

<b>Title of meeting:</b>	Safety in the Community Portfolio Decision Meeting
<b>Date of meeting:</b>	6 <sup>th</sup> October 2022
<b>Subject:</b>	Food Safety Operating Plan 2022 / 2023
<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 2022 / 2023 by providing a formal plan which provides:
- a profile of food businesses in Portsmouth
  - the organisational structure and business priorities of PCC 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 to recover the food business inspection programme
  - a review of performance in 2021 / 2022 and a summary of key activities identified for 2022 / 2023.

## 2 Recommendations

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

**Approves the 2022 / 2023 Food Operating Plan (the Plan) attached as Appendix 1.**

## 3 Background

- 3.1 The Plan has been devised 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.
- 3.2 The Plan has been produced in accordance with the Food Standards Agency (FSA) 'Framework Agreement on Official Feed and Food Controls by Local Authorities'. Its purpose is to demonstrate that Portsmouth City Council (PCC), as the designated 'Competent Authority', has in place adequate and effective arrangements to meet its statutory obligations in respect of food and feed safety.

- 3.3 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 several general principles of food safety and food law which food businesses must comply with. The Plan sets out how businesses are regulated and advises and how relevant legislation is enforced to minimise the food safety risks to the health and well-being of those living / working in Portsmouth and those visiting Portsmouth.
- 3.4 As detailed within the Plan, since the UK left the EU, most of the directly applicable legislation has been consolidated into UK law and is referred to as 'retained' EU law. 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 because of the potential change in status to a Border Control Post (BCP) and the range of imported food commodities that require 'Official Control' checks.
- 3.5 Between March 2020 and July 2021, regulatory activity in relation to food businesses in Portsmouth was significantly impacted by restrictions on the hospitality industry and other Government measures introduced to control the spread of Covid-19. Guidance has subsequently been issued by the FSA to assist competent authorities in the recovery of their food intervention activities as restrictive public health measures have eased. The Plan in this regard for official food controls and related activities in Portsmouth to 2022 / 2023 was first implemented in September 2021.
- 3.6 The Plan contains a comprehensive profile of:
- food business in Portsmouth
  - the organisational structure of the food service
  - the scope of the service
  - service demand and delivery
  - food safety enforcement and interventions
  - priorities and milestone targets
  - advice provided to businesses
  - food sampling
  - food borne illness
  - food safety incidents and alerts
  - liaison with other organisations
  - financial allocations
  - staffing resources and development
  - quality assurance measures
  - performance and achievements

#### **4 Service Objectives**

- 4.1 In addition to section 3 above, the aim is to ensure that food and drink that is produced, stored, distributed, and consumed in Portsmouth is safe.
- 4.2 To support these aims, there are several key service objectives set out within the Plan - 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 / 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 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 way the service is delivered to them.

#### **5. Reasons for the Recommendations**

- 5.1 The Plan must cover all areas of food law the Competent Authority has a duty to enforce and therefore is comprehensive. It must set out how the Competent Authority intends to deliver and resource official food controls and other official activities in its area, address any variance in meeting the outcomes of the previous service plan.
- 5.2 The Plan must be submitted for approval by the relevant Member and / or relevant senior officer

#### **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 Plan will be funded from the existing service portfolio budgets, as approved by Full Council.

## **9 Service Director remarks**

- 9.1 The Food Operating Plan is an expression of the Councils' continuing commitment to the delivery of food safety in Portsmouth.
- 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 Our officers continue to work extremely hard to support FBOs in maintaining and improving their hygiene rating and developing their businesses so contributing to the success of Portsmouth. Generally, businesses understand that improving and maintaining high standards of food safety is not a particularly difficult task and that our officers are there to help providing guidance and assistance to support businesses achieve basic standards of food hygiene.
- 9.4 While businesses in England do not have to display their ratings, those with good ratings do want to advertise it. Validating a high hygiene rating on the door of the business demonstrates the requirements of food hygiene law. A high rating is very good for business. Those with poor ratings are not helping their businesses but they cannot conceal the fact that they need to raise their standards, as ratings for every inspected establishment are available online. The food hygiene rating system allows customers to make an informed choice about where they eat or from where they order their food for home delivery.
- 9.5 During 2022 / 2023 the food safety team has been focusing significant levels of resource to manage and meet the expectations of the government to deliver their new Border Operating Model (BOM) which dictates how imports into the UK are managed. All additional border control checks were suspended from the 1<sup>st</sup> July 2022. Instead, the Government is accelerating their transformative programme to digitise the UK's borders, harnessing new technologies and data to reduce friction and costs for businesses and consumers.
- 9.6 Businesses therefore ceased their preparations for the planned controls from 1st July 2022 and the food safety team is currently examining what this may mean for the immediate future. The Government are intending to publish a Target Operating Model (TOM) in the Autumn that will set out their new regime for border import controls and will target the end of 2023 as the revised introduction date for their control regime. This new approach will apply equally to goods from the EU and goods from the rest of the world. The team will therefore continue to engage with the government and assess its requirements and needs to meet this amended focus on import requirements.
- 9.7 In view of the pressures place upon the food safety team it has identified significant service risks relating the range, depth and number of demands placed upon it and the resources assigned to it. Whilst the food safety team develop appropriate protocols to maintain the level of skills needed within the team to deliver our responsibilities in the future the levels of resourcing assigned to it continues to remain a significant concern.
- 9.8 Resources are particularly problematic when considering the minimum requirements currently prescribed by the government both in respect to business engagement and intervention, and the future border controls. We continue to predict that together with the uncertainties of TOM and BOM discussions will impact upon the service in the next 12 to 18 months and that the current resources assigned to the service will continue to be stretched as a result.

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

**Appendices:**

**Appendix 1: Food Operating Plan 2022 / 2023**

**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:

<b>Title of Document</b>	<b>Location</b>
Food Law Code of Practice	<a href="https://www.food.gov.uk/about-us/food-and-feed-codes-of-practice">https://www.food.gov.uk/about-us/food-and-feed-codes-of-practice</a>
The Border with the European Union	<a href="#">2022-06-15 Border Operating Model 1 .pdf (publishing.service.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 6<sup>th</sup> October 2022

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Signed by: Councillor Jason Fazackarley, Cabinet Member for Safety in the Community