

## ABERDEEN CITY COUNCIL

---

<b>COMMITTEE</b>	Public Protection
<b>DATE</b>	09 May 2018
<b>REPORT TITLE</b>	Protective Services Food and Feed Regulatory Service Plan 2018/2019
<b>REPORT NUMBER</b>	OPE/18/016
<b>DIRECTOR</b>	Rob Polkinghorne
<b>CHIEF OFFICER</b>	Mark Reilly
<b>REPORT AUTHOR</b>	Andrea Carson
<b>TERMS OF REFERENCE</b>	3.3

---

### 1. PURPOSE OF REPORT

- 1.1 Local authorities are required to prepare a service plan, review their performance against it and for the plan and review to be submitted to the relevant Committee. In contrast to Food, there is no such requirement for Feed however Food Standards Scotland (FSS) does set out, on an annual basis, what the priorities for the coming year will be in respect of feed enforcement.
- 1.2 The report presents a revised Food and Feed Regulatory Service Plan (Appendix A) for approval by the Committee. In addition the Review of the 2016/2017 Protective Services Food and Feed Regulatory Service Plan is also provided (Appendix B). The Review of the 2017/2018 Protective Services Food and Feed Regulatory Service Plan, will be submitted to the Committee by means of a Service Update later this year.
- 1.3 At this time it is impossible to predict accurately the number of food businesses that will be operating in the City or the number of hygiene interventions required for each category of business in 2018/2019; however following examination of the figures for the last few years it can be assumed that there will be a slight increase in intervention numbers due to the emergence of new catering businesses.
- 1.4 The Service Plan details the intended activity of the Service based on the resources allocated and the establishment staffing levels.

## **2. RECOMMENDATION(S)**

That the Committee:-

- 2.1 Approve the maintenance and development of food and feed regulatory services necessary to satisfy the requirements of the Food Standards Agency's Framework Agreement;
- 2.2 Approve the Protective Services Food and Feed Regulatory Service Plan 2018/2019 (Appendix A); and
- 2.3 Note the Review of the 2016/2017 Protective Services Food and Feed Regulatory Service Plan (Appendix B).

## **3. BACKGROUND**

- 3.1 Food and Feed enforcement services provided by Aberdeen City Council are located in Protective Services, a city-wide service within Operations. The majority of food enforcement work takes place within the Commercial Section of this Service, with a number of enforcement officers also involved in the enforcement of health and safety, port health, licensing and animal health & welfare.
- 3.2 Historically Aberdeenshire Trading Standards have agreed to carry out animal feed enforcement on behalf of Aberdeen City Council as there are an insufficient number of visits to be carried out in the City that would allow city staff to meet the experience element of the FSS competency requirements. In January 2016, the FSS Board agreed that the centralisation of feed official controls should take place for implementation by April 2017. The currently favoured model is a regional delivery model, but details on how this would work are not presently available. The timetable for delivery of this project has slipped, but it is anticipated it will be delivered during 2018/19.
- 3.3 Local authorities are required by the 'Framework Agreement on Official Feed and Food Controls by Local Authorities' to prepare a Service Plan and review their performance against it on an annual basis.
- 3.4 Food Standards Scotland (FSS) sees the Service Plan as an important part of the process to ensure national priorities and standards of food enforcement are addressed and delivered locally. Service plans also:
  - a. Focus debates on key delivery issues;
  - b. Provide an essential link with financial planning;
  - c. Set objectives for the future, and identify major issues that cross service boundaries; and
  - d. Provide a means of managing performance and making performance comparisons.
- 3.5 FSS suggests a common format for Food and Feed Regulatory Service Plans which should assist local authorities in performance reviews under the Best Value regime.

- 3.6 The power to set standards, monitor and audit the performance of enforcement authorities was conferred on FSS by Sections 3 and 25 of the Food (Scotland) Act 2015 and Regulation 7 of the Official Feed and Food Controls (Scotland) Regulations 2009. FSS has established external audit arrangements intended to ensure competent authorities are providing an effective and consistent service for the delivery of official controls and are meeting the general criteria laid out in Regulation (EC) No 882/2004.
- 3.7 It should be noted that FSS has powers, following consultation with Ministers, to issue a Direction to a local authority requiring it to take specified steps to comply with the Code of Practice issued. Directions are enforceable through Court of Session Orders.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 Currently the service as proposed within the Regulatory Service Plan can be provided within the existing budget.

#### **5. LEGAL IMPLICATIONS**

- 5.1 The direct implications of BREXIT in relation to the Regulatory Service Plan are low, as controls will not change ahead of Brexit Day on 29th March 2019. However, depending upon the negotiations, the potential implications of BREXIT on future delivery could be very significant. This is particularly the case in relation to the Import and Export of food, as greatly enhanced regimes could be required. Until there is more clarity on the planned arrangements, it is not possible to quantify the impact on the Service. There is the potential for resource to be diverted away from service delivery during 2018/19 planning, training etc to enable appropriate systems and controls to be implemented.

#### **6. MANAGEMENT OF RISK**

- 6.1 Failure to provide a Food Regulatory Service Plan and associated implementation of that plan would be classed as a “hazard risk” in accordance with the Enterprise Risk Management model. This could potentially damage the reputation of the Council as well as putting the citizens of Aberdeen at risk if food businesses are allowed to operate unchecked. Ultimately, FSS may, after consulting with Scottish Ministers, direct a Food Authority requiring it to take any specified steps in order to comply with the requirements of food law or Food Law Code of Practice (Scotland). Any such direction is enforceable by an order of the Court of Session under Section 45 of the Court of Session Act 1988. The powers also allow FSS to recover any reasonable expenses incurred by them from the defaulting local authority.

	<b>Risk</b>	<b>Low (L), Medium (M), High (H)</b>	<b>Mitigation</b>
<b>Financial</b>	<p>Failure to produce and deliver a service plan could contribute to default powers being exercised and the associated costs.</p> <p>FSS may, after consulting with Scottish Ministers, direct a Food Authority requiring it to take any specified steps in order to comply with the requirements of food law or Food Law Code of Practice (Scotland). FSS may recover any reasonable expenses incurred by them from the defaulting local authority.</p>	L	Produce and deliver against the service plan.
<b>Legal</b>	<p>ACC is bound by statute to deliver a food law enforcement service, including the provision of a service plan.</p> <p>FSS may, after consulting with Scottish Ministers, direct a Food Authority requiring it to take any specified steps in order to comply with the requirements of food law or Food Law Code of Practice (Scotland). Any such direction is enforceable by an order of the Court of Session under Section 45 of the Court of Session Act 1988.</p>	L	Deliver a food law enforcement service, including the provision of a service plan.
<b>Employee</b>			
<b>Customer</b>	Failure to provide an effective food law enforcement service could result in consumers being exposed to an	L	provide an effective food law enforcement service

	unacceptable health risk.		
<b>Environment</b>			
<b>Technology</b>			
<b>Reputational</b>	Failure to produce and deliver a service plan could contribute to default powers being exercised and the associated reputational damage.	L	Produce and deliver against the service plan.

## 7. OUTCOMES

<b>Local Outcome Improvement Plan Themes</b>	
	<b>Impact of Report</b>
<b>Prosperous Economy</b>	In addition to securing protection of the public, business compliance with legislation reduces the risk to them of criminal proceedings and/or litigation. It is also beneficial for them individually and for the economy as a whole.
<b>Prosperous People</b>	People who are adequately protected from threats to their health, safety, and mental and economic wellbeing are more likely to prosper than those who are not.
<b>Prosperous Place</b>	

<b>Design Principles of Target Operating Model</b>	
	<b>Impact of Report</b>
<b>Governance</b>	Appropriate oversight of services delivering public protection provides assurance to both the organisation and the public in terms of meeting the Council's statutory duties, and also contributes to compliance with agreed standards.

## 8. IMPACT ASSESSMENTS

<b>Assessment</b>	<b>Outcome</b>
<b>Equality &amp; Human Rights Impact Assessment</b>	Full EHRIA not required  Assessment submitted to Sandra Howard 10/04/18
<b>Privacy Impact Assessment</b>	Not required
<b>Duty of Due Regard / Fairer Scotland Duty</b>	Not applicable

## **9. BACKGROUND PAPERS**

Food Law Code of Practice (Scotland)

The Framework Agreement on Official Feed and Food Controls by Local Authorities

## **10. APPENDICES**

**Appendix A:** Protective Services Food and Feed Regulatory Service Plan 2018/2019

**Appendix B:** Review of the 2016/2017 Protective Services Food and Feed Regulatory Service Plan

## **11. REPORT AUTHOR CONTACT DETAILS**

Name	Andrea Carson
Email Address	<a href="mailto:acarson@aberdeencity.gov.uk">acarson@aberdeencity.gov.uk</a>
Tel	01224 522741