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# NOTICE OF MEETING

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## **CABINET MEMBER FOR ENVIRONMENT & COMMUNITY SAFETY**

**THURSDAY, 13 JULY 2017 AT 4.30 PM**

### **GROUND FLOOR MEETING ROOM 3 - CIVIC OFFICES**

Telephone enquiries to Jane Di Dino 023 9283 4060

Email: [jane.didino@portsmouthcc.gov.uk](mailto:jane.didino@portsmouthcc.gov.uk)

If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

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## **CABINET MEMBER FOR ENVIRONMENT & COMMUNITY SAFETY**

Councillor Robert New (Conservative)

### **Group Spokespersons**

Councillor Dave Ashmore, Liberal Democrat

Councillor Stephen Morgan MP, Labour

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(NB This agenda should be retained for future reference with the minutes of this meeting).

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

**Deputations by members of the public may be made on any item where a decision is going to be taken. The request should be made in writing to the contact officer (above) by 12 noon of the working day before the meeting, and must include the purpose of the deputation (for example, for or against the recommendations). Email requests are accepted.**

## **AGENDA**

- 1 Apologies for Absence**
- 2 Declaration of Members' Interests**

**3 Assured Business Advice - Primary Authority Relationship 2017 / 2018**  
(Pages 5 - 18)

**Purpose**

The Government has produced a scheme whereby businesses can enter into a Primary Authority Partnership (PAP) with a Local Authority. This relationship involves the provision of assured advice to assist the way in which businesses comply with legislation. PAPs are especially attractive for businesses that trade across multiple local authority jurisdictions as the PAP creates a single point of contact.

The purpose of this report is to advise the Cabinet Member for Environment & Community Safety on:

- The Regulatory Services PAP business strategy
- The charging mechanisms involved
- Service and financial risks

**RECOMMENDED**

**That the Cabinet Member for Environment & Community Safety approves the manner in which Regulatory Services proposes to deliver 'paid for advice' to businesses through the Primary Authority Partnership scheme and to approve the advice costs and charges involved as outlined in section 6 of this report.**

**4 Food Safety Operating Plan 2017 / 2018** (Pages 19 - 64)

**Purpose**

The purpose of this report is to:

- Update the Cabinet Member for Environment and Community Safety on the current level of food business hygiene compliance in Portsmouth
- Define the scope of the Food Safety Service and demands made on it
- Provide an analysis of service delivery in 2016 / 2017
- Summarise the key service activities identified for 2017 / 2018

**RECOMMENDED**

**That the Cabinet Member for Environment and Community Safety:**

- a) Approves the continuation of a risk-based approach to the statutory and regulatory inspection and enforcement of food business operators and acknowledges the increased demands upon available resource**
- b) Acknowledges the key performance areas of the food safety team, the levels of service provided in 2016 / 2017 and the levels of resource available**
- c) Approves, in its entirety, the 2017 / 2018 Food Operating Plan attached as Appendix 1**

**5 Trading Standards Service Delivery Plan 2017 / 2018 (Pages 65 - 120)**

Purpose

The purpose of this report is to inform the Cabinet member as to how Regulatory Services will deliver its Trading Standards functions in 2017 / 2018.

A recent review of the Trading Standards, Environmental Health and Public Protection teams has resulted in an amalgamation of these services into a single Regulatory Services. The driver for this change was the need to deliver agreed savings and provide a foundation for a more flexible and resilient team in the mid to long term.

The loss of key experienced personnel necessitated a review of service functions and the need to devise a consolidated Trading Standards service delivery plan which is both realistic and best serves the residents and businesses of Portsmouth.

Trading Standards has had to make some difficult choices as to the allocation of its limited resources. A number of existing activities will not be pursued or downscaled in 2016 / 2017.

**RECOMMENDED that the Cabinet Member for Environment & Community Safety:**

- a. Approves the manner in which Regulatory Services proposes to deliver its Trading Standards functions in 2017 / 2018 as set out within this document.**
- b. Endorses the comments made in respect to levels of available resource.**

**6 Household Waste Recycling Centre - review of charging for 'DIY waste' (Pages 121 - 152)**

Purpose.

To review the impact of the decision made on 22 September 2016 to align with Hampshire County Council (HCC) and Southampton City Council (SCC) and begin charging for non-household waste items at the HWRC with effect from 01 October 2016. (for full list of items see appendix 1)

**RECOMMENDED that the Cabinet Member for Environment & Community Safety:**

- 1) Approves that charging continue and this be kept under review**
- 2) Approves that the impact on fly tipping continue to be monitored**

Members of the public are now permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting or records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.

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# Agenda Item 3



Portsmouth  
CITY COUNCIL

<b>Title of meeting:</b>	Cabinet Member for Environment and Community Safety Decision Meeting
<b>Date of meeting:</b>	13 July 2017
<b>Subject:</b>	Assured Business Advice - Primary Authority Relationship 2017 / 2018
<b>Report by:</b>	Director of Culture and City Development
<b>Wards affected:</b>	All
<b>Key decision:</b>	No
<b>Full Council decision:</b>	No

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## 1 Purpose of report

- 1.1 The Government has produced a scheme whereby businesses can enter into a Primary Authority Partnership (PAP) with a Local Authority. This relationship involves the provision of assured advice to assist the way in which businesses comply with legislation. PAPs are especially attractive for businesses that trade across multiple local authority jurisdictions as the PAP creates a single point of contact.
- 1.2 The purpose of this report is to advise the Cabinet Member for Environment & Community Safety on:
- The Regulatory Services PAP business strategy
  - the charging mechanisms involved
  - service and financial risks

## 2 Recommendation

- 2.1 **That the Cabinet Member for Environment & Community Safety approves the manner in which Regulatory Services proposes to deliver 'paid for advice' to businesses through the Primary Authority Partnership scheme and to approve the advice costs and charges involved as outlined in section 6 of this report.**

## 3 Reasons for recommendations

- 3.1 The approaches of Regulatory Services to regulatory activity continues to develop so that it is defined less by a set number of inspections and more according to collaboration between regulators and regulated communities.

- 3.2 Where appropriate regulatory compliance systems are in place we recognise that businesses should be entitled to recognition of this and that our assessments of risk and regulatory oversight should be adjusted accordingly. We believe that businesses are entitled to earn this recognition provided that they demonstrate an ongoing achievement of high standards of compliance but without prejudice to the ability of local authorities to use the law to address serious cases of non-compliance when necessary.
- 3.3 The PAP scheme allows us to target our resources by ensuring that the demands of public protection are met without increasing the cost of regulation. The scheme, established by the Regulatory Enforcement and Sanctions Act 2008, allows businesses to form a partnership on a statutory basis with a single local authority. The scheme allows businesses to access assured advice on compliance, that must be respected by local authorities, thus addressing business concerns about consistency and giving them confidence in regulatory functions. It additionally permits the co-ordination of UK-wide proactive inspection activities, thereby improving the effectiveness of local activities and reducing duplication of effort.
- 3.4 PAPs are a key element of the Government's commitment to improve the delivery of regulation in line with the statutory principles of good regulation. Our delivery of the PAP scheme demonstrates our willingness to work constructively with businesses to improve compliance.
- 3.5 In 2013, the scope of the Primary Authority principle was extended by The Enterprise and Regulatory Reform Act 2013. Businesses having a shared approach to compliance (commonly through a body such as a trade association) are now able to enter into what are known as co-ordinated partnerships with a Primary Authority. The added value of a Co-ordinated Partnership is that it allows many businesses who may not be eligible for a direct partnership (particularly small businesses) to join together to benefit from Primary Authority. Regulatory Services wish to actively explore this additional ability to forge relationships with organisations as well as individual companies.
- 4 How does the PAP scheme work?**
- 4.1 Regulatory Services as the Primary Authority will act as the main point of contact between its partner business and the local authorities which regulate it. It is likely that we will, where appropriate, issue advice upon which businesses can rely. If an enforcing authority proposes enforcement action which we deem to be inconsistent with our advice, we may 'block' the enforcement action.
- 4.2 This consistency in regulation and enforcement increases businesses' operational certainty, reduces the burdens associated with regulation, and increases compliance by giving businesses clear instructions on how to meet a regulatory requirement in a cost-effective way.

## 5 Statutory guidance and cost recovery

5.1 Guidance on the delivery of the PAP scheme has been issued by the Secretary of State. As such Regulatory Services will have appropriate regard to its direction. In order to deliver an effective and robust approach to PAPs, Regulatory Services will need to invest in ensuring that the following are robustly facilitated:

- suitable staffing resource to support partnerships - ensuring that staff have the required technical skills and knowledge and are competent in the delivery of primary authority services
- arrangements to effectively manage and deliver partnerships
- transparency and accountability in our delivery of PAP services
- consistency across the scheme; and
- cost recovery resources

5.2 The resources required to operate an effective partnership or group of partnerships will vary, depending on the scope of the partnership, and the scale of its activities.

5.3 In calculating these costs, Regulatory Services has had regard to the guidance issued by HM Treasury in *Managing Public Money*. Regulatory Services approach will be based upon a full cost recovery model. In doing so clear and transparent information explaining charges, and the basis on which they are calculated, will be provided prior to each PAP being agreed.

5.4 Services for which the PAP partners are likely to be charged for include:

- establishing partnership arrangements
- familiarising primary authority staff with the business
- raising awareness and understanding of the partnership amongst enforcing authorities
- developing, providing and reviewing PAP advice
- developing, managing and evaluating an inspection plan
- responding to queries and notifications from enforcing authorities
- collating and analysing data and other information
- training staff of the business; and

- conducting audits or other checks on compliance at the request of the business

## 6 Charging

6.1 The main costs to the businesses of the scheme are the costs charged by us to recover our time. We are permitted to recover full costs for our time from the businesses.

6.2 Businesses formalising a new PAP with Regulatory Services will be charged around the following principles:

- a one-off set up fee, constructed around the number of officer hours required to facilitate the formal establishment of the agreement
- a delivery fee, calculated from the estimated officer hours required to deliver the partnership within the first 12 months - in line with the areas as identified in 5.4
- an advice fee (ensuring that officer time spent on with the delivery of reactive on-going assured advice is recovered) stipulating a fixed number of hours of officer time to be billed each year following an estimation of the extent and scope of the agreement obtained during the discussions held to establish the agreement. Where is number of hours is exceeded an additional charge based upon the hourly rate will apply.
- Where a PAP enters into a second year the charges fashioned around the needs of the business will be reviewed. Where PAPs are ongoing only advice fees will be invoiced.
- Where formal business advice is offered outside a formal PAP scheme Regulatory Services reserve the right to charge an appropriate recovery rate for such advice.

6.3 It is proposed that the Business Support Team Leader will take on the role of 'Contract Manager' for the PAP scheme. This officer will have the responsibility for the development and maintenance of these partnerships with businesses; liaison and the nomination of partnerships; the setting the contract prices in line with 6.2; and the delegated authority to agree service standards and agree appropriate arrangements for cost recovery with partner businesses.

## 7 Principal PAP business values

7.1 In delivering the PAP scheme, Regulatory Services will:

- Effectively maintain and develop existing primary authority partnerships and advice provision, including inspection plans where relevant, in accordance with legislative provision, guidelines and best practice, ensuring a high



quality, responsive service to primary authority businesses and local regulators

- Identify, secure and successfully develop new primary authority partnerships and advice provision, including inspection plans where relevant, ensuring information about new partnerships is promptly communicated in line with established national guidance and sufficient time is allocated to establish and grow each new business agreement
- Maintain records of interactions and chargeable time to enable accurate charging, ensuring businesses are invoiced on time
- Develop and promote the Council's approach to the primary authority and business growth agendas by fostering and maintaining a good working relationship with national regulators, government departments and stakeholders. Lead or participate in working groups aimed at developing and improving new approaches to ensuring business compliance with legislation
- Identify, create and offer traded services to organisations, businesses and individuals (including other Local Authorities and existing Primary Authority Partnerships) resulting in beneficial outcomes to those that procure the services and income generation
- Participate in the training of other staff on primary authority and other traded service related matters to ensure resilience in the service and provide personal development opportunities

## 8 Risks to service

- 8.1 Trading standards currently has relationships with 10 businesses which are based in Portsmouth generating approximately £70,000 of annual income. Environmental Health has three PAPs generating in the region of £25,000 of annual income. The full time employment of 2.5 FTE is necessary to deliver these partnerships. This is a significant use of *existing staffing* resource and necessarily deflects these resources from the statutory obligations of the service.
- 8.2 A recent review of existing PAP agreements delivered by Regulatory Services has resulted in emerging concerns in regard to how a number of partnerships are operating in terms of cost recovery. It is clear that a number are operating to the financial detriment of Regulatory Services as the costs recovered are lower than the level officer resource applied. Where such circumstances have been identified a review of the PAP in question will be implemented and discussions will be held with the businesses concerned. It is possible that as a result of increased costs or a restriction on the number of hours to be provided that a number of PAPs and the level of income will fall.
- 8.3 What is clear is that not only are Regulatory Services reliant in funding terms from these PAPs but there is concern that any failure to maintain partnerships in

the longer term or develop new partnerships should others be revoked would result in a considerable financial deficit to existing levels of service funding.

- 8.4 PAP agreements require that we deliver value for money for the company however; it is possible that the activities undertaken may be things the company would do anyway. It is therefore possible that these agreements may be taking time and resources away from prevention and enforcement work required elsewhere.

## **9 Equality impact assessment**

- 9.1 A full equality impact assessment is not required as the recommendations do not have a negative impact on any of the protected characteristics as described in the Equality Act 2010. The provisional EIA is attached as **Appendix 1**.

## **10 Legal implications**

- 10.1 The proposed action is in accordance with the Council's statutory powers under the Regulatory Enforcement and Sanctions Act 2008 and the Local Government Act 2003. In accordance with the 2008 Act, the Council is able to seek Primary Authority status for the purposes of entering into partnerships with local businesses for the provision of regulatory compliance advice.
- 10.2 The Council is able to charge a reasonable fee for the provision of this Primary Authority work, based on the actual costs incurred, in accordance with section 31 of the Act.
- 10.3 The proposal to undertake this Primary Authority role is supported as it meets the objectives of the legislation in terms of ensuring a more consistent and streamlined national approach to regulation and also the Council's general enforcement objectives.
- 10.4 The proposal to charge fees for all advice is also supported. As a result of budgetary pressures and the need to prioritise the mandatory, high risk inspection and enforcement work, the Council has not been able to sustain the previous level of discretionary advisory work. However, the imposition of fees for this discretionary advice will ensure that the cost of the work is fully recovered.
- 10.5 The Council can charge reasonable fees for this discretionary service in accordance with section 93 of the 2003 Act. However, given that there are no additional resources available to carry out the Primary Authority role and provide the discretionary advice, then it will be necessary to manage the work to ensure that it does not detract from other statutory public protection work.
- 10.6 It needs to be noted that any businesses entering into PAPs with the Council do present a potential problem in that should it be necessary to consider, sanction and potentially prosecute a business for breach it is quite clear that a defence could be raised by the business potentially asserting that they have acted in compliance with advice received from the Authority under the auspices of the

PAP. This said each decision to prosecute is looked at upon its individual facts and any decision to prosecute is determined in the light of the CPS Code of Guidance for Prosecutors.

10.7 The above having been stated it is clear that it should be made abundantly clear that the mere entry of a business into a PAP will not absolve them from needing to comply with the law and that it does not mean that the Council will not have the ability to comply with the primary statutory and legal functions vested with the Council.

**11 Director of Finance's comments**

11.1 The proposed action within the report should not result in any additional cost to the council as the service will apply cost recovery charges as outlines in section 6. However, this will need to be properly managed throughout the financial year to ensure that any target set can be consistently achieved year on year. If positive, this income stream will go towards offsetting other income pressures within the budget and will not be an additional saving.

.....  
Signed by: Stephen Baily, Director of Culture and City Development

**Appendices:**

**Appendix 1 - Equality Impact Assessment**

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Nil	Nil

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by the Cabinet Member for Environment & Community Safety on

.....

.....  
Signed by: Councillor Robert New, Cabinet Member for Environment and Community Safety

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# Equality Impact Assessment

Preliminary assessment form v5 / 2013

[www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

The preliminary impact assessment is a quick and easy screening process. It should:

- identify those policies, projects, services, functions or strategies which require a full EIA by looking at:
  - negative, positive or no impact on any of the equality groups
  - opportunity to promote equality for the equality groups
  - data / feedback
- prioritise if and when a full EIA should be completed
- justify reasons for why a full EIA is not going to be completed

**Directorate:**

Director of Community & Communications

**Function e.g. HR,  
IS, carers:**

Environmental Health & Trading Standards

**Title of policy, service, function, project or strategy (new or old) :**

Assured Business Advice - Primary Authority Relationship 2017 / 2018

**Type of policy, service, function, project or strategy:**

- Existing
- New / proposed
- Changed

**Q1 - What is the aim of your policy, service, function, project or strategy?**

The Plans aims are to outline:

- the Regulatory Services Primary Authority Partnership business strategy
- the charging mechanisms involved
- service and financial risks

**Q2 - Who is this policy, service, function, project or strategy going to benefit or have a detrimental effect on and how?**

All Portsmouth citizens and business partners.

**Q3 - Thinking about each group below, does, or could the policy, service, function, project or strategy have a negative impact on members of the equality groups below?**

Group	Negative	Positive / no impact	Unclear
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Transgender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy and maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other excluded groups	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If the answer is "negative" or "unclear" consider doing a full EIA

**Q4 - Does, or could the policy, service, function, project or strategy help to promote equality for members of the equality groups?**

Group	Yes	No	Unclear
Age	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Disability	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Race	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Gender	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Transgender	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sexual orientation	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Religion or belief	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pregnancy or maternity	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other excluded groups	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

If the answer is "no" or "unclear" consider doing a full EIA

**Q5 - Do you have any feedback data from the equality groups that influences, affects or shapes this policy, service, function, project or strategy?**

Group	Yes	No	Unclear
Age	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Disability	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Race	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Gender	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Transgender	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Sexual orientation	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy and maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other excluded groups	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If the answer is "no" or "unclear" consider doing a full EIA

**Q6 - Using the assessments in questions 3, 4 and 5 should a full assessment be carried out on this policy, service, function or strategy?**

yes     No

**Q7 - How have you come to this decision?**

Portsmouth City Council's participation in the Primary Authority Partnership directive is part of the Government Better Regulation Delivery Office's (BDRO) national scheme to work more closely with business to promote legal compliance and good practice.

The ultimate aims of the scheme are to help business to comply with legal requirements which in turn serves to protect all citizens and will not disproportionately affect any equality group.

If you have to complete a full EIA please contact the Equalities and diversity team if you require help  
 Tel: 023 9283 4789 or email:equalities@portsmouthcc.gov.uk

**Q8 - Who was involved in the EIA?**

Steven Bell  
 Edward Skinner

**This EIA has been approved by:**

**Contact number:**

**Date:**



Please email a copy of your completed EIA to the Equality and diversity team. We will contact you with any comments or queries about your preliminary EIA.

Telephone: 023 9283 4789

Email: [equalities@portsmouthcc.gov.uk](mailto:equalities@portsmouthcc.gov.uk)

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# Agenda Item 4



<b>Title of meeting:</b>	Environment and Community Safety Portfolio Decision Meeting
<b>Date of meeting:</b>	13 <sup>th</sup> July 2017
<b>Subject:</b>	Food Safety Operating Plan 2017 / 2018
<b>Report by:</b>	Director of Culture and City Development
<b>Wards affected:</b>	All
<b>Key decision:</b>	No
<b>Full Council decision:</b>	No

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## **1 Purpose of report**

1.1 The purpose of this report is to:

- update the Cabinet Member for Environment and Community Safety on the current level of food business hygiene compliance in Portsmouth
- define the scope of the Food Safety Service and demands made on it
- provide an analysis of service delivery in 2016 / 2017
- summarise the key service activities identified for 2017 / 2018

## **2 Recommendations**

2.1 **That the Cabinet Member for Environment and Community Safety:**

- a) approves the continuation of a risk-based approach to the statutory and regulatory inspection and enforcement of food business operators and acknowledges the increased demands upon available resource**
- b) acknowledges the key performance areas of the food safety team, the levels of service provided in 2016 / 2017 and the levels of resource available**
- c) approves, in its entirety, the 2017 / 2018 Food Operating Plan attached as Appendix 1**

## **3 Reasons for recommendations**

3.1 To protect public health and contribute to a healthy community in Portsmouth by ensuring the safety, wholesomeness and quality of food through education and appropriate intervention.

## **4 Background**

4.1 The Business Support Team (BST) has statutory responsibilities to enforce the relevant statutory provisions and provide advice and education in order that duty

holders are able to achieve and maintain a good standard of food hygiene throughout the 2000 or so premises in the City.

- 4.2 The food safety activities extend far beyond inspection of food premises, including responsibilities for:
- food standards (e.g. food allergens and labelling)
  - food sampling (microbiological and compositional)
  - complaint investigation and food alert responses
  - certification of exported and imported food
  - issuing approvals to high risk businesses
  - contributing to controlling the spread of infectious disease by carrying out investigative work on outbreaks and individual cases
  - responding to food related aspects of civil emergencies
- 4.3 Food businesses are inspected by means of a risk-based program. The frequency of inspection is prescribed by the statutory Food Law Code of Practice (FLCofP / the Code).
- 4.4 The FLCofP gives statutory guidance to which we must have regard when engaged in the enforcement of food law. We must follow and implement the relevant provisions of the Code. The Food Standards Agency (FSA) published a revised FLCofP for England on 30 March 2017, which came into force on that date.
- 4.5 The changes to the Code published in March 2017 included:
- facilitating consistent interpretation and approach by local authority officers delivering official controls, specifically in relation to risk scoring, by updating advice and clarifying the risk descriptors used in the food establishment intervention rating schemes
  - providing additional guidance on the communication of food incidents and hazards, and addressing food criminality
  - further clarifying qualification and competency requirements of local authority officers since the implementation of the previous Code revision in April 2016
- 4.6 Since 2011 the BST has implemented the national 'Food Hygiene Rating Scheme' (FHRS) which is run in partnership with the FSA.
- 4.7 The FHRS is intended to offer guidance to consumers in choosing where to eat out or shop for food by giving them an enhanced level of information about the hygiene standards in restaurants, cafés, takeaways, hotels and food shops. The FHRS is also intended to actively encourage businesses to improve their hygiene standards.
- 4.8 Under the FHRS, officers from the BST inspect food businesses to ensure that they meet the requirements of food hygiene law. Subsequently these officers risk rate the hygiene standards found at the time of inspection. At the bottom of the scale is '0' which means the standards require urgent improvement. At the top of the scale is '5' which means the hygiene standards are very good.

4.9 The following elements of the 'food hygiene intervention rating scheme' are relevant to calculating the food hygiene rating:

- level of (current) compliance with food hygiene and safety procedures (including food handling practices and procedures, and temperature control)
- level of (current) compliance with structural requirements (including cleanliness, layout, condition of structure, lighting, ventilation, facilities etc.) and
- confidence in management/control procedures

## **5 How do inspections work?**

5.1 One of the key requirements of the law is that the FBO must be able to show that they make or sell food that is safe to eat and have this demonstrated by written food safety management procedures.

5.2 A FBO must put in place food safety management procedures based on the principles of the HACCP system (hazard analysis and critical control point) and also keep up-to-date documents and records relating their procedures. The regulations are designed to be flexible, so these procedures can be in proportion to the size of the business and the type of food produced / prepared. This means that many small businesses will have very simple procedures and records.

5.3 HACCP is a way of managing food safety. It is based on putting in place procedures to control hazards. It involves looking closely at what the operators do in their business and what could go wrong. It identifies the 'critical control points' - these are the places the business needs to focus on to prevent hazards or reduce them to an acceptable level. The business must decide what action needs to be taken if something goes wrong and keep appropriate records to show that procedures are working.

5.4 The areas HACCP focuses on are:

- the premises as a whole (all areas including out buildings / stores and mobile premises etc.)
- equipment the business uses
- management of food waste
- water supplies (hot and cold)
- personal hygiene of staff
- the food itself (cooking practices, temperature controls, defrosting procedures, wrapping and packing, and cross contamination controls)
- staff training
- pest control

## **6 FBO compliance with food law**

6.1 In line with previous years, in 2016 / 2017 the overall level of food hygiene compliance was high. However, there were a number of businesses which failed to comply with food law requirements. The reasons for this remain similar to our previous experiences and include the following:

- consider it to be more profitable not to comply than to do so
- comply because it is seen as the 'right thing to do' or because the regulations fit with their own reading of the law
- not necessarily see that there is anything wrong in the way that they operate despite the fact that they are not complying with the law
- misunderstand their legal duties or resort to opportunistic conduct and react negatively to control where the regulations are perceived as illogical or wrong
- experience particular difficulties complying with legal obligations as a result of insufficient resources (financial or technical) to understand what the law requires of them
- equate compliance only to what they are told during an inspection
- be ignorant of the risks associated with their activities
- not understand that poor standards and enforcement impacts upon a business's reputation

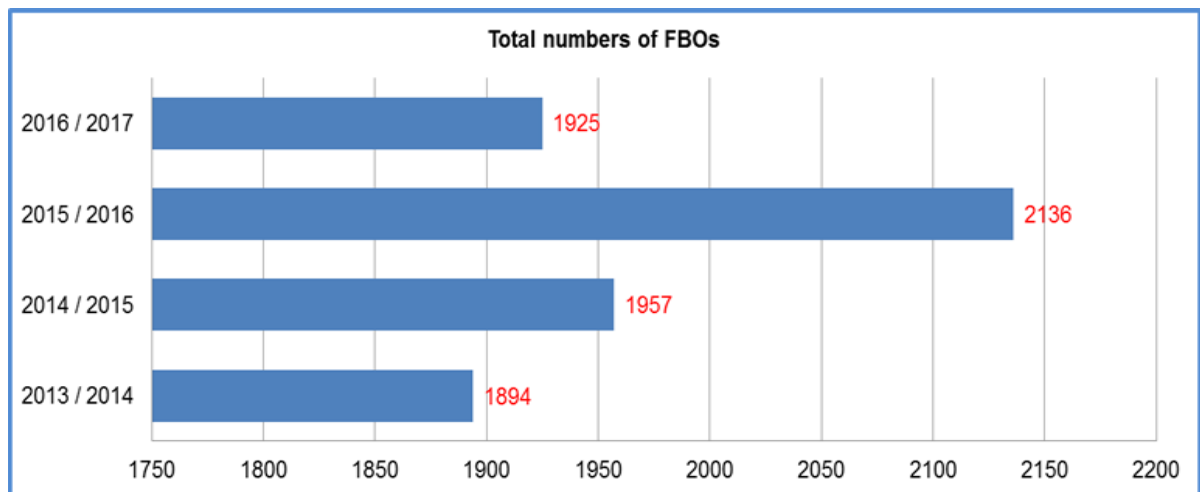
- 6.2 The BST is integral in food safety regulation. Our approach does not take enforcement of the law to simply refer to legal action; it permits a wide array of informal enforcement techniques such as education, advice, explanation, persuasion and negotiation.
- 6.3 Securing food which is safe to eat is our main objective, both through the remedy of existing problems and the prevention of others. Our preferred methods to achieve these ends are co-operative and conciliatory.
- 6.4 Where compliance is poor and there is good reason for it being so, persuasion, negotiation and education are the primary enforcement methods. Accordingly, compliance is not necessarily regarded as being immediately achievable; rather it may be seen as a long-term aim.
- 6.5 The use of formal legal methods, especially prosecution, is regarded as a last resort, only to be taken when all else fails to secure compliance.
- 6.6 The BST enforcement style is focused around our relationship with FBOs. Through offering support and advice we are attempting to be integrated with the business community. Our officers endeavour to be familiar with those they regulate, as we hope that in so doing we will be better able to assist and advise rather than regulate. Rapport building is however time consuming and requires suitable resources to be available.
- 6.7 Food safety regulation, like all other risk regulation, is subject to a variety of tensions and contradictions which are not unique to this domain, but which may be exacerbated by the nature of the retail and hospitality sectors and by some features of the legal and institutional arrangements for food safety. The inspections of FBOs are considered to be a priority in terms of public confidence in the local authority, the reputational standing of the authority and in terms of public health benefit.
- 6.8 A survey published by the FSA in April 2017 demonstrated that when shown a list of factors which might influence the public's decision on where to eat out, 72% of respondents reported that the cleanliness and hygiene of the establishment was

important to them; overall a third (30%) of respondents who ate out considered this the most important factor.

## 7 Analysis of service delivery

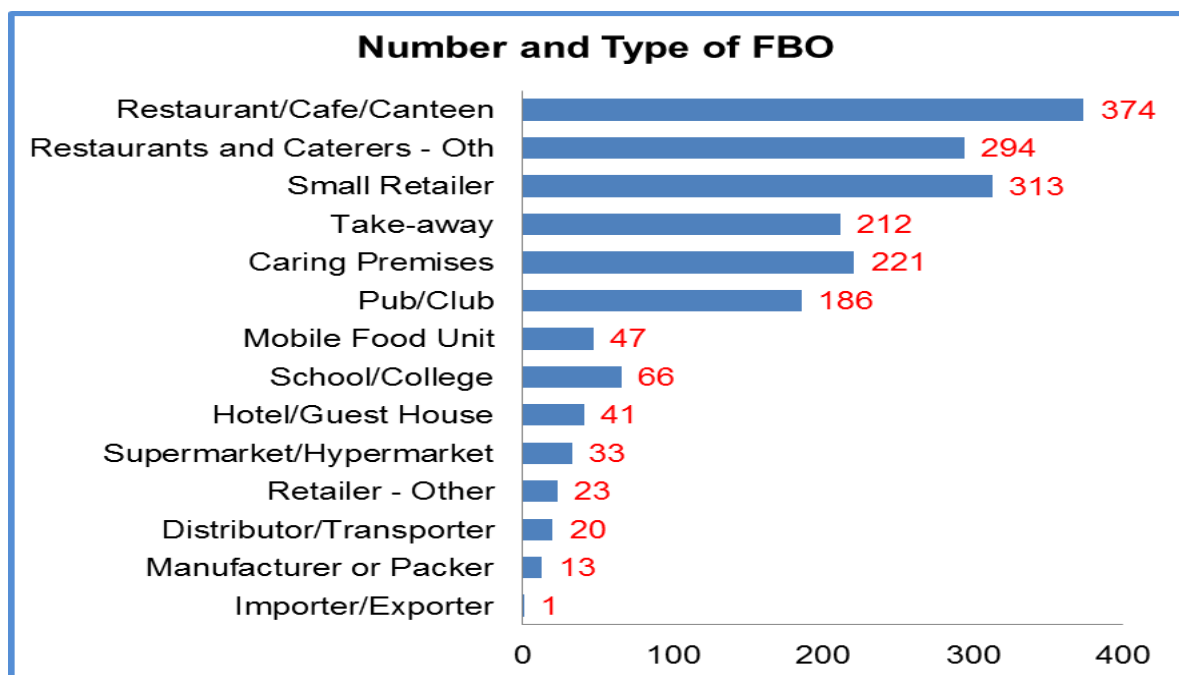
7.1 The number of FBOs registered with the BST since 2012 / 2013 is depicted within **figure 1**.

**Figure 1**



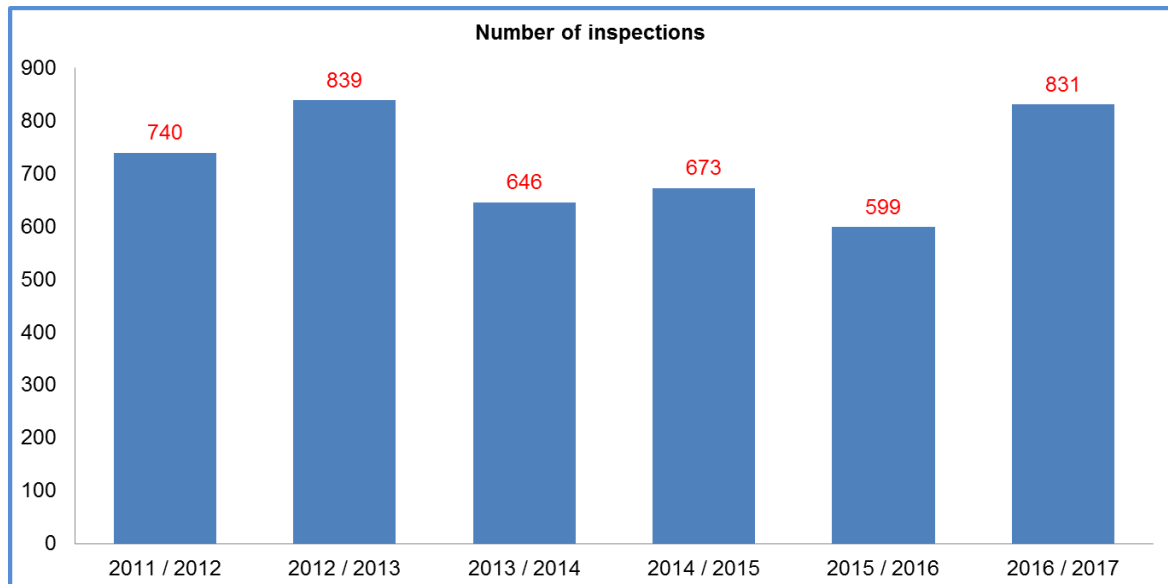
7.2 The number and type of FBOs in 2016 / 2017 are depicted in **figure 2**. Of these, 81 premises are awaiting inspection / rating.

**Figure 2**



7.3 The total number of inspections carried out in the last six years is shown in **figure 3**. The numbers of inspections carried out in 2016 / 2017 was the second highest over this period, being 38.73% higher than in 2015 / 2016.

**Figure 3**



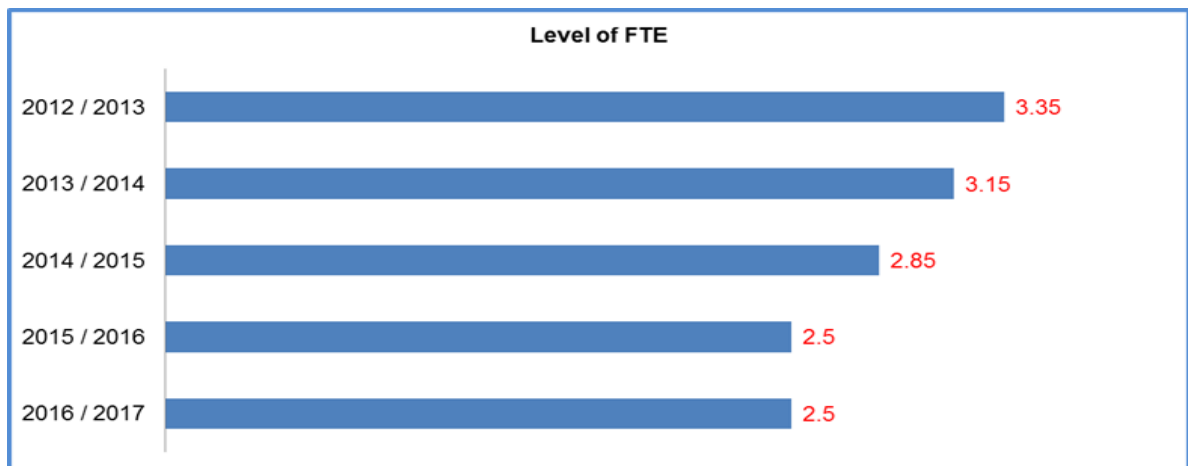
7.4 It is worth noting that estimates made following an audit of our processes by the FSA in 2013 suggested that an inspection rate of 600 per annum could be achieved with the level of resource available at that time, which stood at 3.35 FTE. This equated to approximately 180 inspections being carried out by each officer each year.

7.5 Since 2013 the FTE posts engaged in this specific inspection activity has fallen, but remained steady over the period 2015 / 2017 at 2.5 FTE. Whilst it is difficult to precisely explain, the improvement in inspection rates is highly likely to be reflected by the manner in which the inspection regime has been managed and implemented by the Food Lead (FL). This role was formally created during the amalgamation of the BST into Regulatory Services in October 2016. The FL has been instrumental in delivering changes to allocation and investigation monitoring protocols from April 2016.

7.6 The levels of staff resource available to inspect food businesses since 2012 / 2013 are demonstrated in **figure 4**. The reduction equates to a 25% decrease in staff in this area over this period.



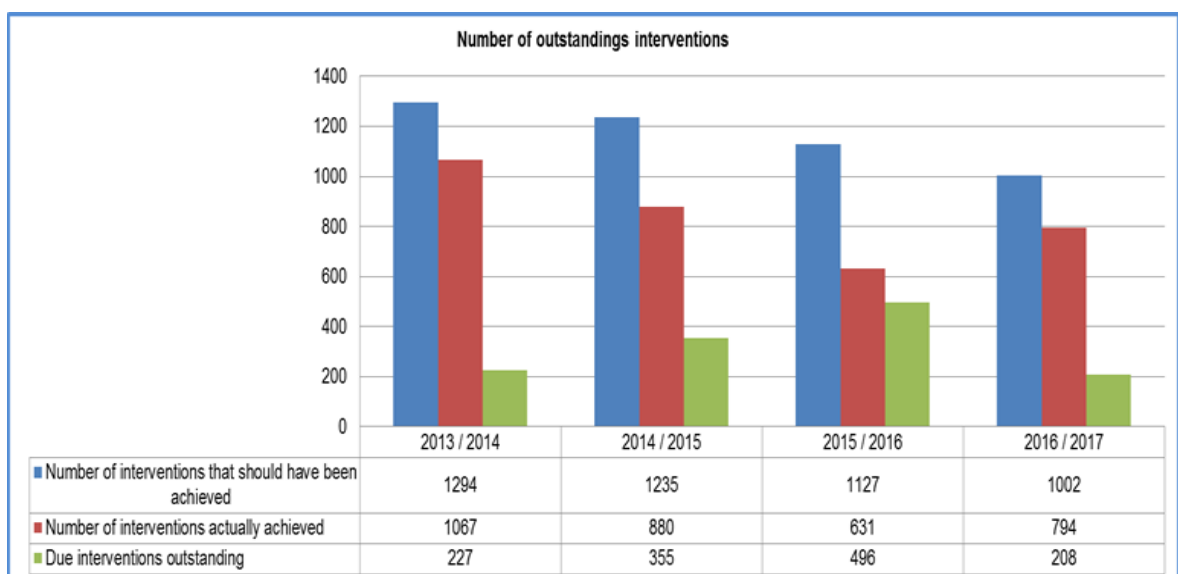
**Figure 4**



7.8 In 2016 / 2017 the level of staffing resource available for inspections would, with reference to the 2013 FSA criteria, equate to approximately 240 inspections being undertaken by each officer. The 320 inspection actually achieved therefore remains higher than that envisaged by the FSA with the level of resource available and a reflection of the dedication of existing staff and the competence and success of the FL.

7.9 The increased level of inspection has however resulted in a continued non-compliance with the FLCofP. Intervention performance is shown within **figure 5**. Restrictions on staff resources has meant that the service has been unable to deliver interventions at the frequencies prescribed in the FLCofP.

**Figure 5**

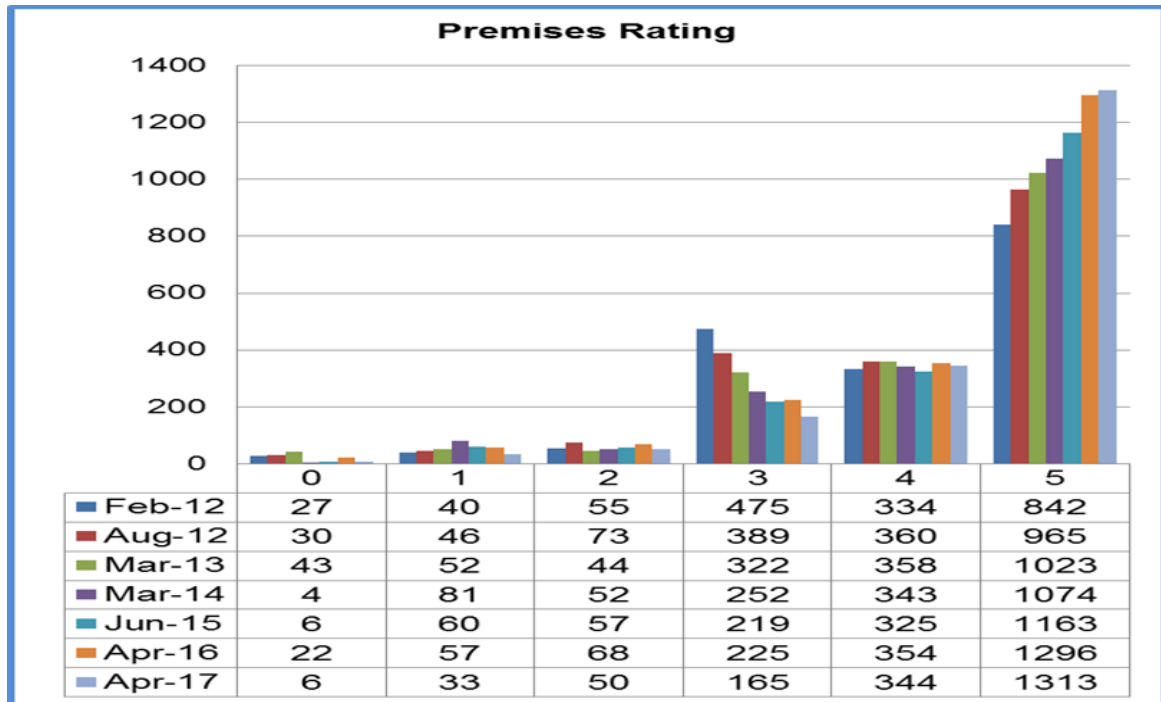


7.10 Although intervention compliance has been a concern in previous years particularly in the beginning of 2016 / 2017, and despite the rate of inspection being the best in 2016 / 2017 for 4 years, the level of compliance last year remains an area to which additional permanent resources should be provided.

- 7.11 Despite the number of businesses increasing it is interesting to note that the number of inspections required to be undertaken has reduced. This is primarily as a result of the improved rating of premises in that the higher the rating the less frequent the inspection requirements. Each time a business is inspected a new rating is provided with the level of improvement or decline in hygiene standards dictating the new rating score. The frequency of inspection is determined by the risk to people's health: the greater the risks to health, the more frequent the inspection.
- 7.12 In 2014 / 2015, 880 interventions, which equates to 71%, were delivered on time. This was a reduction of 11% on the 2013 / 2014 figure. In 2015 / 2016 this had fallen to 44% of inspections being delivered within the specified criteria set out within the FLCofP. This equates to a reduction of 27% in intervention performance since 2013 / 2014. In 2016 / 2017, 794 of 1002 inspections were delivered on time, which equates to nearly 80% of inspection being delivered on time and a 9% improvement on the previous best year in 2014 / 2015.
- 7.13 For clarity, interventions include: inspections, monitoring, surveillance, verification, audit, and sampling where the analysis / examination is to be carried out by an Official Laboratory.
- 7.14 The problems in keeping pace with the levels of intervention as required by the FLCofP are a direct reflection of resources available to the BST. Officers are regularly assigned to other services areas as priorities dictate. As reported last year, most obvious examples continue to be our enforcement activities, compliance with other areas of the FLCofP and our food sampling requirements. Statutory functions that the team has to deliver, in relation to animal welfare, infectious disease control, port health and health and safety have however undoubtedly contributed to the backlog in visits.
- 7.15 Despite maintaining nearly 40% of all available resource (2.5 FTE of 6.5 FTE) and improving internal procedures, the food inspection function is not meeting its targets for inspection compliance. It was hoped that this resource would increase from the resultant return of a qualified officer from maternity levels however this situation will recur in 2016 / 2017.
- 7.16 The staffing resource is likely to temporarily improve in the second half of 2016 / 2017 as an additional officer has been recruited to work alongside our Port Health Officer prior to the existing officers' retirement. Part of this officer's role will be to carry out food interventions.
- 7.17 The numbers of premises rated '0', '1', '2', '3', '4', or '5' as of February and August 2012, March 2013, March 2014, June 2015, April 2016 and May 2017 are highlighted in **figure 6**.
- 7.18 Although the number of interventions has gone down (because of the general improvement in the ratings), those that have been carried out have been targeted towards those of higher risk (A, B and non-compliant Cs) which are inevitably more time-consuming in terms of the inspections themselves and also in the follow up actions necessary to deal with poor performance and non-compliance.

7.19 The decline in intervention rates has also been caused by the increase in enforcement action against a significant number of businesses with poor hygiene histories which have not responded to our informal approaches. The time necessary to prepare a prosecution case and present the matter in court is extremely resource-intensive.

**Figure 6**



7.20 **Figure 6** demonstrates that the number of premises achieving the highest '5' rating is continuing to improve. Additionally, the number of premises within the lowest ratings '0', '1' and '2' remains low and static.

7.21 As the rating of each of the inspected premises may have changed (positively or negatively) following inspection, it is difficult to provide direct comparisons with the level of improvement or decline in the quality of food being offered by the businesses in the city (i.e. it's not possible to say that the reduction in '3' rated premises directly reflects the increase in '5' rated premises), but it is clear that the general standard of premises is continuing to improve.

7.22 The number of 5 rated premises is 56% higher now than it was in February 2012. 69% of all registered premises are currently rated '5', an increase of 8% on April 2016.

7.23 All current food business ratings are reported on the FSA's website, which is freely available to the public and businesses alike. No indication of the previous performance is necessary within the scheme. Businesses rated '0', '1' or '2' are given priority for action to secure improvement in hygiene standards. Irrespective of the original rating, if during inspection hygiene standards are very poor, or there is an imminent risk to health, appropriate enforcement action is taken to make sure that consumers are protected. This can include the proprietor agreeing to voluntarily close the premises with our advice.

- 7.24 All FBOs are given feedback following an inspection. Officers will provide improvement advice and explain how any problems identified can be avoided and rectified. Where improvements are required, inspectors will issue a comprehensive written report clearly explaining precisely what is required to comply with the law. Where problems are acute or persistent, appropriate enforcement action is taken.
- 7.25 The number of broadly compliant premises (those premises rated '3', '4' or '5') has remained relatively static. In 2016 / 2017 the percentage of broadly compliant premises from the total number of rated premises was 95%.
- 7.26 The number of enforcement actions taken during the last seven years is recorded in **table 1**.

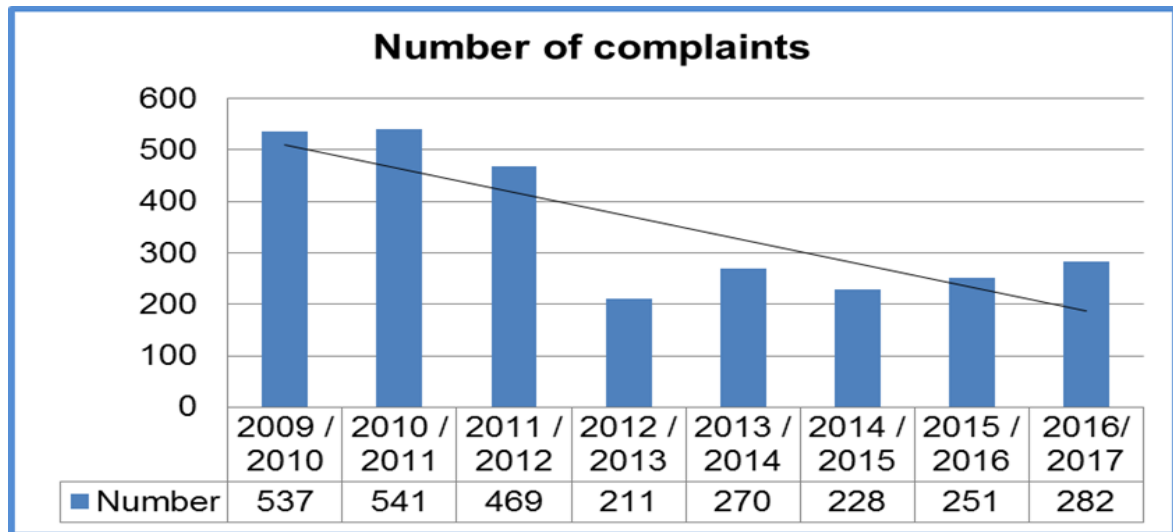
**Table 1**

	<b>Improvement Notices</b>	<b>Closure</b>	<b>Prosecution</b>
2009 / 2010	4	1	0
2010 / 2011	3	1	0
2011 / 2012	12	2	0
2012 / 2013	47	8	2
2013 / 2014	60	5	5
2014 / 2015	26	8	4
2015 / 2016	14	13	10
2016 / 2017	15	6	10

- 7.27 Immediately after the introduction of a revised risk-based inspection programme in 2012, the number of Improvement Notices served upon premises requiring a prompt and timetabled improvement in standards increased dramatically.
- 7.28 The number of Improvement Notices has fallen since that time. The number of premises closed pending improvement as a result of an imminent risk to public health being identified during inspection has fallen and is at its lowest level since 2014 / 2015. The number of premises prosecuted for serious legislative breaches have been steadily increasing, but in 2016 / 2017 remained static at ten per annum.
- 7.29 Customers take an active role in reporting food businesses within Portsmouth that they feel have poor food safety practices, and issues raised by them are investigated in the appropriate manner. Complaints are typically received in relation to:
- sighting of vermin or pests on food premises
  - poor levels of cleanliness in kitchens, store rooms or preparation rooms
  - poor food handling practices
  - contaminated food e.g. food containing foreign bodies or that is out of date
- 7.30 The number of complaints received fell significantly in 2012 / 2013 and has remained relatively static since which is a further reflection of how standards of food

businesses have improved since that time. The number of complaints relating to food businesses is shown in **figure 7**.

**Figure 7**



7.31 Following the 2013 FSA audit of the BST operating procedures, some changes were made to the intervention programme and its delivery. The BST is required to inspect all registered food premises within Portsmouth as part of a planned programme. How frequently officers routinely inspect will depend on the type of

business and its previous record; the better the record the greater the period between inspections. The rating given to premises after each inspection determines the length of time until the premises is inspected again. Premises are then rated and inspected according to the following **table 2**.

**Table 2**

Rating Category	Inspection Rating	Minimum Inspection frequency
A	92 or higher	6 monthly
B	72 - 91	12 monthly
C	52 - 71	18 monthly
D	31 - 51	2 yearly
E	0 - 30	3 years or an alternative enforcement strategy

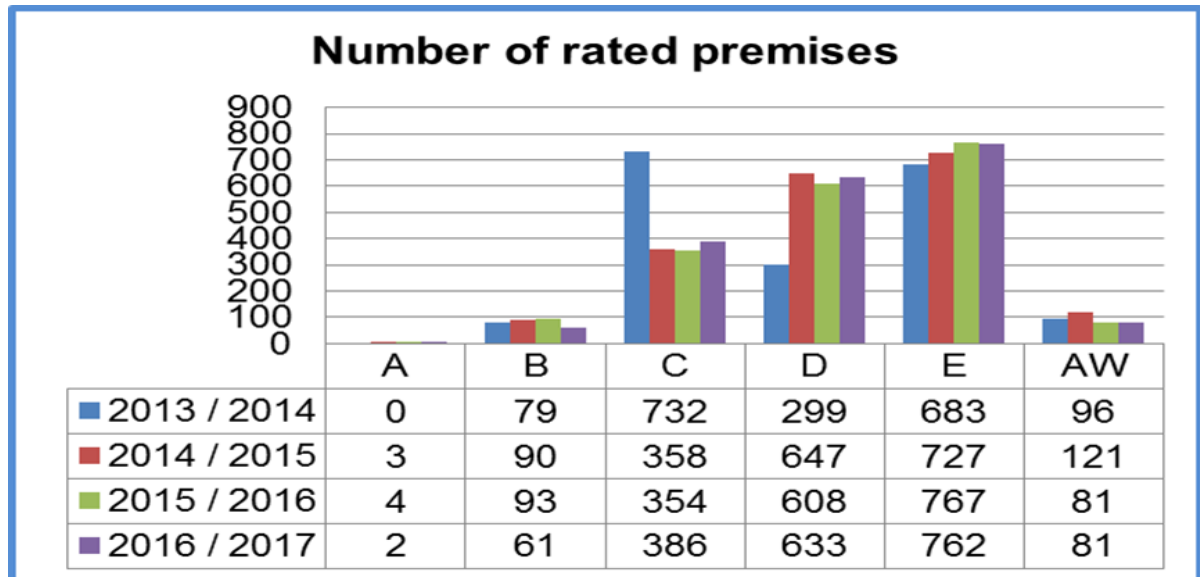
7.32 The risk rating system considers the type and size of business, the level of food safety management and conditions noted during the inspection. In addition, premises providing food to vulnerable groups, for example children or the elderly, are subject to an additional weighting which will result in more frequent visits.

7.33 Whilst it is not normal practice to give prior notification of inspection, some visits will be carried out by appointment, particularly if the visit is primarily to look at documentation or practices, or if discussions are required with a specific employee or the business proprietor. Officers have the right to enter and inspect food premises at all reasonable hours.

- 7.34 The appropriate control for each premises will be considered on an individual basis by an appropriately qualified officer. The officer may decide to reclassify any premises that were the subject of an alternative enforcement strategy for a full inspection, for example premises where the operation has changed significantly or catering is undertaken.
- 7.35 E-rated low or minimal risk food businesses are dealt with through an Alternative Enforcement Strategy (self-assessment or inspection on an alternate cycle). Follow up inspections will be carried out after self-assessment if deemed necessary i.e. the risk profile of the business has increased since the last assessment.
- 7.36 Although we were able to inspect a large number of E rated premises during the last 3 months of 2016 / 2017, in view of the demands placed upon officer time and the backlog of inspections, there is some doubt that this can be achieved again.
- 7.37 In 2017 / 2018 we are therefore likely to have no alternative but to deviate from the FLCofP and concentrate on the inspection of the highest risk premises. We will:
- continue to target inspection resources to the highest risk premises
  - continue to take appropriate action against poorly performing businesses (FH rated 0, 1 or 2) including proportionate enforcement measures in line with BST and corporate enforcement policies
  - continue to manage the planned inspection programme to achieve a 100% inspection rate for high risk Category A to C premises
  - ensure that 95% of newly registered businesses are inspected within 28 days of first registration
  - ensure that requests for service are subject to an initial response within 3 working days or sooner depending on the seriousness of the issue
  - ensure that all applications for premises approval under EC 853/2004 are determined within 28 days of receipt of application
  - continue to inspect Category D premises (lower risk) at a rate determined by available resource levels
  - continue to subject Category E premises (lowest risk) to an alternative enforcement strategy in lieu of inspections (which may include telephone surveys and questionnaires) to determine current activity and whether a BST intervention is required
  - increase awareness of FHR in business rated 0, 1 or 2 with a view to improving future compliance with food safety standards
- 7.38 The number of 'A' 'B' 'C' 'D' and 'E' rated premises as of 1 April 2014, 13 June 2015 and 4 April 2016 and 7 April 2017 are shown in **figure 8**.
- 7.39 **Figure 8** demonstrates that there has been a slight [4%], but encouraging, improvement in the number of premises obtaining a lower (and therefore "safer") risk rating.

7.40 The numbers of premises awaiting inspection (AW) having submitted a registration form, although at its equal lowest within the reported period, is higher than would be preferred. This is a further reflection of the level of resource available in this service.

**Figure 8**



**8 Will the display of FHRs be compulsory in the near future? What is the FSA's opinion and what will be the likely impact upon the BST?**

8.1 The FSA's strategy for 2015 to 2020 highlights that they favour extending mandatory display of food hygiene ratings at food outlets to England. They are currently gathering evidence to inform a case to present to the Government for consideration. They are also developing an impact assessment setting out the costs and potential benefits of introducing the new legislation that would be required.

8.2 The FSA's objective is to provide increased accessibility to food hygiene ratings by requiring mandatory display of ratings at food business premises as already happens in Wales and will do in Northern Ireland. They say that this will:

- strengthen the existing scheme
- increase transparency for consumers and thereby increase the push on businesses to raise their game
- create a level playing field and enable competition to drive the market
- provide a more effective and sustainable alternative to formal enforcement action and a basis for an increased focus on poorly performing businesses
- increase the scheme's potential to protect public health and contribute to reducing the economic burden of foodborne illness.

8.3 Despite the reported advantages of the mandatory scheme as highlighted above, the impact upon the BST in terms of resourcing the changes is likely to be significant. Any new scheme will result in amendments to the FLCofP particularly surrounding the introduction of mandatory scores including the:

- demand for re-rating premises
- handling of appeals in respect to the initial rating awarded following inspection
- enforcement protocols for non-display particularly the issuing of fixed penalty notices for non-compliance
- requirement for the inspection of new premises within 28 days of it registering or when we are made aware that it is trading.

8.4 The implications of any mandatory display of ratings will need to be carefully considered and the necessary additional resources made available to effect a universal and consistent approach to the changes.

## 9 Equality impact assessment

9.1 The inspection criteria have been subject to an equality impact assessment, attached as **Appendix 2**. Implementation will not affect the concept of fairness established under the adoption of the FHRS in 2011, which ensures that all food establishments are being inspected and enforced equally in all premises regardless of ethnicity or cuisine type. However further information in relation to the impact of services upon food businesses is required.

## 10 Legal implications

10.1 Legal Services has previously confirmed that the requirement to carry out periodic food inspections of food premises using a risk-based approach is derived from and in accordance with 'EC Regulation 882/2004' and the 'Framework Agreement on Food Law Enforcement' in respect of legislation relating to England and Wales.

10.2 Legal Services has also previously confirmed that the 'Food Law Code of Practice (England)' enables the replacement of the inspection-focussed approach to food law enforcement with a more flexible one, whereby local authorities can use a wider range of interventions to monitor, support and increase business compliance. The Food Standards Agency has acknowledged that the aim of this revision is partly to ensure that resources are directed at those food businesses that present the greatest risk to public health and consumer protection.

## 11 Director of Finance's comments

11.1 The activities proposed within the Food Operating Plan 2017 / 2018 and summarised in section 7.37 of this report will be funded from the existing service portfolio budgets, as approved by Full Council.

.....  
Signed by: Stephen Bailey - Director of Culture and City Development

### Appendices:

**Appendix 1: Food Operating Plan 2016 / 2017**

**Appendix 2: Equalities Impact Assessment**



**Background list of documents: Section 100D of the Local Government Act 1972**

The following list of documents discloses facts or matters which have been relied upon to a material extent by the author in preparing this report:

Title of Document	Location
NIL	NIL

The recommendations set out in 2.1. above were approved/ approved as amended/ deferred/ rejected by the Cabinet Member for the Environment and Community Safety on

.....

.....  
Signed by: Councillor Robert New, Cabinet Member for Environment and Community Safety

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# Food Safety Operating Plan 2017 / 2018

Regulatory Services

Business Support Team

Portsmouth City Council



## Contents

1. Introduction
  2. Aims and Objectives of the Food Safety Service
  3. Background
  4. Service delivery
  5. Resources
  6. Quality assessment
  7. Key performance areas 2017 / 2018
  8. Key achievements in 2016 / 2017
  9. Review
- Appendix A - Service performance and trends analysis

## 1. Introduction

- 1.1 This Operating Plan has been produced in accordance with the Food Standards Agency (FSA) 'Framework Agreement on Official Feed and Food Controls by Local Authorities'.
- 1.2 The purpose of the Plan is to demonstrate that Portsmouth City Council (PCC), in its role as the designated 'Competent Authority', has in place adequate and effective arrangements to meet its statutory obligations in respect of food safety.
- 1.3 The Plan is subject to elected member approval to ensure local transparency and accountability. When approved, it is published on the Council's website.
- 1.4 Delivery of the Plan is the responsibility of Regulatory Services which currently forms part of the Culture and City Development Directorate.
- 1.5 The Plan covers the following:
- A profile of Portsmouth and the organisational structure and business priorities relating to PCC and Environmental Health
  - The scope of the Food Safety Service and demands made on it
  - The delivery of the service in terms of food premises inspections and the sampling of food
  - Operational protocols to ensure compliance with legislative requirements and consistency of approach
  - A review of performance in 2016/17 and a summary of key activities identified for 2017/18
- 1.6 There is a lot of legislation which regulates foodstuffs, and a lot of guidance and codes of practice produced by Government and Industry. Enforcement of regulations on food standards, safety and hygiene is primarily the responsibility of Regulatory Services, but the making of legislation in the UK is the function of central government and Europe.
- 1.7 Legislation covers all parts of the food production and distribution chain, including:
- production
  - processing
  - packaging and labelling
  - importing
  - distribution
  - retailing and
  - catering

## 2. Aims, Objectives and Auditing of the Food Safety Service

- 2.1 The Food Safety Service is delivered in accordance with the Food Law Code of Practice (FLCoP), the latest version came into force in March 2017. The Code is issued by the FSA and governs the manner in which a Competent Authority enforces relevant food safety legislation and delivers 'official controls' to secure food law compliance. The Code is issued under the Food Safety Act 1990 and has statutory force. Competent Authorities that do not have regard to its provisions could find their decisions or actions successfully challenged, and evidence gathered during a criminal investigation could be ruled inadmissible by a court.
- 2.2 The key objectives for the Food Safety Service are to:
- Ensure by education and enforcement that food intended for human consumption which is produced and/or sold in Portsmouth is safe to eat and complies with food safety requirements
  - Deliver a programme of inspections and interventions in relation to food businesses, on a risk-based frequency
  - Provide support to help businesses comply with their legal obligations
  - Investigate and take appropriate action concerning complaints about food and food premises to protect public health
  - Take enforcement action when necessary in a consistent, transparent and proportionate basis
  - Carry out targeted and reactive environmental and food microbiological sampling
  - Prevent the spread of specified infectious and food borne diseases
  - Advise and educate consumers and service users on food safety matters
  - Deliver Port Health Authority functions, including those relating to food imports or exports
  - Maintain and improve dialogue with stakeholders and customers to improve the manner in which the service is delivered to them
- 2.3 The FSA audits Local Authority food and feed enforcement activities and publishes reports of their findings. Local Authorities are audited against the feed and food law standard in the Framework Agreement, a document which sets out the minimum standards of performance required from Local Authorities across the full range of their feed and food law enforcement activities. During the last audit of services in 2013, the Council was deemed to meet the basic standards in this agreement.
- 2.4 The service, and the manner in which it is delivered, contributes to three key priorities as set out in the Council's Corporate Plan, which was updated in March 2017.

1. Encourage regeneration and investment
2. Empower residents to be healthy and independent
3. Provide excellent customer service

### **3. Background**

#### **3.1 Profile of the Food Industry in Portsmouth**

- 3.1.1 PCC is a Unitary Authority with a total area of 40 square kilometres and a population of approximately 207,000. It is a dense, highly urbanised city with approximately 6,800 business premises of which around 2,000 are food businesses.
- 3.1.2 The food industry in Portsmouth contributes significantly to the local economy. There are several concentrations of food businesses in the City (mainly food retail, caterers and takeaways), including Gunwharf Quays, Port Solent, Palmerston Road, Albert Road, Osborne Road, Kingston Road, Fratton Road and High Street, Cosham.
- 3.1.3 There are also several businesses which handle high risk foods such as meat and shellfish which are distributed nationally and internationally and are required by food law to be approved by the Council. These premises require an enhanced level of supervision and inspection by Council officers.
- 3.1.4 The Portsmouth International Port serves freight and ferry routes to France, Spain and the Channel Islands and, as a 'Designated Point of Entry', receives food imports from the European Union (EU) and countries such as the Dominican Republic, Costa Rica, Morocco, Trinidad & Tobago, Granada and Jamaica. No products of animal origin are received at the Port. The number of cruise vessels which visit Portsmouth in the summer months continues to increase and approximately 30 are due here in 2017 / 2018.
- 3.1.5 PCC also has responsibility for monitoring live bivalve mollusc shellfish beds in Portsmouth and Langstone harbours for microbiological and bio-toxin contamination.

#### **3.2 Organisational Structure**

- 3.2.1 The political structure of the Council is based on an executive Cabinet, comprising the Council Leader, Deputy and Portfolio Holders. The Portfolio Holder for Environmental Health is the Cabinet Member for Environment and Community Safety.

- 3.2.2 There are two standing and other ad hoc overview and scrutiny committees (known as Policy and Review Panels) who support the work of the Council members and provide some oversight of the decisions made by the Executive.
- 3.2.3 The food safety function was reviewed in 2016 / 2017 as part of a wider review of environmental health and trading standards services which were combined into a new Regulatory Services Team. The Regulatory Services Manager has responsibility for operational matters supported by a Team Leader and a Food Lead officer whose role has been extended to ensure the service is delivered in full compliance of the FLCoP. The food safety function is delivered by a team of field-based environmental health practitioners.
- 3.2.4 There is additional support to the service from several partners including:
- Public Health England (PHE) which examines food samples for bacterial and viral contamination at its accredited laboratory in Colindale
  - Hampshire Scientific Services which is an accredited food examiner for food standards matters including labelling and compositional issues
  - A Consultant in Communicable Disease Control at PHE who is appointed as the 'Proper Officer' under the Public Health (Control of Disease) Act 1984 and Health Protection Regulations 2011, with regard to food poisoning and food borne infectious disease incidents

### **3.3 Scope of the Food Safety Service**

- 3.3.1 Food safety activities currently undertaken include:
- Programmed inspections and interventions at food businesses (fixed or mobile) at a frequency set out in the FLCoP risk rating scheme
  - Revisits to premises following programmed inspections to secure compliance with legal requirements
  - Assessing food hygiene and food standards issues (e.g. food allergens and 'use by' date labelling) during premises inspections
  - Carrying out assessments and updating data for the National Food Hygiene Rating Scheme
  - Food microbiological and compositional sampling which is either intelligence-led or forms part of national sampling programmes
  - Investigating complaints about the standard of hygiene in food businesses in Portsmouth
  - Investigating complaints about food that has been produced and/or sold in Portsmouth
  - Monitoring of live bivalve molluscs and water for microbiological and bio-toxin contamination



- Investigating food poisoning and food borne infectious disease cases
- Responding to national Food Safety Alerts and Incidents issued by the FSA
- Promoting food safety by education, training and business support and working with other organisations to assist food business operators
- Providing Health Certificates for food to be exported and, where appropriate, certificates confirming imported fruit is of organic origin
- Issuing specific approvals to high risk food businesses subject to that requirement.
- Issuing Ship Sanitation Certificates
- Sampling potable water supplies on ships

### 3.4 Demands on the Service

- 3.4.1 Regulatory Services is based at the Civic Offices, Guildhall Square, Portsmouth and has an office base in the Port. The public has access to the service by direct contact through City Helpdesk, by e-mail and, for certain functions, through the Council's website.
- 3.4.2 Inspections of food businesses are normally undertaken when they are trading to ensure food handling practices can be assessed. The inspection of vessels is undertaken on a flexible basis and is governed by advance notification of vessel movements in and out of the Port. Inspection activity for premises and vessels is therefore frequently undertaken outside normal office hours.
- 3.4.3 There is no routine out of hours or emergency service for food safety matters; service requests are triaged each working day and prioritised for action on the basis of public health risk.
- 3.4.4 Demands on the service continue to increase, reflected by a 23.7% rise in food-related service requests from members of the public since 2014 / 2015 and the focus on poorly performing high risk businesses which has led to a significantly increased level of enforcement activity in the last 3 years. It is anticipated that the introduction of mandatory display of Food Hygiene Ratings and ongoing shellfish sampling responsibilities will place further demands on the service in 2017/18.
- 3.4.5 Portsmouth has a significant number of food business owners whose first language is not English. The service aims to provide access to appropriate verbal and written advice in the appropriate language. Translation and interpretation services have been used to aid understanding in cases with significant communication difficulties.
- 3.4.6 The profile of the registered food businesses in Portsmouth by category, as of **April 2017**, is shown in **table 1**.

**Table 1**

<b>Category</b>	<b>Total premises</b>
Importer/Exporter	1
Manufacturer or Packer	13
Distributor/Transporter	20
Retailer - Other	23
Supermarket/Hypermarket	33
Hotel/Guest House	41
School/College	66
Mobile Food Unit	47
Pub/Club	186
Caring Premises	221
Take-away	212
Small Retailer	313
Restaurants and Caterers - Other	294
Restaurant/Cafe/Canteen	374

**Total number of registered food businesses in Portsmouth = 1844**

3.4.7 Food businesses are risk-rated according to prescribed criteria relating food type, method of processing, customers at risk and level of compliance. Businesses are then inspected on the basis of a intervention risk rating which determines the frequency of inspection. Inspection frequencies are set out in the FLCoP.

The risk profile of food businesses in Portsmouth, as of April 2017, is provided in **table 2**.

**Table 2**

<b>Rating category</b>	<b>Intervention risk rating</b>	<b>Minimum inspection frequency</b>	<b>Number</b>
<b>A</b>	92 or higher	6 monthly	2
<b>B</b>	72-91	12 monthly	61
<b>C</b>	52-71	18 monthly	386
<b>D</b>	31-51	2 yearly	633
<b>E</b>	0-30	3 yearly or Alternative Enforcement Strategy	762

3.4.8 E-rated low or minimal risk food businesses are dealt with through an Alternative Enforcement Strategy (self-assessment or inspection on an alternate cycle). Follow-

up inspections following self-assessment will be carried out if deemed necessary i.e. the risk profile of the business has increased since the last assessment.

- 3.4.9 After each inspection a food business is rated under the national Food Hygiene Rating Scheme (FHRS) which gives a measure of compliance against three key criteria: hygiene practice, premises structure and food safety management. The rating scale ranges from 5 ('very good') to zero ('urgent improvement necessary'). It is PCC policy that proportionate action will be taken against any business with a rating below 3 ('generally satisfactory') to ensure it improves its compliance with food law.
- 3.4.10 The current FHRS profile of the registered food businesses in Portsmouth as of April 2017 is shown in **Appendix A (Graph 5)**. Currently 56% of food businesses are 'very good'; 82% are broadly compliant. Changes to the business FHRS profile in the last seven years are also shown in **Graph 5**.

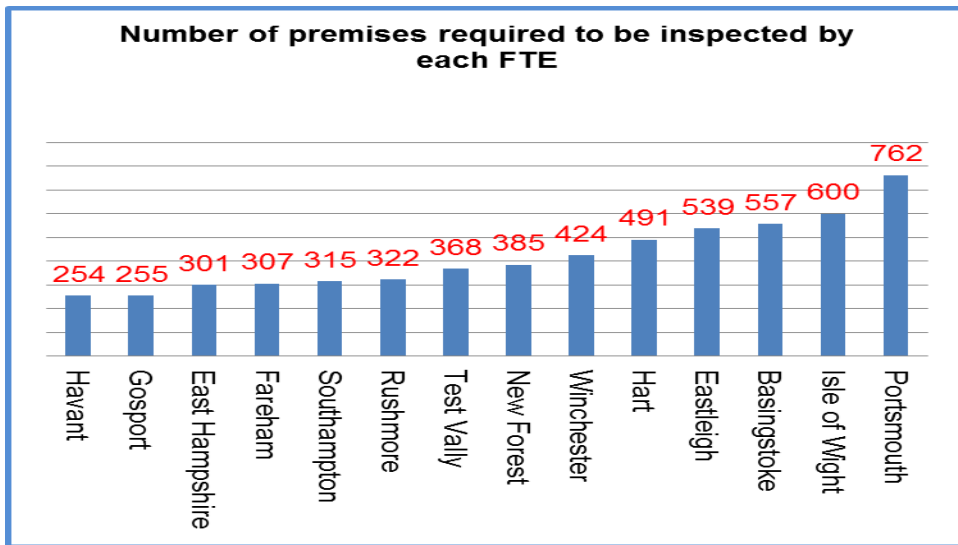
### **3.5 Enforcement Policy**

- 3.5.1 Food safety enforcement is undertaken in a graduated manner and in accordance with the Council's Corporate Enforcement Policy and FSA guidance. Informal action, advice and persuasion are the usual methods of achieving compliance but other enforcement measures are taken if the circumstances demand this. Any enforcement action likely to lead to court proceedings is subject to a formal process and scrutiny by senior officers.

### **3.6 Benchmarking data from other Hampshire Local Authorities**

- 3.6.1 In 2017, service profile information for the fourteen local authorities in Hampshire was collated by the Hampshire Food Advisory Committee. The data was based on LAEMS (Local Authority Enforcement Monitoring System) for 2015/16 and compared to national data supplied by the FSA in its annual report of UK local authority food law enforcement for the same period.
- 3.6.2 As demonstrated below in **figure 1**, based on the figures provided by the local authorities at that time, Portsmouth is now the lowest resourced authority in terms of FTE assigned to the FBO intervention program.

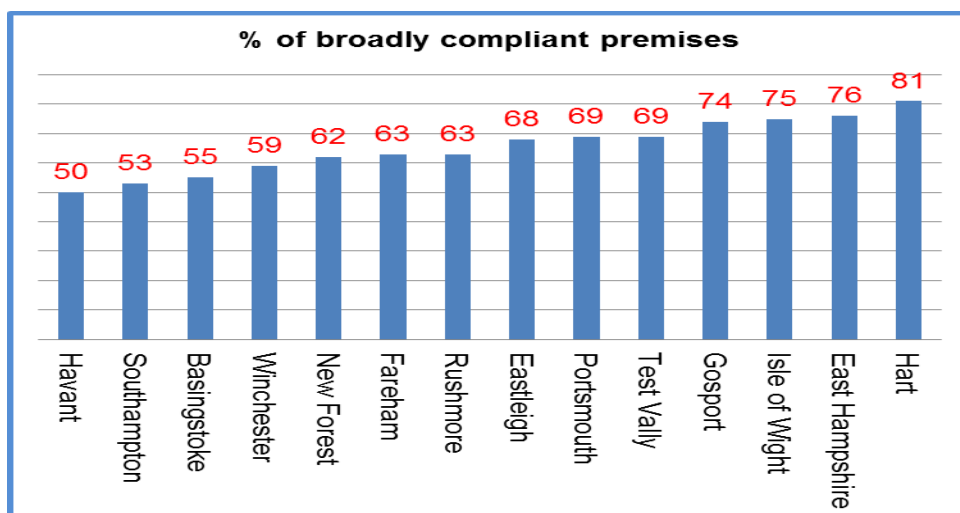
**Figure 1**



3.6.3 A consequence of the level of resource assigned to the food safety intervention program is that our ability to inspect premises in accordance with the FLCofP has been compromised. Behind Southampton, our inspection rate was, at the time the data was compiled, the second worst in the region at 67.3% and significantly below the UK average of 86.7%. It is worth highlighting however that the service recognised the falling level of inspections and subsequently employed a contractor to assist with the inspection programme. At the latter end of 2016 / 2017 the rate of inspection had slightly recovered to 80%.

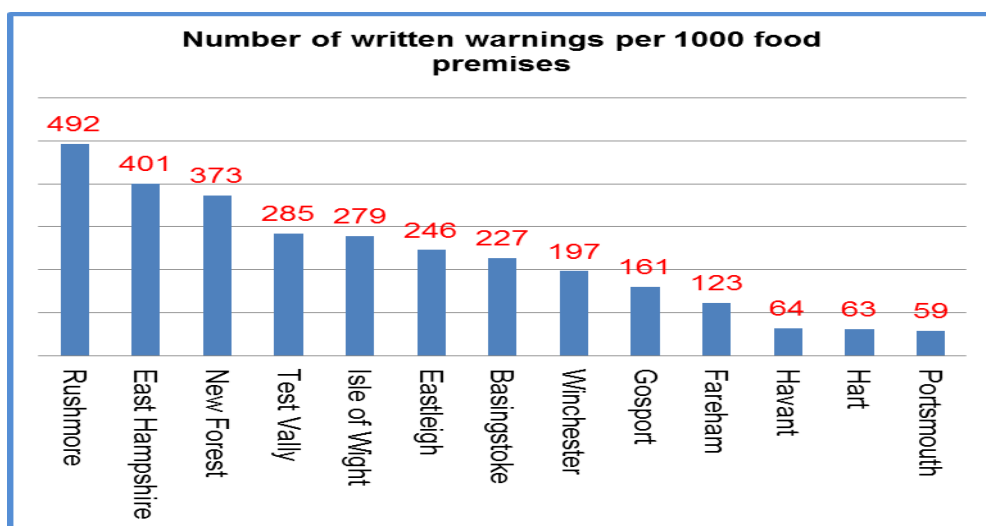
3.6.4 **Figure 2** highlights the number of broadly compliant premises within each authority i.e. those premises rated 3, 4 or 5. The performance of Portsmouth's food offer compares well with most other authorities and significantly better than our nearest neighbour Havant.

**Figure 2**



3.6.5 In terms of informal written warnings, which could be representative of the simplest level of enforcement action implemented by local authorities, as demonstrated below in **figure 3**, Portsmouth's officers exhibit the lowest level of business intrusion at 59 per 1000 premises. The national average is 265 written warnings per 1000 premises.

**Figure 3**



## 4. Service Delivery

### 4.1 Food premises inspections

4.1.1 Food safety inspections and interventions are carried out in accordance with the FLCoP and the relevant Food Safety Inspection Standard Operating Procedures and undertaken in accordance with frequencies described in para 3.4.7.

4.1.2 The number of programmed Food Safety inspections and Alternative Enforcement Strategy (AES) interventions undertaken in 2016 / 2017 were:

- **A – C category (high risk) = 304**
- **D category (low risk) = 326**
- **E category (lowest risk mainly AES) = 164**

4.1.3 Trends in inspections undertaken since 2013 / 2014 are shown in **Appendix A (Figure 2)**.

4.1.4 Inspection activity proposed for 2017/18 is shown in section 8. Additional food premises visits will be undertaken as a result of complaints, enforcement action, investigations and business requests for advice. In 2016 / 2017, 745 inspections were carried out together with 207 additional investigatory actions following 282

complaints. This activity, if continued at similar levels in 2017 / 2018, will significantly impact on the rate at which programmed inspections can be delivered.

## **4.2 Food complaints**

4.2.1 Service requests are dealt with under the Standard Operational Procedure for complaints concerning either food items or food premises.

4.2.2 In 2016 / 2017, 282 complaints about food items and food premises were received. These complaint levels are likely to be similar in 2017 / 2018 although an accurate forecast is difficult to make.

## **4.3 Primary Authority Partnerships**

4.3.1 PCC supports the operation of the Primary Authority Scheme and within Regulatory Services is seeking to establish new partnerships across a range of food safety and trading standards regulatory areas and also improve the way it works with its existing partners.

4.3.2 In 2011 / 2012, Environmental Health entered into Primary Authority Partnerships with the Southern Co-operative and the Royal Navy covering the regulatory area of food safety. These will continue into 2017 / 2018.

## **4.4 Advice to Businesses**

4.4.1 A significant element of PCC's regulatory strategy is the offering of advice to businesses to assist them in achieving a satisfactory standard of food safety and compliance with the law.

4.4.2 Examples of business support undertaken include:

- Carrying out assessments and publishing National Food Hygiene Rating Scheme scores
- Leaving a written report after each inspection giving advice about how a proprietor might improve the Rating score
- Promoting the Food Standards Agency 'Safer Food Better Business' pack to improve food safety management and diligence documentation
- Giving new businesses "start-up" advice prior to their first inspection
- Advising business proprietors during inspections and other visits
- Providing advice in leaflets or on the Council's website
- Responding to individual queries
- Giving advice to organisers planning high profile events in the city likely to be attended by large numbers of people
- Signposting to translated literature and interpreting services, when proprietors, managers or staff do not have English as their first language

- Offering Level 2 Chartered Institute of Environmental Health Food Safety training courses (through the Independence and Wellbeing Team)

## 4.5 Food Sampling

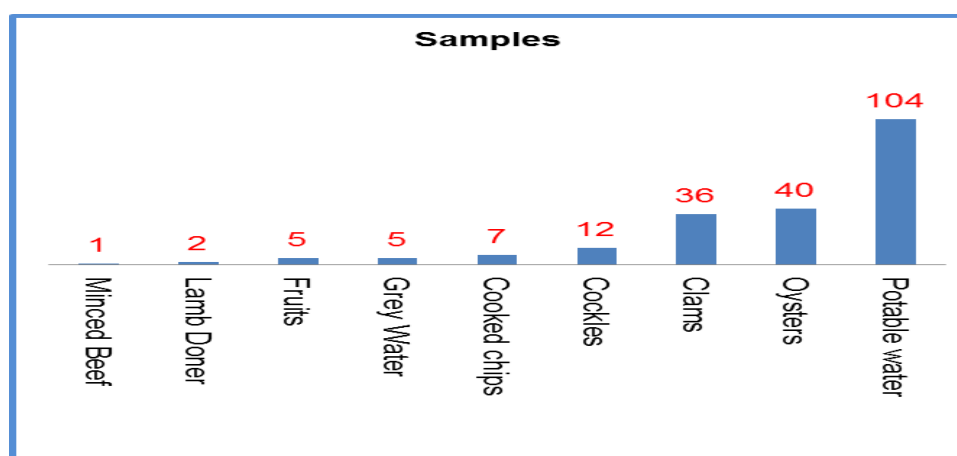
4.5.1 Formal and informal food sampling provides useful information about composition and the microbiological fitness of food for sale. PCC participates in the regional food sampling programme (Wessex Environmental Monitoring Service User Group) which targets particular foods according to FSA guidance or other local priorities.

4.5.2 In the Port, sampling priorities will be risk products featured on Annex 1 of EC Regulation 669/2009, any product notified on the FSA Early Warning System and routine monitoring based on any intelligence received via the EU's 'Trade Control and Expert System' (TRACES). It is anticipated that in the region of 24 samples will be taken in the Port during this financial year.

4.5.3 As the Port Health Authority, PCC has responsibility for monitoring the classification and bacteriological quality of the shellfish beds in Portsmouth and Langstone Harbours and also the bio-toxin levels in marine waters. Although the ongoing costs of bio-toxin analysis are met by the FSA, the sampling of shellfish and associated analytical costs are delivered within the service budget. It is anticipated that the level of sampling required to maintain the classification of our bivalve mollusc production areas will remain high in 2017 / 2018 - consequently drawing significant levels of resource from other service delivery areas.

4.5.4 In 2016/17 a total of 219 samples were taken. A breakdown of the sampling initiated is shown in **figure 4**.

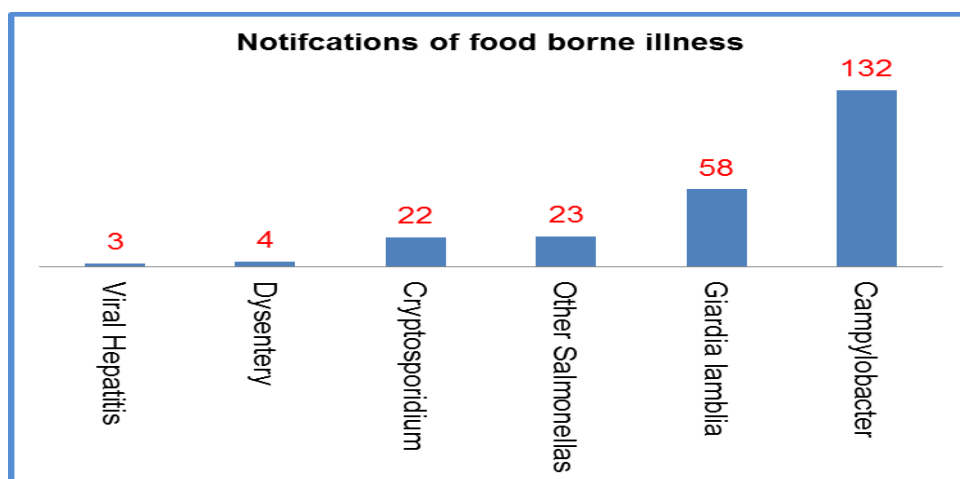
**Figure 4**



## 4.6 Control and Investigation of Food Related Cases and Outbreaks

- 4.6.1 The number of official notifications of individual suspected or confirmed cases of food borne illness in 2016 / 2017 was 244. It is generally recognised that the number of reported cases is a small proportion of the actual number of cases of food borne illness each year in the UK.
- 4.6.2 Infectious disease investigations are made in accordance with a Single Case Plan which was updated by PHE in November 2016. This plan is made under the Local Agreement between Local Authority Environmental Health services of Hampshire and the Isle of Wight and the South East Centre Health Protection Unit (HIOW Office). It represents agreement between environmental health teams in Hampshire and PHE for the investigation of single cases of infectious diseases, many of which are food-borne. Priority is given to cases involving persons who work in the food industry or have contact with vulnerable groups.
- 4.6.3 The Council also works in partnership with PHE to prevent and control cases and investigate wider outbreaks of food related disease that fall outside the scope of the single case plan.
- 4.6.4 A breakdown of cases notified to the BST in 2016 / 2017 is shown in **figure 5**.

**Figure 5**



## 4.7 Food Safety Incidents and Alerts

- 4.7.1 There is a documented Food Alert and Incident procedure covering the issue of warnings arising from a food related issue in the City and the response to warnings issued by the FSA.



- 4.7.2 Responses to Food Incidents and Alerts are determined by the Regulatory Services Manager and Food Lead Officer in consultation as necessary with the Food Standards Agency, Public Health England, and Trading Standards etc.
- 4.7.3 In 2016 / 2017, 65 food hazard warnings were received from the FSA. This represents a 53% decrease on the previous year. Although very few required any form of direct action on the part of the service, these continue to emphasise the value of food safety intelligence and 'horizon scanning' in reducing public health risks. It is difficult to predict the number of warnings likely to be received in 2017 / 2018 and the effect this might have on the programmed work the team undertakes.
- 4.7.4 In the Port, proactive examination of any risk products featured on Annex 1 of EC Regulation 669/2009 will continue (see para 4.5.2). This 'risk list' is updated on a quarterly basis.

#### **4.8 Food Standards interventions**

- 4.8.1 Food standards interventions are carried out as necessary by staff that are trained and competent in food law and food science or by staff supervised by such specialist staff. All Feed and Standards complaints received by the BST are assessed and either assigned to an appropriate officer for appropriate action or recorded for intelligence purposes.
- 4.8.2 The main standards issues reported during 2016 / 2017 are as follows:

- Allergens
- Nutrition and health claims
- Food labelling
- Substitution

#### **4.9 Liaison with Other Organisations**

- 4.9.1 The Service is committed to formal inter-agency liaison relationships as set out in the FLCoP. Additional communication takes place at officer level during the process of investigating offences, sharing information and exchange of intelligence.
- 4.9.2 The Hampshire and IOW local authorities have established a Food Advisory Committee to collaborate on food safety issues, produce common policies and procedures and promote consistency in food safety regulation. Portsmouth's Food Lead officer regularly attends the meetings of this group. A regional Trading Standards forum, which specifically covers food standards issues, is also attended.
- 4.9.3 Officers from the service also attend similar county-wide forums covering health and safety at work and infectious disease control which meet four times a year.

- 4.9.4 Officers routinely liaise with Building Control, Planning and Licensing staff, particularly when new businesses are being established. In 2016 / 2017 there was a significant increase in liaison with PCC's Private Sector Housing Team and Hampshire Fire and Rescue Service to deal with fire risks in mixed use premises that impacted significantly on the safety of food businesses and their resident food handlers.
- 4.9.5 The service continues to liaise with Southern Water to explore additional measures that might be taken to prevent or reduce the frequency of sewage discharges into the harbours and also to assess the impact that these discharges are having upon the quality of the shellfish production areas. Officers also undertake joint premises inspections with enforcement staff from Southern Water to reduce the amount of fat being discharged into shared sewers by commercial food businesses.
- 4.9.6 Meetings of voluntary organisations, such as the Portsmouth Chinese Association, have been attended with translation support, to improve the food safety message to food business operators whose first language is not English.
- 4.9.7 The service uses media such as The Portsmouth News and its web pages to deliver food safety messages and promote successful enforcement action taken in the courts.

#### **4.10 Promoting Food Safety**

- 4.10.1 Food Safety training, mainly CIEH Level 2 courses, is offered by the Council (through the Independence and Wellbeing Team).
- 4.10.2 Promotional work to be undertaken during 2017 / 2018 includes:
- Continued promotion of the National Food Hygiene Rating Scheme to encourage businesses to improve and to inform consumers of standards being achieved
  - Provision of advice and support to business with a poor track record of food hygiene compliance
  - Improvement of communication and dialogue with local businesses and consumers to improve food safety standards

### **5. Resources**

#### **5.1 Financial Allocation**

- 5.1.1 The budget allocated for the BST in 2017/ 2018 is £288,500. A comparison with 2016 / 2017 is shown in **table 3**.

**Table 3**

<b>Account Description</b>	<b>Service Budget 2016 / 2017</b>	<b>Service Budget 2017/ 2018</b>	<b>% Change</b>
Employees	253,620	261,800	3%
Net Expenditure	279,670	288,500	3%

## **5.2 Staffing Resources**

- 5.2.1 Food safety inspections are carried out by appropriately qualified and authorised environmental health practitioners. The officers deliver a single 'environmental health service' to a diverse customer base which, in addition to food safety, covers health and safety in the workplace, infectious disease control, animal health and port health. As a consequence, the maximum resource that is available to deal with food safety is approximately 2.5 FTE officers.
- 5.2.2 In 2016 / 2017 a contractor has been used to inspect / assess category E premises (lowest risk) to determine whether revision to their risk rating is appropriate and whether further action is necessary to improve compliance with food safety standards.

## **5.3 Staff Development Plan**

- 5.3.1 All members of staff have the opportunity to have 1 to 1 meetings as necessary with the Regulatory Services Manager or Environmental Health Team Leader to consider and address personal development issues.
- 5.3.2 In 2016 / 2017 competency assessments were completed for all officers undertaking food law enforcement duties which have formed the basis for future training and staff development activity.
- 5.3.3 A minimum of 20 hours CPD training each year on food safety related topics is required by the FLCoP and this is achieved by the following:
- Structured in-house training for all food safety officers in bi-monthly meetings
  - Online training in relevant issues provided by an FSA-approved training provider
  - Cascade training sessions to pass on information or updates on specific issues or material considered by advisory committees (section 4.8)
  - Regular updates through staff briefings and circulation of relevant information and technical material
- 5.3.4 The service uses a range of training material provided by a range of organisations including the Chartered Institute of Environmental Health, FSA, PHE, Trading

Standards South East Limited and also external providers in areas of specialist expertise.

## **6. Quality assessment**

- 6.1 Officers authorised under food safety legislation are provided with Standard Operating Procedures describing how inspections are carried out, how complaints are investigated and how legal powers are enforced. This ensures that the service complies with the service standard set out in the FSA Framework Document.
- 6.2 The service was subject to a full FSA audit in 2013. The subsequent service improvement plan was actioned in 2014, which included the review of all Operating Procedures and quality measures. The plan was signed off by the Agency in 2014. The reviews will continue into 2017 / 2018 to drive service improvements despite restrictions on available resources.
- 6.3 Activities which are used to monitor and maintain service quality include:
- Monthly team meetings with six each year being reserved for training
  - Random accompanied inspections of officers by Food Lead officer to ensure risk rating is consistently applied
  - Review of any FHR inspection by Food Lead officer resulting in a rating of 0,1 or 2
  - Peer review of all statutory notices before service
  - Random post inspection checks, of records and enforcement decisions made by team members, by the Food Lead officer
  - Peer-reviewed benchmarking activities co-ordinated by Hants and IOW Food Advisory Committee
  - Examination of any customer complaints made through the corporate procedure - 0 complaints about the food safety service were made in 2016/17
  - Appeals against enforcement notices - 0 appeals were made against the 17 Hygiene Improvement Notices served between April 2016 and March 2017
  - Appeals against Food Hygiene Ratings - only 1 appeal was made against the 745 ratings issued between April 2016 and March 2017

## **7. Key Performance Areas 2017/18**

- 7.1 Key activities for 2017/18 are to
- 7.1.1 Continue to target inspection resources to the highest risk premises.
- 7.1.2 Continue to take appropriate action against poorly performing businesses (FH rated 0, 1 or 2) including proportionate enforcement measures in line with EH and corporate enforcement policies.

- 7.1.3 Continue to manage the planned inspection programme to achieve a 100% inspection rate for high risk Category A to C premises.
- 7.1.4 Ensure that 95% of newly registered businesses are inspected within 28 days of first registration.
- 7.1.5 Ensure that requests for service are subject to an initial response within 3 working days or sooner depending on the seriousness of the issue.
- 7.1.6 Ensure that all applications for premises approval under EC 853/2004 are determined within 28 days of receipt.
- 7.1.7 Continue to inspect Category D premises (lower risk) at a rate determined by available resource levels.
- 7.1.8 Continue to subject Category E premises (lowest risk) to an alternative enforcement strategy in lieu of inspections (which may include telephone surveys and questionnaires) to determine current activity and whether a PCC intervention is required.
- 7.1.9 Increase awareness of FHR in business rated 0,1 or 2 with a view to improving future compliance with food safety standards.
- 7.1.10 Evaluate the impact of FSA proposals to introduce mandatory FHR display and charging for revisit requests.
- 7.1.11 Review and update all food service policies and procedures to reflect changes in legislation, FLCoP and FLPG since the FSA service audit in 2013 to ensure they remain fit for purpose.
- 7.1.12 Identify additional means to promote food safety standards and requirements to local businesses to improve compliance in key areas.
- 7.1.13 Continue to participate in the Hants and IOW Food Advisory Group work programmes and meetings.
- 7.1.14 Continue to participate in local, regional and national food sampling surveys concerning microbiological quality and food standards matters.
- 7.1.15 Ensure that staff receive appropriate and sufficient up to date training to meet the 20 hour CPD and competency requirements as defined in the FLCoP. Priority will be given to that CPD necessary to deliver the service priorities, to meet statutory and procedural requirements, and any training needs of new members of the team.

- 7.1.16 Carry out internal peer reviews to promote consistency in approach towards inspection, risk rating and enforcement of food law.
- 7.1.17 Track and consider the impact of proposals to change food law delivery currently under review by the FSA in its 'Regulating Our Future' strategy.
- 7.1.18 Engage with the organisers of key outdoor events to ensure that food businesses that come to the City meet the necessary hygiene standards when trading.
- 7.1.19 Continue to engage with organisations supporting minority ethnic groups to support food business operators whose first language is not English.
- 7.1.20 Continue the shellfish sampling programme in consultation with CEFAS/FSA with ongoing review of bed classifications in Portsmouth and Langstone harbours.
- 7.1.21 Deliver the new iDOX database to ensure food interventions are accurately recorded and statutory returns are not compromised.

## **8 Key Achievements in 2016 / 2017**

8.1 Key achievements include:

- 8.1.1 831 interventions were carried out to improve business compliance with food safety law, 80% of which were within the timescales prescribed by the FLCoP. This was achieved despite available inspection resources falling from 3.35 FTE officers in 2012 / 2013 to 2.5 FTE officers in 2016 / 2017. Priority was given to the highest risk premises (A, B and non-compliant Cs).
- 8.1.2 Due interventions outstanding (as assessed under FLCoP) at the year-end are down to 208 (the lowest level for 4 years).
- 8.1.3 69% of all registered food businesses are now FH rated 5, an increase of 8% from 2015 / 2016.
- 8.1.4 Significant enforcement action has been taken against poorly performing businesses:
- 15 Hygiene Improvement Notices
  - 1 Hygiene Emergency Prohibition Notice
  - 6 premises closures
  - 10 prosecutions for food safety and standards offences.
- 8.1.5 A competency matrix has been completed for each officer with an updated programme to support continuing professional development in relevant areas.

## 9. Review

- 9.1 The process of review of the Plan as a whole will be undertaken in March each year based on
- performance and resources available over the previous 12 months
  - responses to feedback from local businesses and the community
  - observations from members and the food safety team
  - advice and guidance issued by the FSA and other agencies

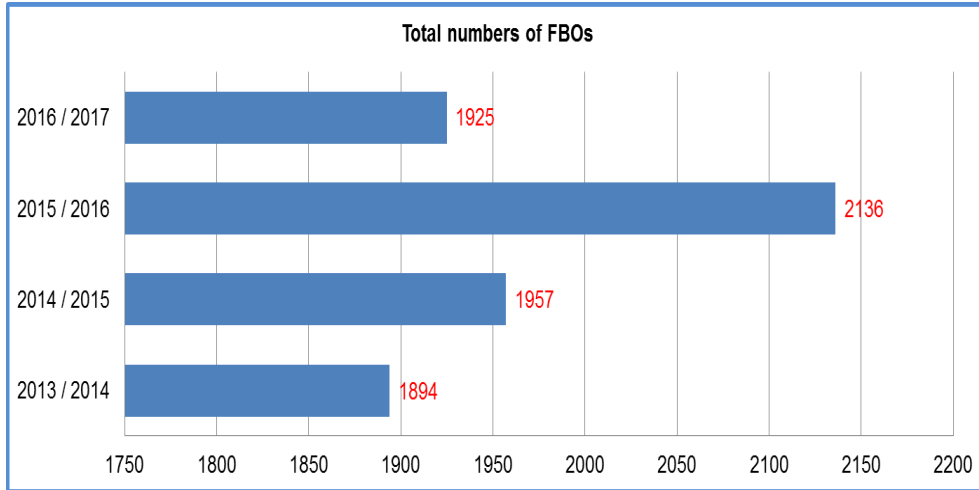
The review of this document will then inform the development of the Food Safety Plan for 2018/19 which will be scheduled for member consideration in June 2018.

- 9.2 Review of officer workload and priorities will be done on an ongoing basis throughout the year.

## Appendix 1 Service performance and trends analysis

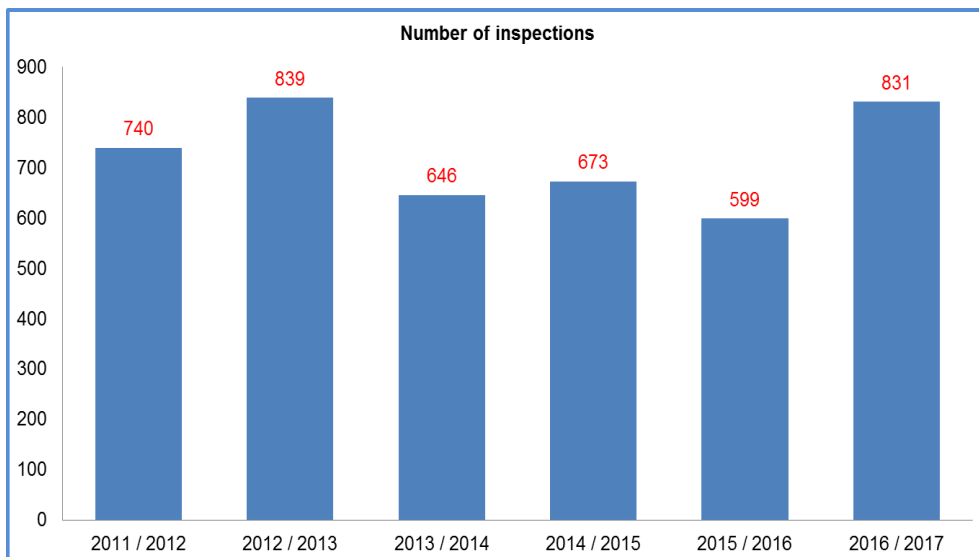
- 1.1 The number of FBOs registered with the BST since 2012 / 2013 is illustrated in **figure 1**.

**Figure 1**



- 1.2 The total number of inspections carried out in the last six years is shown in **figure 2**. The numbers of inspections carried out in 2016 / 2017 was the second highest over this period being 38.73% higher than delivered in 2015 / 2016.

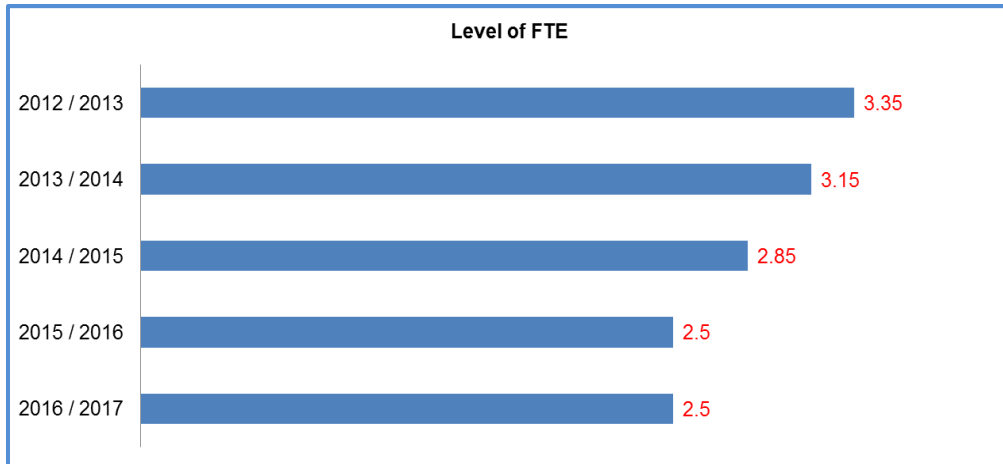
**Figure 2**



- 1.3 The levels of staff resource available to inspect food businesses since 2012 / 2013 are demonstrated in **figure 3**. The reduction equates to a 25% decrease in staff in this area over this period.

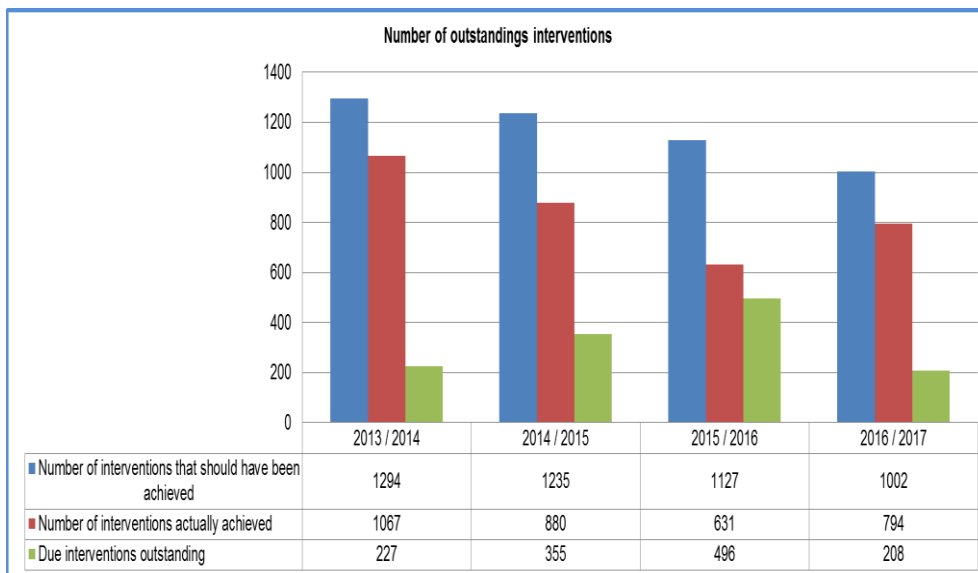


**Figure 3**



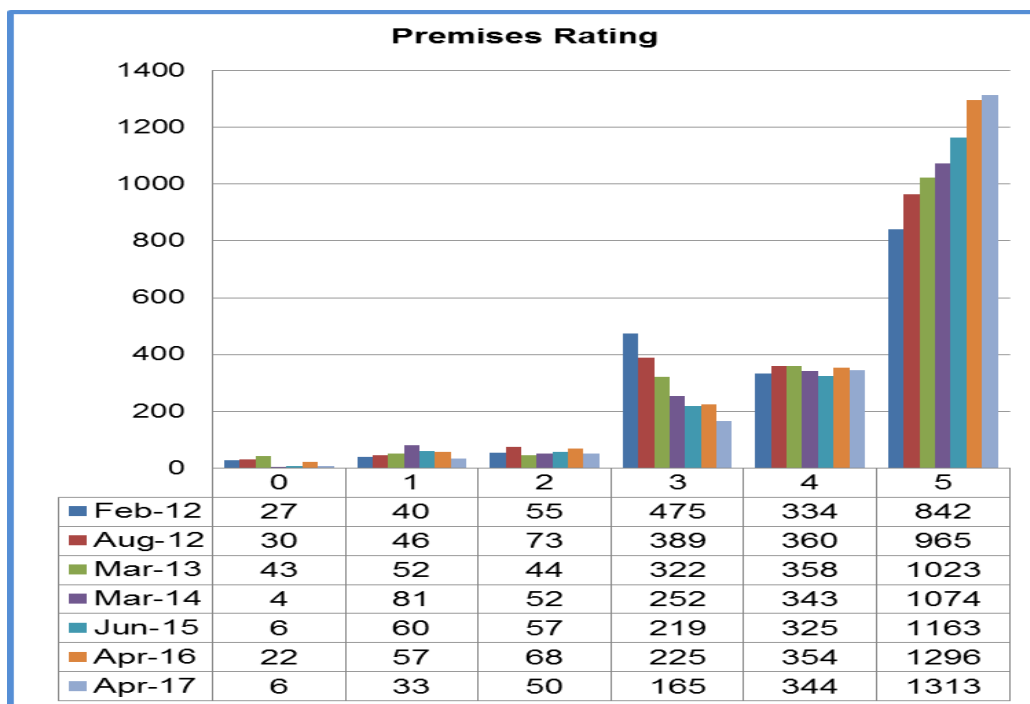
1.4 Intervention performance is shown within **figure 4**. In 2014 / 2015, 880 interventions, which equates to 71%, were delivered on time. This was a reduction of 11% on the 2013 / 2014 figure. In 2015 / 2016 this had fallen to 44% of inspections being delivered within the specified criteria set out within the FLCofP. This equates to a reduction of 27% in intervention performance since 2013 / 2014. In 2016 / 2017 794 of 1002 inspection were delivered on time which equates to nearly 80% of all inspection being delivered on time and a 9% improvement on the previous best year in 2014 / 2015.

**Figure 4**



1.5 The numbers of premises rated '0', '1', '2', '3', '4', or '5' as of February and August 2012, March 2013, March 2014, June 2015, April 2016 and April 2017 are illustrated in **figure 5**.

**Figure 5**



1.6 The number of broadly compliant premises (those premises rated '3', '4' or '5') has remained static, as shown in **Table 1**. In 2016 / 2017 95 % of rated businesses were broadly compliant, representing a 3% increase on the previous year.

**Table 1**

Year	Number of food businesses	Number of broadly compliant premises	% of 'broadly compliant premises
2013 / 2014	1894	1691	87
2014 / 2015	1957	1707	87
2015 / 2016	2136	1875	88
2016 / 2017	1925	1822	95

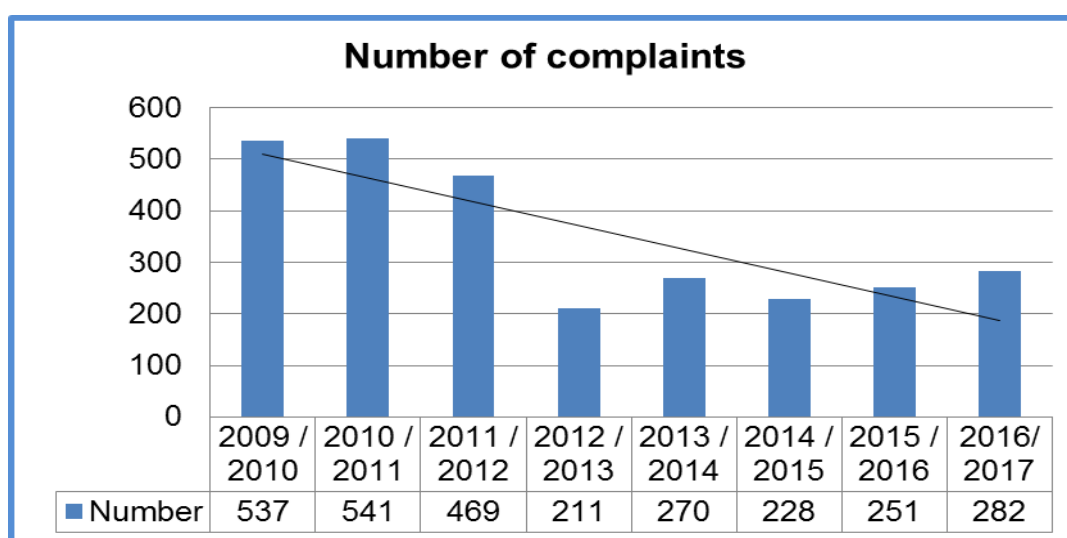
1.7 The number of enforcement actions taken during the last seven years is recorded in **Table 2**.

**Table 2**

Year	Improvement Notices	Closure	Prosecution
2009 / 2010	4	1	0
2010 / 2011	3	1	0
2011 / 2012	12	2	0
2012 / 2013	47	8	2
2013 / 2014	60	5	5
2014 / 2015	26	8	4
2015 / 2016	14	13	10
2016 / 2017	15	6	10

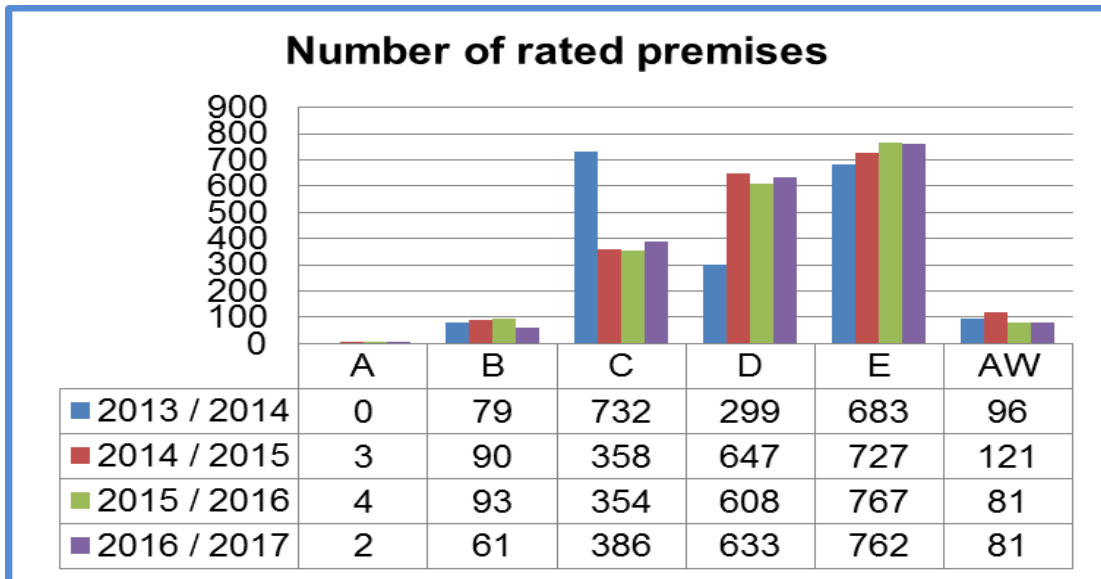
1.8 The number of complaints received fell significantly in 2012 / 2013 and has remained relatively static since and is a further reflection of how standards of food businesses have improved since that time. The number of complaints relating to food businesses is shown in **figure 6**.

**Figure 6**



7.38 The number of 'A' 'B' 'C' 'D' and 'E' rated premises as of 1 April 2014, 13 June 2015, 4 April 2016 and 7 April 2017 are shown in **figure 7**.

Figure 7



# Equality Impact Assessment

Preliminary assessment form v5 / 2013

[www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

The preliminary impact assessment is a quick and easy screening process. It should:

- identify those policies, projects, services, functions or strategies which require a full EIA by looking at:
  - negative, positive or no impact on any of the equality groups
  - opportunity to promote equality for the equality groups
  - data / feedback
- prioritise if and when a full EIA should be completed
- justify reasons for why a full EIA is not going to be completed

**Directorate:**

Director of City Development & Culture

**Function e.g. HR,  
IS, carers:**

Environmental Health

**Title of policy, service, function, project or strategy (new or old) :**

Food Safety Operating Plan 2017 / 2018

**Type of policy, service, function, project or strategy:**

- Existing
- New / proposed
- Changed

### Q1 - What is the aim of your policy, service, function, project or strategy?

The Plans aims are to:

- define the scope of the Food Safety Service and demands made on it
- provide an analysis of service delivery in 2016 / 2017
- summarise the key service activities identified for 2017 / 2018
- to protect public health and contribute to a healthy community in Portsmouth by ensuring the safety, wholesomeness and quality of food through education and appropriate intervention

### Q2 - Who is this policy, service, function, project or strategy going to benefit or have a detrimental effect on and how?

All Portsmouth citizens, food businesses and visitors to the city

### Q3 - Thinking about each group below, does, or could the policy, service, function, project or strategy have a negative impact on members of the equality groups below?

Group	Negative	Positive / no impact	Unclear
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Transgender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy and maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other excluded groups	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If the answer is "negative" or "unclear" consider doing a full EIA

**Q4 - Does, or could the policy, service, function, project or strategy help to promote equality for members of the equality groups?**

Group	Yes	No	Unclear
Age	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Disability	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Race	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Gender	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Transgender	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sexual orientation	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Religion or belief	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pregnancy or maternity	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other excluded groups	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

If the answer is "no" or "unclear" consider doing a full EIA

**Q5 - Do you have any feedback data from the equality groups that influences, affects or shapes this policy, service, function, project or strategy?**

Group	Yes	No	Unclear
Age	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Disability	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Race	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Gender	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Transgender	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Sexual orientation	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Religion or belief	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Pregnancy and maternity

Other excluded groups

If the answer is "no" or "unclear" consider doing a full EIA

**Q6 - Using the assessments in questions 3, 4 and 5 should a full assessment be carried out on this policy, service, function or strategy?**

yes  No

**Q7 - How have you come to this decision?**

Portsmouth City Council's food enforcement policy is part of the Food Standard's Agency's national food safety framework agreement for the operation of food safety across all local authorities across the United Kingdom.

It serves to protect all citizens and will not disproportionately affect any equality group.

If you have to complete a full EIA please contact the Equalities and diversity team if you require help  
Tel: 023 9283 4789 or email:equalities@portsmouthcc.gov.uk

**Q8 - Who was involved in the EIA?**

Steven Bell

**This EIA has been approved by:** Richard Lee

**Contact number:** 023 9283 4857

**Date:** 30 June 2017

Please email a copy of your completed EIA to the Equality and diversity team. We will contact you with any comments or queries about your preliminary EIA.

Telephone: 023 9283 4789

Email: equalities@portsmouthcc.gov.uk



# Agenda Item 5



Portsmouth  
CITY COUNCIL

<b>Title of meeting:</b>	Cabinet Member for Environment and Community Safety Decision Meeting.
<b>Date of meeting:</b>	13 <sup>th</sup> July 2017
<b>Subject:</b>	Trading Standards Service Delivery Plan 2017 / 2018
<b>Report by:</b>	Director of Culture and City Development
<b>Wards affected:</b>	All
<b>Key decision:</b>	No
<b>Full Council decision:</b>	No

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## 1 Purpose of report

- 1.1 The purpose of this report is to inform the Cabinet member as to how Regulatory Services will deliver its Trading Standards functions in 2017 / 2018.
- 1.2 A recent review of the Trading Standards, Environmental Health and Public Protection teams has resulted in an amalgamation of these services into a single Regulatory Services. The driver for this change was the need to deliver agreed savings and provide a foundation for a more flexible and resilient team in the mid to long term.
- 1.3 The loss of key experienced personnel necessitated a review of service functions and the need to devise a consolidated Trading Standards service delivery plan which is both realistic and best serves the residents and businesses of Portsmouth.
- 1.4 Trading Standards has had to make some difficult choices as to the allocation of its limited resources. A number of existing activities will not be pursued or downscaled in 2016 / 2017.

## 2 Recommendation

- 2.1 **That the Cabinet Member for Environment & Community Safety:**
  - a. **approves the manner in which Regulatory Services proposes to deliver its Trading Standards functions in 2017 / 2018 as set out within this document**
  - b. **endorses the comments made in respect to levels of available resource**

c. acknowledges the range of duties and responsibilities delivered by the service as identified in Appendix 1.

### 3 Reasons for recommendations

3.1 Due to the aforementioned restructure, reductions in net full time employees (FTEs) and ongoing budgetary pressures, it is essential to take an appropriate period of time to redesign service delivery priorities.

3.2 The staff resource (£) and funding assigned to Trading Standards in 2017 / 2018 are shown in **Table 1** below:

**Table 1**

	2016 / 2017	2017 / 2018	% change
	£	£	
Employees	345,100	288,700	-16%
Net Expenditure	261,360	191,800	-27%

3.3 Trading Standards enforces over 50 acts and statutes and has the power to enforce up to 250 articles of legislation, all of which are designed to protect our residents, increase consumer confidence, enhance and safeguard a fair local economy. Although reduced during 2017 / 2018, our enforcement activities will continue to be delivered and statutory obligations will be met.

3.4 Recruitment of a new full time experienced Trading Standards Officer will take place to offset some of the recent reductions in resource and to support the existing newly qualified staff during their continued development.

### 4 2017 / 2018 service delivery plan objectives

4.1 The purpose of the plan is to:

1. Identify the key service functions, activities, priorities and challenges
2. Map the service against regional & national Trading Standards priorities
3. Identify risk and devise a platform for change

### 5 **Objective 1 - Identify the key service functions, activities, priorities and challenges**

5.1 A clear message from the wider service review was that there is a need for a realistic approach to service delivery. With the current level of resource available Trading Standards will find it difficult to sustain the same level of protection, across the same number of areas, as was previously the case. That being the case, there is a need for transparency in respect to service delivery in 2017 / 2018.

5.2 Member approval of a new more realistic approach to Trading Standards during 2017 / 2018 is vital.

5.3 Although many of the functions cut across each other, broadly speaking the key service delivery areas and the abilities of the service to deliver these can be categorised as follows:

- i) Fair trading. This is an extremely diverse area, encapsulating both civil and criminal consumer law, and one where we receive the most consumer complaints and are most proactive.

In previous years funding from portfolio reserves for projects relating to issues such as 'dodgy' builders and letting agents has enabled us to successfully target offenders. In 2017 / 2018 no additional funding is available so as a result such work will cease to be targeted but will remain a priority.

The risk to service is that the volume of complaints received in respect to fair trading issues, and public and partner expectations, will outstrip available resources in this area.

- ii) Rogue Traders. Rogue traders frequently do not only target the vulnerable population they impact upon consumers who are ripped off by misleading or aggressive practices.

Our intelligence sources have identified that the majority of complaints received from Portsmouth residents are not because they have been ripped off by what you would call a 'cowboy' builder perhaps taking money but not carrying out the work but rather 'legitimate' limited companies who are carrying out poor workmanship, failing to exercise professional diligence and using misleading and aggressive practices. There are the Rogue's who are also simply 'fraudsters' who hide behind the building profession for example simply to commit fraud and elicit monies from consumers.

Resources will be focused on tackling such practices where there are identified.

- iii) Doorstep crime / rogue traders. Arguably linked to fair trading above, the service currently operates a 'rapid response' to calls for immediate help. The need to protect, particularly the vulnerable, from organised rogue trader activity has historically been a key function.

In 2017 / 2018 this is at risk of being inoperable. Where possible resources will continue to be assigned to this area, however there remains a significant possibility that ongoing services will not be as thorough or effective as those previously provided.

- iv) Scams. This is an area whereby vulnerable people, elderly, socially excluded etc. can be and are repeat victims of scams. Trading Standards offer reassurance visits and register consumers to "opt out schemes" such as Mail and Telephone Preference Services. This area of work will be resourced in 2017 / 2018.

Trading Standards will seek to engage with Adult Social Care, particularly the Safe Guarding of Vulnerable Adults Board, in order to explore how working together may improve the identification and protection of vulnerable adults in Portsmouth.

- v) Product Safety. All consumer goods must be safe - Trading Standards have a statutory duty to enforce a wide range of product safety legislation such as the Consumer Protection Act and the General Product Safety Regulations.

Our response to consumer complaints is particularly important where there is a potential or actual injury. Product testing abilities will be required (at considerable cost) and media interest in dangerous products is almost certain.

- vi) Intellectual property crime. Counterfeit and pirated products impact every corner of society, with new industries and products targeted. It is something which everyone, intentionally or not, comes in contact with more regularly than they might like to believe.

The impact of those occurrences can cause physical harm, as well as harm to the local and national economy. As such this area is linked to Product Safety as counterfeit goods in certain sectors such as electrical, medical and cosmetics are fraught with safety issues.

Tackling such crime is extremely resource intensive and therefore it is likely that only where serious or widespread incidents are reported will such offences be pursued.

- vii) Financial investigations and proceeds of crime. Although not a statutory duty, financial investigations have added enormous value to the investigative work undertaken by Trading Standards. These capabilities are recognised as an essential resource in nearly all investigations to enhance evidence and enable financial confiscation to take place.

Trading Standards is entitled to 37.5% of all paid confiscation orders and 50% of all cash forfeitures obtained. Local Authority financial investigations are applauded by the Home Office for adding significant value to the wider asset recovery agenda. Since 2010 our financial investigations have obtained a number of confiscation orders totalling over £1 million and resulting in significant income for the service. In 2014 / 2015 this income totalled circa £50k.

The development of our abilities to undertake financial investigations is therefore of some considerable importance. This was recognised within the review of Regulatory Services with the Lead Trading Standards officer tasked with devoting at least 50% of his time to this role. A supporting financial investigating was also appointed from existing staff during the review. Although the support role will take time to develop our financial investigation roles will equate to 1.0 FTE in 2017 / 2018.

- viii) Age Restricted Sales. Our statutory duties to enforce legislation extending to tobacco, alcohol, fireworks, DVD's, aerosols, knives, lottery tickets and intoxicating substances are well documented.

In 2016 / 2017 Trading Standards will benefit again from a full time seconded officer, funded by Public Health, to deliver this function in respect of alcohol and tobacco. This funding has been maintained for 2017 / 2018.

- ix) Petroleum and explosive safety. Statutory duties to licence the storage of petroleum, explosives and fireworks remain. Petroleum knowledge is a specialist skill and therefore in 2017 / 2018 we intend to continue to deliver these responsibilities through our service level agreement with Hampshire County Council (also linked with metrology below) at a cost of £5,500 per annum.

Current service resource does not extend to an officer with the relevant qualifications and experiences to administer petroleum licensing. We will continue to deliver our responsibilities in house, in terms of licencing and inspection of fireworks and explosives storage.

- x) New Psychoactive Substances. The Psychoactive Substances Act 2016 makes the possession and supply of such substances illegal. A cabinet paper was approved in March 2016 delegating power to Trading Standards to enforce the legislation where a business or retail premises was concerned with an offence.

A provisional assessment of risk suggests that, as a result of low demand, existing resource will adequately deliver this function in 2017 / 2018.

- xi) Metrology (Weights and Measures). We have a statutory duty to approve and test weighing equipment and check goods are not short measured. Trading Standards currently provides a response through a service level agreement with Hampshire County Council.

A statutory qualification is required to enforce this legislation; currently we have a single officer with the necessary authorisation and therefore our abilities to deliver our statutory responsibilities cannot be considered comprehensive.

- xii) Environmental. Trading Standards has a statutory duty to enforce legislation regarding the following:

- display and testing of energy performance of buildings including air conditioning
- display and testing of energy performance of domestic appliances
- display and testing of electromagnetic compatibility performance of appliances
- enforcement of restrictions placed upon excessive product packaging
- enforcement of the sale and maintenance of vehicles

A provisional assessment of risk suggests that, as a result of low demand, existing resources will adequately deliver this function in 2017 / 2018.

- xiii) Enforcement and Human Rights Act implications. Trading Standards is principally concerned with preventing or reducing crime and disorder. Enforcement activities are determined via an intelligence-led approach and enforcement action is undertaken in accordance with PCC's Enforcement Policy. Enforcement activities occasionally necessitate the use of covert surveillance or access to communications data, as regulated by the Regulation of Investigatory Powers Act 2000 (RIPA). Trading Standards comply with the Act and the PCC's RIPA policy when considering the necessity and proportionality of such activities.
- xiv) Review of primary authority relationships (PAPs). Trading Standards currently has relationships with 10 businesses which are based in Portsmouth. A PAP is a contractual relationship whereby the business pays for regulatory advice and in return deals with only one Local Authority regardless of where they trade in the country. Currently the service generates approximately £70,000 of annual income (based upon officer time) through the administration of PAPs.
- xiv) The full time employment of 2.0 FTE is necessary to deliver these partnerships. This is a significant use of existing staffing resource and necessarily deflects these resources from the statutory obligations of the service. As such, as part of a wider review of Trading Standards services in 2017 / 2018 a comprehensive report in relation to PAPs will be brought before Members for approval.

Based within Portsmouth is the major fulfilment house "Stonebridge". NTS (National Trading Standards) has identified fulfilment houses as a national threat to the safety of consumers since these businesses are a gateway for mass supply of cheap imported goods. As such, there is a continuing pressure upon us to regulate these activities.

We have reviewed our formal relationship with this fulfilment house in terms of the threats it presents, the resources it takes to maintain the relationship and the income generated through the agreement. Our conclusion was that pressure upon staff resources significantly outstrips the levels of income generated and therefore we have formally dissolved this partnership. This relationship will however be kept under review during 2017 / 2018 and communication is likely to continue in respect to arrangements and impact upon NTS, Southampton Trading Standards Port Authority and Stonebridge itself.

- xv) Community talks. Officers regularly deliver talks to community groups, forums etc. upon request in respect to legal practices and scams. This activity will cease.
- xvi) Membership of Trading Standards South East Limited (TSSEL). TSSEL is a partnership of 19 local authority Trading Standards services operated through a limited liability company. As part of TSSEL, TS work together with the other local authorities to achieve maximum efficiency and effectiveness whilst retaining local and democratic accountability across TSSEL Authorities.

xvi) TSSEL provides efficiencies and cost savings to PCC Trading Standards as a result of adopting a coordinated joined up approach, through sharing best practice, avoiding duplication and contracting as one entity. TSSEL's average annual turnover of £2 million delivers efficiencies of up to 30% to help improve front-line local delivery.

**6 Objective 2 - The need to map services against regional / national Trading Standards priorities**

6.1 NTS developed a National Control Strategy for 2015 / 2016 that had regard to the National Strategic Intelligence Assessment. Its intention was to help inform and direct enforcement priorities & projects and outline local priorities for prevention, intelligence and enforcement activities. Although linking to our own work, NTS have made it clear that national strategy is not designed to require us to undertake similar activities at a local level. NTS is clear that this matter is for local service planning in accordance with our own local priorities.

6.2 As a member of TSSEL we will, in 2017 / 2018, ensure coordinated approaches to service delivery; assigning resources to the wider regional and cross boundary initiatives. Through our membership we will:

- identify the key issues which are currently affecting consumers within the region
- be better able to highlight and tackle particularly problematic traders
- identify potential future pressures and issues
- provide recommendations on how to tackle current and future threats

**7 Objective 3 - Identify risk and devise a platform for change**

7.1 Portsmouth has long abandoned the risk based inspection regime, partly due to efficiency and partly due to the central government view that inspections for inspections sake is an unjustified burden on business. As a result, in nearly all cases, issues are investigated on an intelligence led basis.

7.2 Consumers who wish to complain about a business and obtain advice no longer make contact with Trading Standards directly. Previous reductions to consumer advice posts mean that consumers are directed to the national Citizens Advice Consumer Service (formerly Consumer Direct). This is the first point of contact for all consumers to acquire consumer advice or report a problem to us.

7.3 With the exception of intelligence and complaints received from partners, stake holders and other agencies, nearly all complaints and enquiries involving Portsmouth residents or traders are notified to Trading Standards in this way, with criminal matters and complaints requiring action being specifically identified.

7.4 In order to develop and assign resources appropriately in 2017 / 2018, a complete overhaul of the manner in which we scrutinise, record and assess demand and risk needs to take place in respect to the referrals received from Citizens Advice Consumer Service.

- 7.5 Although a clear picture of what a '*minimum service*' looks like does not exist, the consequences of failing to maintain our statutory functions are:
- potential physical harm (product safety)
  - financial harm to both consumers, residents and businesses (fair trading)
  - vulnerable consumers put at risk physically and financially (rogue traders)
  - scrutiny, criticism & formal complaint resulting in reputational damage and potential legal challenge or judicial review
- 7.6 There are significant risks involved in not supporting the current level of financial investigation or maintaining the PAPs. Trading Standards is critically dependant on income from these sources. These streams, along with those from licensing fees, awarded court costs and training partly enable the delivery of our statutory functions.
- 7.7 Delivering statutory functions comes with major risks in terms of the costs of litigation. This coupled with the fact that increasingly frequently cases are either defended or result in Crown Court hearings, presents the very real risk that, if current funding levels are not positively addressed, the service will not be able to afford to take enforcement action following a successful investigation.
- 7.8 If Trading Standards is forced to concentrate on work which generates cost recovery or income this will skew service provision away from consumers with a genuine need and towards businesses or partners that can pay. If such a decision was made on funding alone, the predicted service provision in 2017 / 2018 of 5.4FTE of which 3 FTE are concentrating solely on the delivery of PAP agreements and financial investigations, may suggest that the balance is currently already being disrupted. If this is the case the service may be open to scrutiny and judicial review.
- 7.9 Despite the challenges in delivering statutory duties, Trading Standards service will, in order to deliver a more effective service in 2018 / 2019, centre its attention on the following in 2017 / 2018:
- Developing a strong and cohesive team by maximising opportunities for integration across the wider Regulatory Service team service, whilst maintaining staff morale, in order to create a high performing and resilient team.
  - Effectively manage income and expenditure to achieve a balanced budget.
  - Reassess all existing PA relationships to ensure income obtained matches resources spent (on the basis of full costs recovery). Identify and develop new income streams and relationships to maximise income generation and funding opportunities for new staff in 2018 / 2019.
  - Explore and take advantage of relevant funding opportunities from national and regional partners to deliver service initiatives and priorities.



- Devise effective recording protocols to better manage and monitor service demand by ensuring that all contacts and actions are recorded appropriately upon the new service database (IDOX) from July / August 2017. Appropriately automate service responses, implement 'channel shift' protocols through the development of IDOX, self-assess and internally develop improved 'system thinking' approaches to all that we do.
- Explore opportunities to share experience and knowledge with other regulators, increase service resilience and deliver improved outcomes for service users in 2018 / 2019.
- Devise and implement robust methodologies to provide an intelligence led focus for investigations.
- Focus upon the gathering of intelligence to monitor legal compliance amongst Portsmouth businesses, with a particular emphasis on businesses involved in food, feed, petroleum, explosives, tobacco and alcohol (particularly underage sales) and those for which weights and measures are business-critical in order to inform and delivery improved regulation of these areas in 2018 / 2019.
- Minimise the regulatory burden on businesses through cost justifications and comply with the UK Government's 'better regulation' agenda, namely transparency, accountability, targeting, consistency and proportionality, whilst continuing to intervene to bring offenders into compliance where issues are found, and impose legal sanctions / commence prosecution as appropriate.
- Continue to work to protect the residents from poor trading practices through intervention activities, criminal prosecutions and the recovery of proceeds of crime.

## 8 Directors narrative

- 8.1 It is important that members have a good understanding of Trading Standards and what Regulatory Services is able to offer in the future. The impacts of budget reductions on Trading Standards services has not been clearly articulated in previous years and therefore this report has attempted to demonstrate the breadth of services Trading Standards offers. Ironically, it is this diversity of the Trading Standards remit which has perhaps previously led to the service struggling to tell its story coherently.
- 8.2 To enforce the huge range of legislative powers as indicated within **Appendix 1** Trading Standards services must have a certain critical mass to be effective. As a consequence of our diversity, our potential is rarely understood, however once achieved we can provide cost effective solutions to many local problems.
- 8.3 It is not surprising that the most immediate problem that we face is one of resource. While the service has so far been very successful in making

efficiencies, and continues to work hard to tackle priority cases of consumer detriment, we need to improve the resilience of Trading Standards by raising the profile of the consumer protection we deliver and achieving critical mass, allowing officers to spend more time on cost effective preventative activities and to gain the capacity necessary to respond to unexpected events.

- 8.4 The provision of short term funding for specific projects is unlikely to be of assistance as it creates instability and uncertainty, allowing one issue to gain prominence for a short period of time before funding ends. Through the continued amalgamation of Trading Standards into Regulatory Services we hope to begin the adoption of a longer term vision during which we are prepared to consider radical options. Solutions to the challenges we face will only be found if there is firm leadership with support for a sustainable vision.

## 9 **Equality impact assessment**

- 9.1 A full equality impact assessment is not required as the recommendations do not have a negative impact on any of the protected characteristics as described in the Equality Act 2010. The provisional EIA is attached as **Appendix 2**.

## 10 **Legal implications**

- 10.1 As mentioned within the report, Trading Standards has more than 250 statutory duties under UK legislation, as well as duties derived from European Union directives such as the Unfair Commercial Practices Directive 2005. Moreover, PCC has to consider the government's list of national enforcement priorities as they are required to do by the Regulatory Enforcement and Sanctions Act 2008.
- 10.2 Within any review of services there are dangers in reducing services to the statutory minimum without proper guidance on what this actually looks like. PCC need to think carefully prior to making any further decisions as to the manner it delivers its Trading Standards responsibilities as the threat of legal challenge for not meeting its statutory requirements is tangible. A further review of how Trading Standards is resourced is recommended within 2018 / 2019 to create a sustainable and resilient service for the future. A failure to resource will by definition lead to potential claims being placed at the door of the Authority based upon a failure to act concomitantly with a Statutory Duty (direct civil claim) or acting as a reasonable Authority would do (potential review of a decision and declaration).

## 11 **Director of Finance's comments**

The activities summarised within this report will be funded from existing service budgets, as approved by Full Council. The recruitment of a new 1.0 FTE as indicated with section 3.4 has been included with the budgetary provision for 2017 / 2018 and is included within the funding assigned to the service within section 3.2.

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Signed by: Stephen Baily, Director of Culture and City Development

**Appendices:**

- Appendix 1 - Duties and responsibilities delivered by the Trading Standards**
- Appendix 2 - Equalities Impact Assessment**

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Nil	NIL

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

.....  
Signed by: Councillor Robert New, Cabinet Member for Environment and Community Safety

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**Appendix 1 - Legislation enforced by Trading Standards (including food)**

1	2	3	4	5	6	7	8	9	10
Date	Legislation	Type	N0.	Subject	Brief Description Relevance to Trading Standards	Duty or Power to Enforce Derived From	Duty or Power	Enforcing Authority	Notes
1953	Accommodation Agencies Act 1953	Statute	c. 23	Trading	Act creates offence of receiving commission to rent property	N/A	None	Not Specified	
2007	Addition of Vitamins, Minerals and Other Substances (England) Regulations 2007	S.I.	2007/1631	Food	Regulation creating offences regarding addition of vitamins to food etc	Reg 3	Duty	Food Authority	
1970	Administration of Justice Act 1970	Statute	c. 31	Trading	Act creates an offence of unlawful harassment of debtors	N/A	None	Not Specified	
2003	Advanced Television Services Regulations 2003	S.I.	2003/1901	Trading	Regulations regarding provision of advanced Television Services	Reg 2	Duty	Weights and Measures Authority	
2009	Aerosol Dispensers Regulations 2009	S.I.	2009/2824	Safety	Regulations restricting the sale or supply of non compliant or	S.27 CPA 1987	Duty	Weights and Measures Authority	Safety Regulation under S.11 of Consumer

## Appendix 1 - Legislation enforced by Trading Standards (including food)

					unmarked aerosols				Protection Act 1987
1970	Agricultural Act 1970	Statute	c.40	Fertilisers and Feed	Part IV of the Act, regulates the sale of fertilisers and feedstuffs	S.67	Duty	County Councils etc	
2013	Animal By-Products (Enforcement) (England) Regulations 2013	S.I.	2013/2952	Animals	Regulation of Animal By-products and enforcement of EU Directives	Reg 21	Power	Local Authority	
2010	Animal Feed (England) Regulations 2010	S.I.	2010/2503	Fertilisers and Feeds	Regulations on marketing and use of feed	Reg 13	Duty	Feed Authority	
1997	Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations 1997	S.I.	1997/1729	Food	Regulations on Animals and Animal Products (as pertains to food)	Reg 2, 23	Duty	Food Authority	
2003	Anti-Social Behaviour Act 2003	Statute	c.38	Age Restricted Sales	The Act creates the offence of selling aerosols to children (S.54)	S.54A	Duty	Weights and Measures Authority	S.54A provides a duty not to enforce but to consider every 12 months the extent it is necessary to carry out a programme

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

									of enforcement and to enforce as necessary
2010	Beef and Veal Labelling Regulations 2010	S.I.	2010/983	Food	Regulations on beef and veal labelling	Reg 3	Power	Unitary Authority or District Councils etc	
2013	Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013	S.I.	2013/1506	Safety	Regulations on Biocidal Products and Chemicals, appointing authorities and enforcement	Reg 9 (2), 9 (4), Reg 18	Power	Weights and Measures Authority	Reg 9 states that WMA is enforcing authority as regards Reg 12 and other Articles (incl. Article 72) of the Biocides Regulation; Reg 18 [in force from 1st June 2015] states that the WMA is enforcing authority as regards the CLP Regulation (EC) No 1272/2008

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

									where substance is placed on the market. NB where this is enforced then it is a safety provision under CPA87
2013	Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013	S.I.	2013/1506	Safety	Regulations on Biocidal Products and Chemicals	Reg 9 (6)	Power	Local Authority	LA is enforcing authority as regards Art 17 (1) and (5) of the Biocides Regulation
2004	Biofuel ( Labelling) Regulations 2004	S.I.	2004/3349	Trading	Regulations on labelling of biofuels	Reg 2, 4	Duty	Weights and Measures Authority	
1998	Bread and Flour Regulations 1998	S.I.	1998/141	Food	Regulations on description and composition of bread and flour	Reg 8	Duty	Food Authority	
2008	Business Protection From Misleading Marketing Regulations	S.I.	2008/1276	Trading	Regulations on misleading marketing to Business	Reg 13 (1)	Duty	Weights and Measures Authority	



## Appendix 1 - Legislation enforced by Trading Standards (including food)

2008	Cancellation of Contracts Made in a Consumer's Home or Place of Work etc Regulations 2008	S.I.	2008/1816	Trading	Regulations regarding cancellation of contracts in home or at work	Reg 21	Duty	Weights and Measures Authority	
1939	Cancer Act 1939	Statute	c. 13	Trading	Act creates a prohibition on advertisements regarding cancer	N/A	None	Not Specified	
1985	Caseins and Caseinates Regulations 1985	S.I.	1985/2026	Food	Regulations on description, labelling and treatment of caseins etc	Reg 7(2)	Duty	Food Authority	
2008	Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008	S.I.	2008/2795	Trading	Regulations on import and export of cat and dog fur (enforcing EU Regulation 1523/2007)	Reg 3 (1)	Duty	Weights and Measures Authority	
2009	Chemicals (Hazard Information and Packaging for Supply) Regulations 2009	S.I.	2009/716	Trading	Regulations on trade of Chemicals (Hazard Information and Packaging)	Reg 14 (5)	Power	Weights and Measures Authority	Note: This is repealed as of 1st June 2015 (see the 2013 Biocidal Regulations) 2013/1506

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

1955	Children and Young Persons (Harmful Publications) Act 1955	Statute	c.28	Age Restricted Sales	Act prohibits sale or hire of harmful publications to children and young persons	N/A	None	Not Specified	
1991	Children and Young Persons (Protection from Tobacco) Act 1991	Statute	c.23	Age Restricted Sales	Act creates offences of sale of unpacked cigarettes (S.3), restricting tobacco sales from vending machines (S.3A), and display of warning signs (S.4)	S. 5	Duty	Local Authority	S.5 requires the local authority to consider the extent to which it is appropriate to carry out a programme of enforcement relation to Section 7 of the Children and Young Persons Act 1933 (and S.3, 4, of the 1991 Act) and to carry out such programme as appropriate).
1933	Children and Young Persons Act 1933	Statute	c.12	Age Restricted Sales	Act relating to children and young persons	N/A	None	Not Specified	NB Duty of LA to annually

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

									consider programme of enforcement regarding S.7 of this Act
2004	Christmas Day (Trading) Act 2004	Statute	c. 21	Trading	Act restricting store opening on Christmas Day	S. 3	Duty	Local Authority	
1999	Cigarette Lighter Refill (Safety) Regulations 1999/1844	S.I.	1999/1844	Safety	Regulations on prohibition of sale of cigarette lighter refill cannisters to under 18's	S.27 CPA 1987	Duty	Weights and Measures Authority	Safety Regulation under S.11 of Consumer Protection Act 1987
1993	Clean Air Act 1993	Statute	c. 11	Environment	Act on keeping clean air and in these circumstances control of motor fuel	S. 30 (4)	Duty	Weights and Measures Authority	
2003	Cocoa and Chocolate Products (England) Regulations 2003	S.I.	2003/1659	Food	Regulations on Chocolate Products (labelling and marketing) etc	Reg 8 (2)	Duty	Food Authority	
2000	Coffee Extracts and Chicory Extracts (England) Regulations 2000	S.I.	2000/3323	Food	Regulations on sale and description of coffee and chicory products	Reg 7 (2)	Duty	Food Authority	

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

2008	Companies (Trading Disclosures) Regulations 2008	S.I.	2008/495	Trading	Regulations on requirements for a company and business display of name and on business paper	N/A	None	Not Specified	
2006	Companies Act 2006	Statute	c.46	Trading	Act on Formation and Regulation of Companies, (the Act creates an offence of failing to make trading disclosures)	N/A	None	Not Specified	
2003	Condensed Milk and Dried Milk (England) Regulations 2003	S.I.	2003/1596	Food	Regulations on description and labelling of condensed milk etc	Reg 7 (2)	Duty	Food Authority	
2013	Construction Products Regulations 2013	S.I.	2013/1887	Trading	Regulations on construction products supply enforcing EU Regulations on harmonised conditions for marketing of construction products and also regulation on accreditation and market surveillance	Reg 2 (1), 14	Duty	Weights and Measures Authority	

## Appendix 1 - Legislation enforced by Trading Standards (including food)

2013	Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013	S.I.	2013/3134	Trading	Regulations on Consumer Contracts	Reg 23	Duty	Weights and Measures Authority	NOTE: Not in force until 13th June 2014
1974	Consumer Credit Act 1974	Statute	c.39	Trading	Act provides for regulation of consumer credit agreements	S.161	Duty	Weights and Measures Authority	
2000	Consumer Protection (Distance Selling) Regulations 2000	S.I.	2000/2334	Trading	Regulations on distance selling	Reg 3 (1), 26	Duty	Weights and Measures Authority	Duty to consider complaints with a power to apply for injunctions
1987	Consumer Protection Act 1987	Statute	c.43	Safety	Act provides for consumer protection in relation to product safety	S.27	Duty	Weights and Measures Authority	S.27 designates the weights and measures authority to enforce the "safety provisions", which include regulations made under the Act
2008	Consumer Protection From	S.I.	2008/1227	Trading	Regulations on Unfair Trading	Reg 19	Duty	Weights and	

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

	Unfair Trading Regulations 2008							Measures Authority	
2012	Consumer Rights (Payment Surcharges) Regulations 2012	S.I.	2012/3110	Trading	Regulations on the application of excessive surcharges	Reg 7	Duty	Weights and Measures Authority	Duty to consider complaints with a power to apply for injunctions
2013	Contaminants in Food (England) Regulations 2013	S.I.	2013/2196	Food	Regulations and controls on Contaminants in Food	Reg 7 (1)	Duty	Food Authority	
1988	Copyright, Designs and Patents Act 1988	Statute	c.48	Trading	Act provides for Regulation of copyright, designs and patents	S.107A, S198A	Duty	Weights and Measures Authority	Note: S.107A (duty to enforce S.107 infringement of copyrights), S.198A duty to enforce S.198 on illicit recordings)
2013	Cosmetic Products Enforcement Regulations 2013	S.I.	2013/1478	Safety	Regulations on safety of cosmetic products	Reg 2, 6	Duty	Weights and Measures Authority	
1988	Criminal Justice Act 1988	Statute	c. 33	Age Restricted Sales	Act on criminal justice, relevant provision: sale of knives	N/A	None	Not Specified	Note S.141A restricts sale of knives to under 18's

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

1987	Crossbows Act 1987	Statute	c.32	Age Restricted Sales	Act prohibits sale or hire of crossbows to under 18's	N/A	None	Not Specified	
1973	Crystal Glass (Descriptions) Regulations 1973	S.I.	1973/1952	Trading	Regulations on the applications of descriptions on glass	Regulation 8 and Section 26 TDA 1968	Duty	Weights and Measures Authority	Enforced under Trade Descriptions Act 1968 powers
2010	Detergents Regulations 2010	S.I.	2010/740	Safety	Regulations restricting placing on market of detergent products, enforcing EU Regulation 648/2004	Reg 4, 10	Duty	Councils etc	
2008	Drinking Milk (England) Regulations 2008	S.I.	2008/1317	Food	Regulations on sale and delivery of milk for drinking	Reg 5 (1)	Duty	Food Authority	
2006	EC Fertilisers (England and Wales) Regulations 2006	S.I.	2006/2486	Trading	Regulations implementing EU rules on Fertilisers	Reg 11	Duty	Local Authority	
1988	Education Reform Act 1988	Statute	c.40	Trading	Regarding provision of unrecognised degrees	S.215	Duty	Weights and Measures Authority	Duty to enforce S.214 on unrecognised degrees
2009	Eggs and Chicks (England)	S.I.	2009/2163	Food	Regulations on sale of Eggs and	Reg 17	Duty	Food Authority	

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

	Regulations 2009				Livestock rules				
1994	Electrical Equipment (Safety) Regulations 1994	S.I.	1994/3260	Safety	Safety provisions regarding electrical equipment	Reg 15 and S.27 CPA 1987	Duty	Weights and Measures Authority	Safety Regulation under S.11 of Consumer Protection Act 1987
2006	Electromagnetic Compatibility Regulations 2006	S.I.	2006/3418	Safety	Regulations on the compatibility of electromagnetic apparatus	Reg 37	Duty	Weights and Measures Authority	
2002	Electronic Commerce (EC Directive) 2002	S.I.	2002/2013	Trading	The regulations stipulate information that must be provided by businesses providing information society services to consumers	N/A	None	Not Specified	
2011	Energy Information Regulations 2011	S.I.	2011/1524	Trading	Regulations on Energy Information	Reg 4	Power	Weights and Measures Authority	WMA enforces Reg 8 on provision of information by dealers
2012	Energy Performance of Buildings (England and Wales)	S.I.	2012/3118	Environment	Regulations on Energy Performance of Buildings	Reg 34	Duty	Weights and Measures Authority	



**Appendix 1 - Legislation enforced by Trading Standards (including food)**

	Regulations 2012								
2002	Enterprise Act 2002	Statute	c. 40	Trading	This Act (inter alia) provides civil enforcement powers on consumer matters	S.213	Power	Weights and Measures Authority	S.213 appoints weights and measures authorities as general enforcers under the Act
1979	Estate Agents Act 1979	Statute	c.38	Trading	Regulation of Estate Agents	S.26	Duty	Weights and Measures Authority	
1875	Explosives Act 1875	Statute	c.17	Age Restricted Sales	Act on Explosives : restriction on supply of gunpowder	N/A	None	Not Specified	S.30 prohibits the hawking, sale or exposure for sale of gunpowder on the highway; S.31 prohibits sale of gunpowder to any person under 16 years old

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

1967	Farm and Garden Chemicals Act 1967	Statute	c. 50	Trading	An Act to make provision for the labelling of farm and garden chemicals	N/A	None	Not Specified	
2005	Feed (Hygiene and Enforcement) (England) Regulations 2005	S.I.	2005/3280	Feed	Regulations on marketing and use of feed	Reg 16	Duty	Feed Authority	
1991	Fertilisers Regulations 1991	S.I.	1991/2197	Feed	Regulations on controls on Fertilisers	Reg 11	Duty	Councils etc	Note: Reg 11, refers to enforcement provisions of Part IV of Agriculture Act 1970
1982	Filament Lamps For Vehicles (Safety) Regulations 1982	S.I.	1982/444	Safety	Regulation on filament lamps in vehicles	S.27 CPA 1987	Duty	Weights and Measures Authority	Regulation deemed made under the 1987 Act by Consumer Protection Act 1987 (Commencement No 1 Order 1987, (SI 1987/1680)
2004	Financial Services (Distance Marketing)	S.I.	2004/2095	Trading	Regulations on Distance Marketing of financial services	Reg 17	Power	Weights and Measures Authority	

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

	Regulations 2004								
2012	Financial Services Act 2012	Statute	c.21	Consumer Credit	Financial Services: Designation of powers to weights and measures authorities	S.107	Power under Arrangement	Weights and Measures Authority	Note: Section 107 provides the power to Treasury to make regulation allowing weights and measures authorities to investigate and prosecute consumer credit offences
2013	Financial Services Act 2012 (Consumer Credit) Order 2013	S.I.	2013/1882	Consumer Credit	Order on regulation of consumer credit	Art. 8	Power	Weights and Measures Authority	Note: Provides power for weights and measures authorities to prosecute consumer credit offences

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

2000	Financial Services and Markets Act 2000	Statute	c.8	Trading	Act for regulation of financial services and markets	S.3R	Power under Arrangement	Weights and Measures Authority	Note: S.3R empowers the FCA to enter into arrangements with weights and measures authorities to carry out compliance checks for FCA.
1968	Firearms Act 1968	Statute	c.27	Age Restricted Sales	Act regarding firearms. S.24 & S.24A prohibits sale or hire of firearms or imitation firearms to minors	N/A	None	Not Specified	
2003	Fireworks Act 2003	Statute	c.	Safety	Act providing for regulation of possession, sale and supply of fireworks	S. 12 (1)	Duty	Weights and Measures Authority	Note: Section 12 denotes enforcement as under S.27 Consumer Protection Act 1987

## Appendix 1 - Legislation enforced by Trading Standards (including food)

2004	Fireworks Regulations 2004	S.I.	2004/1836	Safety	Regulations made under the Fireworks Act 2003, creating offences on supply of fireworks	Fireworks Act, S. 12 (1)	Duty	Weights and Measures Authority	Note: Section 12 denotes enforcement as under S.27 Consumer Protection Act 1987
2013	Fish Labelling Regulations 2013	S.I.	2013/1768	Food	Regulation on the labelling of fish (including requirements on consumer information and traceability)	Reg 14	Duty	Food Authority	
1996	Food (Lot Marking) Regulations 1996	S.I.	1996/1502	Food	Regulations on lot marking of food	Reg 5 (2)	Duty	Food Authority	
2013	Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013	S.I.	2013/2210	Food	Regulations regarding Food Additives etc	Reg 16	Duty	Food Authority	
2009	Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional	S.I.	2009/3051	Food	Regulations on food for particular nutritional uses	Reg 3	Duty	Food Authority	

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

	Purposes) (England) Regulations 2009								
1989	Food Imitations (Safety) Regulations 1989	S.I.	1989/ 1291	Safety	Regulations on Imitation Foods	S.27 CPA 1987	Duty	Weights and Measures Authority	Safety Regulation under S.11 of Consumer Protection Act 1987
2009	Food Irradiation (England) Regulations 2009	S.I.	2009/ 1584	Food	Regulations regarding the irradiation of food	Reg 9 (3)	Duty	Food Authority	
1996	Food Labelling Regulations 1996	S.I.	1996/ 1499	Food	Regulations on the labelling of Food	Reg 45	Duty	Food Authority	In 2013, government consulted on revoking this regulation replacing with Food Information Regulations [yet to be confirmed]
1990	Food Safety Act 1990	Statute	c.16	Food	Act on regulation of food safety	S.5, 6	Duty	Food Authority	
2013	Food Safety and Hygiene (England) Regulations 2013	S.I.	2013/ 2996	Food	Regulations on Food Safety and Hygiene	Reg 5	Duty	Food Authority	
2003	Food Supplements (England)	S.I.	2003/ 1387	Food	Regulations on sale and marketing of food	Reg 8 (2)	Duty	Food Authority	

## Appendix 1 - Legislation enforced by Trading Standards (including food)

	Regulations 2003				supplements				
2004	Food with Added Phytosterols or Phytosterols (Labelling) (England) Regulations 2004	S.I.	2004/3344	Food	Regulations on addition of Phytosterols etc to food and labelling	Reg 8	Duty	Food Authority	
1997	Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997	S.I.	1997/2182	Food	Regulations on description on diet and energy restricted foods	Reg 7	Duty	Food Authority	
2010	Foodstuffs Suitable for People Intolerant to Gluten (England) Regulations	S.I.	2010/2281	Food	Regulations on the labelling of foodstuff for people intolerant to gluten	Reg 3	Duty	Food Authority	
1995	Footwear (Indication of Composition) Labelling Regulations 1995	S.I.	1995/2489	Trading	Regulation on labelling of footwear to indicate composition	Regulation 10 and Section 26 TDA 1968	Duty	Weights and Measures Authority	Enforced under Trade Descriptions Act 1968 powers
2013	Fruit Juices and Fruit Nectars (England) Regulations 2013	S.I.	2013/2775	Food	Regulation on the labelling and content of fruit juices	Reg 16	Duty	Food Authority	
1988	Furniture and Furnishings (Fire) (Safety) Regulations 1988	S.I.	1988/1324	Safety	Safety regulations on Furniture and Furnishings for Fire Safety	S.27 CPA 1987	Duty	Weights and Measures Authority	Safety Regulation under S.11 of Consumer Protection

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

									Act 1987
2005	Gambling Act 2005	Statute	c.19	Age Restricted Sales	Act on Gambling: Restrictions on children gambling and entry into Casinos	N/A	None	Not Specified	Restrictions on sales under 18
1995	Gas Appliance (Safety) Regulations 1995	S.I.	1995/1629	Safety	Regulation on safety of Gas Appliances	Regulation 28 and S.27 CPA 1987	Duty	Weights and Measures Authority	Safety Regulation under S.11 of Consumer Protection Act 1987
2005	General Product Safety Regulations 2005	S.I.	2005/1803	Safety	Regulations on General Product Safety	Reg 10	Duty	Councils etc	
2000	Genetically Modified and Novel Foods (Labelling) (England) Regulations 2000/768	S.I.	2000/768	Food	Regulations on labelling of Genetically Modified and Novel Food	Reg 8	Duty	Food Authority	
2004	Genetically Modified Animal Feed (England) Regulations 2004/2334	S.I.	2004/2334	Feed	Regulations on Genetically Modified Animal feed	Reg 4	Duty	County Councils etc	
2004	Genetically Modified Food (England) Regulations 2004	S.I.	2004/2335	Food	Regulations regarding genetically modified food	Reg 4	Duty	Food Authority	



## Appendix 1 - Legislation enforced by Trading Standards (including food)

2004	Genetically Modified Organisms (Traceability and Labelling) (England) Regulations 2004	S.I.	2004/2412	Food	Regulations regarding genetically modified organisms, traceability and labelling	Reg 3 (1)	Duty	Local Authority	
1973	Hallmarking Act 1973	Statute	c.43	Trading	Act on Hallmarks	S.9	Duty	Weights and Measures Authority	
2003	Honey (England) Regulations 2003	S.I.	2003/2243	Food	Regulations on sale and labelling of honey	Reg 7 (2)	Duty	Food Authority	
1990	Household Appliances (Noise Emission) Regulations 1990/161	S.I.	1990/161	Environment	Regulations on Noise Emissions From Household Appliances	Reg 6	Duty	Weights and Measures Authority	
1982	Importation of Processed Animal Protein Order 1981	S.I.	1981/677	Animals	Order restricting importation of processed animal protein	Art 11	Duty	Local Authority	
2007	Infant Formula and Follow-on Formula (England) Regulations 2007	S.I.	2007/3521	Food	Regulations on Infant Formula (includes labelling and advertising)	Reg 28 (2)	Duty	Food Authority	
1986	Intoxicating Substances (Supply) Act 1985	Statute	c.26	Age Restricted Sales	Act restricting sales of intoxicating substances	N/A	None	Not Specified	Restrictions on sales under 18

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

2003	Jam and Similar Products (England) Regulations 2003	S.I.	2003/3120	Food	Regulations on labelling and marketing of jam	Reg 7	Duty	Food Authority	
2002	Kava-kava in Food (England) Regulations 2002	S.I.	2002/3169	Food	Regulations prohibiting sale of food containing kava kava	Reg 4 (2)	Duty	Food Authority	
1997	Knives Act 1997	Statute	c. 21	Restricted Sales	Act creates offence regarding the unlawful marketing of knives	N/A	None	Not Specified	
2007	Legal Services Act 2007	Statute	c.29	Trading	Act on regulation of legal services	S.198	Power	Weights and Measures Authority	Note S.198 allows the investigation and prosecution of offences under the Act
2003	Licensing Act 2003	Statute	c.17	Age Restricted Sales	Act on Licensing of Alcohol and controlling sales	S.154, S.186 (2)	Duty	Weights and Measures Authority	Power to institute proceedings relating to underage sales of alcohol

## Appendix 1 - Legislation enforced by Trading Standards (including food)

2012	Materials and Articles in Contact with Food (England) Regulations 2012	S.I.	2012/2619	Food	Regulations on materials and articles in contact with food, enforcing EU regulations	Reg 20	Duty	Food Authority	
1977	Measuring Container Bottles (EEC Requirements) Regulations 1977	S.I.	1977/332	Weights & Measures	Regulations on Measuring Container Bottles	Reg 13	Power	Weights and Measures Authority	
2006	Measuring Instruments (Automatic Catchweighers) Regulations 2006	S.I.	2006/1257	Weights & Measures	Regulations on Measuring Instruments (Catchweighers)	Reg 20	Duty	Weights and Measures Authority	
2006	Measuring Instruments (Automatic Discontinuous Totalisers) Regulations 2006	S.I.	2006/1255	Weights & Measures	Regulations on Measuring Instruments Automatic Discontinuous Totalisers)	Reg 17	Duty	Weights and Measures Authority	
2006	Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006	S.I.	2006/1258	Weights & Measures	Regulations on Measuring Instruments	Reg 18	Duty	Weights and Measures Authority	
2006	Measuring Instruments (Automatic Rail-weighbridges)	S.I.	2006/1256	Weights & Measures	Regulations on Measuring Instruments (Automatic Rail	Reg 18	Duty	Weights and Measures Authority	

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

	Regulations 2006				Weigh Bridges)				
2006	Measuring Instruments (Beltweighers) Regulations 2006/1259	S.I.	2006/1259	Weights & Measures	Regulations on Measuring Instruments	Reg 18	Duty	Weights and Measures Authority	
2006	Measuring Instruments (Capacity Serving Measures) Regulations 2006	S.I.	2006/1264	Weights & Measures	Regulations on Measuring Instruments	Reg 16	Duty	Weights and Measures Authority	
2006	Measuring Instruments (Cold-water Meters) Regulations 2006	S.I.	2006/1268	Weights & Measures	Regulations on Measuring Instruments	Reg 17	Duty	Weights and Measures Authority	
1988	Measuring Instruments (EEC Requirements) Regulations 1988	S.I.	1988/186	Weights & Measures	Regulations on Measuring Instruments and EEC markings	Reg 29	Power	Weights and Measures Authority	
2006	Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006	S.I.	2006/1266	Weights & Measures	Regulations on Measuring Instruments	Reg 17	Duty	Weights and Measures Authority	
2006	Measuring Instruments (Liquid Fuel delivered from Road Tankers) Regulations 2006	S.I.	2006/1269	Weights & Measures	Regulations on Measuring Instruments	Reg 18	Duty	Weights and Measures Authority	

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

2006	Measuring Instruments (Material Measures of Length) Regulations 2006	S.I.	2006/1267	Weights & Measures	Regulations on Measuring Instruments	Reg 16	Duty	Weights and Measures Authority	
2003	Meat Products (England) Regulations 2003	S.I.	2003/2075	Food	Regulations regarding meat products	Reg 7	Duty	Food Authority	
2002	Medical Devices Regulations 2002	S.I.	2002/618	Safety	Regulations on Medical Devices	Reg 61 and S.27 CPA 1987	Duty	Weights and Measures Authority	Note: Duty applies where products are consumer goods, Designated safety Regulation under S.11 CPA 1987
2000	Medical Food (England) Regulations 2000	S.I.	2000/845	Food	Regulations restricting the sale of medical foods	Reg 4	Duty	Food Authority	
1988	Merchant Shipping (Weighing of Goods Vehicles and other Cargo) Regulations 1988/1275	S.I.	1988/1275	Weights & Measures	Regulations on weighing of goods vehicles and cargo with merchant shipping	Reg 7 (9)	Power	Weights and Measures Authority	

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

2007	Money Laundering Regulations 2007	S.I.	2007/2157		Regulations on money laundering	Reg 46	Power	Weights and Measures Authority	Note: Provides WMA with power to prosecute offences under Regulation 45
1987	Motor Cycle Noise Act 1987	Statute	c. 34	Safety	Act restricting sale of motorcycle exhausts	Sch 1 (3) and S.27 CPA 1987	Duty	Weights and Measures Authority	Note: The Act declares this to be enforceable under the Consumer Protection Act 1987 Part 4
1999	Motor Fuel (Composition and Content) Regulations 1999	S.I.	1999/3107	Environment	Regulations on composition and content of motor fuel	Reg 5C (5) (a)	Duty	Local Authority	Duty to enforce Regs 5B (3), (5), (6) where it relates to fuel not intended for use in motor vehicles
1999	Motor Fuel (Composition and Content) Regulations 1999	S.I.	1999/3107	Environment	Regulations on composition and content of motor fuel	S. 30 (4) Clean Air Act 1993	Duty	Weights and Measures Authority	Regulations made under S.30 (1) of the Clean Air Act 1993

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

1994	Motor Vehicles Tyres (Safety) Regulations 1994	S.I.	1994/3117	Safety	Regulations on Tyre Safety	S.27 CPA 1987	Duty	Weights and Measures Authority	Safety Regulation under S.11 of Consumer Protection Act 1987
1993	National Lottery Act 1993	Statute	c.39	Age Restricted Sales	Act on National Lottery	N/A	None	Not Specified	S.12, 13 provides for making of regulations creating offences under the Act. The National Lottery regulations 1994 create offences
1993	National Lottery Regulations 1994	S.I.	1994/189	Age Restricted Sales	Regulations for the National Lottery	N/A	None	Not Specified	
2007	Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations	S.I.	2007/2785	Food	Regulations on Content of Mineral, Spring and Bottled Water and Labelling and Marketing	Reg 16 (4)	Duty	Food Authority	

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

1985	Nightwear (Safety) Regulations 1985	S.I.	1985/2043	Safety	Regulations on safety of nightwear	S.27 CPA 1987	Duty	Weights and Measures Authority	Regulation deemed made under the 1987 Act by Consumer Protection Act 1987 (Commencement No 1 Order 1987, (SI 1987/1680)
1995	N-nitrosamines and N-nitrosatable Substances in Elastomer or Rubber Teats and Dummies (Safety) Regulations 1995	S.I.	1995/1012	Safety	Regulations on children's dummies	S.27 CPA 1987	Duty	Weights and Measures Authority	Safety Regulation under S.11 of Consumer Protection Act 1987
2000	Non-Automatic Weighing Instruments Regulations 2000	S.I.	2000/3236	Weights & Measures	Regulation on non-automatic weighing instruments	Reg 42	Power	Weights and Measures Authority	
2007	Notification of Marketing of Food for Particular Nutritional Uses (England) Regulations 2007	S.I.	2007/181	Food	Restrictions on sale of food for particular nutritional uses	Reg 5	Duty	Food Authority	



## Appendix 1 - Legislation enforced by Trading Standards (including food)

1997	Novel Foods and Novel Food Ingredients Regulations 1997	S.I.	1997/1335	Food	Restrictions on placing on market of novel foods and novel ingredients	Reg 4	Duty	Food Authority	
2007	Nutrition and Health Claims (England) Regulations 2007	S.I.	2007/2080	Food	Regulations implementing EU Regulations on health claims in food	Reg 4	Duty	Food Authority	
2006	Official Controls (Animals, Feed and Food) (England) Regulations 2006	S.I.	2006/3472	Food / Animals	Regulations on Official Controls on animals, feed and food	Reg 5, 15	Duty	Food Authority	Regulation designates the food authority for purposes of enforcement of the regulation but not prosecution
2009	Official Feed and Food Controls (England) Regulations 2009	S.I.	2009/3255	Food	Regulations on Feed and Food Controls	Reg 24	Duty	Food Authority	
2009	Official Feed and Food Controls (England) Regulations 2009	S.I.	2009/3255	Feed	Regulations on Feed and Food Controls	Reg 23	Duty	Feed Authority	
1977	Oil Heaters (Safety) Regulations 1977	S.I.	1977/167	Safety	Regulations on safety of oil heaters	S.27 CPA 1987	Duty	Weights and Measures Authority	Regulation deemed made under the 1987 Act by

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

									Consumer Protection Act 1987 (Commencement No 1 Order 1987, (SI 1987/1680)
2003	Olive Oil (Marketing Standards) Regulations 2003	S.I.	2003/2577	Food	Regulations on labelling and marketing of olive oil	Reg 3 (1) (b)	Duty	Food Authority	Enforcing at retail stage
1995	Olympic Symbol etc (Protection) Act 1995	Statute	c. 32	Trading	Act on protection of Olympic symbols	S.8A	Power	Weights and Measures Authority	
2009	Organic Products Regulations 2009/842	S.I.	2009/842	Trading	Regulations on Organic Products	Reg 22	Power	Local Authority	
1992	Package Travel, Package Holiday and Package Tour Regulations 1992	S.I.	1992/3288	Trade	Regulations on Package Travel	Reg 23, Sch.3 Para 1 (1)	Duty	Weights and Measures Authority	
2003	Packaging (Essential Requirements) Regulations 2003	S.I.	2003/1941	Environment	Regulations on Packaging	Reg 8, Sch.4, Para 1	Duty	Weights and Measures Authority	
2001	Passenger Car (Fuel Consumption and CO2 Emissions Information)	S.I.	2001/3523	Environment	Regulations on fuel consumption and CO2 emissions information for	Reg 3, 11	Duty	Weights and Measures Authority	

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

	Regulations 2001				cars				
2010	Pedal Bicycles (Safety) Regulations 2010	S.I.	2010/198	Safety	Safety regulations on Pedal Cycles	S.27 CPA 1987	Duty	Weights and Measures Authority	Safety Regulation under S.11 of Consumer Protection Act 1987
2002	Personal Protective Equipment Regulations 2002	S.I.	2002/1144	Safety	Regulations on sale of Personal Protective Equipment	Reg 2, Sch 10 Para 1	Duty	Weights and Measures Authority	
1928	Petroleum (Consolidation) Act 1928	Statute	c.32	Age Restricted Sales	Act to Regulate Petroleum Storage	Within Petroleum (Consolidation) Act 1928 (Enforcement) Regulations 1979/427, Reg 2	Power	Local Authority	Note: Act requires storage of petroleum with a licence controlled by Local Authority (oft requires then no sale to under 16's)
2011	Plastic Kitchenware (Conditions on Imports from China) (England) Regulations 2011	S.I.	2011/1517	Food	Regulations restricting the placing on the market of plastic kitchenware imported from	Reg 6	Duty	Food Authority	

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

					China				
1994	Plugs and Sockets etc (Safety) Regulations 1994	S.I.	1994/1768	Safety	Regulations on Plugs and Sockets	S.27 CPA 1987	Duty	Weights and Measures Authority	Safety Regulation under S.11 of Consumer Protection Act 1987
1972	Poisons Act 1972	Statute	c. 66	Safety	Act restricting sale of poisons	S. 9	Duty	Local Authority	Note: Duty to inspect, power to enforce
2011	Poultrymeat (England) Regulations 2011	S.I.	2011/452	Food	Regulations on Poultry Meat, enforcing EU provision	Reg 9 (2)	Duty	Food Authority	
1990	Preserved Sardines (Marketing Standards) Regulations 1990	S.I.	1990/1084	Food	Regulations enforcing EU standards on Preserved Sardines	Reg 3	Duty	Food Authority	
1994	Preserved Tuna and Bonito (Marketing Standards) Regulations 1994	S.I.	1994/2127	Food	Regulations enforcing EU standards on descriptions of tuna	Reg 3	Duty	Food Authority	
1999	Pressure Equipment Regulations 1999	S.I.	1999/2001	Safety	Regulations on Pressure Equipment	Reg 2 & Reg 24 Sch 8 Para 2	Duty	Weights and Measures Authority	As applies to pressure equipment for private

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

									use or consumption
1992	Price Indications (Bureaux de Change) (No 2) Regulations 1992	S.I.	1992/737	Trading	Regulations on Price Indications at Bureau de Change	S.27 CPA 1987	Duty	Weights and Measures Authority	S.26 CPA 1987 repealed under CPUT 2008, but enforcement powers under S.27 preserved in Sch 3 Para 5 transitional provisions
2004	Price Marking Order 2004	S.I.	2004/102	Trading	Regulations on Pricing	Prices Act 1974, Schedule 1 para 6	Duty	Weights and Measures Authority	
1974	Prices Act 1974	Statute	c.24	Trading	Act on Pricing	Schedule 1 para 6	Duty	Weights and Measures Authority	
2003	Processed Cereal-based Foods and Baby Foods for Infants and Young Children (England) Regulations 2003	S.I.	2003/3207	Food	Regulation of processed cereal based food and baby foods	Reg 9	Duty	Food Authority	
2010	Pyrotechnic	S.I.	2010/	Safety	Restrictions on	Reg 2, 37 of	Duty	Weights	Safety

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

	Articles (Safety) Regulations 2010		1554		Pyrotechnic articles	the Regulation and S.27 CPA 1987		and Measures Authority	Regulation under S.11 of Consumer Protection Act 1987
2007	Quick-frozen Foodstuffs (England) Regulations 2007	S.I.	2007/191	Food	Regulations on marketing and control of quick frozen food stuffs, enforcing EU rules	Reg 9 (5)	Duty	Food Authority	
2000	Radio Equipment and Telecommunications Terminal Equipment Regulations 2000/730	S.I.	2000/730	Trading	Restrictions on Radio Equipment and Telecommunications Terminal Equipment	Sch.9, Para 1	Duty	Weights and Measures Authority	
2008	REACH Enforcement Regulations 2008	S.I.	2008/2852	Environment	Regulations on restrictions on chemicals, enforcing EU REACH regulation	Reg 2, 3	Duty	Local (Consumer Safety) Authority	
2004	Recreational Craft Regulations 2004	S.I.	2004/1464	Safety	Regulations on Recreational Craft products	Reg 15	Duty	Weights and Measures Authority	

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

2013	Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013	S.I.	2013/1865	Trading	Regulations on Rights of Passengers in Bus and Coach Transport, enforcing EU Regulations	Reg 8	Duty	Weights and Measures Authority	Note: Reg 8 designates a local weights and measures authority (and others) as the enforcement authority for EU Reg 181/2011
1999	Road Vehicles (Brake Linings Safety) Regulations 1999	S.I.	1999/2978	Safety	Regulations on Brake Linings on Vehicles	S.27 CPA 1987	Duty	Weights and Measures Authority	Safety Regulation under S.11 of Consumer Protection Act 1987
2002	Sale and Supply of Goods to Consumers Regulations 2002/3045	S.I.	2002/3045	Trading	Regulations on sale and supply of good to consumers	Reg 2, Reg 15	Power	Weights and Measures Authority	Note: Reg 2 designates WMA as enforcement authority which under Reg 15 are able to apply for injunctions regarding consumer guarantees

## Appendix 1 - Legislation enforced by Trading Standards (including food)

2009	Scotch Whisky Regulations 2009	S.I.	2009/2890	Food	Regulations on manufacture and sale of scotch whisky	Reg 16	Duty	Food Authority	
1991	Simple Pressure Vessels (Safety) Regulations 1991	S.I.	1991/2749	Safety	Regulations On Simple Pressure Vessels	Reg 18, Sch. 5 Para 3	Duty	Weights and Measures Authority	
2008	Specified Products from China (Restriction on First Placing on the Market) (England) Regulations 2008	S.I.	2008/1079	Feed	Regulations on product from China	Reg 5 (1)	Duty	Feed Authority	
2008	Specified Products from China (Restriction on First Placing on the Market) (England) Regulations 2008	S.I.	2008/1079	Food	Regulations on product from China	Reg 5 (2)	Duty	Food Authority	
2003	Specified Sugar Products (England) Regulations 2003	S.I.	2003/1563	Food	Regulations on marketing and labelling of specified sugar products	Reg 7 (2)	Duty	Food Authority	
2008	Spirit Drinks Regulations 2008	S.I.	2008/3206	Food	Regulations on Spirit Drinks including labelling and marketing	Reg 7 (1)	Duty	Food Authority	



## Appendix 1 - Legislation enforced by Trading Standards (including food)

2008	Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of Designations) (England) Regulations 2008	S.I.	2008/1287	Food	Regulations on marketing standards and designations on milk products and spreadable fats, enforcing EU provisions	Reg 5 (1)	Duty	Food Authority	
1994	Sunday Trading Act 1994	Statute	c. 20	Trading	Act reforming laws on Sunday trading	Sch 2, Part 1 (1)	Duty	Local Authority	
2008	Supply of Machinery (Safety) Regulations 2008	S.I.	2008/1597	Safety	Regulations on Safety provisions on supply of machinery	Reg 2, Sch. 5 Para 2	Duty	Weights and Measures Authority	In relation to machinery not for use at work
2012	Textile Products (Labelling and Fibre Composition) Regulations 2012	S.I.	2012/1102	Trading	Regulations On Labelling and Fibre composition of Textile Products, enforcing EU regulations	Reg 3, 11	Duty	Weights and Measures Authority	
2010	Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010	S.I.	2010/2960	Trading	Regulations on Timeshare Products and Contracts	Reg 32	Duty	Weights and Measures Authority	

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

2002	Tobacco Advertising and Promotion Act 2002	Statute	c.36	Trading	Act provides restrictions on advertising and promotion of tobacco and creates offences therein	S.13	Duty	Weights and Measures Authority	
1992	Tobacco for Oral Use (Safety) Regulations 1992	S.I.	1992/3134	Safety	Regulations prohibiting sale of tobacco for oral use	S.27 CPA 1987	Duty	Weights and Measures Authority	Safety Regulation under S.11 of Consumer Protection Act 1987
2002	Tobacco Products (Manufacture, Presentation and Sale) Regulations 2002	S.I.	2002/3041	Safety	Regulations regarding tobacco products manufacture presentation and sale	Reg 15 and S.27 CPA 1987	Duty	Weights and Measures Authority	Safety Regulation under S.11 of Consumer Protection Act 1987
2011	Toys (Safety) Regulations 2011	S.I.	2011/1881	Safety	Regulations regarding safety of toys	S.27 CPA 1987	Duty	Weights and Measures Authority	Safety Regulation under S.11 of Consumer Protection Act 1987
1968	Trade Descriptions Act 1968	Statute	c.29	Trading	An Act regarding misleading trade descriptions	S.26	Duty	Weights and Measures Authority	Note: The offence provisions of this Act substantially repealed by CPUT 2008

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

2011	Trade in Animals and Related Products Regulations 2011	S.I.	2011/1197	Animals	Regulations on the Trade in Animals and Related products	Reg 31, 32	Power	County Councils, District Councils	
1994	Trade Marks Act 1994	Statute	c. 26	Trading	An Act to protect Trademarks	S.93	Duty	Weights and Measures Authority	
2005	Tryptophan in Food (England) Regulations 2005		2005/2630	Food	Regulations prohibiting the use in and sale of food containing tryptophan	Reg 7	Duty	Food Authority	
1999	Unfair Terms in Consumer Contracts Regulations 1999	S.I.	1999/2083	Trading	Regulations on unfair contract terms	Reg 10, Sch. 1, Part 1 Para 8	Power	Weights and Measures Authority	Power to consider complaints
1971	Unsolicited Goods and Services Act 1971	Statute	c. 30	Trading	Act to provide protection regarding unsolicited goods, which creates offences	N/A	None	Not Specified	
1984	Video Recordings Act 1984	Statute	c.39	Trading	Act on regulating supply of films and video games	S.16A	Duty	Weights and Measures Authority	
2012	Volatile Organic Compounds In Paints, Varnishes and Vehicle Refinishing	S.I.	2012/1715	Environment	Regulations on organic compounds in paints, varnishes etc	Reg 6	Power	Local Authority	

**Appendix 1 - Legislation enforced by Trading Standards (including food)**

	Products Regulations 2012								
2006	Weights and Measures (Packaged Goods) Regulations 2006	S.I.	2006/659	Weights & Measures	Regulations for weights and measures regarding packaged goods	Reg 10	Duty	Weights and Measures Authority	
1985	Weights and Measures Act 1985	Statute	c.72	Weights & Measures	Act on weights and measures	S.83	Power	Weights and Measures Authority	
2011	Wine Regulations 2011	S.I.	2011/2936	Food	Regulations on the retail of wine (enforcement of EU Regulations)	Reg 3	Duty	Food Authority	Regulation 3 states that it is the local authority that enforces retail sales which is then sub defined as a Food Authority

# Equality Impact Assessment

Preliminary assessment form v5 / 2013

[www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

The preliminary impact assessment is a quick and easy screening process. It should:

- identify those policies, projects, services, functions or strategies which require a full EIA by looking at:
  - negative, positive or no impact on any of the equality groups
  - opportunity to promote equality for the equality groups
  - data / feedback
- prioritise if and when a full EIA should be completed
- justify reasons for why a full EIA is not going to be completed

**Directorate:**

Director of City Development & Culture

**Function e.g. HR,  
IS, carers:**

Trading Standards

**Title of policy, service, function, project or strategy (new or old) :**

Trading Standards Service Delivery Plan 2017 / 2018.

**Type of policy, service, function, project or strategy:**

- Existing
- New / proposed
- Changed

**Q1 - What is the aim of your policy, service, function, project or strategy?**

To set out what functions and activities Trading Standards will deliver in 2017-18.

**Q2 - Who is this policy, service, function, project or strategy going to benefit or have a detrimental effect on and how?**

The Trading Standards service (sometimes referred to as the Weights & Measures Authority) is the designated (statutory) regulator for the majority of consumer law. As such this policy and its impact will be relevant to all consumers and businesses within the City of Portsmouth.

**Q3 - Thinking about each group below, does, or could the policy, service, function, project or strategy have a negative impact on members of the equality groups below?**

Group	Negative	Positive / no impact	Unclear
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Transgender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy and maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other excluded groups	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If the answer is "negative" or "unclear" consider doing a full EIA

**Q4 - Does, or could the policy, service, function, project or strategy help to promote equality for members of the equality groups?**

Group	Yes	No	Unclear
Age	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Disability	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Race	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Gender	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Transgender	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sexual orientation	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Religion or belief	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pregnancy or maternity	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other excluded groups	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

If the answer is "no" or "unclear" consider doing a full EIA

**Q5 - Do you have any feedback data from the equality groups that influences, affects or shapes this policy, service, function, project or strategy?**

Group	Yes	No	Unclear
Age	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Disability	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Race	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Gender	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Transgender	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Sexual orientation	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Religion or belief	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Pregnancy and maternity

Other excluded groups

If the answer is "no" or "unclear" consider doing a full EIA

**Q6 - Using the assessments in questions 3, 4 and 5 should a full assessment be carried out on this policy, service, function or strategy?**

yes  No

**Q7 - How have you come to this decision?**

Trading Standards has a 'duty' to enforce numerous statutes and seeks to do so with regard for Portsmouth City Council's enforcement policy and the prosecutors code of practice. As such the manner with which Trading Standards proposes to fulfill its statutory functions will not disproportionately affect any equality group.

If you have to complete a full EIA please contact the Equalities and diversity team if you require help  
Tel: 023 9283 4789 or email:equalities@portsmouthcc.gov.uk

**Q8 - Who was involved in the EIA?**

Edward Skinner

**This EIA has been approved by:** Richard Lee

**Contact number:** 023 9283 4857

**Date:** 27 June 2017

Please email a copy of your completed EIA to the Equality and diversity team. We will contact you with any comments or queries about your preliminary EIA.

Telephone: 023 9283 4789

Email: equalities@portsmouthcc.gov.uk





<b>Title of meeting:</b>	Cabinet Member for Environment & Community Safety
<b>Date of meeting:</b>	13 <sup>th</sup> July 2017
<b>Subject:</b>	Household Waste Recycling Centre (HWRC) - review of charging for 'DIY waste'
<b>Report by:</b>	Director of Property and Housing
<b>Wards affected:</b>	All
<b>Key decision:</b>	No
<b>Full Council decision:</b>	No

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## 1. Purpose of report

1.1. To review the impact of the decision made on 22 September 2016 to align with Hampshire County Council (HCC) and Southampton City Council (SCC) and begin charging for non-household waste items at the HWRC with effect from 01 October 2016. (for full list of items see appendix 1)

## 2. Recommendations

2.1. That the Cabinet Member for Environment & Community Safety:

- 1) Approves that charging continue and this be kept under review
- 2) Approves that the impact on fly tipping continue to be monitored

## 3. Background

3.1. Port Solent Household Waste and Recycling Centre (HWRC) is part of an extensive, Hampshire wide network of 26 sites of this type. Along with our Waste Disposal partners - Hampshire County Council (HCC) and Southampton City Council (SCC), Portsmouth City Council (PCC) agreed to undertake a full review of all HWRCs in the county, in order to deliver a HCC savings target of £1.55m, required due to further reductions in local government funding.

3.2. A county wide consultation of service users and the public was undertaken, which ran from 16 March 2016 to 25 May 2016, via an online and paper questionnaire. A total of 11,497 responses were received, plus a further 137 letters and 5 petitions.

Respondents were asked to consider 3 separate proposals for reducing costs across the HWRC network as follows;

1. To reduce opening days and hours
2. To partially close one or more HWRC sites
3. To fully close one or more HWRC sites

3.3. The outcome was that the vast majority of residents preferred option 1 - to reduce opening days and hours, as opposed to potentially losing sites altogether. HCC's Executive Member for Environment and Transport took the decision to reduce opening hours and implement a county wide day closure at all sites. SCC and PCC mirrored this decision. HCC later delayed the changes to opening times and day closures until October 2017 and a further review of the network is now pending. PCC opted to also delay the changes to opening hours and day closures.

At the same time, a decision was also taken in line with the rest of the Hampshire wide network of HWRCs to commence charging residents for non-household waste (soil, rubble, plasterboard and asbestos). This began on 1<sup>st</sup> October 2016. Whilst these items were previously accepted for free, there is no statutory requirement for local authorities to accept these items. The previous restrictions on these materials were also removed. (appendix 2)

3.4. Additionally, charging regimes for small and medium sized enterprise (SME) trade waste also began on 1<sup>st</sup> October 2016. Trade waste was not previously accepted at the site although this was widely abused. The introduction of a trade waste service in conjunction with charging for non-household waste has considerably reduced these waste streams across all HWRC sites.

3.5. The charging system applies to a small range of materials only, is non-profit-making, has been calculated to cover the cost of disposal and is part of efficiency and savings measures introduced to protect council tax payers from unnecessary waste management costs.

3.6. The Government has also produced a Litter Strategy for England which references local authorities charging for these types of waste. The strategy indicates that the Government will work with WRAP and local authorities to:

- Explore further ways of managing these services to facilitate access by small businesses (We are already doing this as above 3.4)
- Review current guidance to ensure that reflects changes in the law and to make clear what can and cannot be charged for at HWRCs (including in respect of DIY waste); and
- Explore ways of managing HWRC services to facilitate access for local householders (and their waste other than household waste) and for small businesses at proportionate cost. Revised guidance will be published by the end of 2017.

#### **4. Impact of the introduction of charging for these materials (effective date of change was 01 October 2016)**

4.1. Charges for these streams (appendix 3)

Tonnages for these streams has reduced considerably as you might expect following the introduction of charging. However, there is no longer any cost incurred by PCC for the chargeable waste streams.

There has also been a decrease in other waste streams - although the data is limited to the number of months that the charging has been in place. (appendix 4)

4.2. Fly tipping data - incidents - The Clean City team monitors fly tipping and reports back to DEFRA regarding incidents. The team has been carefully monitoring the number of incidents reported which included the chargeable materials. (appendix 5) There has been an overall decrease in fly tips (by year), and no significant rise in fly tips containing these materials.

4.3. Fly tipping data - tonnage - Tonnage is also recorded for COLAS, and Parks responding to fly tips on Portsmouth land (appendix 6). Housing also record the tonnage for bulky waste on their land. Disposal costs related to this tonnage are also recorded. Housing has shown a large drop - this is related to a change in the way the service manages this issue. COLAS tonnage (from the Highway or PCC land) appears to be trending downwards. Parks showed an increase over 2015/16 but has fallen since the introduction of charging. There has also been an increase in the tonnage collected by Biffa on the bulky chargeable service that the council offers.

4.4. Enforcement - The environmental enforcement and community warden teams were reviewed in 2015 with the review being completed in February 2016. In the year 2015/16 the team carried out:

- 1 Prosecution related to fly tipping

Following the review, in the year 2016/17 (and with the introduction of the new £400 FPN for fly tipping in May 2016) the team have:

- Completed 6 Prosecutions - one of these led to a custodial sentence
- Issued 5 of the new £400 FPNs

There are a number of cases with legal currently which should be heard in July/August.

The Clean City team are able to resolve most waste related issues without escalating to enforcement action and take an educational approach. Prosecution relies on evidence and/or witnesses who are prepared to make a statement.

4.6 Complaints - 5 complaints have been received since the introduction of charging - all came in between 6-11 October 2016. 2 of these related to the asbestos bin being at capacity during the previous week and the complainants having to pay for disposal. Charges were waived for those complainants due to the increase in volumes deposited in the lead up to charging. 1 related to the issuing of receipts, and 1 to signage. The last one related to an incident at the Havant HWRC but was from a Portsmouth resident. Since then, the council has received 1 complaint related to charging as well as 3 enquiries related to

charging. Additionally, a PCC officer has carried out monitoring at the site, and has not witnessed any issues relating to the charging. Veolia have reported only a small number of issues across the other 25 Hampshire sites.

The number of chargeable transactions at the Portsmouth site per day:

Oct 633  
Nov 363  
Dec 319  
Jan 335  
Feb 384  
Mar 452

It is worth noting that the HWRC sees lower visitor numbers in the winter months.

## 5. Options

5.1. Option 1 - Do nothing - the change has only been in place since October 1<sup>st</sup> 2016 and there is not yet a full years' data which would be useful in order to understand the full effects of the change. There is no evidence that fly tipping has increased. This option has no additional cost for the Council and continues to deliver a substantial saving as the council no longer pays anything for disposal of these materials and has seen savings in other waste streams. (see appendix 4)

5.2. Reverse the decision to charge Portsmouth residents (PO1- PO6 + small list of PO7 householders see appendix 7) for non-household waste items. Portsmouth residents would need to provide a photo id to prove residency. Acceptable photo id would be:

- Valid photo driving licence
- Valid passport plus current year council tax bill
- Bus pass showing Portsmouth address
- Blue Badge plus current council tax bill

Failure to produce one of the acceptable forms of id would result in charging and non-Portsmouth residents using the HWRC would continue to be charged. Portsmouth residents using other HWRCs would continue to be charged. No refunds would be made retrospectively. This change would come at a financial cost to the council (see finance comments). There is unlikely to be any improvement to fly tipping numbers as these have not been adversely affected by the introduction of charges. The contractor Veolia Environmental Services (VES) would be required to robustly check IDs and continue to apply the charge to all residents who do not provide the photo ID. (See appendix 8 for operating proposal)

5.3. Reverse the decision to charge Portsmouth residents (PO1- PO6 + small list of PO7 householders see appendix 7) for non-household waste items excluding asbestos for which charging would remain in place. (Asbestos is an expensive material of

which to dispose but also one which needs to be handled appropriately. This includes the need for appropriate PPE and correct handling and transport methods. The health implications of not handling asbestos appropriately are well documented. Charging for this stream has seen a reduction in tonnage. This stream may have been a service that was being abused by small businesses). Portsmouth residents would need to provide a photo id to prove residency. Acceptable photo id would be:

- Valid photo driving licence
- Valid passport plus current year council tax bill
- Bus pass showing Portsmouth address
- Blue Badge plus current council tax bill

Failure to do so would result in charging and non-Portsmouth residents using the HWRC would continue to be charged. Portsmouth residents using other HWRCs would continue to be charged. No refunds would be made retrospectively. This change would come at a financial cost to the council (see finance comments). There is unlikely to be any improvement to fly tipping numbers as these have not been adversely affected by the introduction of charges. The contractor Veolia Environmental Services (VES) would be required to robustly check IDs and continue to apply the charge to all residents who do not provide the photo ID. (See appendix 8 for operating proposal)

## **6. Reasons for recommendations**

**6.1.** The monitoring of the impact of the introduction of charges has not shown a significant change to fly tipping within the City. The change has been adopted smoothly and there have been few issues. Use of the HWRC varies seasonally so it would be important to continue to monitor the impacts for the full year. It would also be prudent to wait for the guidance that is expected in relation to this matter towards the end of 2017.

## **7. Equality impact assessment**

**7.1.** This would not be required for option 1. The EIA for options 2 or 3 is included as appendix 9

## **8. Legal implications**

As the report recommends that the Council continue the current charging regime, there are no contractual or other legal implications arising from this report at this time.

The Environmental Protection Act 1990 and the Controlled Waste (England and Wales) Regulations 2012/811 currently allow for discretionary charges to be applied for disposal of "Waste from construction or demolition works, including preparatory works" (classed as 'industrial waste' regardless of the place where it is produced) at HWRCs. Whilst there is no clear guidance as to what such waste includes, Portsmouth City Council along with its waste disposal partners (Hampshire County Council and Southampton City Council) have

taken the view that soil, rubble, plasterboard and asbestos reasonably fall within the above category of waste.

However, recently the Government has made it clear in the Litter Strategy for England (April 2017) that its view is that "DIY waste is classed as household waste if it results from work a householder would normally carry out" and it will review the current guidance "to make it clear what can and what cannot be charged for at HWRCs (including in respect of DIY waste)". The implications of such a revised guidance are currently unclear as a change in legislation may be required to alter the current classification of all "Waste from construction or demolition works, including preparatory works" as industrial waste.

The new guidance is expected to be issued by the end of 2017, and may require a review of the current charging arrangements for non-household waste at the Port Solent HWRC.

Should it be proposed that the current charging regime changes in the future, this will require a prior consideration of a potential increase to the HWRCs operation costs that would be passed to the Council under the existing contractual arrangements.

## **9. Director of Finance's comments**

9.1 There are no adverse financial implications resulting from the approval of the recommendation within this report, as the charges for non-household waste fully recover the cost to PCC.

9.2 It should be noted that were the decision to be reversed, the anticipated loss of income and additional ongoing costs would result in an anticipated financial pressure of between £129,000 and £170,000, depending on whether the reversal includes asbestos disposal or not.

.....  
Signed by:  
Director of Property & Housing

### **Appendices:**

- Appendix 1 - list of chargeable materials at the HWRC
- Appendix 2 - Previous restrictions applicable at the HWRC (prior to 1 October 2016)
- Appendix 3 - Costs for chargeable materials at HWRC
- Appendix 4 - Tonnages for other streams at HWRC
- Appendix 5 - Figures for fly tipping as reportable to DEFRA
- Appendix 6 - Figures for fly tipping/bulky waste streams collected in City

- Appendix 7 - addresses to which exemption could apply
- Appendix 8 - Operating proposal from Veolia Environmental Services
- Appendix 9 - Full EIA for options 2 and 3

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Environmental Protection Act 1990	<a href="http://www.legislation.gov.uk/ukpga/1990/43/contents">http://www.legislation.gov.uk/ukpga/1990/43/contents</a>

The recommendation(s) set out above were approved/ approved as amended/ deferred/  
rejected by ..... on .....

.....  
Signed by:  
Cabinet Member for Environment & Community Safety

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### List of chargeable items at the HWRC

Extract from the FAQ's on PCC website:

#### **'What items will I be charged for?**

Soil, rubble, stonework, clay, bricks, concrete blocks, paving slabs, tiles, ceramic bathroom units, plasterboard, cement-bonded asbestos sheets. There will be no charge for crockery or clay flowerpots.

#### **How much will it cost?**

Soil and rubble - £2.50 per 30 litre bag or per item (e.g. pedestal basin)

Plasterboard - £10 per sheet or £6 per 30 litre bag.

Asbestos - £12 per sheet or 30 litre bag. – only available at Andover, Basingstoke, Efford, Netley and Portsmouth.

For all these materials, a 30 litre bag refers to a standard sized rubble sack, purchasable at most DIY stores. Part-filled bags will be charged as a whole bag.

#### **Which HWRC sites in Hampshire are charging?**

The charges apply at all 26 HWRCs in Hampshire, including Portsmouth and Southampton.

#### **Will I pay the same at other HWRCs?**

Yes. It's a standard charge that you will pay at all 26 HWRCs in Hampshire.'

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Restrictions in place before charging began in October 2016:

Soil and Rubble: Approximately the contents of 6 x 30 litre bags (the equivalent to a small car boot load) no more than once per month.

Plasterboard: Small offcuts only.

Cement bonded asbestos: No more than 15 sheets, of no greater size than 120cm by 60cm - approximately equal to the amount from a standard single garage roof.

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Total PCC costs	
Month	Total PCC Cost
	£
Oct-15	7,873.98
	£
Nov-15	6,327.87
	£
Dec-15	5,357.34
	£
Jan-16	4,625.70
	£
Feb-16	5,678.86
	£
Mar-16	7,724.62
	£
Apr-16	7,557.76
	£
May-16	8,907.72
	£
Jun-16	7,213.52
	£
Jul-16	7,645.21
	£
Aug-16	7,999.20
	£
Sep-16	8,169.96
Oct-16	n/a
Nov-16	n/a
Dec-16	n/a
Jan-17	n/a
Feb-17	n/a
Mar-17	n/a
Total	£ <b>85,081.73</b>

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## Appendix 4

The previous costs for the chargeable waste streams is shown below. There are no costs incurred for these waste streams now.

	Apportioned Costs			
	Asbestos	Soil/Rubble& R	Plasterboard	Total Cost
2013/14	£ 6,087.65	£ 53,456.08	£ 33,698.95	£ 93,242.68
2014/15	£ 6,165.45	£ 59,318.72	£ 34,312.25	£ 99,796.42
2015/16	£ 9,604.15	£ 60,474.61	£ 31,893.36	£ 101,972.11
2016/17 (6 months only)	£ 14,743.98	£ 37,761.17	£ 7,050.56	£ 59,555.71

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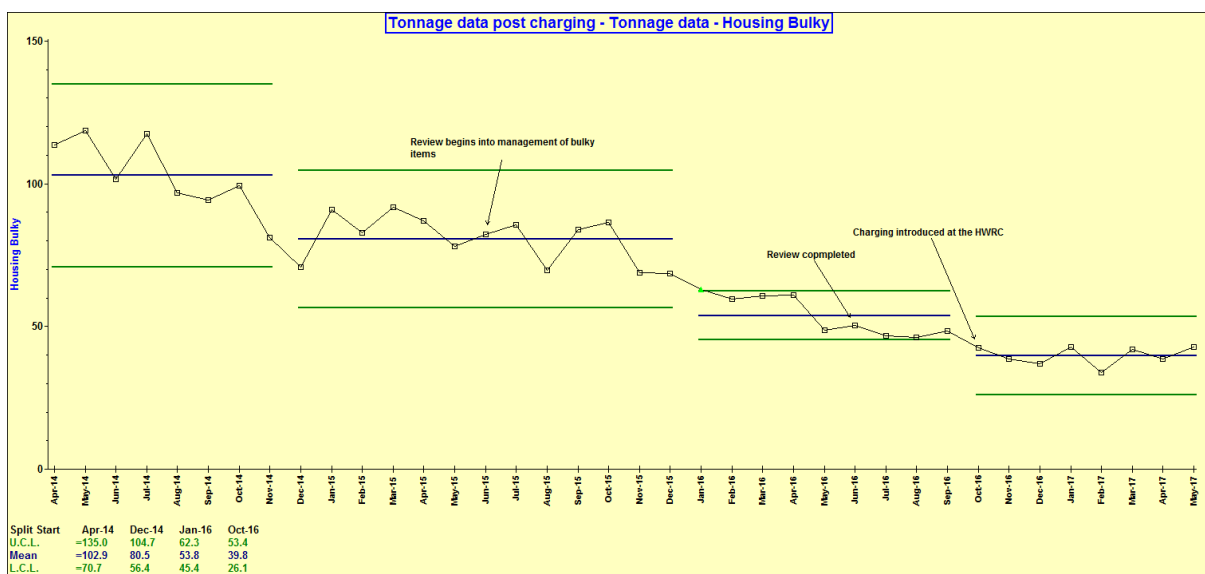
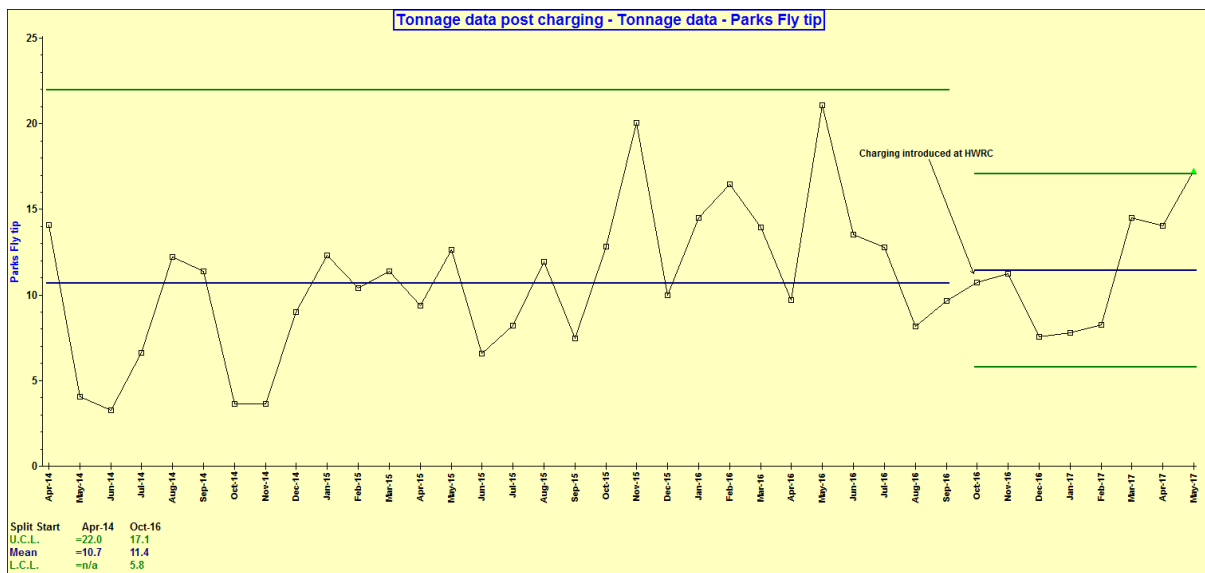
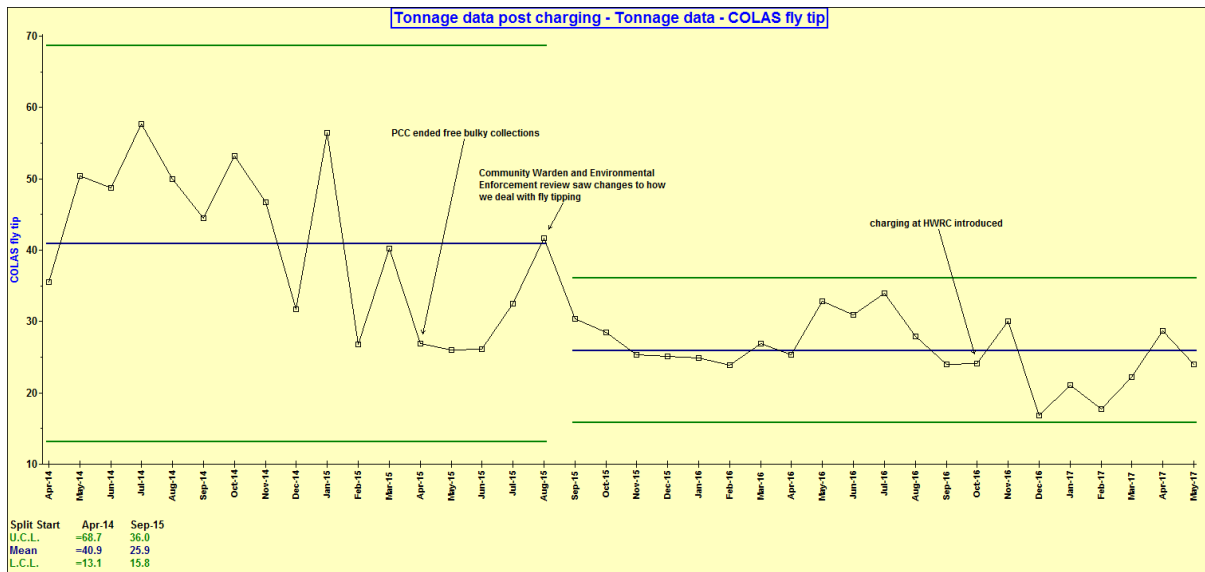
**Fly Tipping (as reported to PCC Clean City team)**

<b>Month</b>	<b>Initially reported as fly tip to SCT</b>	<b>Classified as fly tipping following investigations of all waste issues.</b>	<b>Construction type waste</b>
Apr-16	58	34	2
May-16	49	35	1
Jun-16	66	44	3
Jul-16	44	18	2
Aug-16	41	17	2
Sep-16	69	30	1
Oct-16*	58	35	3
Nov-16	63	37	7
Dec-16	41	28	2
Jan-17	59	36	4
Feb-17	59	33	4
Mar - 17	82	50	6
Apr - 17	74	43	12
May - 17	56	16	1

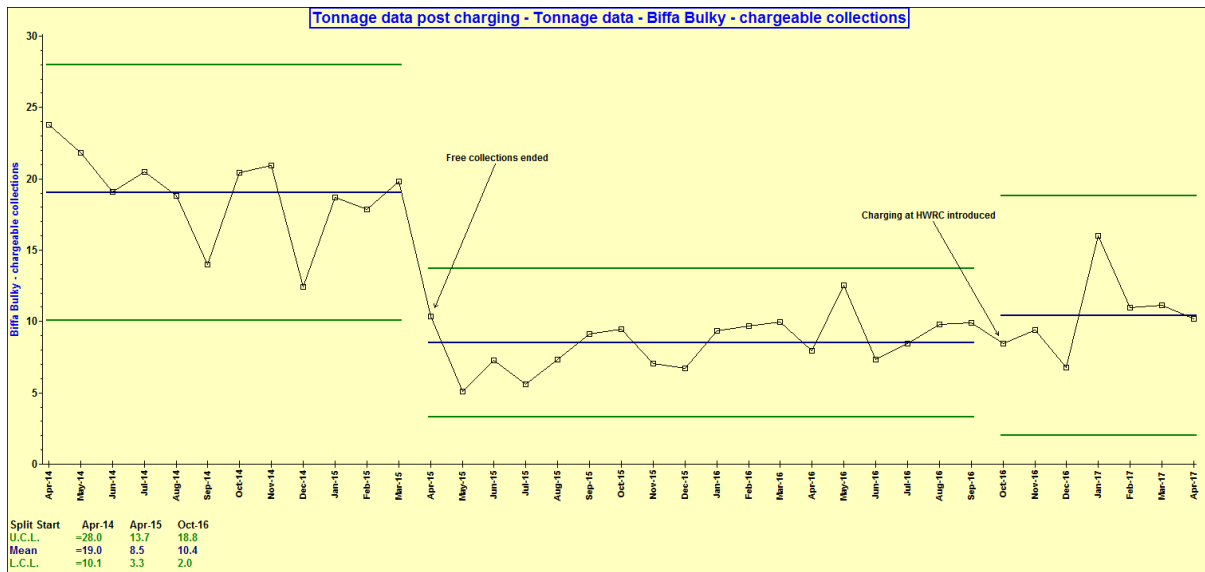
\*charging for non-household waste introduced 1 October 2016

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Appendix 6



Appendix 6



There has been an increase in tonnage through the chargeable collections service since the introductions of charges at the HWRC

## Appendix 7

### Addresses where exemption would apply:

#### All PO1- PO6 addresses.

Plus:

Christ Church, on London Road	1 church
Christ church gardens 1-23 (1-23 and 2 - 14) PO7 5BT	19 properties
Thornton Close 1-4 PO7 5BU	4 properties
Oaklea Close 1-13 (1-13, 2-6) PO7 5AU	10 properties
Meadow Edge 1-16(1-15, 2-16) PO7 5AZ	16 properties
Dell Close 2-26 evens only PO7 5AZ, includes 10a	14 properties
London Road 6 and 6a PO7 5BS	2 properties
Oakhurst Gardens 1-15(1-15, 2-12) PO7 5AX	14 properties
Greenlea Close 1-18 PO7 5BA	18 properties
	(98 properties)

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Veolia Environmental Services Proposal regarding how to implement the reversal of charging at the HWRC.

### **Data Assumptions**

- Tonnage has decreased dramatically since the introduction of the Current Scheme in October 2016.
- Data in 2016 is a mix of pre-charging and post charging tonnage data.
- It has been assumed that should charging stop the tonnage would increase back to its previous pre-charging level.
- Therefore for completeness 2015 tonnage data has been used to calculate estimated tonnage for disposal.
- Costs are based on current disposal and wage costs and may increase dependant on volume, availability and location of disposal points and market changes.

### **Process proposal**

In order to minimise queuing for the public and reduce costs Veolia suggest the following:

- Public are not stopped at a barrier to check residency documents as this will increase queuing times.
- The current lockable fencing compound for current Chargeable Waste types is retained.
- Members of the public wishing to dispose of the relevant waste types would have their residency documentation checked by a member/s of staff responsible for the management of that area at the area prior to being allowed access to it.
- Any members of public unable to provide the required documentation would be offered disposal at an agreed charge.
- Security is implemented to support site staff with non-resident conflict issues for the first 5 - 6 months.

NB. Queuing on the main access road can cause disruption for local businesses at Port Solent and for visitors who are trying to access the facilities at Port Solent. VES have considered this as part of their proposal.







# Equality Impact Assessment

Full assessment form v5 / 2013

[www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

**Directorate:**

Director of Property

**Function e.g. HR,  
IS, carers:**

Waste Management

**Title of policy, service, function, project or strategy (new or old):**

Household Waste Recycling Centre (HWRC) charging for non-household items: soil/rubble, plasterboard and asbestos and ceramic bathroom items eg WC pan.

**Type of policy, service, function, project or strategy:**

New / proposed

Changed

Existing

**Lead officer**

Colette Hill - Assistant Director for Property & Housing

**People involved with completing the EIA:**

Colette Hill, Gina Perryman, Antony Galea

### Introductory information (Optional)

The charging for non-household items was introduced on 1 October 2016 across all Hampshire, Southampton and Portsmouth HWRC.

## Step 1 - Make sure you have clear aims and objectives

### What is the aim of your policy, service, function, project or strategy?

To review the charging and include options for reversing charging for Portsmouth residents only. Non-Portsmouth residents would continue to be charged.

### Who is the policy, service, function, project or strategy going to benefit or have a detrimental effect on and how?

Reversal of charging would have a positive impact on all Portsmouth residents.

However, reversal of charging for Portsmouth residents would require the introduction of a photo ID scheme to reduce the risk of fraud. Acceptable forms of photo ID would be:

- 1) Photo driving licence
- 2) Valid passport plus current year council tax bill
- 3) Bus pass
- 4) Blue badge plus current year council tax bill

### What outcomes do you want to achieve?

To charge only non PCC residents

### What barriers are there to achieving these outcomes?

Residents may have difficulty providing photo ID

## Step 2 - Collecting your information

**What existing information / data do you have? (Local or national data)** If you don't have any data contact the Equalities and diversity team for some ideas

DVLA estimate that 1 in 3 drivers UK wide don't have a photo driving licence and 17% of Portsmouth residents don't have a passport (Census 2011).

**Using your existing data, what does it tell you?**

The data indicates that requiring photo driving licence and passport ID may disadvantage elderly and disabled groups more disproportionately than other groups.

## Step 3 - Now you need to consult!

**Who have you consulted with?**

The introduction of charging and other changes was consulted on in 2015/6 and was a Hampshire wide consultation .  
There were over 11000 responses and over 400 of these by Portsmouth HWRC users.

**If you haven't consulted yet please list who you are going to consult with**

**Please give examples of how you have or are going to consult with specific groups or communities e.g. meetings, surveys**

This is largely a beneficial change, and the ID issue would be kept under review.

## Step 4 - What's the impact?

Is there an impact on some groups in the community? (think about race, gender, disability, age, transgender, religion or belief, sexual orientation, pregnancy and maternity and other socially excluded communities or groups)

Generic information that covers all equality strands (Optional)

**Ethnicity or race**

n/a

**Gender including transgender**

n/a

**Age**

Some elderly residents may not have a photo driving licence or passport. The list of photo ID that is acceptable will be extended to include bus passes plus current council tax bill

**Disability**

Some disabled residents may not have a photo driving licence or passport. The list of photo ID that is acceptable will be extended to include blue badge plus current council tax bill

**Religion or belief**

n/a

**Sexual orientation**

n/a

**Pregnancy and maternity**

n/a

**Other socially excluded groups or communities e.g. carers, areas of deprivation, low literacy skills**

**Health Impact**

Have you referred to the Joint Needs Assessment ([www.jsna.portsmouth.gov.uk](http://www.jsna.portsmouth.gov.uk)) to identify any associated health and well-being needs?

Yes

No

**What are the health impacts, positive and / or negative? For example, is there a positive impact on enabling healthier lifestyles or promoting positive mental health? Could it prevent spread of infection or disease? Will it reduce any inequalities in health and well-being experienced by some localities, groups, ages etc? On the other hand, could it restrict opportunities for health and well-being?**

There are no obvious health impacts. Continuing to charge for asbestos should discourage residents from 'do it yourself' relating to this material as there is still a cost for disposal which may be a health benefit as this material should only be handled with appropriate PPE and under specific conditions to prevent inhalation of the dust.

**Health inequalities are strongly associated with deprivation and income inequalities in the city. Have you referred to Portsmouth's Tackling Poverty Needs Assessment and strategy (available on the JSNA website above), which identifies those groups or geographical areas that are vulnerable to poverty? Does this have a disproportionately negative impact, on any of these groups and if so how? Are there any positive impacts?, if so what are they?**

Reversal of charging for chargeable materials would benefit financially deprived groups.

## Step 5 - What are the differences?

**Are any groups affected in a different way to others as a result of your policy, service, function, project or strategy?**

The requirement to provide photo ID could be a barrier to accessing the free service. This is mitigated by the range of acceptable photo IDs.

**Does your policy, service, function, project or strategy either directly or indirectly discriminate?**

Yes

No

**If you are either directly or indirectly discriminating, how are you going to change this or mitigate the negative impact?**

This is mitigated by the range of acceptable photo IDs beyond 1) driving licence and 2) passport plus council tax bill to include 3) concessionary bus pass and 4) blue badge plus council tax bill

## Step 6 - Make a recommendation based on steps 2 - 5

**If you are in a position to make a recommendation to change or introduce the policy, service, project or strategy clearly show how it was decided on**

If charging were to be reversed, the contractor would administer photo ID checking at the site. Notice would be given and communications explaining requirements would be produced.

**What changes or benefits have been highlighted as a result of your consultation?**

Benefit of free disposal of non-household items

**If you are not in a position to go ahead what actions are you going to take?**

(Please complete the fields below)

**Action**

**Timescale**

**Responsible officer**

**How are you going to review the policy, service, project or strategy, how often and who will be responsible?**

## Step 7 - Now just publish your results

**This EIA has been approved by:**

**Contact number:**

**Date:**

Please email a copy of your completed EIA to the Equality and diversity team. We will contact you with any comments or queries about your full EIA.

Telephone: 023 9283 4789

Email: [equalities@portsmouthcc.gov.uk](mailto:equalities@portsmouthcc.gov.uk)