reading Festival wall sticker for the duration of the festival and nominated for one of three Al Fresco Awards (Bronze, Silver or Gold). All food traders are inspected at the festival. The costs of this work is funded by the festival organisers. The festival organisers and food service contractor take great interest in the total number of traders in each food rating category and traders who achieve two or less are scrutinised before being allowed to return to the festival in the following year. Al Fresco Award winners are given incentives to attend the following year's festival such as a free pitch at the next year event. Since 2016 the Council has also followed the inspection plan set out by Nationwide Caterers Association.

#### **Food Hygiene Education**

- 3.9.3 Staff deliver a Level 2 Food Safety in Catering Course on a one-day basis about 6 times per year. The same course is offered to companies, organisations or schools at their premises on request. Courses are also run for specific ethnic minority groups both in English and their own language

#### **NIS Pathfinders Project**

- 3.9.4 The FSA has asked the council to take part in a FSA funded project with one of their PA business partners (JD Wetherspoon) which considers a National inspection Strategy for businesses with a PA. PA officers will desktop score the business units based on the companies audit documentation for each unit and compare the scores given with those of inspecting officers. Over 100 units will be scored as part of the project.

## **4. RESOURCES**

### **4.1 Financial Allocation**

The net budget for the Food & Safety and Trading Standards sections for 2018/19 is £650,300. This is the cost of providing all the functions of the team, including food safety and standards, safety at sports grounds licensing, health and safety at work, consumer advice, all trading standards functions and the Primary Authority Service.

### **4.2 Staffing Allocation**

4.2.1 The Food & Safety team is currently staffed by 10.4 full time equivalent (FTE) officers. The team carry out the full spectrum of food hygiene, health and safety, Primary Authority Partnership and certain forms of licensing activities. Officers in the team are broadly multidisciplinary, however certain aspects of their role such as the inspection of high risk premises are restricted based on their competency and qualifications. For example, a Senior Technical Officer is not deemed competent to inspect Category A food premises and an Environmental Health Officer who has not reached specific competency criteria will not be able to prohibit a food premises from operating.

4.2.1 As part of the planning process for ensuring that the Council meets its statutory duties, it must ensure that it has sufficient staffing capacity to deliver its inspection and enforcement programmes. Based on a percentage of each officer's time being spent on food hygiene activities only and including factors such as maternity, part time working hours, competencies etc, there are currently 3.35 FTE officers available against an estimated need of 5 FTE's. Unfortunately due to national shortages of qualified Environmental Health Officers, the Council has been unable to recruit to a vacant post in the team. In order to ensure it is able to meet its statutory duties, casual staff have been recruited. This has resulted in the Council being able to deliver its inspection programme, despite initial concerns in 2017/18 that it would fall short.

### **4.3 Staff Development Plan**

4.3.1 One to one meetings are held for all officers approximately 6 times per year where professional and personal development is discussed and encouraged. Officers complete annual Training Needs Assessment's to ensure that training needs are identified and they are able to meet their 10 hours CPD as specified in the Food Law Code of Practice.

4.3.2 Due to changes in circumstances of our staff and greater part time working the Council has decided to invest in online training (ABC Food Law) for staff in order to ensure that they meet their CPD requirements.

4.3.3 Consistency training for use of the Food Hygiene risk rating scheme will be undertaken as part of the FSA national consistency exercise.

4.3.4 Courses will be undertaken according to officer specialisms, as the course becomes available and according to the officer training plans.

## **5. QUALITY ASSESSMENT**

**5.1** The Council does not hold any external accreditation, however it conducts a rigorous monitoring procedure to ensure the national and local performance indicators it has set itself are specific, measurable, achievable, realistic and targeted to achieve best value.

The monitoring of the plan is conducted by:

- (i) Monthly monitoring of achievement of targets, actions and time taken by team managers or delegated officers.
- (ii) Submission of food hygiene and food standards statistical returns to the FSA
- (iii) Officers are provided with details of actions not responded to within the specified target times
- (iv) Monthly one to one meetings
- (v) Annual appraisals of staff
- (vi) Publication of annual performance achievements
- (vii) Checks of accuracy of improvement and prohibition notices served.
- (viii) Shadowing of staff to check consistency and accuracy of inspections.

## **6. REVIEW**

**6.1** The annual performance achievement is compared with the target set and any underachievement is explored and the appropriate action taken. The data below details the review of performance:

### **Number of Inspections**

#### **6.1.2 Food Safety**

	Planned inspections 2017/18	Actual inspections
Premise Rating - A	24	24
Premise Rating - B	86	86
Premise Rating - C	232	232
Premise Rating - D	323	323
Premise Rating - E	251	251
Premise Rating - Unrated	199	177
Premise Rating - Outside	126	126
Totals	1241	1219

### 6.1.3 Food Standards

	Inspection ratings 17/18	Outstanding inspection ratings 17/18
Premise Rating - A	8	0
Premise Rating - B	112	124
Premise Rating - C	60	428
Premise Rating - Unrated	51	235
Premise Rating - Outside	4	2
Totals	235	789

The number of outstanding inspection ratings has been increasing over the last few years due to a number of factors including; it is a non-statutory activity; officer competency; other priorities being set to focus on issues such as food fraud. A project to increase the number of inspections is scheduled to start in 2019/20.

### **Formal Actions**

6.1.4 During the period 2016 to 2018 the authority took the following enforcement action:

Enforcement Type	2016/17	2017/18
Voluntary closure	2	2
Seizure, detention & surrender of food	2	1
Suspension/revocation of approval or licence	0	0
Emergency prohibition notice	4	4
Prohibition order	0	2
Simple caution	0	0
Improvement notices	34	15

Remedial action & detention notices	0	0
Written warnings (Food Hygiene)	553	650
Written warnings (Food Standards)	72	30
Prosecutions concluded	0	1

### **Food Sampling**

#### 6.1.5

	Number of Food Hygiene Samples	Number of unsatisfactory results
2016/17	55	4
2017/18	63	22

### **Food Promotional Activities**

6.1.6 During 2016, 150 primary food hygiene inspections were carried out over Reading Festival weekend. An increase of 20 businesses compared to the previous year. At the end of the visit there were the following:

Rating	No businesses 2018	of	No of Businesses 2017
5	101		100
4	16		15
3	4		11
2	1		2
1	0		0

The consistent high numbers of 5 rated premises reflects the visibility of the Reading Festival award scheme as well as the financial incentive and prestige of winning an Alfresco Award. The food inspections are

also carried out every year and financed by Festival Republic as a commitment to ongoing good hygiene practices.

## **6.2 Variations from the Service Plan**

6.2.1 The following items were not met in the 2016/17 service plan.

- Some policies and procedures require updating.
- The number of unrated premises inspected for food standards was significantly lower than the target figure. The most significant number of businesses that have not been inspected for food standards are caterers. Caterers are inspected for food standards by Environmental Health staff and not all the staff that inspect unrated premises have the qualification or competence to inspect caterers. All of the unrated food retailers and manufacturers were inspected as these premises are inspected by Trading Standards staff.
- Food Sampling has remained lower than targeted.
- Internal monitoring of officers has not been fully carried out in accordance with the authority's protocols.
- Some competency matrices have not been fully completed or confirmed by the lead Food Officers.

## **6.3 Areas of Improvement**

6.3.1 Following the FSA Audit in November 2017, an action plan was drafted to ensure that any areas of improvement were fully identified and plans put into place to deliver those improvements. The Action Plan is detailed in Appendix 2

# APPENDIX 1

## FOOD ENFORCEMENT POLICY

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## **1. INTRODUCTION**

- 1.1 Reading Borough Council, as a “food authority”, has a duty to enforce within its area the provisions of the Food Safety Act 1990 (the Act) (as amended), the Food Safety and Hygiene (England) Regulations 2013 (FSHER 2013), a series of regulations made under the European Communities Act 1972 being implemented into UK legislation and other associated legislation. The Council carries out this duty by employing suitably qualified staff who are authorised to enforce the requirements of the legislation listed above. In developing this enforcement procedure, the Council has had regard to the guidance in the Codes of Practice issued by The Food Standards Agency (FSA).
- 1.2 While the Corporate enforcement policy sets out the general approach to enforcement throughout the council, and recommends that specific procedures should be developed to enforce particular pieces of legislation, this Food Enforcement Policy outlines how council officers will enforce Food law.
- 1.3 The policy covers the following:
  - (a) Policy Statement
  - (b) The Approach to Enforcement
  - (c) Practical Arrangements for Implementing the Policy
  - (d) Maintaining a High Quality Service
  - (e) Enforcement Procedure

## **2. POLICY STATEMENT**

- 2.1 The Council has made effective arrangements to enforce the Act, the FSHER 2013 and all associated regulations and codes of practice, with the aim of ensuring that all food and drink intended for human consumption which is produced, stored, distributed, handled or consumed within the Borough is without risk to the health and safety of consumers, and is packaged and marketed within labelling and compositional requirements.
- 2.2 Should a member of the public or business wish to seek advice or make a complaint under the provisions of the Act, the Council will provide a prompt, courteous and efficient service for the handling of the enquiry in accordance with the Council’s service standards.

## **3. THE APPROACH TO ENFORCEMENT**

- 3.1 The introduction of the FSHER 2013 formalises the requirement for enforcing authorities to ensure that operators of food businesses produce an effective documented management system for food that takes into account hazard analysis and critical control points (HACCP) when dealing with food issues.
- 3.2 This has resulted in increased demands on enforcement officers who have to assess the effectiveness of the documented system, and also on the operators of food businesses and food handlers who are now required to demonstrate their knowledge of how to prepare, store and present food in a safe manner so as not to pose a risk to health.



A wide variety of statutory and non-statutory guidance exists to assist in the interpretation and compliance of the law.

- 3.3 The Council carries out its duties on a risk rating basis and applies the law in a proportionate and transparent manner. To this end the Council will:
  - 3.3.1 Enforce and execute the provisions of the Act, the FSHER 2013 and associated Regulations.
  - 3.3.2 Register all food businesses as required by legislation.
  - 3.3.3 Inspect food premises with a frequency determined by an assessment of the potential risks guided by the Food Law Code of Practice issued by the FSA.
  - 3.3.4 Make consistent enforcement decisions in accordance with the procedure detailed in Section 6 of this policy.
  - 3.3.5 Comply with official guidance issued by FSA and where applicable, Department of the Environment, Food and Rural Affairs (DEFRA) and the Department of Health (DH).
  - 3.3.6 Liaise with the other food authorities in the area through the Berkshire and Oxfordshire Food Liaison Group, and through the Trading Standards South East (TSSE) Food Focus Group to ensure a consistent and agreed approach in dealing with food safety and food standards issues respectively.
  - 3.3.7 Participate in an inter authority auditing programme with other Local Authorities in the region for food safety and food standards.
  - 3.3.8 Liaise with the Food, Water and Environmental Microbiology Services, Porton Food Sampling Group to agree a national, regional and local sampling programme of microbiological food sampling. Liaise with TSSE, Hampshire and Worcestershire laboratories to participate in regional and where available national food standards sampling programmes. The Council also shares its local sampling programmes with TSSE.
  - 3.3.9 Investigate all cases and outbreaks of food poisoning based on risk and the single case protocol which details which organisation (the Local Authority or Thames Valley Public Health England (TVPHE)) will investigate which each organism. Liaison with the Thames Valley Infectious Disease Group ensures a consistent approach when dealing with individual cases or outbreaks of food poisoning.
  - 3.3.10 Follow the principles of the Primary Authority (PA) scheme as set out in the Regulatory Enforcement and Sanctions Act 2008.
  - 3.3.11 Where a business with an outlet in Reading has a PA in another area then the Authority will search the PA register for any additional information about the business, an inspection plan which directs the inspection, any PA advice given to the business which indicates that this area of the inspection has been approved by the PA. Feedback will be provided to the PA as it directs. Any business with a PA where enforcement is required will be carried out with the knowledge of the primary authority. Depending on the type of enforcement action an

enforcement notification will be made to the primary authority register.

- 3.3.12 Actively promote the PA scheme, engage new PA businesses, allocate officers to work with them who will create a work plan for each business to achieve their goals. The Authority will work with other enforcement authorities to ensure businesses are protected from inconsistent or unreasonable enforcement, provided with a critical friend and a communication bridge to other enforcement authorities. Where there is a local failure at the business or deviation from the agreed policy, the authority cannot defend the business against enforcement action.
- 3.3.13 Where there is no primary authority for food standards then the home authority principle is applied to complaints and enquiries where food does not originate in Reading.
- 3.3.14 Businesses based in Reading with no PA arrangements will be actively encouraged to have one and only a basic Home Authority service is provided where food is unsafe to stay on the market.
- 3.3.15 Ensure the continued development of all its enforcement officers and encourage officers to keep up to date on food safety and food standards issues.
- 3.3.16 Deal effectively and appropriately with all food incidents including food hazards and food fraud on a localised and non- localised scale to ensure the appropriate persons are notified of incident and the incident is reduced to a safe level.
- 3.3.17 Provide training and education to food businesses to help them comply with their legal requirements and ensure their food is safe.
- 3.3.18 Follow the brand standard guidance for the operation of the Food Hygiene Rating Scheme. Issue a Food Hygiene Rating Scheme (FHRS) sticker to those businesses that fall within the scheme. Consider appeals of ratings, provide a mechanism for rerating on payment of a fee

#### **4. PRACTICAL ARRANGEMENTS FOR IMPLEMENTING OF THE POLICY**

4.1 The Council carries out its duties in the following manner:

##### **4.1.1 Pro-active Inspections**

- (a) Pro-active inspections are carried out in the form of a rolling risk-based programme. At the beginning of each financial year, the Licensing, Food & Safety Manager will produce a report identifying those premises that are due for inspection during the year. The percentage of premises that are not broadly compliant at the beginning of the year and at three monthly intervals. Once the Authority has determined the extent of the relative risk and categorised the premises, inspections are made on the minimum frequency basis detailed in 3.1.10 of the food service plan for food hygiene and 3.1.15 of the food service plan for food standards.
- (b) Most food businesses serving open food or high risk food will be given a rating sticker at the end of the visit of between zero and 5 to

reflect the food hygiene at the premises based on the code of practice risk rating for hygiene, structure and confidence in management. This information is available on the web and also a sticker on the window /door. New businesses will be inspected and rated as usual. Unannounced re-ratings will be made within 3 months of payment of a fee.

- (c) Category A, B or not broadly compliant C food hygiene and category A or not broadly compliant category B food standards will be inspected using the existing system of inspection, partial inspection or audit approach. The parameters of the risk rating can be changed during an inspection, partial inspection or audit.
- (d) Category C food hygiene or category B food standards premises that are considered broadly compliant for food hygiene or food standards may, at every other inspection date have an intervention such as a verification or surveillance visit rather than a full inspection, partial inspection or audit. At the verification /surveillance visit premises can be moved on to show a new inspection date but the values of the parameters which make up the risk rating will remain unchanged. As a new Food Hygiene Rating assessment cannot be made on these visits, it is unlikely that verification/surveillance visits will be made as a proactive visit.
- (e) Category D food hygiene premises may receive an official control such as a full inspection, partial inspection, audit or verification/surveillance visit and on every other visit a non-official control such as education and advice. As the FHRS score cannot be changed or altered in the way it is made up as a result of a verification/surveillance or non-official control visit then it is unlikely that these forms of proactive inspection will be used unless the business does not fall within the FHRS scheme.
- (f) Category E food hygiene or category C food standards can be subject to an alternative enforcement strategy such as a self-assessment questionnaire. Where the business is still required to have a FHRS score an inspection will be carried out by an authorised officer. Where the business does not fall within the FHRS then a Regulatory Support Officer or a newly qualified authorised officer will visit the premises to assess if the type of food served at the business has changed and complete a low risk questionnaire with the business. Childminders are also not part of the FHRS scheme. These businesses are sent a low risk questionnaire. Any business that does not return its questionnaire is visited by a Regulatory Support Officer. Premises where large quantities of food are prepared or stored or high standards of food control are maintained may be subject to inspection or verification and surveillance visits to ensure the premises has not substantially changed.
- (g) Certain premises that produce meat, fish, dairy or egg based food for other businesses will be covered by the product specific establishment regulations in EC Regulation 853/2004 for food hygiene. These premises are inspected as dictated by the risk rating.

- (h) Food Brokers are inspected for traceability documentation of the food.

#### **4.1.2 Reactive Inspections**

Reactive Inspections of food businesses will be carried out following the receipt of a complaint, which could be regarding a food complaint, for example concerning contamination of a food, complaint about hygiene standards of a food premises or via the notification of a suspected food poisoning.

#### **4.1.3 Food Incidents**

There are 3 ways in which the FSA categorises food incidents. These are Food Alert For Action (FAFA) where immediate action will be taken on receipt of the notification; Product Recall Notices (PRIN) and Allergy Alerts where no action is required.

#### **4.1.4 Sampling**

Food sampling as agreed by FSA, PHE at Porton, TSSE Group and the Berkshire Food Sampling Group is carried out on a national, regional and local basis, focusing on the specific needs of Reading. Proprietors of those food businesses involved in the sampling programme are informed of the outcome and are required to take remedial action where laboratory analysis of samples show unsatisfactory levels of hygiene. Formal sampling as guided by the FSA Code of Practice will be restricted to occasions where formal action is anticipated.

#### **4.1.5 Imported Food**

- (a) As an inland authority for the sale of imported food, the authority could carry out inspection of the food as part of the food premises inspections.
- (b) Imported food may fail to have the correct documentation or labelling or the authorised officer may suspect the food is unfit for human consumption. In cases where there is insufficient documentation or labelling officers will make sufficient reasonable enquiries to ascertain correct documentation and labelling. Where an authorised is satisfied that the food is suspected of failing to meet the requirements of the food safety legislation, the food will be sampled.
- (c) Where sufficient documentation and labelling is produced to satisfy the requirements of the authorised officer the food will be released. Where there is insufficient documentation the action will be taken on a risk to public health based approach.
- (d) Where food fails to meet food safety requirements steps will be taken to ensure it does not re enter the food chain in its current state in the UK.

#### **4.1.6 Education & Training**

Officers actively encourage food handlers to participate in food hygiene training to expand their knowledge and understanding of food safety issues. All inspections involve some form of education/training, which is to be provided during on-site discussions concerning food preparation procedures and by offering advice and

information on matters requiring attention. We run regular training courses for food businesses in food hygiene. Additionally, where significant changes are made to food legislation the team will work with the Communications Team to update food businesses on legislative changes and local initiatives.

#### **4.1.7 Enforcement Action**

To ensure an effective, transparent and consistent approach to enforcement of food safety legislation, officers will follow the guidance in Section 6.

#### **4.2 Enforcement in Council-owned food premises**

Any contraventions of food law found at businesses that are owned and run by the Council will be brought to the attention of the appropriate Head of Service and the Service Director who will be required to rectify the defect or deficiency within an agreed timescale where there is a significant breach or ongoing breaches of food law.

#### **4.3 Who will implement the policy?**

4.3.1 Responsibility for implementing the policy rests with the Licensing, Food & Safety Manager delegated through the Regulatory Services Manager under the authority of the Head of Planning, Development and Regulatory Services. Day to day activities are carried out by authorised officers. The Food Lead Officers are responsible for the planning, organisation and subsequent monitoring of all aspects of the policy. Inspections, sampling, investigations relating to food and training will be carried out by officers authorised under the Act and FSHER 2013 and as detailed in the FSA Code of Practice.

4.3.2 Trading Standards Officers, Environmental Health Officers and some Technical Officers in the Regulatory Services Department are authorised to deal with aspects of food legislation in accordance with the competency matrix and authorisation scheme of the Service.

### **5. MAINTAINING A HIGH QUALITY SERVICE**

5.1 The Council is committed to ensuring that the highest practicable standard of customer service is integrated into all aspects of service delivery within a reasonable cost. All staff will adopt a professional approach, and performance monitoring will be carried out to ensure compliance with agreed targets. The service will also be audited by peer authorities and by reviewing any complaints against the service that may be received.

#### **5.1.1 Professionalism**

- (a) The Council ensures that all authorised officers have access to appropriate professional training and other resources required in order to maintain a high level of professionalism and competence.
- (b) The Lead Food Officers (Licensing, Food & Safety Manger and Principal EHO (Food)) will monitor the performance of authorised officers.

#### **5.1.2 Monitoring the implementation of the policy**

- (a) The Licensing, Food & Safety Manager and Principal EHO (Food) will monitor the following aspects of the Policy:
- (i) Compliance with agreed targets for pro-active inspections
  - (ii) Compliance with agreed targets for reactive inspections/complaints
  - (iii) Compliance with agreed targets for written reports following inspections
  - (iv) The number of requests for service received year to year
  - (v) The number of food incidents received year to year
  - (vi) The number of sampling initiatives carried out year to year
  - (vii) The number of training courses and candidates run year to year
  - (viii) The results of course evaluation sheets from year to year
  - (ix) The results of inter-authority auditing
  - (x) The number and nature of complaints made against the service
  - (xi) The results of specific target monitoring i.e. Number of businesses that have implemented a documented food safety management system.
- (b) Specific actions to achieve these aims are detailed in the Food Service Plan.

## **6. ENFORCEMENT PROCEDURE**

**6.1** Local authorities have a variety of options available to them when implementing food safety legislation. Action can be either informal (persuasive) or formal (compulsory). The various options available are detailed below.

**6.2** Any general information, inspection plans, PA advice available on the PA register will be considered before any intervention in a business with a PA. Where formal action is considered because of ongoing local failures then a formal notification through the PA website will be made. In the majority of but not all of the cases, this will negate the need for formal enforcement action.

### **6.2 INFORMAL ACTION**

Authorised officers may use informal procedures if they are satisfied that such procedures will secure compliance with the requirements of food safety legislation within a reasonable time scale.

#### **6.2.1 No action**

In certain circumstances contraventions may not warrant any action. This can be where the cost of compliance outweighs the benefit to public health. A decision to take no action must be recorded in writing and must take into account the public health implications of the contravention.

#### **6.2.2 Verbal Advice**

For minor breaches of the law we verbally advise the offender clearly identifying the contravention and including a deadline by which the action must be taken. This might be done when the authorised officer has confidence in the food business operator that the work would be carried out. Failure to comply would result in more severe enforcement action.

### **6.2.3 Written Warning and advice**

- (a) During or on completion of an inspection the authorised officer will discuss as far as possible with the operator of the business, any problems that are identified and will explain what is necessary to rectify the problem.
- (b) After all visits to food businesses an inspection report form will be left with the person in charge of the business at the time of the visit. The inspection report form will detail the main findings and make a clear distinction between legal requirements and recommendations. The form will contain details of areas inspected, person seen at the premises, visiting authorised officer, their contact details, date/ time of the visit and clear contact details regarding an Officers manager to allow a food business operator to take a matter further if they are not happy with the response of an officer.
- (c) In certain circumstances and particularly if the food business operator was not present at the visit to the food premises and it is known that the food business operator is not based at this premises a letter or a copy of the inspection report form will be sent to his office. This is particularly appropriate where there are legal requirements that must be carried out and it is a multi site business.
- (d) Where a letter is sent out after the visit, the letter will detail the hazards identified by enforcement officers during their inspection and the remedial action required. A clear distinction will be made between matters that are legal requirements and those that are recommendations and the measures that are required to secure compliance with the legislation.
- (e) It will be clear from both the inspection report and any subsequent letter that the operator can approach the Section for additional advice/assistance should it be necessary.

### **6.2.4 Follow up visits**

Where significant breaches of the legislation have been identified during a previous visit to the premises, a revisit will be carried out to monitor progress towards compliance. Wherever practicable, and in all cases where a formal notice has been served or prosecution instituted the revisit will be undertaken by the same officer who carried out the original inspection.

## **6.3 FORMAL ACTION**

- 6.3.1 In deciding what enforcement action is necessary, an authorised officer will have regard to the nature and severity of the

contravention and the effects on public health. Regard will also be given to the food safety history of the business and attitude of the food business operator in complying with legislative requirements. Formal action will be instigated where informal action has failed to ensure that a food business operator has performed the duties imposed on them by relevant food safety legislation. A decision on what type of action to take may not necessarily be made at the time of the inspection.

### **6.3.2 Improvement Notices & Hygiene Improvement Notices**

- (a) An authorised Officer may consider the use of an Improvement Notice or Hygiene Improvement Notice as appropriate in any of the following or combination of the following situations:
  - (i) where there is a history of non-compliance or delay in compliance of food safety legislation;
  - (ii) where formal action is proportionate to the risk to public health; or
  - (iii) where it is believed that for an informal approach is not likely to be effective.
- (b) A Hygiene Improvement Notice gives the food business operator on whom the notice is to be served a minimum of 14 days in which to make a representation in respect of works improvement required. An Improvement Notice sets no minimum time for compliance with the notice and is designed to be used with the Food Information Regulations 2014
- (c) An Improvement Notice or Hygiene Improvement Notice will clearly detail which regulations have been contravened and what remedial action is necessary. Information will be sent explaining the recipient's right to appeal. The notice will specify the time within which compliance is required. The time allotted will be dependent on the nature of the problem, the public health risks involved and the availability of the solution.
- (d) An authorised officer serving an Improvement Notice or Hygiene Improvement Notice must be satisfied that they have adequate evidence to successfully prosecute for non-compliance should the situation arise.
- (e) The authorised officer will visit as soon as is reasonably practicable following expiry of the time allowed for compliance to check whether the contraventions of food safety legislation have been remedied. If they have not, an offence has been committed and the investigating officer shall prepare a report for the Head of Planning, Development and Regulatory Services.
- (f) The Head of Planning, Development and Regulatory Services will decide whether it is necessary and appropriate to instigate prosecution proceedings in respect of the food business operator subject to the Head of Legal Services being satisfied as to the available evidence.



### **6.3.3 Prohibition Procedures: Formal closure of a food premises using Emergency Prohibition Notice/Order or Hygiene Emergency Prohibition Notice/Order**

- (a) Authorised Officers may serve the above notices where there is an imminent risk to public health. The notice will either:
  - (i) prohibit the use of the entire premises or part of the premises;
  - (ii) prevent the use of certain equipment; or
  - (iii) prohibit a particular process or treatment
- (b) The notice and subsequent order will require immediate closure of the premises, or the cessation of a process or use of specific equipment.
- (c) Following the service of an Emergency Prohibition Notice (EPN) or Hygiene Emergency Prohibition Notice (HEPN) the local authority must within three days apply to a Magistrates' Court for an Emergency Prohibition Order (EPO) or Hygiene Emergency Prohibition Order (HEPO) respectively. Where an order is not applied for the proprietor may claim compensation for loss of earnings arising as a result of the EPN or HEPN. The food business operator will have one complete day's notice of the Council's intention to make the application to the court. During the closure period frequent checks will be made to the business to ensure that it has not reopened without the permission of the authorised officer.
- (d) The EPN, HEPN, EPO, HEPO and accompanying notes will contain the following information:
  - (i) The name of the business and its address;
  - (ii) The matters that are considered to pose an imminent risk;
  - (iii) Details as to how to request that the premises may be allowed to open following the service of the EPO or HEPO;
  - (iv) The circumstances that will entitle the Food Business Operator to compensation for any losses following the service of the Emergency Prohibition Notice or Hygiene Emergency Prohibition Notice.
- (e) The Council will apply to the Court for its costs from the Food Business Operator in making the application and the work carried out beyond that of a normal inspection.
- (f) An authorised officer may serve a Notice seeking voluntary closure of the food business if the officer believes there is an imminent risk of injury to health as in the emergency prohibition procedures and he has confidence in the management of the business that they will not reopen until the imminent risk to health is removed. In these circumstances there is no opportunity for the business to seek compensation from the Council for loss of earnings as there is no need to apply to the court for confirmation of the notice in the form of an order.

- (g) The voluntary closure will be confirmed in writing and frequent checks will be made to the business to ensure that it has not reopened without the permission of the authorised officer.

#### **6.3.4 Closure of food business after prosecution & prohibiting the food business operator from managing it - Prohibition Order/ Hygiene Prohibition Order**

- (a) If a food business operator is successfully prosecuted for breaches of relevant food law and satisfactory evidence is provided to the court that the business continues to pose a risk of injury to health, the food authority can apply to the Magistrates' Court for a Prohibition Order. If successful, the food business operator and/or manager are prohibited from running a food business.
- (b) If a person is prohibited from managing a food business the information is circulated nationally via the Chartered Institute of Environmental Health (CIEH) to reduce the likelihood of that person setting up business in another area. If the Prohibition Order has been lifted the food authority will notify the CIEH as soon as is reasonably possible.

#### **6.3.5 Inspection, Detention and Seizure of Suspect Food**

- (a) Any food that fails to meet food safety requirements or has not been produced, processed or distributed in compliance with the hygiene regulations may be detained to allow further time for investigation or seized. When food has been detained or seized the food business operator will be provided with written notice as soon as is reasonably practicable.
- (b) The food will be presented to a JP as soon as possible but within two days, when a decision on further action will be made. This two day period may be extended if necessary to ensure that parties attend and be represented if they choose.
- (c) A food condemnation notification will be given to the person in charge of the food when the officer intends to have the food dealt with by a Justice of the Peace (JP).

#### **6.3.6 Suspension/withdrawal of approval or conditional approval**

- (a) Any premises that has received approval under EC Regulation 853/2004 by the Food & Safety Team is given an approval number based on the stem of RG followed by the next numerical value which is notified to the FSA.
- (b) The approval will be suspended or withdrawn if the business fails to comply with the relevant hygiene regulations.
- (c) The business may be given a conditional approval (including approval number) rather than full approval on the first inspection after application. The conditional approval allows the businesses to trade provided if it meets certain conditions within six months. In order to obtain conditional approval the business must meet the structural requirements and produces a commitment to implement the other issues specified in writing within six months of the granting of the

conditional approval. When all the requirements have been met an approval will be granted. If the requirements of the conditional approval are not met within six months of the granting of the conditional approval, the conditional approval for the business will be suspended or withdrawn.

- (d) The suspension, withdrawal of approval or conditional approval will be given in writing to the business and an appeals mechanism will be available to the business.

#### **6.3.7 Remedial Action Notice**

- (a) Authorised Environmental Health staff can serve a Remedial Action Notice on a food business operator that operates a food premises that is subject to approval. The notice will provide provision for prohibiting the use of equipment, any part of the establishment, the imposition of conditions upon, or prohibiting or reducing the rate of processing of the food. This Notice may be used in the following situations:
  - (i) When the rate of operation is detrimental to the ability of the business to comply with the regulations;
  - (ii) On a continuing serious breach of the hygiene regulations that gives rise to a risk to public health.

#### **6.3.8 Prosecution**

- (a) Food handlers and the owners of food businesses found to be contravening food safety and food standards legislation will be given reasonable opportunity to comply. However, in some situations the seriousness of the offence may be such that prosecution is appropriate. The following circumstances may result in prosecution proceedings being brought:
  - (i) The alleged offence involve a serious breach of the law such that public health, safety or wellbeing is or has been put at risk;
  - (ii) The alleged offence involves a failure to correct a serious potential risk potential risk to food after a reasonable opportunity to correct the matter;
  - (iii) The offence involves a failure to comply in full or part with the requirements of a statutory Notice;
  - (iv) There is a history of similar offences relating to risk to public health
- (b) In such cases, the Council will consider:
  - (i) The seriousness of the offence;
  - (ii) The previous history of compliance with relevant legislation;
  - (iii) The ability of the defendant to establish a due diligence defence;
  - (iv) The availability and capability of witnesses and the evidence available.

### **6.3.9 Deciding Whether to Prosecute**

- (a) Not every contravention of the law should be prosecuted through the Courts. The Authority will weigh the seriousness of the offence (taking into account the harm done or the potential for harm arising from the offence) with other relevant factors, including the financial circumstances of the defendant, mitigating circumstances and other public interest criteria.
- (b) The Council will have regard to The Code for Crown Prosecutors issued under Section 10 of the Prosecution of Offences Act 1985 in deciding whether to prosecute in any particular case. Thus, before starting proceedings, the Head of Legal Services must be satisfied that there is a realistic prospect of a conviction based on the evidence (that is, there must be sufficient admissible, substantial and reliable evidence to secure a conviction). In addition, the Council will balance, carefully and fairly, the various public interest criteria against the seriousness of the offence. These public interest criteria include:-
  - (i) the likely sentence (if convicted);
  - (ii) previous convictions and conduct of the defendant;
  - (iii) whether there are grounds for believing the offence is likely to be repeated;
  - (iv) the prevalence of the offence in the area;
  - (v) whether the offence was committed as a result of a genuine mistake or misunderstanding;
  - (vi) any delay between the offence taking place and the date of trial;
  - (vii) the likely effect the prosecution will have on the defendant;
  - (viii) whether the defendant has put right the loss or harm caused.
- (c) The Council will have regard to the Regulators Code which came into force in 2014 and must be applied to food law. The enforcement approach must be reasonable, proportionate, risk based and consistent with good practice. It must consider the economic impact and minimise costs as well as encourage compliance.
- (d) If a number of offences have been committed and prosecution is deemed to be appropriate, then in selecting the offences for prosecution, regard will be had to the need to reflect the seriousness of the matter and to give the Court adequate sentencing powers to deal with the matter appropriately.

### **6.3.10 Simple Caution**

- (a) A simple caution may be issued instead of a prosecution. The Council will have regard to the guidance contained in the Ministry of Justice circular Simple Cautions for Adult Offenders (November 2013) in deciding whether or not to offer alleged offenders the chance of a formal caution.

- (b) The following conditions should be fulfilled before a caution is administered:
  - (i) There must be evidence of the alleged offender's guilt sufficient to give a realistic prospect of conviction;
  - (ii) The alleged offender must admit the offence;
  - (iii) The alleged offender must understand the significance of a simple caution and give an informed consent to being cautioned.
- (c) If there is insufficient evidence to consider taking a prosecution, then a simple caution must not be considered.
- (d) There is no legal obligation for a person to accept the offer of a simple caution and no pressure should be applied to the Food Business Operator to accept one. If the alleged offender refuses to accept a simple caution a prosecution will normally be pursued.

**7. REVIEW OF THE POLICY**

This enforcement policy will be reviewed annually or when changes in legislation or centrally issued guidance makes this necessary.