



BUSINESS REGULATION SERVICE DELIVERY PLANS 2021/22

**CORPORATE COMMITTEE
MEETING**

29th June 2021

CLASSIFICATION:

Open

**If exempt, the reason will be listed in the
main body of this report.**

WARD(S) AFFECTED

All Wards

GROUP DIRECTOR

Ajman Ali Neighbourhoods and Housing

1. INTRODUCTION AND PURPOSE

1.1 This report relates to the service delivery plans for 2021/22 for the Business Regulation Teams that sit within the Community Safety, Enforcement and Business Regulation Service.

1.2 The Business Regulation Division consists of the following areas:

- Environmental Health : Food Safety
- Environmental Health : Occupational Health & Safety
- Environmental Protection (noise and other nuisance)
- Trading Standards
- Licensing

1.3 This report relates to service delivery plans for three of these areas:

- Environmental Health Service: Food Safety
- Environmental Health Service: Occupational Health & Safety
- Trading Standards

1.4 The service delivery plan for the Environmental Protection is within the Enforcement Service Delivery Plan Report.

1.5 *Environmental Health Service: Food Safety*

1.5.1 The Food Law Enforcement Service Plan (FLESP) is a statutory plan which sets out how the Council will undertake enforcement of food safety legislation.

1.5.2 The Plan is prepared in accordance with the Food Standards Agency's (FSA) Framework Agreement template April 2010, and is an important part of the process to ensure that national food safety priorities and standards are addressed and delivered locally. It also focuses on key deliverables; provides an essential link with financial planning; provides objectives for the future including identifying major issues that cross service boundaries; and provides a means of managing performance and making performance comparisons.

1.5.3 The Food Law Enforcement Service Plan sets out the objectives of the service and demonstrates how they are linked to the Mayor's Priorities and Hackney's Sustainable Community Strategy. It also sets out the key areas of food law enforcement, the management arrangements, the resources that have been allocated for this work by the local authority and the key targets.

1.5.4 The performance of the Food Safety Service is measured against its fulfilment of the Plan and the percentage of broadly compliant premises within the Borough. The FSA continues to monitor the performance of the Service through the annual enforcement data returns made to the FSA via the Local Authority Enforcement Monitoring System (LAEMS).

1.6 Environmental Health Service: Occupational Health and Safety

- 1.6.1 With regard to Health and Safety, responsibility for the enforcement of Health and Safety law is split between the Health and Safety Executive (HSE) and the Council, depending on the activity being undertaken by the duty holder. Officers in Hackney ensure that duty holders manage their workplaces with due regard to the health and safety of their workforce and those affected by their work activities.
- 1.6.2 Hackney is an enforcing authority in its own right, and must make adequate provision for enforcement. The Local Authority National Enforcement Code introduced in May 2013 sets out the principles the Council should follow in a consistent, proportionate and targeted approach to regulation based on risk.
- 1.6.3 The Health and Safety Service Delivery Plan fulfils the Council's obligations under s18 of the Health and Safety at Work etc. Act 1974 and the Enforcement Code. The format and content of the Plan provides the basis upon which the service operates in order to ensure that it is providing an effective service to protect those working in Hackney.
- 1.6.4 The HSE collects and publishes data annually on the enforcement activities of all local authorities.

1.7 Trading Standards

- 1.7.1 In relation to Trading Standards, the Plan sets out the objectives of the service and demonstrates how they are linked to the Mayor's Priorities and Hackney's Sustainable Community Strategy. It also sets out the key areas of law enforcement, the management arrangements, the resources that have been allocated for this work by the local authority and the key targets
- 1.7.2 In fulfilling its duties, the service provides support to individuals, communities and businesses in the borough to enable people to buy goods and services with confidence and security, and by offering advice to businesses to help them to comply with the law.
- 1.7.3 The Service also fulfils an important role in relation to public safety and health, for example through ensuring safe storage of dangerous items and by preventing the sale of dangerous products including the supply of age-restricted products to minors.
- 1.7.4 The Service also seeks to ensure there is a fair trading environment and helps businesses comply with legislation in order to protect consumers from unfair trading practices.

2. **RECOMMENDATION(S)**

2.1 **The Corporate Committee is recommended to:**

- 2.1.1 Approve the Food Law Enforcement Service Plan for 2021/22.
- 2.1.2 Corporate Committee can consider the level and scope of work being carried out to meet the requirements of the plan.
- 2.1.3 The Corporate Committee can note the level and scope of work being carried out to meet the requirements of the Occupational Health and Safety and Trading Standards Service Delivery Plans.

3. **REASONS FOR DECISION**

- 3.1 The Food Standards Agency recommends that food service plans are submitted for Member approval to ensure local transparency and accountability.
- 3.2 The Health and Safety Plan ensures that there is a programme of health and safety enforcement activity undertaken in order to instil confidence that the Council protects those employed in the Borough.
- 3.3 Trading Standards have a duty to ensure consumer protection law is enforced fairly and proportionately.

4. **BACKGROUND**

- 4.01 Officers within the Business Regulation Service are delegated to enforce Food Safety and Trading Standards legislation, Weights and Measures, Consumer Protection legislation and Health and Safety legislation.
- 4.02 The Service Delivery Plans (Appendices 1-3) and the associated specific individual plans relating to each service area have not been written in isolation, since the services worked together to identify areas where synergy, cross services/authority working or additional skills are required to deliver work programmes and individual projects.
- 4.03 The Plans explain the background to regulatory services, and identify the scope of the services and resources that have been allocated to meet the services' requirements.
- 4.04 **Food Safety:** The Food Law Enforcement Service Plan (FLESP) sets out the inspection programme for the Borough's food premises for 2021/22. This year's programme currently (as of 1st April 2021) has 1237 food hygiene and 825 food standards interventions due. The number of inspections is based on the premises risk rating and which is determined at a primary inspection.

- 4.05 The service has prioritised the highest risk category inspection (category A and B) with 100% of category A and B premises due for inspection within 28 days of the due date, along with 95% of service requests and consumer complaints about food and other businesses actioned within 10 working days and 100% of new premises registered with the Council inspected within 28 days excluding those not yet trading.
- 4.06 In 2020/21 an additional member of staff was employed to concentrate on overdue category C and D inspections and due to the impact of both Covid-19 and the cyberattack Officers have estimated that there are 879 Food Hygiene and 461 Food Standards overdue inspections.
- 4.07 The Food Standards Agency (FSA) instructed local authorities to suspend planned programmed interventions until 17th July 2020 in order to divert Environmental Health resources to Public Health Functions and reduce footfall in food businesses. As a result an additional 194 programmed inspections were carried forward to 2021/22.
- 4.08 A strategy has been put in place for 2021/22 to retain the additional member of staff to concentrate on clearing the overdue category C and D food hygiene inspections until 30th September 2021. An additional two members of staff have also been taken on to deal with inspections due in the current financial year and the backlog of overdue inspections from previous years. This should ensure that in subsequent years the service will not need to rely on additional resources to help support the programmed work of the team.
- 4.09 The lower risk category B and C food standards premises will be inspected at the same time as the programmed food hygiene inspections planned to be carried out this financial year.
- 4.10 The Service has faced a number of challenges in 2020/21, including the impact of Coronavirus and the cyber track which resulted in the loss of all historical data, the up to date list of food businesses and planned and overdue inspections. In addition to this, Officers have had to manage the very different and growing demands of Government agencies and changes in central government financing of local authorities. This has included the fallout of Covid 19 with regards to planned inspections, enhanced health and safety inspections in relation to social distancing, risk assessments and the backlog of inspections.
- 4.11 The Food Standards Agency (FSA) obtained government permission to temporarily deviate from the inspection programme and suspend all routine food hygiene inspections to reduce footfall within food businesses permitted to remain open. This decision was also taken to recognise that local authority environmental health departments may need to divert human resources to public health functions to cope with the demands of the pandemic.

- 4.12 The suspension of the inspection programme has enabled local authorities to prioritise demands on their service, however it should be recognised that LBH is one of the few local authorities where Food Safety and Health and Safety functions are combined, and as such, the pandemic placed a substantial demand on the service forcing the EH department to split and form the Covid Response Team CRT .
- 4.13 The CRT was formed to investigate complaints regarding breaches of covid legislations in commercial businesses.
- 4.14 Directions issued by the FSA placed emphasis on three key priority areas:
- High priority
- Ongoing surveillance to identify businesses trading and change of ownership or activities
 - Interventions of establishments with a known history of non compliance
 - Urgent reactive work including food incidences, food poisoning outbreaks, serious complaint investigations
 - Overdue enforcement visits (service if HIN, follow ups of HEPN etc)
- Medium priority
- All A, B and non complaint category C rated premises
 - Newly registered food businesses
 - Establishments applying social distancing which may impact food safety or the ability for LA to conduct a physical visit (care homes, voluntary organisations).
- Low risk
- Compliant C, all D and E for hygiene
 - B or C/ medium or low risk for standards
 - overdue/due interventions not already captured above
- 4.15 The FSA stipulated Officers were permitted to carry out remote inspections; however, they were prohibited from risk rating and scoring.
- 4.16 To comply with the FSA issued directions officers initially carried out remote inspections, however, the risk rating remained unchanged as the FSA stipulated ratings cannot be awarded via remote inspection.
- 4.17 As a result of the cyber attack the service had approximately 800 overdue category A-E inspections, as of September 2020, and lost all historical Food Standards intervention data. Unfortunately we were unable to accurately calculate the exact overdue figures going forward.
- 4.18 Local authorities across the North East Sector have seen a substantial increase in newly registered businesses aiming to diversify their business

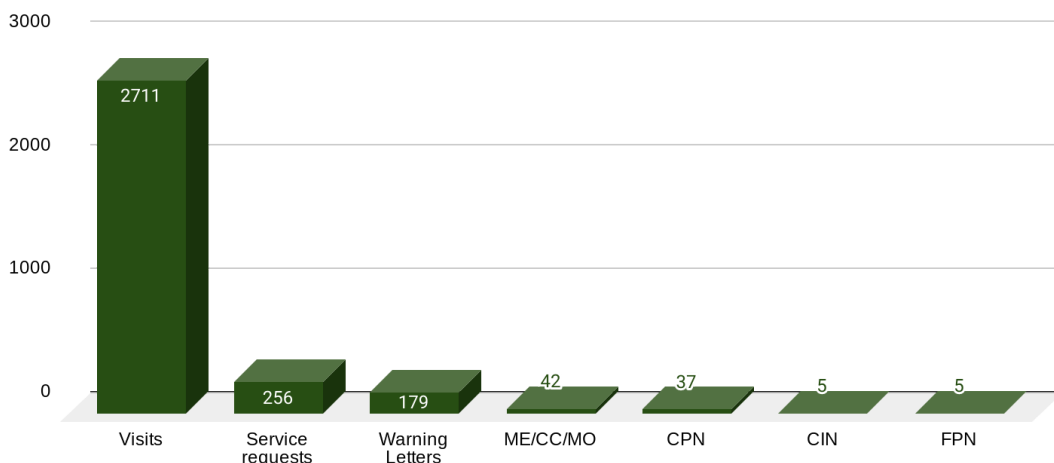
model and establish domestic catering businesses in a bid to remain open during government restrictions on businesses permitted to trade.

- 4.19 The 2020/21 FLESP estimated that the Service would receive 600 registration forms; however, from the beginning of November to March approximately 500 new food business registration forms have been received which is on average 100 per month.
- 4.20 The influx of registration forms is largely due to the conflicting advice issued by the government regarding the definition of essential and non-essential businesses permitted to remain open during lockdowns. Businesses with main activities which did not meet the loose definition of essential aimed to diversify to meet the criteria.
- 4.21 The Food Standards Agency is planning a fundamental review of the way that food safety is delivered within the UK which will have a significant impact on all local authorities through the Regulating Our Future programme and there may be significant implications for food law enforcement in the UK as a result of Brexit. Implementation of this has been delayed by the pandemic and may need to be reassessed in light of the backlog of inspections all local authorities will need to conduct in 2021/22 and beyond to get the inspection programmes back in cycle.
- 4.22 **Health and Safety:** In fulfilling the Health and Safety Service Delivery Plan Officers use a number of intervention approaches to regulate and influence businesses in the management of health and safety risks, including provision of advice and guidance to individual businesses or groups, proactive interventions including inspections and reactive interventions e.g. to investigate accidents or complaints.
- 4.23 Hackney Officers may use enforcement powers, including formal enforcement notices, to address occupational health and safety risks and secure compliance with the law. Prosecution action may be appropriate to hold duty-holders to account for failures to safeguard health and safety.
- 4.24 Proactive health and safety has diminished over the years in line with the Government instruction and guidance. Hackney has traditionally focused on food safety whilst the health and safety service has been more reactive. However, with the introduction of the National Code, a clear set of priorities have been identified that allow a more strategic approach to tackling health and safety issues in Hackney. As such the Health and Safety Service Delivery Plan is the Council's mandatory annual plan referring to the effective enforcement of health and safety legislation in Hackney.
- 4.25 Health and safety inspections are prioritised with the highest risk category (category A) inspections to be undertaken. The risk rating for this is set out in a HSE Local Authority Circular - 67/2 (revision 8). For 2021/22 no high risk, category A, premises have yet been identified as the HSE has not published a revised circular. The Service will also take part in any projects initiated by the all London Boroughs Health and Safety Committee.

4.26 The work of the team, in relation to health and safety enforcement, has been severely disrupted due to two major events in 2020. The first is the global pandemic. Due to the volume of work created by the increased number of enquires and the reliance on other council services on the expertise of the environmental health, staff, a Covid Response Team (CRT) was formed in July 2020. This team was staffed with three Environmental Health Officers, one Trading Standards Officer, one Environmental Protection Officer and one Senior Enforcement Officer.

4.27 This team has been very successful, with members of the team representing a wide range of internal and external meetings and taking the lead on educational and enforcement matters. The service has also forged an excellent partnership with the Metropolitan Police Service, working together on numerous joint action days. Some of the highlights are represented in the graph below:

CRT activity July 2020 - April 2021



4.28 The second major factor has been the cyber attack which deleted the premises database and all historical information. This has had a detrimental effect on the service as proactive inspections have not been carried out in a timely manner. Moves are underway to implement a new database system and there is still hope that some of the data from CIVICA APP can be recovered.

4.29 The HSE has recognised the impact of COVID-19 on local activities and will not require a submission of any statutory return (LAE1) for 2020/21.

4.30 **Trading Standards:** In fulfilling the Trading Standards Service Delivery Plan Officers provide support to individuals, communities and businesses in the borough to enable people to buy goods and services with confidence and security, and by offering advice to businesses to help them to comply with the law.

- 4.31 The Team also fulfils an important role in relation to public safety and health, for example through ensuring safe storage of dangerous items and by preventing the sale of dangerous products including the supply of age-restricted products such as knives, alcohol, cigarettes and fireworks to minors.
- 4.32 The Team also seeks to ensure there is a fair trading environment and helps businesses comply with legislation in order to protect consumers from unfair trading practices.
- 4.33 The Team will focus on the highest risk premises, categorised as Upper and Upper Medium inspections. In 2020/21 there are 149 and 190 premises inspections respectively due to be undertaken. In addition, 267 Low Medium inspections will be completed using an Alternative Enforcement Strategy.

4.2 Policy Context

- 4.2.1 The Food Safety Service Delivery Plan is prepared in accordance with the Food Standards Agency's (FSA) Framework Agreement (2010). The FSA requires all local authorities to produce and approve an annual plan that sets out how it is going to discharge its responsibilities.
- 4.2.2 The performance of the Food Safety Service is measured against its fulfilment of the Plan.

4.3 Equality Impact Assessment

N/A

4.4 Sustainability

N/A.

4.5 Consultations

N/A

4.6 Risk Assessment

4.6.1 The Business Regulation service delivery plans set out how its services will take actions that contribute to achieving corporate priorities and desired outcomes. Without these agreed, clearly stated priorities and this plan, the service will be at risk of not effectively focussing its work and efficiently directing limited resources.

Nature of risk	Consequences if realised	Likelihood of occurrence	Control measures
The Service Plan is not approved	The Council would receive a directive from the Food Standards Agency (FSA)	Low	Approve the Service Plan
The Service Plan involves the carrying out of statutory duties -failure to deliver the service plan	Increase risks: <ul style="list-style-type: none"> - to consumer safety and the most vulnerable consumers; - to public health and increased risks of spread of infectious diseases and food poisoning and; - to employee and public safety with increased risks of incidents and fatal accidents - of failure to administer and regulate licensable activities and premises 	Medium	Approve the Service Plan
Increasing reactive workload or other significant service incidents	The lack of available resource to deliver the plan	High	This will be carefully monitored.
Poor performance against the plan	Could potentially result in the reputational damage and directions to the Council from the National Measurement Office (NMO), Food Standards Agency and the Health and Safety Executive (HSE)	High	This will be carefully monitored.

5. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

- 5.1 This report seeks the Corporate Committee to approve the Food Law Enforcement Service Plan (FLESP) for 2021/22. The report notes the level and scope of work being carried out to meet the requirements of the FLESP and the Service Delivery Plans for Occupational Health and Safety and Trading Standards.
- 5.2 This report is for noting and has no direct financial implications. The aims and objectives described in the FLESP for 2021/22 will be delivered within the approved budget for Business Regulation.

6. COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE SERVICES

- 6.1 The Food Law Enforcement Service Plan 2021/221 to be approved should contain information in accordance with the Food Standard Agency Codes of Practice and the Feed and Food Law Enforcement standard set out in the Framework Agreement on Official Feed and Food Controls by Local Authorities.
- 6.2 Within the Councils Constitution, Corporate Committee is responsible for the following:
- ‘To develop, review, monitor and maintain a strategic overview of the Council’s regulatory function.’
- And ‘To consider the functions relating to health and safety under any relevant statutory provision within the meaning of Part 1 Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as an employer’.
- 6.3 There are no immediate legal implications arising from this report.

APPENDICES

Appendix 1: Food Safety Service Delivery Plan 2021/22
Appendix 2: Health and Safety Service Delivery Plan 2021/22
Appendix 3: Trading Standards Service Delivery Plan 2021/22

BACKGROUND PAPERS

None

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