

## Document Control

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**Public Protection**

**Food and Feed Law Service Plan 2019/20**

**“Food we can trust”**

**Preamble**

This document summarises the work of Havering’s Food Safety Division.

These first few pages provide an overview of the routine and non-routine work carried out during the last financial year 2018/19 and the planned work and in progress work for the current year 2019/20

The main body of the document has been written to conform to statutory guidance set out in Chapter 1 of the Framework Agreement (an agreement between the Local Government Association and the Food Standards Agency), and complies with the national enforcement priorities set out annually by the food standards agency. In places the content is technically detailed and complex by necessity.

The aims and objectives of the division are outlined and linked to the Council’s Corporate Plan, set against the background of the Authority’s profile of registered food and feed businesses.

There is an overview of the range and scope of work of the division, together with the resources available to complete the task, which includes tables and graphs for comparison with previous years

A risk based Enforcement Policy detailing the options and methods available to deal with non-compliance is included in Appendix 1.



# Havering

LONDON BOROUGH

## Public Protection

### Food and Feed Law Service Plan 2019/2020

This plan conforms to statutory guidance set out in Chapter 1 of the Food Standards Agency (FSA) framework agreement.

Document Control .....	1
Aims and Objectives.....	4
Havering Corporate Vision .....	5
Equalities and Diversity .....	6
Authority Profile .....	8
Organisational Structure .....	9
Scope of the Food Service - "food we can trust" from farm to fork .....	11
Demands on the Food Service.....	15
Food Premises and Activity Data .....	16
Regulation and Enforcement Policy (Appendix 1). .....	17
Feed Hygiene/ Standards Interventions .....	17
Performance relating to official controls. ....	17
Food Complaints And Requests for Service .....	22
Infectious Disease Control Investigations .....	22
Home Authority Principle.....	23
Primary Authority (PA).....	23
Advice to Business .....	24
Food Inspection and Sampling.....	24
Food Safety Incidents.....	25
Liaison with other Organisations .....	25
Food Safety Promotion.....	26
Staffing .....	27
Staff Development.....	28
Quality Assessment and Monitoring.....	28
Inter Authority Benchmarking and Audit.....	29
Review of Performance Against the 2018/19 Plan .....	29
Variation from the 2018/19 Food Service Plan .....	30
APPENDIX 1 –Food Law Enforcement Policy .....	31
APPENDIX 2 .....	44
Document control .....	44
1. Equality & Health Impact Assessment Checklist.....	45
2. The EqHIA – How will the strategy, policy, plan, procedure and/or service impact on people? .....	46
3. Outcome of the Assessment .....	1

## Aims and Objectives

- **Aim 1:** “To promote, through education and enforcement, the sale and/or production of food which is fit for human consumption and without risk to health, to protect the interest of consumers and allow them to make informed choices in relation to the food that they consume, in particular to prevent fraudulent or deceptive practices, the adulteration of food and any other practice which may mislead or harm the consumer”.
- **Objective 1** “To register food and animal feed businesses in accordance with Regulation (EC) No 852/2004 Article 6(2) & 183/2005”.
- **Objective 2** “To undertake a risk-based programme of official controls in registered food & feed premises in accordance with the current Food Standards Agency statutory food law and feed law codes of practice and practice guides”.
- **Objective 3:** “To undertake a programme of official controls in food businesses not required to register in the Borough but operate within the Borough. (mobile traders such as ice cream sellers and vendors at shows and markets etc.)”.
- **Objective 4:** “To approve all food and feed business establishments operating within the Borough that are placing products of animal origin on the market specified in EC Regulation 853/2004 and 854/2004 and implement a series of risk based interventions in accordance with the Food Standards Agency Food Law Code of Practice”.
- **Objective 5** “To ensure all food business operators are fully compliant with EC Regulation 2073/2005 on microbiological criteria for food stuffs” and 1169/2011 food information for consumers.
- **Objective 6** “To undertake a programme of official controls in feed business establishments within the Borough to ensure compliance with EC Regulation 183/2005 feed law (food for livestock at primary production and waste human food to be used as feed (feed material))”.
  
- **Aim 2:** “To prevent and control the spread of food borne illness through education and enforcement and to ensure food complies with compositional standards and is correctly labelled”.
- **Objective 7:** “To provide a risk-based response to all notifications of food related illness or suspected illness in order to mitigate effects on the community”.
- **Objective 8** “To carry out pro-active and re-active sampling in accordance with nationally and locally set programmes”.
- **Objective 9** “To identify and investigate suspected food fraud in conjunction with other Government agencies and the Police.”
- **Objective 10** “To provide information, advice and education on food safety and standards issues to businesses and consumers.”
- **Objective 11** “To investigate complaints from consumers relating to food safety and food standards where food products have been purchased within the Borough and to redirect complaints to other enforcing authorities where the offence has been committed elsewhere. To deal with enquiries from enforcing authorities about food manufactured in this Borough or where the importer is or should be registered in this Borough.”

There are six newly adopted National Enforcement Priorities (NEPs) for 2018/19, for 2019/20, which have not been issued. They are incorporated into the programme of official controls. The NEPs are designed to drive compliance by Food and Feed Business

Operators through enforcement. Five priorities relate directly to feed hygiene and the sixth priority to food hygiene alone.

- Priority 1: Verification of the presence and accuracy of feed labelling particulars which have the potential to compromise human and/or animal health
- Priority 2: Validation of effective feed safety management systems at Annex II establishments with a focus on businesses supplying former foodstuffs or co-products
- Priority 3: Effective information sharing, communication and exchange of information and intelligence to support effective official feed controls
- Priority 4: Effective monitoring of consignments of feed originating from outside the European Union at points of entry
- Priority 5: Development of risk-based regional sampling programmes
- Priority 6: Effective identification and appropriate registration of food businesses operating at the level of primary production of food

## **Havering Corporate Vision**

### **Opportunities**

We will provide first-class business opportunities by supporting the commercial development of companies within the borough. We will ensure sustainable economic growth that generates local wealth and opportunities, as well as securing investment in high-quality skills and careers.

### **Communities**

We want to help our residents to make positive lifestyle choices and ensure a good start for every child to reach their full potential. We will support families and communities look after themselves and each other, with a particular emphasis on our most vulnerable residents.

### **Places**

We will work to achieve a clean, safe environment for all. This will be secured through working with residents to improve our award-winning parks and continuing to invest in our housing stock, ensuring decent, safe and high standard properties. Our residents will have access to vibrant culture and leisure facilities, as well as thriving town centres.

### **Connections**

We want to capitalise on our location with fast and accessible transport links both to central London and within the borough. Likewise, we will continue to make Havering a digitally enabled borough that is connected to residents and businesses. Enhancing our connections will strengthen the borough's offer as a Greater London hub for business.

Ensuring food safety is an essential element in achieving the Council's stated vision and contributes to the first three stated aims.

## **How the Plan Links To 'Communities', 'Places', and 'Opportunities'**

**Communities:** Interventions identified in this plan will help protect residents from the implications of poor food hygiene in food premises, rogue traders and scams intended to mislead the consumer.

**Opportunity:** Food safety interventions create an opportunity to educate food business operators by providing face-to-face information, often on a one to one basis or directing them to sources of information or educational courses to improve knowledge of food safety. The service is often the only contact a small business has with regulators and the only access to accurate technical advice. This helps to reduce the potential risk of food poisonings and production of unsafe foods.

The service advises consumers of their rights and the outcomes of investigations. This assists them to do the right thing. The food hygiene rating scheme allows people to make lifestyle choices about the places they eat food from. The pan London Healthy Catering Commitment encourages restaurants and takeaways to change the way in which they offer meals, with an emphasis on healthy choices becoming the norm. This provides opportunities to improve healthy eating choices in the borough for our residents, with associated health benefits.

We ensure that we offer consistent advice and enforcement, so that no food or feed business can gain a competitive advantage over another by failing to comply with legislation designed to protect consumers.

**Places:** Food and feed safety interventions help to ensure that businesses within the Borough operate from premises that are structurally sound, well maintained and ensure that they identify the specific risks in their business and implement management systems to control the risk to an acceptable level. It is accepted by Central Government that interventions of this nature contribute to a reduction in food poisoning, a reduction in adulteration of food and creates improvements in information for consumers and control of infectious diseases. Although this outcome cannot be measured directly as, too many other public and private sector health interventions and controls also contribute to the outcomes.

**Connections:** internal liaison with other departments, regional and national liaison with other local authorities and Government departments.

Primary authority and traded consultancy services help businesses comply with food and feed law and in so doing help them to prosper.

## **Equalities and Diversity**

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

An Equalities and Health Impact Assessment has been completed for this service plan and is attached at Appendix 2.

## Background

### Authority Profile

Havering is the third largest London Borough, covering some 43 square miles. It is located on the northeast boundary of Greater London. To the North and East the Borough is bordered by the Essex countryside, to the south by a three-mile River Thames frontage, and to the west by the neighbouring London Boroughs of Redbridge and Barking & Dagenham.

The most recent estimates from the Office of National Statistics (ONS) show that approximately one quarter of a million people live in Havering.

The population is growing with the current population estimated at 260,000 in 2019.

Recent data indicated that Havering's ethnic minority resident communities have doubled, giving Havering the highest percentage increase in diverse communities of all London Boroughs. Figures taken from the 2001 and the 2011 census show, the following ethnic groups seeing the highest increase:

- Black or Black British: African
- White Other, and
- Asian/ Asian British: Indian.

A significantly higher number of people in the 65 to 84 and 84+ age groups are residing in Havering compared to the London and England averages.

There is also significant growth in the number of children and young people living within the Borough.

There are over 5,000 commercial premises in the Borough, of which approximately 37% are food businesses.

Currently seven establishments have been approved for the manufacture and 11 for the cold storage of products of animal origin that fall within the enhanced criteria set out in Regulation 853/2004.

Three manufacturers in the borough are approved and regulated by the Food Standards Agency directly for food hygiene requirements but still fall to Havering as competent authority for food standards requirements.

There are manufacturers in the Borough that fall outside the scope of approval criteria. Manufacturers handling composite products of animal and plant origin are excluded from approval regulations but still have to comply with general regulations and often require additional intervention because of the risks involved with the manufacturing process. The largest of these manufacturers is Tilda Rice operating from two sites in Ferry Lane.

Tilda is also a registered feed business supplying waste food for animal feed [feed material] for livestock consumption.

We provide "Health Certificates" to allow food manufactured in the Borough to be export to non-EU countries. This service is charged for on a cost recovery basis. In 2017/18, 150



health certificates were issued generating an income of £7,500. There is no requirement for the Council to certify food manufactured in the Borough for trade within the EU as being safe for human consumption, beyond ensuring compliance with current legislation relating to safe food [EU Regulation 852 and 853] as the competent authority for that purpose. This may change following the EU UK Exit planned for 2019.

In March 2011, the number of registered food businesses in the Borough was 1,586 but by March 2019, the total number of food businesses registered was 1860 an increase of 17% in 8 years. Contributing factors to this continuous rise has been the development of the Thames Gateway along the A13 corridor, cross rail, strategies to increase businesses within the Borough and the trend to eating out. We will continue to allocate resources to ensure that the registration process is properly followed to ensure that this figure is as accurate as it can be. It should be noted that this increase has been mirrored by a real reduction in available capacity and funding over the same period. This has been managed by a combination of improved efficiency measures, the use of contract staff for low risk inspections and a reduction in the level of service offered.

#### Premises Profile March 31<sup>st</sup> 2019

Figures in brackets March 31<sup>st</sup> 2018

<b>Primary Producers</b>	<b>Manufacturer &amp; Packers</b>	<b>Import or Export</b>	<b>Distributor &amp; Transporter</b>	<b>Retailers</b>	<b>Restaurants &amp; Caterers</b>
(9) 8	(21) 20	(8) 8	(29) 29	(482) 454	(1329) 1309

#### Organisational Structure

Food Safety Officers are assessed for competence and authorised in accordance with the Councils constitution for food and feed law enforcement.

In accordance with the statutory Food Law Code of Practice, the appointed lead Environmental Health Officers for Food Safety and Food Standards are the two Senior Public Protection Officers designated to have food specialist roles. All food officers report to the manager of Environmental Health functions with in a Public Protection service.

The lead Officer for Feed Safety is appointed via the Association of London Environmental Health Managers and is competent to advise on the technical aspects of enforcement. (Currently the cost of outsourcing the lead feed responsibility is funded by a regional grant from the FSA and administered by the London Trading Standards Board and the Association of London Environmental Managers).

The Division has a permanent establishment of two Senior Public Protection Officers and two Public Protection Officers, making up a total compliment (including the Public Protection Manager) of five people with an average of 4.0 FTE dedicated to food safety.

In addition, part of the food hygiene inspection regime has been outsourced to cover almost all of the medium risk food businesses each year. This contract is currently renewed annually. The current provider for 2018-19 has been a great success, with the contracting company being flexible enough to be able to take on additional visits as needed to meet our targets in a cost effective way. Further to this Public Protection regularly reviews its' priorities where resources via agency or fixed term contracted staff can be brought should a risk of noncompliance be identified. The local authority

enforcement monitoring system (LAEMS) report to the FSA takes into account the contract budget, which is equivalent to the cost of 1.0 FTE, and use of temporary staff and specifies an average total of 5 professional FTEs are dedicated to the food function and 1.5 FTE administrator dedicated to database management, data input and the alternative enforcement strategy. Based on previous years, it is envisaged that we can deliver at least 90% of the programme within the existing budget using this method.

The original programme of inspections for 2018/19 for this year was 951 inspections. 218 businesses were added to the programme in year as new premises are opened or premises re-register when changing ownership. When these premises are added to the program, we achieved 94.4% of the programme measured at the end of the year. All overdue inspections have been transferred to the new programme for inspection in 2019/20.

### **Specialist service providers; in accordance with the Food Safety (Sampling and Qualifications) (England) Regulations 2013**

- The Council's authorised Food Examiners (FE) are located at the Food, Water & Environmental Microbiology Laboratory, London, Public Health England, 61 Colindale Avenue, London NW9 5EQ.
- The Council's authorised Public Analysts (PA) are at Public Analyst Scientific Services Limited, 28-32 Brunel Road London W3 7XT to provide an analytical service. These appointments and authorisations are pursuant to the Food Safety (Sampling and Qualifications) Regulations 1990 for analysis of food labelling and compositional samples.
- The PA and FE provide a courier service to collect samples.

**Enforcement within local authority run establishments; *Please refer to the enforcement policy section of this plan.***

### **Infectious Disease Control**

The Food Safety Division is responsible for dealing with food and non-food related infectious disease control.

The Public Health (Control of Disease) Act 1984 places a statutory duty on registered medical practitioners (RMPs) to notify the 'proper officer' at their local Council or local Health Protection Team (HPT) of suspected cases of certain infectious diseases. This function has been delegated to the Consultant in Communicable Disease (CCD) or the Consultant in Public Health Medicine (CPHM) of Public Health England (PHE).

Notifiable diseases are specified in the Health Protection (Notification) Regulations 2010. There are currently over 30 notifiable infectious diseases including plague, cholera, tuberculosis and measles. Suspect food poisoning and confirmed bacterial food poisonings are notifiable diseases.

When a laboratory analyses a sample (mostly faecal) submitted by a patient via their Doctor, the laboratory has a statutory duty to notify PHE directly with details if they identify a prescribed disease. PHE then liaise with the Food Safety Division to decide on the course of action. Risk based protocols are in place to guide decision making and direct the type and extent of the investigation.

Only duly authorised officers of the Council have the powers to investigate such cases within the Borough, these powers allow us to take along other experts as required. Investigations can range from a telephone conversation and the completion of a questionnaire to an extended detailed visit to gather evidence, take samples, give advice and potentially take enforcement action. In some cases, taking formal samples or closure of premises to prevent further spread of a disease may be required. Confirmed and suspect cases of infectious disease are investigated in accordance with protocols agreed with the PHE and Food Standards Agency (FSA) to ensure that any risk of spread is controlled.

Faecal and other clinical specimens associated with infectious disease control are analysed in Cambridge.

Public Health England London – North East and North Central Health Protection team, Ground Floor, South Wing, Fleetbank House, 2-6 Salisbury Square. London, EC4Y 8JX provide emergency advice and support when dealing with infectious disease outbreaks or suspected food poisonings.

### Scope of the Food Service - “food we can trust” from farm to fork

Food should be safe and should be what it says it is. Everyone should have access to a healthy diet, and be able to make informed choices about what they eat.

The Council, through the Food Safety Division, is responsible as the competent authority for all food and feed safety, food and feed standards and associated public health matters throughout the Borough. This extends from food production on farms, which includes crops grown as feed to be given to livestock, to food provided to the final consumer from retail shops, restaurants and takeaways and all manufacturing and distribution occurring in the Borough.

The food hygiene functions at a slaughterhouse within the Borough and a separate meat cutting plant are the responsibility of the operations division of the FSA. The council is still responsible for enforcement of food standards at these premises.

Although not part of this plan, the Food Safety Division is also responsible for the enforcement of diseases of animals and transport of animals legislation at the slaughterhouse and at other farms in the borough.

General overview of work undertaken by the Division;

- Act as competent authority for food and feed law by employing officers suitably qualified to develop and implement the program. Ensure sufficient funding is available to maintain systems and procedures and to check and maintain competence of officers.
- Prepare and deliver a programme of interventions in accordance with criteria set out in the food and feed law codes of practice.
- Report annually to the FSA on all food and feed safety interventions undertaken each year via the Local Authority Enforcement Monitoring System (LAEMS).
- Maintain a database of enforcement activity to accomplish the above reporting requirement. Maintain the database and keep records in an accessible format for 6 years.

- Operate the FSA Food Hygiene Rating Scheme (FHRS) in accordance with the brand standard.
- Implement a quality assurance (QA) system to ensure that officers operate consistently and in accordance with the food law code of practice and the FHRS brand standard.
- Determine appeals made against FHRS scores using the agreed protocol from the brand standard and published on the Councils website.
- Work with colleagues within the Council and our partners, the Food Standards Agency, Regional and local NHS commissioning groups, Public Health England (PHE), DEFRA, liaise with other local authorities and their Food Safety Divisions, supporting enforcement and promotional initiatives.
- Provide advice to potential and existing food business operators on all aspects of food and feed law, and give advice and enforcement if necessary and applicable related to health, safety and welfare at work.
- Identify premises processing, handling and storing foods of animal origin and issue approval under EU Regulation 853/2004 and 854/2004, ensuring that the businesses comply with the additional requirements set out by those regulations.
- Identify premises that require registration or approval under EU Regulation 1831/2003 (feed hygiene regulations)
- Implement the requirements of the food information regulations, and the microbiological safety of food regulations.
- Carry out official risk based controls in food and feed businesses for compliance with food/feed safety & food/feed standards.
- Handle intelligence received and investigate where necessary (using a risk-based protocol) food purchased and or manufactured within the Borough, unhygienic premises and practices in food premises within the Borough.
- Report suspect food fraud to the Food Crime Unit of the FSA and work with them on any investigations, which may arise.
- Take appropriate, proportional, risk based enforcement whilst having regard to the Council's enforcement policy and in accordance with the adopted principles of the Enforcement Concordat and the Regulatory Enforcement and Sanctions Act to maintain essential protection to society whilst keeping the burden of regulatory control upon business to a minimum.
- Maintain electronic systems to receive and act upon all food hazard warnings issued by the Food Standards Agency.
- Implement a food and feed sampling programme for microbiological and chemical safety and compositional standards. Liaise with the North East Sector and London Food Coordinating Group and other relevant national bodies such as the FSA, regional and local trading standards organisations and departments, Public Analyst and food examiner.
- Maintain budgets for and systems to implement the sampling programme of monitoring food and feed stuffs, testing for compliance with food and feed law, statutory labelling, presentation and compositional requirements (Regulation(EU) 1169/2011 information for consumers). Maintain and use the United Kingdom Food Surveillance System (UKFSS) for sending (electronically) details of food samples and materials in contact with food to be analysed by the public analyst and food examiner and receiving results once analysed. Maintain systems to ensure that this database communicates with the Council's database to prevent duplication of data input.
- Issue export certificates to enable manufacturers in the Borough to export consignments of food and other products of animal origin to non EU member states

(third countries). This may require additional visits to these premises prior to certification.

- Consult with Planning and Development Control in Havering to assess the potential impact that a food business may have in relation to odour nuisance from ventilation extract systems.
- Promote and raise awareness of the importance of food / feed safety and food / feed standards through enforcement and advice and the promotion of food and feed safety training.
- Investigate complaints concerning food related disease, incidents of food poisoning and infectious disease, advise and enforce where necessary on precautions and controls.
- Implement legislation to control animal diseases that affect people and control specific animal diseases (e.g. Foot and Mouth Disease and avian flu). (Only in times of officially declared outbreaks)
- Advise business on the implementation of food and feed legislation, codes of practice and guidance.
- Maintain up to date information on the Council's web site.
- Develop and maintain home authority and primary authority arrangements.
- Ensure that officer potential is developed and that officers are competent in their areas of work and able to deal with the ever-increasing complexities of food/feed law enforcement.

The Pareto principle can be applied to food safety compliance as it can to many issues. Approximately 20% of the food businesses in the Borough create 80% of the workload.

Premises are found to be non-compliant with food law (attracting a Food Hygiene Rating of two or less); in such cases, escalating enforcement action is required in the form of revisits, notice service, formal closure and prosecution to ensure public safety.

There are also businesses that make little or no profit, they are frequently sold or close down and reopen with a new owner. These businesses are categorised by the enforcement community as "churn". As a general rule these businesses are often badly sited, purchased by inexperienced food business operators (FBOs) and difficult to make profitable without a significant cash injection and or change of marketing approach and strategy. There are very few examples where this type of business has been turned around to become a profitable business. Often the location, lack of investment in the structure and or marketing of the business are influencing factors. Owners of these premises (Landlords who themselves are not food business operators) rent or lease space on weekly or monthly basis often on cash only terms. When the Food Safety Division find the business operating, and enters into dialogue with the FBO and starts the process of escalating action, the food business operators [who are operating on low profit margins] move out to avoid enforcement action. The Landlord then finds another FBO on similar terms and the whole process starts again. There are no legal sanctions available to discourage a landlord from this practice.

The Enforcement Policy (See Appendix 1) has been developed to try and take account of this and where possible, we will direct these types of business to information and help that might improve compliance and profitability.

Officers promote food hygiene training during routine interventions. Arrangements have been made in the past to deliver courses using translators in languages including French,

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Bengali and Cantonese. Where it is known that neighbouring Local Authorities offer courses, candidates have been directed towards this training.

Emergency food safety issues are currently directed to a 24 hour communication centre and a senior officer may be contacted as required. No formal arrangements currently exist to cover this service. There has been concern expressed by Government agencies that their contingency planning relies upon them being able to contact and if necessary mobilise competent officers in an emergency. The cost of introducing proper cover is prohibitive and no changes are proposed to the current regime.

The Council's website, [www.havering.gov.uk](http://www.havering.gov.uk) is used to provide information about food safety services for consumers and business with links to other sites.

## Demands on the Food Service

New businesses are continuing to open as development within the Borough continues. Last year 242 changes were made to the premises register. This involved new businesses opening or closing for good, and changing ownership whilst continuing to trade. As of the 31<sup>st</sup> March 2019 the Borough had 1828 food businesses registered on its database.

The Council has initiatives to encourage business to the area, to encourage employment and add to the business rate revenue. Any increase in food businesses in the Borough will impose extra requirement for interventions. Over the past 8 years, there has been a 17% increase in food businesses in the borough and the trend looks set to continue in the future although possibly slowing. Early intervention is critical to control risk. Unrated premises are prioritised to ensure that this risk is controlled.

Legal Proceedings: - Escalating action and preparing prosecutions is time consuming and there may be considerable delay from the discovery of an offence to prosecution due to the complexity of a case. Under food law, investigations are allowed to extend for a year from the discovery of the offence and action can be taken up to three years after the commission of an offence. This period takes no account of the time required for courts to plan hearings and for defendants to be allowed time to question evidence and prepare their defence. If there are numerous or complex prosecutions then the programme as set out in this plan will not be achieved in full.

Increases to the elderly population of the Borough (aged 65+) is likely to result in an increase in care home provision within the Borough. As a general rule young people and older people are more susceptible to certain infectious disease. Generic risk assessments take regard of this fact and require additional intervention when catering for these vulnerable groups. We will continue to monitor this situation in the Borough as it may require an increase in resources to protect residents and fulfil this statutory duty. Catering for vulnerable groups requires enhanced intervention, usually on an annual basis regardless of the controls implemented.

Programmed intervention frequencies are risk-based and take into account previous compliance with food law. We measure the percentage of food businesses that are broadly compliant with food law as an outcome. Premises that are rated three or above in the Food Hygiene Rating Scheme (FHRS) are deemed to be broadly compliant with food law and do not incur follow up visits to check compliance. (FHRS is explained in more detail later on). To identify where improvement is occurring we can also measure the level of improvement within the three areas that make up the indicator.

### Routine Inspection Programme For 2019-20

Food Hygiene		Food Standards	
Risk Band	Number Due	Risk Band	Number Due
A	5	A	8
B	104	B	253
C	227	C	101
D	261	Unrated	91
E	394	TOTAL	453
Unrated	64		
TOTAL	1055		

Note: 'A' band businesses are the highest risk

The Local Authority Enforcement Monitoring Scheme (LAEMS) is the means by which enforcement data is provided to the FSA. Data is captured from our database and reported via an upload to the FSA; multiple requests from different parts of the FSA are infrequent, saving time and money for the authority. Accuracy of the database is critical.

Intensification of use can create problems with drainage in multiple use developments (mixed commercial and residential) which should be addressed by correct application of the planning process.

Freedom of information requests continue to add to the work of the Division, responses are now coordinated centrally within the division which has improved efficiency and reduced the time needed to respond to this ever increasing workload.

Promotion of healthy eating nutrition and health will be re-introduced this year with support from Public Health England (PHE).

### Animal Feed

There are an increasing number of premises registering in the Borough as feed businesses, most supply feed material in the form of waste food which will eventually be used to feed livestock (animals we eventually will consume). The registered business has an obligation to ensure that this material is handled properly to ensure that diseases such as foot and mouth are not passed on and that toxins and other pathogens are not found as residues that the consumer will eat. Checks on these businesses now form part of the feed element of this plan.

### FSA-sponsored Changes

By the end of this financial year it is expected that the FSA will require local authorities adapt to centralised food business registration.

The Agency may also require changes in data reporting to them in order to create a nation-wide performance indicator known as a 'Balanced Score Card'.

Both changes will require several days commitment from food officers and probably at least £1,000 in IT costs.

### Food Premises and Activity Data

#### **Food Hygiene Rating Scheme (FHRS)**

Havering has adopted the FHRS along with every other English authority. Its purpose is to allow consumers to make informed decisions about where they will buy their food. Businesses selling to other food businesses and small scale traders are not included in the scheme. Increasingly, the FHRS is a significant motivator for business to maintain or achieve good standards.



Along with most London boroughs, Havering charges for requested FHRS re-rating inspections and last year was the first full year of charging. Last year the charge was £202 and the current charge is £208. Income from this source in 2018/19 was £3190.

## Regulation and Enforcement Policy (Appendix 1).

The Division's policy sets out what regulated businesses can expect from the service. The Policy includes;

- the approach we will adopt;
- practical arrangements for putting the policy into effect'
- how we will endeavour to be fair to businesses whilst protecting the public health

## Service Delivery

### Categories of Intervention

Intervention types are identified in the FSA's Food Law Code of Practice. The Food Safety Division will carry out its duties in accordance with that code at all times.

Feed Hygiene/ Standards Interventions are part of a system to control hazards and ensure fitness for consumption of animal feed. To ensure that nothing in the feed may remain as a residue in the food, which might then transfer to the people consuming it. Feed law relating to hygiene of premises and microbiological quality of feed at all stages of primary production. The food standards agency has offered regional grants to help local authorities to employ competent officers to undertake this work, as it has not been cost effective in the past to employ individuals directly for these interventions. Havering will take advantage of the regional grant to implement its feed hygiene obligations in relation to the respectively small number of premises in the Borough registered as feed businesses.

### Performance relating to official controls.

Interventions carried out last year 2018/2019 as reported to Food Standards Agency via LAEMS official return (These figures are reported to the EU along with all other member states)

## Food Hygiene Interventions

INTERVENTION TYPE - HYGIENE	Number COMPLETED during previous year – 2018/19	Number EXPECTED during current year - 2019/20
Full/partial routine inspections or audits	669	870
Revisits, verification and surveillance	383	250
Sampling visits	19	15
Advice and education	23	15
Information and intelligence gathering	395	400
Total Premises	1828	1830
Total premises subject to official control	673	875

## Food Standards Interventions

INTERVENTION TYPE - STANDARDS	Number COMPLETED during previous year – 2018/19	Minimum number EXPECTED during current year - 2019/20
Full/partial routine inspections or audits	660	252
Revisits, verification and surveillance	40	40
Sampling visits	8	8
Advice and education	5	5
Information and intelligence gathering	321	101
Total Premises	1831	1870
Total premises subject to official control	625	305

As all but the highest risk businesses are inspected for food standards during food hygiene inspections, the number inspections done usually far exceeds the required number.

The inspection frequencies between food standards hygiene do not always match. For this reason food hygiene is used to set the frequency and a food standards inspection is carried out at the same time as hygiene inspections are often needed more frequently than standards inspections. The exception to this rule is category A food standards premises where the food standards frequency will be used to determine the intervention frequency and the roles reversed.

Improvements in overall compliance are seen in premises that are regularly inspected. There is no other effective mechanism other than to inspect all premises from time to time to establish compliance. As previously mentioned this is risk based to ensure proper allocation of resource where it is needed. It is not possible at this stage to determine what effect the FHRS scheme is having on compliance. All research prior to and since implementation indicates that it is driving compliance. In Wales and Northern Ireland where display is mandatory it has improved compliance although, there is still non-compliance. The latest research has indicated that 16% of premises are still not displaying their ratings, failure to display is a civil offence with attracts a fixed penalty.

As a rule when a business is not regularly inspected, it reduces the incentive for compliance and this can be a reason for a failure to maintain standards. Some businesses that have been left for longer periods due to staff shortages have been found to drop back to non-compliance even though they were compliant when initially inspected. This has potential negative impacts on public health and prosperity and involves additional and time-consuming resource to resolve. Prevention advice and enforcement although expensive, is far cheaper than formal legal actions such as notice service and prosecution.

Follow up interventions are required by the code of practice and undertaken in premises that fail broad compliance FHSR rated two or less. (See enforcement policy) Enforcement actions are escalated when continuing non-compliance is found in accordance with the enforcement policy. To comply with requirements of the Brand Standard for FHSR, premises will not be rerated at these inspections.

Capacity has been based upon average figures for other reactive work (which is also a projected figure and can change up or down), giving more or less capacity for proactive work. Capacity is also affected by unquantifiable enforcement work in non-compliant premises such as verification visits and formal actions for example; service of notice and follow up work such as emergency closures.

A percentage of premises do not open until lunchtime or until the early evening, or do not trade on certain days of the week, some premises are seasonal in nature and others close for holidays, for example schools dining facilities and factory restaurants. These factors make it extremely difficult to apply conventional capacity management principles without having to assume a large degree of error in the results obtained.

Official controls are carried out in accordance with the Food Standards Agency Food Law Code of Practice; special emphasis is placed on the level of compliance with requirements for documented control systems and hygiene training. Unannounced visits are required during the working day.

#### Alternative Enforcement Strategy

The Council follows an Alternative Enforcement Strategy, which is specified as an acceptable method of dealing with very low risk businesses instead of carrying out inspections. A sample of premises is contacted to assess the accuracy of the response from the business. These establishments will be subject to an intervention by the Council not less than once every three years for food hygiene.

In the period covered by this service plan it is intended that these premises will receive an intervention by letter and questionnaire based upon examples of good practice provided by the Food Standards Agency.

In the longer term, it is planned that a selected number of these premises will receive a targeted intervention.

The Alternative Enforcement Strategy will not preclude full inspection, partial inspection or audit if the Council deems it necessary in individual circumstances.

#### Food Standards Intervention Programme

Food standards interventions are part of the system for ensuring that food and food packaging material meets the requirements of Food Standards Law, including proper presentation, labelling and advertising so as not to confuse or mislead the consumer, compliance with compositional and bacteriological standards, and the absence of non-permitted or excessive levels of additives, contaminants and residues.

Official controls are carried out by the Council in accordance with the Food Standards Agency Food Law Code of Practice.

The Council's intervention strategy for food standards activities is to undertake food standards inspections at the same time as food hygiene inspections other than high-risk (A rated) businesses which are inspected on schedule. At each inspection the food standards risk assessment is completed and recorded.

Food standards matters are also included in the Council's Alternative Enforcement Strategy.

#### Food Hygiene – Interventions Due as of 1<sup>st</sup> April 2018 and Outstanding as of 31<sup>st</sup> March 2019

Risk Band	Due Interventions	Total Outstanding
Premise Rating – A (Highest Risk)	74	0
Premise Rating - B	221	1
Premise Rating - C	333	3
Premise Rating - D	302	13
Premise Rating - E	336	8
Premise Rating - Unrated	223	30
Premise Rating - Outside	0	0
Totals	1489	55

#### Food Standards – Interventions Due 1<sup>st</sup> April 2018 and Outstanding as of 31<sup>st</sup> March 2019

Risk Band	Due Interventions	Total Outstanding
Premise Rating – A (High Risk)	4	0
Premise Rating – B (Medium Risk)	383	77
Premise Rating – C (Low Risk)	419	124
Premise Rating - Unrated	228	39
Premise Rating - Outside	0	0
Totals	1034	240

Only the highest risk ('A' Band) premises are targeted interventions outside the complementary food hygiene inspection programme..

#### Food Hygiene – Interventions Due as of 1<sup>st</sup> April 2019

Risk Band	Due Interventions
Premise Rating – A (Highest Risk)	5
Premise Rating - B	104
Premise Rating - C	227
Premise Rating - D	261
Premise Rating - E	394
Premise Rating - Unrated	46
Premise Rating - Outside	20
<b>Totals</b>	<b>1057</b>

## Feed Standards Intervention Programme

Feed means food intended for animals that are kept by humans to be eaten for food (food animals). The intervention programme requires Havering to inspect producers of animal feed and feed material that makes up animal feed. As well as hygiene requirements for production storage and handling, and ensuring that, no products of animal origin are fed to food animals. There is a requirement to check that labelling and advertising does not confuse or mislead, and to check compliance with compositional and bacteriological standards, and to ensure the absence of non-permitted or excessive levels of additives, contaminants and residues.

There are a number of farms registered in the Borough that grow food intended to feed the animals that we eventually eat. Large supermarkets, bakeries and other manufacturers also send waste food for processing as animal feed. This is defined as "feed material".

Following recent changes to the rules governing this practice, Havering, along with most other London Boroughs, does not currently employ any officers with the relevant qualifications to lead on feed standards or to inspect those establishments undertaking this activity. The FSA are aware of this situation and offer regional grants to support their national priorities. The Association of London Environmental Health Managers and London Trading Standards Association administer the grants. Havering authorise a qualified inspector to offer advice and inspect premises that are due for inspection and the regional partnership employ and manage the officer.

## Food Complaints And Requests for Service

The Food Safety Division responds to all intelligence and complaints about food or food premises made to the Council. In 2018/19, 930 requests for service were logged. Requests included complaints about hygiene of premises and labelling but also includes requests for information about starting a business, and requests for export certification and freedom of information requests.

The following table summarises the numbers of complaints received in 2018/10 specifically about hygiene of premises, food served from premises and labelling and composition of food.

### Complaints received 2018/19

Complaint Investigations - 2018/19 - Food HYGIENE and STANDARDS	Total
Food Hygiene	123
Hygiene of premises	76
Labelling and composition	73

Requests from businesses for information or assistance totalled 154 in 2018/19 and a similar number is expected in the current year.

## Infectious Disease Control Investigations

Diagnosed cases of food poisoning and food-borne illness are formally notified to the food team. Subsequent investigations are based on the type of organism, the number of

confirmed or suspect cases and are carried out in accordance with Department of Health Guidance. A Memorandum of Understanding (MOU) has been agreed with Public Health England and follows the principles established in a countywide procedural document. Typically, 10 to 20 cases a year need investigation.

Although infrequent, large or serious outbreaks of illness can require a great deal of time and would significantly affect the food team's ability to complete the routine programme. The food team will also assist in the investigation and control of tuberculosis as required. Note that the MOU requires the provision of 24-hour cover for outbreak investigation, which has been mentioned above in "Emergency Food Safety Issues".

Allegations from the public are not investigated unless a faecal specimen has been provided or there is circumstantial evidence of an outbreak affecting unconnected people or similar evidence, which would justify an investigation. All allegations are logged so that an outbreak can be detected quickly.

### Home Authority Principle

The Local Government Regulation (LG regulation) Home Authority Principle and legal definitions aim to ensure that consistency issues for food businesses are dealt with by one authority, assisting in their legal compliance. The scheme recognises two functions for food businesses operating nationally or internationally, home authority (where the head office of an organisation is within the Borough) and enforcing authority (where a company has a manufacturing unit in the Borough, or a product has been sold in the borough). Sometimes, the head office and a manufacturing unit are within the same Borough, in which case both home and enforcing functions apply. Officers use the scheme when investigating food complaints relating to food sold within the Borough and manufactured / supplied from premises outside of the Borough.

### Primary Authority (PA)

The Home Authority principle has been extended by part 2 of the Regulatory Enforcement and Sanctions Act 2008, which came into force on the 6<sup>th</sup> of April 2009. This is now administered by the Office for Product Safety and Standards which is part of the Department for Business, Energy & Industrial Strategy (BEIS)

PA expands the role of home authorities allowing them to charge for services and offer assured advice on compliance with legal requirements to business. Once approved, the advice applies throughout the country and cannot be challenged without following a set protocol. This gives business security of consistent enforcement that was missing from the regime prior to the introduction of PA. The scheme is complex and has to be implemented without affecting a role as an independent regulator.

Nationally the effect of PA should allow redirection of resources. Officers all over the country must check a national data base in advance of an intervention to see if a partnership exists (if it does there may be an approved inspection plan) which must be followed, unless permission is obtained in advance to deviate from the plan. It is also necessary to obtain permission from the PA before taking any formal action apart from emergency action. Havering currently has one partnership in operation; a second partnership has been dissolved at the request of the business until a decision is made

regarding a new location for the business. It is hoped to expand the scheme further in the food safety division and in other departments. This initiative complies with the Borough's regeneration policies for business.

### Advice to Business

#### **Successful business means a successful Borough**

The Authority is committed to improving food safety and standards and with it the general economy, through education and enforcement. Advice is provided to businesses in the following ways;

- Start-up advice;
- Both verbally and in writing during inspections;
- Via the Council's web site;

There is presently no delegated authority to charge for advice, although this is likely to be reviewed in year 2019-20. The Council does not act as a consultant except where a formal Primary Authority Partnership has been agreed.

### Food Inspection and Sampling

Sampling of food is co-ordinated with the London Food Co-ordinating Group and the North East Sector Food Liaison Group in partnership with the appointed Food Examiner and the Public Analyst. The programme covers local, regional, national and when required European and non-EU sampling objectives. Analysis of microbiological samples by the food examiner is not charged, although there is a cost to the Council to collect samples and deal with results. Costs associated with sampling are forecasted into the Public Protection budget based on the previous year's costs.

A food business is notified as soon as results are received. If the results are unsatisfactory there is a follow up intervention to determine the cause and advise on measures to prevent a recurrence. This may result in formal action depending upon the non-compliance.

#### **FOOD HYGIENE SAMPLES 2018/19 (Microbiological Contamination)**

SAMPLE TYPE	Satisfactory results	Unsatisfactory results
Bakery & Cereal	3	0
Eggs	1	0
Fruit & vegetables	7	0
Meat, game, poultry	3	0
Surface swabs	43	17
Totals	57	17

#### **FOOD HYGIENE SAMPLES 2018/19 (Composition and Labelling)**

	Contamination	Composition	Labelling	Totals
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Food Type	Total samples taken	Unsatisfactory results	Total samples taken	Unsatisfactory results	Total samples taken	Unsatisfactory results	Total samples taken	Unsatisfactory results
Alcoholic (exc. wine)	0	0	5	5	8	7	8	7
Meat, game, poultry	0	0	0	0	1	1	1	1
Prepared dishes	3	0	0	0	0	0	3	0
Oils & fats	1	0	0	0	1	0	1	0
Totals	4	0	5	5	10	8	13	8

This year 70 samples were sent to official laboratories for microbiological testing or compositional analysis, 36% were found to be unsatisfactory – mainly surface swabs. Further action was taken to ensure that issues found were rectified.

### Food Safety Incidents

The responsibility for ensuring safe food is produced, distributed, and sold lies firmly with the Food Business Operator (FBO), this principle also applies to the withdrawing of unsafe or incorrectly labelled food. If a food business identifies an issue it has a legal duty to bring this to the attention of the competent authority without delay.

The EU operates a rapid alert system for food and feed (RASFF) and the FSA and local authorities play a significant part in its successful operation. Food alerts for action and/or information are received by secure email from FSA.

The result of industry improved compliance has meant that most notifications are for information only and require no further action. Some alerts do require immediate action. The food alert warning procedure for food incidents recognises that such issues are required to be dealt with quickly in accordance with the categories on each food alert. Specific actions and audit trails following the receipt of an alert are required.

### Liaison with other Organisations

Consistency is a key feature in all of the Authority's regulatory functions. With regard to food safety, this is achieved by:

- Attendance and active participation by a Senior Officer at the Approvals and Manufacturing Group, North East Sector Food Liaison Group and PHE Infectious Disease Control each hold regular liaison meetings to ensure co-ordinated approaches and minimal duplication of effort.
- Director of Public Health (DPH) links to the Primary Care commissioning group and the Strategic Partnership. Public Health England and the Food Standards Agency attend regional coordinating meetings.
- Attendance at these meetings ensures that food safety risks affecting the region are identified quickly and that criminal activity is not allowed to move from Borough to

Borough without being detected. For operational security reasons, no further details are provided regarding liaison and intelligence gathering.

### Food Safety Promotion

Promotion of food safety to the public has been achieved in the following ways:

- Food information available directly from the Food Safety section of the Council website.
- Particular initiatives including promotion of Food Safety Day and the annual Havering Show

## Resources

### Budget

The below table shows the total budget allocation apportioned to the Food and Feed Law Service Plan for both 2018/19 and 2019/20

Item/Budget line	Budget 2018/19 £0.000m	Budget 2019/20 £0.000m
Salaries & Special Project A26210.611000	0.324	0.264
Staff Training A26210.611480	0.005	0.005
Travel costs A26210.631220/631260	0.005	0.005
Administration A26210.641340	0.004	0.004
IT Software A26210.642060	0.009	0.009
Food Sampling A26210.641340	0.019	0.019
Income(estimate)		
A26210.516760.5015 (Health Export Certs)		
A26210.516640.5091 (FSRS Reratings)	-0.012	-0.013
<b>Total</b>	<b>0.354</b>	<b>0.293</b>

### Staffing

#### Staff in respect of food safety provision (hygiene and standards) - 2019/20

	Full Time Equivalents: FTE	Current Posts Filled
Public Protection Manager (EH)	0.5	1 permanent
Senior Public Protection Officer (Food Safety)	1.0	1 permanent
Senior Public Protection Officer (Food & Work Safety)	0.5	1 permanent
Public Protection Officer (Food)	2.0	2 permanent (+ staff on contract if required)
Special Projects	1.0	Contracted out service equates to 1 FTE
Administration Support	1.5	2
<b>Sub Total</b>	<b>6.5</b>	<b>6</b>
Health & Safety at Work and nuisance investigation, planning consultations undertaken by Food Safety Division by Public Protection Officers	0.4	0.4
<b>Total resource available specifically for food law competent authority statutory duties as reported on LAEMS (excludes management).</b>	<b>6.1</b>	<b>5.6</b>

## Staff Development

The officers within the Food Safety Division follow a programme of continuing professional development.

Statutory competence criteria require detailed assessment and review annually and in year when changes to legislation or practices require it. Officers involved in food law enforcement are required to achieve 20 hours of continual professional development (CPD) per year. Currently one Chartered Environmental Health practitioner within the Division is required to achieve 30 hours CPD per year to maintain chartered status. A minimum of 90 hours per year is required to accommodate this essential training. Personal Development Reviews (PDRs) are held on a six monthly basis as part of the staff development plan.

ABC Food Training provide an on line training package, relevant and appropriate training courses may be identified based upon business need and available resources. Cascade training is facilitated at team meetings and other ad hoc training sessions when required to keep costs low and consistency levels high.

The London region provides some ad hoc training at a reasonable price.

## Quality Assessment and Monitoring

The provision of quality services is one of the Council's guiding principles and food safety is no exception. With regard to food safety, the quality agenda is pursued via a number of methods. Documents are controlled via the database, the quality manual, food law code of practice and food law practice guide specify standard operational procedure and protocol for food safety work.

Monitoring arrangements are in place for checking reports and correspondence, notices etc. Joint visits are undertaken to monitor consistency and monthly team meetings are held where FHRS consistency is discussed and other matters can be actioned as required. Complaints against the service are monitored on a Service and Corporate basis. The quality manual guides officers through policy issues. Regular training and use of the database ensure a consistency of approach. The service participates in national and regional consistency exercises annually.

The Food standards Agency (FSA) sets standards and monitors local authority food law enforcement services using powers in the Food Standards Act 1999. The Service submits mandatory annual returns to the FSA detailing official controls and interventions, enforcement and educational activities undertaken with outcomes. The Authority's performance is closely monitored to ensure compliance with the Framework Agreement. A Local Authority Enforcement Monitoring Scheme (LAEMS) is in place for annual electronic returns. Data is uploaded to a secure national server and analysed. Similar data is collected from all local authorities in the country, it is collated and reported to the European Food Standards Agency. This data is used to compare local authority performance.

The FSA has a programme of audits of Local Authority performance. Their last audit of the Council was in December 2015 and all adverse findings have since been remedied following a temporary increase in resources.

The FSA plan to introduce a new benchmarking tool called “The Balanced Scorecard” which aims to combine elements of outputs, outcomes, and resourcing into a single measure. This may be introduced by the Agency in 2019/20 and will require some extra resource from management and IT support for a short period.

#### Inter Authority Benchmarking and Audit

From time to time audits and consistency exercises are undertaken between East London Boroughs take place. In 2018/19, the Borough participated in a ‘rare burger’ consistency exercise, which involved a joint visit with the London Borough of Tower Hamlets.

#### Review of Performance Against the 2018/19 Plan

The Manager of the food safety function will review performance measures and service improvements contained in the plan on an annual basis and publish results in the plan.

Service performance indicators include:

- Total number of food businesses requiring regulation.
- Food establishments due for inspection
- Inspections completed
- Percentage of establishments that are broadly compliant with food law.
- Food establishments rated zero for food hygiene rating
- Food establishments rated one for food hygiene rating.
- Total number of interventions achieved as a percentage of those due.
- Benchmarking with other Boroughs where available

#### Current Food Hygiene Rating Compared To Rating at the Previous Inspection

<b>Previous rating</b>	<b>Current Rating improved %</b>	<b>Current Rating is un-changed %</b>	<b>Current Rating went down %</b>	<b>FHRS Rating no longer given %</b>
<b>0</b>	66.7	33.3	N/A	0.0
<b>1</b>	80.4	19.6	0.0	0.0
<b>2</b>	72.3	12.3	13.8	1.5
<b>3</b>	59.0	35.3	5.8	0.0
<b>4</b>	30.7	55.6	12.3	1.4
<b>5</b>	N/A	84.2	13.4	2.4
<b>Total</b>	<b>27.5</b>	<b>60.1</b>	<b>10.9</b>	<b>1.6</b>

The Key features of this table are that:

- two and half times as many businesses improve at their subsequent inspection than get worse
- businesses with low or mediocre ratings at the last inspection typically improve their rating at the subsequent inspection
- of the best performing businesses (i.e. rated 5), 1 in 7 fall to a lower rating at their subsequent inspection

Food Hygiene – Interventions Due as of 1st April 2018  
and Outstanding as of 31st March 2019

	Due Interventions Total	Total Outstanding
Premise Rating – A (Highest Risk)	27	0
Premise Rating - B	116	1
Premise Rating - C	214	3
Premise Rating - D	249	13
Premise Rating - E	336	8
Premise Rating - Unrated	62 (+161 new registrations in the year)	30
Premise Rating - Outside	0	0
Totals	1180	55

Key result: Of the food hygiene inspections required, including new registrations, 94.4% were inspected

Food Standards – Interventions Due 1st April 2018  
and Outstanding as of 31st March 2019

	Due Interventions Total	Total Outstanding
Premise Rating – A (High Risk)	4	0
Premise Rating – B (Medium Risk)	383	77
Premise Rating – C (Low Risk)	419	124
Premise Rating - Unrated	228	39
Premise Rating - Outside	0	0
Totals	1034	240

Key result: all high risk food standards businesses were inspected

Variation from the 2018/19 Food Service Plan

The plan was completed except that 55 (5.4%) of food hygiene inspections due were not completed. Those uninspected businesses were largely lower risk, for example retailers and home caterers. Some are missed because in the closing month of the year, businesses can be unavailable for inspection due to short-term absences. During the last month of the year, one FTE was removed from the team for budgetary reasons. A re-organisation earlier in the year lead to some lost time as roles changed within the team.

## APPENDIX 1 –Food Law Enforcement Policy

### **Purpose Of The Policy**

This policy has been designed to fulfill the requirement contained in the Food Standard Agency's (FSA) Food and Feed Law Codes of Practice (England) for the Council as a "competent authority" to have an up-to-date, documented enforcement policy which is readily available to food and feed business operators (FBOs) and consumers. The Policy encompasses all areas of food and feed law that LBH has a duty to enforce and includes criteria for the use of all the enforcement options that are available.

The Regulator's Code (April 2014) has been applied in drafting this policy. The principles of the code are as follows;

- 1) Regulators should carry out their activities in a way that supports those they regulate to comply and grow;
- 2) Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views;
- 3) Regulators should base their regulatory activities on risk;
- 4) Regulators should share information about compliance and risk;
- 5) Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply; and
- 6) Regulators should ensure that their approach to their regulatory activities is transparent.

It is not possible to consider every eventuality in this policy. There may be occasions where decisions deviate from the policy. In such rare cases a senior manager in the Public Protection service will explain the reasons for the, so far as is reasonable, without declaring sensitive or confidential information or revealing investigation techniques that might prejudice current or future cases. A record will be made of all such decisions that deviate from the code.

An equalities impact assessment has been completed to identify areas where the policy might impact inadvertently on disadvantage groups within the community.

The overall equalities and social inclusion impacts and risks of the regime were considered at a national and European level at the time of inception of the regulator regime of food premises risk rating. The implementation of this years' service plan aims to continue to ensure that people who live, work or visit the Borough or purchase food produced in the Borough have access to safe unadulterated food, thereby, improving their general lifestyles, health and wellbeing.

It is envisaged that there will be a net positive impact on all sections of the community across all protected characteristics. Children and young people and older people, vulnerable children and adults are amongst the groups that will potentially benefit the most as they are more susceptible to food poisoning.

Where compatible with corporate policies, this policy along with the Public Protection Food and Feed Safety Service Plan will be published on the Council's website, any comments received during its lifetime will be considered during the review process.

### **General Overview of Enforcement Principles**

The protection of public health will be the paramount consideration in the Council's approach to the enforcement of food law.

This policy aims to protect public health by targeting resources towards persistently non-compliant businesses using a risk-based and proportionate approach.

Enforcement effort directed at persistently seriously non-compliant businesses is time consuming and costly to the council tax payer. Permitting non-compliance with food law to continue is not fair to businesses that are compliant and act responsibly. It is potentially dangerous and or misleading to the consumer if an irresponsible business is allowed to operate unchecked.

It should be noted that non-compliance with food and feed law is a criminal offence. In this policy "enforcement" includes any action aimed at ensuring that individuals or businesses comply with the law. It is not limited to formal enforcement action such as prosecution, but includes a range of interventions that seek to achieve compliance with food law.

In undertaking all its food law enforcement responsibilities The Council will strive to ensure that all enforcement action taken is reasonable, proportionate, risk-based and consistent with good practice.

In every circumstance the full range of appropriate enforcement options will be considered. This includes educating FBOs, giving advice and guidance, informal action, sampling, detaining and seizing food, serving hygiene improvement notices/improvement notices, remedial action notices, revocation of approval, prohibition procedures and prosecution.

A "risk based hierarchical enforcement approach" specified in the food law code of practice and practice guide will be used. Advice, education and informal action will be used as a first option in the absence of these aggravating factors:

- a high risk to public health, or
- a flagrant contravention of the law, or
- a history of significant or persistent non-compliance with food law, or
- a history of obstruction, or
- a high competitive advantage (e.g. large volumes of misleadingly described food)
- a failure to notify the authority that they are trading 28 days before opening
- a history of serious non-compliance in other business regulatory areas, e.g. health and safety at work, trading standards, or licensing.

We will consider formal action towards food businesses in the first instance where there is evidence of such aggravating factors.

We will use immediate formal enforcement action, for example prohibition procedures, where there is evidence of a serious or imminent risk to public health.

Service of notices, appeals and applications for Court Orders are civil procedures, but noncompliance with notices or Orders is a criminal offence which will usually lead to prosecution.

Where a Primary Authority partnership exists we will attempt to resolve non-compliance by liaising with the Primary Authority where appropriate and urgent action is not required.

In considering whether to initiate enforcement action, we will take account of the following:

- This enforcement policy



- The Code for Crown Prosecutors
- The Regulators Code
- Guidance from government regulators e.g. the FSA and
- Intelligence from other enforcement bodies.

## **Conduct of Officers**

All LBH Food Safety Officers will:

- be courteous at all times,
- be competent in food safety matters,
- have regard to this policy when carrying out their assigned duties,
- always identify themselves to the FBO and show official LBH identification, unless carrying out covert operations.

## **Conduct of Food Business Operators**

Officers will expect the same level of courtesy they give to FBOs and their staff to be given to them in return. Any form of abuse is unacceptable. If abuse, either verbal or physical, occurs then the Council's procedures for reporting and dealing with such incidents will be followed.

It is an offence to obstruct an officer in the execution of their duties. Any form of obstruction will be considered when assessing the premises risk rating and food hygiene rating and can be considered in the confidence in management element of the Food Hygiene rating scheme. .

Any abuse of an officer physically or verbally may be reported to the police and/or the Council's legal services for further action.

## **Operational Implementation**

The following sections relate to specific enforcement issues in the Council's food safety work and are included to ensure compliance with the Framework Agreement.

### **New Food Businesses**

Potential food businesses will be signposted to advice and guidance located on the Havering and FSA websites, or sent appropriate information on request. . This service will periodically review the possibility of charging for enhanced businesses advice.

### **Registration of Food Businesses**

A business that fails to register 28 days, in advance of opening for business or such lesser period as seems reasonable in exceptional cases, will attract a score of at least 10 for confidence in management, which will stop a food hygiene rating of 5 being scored at the first inspection.

A few food business operators attempt to evade enforcement or seek unwarranted re-rating under the Food Hygiene Rating Score by getting relatives, employees, friends or other 'stooges' to register as a new owner while in fact remaining in control of the business. As it may not be legal for the Council to refuse to register such applicants, the

new applicant will be added as a joint food business operator and all joint operators will be notified of this action. The business will not be considered a new registration and will not be liable for a new Food Hygiene Rating.

Premises that have completed an application to register but are not yet trading will not be placed on the Councils register of food businesses. They will be allocated a “not yet trading” category and we will contact them on a monthly basis to establish when they intend to start trading so that they can be formerly registered and inspected and rated for FHRS purposes. Other mechanisms for automating this process may be considered. It should be noted that until the business is formerly accepted as registered it will not show on the food hygiene rating website as awaiting inspection.

Where a premises ceases trading, closes temporarily but fails to contact this division to inform us of the situation and in a small number of cases some businesses fail to respond to reasonable requests for us to visit, this may be when a mobile trader trades away from the borough and is rarely home for an inspector to visit, during normal or outside of office hours. In these instances after reasonable efforts have been made to establish contact, the premises will be removed from the Council’s register and the business operator informed. They will also be removed from the FHRS national database at the same time.

### **Operation of the Food Hygiene Rating Scheme (FHRS)**

Although not an enforcement option, the rating the Council gives a business can significantly affect their trading prospects. Therefore the scheme should operate in accordance with natural justice which is largely achieved by following the FSA’s “Brand Standard”.

In summary, a rating is given to the premises from 0 to 5 taking into account scores for compliance with hygiene and safety, structure and cleanliness and confidence in management. The practical application of the rating scheme scoring method is complex and requires detailed reference to the Food Law Code of Practice, Practice Guidance and Brand Standard every time a business is inspected.

Normally a business will be informed of their food hygiene rating at the closing meeting following a full or partial inspection. Exceptionally the rating may be notified by letter after the inspection. Ratings are monitored and checked for accuracy and consistency on a random basis. If this monitoring identifies anomalies the FBO will be notified, the rating will be withdrawn and a new rating allocated. The appeals procedure will start from the point that the new rating is notified.

Food Business Operators must put in place, implement and maintain a permanent procedure or procedures based on the Hazard Analysis of Critical Control Points (HACCP) principle. HACCP involves the business identifying those things (cooking, cooling, cleaning and cross contamination) that could make food unsafe for customers.

If a food business has documented food safety procedures but they are not being implemented then this will be reflected in the score awarded in the “confidence in management” category.

In line with local liaison group policy, if a business cannot produce evidence at the time of inspection that it has been maintaining appropriate monitoring documentation for a period of five weeks or more then this will be taken as evidence that the food safety management

system, if it exists, is not being implemented. In such cases a score of 20 will be awarded in the “confidence in management” category which will lead to a maximum potential overall rating of 1.

An appeals procedure will operate and details are provided to the FBO following inspection which can be found on the Councils website.

After any appeal is determined, Havering may publicise, e.g. “tweet”, information about premises that fail broad compliance and are given a rating of 2 or less, or achieve a 5 rating, or show noteworthy improvement.

Peer review and inter authority auditing and challenge testing exercises will also take place from time to time to help ensure consistency.

### **Routine Inspection and Re-visit Procedure**

Official controls will not be made by appointment unless it is unavoidable, e.g. at lock-up premises. Unreasonable refusal to allow an intervention to take place will be considered as obstruction and will result in entry by warrant and/or legal proceedings.

### **Informal Action**

Informal action to secure compliance with legislation will include offering advice and the use of written or verbal warnings, including those generated following inspection.

During an inspection visit of a food premises, the officer may give the proprietor verbal advice on how to remedy any contraventions of the law and on general good practice.

Timescales for any action or work required will be discussed and agreed to bring about compliance with food law. Where agreement cannot be reached at the time of the visit further discussions regarding timescales may take place in writing. If an agreement on timescales cannot be reached escalating enforcement action can be expected to follow.

There may be occasions where precautionary informal action is required in the form of a voluntary written undertaking. For example, for a butcher to dedicate a sole vacuum packing machine to either raw or ready-to-eat food and not both. An example from food standards is where an FBO offers allergen -free food but the Food Team consider that the operation of the business does not justify the claim. Breach of an undertaking is a severely aggravating factor when considering any enforcement action.

### **Formal Action**

The following sections deal with more formal types of enforcement activity. Current FSA guidance on the use and service of notices will be observed at all times.

### **Detention and Seizure of Food**

Where the Council has grounds for suspecting that food does not comply with food safety requirements we may use powers to inspect, detain, seize and arrange for condemnation of the food.

When food is seized, we will give the person from whom the food is taken a detailed receipt as soon as possible after.

### **Hygiene Improvement Notice and Improvement Notice**

These are statutory notices used when a food business is failing to comply with food hygiene or food processing regulations. They require the necessary remedial action to be taken by a proprietor of the food business in a specified time. (There is a statutory 14 days appeal period against service of a notice of this nature. Therefore no works can be required to be completed in less than 14 days.

Discussions will take place with the FBO, where possible, to determine a reasonable time for compliance with a notice. This will take into account the risks involved by carrying on the business in breach of food law: the costs of compliance; the availability of equipment and materials and labour; how long the non-compliance has been continuing; as well as any competitive advantage that may have been gained.

Requests for extensions of time must be made in writing before the expiry of the notice. If an extension of time is granted then the existing Notice will be withdrawn and a new Notice will be served stating the new specified time for compliance.

After the notice has expired a visit will be carried out to assess if compliance has been achieved. Failure to comply with a Notice is a criminal offence and may lead to legal proceedings being instigated.

### **Remedial Action Notice (RAN)**

These are statutory notices specifically designed for use in premises that are approved, or should be approved, to handle products of animal origin defined in EU Regulation 853/2004.

They are far more prescriptive than hygiene improvement notices. They can be used to stop a process or activity because of non-compliance with the special provisions that the regulation requires.

### **Hygiene Emergency Prohibition Notice**

Where the health risk condition is fulfilled and there is an imminent risk of injury to health posed by a food premises or process, the LBH Officer may serve a Hygiene Emergency Prohibition Notice requiring the business to close and cease trading and/or stop a particular process.

The use of a Hygiene Emergency Prohibition Notice will be considered appropriate only if there is an imminent risk of injury to health and one or more of the following circumstances are present;

- the consequences of not taking immediate and decisive action to protect public health would be unacceptable;
- the guidance criteria specified in the Food Law Code of Practice concerning the conditions when prohibition may be appropriate are fulfilled;

- there is no confidence in the integrity of any offer made by the food business operator to voluntarily close the premises or cease the use of equipment, process, or treatment associated with the imminent risk; and
- the food business operator is unwilling to confirm in writing his/her offer of a voluntary prohibition.

Wherever possible, a second opinion from another suitably authorised officer will be obtained prior to the notice being served for the purpose of checking the notice.

### Examples of Health Risks

The following paragraphs provide examples of circumstances that may show that the health risk condition exists as defined by Regulation 7(2) or Regulation 8(4) i.e. there is an imminent risk of injury to health, and where an authorised officer may therefore consider the use of such prohibition powers. These examples are in no way prescriptive or exhaustive and are for illustrative purposes only. Relevant guidance from the FSA will be followed in all such cases:

- Infestation by rats, mice, cockroaches, birds or other vermin, serious enough to result in the actual contamination of food or a significant risk of contamination.
- Very poor structural condition and poor equipment and/or poor maintenance, or routine cleaning and/or serious accumulations of refuse, filth or other extraneous matter, resulting in the actual contamination of food or a significant risk of food contamination.
- Drainage defects or flooding of the establishment, serious enough to result in the actual contamination of food, or a significant risk of food contamination.
- Premises or practices which seriously contravene food law and have been, or are implicated, in an outbreak of food poisoning.
- Any combination of the above, or the cumulative effect of contraventions which, taken together, represent the fulfillment of the health risk condition.

Where a Notice is served an application must then be made within 3 days to the Magistrates' Court to have the notice confirmed with a Hygiene Emergency Prohibition Order. If the court is satisfied that there was an imminent risk then costs incurred by the Council may also be awarded against the business.

### Voluntary Procedures

If the manager of a food business offers to close voluntarily, the officer should confirm that the manager has the authority of the FBO to agree to such voluntary action. The officer should ensure that frequent checks are made on the establishment to ensure that it has not re-opened.

This is appropriate when the FBO agrees that a health risk condition exists as defined by Regulation 7(2)/Regulation 8(4) i.e. there is an imminent risk of injury to health. Any voluntary closure agreement should be confirmed in writing by the FBO or manager and the authorised officer, with an undertaking by the FBO or manager not to re-open without the officer's prior approval.

### Entry at reasonable times (Powers of Entry)

An authorised officer can enter any premises at any reasonable time. The officers photo card identification and a copy of his or her authorisation document is sufficient evidence that they are authorised. All normal working hours of the day or night could be reasonable depending upon the type of premises. For example it would be considered unreasonable to try to gain entry to a premises on a Thursday afternoon that usually closes on a Thursday afternoon. It would be considered reasonable to try gain entry to a premises on a Saturday night if the busiest period is a Saturday night and it was necessary to observe this period to check compliance.

### **Warrant to Enter Premises**

Officers may apply to the Magistrates' Court for a warrant to enter premises in the following circumstances:

- entry is required at an unreasonable time; and/or
- entry to a premises is refused; and/or
- entry is expected to be refused; and/or
- the premises are vacant and entry by force is required.

Entry to domestic premises used as a food business will usually be notified 24 hours in advance unless this would negate the reason for entry, in which case a warrant to enter the premises would have to be granted from a magistrate.

In all cases, officers will exercise their powers courteously and with respect for persons and property and only use reasonable force when this is considered necessary and proportionate to the circumstances.

### **Prosecution**

Decisions to prosecute will be taken strictly in accordance with the Crown Prosecution Service, FSA codes of practice, Regulators Code and any relevant guidance issued by the London Borough of Havering.

When gathering evidence the Police and Criminal Evidence Act (PACE) code of practice applies.

Before considering a prosecution, the full code test in the code for crown prosecutors will be applied to establish there is sufficient evidence and if it is in the public interest to proceed with a case. Additional factors which will be considered include the following;

- Reliability and credibility of evidence
- The nature of the breach and history of compliance.
- Previous convictions or cautions
- In the case of a new business the FBO's willingness to comply and prevent a recurrence.
- The seriousness of the offence.
- The vulnerability of any victim
- The financial or equivalent gain from the committing the offence
- The likelihood of the defendant being able to establish a due diligence defence
- Whether the issuing of a simple caution would be more appropriate or effective

### **Simple Caution**

A simple caution may be offered where there is an admission and acceptance of guilt. Normally this will only be offered for first (or less serious) offences; the offender should not have received a caution for a similar offence within the last 2 years. Sufficient evidence will have been obtained to prove the case and it has been determined that this course of action is in the public interest. The offender must be 18 years of age or over.

This course of action is normally considered when the criteria for prosecution are met but extenuating circumstances suggest a more lenient approach would achieve the same objectives.

If the offender commits an offence in the future any previous convictions or cautions will be taken into account before a decision is made to prosecute. It is also likely to influence how the Council and others deal with any similar breaches in the future and may be cited in court if the offender is subsequently prosecuted for a similar offence. If a caution is issued to an individual (rather than a corporation) it may have consequences if that individual seeks certain types of employment.

Both prosecutions and simple cautions will be recorded on the FSA's national data base for this purpose.

### **Recovering our costs**

The Council will normally seek to recover all our costs from convicted offenders and or where a successful application has been made for an Emergency Prohibition Order, Condemnation Order or similar court order.

Where a food business operator chooses to opt for voluntarily closure, voluntary surrender food or voluntarily ceases an activity, which may otherwise have led to use of emergency powers, the Council will not routinely seek to recover costs.

### **Proceeds of Crime**

Applications may be made under the Proceeds of Crime Act for confiscation of an offender's assets. Their purpose is to recover the financial benefit that the offender has obtained from his criminal conduct. Applications may be made after a conviction has been secured.

### **Publicity following Enforcement Action**

In any case requiring the closure of a food premises using emergency prohibition powers (or exceptionally voluntary procedures), prosecution and/or seizure of unfit food, unless "sub judice" applies, a report will be sent to the Council's communications department who will produce a press release to the media. This is to ensure complete transparency of information to the public.

### **Enforcement within establishments operated by LBH**

Havering Education Service catering services (HES) provide meals in a number of schools in the Borough. They also provide the Town Hall restaurant facility and occasionally food for meetings to order.

There is regular communication with the HES management team and the Lead Officer for food safety. A service level agreement (SLA) has recently been signed to offer legal advice on compliance. Issues of noncompliance arising from routine official interventions and complaint investigations are discussed in the same way that the Council would discuss them with an independent FBO. Timescales are agreed for the implementation of controls or any works required. Reports following interventions are sent to the Catering and Facilities Manager and to the respective schools.

All premises operated by HES are rated for intervention frequency and included on the database to calculate the date of next intervention. HES are not party to information regarding inspection programmes and are not informed in advance of interventions. Reports following interventions are generated in the same way as those sent to private sector FBOs. Time frames for compliance are discussed with managers and agreed based upon risk in the same way as for businesses in the private sector.

As is usual in the private sector, discussions regarding implementation of controls required will only be escalated to senior manager level where agreement cannot be reached locally.

Section 3 of the Food Law Code of Practice requires the Council to adopt a procedure to be implemented in the event of a disagreement over a practice or an improvement required in one of the managed premises.

Academy status creates independence for the school from the local authority. The main area affecting food law enforcement is that the council no longer has responsibility to maintain the building structure, some cleaning and maintenance and some equipment replacement may also be the responsibility of the trust. Any non-compliance is strictly the responsibility of HES regardless of any contractual obligations the trust may have to repair or replace structural elements and equipment.

The following procedure will apply when disagreement can't be resolved ;

- The manager of HES and the lead officer for food safety agree that there is an impasse on a course of action required.
- A hygiene improvement notice will be drafted and times for compliance set.
- The notice will be handed to the HES manager by the food safety manager or their appointed representatives.
- The HES manager accepts the terms of the notices or negotiates times for compliance based on risk.
- If agreement still cannot be reached an appointment will be set to discuss the matter with the Chief Executive or his/her appointment representative.
- Notice is laid before the Chief Executive (CE) for consideration in accordance with 1.3.3 of the Food Law Code of Practice. The HES manager and lead officer for food safety argue their case and present evidence for the CE to consider.
- Where the "health risk condition" is satisfied and voluntary closure is agreed the CE will be notified that the premises has closed with the reasons for the closure. Procedures for reopening will be the same as those for private sector organisations and are found in the food law code of practice.
- Where the "health risk condition" is satisfied and agreement cannot be reached between the manager of HCS and the lead officer for food safety, a Hygiene Emergency Prohibition Notice (EPN) will be served on the HES manager.
- The HES manager will follow the terms of the notice and close the premises or suspend the process which is the subject of the EPN. The EPN will be laid before the CE using the same time frames as required in the private sector to have the



notice converted to an order in the magistrates' court. The CE will make the decision to convert the notice to an order or not rather than the magistrates court. All protocols, rules, checks and balances that are in place for enforcement action in the private sector will be applied when considering action of this nature to ensure that enforcement decisions are fair unbiased and free from "conflict of interest".

- In the interests of transparency a copy of the case notes and evidence and the decisions made will be shared with the food standards agency.

## **Risk Rating Mobile Food businesses**

Often event or market managers insist that traders are at least a 3 Food Hygiene Rating so it is important to the traders' livelihood that the Council do what it can to get them a rating

The Food Team have adopted the arrangements developed by Tees Valley Food Liaison Group as best practice when awarding ratings (both intervention and FHRS) for mobile food businesses in their area.

There are three scenarios:

1. Where the Food Team have inspected and seen the whole operation: in that case if a full/partial inspection report has been sent to us, we should look at the last inspection and decide if the report warrants a re-rating before the next routine inspection. If a re-rating is not appropriate then treat the report as an intelligence gathering inspection.
2. Where the Food Team have only done a 'dry' inspection, i.e. while the business was not preparing food, so only know about documentation and theoretical operation: we should re-rate the business based on all full/partial inspection reports sent to us by other authorities. N.B. the default 'hygiene' score where food is not being handled at the time of inspection is '10', and similarly for 'structure' if no structure is present.
3. Where the Food Team have not done even a 'dry' inspection. We can use the partial inspection report to rate the business until we can do an inspection (if ever). The Food Team will ask to transfer the business to the inspection authority if it likely to solely trade there, unless food is also prepared here.

The Food Team should be careful not to over-inspect the business or change the FHRS without clear reasons. Other LAs' inspections should be judge on their merits, and contact made with the inspector and/or FBO if needed, as some reports lack detail and explanation.

In the absence of central guidance on deciding the difference between a partial inspection and verification, the Food Team a partial inspection should at least cover one significant aspect of all three risk rating parameters: - hygiene, structure and management. For a mobile caterer this could typically be temperature control/cross contamination CCPs, hand washing facilities/cleanliness, and training /FSMS if needed.

## **Premises Approved under EU Regulation 853/2004**

Approved premises are generally higher risk food businesses which need consent from the regulator to trade, unlike 'registered' businesses. Approved premises will be subject to official controls in accordance with the FSA Food Law Code of Practice and Practice Guidance on Approved Premises.

Training of officers will be implemented to allow them to identify businesses that require approval and to act as back up officers to carry out monitoring and surveillance interventions in those premises or deal with issues arising from the premises when the lead officer is not available.

### **Revocation or Suspension of Approval under EU Regulation 853/2004**

This action would only be taken in accordance with the FSA's Practice Guidance on Approved Premises. Enforcement options will be carefully considered. The result of this action would affect the ability of the business to continue to trade.

Remedial Action Notices will be considered as a possible enforcement option in the first instance.

A second opinion will always be sought from another suitably authorised officer prior to any formal action of this nature being commenced.

### **Complex matters affecting decisions**

Depending upon a number of factors, the availability of resources from time to time may affect a decision to investigate further and in some cases it may not be possible to investigate because enough time has elapsed that there is no possibility of conviction.

### **Complaints against Service and Appeals Procedures**

The Council operates an internal complaints procedure for complaints against service. This is available on the Council's website.

The following paragraphs indicate decisions where the complaints procedure will not apply because there is already an official appeal built in to the process.

An appeal against the food hygiene rating awarded to a business following an inspection can be made to the Lead Food Safety Officer of the Council using the appropriate form which is available on the Council's website. If the appeal fails a judicial review can be instigated by the appellant.

Refusal to issue an approval under EU Regulation 853/2004 for a premises or a process is subject to a statutory appeals procedure via a Magistrates court.

Decisions to prosecute, serve emergency prohibition, remedial action and hygiene improvement notices are subject to either a statutory appeals procedure, or review by the courts themselves. Proprietors of food businesses are entitled to appeal to a Magistrates' court against any refusal of the Council to lift a Hygiene Emergency Prohibition Order.

If a simple caution is offered and refused then a prosecution will be instigated, and the court will be the FBO's recourse to appeal.

### **Complaints Against Service While Formal Proceedings Are Active**

A business may complain about the enforcement decisions of an officer while the business is subject to statutory notices, prosecution or similar enforcement action relating to those decisions.

In that case provided a senior manager is content that the enforcement decisions are valid, any investigation into the complaint will be postponed until the normal legal appeal rights of the enforcement action have expired.

## **Review**

This policy will be subject to formal review on an annual basis.

Any comments received at any time will be considered during the review process.

In addition to the formal review process, the policy may also be updated from time to time for operational reasons.

## Equality & Health Impact Assessment (EqHIA)

### Document control

<b>Title of activity:</b>	Food and Feed Service Plan
<b>Lead officer:</b>	Andrew Bourlet, Senior Public Protection Officer, Public Protection, Neighbourhoods.
<b>Approved by:</b>	Nichola Lund, Public Protection Manager (Interim) (Environmental Health) Nichola.lund@haverling.gov.uk 10th Floor, Mercury House, 01708 433427
<b>Date completed:</b>	9 <sup>th</sup> October 2019
<b>Scheduled date for review:</b>	

Please note that the Corporate Policy & Diversity and Public Health teams require at least **5 working days** to provide advice on EqHIAs.

<b>Did you seek advice from the Corporate Policy &amp; Diversity team?</b>	No
<b>Did you seek advice from the Public Health team?</b>	No
<b>Does the EqHIA contain any confidential or exempt information that would prevent you publishing it on the Council's website?</b>	No

Please note that EqHIAs are **public** documents and must be made available on the Council's [EqHIA webpage](#).

Please submit the completed form via e-mail to [EqHIA@haverling.gov.uk](mailto:EqHIA@haverling.gov.uk) thank you.

# 1. Equality & Health Impact Assessment Checklist

Please complete the following checklist to determine whether or not you will need to complete an EqHIA and ensure you keep this section for your audit trail. If you have any questions, please contact [EqHIA@havering.gov.uk](mailto:EqHIA@havering.gov.uk) for advice from either the Corporate Diversity or Public Health teams. Please refer to the Guidance in Appendix 1 on how to complete this form.

## About your activity

<b>1</b>	<b>Title of activity</b>	Food and Feed Service Plan		
<b>2</b>	<b>Type of activity</b>	Service Plan		
<b>3</b>	<b>Scope of activity</b>	The aim of the Food and Feed service plan is to comply with the requirement in the statutory guidance set out in chapter 1 of the Food Standards Agency (FSA) framework agreement.		
<b>4a</b>	<b>Are you changing, introducing a new, or removing a service, policy, strategy or function?</b>	No	If the answer to <u>any</u> of these questions is 'YES', please continue to question 5.	If the answer to <u>all</u> of the questions (4a, 4b & 4c) is 'NO', please go to question 6.
<b>4b</b>	<b>Does this activity have the potential to impact (either positively or negatively) upon people (9 protected characteristics)?</b>	No		
<b>4c</b>	<b>Does the activity have the potential to impact (either positively or negatively) upon any factors which determine people's health and wellbeing?</b>	Yes		
<b>5</b>	<b>If you answered YES:</b>	<b>Please complete the EqHIA in Section 2 of this document.</b> Please see Appendix 1 for Guidance.		
<b>6</b>	<b>If you answered NO:</b>	The service plan outlines which areas of Food and Feed the Local Authority can look at during the year 2019/20. The plan is drawn up following the LAC 67/2 (rev8) Targeting local authority interventions. Other local initiatives have been targeted for advisory visits using local intelligence from changes to local businesses, accident and complaint information.		

<b>Completed by:</b>	Andrew Bourlet, Senior Public Protection Officer, Public Protection, Neighbourhoods.
<b>Date:</b>	09/10/19

## 2. The EqHIA – How will the strategy, policy, plan, procedure and/or service impact on people?

### Background/context:

It sets out the proposed inspection and enforcement regime for food safety in the year.

*\*Expand box as required*

### Who will be affected by the activity?

Everyone selling or consuming food bought in the borough

*\*Expand box as required*

### Protected Characteristic - Age: Consider the full range of age groups

Please tick (✓)  
the relevant box:

Positive

x

Neutral

Negative

#### Overall impact:

*Businesses providing food to more than 20 people over 65 yr are inspected more frequently*

*\*Expand box as required*

#### Evidence:

A requirement of the Food Law Code of Practice (pg 100)

*\*Expand box as required*

#### Sources used:

See code at <https://signin.riams.org/connect/revision/zmi2z/Environmental-Health/Food-Law-Code-of-Practice-England>

*\*Expand box as required*

Protected Characteristic - Disability: Consider the full range of disabilities; including physical mental, sensory and progressive conditions		
Please tick (✓) the relevant box:		<b>Overall impact:</b>  <i>Businesses providing food to more than 20 people more vulnerable to food-borne illness due to physical disability are inspected more frequently</i>  <div style="text-align: right;"><i>*Expand box as required</i></div>
Positive	x	
Neutral		
Negative		
<b>Evidence:</b>  A requirement of the Food Law Code of Practice (pg 100)  <div style="text-align: right;"><i>*Expand box as required</i></div>		
<b>Sources used:</b>  See code at <a href="https://signin.riams.org/connect/revision/zmi2z/Environmental-Health/Food-Law-Code-of-Practice-England">https://signin.riams.org/connect/revision/zmi2z/Environmental-Health/Food-Law-Code-of-Practice-England</a>  <div style="text-align: right;"><i>*Expand box as required</i></div>		

Protected Characteristic - Sex/gender: Consider both men and women		
Please tick (✓) the relevant box:		<b>Overall impact:</b>  <i>Equal impact on both sexes</i>  <div style="text-align: right;"><i>*Expand box as required</i></div>
Positive		
Neutral	x	
Negative		
<b>Evidence:</b>  No evidence known to doubt equivalent impact  <div style="text-align: right;"><i>*Expand box as required</i></div>		
<b>Sources used:</b>          <div style="text-align: right;"><i>*Expand box as required</i></div>		

Protected Characteristic - Ethnicity/race: Consider the impact on different ethnic groups and nationalities		
Please tick (✓) the relevant box:		<b>Overall impact:</b>  <i>Food businesses, particularly micro businesses, are disproportionately owned and operated by people from ethnic minorities.</i>  <i>*Expand box as required</i>
Positive		
Neutral	x	
Negative		
<b>Evidence:</b>  <p>The regulatory regime for food safety is set at national level and subject to detailed guidance on its fair and consistent application. Havering 's food plan targets advice at smaller and new businesses and provides for the use of interpreting services as required.</p> <p><i>*Expand box as required</i></p>		
<b>Sources used:</b>  <p>Ownership and employment data are not collected by the food officers so this information is based on personal experience of officers.</p> <p><i>*Expand box as required</i></p>		

Protected Characteristic - Religion/faith: Consider people from different religions or beliefs including those with no religion or belief		
Please tick (✓) the relevant box:		<b>Overall impact:</b>  <i>Faith groups may occasionally provide food subject to regulation.</i> <i>Muslim consumers seek assurance that halal foods are as described</i>  <i>*Expand box as required</i>
Positive	x	
Neutral		
Negative		
<b>Evidence:</b>  <p>The plan allows for the provision of information and advice to charity/religious groups on food safety. Claims for food, including halal, are subject to checks during routine inspections or on complaint.</p> <p><i>*Expand box as required</i></p>		
<b>Sources used:</b>  <p>The Food and Feed Service Plan 2019-20</p> <p><i>*Expand box as required</i></p>		



Protected Characteristic - Sexual orientation: Consider people who are heterosexual, lesbian, gay or bisexual		
Please tick (✓) the relevant box:		<b>Overall impact:</b>  <i>Equal impact on people of every sexual orientation</i>  <i>*Expand box as required</i>
Positive	<input type="checkbox"/>	
Neutral	<input checked="" type="checkbox"/>	
Negative	<input type="checkbox"/>	
<b>Evidence:</b>  No evidence known to doubt equivalent impact  <i>*Expand box as required</i>		
<b>Sources used:</b>          <i>*Expand box as required</i>		

Protected Characteristic - Gender reassignment: Consider people who are seeking, undergoing or have received gender reassignment surgery, as well as people whose gender identity is different from their gender at birth		
Please tick (✓) the relevant box:		<b>Overall impact:</b>  <i>No difference in impact on this characteristic</i>  <i>*Expand box as required</i>
Positive	<input type="checkbox"/>	
Neutral	<input checked="" type="checkbox"/>	
Negative	<input type="checkbox"/>	
<b>Evidence:</b>  No evidence known to doubt equivalent impact  <i>*Expand box as required</i>		
<b>Sources used:</b>          <i>*Expand box as required</i>		

Protected Characteristic - Marriage/civil partnership: Consider people in a marriage or civil partnership		
Please tick (✓) the relevant box:		<b>Overall impact:</b>  <i>No difference in impact on this characteristic</i>  <div style="text-align: right;"><i>*Expand box as required</i></div>
Positive		
Neutral	x	
Negative		
<b>Evidence:</b>  No evidence known to doubt equivalent impact  <div style="text-align: right;"><i>*Expand box as required</i></div>		
<b>Sources used:</b>        <div style="text-align: right;"><i>*Expand box as required</i></div>		

Protected Characteristic - Pregnancy, maternity and paternity: Consider those who are pregnant and those who are undertaking maternity or paternity leave		
Please tick (✓) the relevant box:		<b>Overall impact:</b>  <i>Businesses producing food of greater risk to pregnant women and their unborn child are subject to more frequent inspection.</i>  <div style="text-align: right;"><i>*Expand box as required</i></div>
Positive	x	
Neutral		
Negative		
<b>Evidence:</b>  A requirement of the Food Law Code of Practice (pg 99)  <div style="text-align: right;"><i>*Expand box as required</i></div>		
<b>Sources used:</b>  See code at <a href="https://signin.riams.org/connect/revision/zmi2z/Environmental-Health/Food-Law-Code-of-Practice-England">https://signin.riams.org/connect/revision/zmi2z/Environmental-Health/Food-Law-Code-of-Practice-England</a>  <div style="text-align: right;"><i>*Expand box as required</i></div>		




<b>Socio-economic status:</b> Consider those who are from low income or financially excluded backgrounds		
Please tick (✓) the relevant box:		<b>Overall impact:</b>
Positive	<input checked="" type="checkbox"/>	Those who are from low income or financially excluded backgrounds may be forced to buy cheaper food which may be from smaller or marginal businesses. Unlike larger businesses, smaller and struggling businesses often rely on food officers to provide advice and information. Less compliant food businesses are subject to more frequent inspections.
Neutral	<input type="checkbox"/>	
Negative	<input type="checkbox"/>	
<i>*Expand box as required</i>		
<b>Evidence:</b>		
A requirement of the Food Law Code of Practice (pg 98-106)		
<i>*Expand box as required</i>		
<b>Sources used:</b>		
See code at <a href="https://signin.riams.org/connect/revision/zmi2z/Environmental-Health/Food-Law-Code-of-Practice-England">https://signin.riams.org/connect/revision/zmi2z/Environmental-Health/Food-Law-Code-of-Practice-England</a>		
<i>*Expand box as required</i>		

<b>Health &amp; Wellbeing Impact:</b> Consider both short and long-term impacts of the activity on a person's physical and mental health, particularly for disadvantaged, vulnerable or at-risk groups. Can health and wellbeing be positively promoted through this activity? Please use the Health and Wellbeing Impact Tool in Appendix 2 to help you answer this question.		
Please tick (✓) all the relevant boxes that apply:		<b>Overall impact:</b>
Positive	<input checked="" type="checkbox"/>	The Food and Feed Service Plan provides for proactive and reactive work to maintain the supply of safe food in the borough
Neutral	<input type="checkbox"/>	
Negative	<input type="checkbox"/>	
		<i>*Expand box as required</i>
		<b>Do you consider that a more in-depth HIA is required as a result of this brief assessment?</b> Please tick (✓) the relevant box <div style="text-align: right;"> Yes <input type="checkbox"/>      No <input checked="" type="checkbox"/> </div>
<b>Evidence:</b>		
Food regulation is a statutory function with a national guidance and oversight.		
<i>*Expand box as required</i>		
<b>Sources used:</b>		
See <a href="https://www.food.gov.uk/business-guidance">https://www.food.gov.uk/business-guidance</a> and <a href="https://www.food.gov.uk/food-safety">https://www.food.gov.uk/food-safety</a>		
<i>*Expand box as required</i>		

### 3. Outcome of the Assessment

The EqHIA assessment is intended to be used as an improvement tool to make sure the activity maximises the positive impacts and eliminates or minimises the negative impacts. The possible outcomes of the assessment are listed below and what the next steps to take are:

Please tick (✓) what the overall outcome of your assessment was:

✓	1. The EqHIA identified <u>no significant concerns</u> OR the identified <u>negative concerns</u> have already been <u>addressed</u>		<b>Proceed with implementation of your activity</b>
	2. The EqHIA identified some <u>negative impact</u> which still needs <u>to be addressed</u>		<b>COMPLETE SECTION 4:</b> <b>Complete action plan and finalise the EqHIA</b>
	3. The EqHIA identified <u>significant concerns</u> which need to be <u>addressed</u>		<b>COMPLETE SECTION 4:</b> <b>Complete action plan and finalise the EqHIA</b>

## Guidance: Action Plan

For each protected characteristic/health & wellbeing impact where an impact on people or their lives has been identified, complete one row of the action plan. You can add as many further rows as required.

State whether the impact is Positive or Negative

Briefly outline the actions that can be taken to mitigate against the negative impact or further enhance a positive impact. These actions could be to make changes to the activity itself (service, proposal, strategy etc.) or to make contingencies/alterations in the setting/environment where the activity will take place.

For example, might staff need additional training in communicating effectively with people with learning difficulties, if a new service is opened specifically targeting those people? Is access to the service fair and equitable? What will the impact on other service users be? How can we ensure equity of access to the service by all users? Will any signage need changing? Does the building where the service being delivered comply with disability regulations?

## Guidance: Review

Changes happen all the time! A service/strategy/policy/activity that is appropriate at one time, may no longer be appropriate as the environment around us changes. This may be changes in our population, growth and makeup, legislative changes, environmental changes or socio-political changes.

Although we can't predict what's going to happen in the future, a review is recommended to ensure that what we are delivering as a Council is still the best use of our limited resources. The timescale for review will be dependent on the scale of the activity.

A major financial investment may require a review every 2-3 years for a large scale regeneration project over 10-15 years.

A small policy change may require a review in 6 months to assess whether there are any unintended outcomes of such a change.

Please indicate here how frequently it is expected to review your activity and a brief justification as to why this timescale is recommended.

## Appendix 2. Health & Wellbeing Impact Tool

Will the activity/service/policy/procedure affect any of the following characteristics? Please tick/check the boxes below

The following are a range of considerations that might help you to complete the assessment.

Lifestyle	YES <input type="checkbox"/>	NO <input type="checkbox"/>	Personal circumstances	YES <input type="checkbox"/>	NO <input type="checkbox"/>	Access to services/facilities/amenities	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<input type="checkbox"/> Diet			<input type="checkbox"/> Structure and cohesion of family unit			<input type="checkbox"/> to Employment opportunities		
<input type="checkbox"/> Exercise and physical activity			<input type="checkbox"/> Parenting			<input type="checkbox"/> to Workplaces		
<input type="checkbox"/> Smoking			<input type="checkbox"/> Childhood development			<input type="checkbox"/> to Housing		
<input type="checkbox"/> Exposure to passive smoking			<input type="checkbox"/> Life skills			<input type="checkbox"/> to Shops (to supply basic needs)		
<input type="checkbox"/> Alcohol intake			<input type="checkbox"/> Personal safety			<input type="checkbox"/> to Community facilities		
<input type="checkbox"/> Dependency on prescription drugs			<input type="checkbox"/> Employment status			<input type="checkbox"/> to Public transport		
<input type="checkbox"/> Illicit drug and substance use			<input type="checkbox"/> Working conditions			<input type="checkbox"/> to Education		
<input type="checkbox"/> Risky Sexual behaviour			<input type="checkbox"/> Level of income, including benefits			<input type="checkbox"/> to Training and skills development		
<input type="checkbox"/> Other health-related behaviours, such as tooth-brushing, bathing, and wound care			<input type="checkbox"/> Level of disposable income			<input type="checkbox"/> to Healthcare		
			<input type="checkbox"/> Housing tenure			<input type="checkbox"/> to Social services		
			<input type="checkbox"/> Housing conditions			<input type="checkbox"/> to Childcare		
			<input type="checkbox"/> Educational attainment			<input type="checkbox"/> to Respite care		
			<input type="checkbox"/> Skills levels including literacy and numeracy			<input type="checkbox"/> to Leisure and recreation services and facilities		
<b>Social Factors</b>			<b>Economic Factors</b>			<b>Environmental Factors</b>		
<input type="checkbox"/> Social contact			<input type="checkbox"/> Creation of wealth			<input type="checkbox"/> Air quality		
<input type="checkbox"/> Social support			<input type="checkbox"/> Distribution of wealth			<input type="checkbox"/> Water quality		
<input type="checkbox"/> Neighbourliness			<input type="checkbox"/> Retention of wealth in local area/economy			<input type="checkbox"/> Soil quality/Level of contamination/Odour		
<input type="checkbox"/> Participation in the community			<input type="checkbox"/> Distribution of income			<input type="checkbox"/> Noise levels		
<input type="checkbox"/> Membership of community groups			<input type="checkbox"/> Business activity			<input type="checkbox"/> Vibration		
<input type="checkbox"/> Reputation of community/area			<input type="checkbox"/> Job creation			<input type="checkbox"/> Hazards		
<input type="checkbox"/> Participation in public affairs			<input type="checkbox"/> Availability of employment opportunities			<input type="checkbox"/> Land use		
<input type="checkbox"/> Level of crime and disorder			<input type="checkbox"/> Quality of employment opportunities			<input type="checkbox"/> Natural habitats		
<input type="checkbox"/> Fear of crime and disorder			<input type="checkbox"/> Availability of education opportunities			<input type="checkbox"/> Biodiversity		
<input type="checkbox"/> Level of antisocial behaviour			<input type="checkbox"/> Quality of education opportunities			<input type="checkbox"/> Landscape, including green and open spaces		
<input type="checkbox"/> Fear of antisocial behaviour			<input type="checkbox"/> Availability of training and skills development opportunities			<input type="checkbox"/> Townscape, including civic areas and public realm		
<input type="checkbox"/> Discrimination			<input type="checkbox"/> Quality of training and skills development opportunities			<input type="checkbox"/> Use/consumption of natural resources		
<input type="checkbox"/> Fear of discrimination			<input type="checkbox"/> Technological development			<input type="checkbox"/> Energy use: CO2/other greenhouse gas emissions		
<input type="checkbox"/> Public safety measures			<input type="checkbox"/> Amount of traffic congestion			<input type="checkbox"/> Solid waste management		
<input type="checkbox"/> Road safety measures						<input type="checkbox"/> Public transport infrastructure		