

Environment and Communities

Date of Meeting:	11 November 2021
Report Title:	Food Law Enforcement Plan
Report of:	Paul Bayley, Director of Environment and Neighbourhood Services
Report Reference No:	EC/19/21-22
Ward(s) Affected:	All

1. Executive Summary

- 1.1.** The Food Standards Agency (FSA) is charged with overseeing local authority food enforcement activity to ensure work is undertaken in a cost effective, comprehensive and collaborative manner.
- 1.2.** To support this, and to provide a framework within which to monitor performance, a local authority is required to produce an annual Food Law Enforcement Plan which covers all areas of food law that the authority has a duty to enforce and set out how the authority intends to deliver Official Controls having regard to advice from the FSA or any other relevant body.
- 1.3.** Cheshire East Council's Regulatory Services has consistently produced an annual Food Law Enforcement Plan. In addition, the service completes annual returns to the Local Authority Enforcement Monitoring system (LAEMs) which is used by the FSA to monitor national performance on Official Control Activity.
- 1.4.** During the Covid-19 pandemic food enforcement activities were significantly impacted due to restrictions on business operations. In response, the Food Standards Agency communicated a revised national approach to food enforcement work, providing updates throughout the year to outline their expectations and requiring assurance that those matters of the highest risk were prioritised. This approach ultimately continued until 30 June 2021 when the FSA produced a Recovery Plan and further guidance for local authorities.
- 1.5.** The Local Authority Recovery Plan outlines the approach to be taken with respect to food law activities for the period 1 July 2021 to 31 March 2023.

Given the period covered is in excess of the usual 12-month plan period it has been considered more appropriate to produce a plan that covers the Recovery Plan period in full, albeit with a review period at the start of each financial year to ensure that the programme is reflective of our premises risk profile.

2. Recommendations

- 2.1.** That the Environment and Communities Committee note the Food Law Enforcement Plan as our approach to food enforcement activities during the Recovery Plan period.

3. Reasons for Recommendations

- 3.1.** The Environment and Communities Committee is responsible for oversight and scrutiny of Environment and Neighbourhood Services, which includes food enforcement activity.
- 3.2.** The Food Law Enforcement Plan provides a robust and consistent approach to food enforcement activities within Cheshire East that is reflective of national requirements and which focusses attention to those activities and premises that pose the greatest risk to the community and provides adequate support to local food businesses.

4. Other Options Considered

- 4.1.** Regulatory Services could have produced a one-year plan to operate until the end of March 2022. However, as the FSA have published advice and guidance relating to the local authority approach over an extended period of time it was considered more appropriate for the plan to mirror this same period. This ensures that it is reflective of both the rolling programme for recovery and the return to statutory requirements that occur during the lifetime of the recovery period (high risk premises).
- 4.2.** The extended plan is able to outline those areas of work that can be subject to additional resource during the recovery timescale, reducing inspection burdens as we move into the, as yet undetermined, inspection programme from April 2023.
- 4.3.** The Food Standards Agency have also recently confirmed that the annual reporting system will no longer be used for performance reporting and during the lifetime of the recovery plan there will be specific requests for performance information in line with stages within the plan. Therefore, a plan that mirrors those stages will support performance reporting as we move forward.

5. Background

- 5.1.** Local Authorities are required to produce an annual Food Law Enforcement Plan which covers all areas of food law that they have a duty to enforce. This plan ensures that activities are effectively prioritised to ensure that those activities which pose the highest risk are subject to sufficient interventions.

- 5.2.** All food premises registered with the local authority are risk rated which in turn determines the frequency of intervention work for that particular premises. Risk is based on several factors type of food and method of handling; consumers at risk (including vulnerable consumers); confidence in management and control procedures and the current level of compliance with statutory obligations.
- 5.3.** The type of intervention received by a premises depends upon their risk. For higher risk premises this is specifically an on-site inspection whilst lower risk premises can be subject to alternative approaches to include partial inspections, audits, sampling, and questionnaire-based intelligence gathering.
- 5.4.** The frequency of interventions is determined at the conclusion of each intervention and recorded on the business support system used by Regulatory Services. At the start of each year a report is produced outlining the interventions due for that year and these form quarterly intervention targets that are allocated to inspecting officers. This proactive work is carried out in parallel with any reactive work that is required e.g., complaints, food poisoning investigations, sampling, response to food alerts etc.
- 5.5.** During the Covid-19 pandemic all local food authorities were provided with ongoing advice from the Food Standards Agency about how and where they should focus their food enforcement work in year. This created a significant deviation from the programme outlined in the 2020-2021 Food Law Enforcement Plan, leaving the service with a high number of outstanding scheduled inspections/interventions at year end.
- 5.6.** Where permitted, and in response to updates from the FSA and/or when premises have reopened following the relaxation of Covid restrictions, officers have undertaken inspections at food premises as they would normally.
- 5.7.** In June 2021 the Food Standards Agency published their Covid-19 Local Authority Recovery Plan setting out guidance and advice for local authority delivery of official food controls for the period 1 July 2021 to March 2023.
- 5.8.** The Plan provides a framework for re-starting the delivery system in line with the Food Law code of Practice for new food establishments and for high risk and/or non-compliant establishments whilst providing flexibility of approach for lower risk establishments. This framework is to be implemented alongside delivery of:
- Official controls where the nature and frequency are prescribed in specific legislation and official controls recommended by FSA guidance that support trade and enable export;
 - Reactive work including enforcement in the case of non-compliance, managing food incidents and food hazards and investigating and managing complaints;

- Sampling; and
- Ongoing proactive surveillance.

5.9. The guidance and advice in the Recovery Plan represents what is expected of local authorities during this recovery period. It is recognised that local authorities will be starting from different positions in terms of the impact that Covid-19 has had to date, and the challenges they will face during the recovery period with the resources that they have available. However, where local authorities are able to, the expectation is that they should move at a faster pace to realign with the Food Law Code of Practice at the earliest opportunity.

5.10. Regulatory Services have reviewed the FSA Recovery Plan, their knowledge of current intervention backlogs and the resources that are available and used these to develop the Food Law Enforcement Plan for 1 April 2021 – 31 March 2023: a plan for the full recovery period. The plan is attached as Appendix 1.

5.11. The Food Law Enforcement Plan will be reviewed and updated at the start of the 2022-2023 financial year to refresh the intervention requirements for that period. This will ensure that those premises that require a further inspection during the recovery plan (high risk) and any new premises that have registered with the authority are captured and programmed.

5.12. There will also be a need to respond to any further requirements imposed by the Food Standards Agency who have committed to keeping advice and guidance under close review and in response to any future changes in the Covid-19 situation.

5.13. It is hoped that this approach will place Cheshire East in the best position possible for the proposed implementation of a new intervention approach planned from April 2023.

6. Consultation and Engagement

6.1. Although there is a statutory requirement to produce the Food Law Enforcement Plan there is no requirement for consultation and engagement on the plan itself. The FSA do however review this document as part of any engagement with the Local Authority and as part of any performance review.

7. Implications

7.1. Legal

1.1.1. The Food Law Code of Practice (England) revised with effect from March 2021, and made pursuant to section 40 of the Food Safety Act 1990 imposes a requirement on local food authorities to have documented plans, programmes and strategies in place for the delivery of Official Food Controls.

- 1.1.2.** The Food Law Enforcement Plan, appended to this Report, satisfies this requirement and would form the initial focus of any monitoring and audit conducted by the Food Standards Agency.

1.2. Finance

- 1.2.1.** The Food Law Enforcement Plan is implemented by the Regulatory Services Team who are funded by existing staffing budgets. Section 6 of the plan (Appendix 1) contains more specific information.

1.3. Policy

- 1.3.1.** The 2021-2025 Corporate Plan has a specific priority for Welcoming and Clean Neighbourhoods and within this an objective to protect residents. Proactive inspection and surveillance work carried out in accordance with the Food Law Enforcement Service Plan underpins this priority and objective ensuring that food manufactured, stored and served with the Borough is without risk to health and complies with relevant standards.

1.4. Equality

- 1.4.1.** There are no direct equality policy implications arising from this report.

1.5. Human Resources

- 1.5.1.** There are no direct HR implications arising from this report.

1.6. Risk Management

- 1.6.1.** Failure to follow the requirements of the Recovery Plan issued by the Food Standards Agency could lead to additional scrutiny or intervention.

1.7. Rural Communities

- 1.7.1.** There are no implications for rural communities.

1.8. Children and Young People/Cared for Children

- 1.8.1.** There are no implications for young people/cared for children.

1.9. Public Health

- 1.9.1.** The implementation of the Food Law Enforcement Plan aims to ensure that food premises and food activities are adequately monitored according to risk in order to minimise detrimental impacts to the Cheshire East community.

1.10. Climate Change

- 1.10.1.** The Council has committed to becoming carbon neutral by 2025, and to encourage all businesses, residents and organisations in Cheshire East to reduce their carbon footprint. There are no implications from the Food Law Enforcement Plan that will impact on this commitment.

Access to Information	
Contact Officer:	Tracey Bettaney tracey.bettaney@cheshireeast.gov.uk 07814 369267
Appendices:	Appendix 1 Food Law Enforcement Plan 1 April 2021 – 31 March 2022
Background Papers	Covid-19 Local Authority Recovery Plan (June 2021) Food Law Code of Practice (March 2021 Revision)