

<b>Title of meeting:</b>	Safety in the Community Portfolio Decision Meeting
<b>Date of meeting:</b>	20 <sup>th</sup> March 2024
<b>Subject:</b>	Food Safety Operating Plan 2023 / 2024
<b>Report by:</b>	Director of Culture, Leisure, and Regulatory Services
<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 provide clarity in respect to Portsmouth City Council's (the Council) food safety operations for 2023 / 2024 by providing a formal plan which provides:

- A profile of food businesses in Portsmouth
- The organisational structure and business priorities of the council and Regulatory Services relating to food safety.
- The scope of the Food Safety Service and the resources available to meet the demands made on it.
- The delivery of the service in relation to the food business inspection programme.
- A review of performance in 2022 / 2023 and a summary of key activities identified for 2023 / 2024.

1.2 It is acknowledged that the narrative contained within this report is similar to the narratives contained within the 2022 / 2023 Food Operating Plan published in October 2022.

## 2 Recommendations

2.1 **RECOMMENDED** that the Cabinet Member for Safety in the Community:

- **Approves the 2023 / 2024 Food Operating Plan (the Plan) attached as Appendix 1.**
- **Recognises the level of resources available to Regulatory Services and its food safety function as set out within Section 5 of the Plan.**
- **Acknowledges the demands placed upon Regulatory Services as identified in Section 3, 4, and 6, together with the service risks identified in Sections 7 and 8 of the Plan.**

### **3 Background**

- 3.1 The Food Standards Agency (FSA) have published a 'Framework Agreement on Official Feed and Food Controls for Local Authorities'. Its purpose is to demonstrate that Portsmouth City Council (the council), as the designated 'Competent Authority', has in place adequate and effective arrangements to meet its statutory obligations in respect of food and feed safety. The council is required thereafter to publish a Food Operating Plan (FOP).
- 3.2 The FOP is subject to scrutiny and approval by the Cabinet Member for Safety in the Community to ensure local transparency and accountability. When approved, it may be subject to publication on the Council's website.
- 3.3 Delivery of the FOP and the enforcement of the legal requirements relating to food and feed standards, safety and hygiene is the responsibility of the Regulatory Services Team which forms part of the Culture, Leisure, and Regulatory Services Directorate.
- 3.4 There is a wide range of EU-derived legislation that governs the safety of food and feed in the UK at all stages of the production and distribution chain including a number of general principles of food safety and food law which food businesses must comply with. The FOP sets out how business is regulated and advised and how relevant legislation is enforced to minimise the food safety risks to the health and well-being of those living and working in Portsmouth and also those visiting the city.
- 3.5 Since the UK left the EU, the majority of directly applicable legislation has been consolidated into UK law and is referred to as Assimilated Regulation (since 1<sup>st</sup> January 2024). There have been no significant changes to the legal requirements relating to food safety or to the Council's enforcement priorities. However, the number of food and feed controls delivered at the Portsmouth International Port (PIP) is likely to significantly increase in the future as a result of the change in status to a Border Control Post (BCP) and the range of imported food commodities that require 'Official Control' checks.

### **4 Service Objectives**

- 4.1 The aim of Regulatory Services is to ensure that food and drink that is produced, stored, distributed, and consumed in Portsmouth is safe. To support this aim, there are several key service objectives:
  - 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 / compositional 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 at the BCP and the PIP, including those relating to the sanitary condition of vessels, food imports and exports and the monitoring of shellfish / harvesting within the council's area of jurisdiction.
- Maintain and improve dialogue with stakeholders and customers to improve the manner in which the service is delivered to them.

4.2 The service makes a significant contribution to tackling health inequality that exists in Portsmouth and supported recovery and renewal from the effects of the Covid-19 pandemic - specifically in respect to food safety interventions. We play a major role in:

- Improving the health of local communities.
- Encouraging food businesses and operators to be cleaner and safer.
- Supporting the local economy by giving advice and taking appropriate action to ensure businesses trade within the law.

## 5. Reasons for the Recommendations

5.1 The FOP is required to:

- Cover all areas of food law the Competent Authority has a duty to enforce and therefore is necessarily comprehensive.
- Set out how the Competent Authority intends to deliver and resource the delivery of official food controls, and other official activities in its area and highlight variances in meeting the outcomes of the previous service plan.
- Identify areas of risk and concern (particularly those of its own regulator the FSA) in respect to the council's ability to meet its statutory obligations and the demand for its services; and the resources assigned to appropriately manage such.
- Alert Members of the risk to public health should we not be able to perform our statutory functions.
- Raise awareness that the FSA are significantly ramping up their expectations on Competent Authorities to meet their minimum standards through letters of "Formal Escalation". We are aware that such have been served on authorities which have been perceived to be failing to meet their expectations.

## 6. Integrated impact assessment

6.1 The inspection criteria have been subject to an integrated impact assessment, attached as **Appendix 2**.

6.2 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.

- 6.3 The way in which the service operates is largely determined by legislation and the standards and practices set by the FSA, which also controls training and provides much of the information given to customer, including explanatory documents in other languages. Where language difficulties do exist officers will provide assistance, translate documents, or accept key documents in another language.
- 6.4 As a regulatory function of the Council our primary task is to ensure that food premises and the food, they produce are safe for those who eat and work there and must apply the legislation to all food businesses. There is no evidence that food businesses owned or operated by people from any group are discriminated against (i.e., treated differently and unfairly) or that they are disadvantaged in any way which cannot be objectively justified by the need to enforce the legislation to protect the public and workers. Officers are, however, aware of the need for cultural sensitivity and the need to provide additional help to customers for whom English is not their first language.

## **7 Legal implications**

- 7.1 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.
- 7.2 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 FSA 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.

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

- 8.1 The activities proposed within the FOP will be funded from the existing service portfolio budgets, as approved by Full Council.

## **9 Service Director remarks**

- 9.1 The FOP is an expression of the Councils' continuing commitment to the delivery of food safety in Portsmouth whilst identifying risks and pressures the service responsible for such is facing.
- 9.2 Ensuring that food is prepared and served in a manner which protects the public, supports businesses, and seeks to ensure that the safety criteria applied in Portsmouth delivers food of a 'high' or 'very high' hygiene standard remains critical. Additionally, ensuring that food contains the ingredients demanded by the consumer is crucial, particularly as a severe food allergy can cause a life-threatening reaction.

- 9.3 During 2023 / 2024 the food safety team is continuing to use considerable resources to understand the Government narratives in respect to delivering their new Border Target Operating Model (BTOM) which dictates how imports into the UK are managed. All border control checks have previously been suspended on four occasions; however, the Government is now accelerating their transformative programme to digitise the UK's borders, harnessing new technologies and data to reduce friction and costs for businesses and consumers whilst maintaining biosecurity for the UK.
- 9.4 The Government published their BTOM in August 2023. This sets out their new regime for border import controls which will begin to impact Regulatory Services from April 2024. The team will continue to engage with the government and assess its funding and staffing requirements and needs to meet this revised focus on import requirements.
- 9.5 In view of the pressures placed upon the food safety team, it is continuing to identify significant service risks relating the range, depth and number of demands placed upon it and the resources available. The service has recognised these pressures and has created a new position within its food safety team for a qualified food inspector. This officer has been recruited and will be joining the team in March 2024. Nevertheless, the food safety team will continue to design appropriate protocols to further develop the level of skills needed within the team to deliver its responsibilities.

Signed by: Stephen Baily, Director of Culture, Leisure, and Regulatory Services

**Appendices:**

**Appendix 1: Food Operating Plan 2023 / 2024**

**Appendix 2: Integrated 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
Food Law Code of Practice - June 2023	<a href="#">Updated Code of Practice for local authorities in England and Northern Ireland to focus inspection efforts on higher risk food businesses   Food Standards Agency</a>
The Border with the European Union - the Border Target Operating Model - August 2023	<a href="#">The Border Target Operating Model: August 2023 - GOV.UK (www.gov.uk)</a>

The recommendation set out in 2.1. above was approved/ approved as amended/ deferred/ rejected by the Cabinet Member for Safety in the Community on 20<sup>th</sup> March 2024

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Signed by: Councillor Ian Holder, Cabinet Member for Safety in the Community