

# North Tyneside Council

## Report to Cabinet Member for Housing and Transport

Date: 3 January 2018

### ITEM

Title: 2017/18 Food Law  
Plan

Portfolio: Housing and Transport

Cabinet Member: Councillor John Harrison

Report from Service  
Area:

Environment, Housing and Leisure

Responsible Officers:

Phil Scott  
Head of Environment, Housing and  
Leisure

(Tel: 643 7295)

Wards affected:

All

## PART 1

### 1.1 Executive Summary:

This report highlights the outcomes from the 2016/17 Food Law Plan and details the proposals for the draft Food Law Plan for 2017/18. The Food Law Plan has been devised in accordance with published Food Standards Agency guidance, and information is provided to enable executive approval of the draft Plan.

### 1.2 Recommendation(s):

It is recommended that the Cabinet Member for Housing and Transport approve the draft Food Law Plan for 2017/18, attached as **Appendix 1** to this report.

### 1.3 Forward Plan:

This report was first listed on the version of the Forward Plan published on 11 September 2017.

### 1.4 Council Plan and policy framework:

This report relates to the following priorities in the **2015-18 Our North Tyneside Plan**:

Our Places will:

- Be great places to live, and attract others to visit or work here
- Provide a clean, green, healthy, attractive and safe environment

Our people will:

- Be healthy and well – with the information, skills and opportunities to maintain and improve their health, wellbeing and independence.

## **1.5 Information:**

### **1.5.1 Background**

The Food Standards Agency Framework Agreement on local authority law enforcement requires councils to develop and approve a food service plan. That plan should describe how food safety and food standards in the local area will be monitored and controlled. It also should set out how the service will contribute to the broader health improvement agenda through the promotion of healthy eating.

In keeping with those requirements a draft Food Law Plan for 2017/18 has been developed and is attached at Appendix 1.

### **1.5.2 Food Standards Agency and Local Authority Enforcement**

The Food Standards Agency (FSA) is a non-ministerial government department and is responsible for protecting public health in relation to food throughout the United Kingdom.

The main objective of the FSA in carrying out its functions is to protect public health from risks which may arise in connection with the consumption of food and otherwise to protect the interests of consumers in relation to food.

The Agency is proactive in setting and monitoring standards and auditing local authorities' enforcement activities in order to ensure that they are effective and are undertaken on a consistent basis.

### **1.5.3 Department for Environment, Food and Rural Affairs (DEFRA) and Department of Health (DOH)**

Policy responsibility on general food labelling and food compositional standards (where this is not related to food safety) rests with DEFRA. Responsibility for nutritional labelling policy lies with the Department of Health.

### **1.5.4 Alignment with Government Department Strategic Plans and Objectives**

The FSA 5 year strategic delivery plan 2015-2020: Working towards food we can trust, is based around the following principles:

- Food is safe and what it says it is, and we have access to an affordable healthy diet, and can make informed choices about what we eat, now and in the future;
- The FSA supports the growth of responsible businesses by protecting the reputation of UK food and clamping down on businesses which put consumers at risk, and can therefore have an unfair cost advantage in the short term over responsible businesses;
- It is a responsibility of consumers to manage the risks relating to food that they can affect. They have a right to be informed and supported in responding to those risks. The Food Standards Agency has a key role to play in making this happen.

#### Public Health England

Public Health England has been pursuing the objectives laid out by the Government's Childhood Obesity A plan for Action paper. The government plans to reduce England's rate of childhood obesity within the next 10 years by encouraging:

- Industry to cut the amount of sugar in food and drinks;
- Primary school children to eat more healthily and stay active

The Food Law Plan will contribute to the achievement of these plans and objectives at a local level throughout the Borough.

### **1.5.5 Food Service Outcomes 2016 -2017**

The Authority's food safety team, which is part of Public Protection Services, is responsible for regulating the Borough's food establishments. A review of activity undertaken during 2016/17 identified a number of key service achievements:

- 93.3% of food businesses in the Borough were 'broadly compliant' with food safety legislation, the highest level since this measure of intervention effectiveness was introduced by the Agency in 2006.
- Successful completion of the safety and hygiene intervention programme with 100% of high risk businesses inspected.
- 628 samples of food from 98 food establishments were submitted for microbiological examination during the year and a further 37 samples from 25 premises were sent to the public analyst for compositional analysis. The FSA funding for compositional sampling reduced from the previous years sampling plan.
- North Tyneside fulfilled its commitments to the 6 coordinated national and 12 regional sampling projects within the compositional sampling programme.
- Officers have continued to offer advice and assistance to food business operators on food safety, food standards and food labelling matters. Support was provided to 116 businesses during the year with approx. 80% of that advice being given during the business set up stage.
- During 2016/17, the food team issued 316 warning letters to businesses for a broad range of food safety and food standards non compliances. There was 1 food business prosecuted for hygiene offences that included an active rat infestation. 2 hygiene improvement notices were issued for documenting a food safety management system. 3 detention notices were served on businesses for suspected counterfeit alcohol, inadequate labelling of fishery products and food stored outside of temperature control. 2 food businesses were closed because there was no suitable hot water supply in order for them to safely prepare food, wash hands and carry out adequate cleaning and disinfection.
- Officers have supported and enhanced their levels of competence with professional training courses which included Approved Establishments Inspection and Food Additives.
- Promotional activities from the FSA have been limited in 2016/17 due to the FSA focus on Regulating our Future campaign. The smaller campaigns within this period have been targeting Fake Alcohol, banned substances used in body building and AMR (Antimicrobial resistance).
- Food safety officers engaged with school to promote food safety awareness and infection control as part of the school curriculum.

### 1.5.6 Food Law Plan 2017/18

The proposals for the Food Law Plan for 2017/18 have been developed in accordance with the Food Standards Agency's National Framework Agreement which sets out its expectations on the planning and delivery of food law enforcement. It embraces the following key aspects for service delivery:-

- Ensure a risk based, proportionate and targeted approach to regulatory inspection and enforcement, whilst supporting business.
- Carry out a programme of inspections and other visits to food premises to check on compliance with hygiene, legislation and promote best practice to ensure food safety.
- Carry out a programme of food standards inspections and visits, co-ordinating these with food safety visits whenever possible, to check on compliance with compositional and labelling legislation.
- Continue the operation of the Food Hygiene Rating Scheme providing information to customers on the standards of food hygiene in the Borough's food establishments.
- Investigate food related complaints and react promptly to any food related emergencies and immediate threats to public health, including responding to food alerts issued routinely by the Food Standards Agency. Remove any food not meeting food safety requirements from sale.
- Alert suspected food crime activity that is deemed to be of a serious nature to the National Food Crime Unit (NFCU). Food crime involves dishonesty at any stage in the production or supply of food. It is often complex and likely to be seriously detrimental to consumers, businesses or the general public interest.
- Advise and educate consumers and businesses and other service users on food safety and food standards matters, in particular providing support to the business community to understand and comply with food law and adopt good food hygiene practice. Provide assistance with the export certification of food as required.
- Carry out a programme of food sampling to check on the microbiological quality and compositional requirements of food.
- Investigate reports of food and water borne disease and illness and institute appropriate controls to prevent further spread of infection.
- Promote healthy eating options for consumers when food safety officers are working with businesses.
- Work together with colleagues in the Authority, other local authorities, professional bodies, central government and other interested parties to ensure a coordinated approach to food related matters. To provide relevant reports and statistics as required regarding the operation of the food service.
- Maintain an up-to-date register of food business establishments and determine any applications for approval of premises in accordance with EU Regulation 882/2004.

## **1.6 Decision Options:**

The options available to the Cabinet Member for Housing and Transport are:

### Option 1

Approve the draft Food Law Plan for 2017/18.

### Option 2

Not to approve the draft Food Law Plan for 2017/18.

Option 1 is the recommended option.

## **1.7 Reasons for Recommended option:**

Approval of the final proposals for the draft Food Law Plan for 2017/18 is the recommended option.

The Food Standards Agency, by virtue of the Food Standards Act 1999, has the power to monitor and audit local authorities in relation to food law enforcement. The proposed Food Law Plan has been developed in accordance with the Food Standards Agency's National Framework Agreement, which sets out its expectations on the planning and delivery of food law enforcement. When the Authority is audited by the Food Standards Agency it will be assessed against the criteria set out in the Framework Agreement. The Food Law Plan (referred to by the Food Standards Agency as the service plan) will provide the basis against which the Authority will be monitored and audited. If the Food Law Plan is not approved the audit process may become problematic and the Authority will not have clear, approved documentation setting out its approach to food law enforcement in the borough.

## **1.8 Appendices:**

Appendix 1 – Draft Food Law Plan 2017/18

## **1.9 Contact Officers:**

Colin Smith, Senior Environmental Health Officer, Tel: (0191) 643 6648  
Joanne Lee, Public Protection Manager, Tel: (0191) 643 6901  
Colin MacDonald, Senior Manager, Technical & Regulatory Services,  
Tel: (0191) 643 6620  
Alison Campbell, Financial Business Manager, Tel: (0191) 643 7038

## **1.10 Background Information:**

The following background papers/information have been used in the compilation of this report and are available at the office of the author.

Food Standards Act 1999 –  
<http://www.legislation.gov.uk/ukpga/1999/28/contents>

The Food Standards Agency's Strategy for 2015-2020  
[http://www.food.gov.uk/sites/default/files/FSA%20strategy%20document%202015-2020\\_April%202015\\_interactive%20%282%29.pdf](http://www.food.gov.uk/sites/default/files/FSA%20strategy%20document%202015-2020_April%202015_interactive%20%282%29.pdf)

Framework Agreement on Local Authority Food Law Enforcement –  
<http://food.gov.uk/enforcement/enforcework/frameagree/>

Food Law Code of Practice  
<https://www.food.gov.uk/enforcement/codes-of-practice/food-law-code-of-practice>

Review of Food Law Code of Practice  
<http://food.gov.uk/news-updates/consultations/consultations-uk/2013/foodlawcop-consult>

Food Hygiene Rating Scheme Brand Standard  
<http://www.food.gov.uk/enforcement/enfcomm/fhrssteeringgroup/hygieneratingsguidance/>

North Tyneside Council Enforcement Policy –  
[http://www.northtyneside.gov.uk/pls/portal/NTC\\_PSCM.PSCM\\_Web.download?p\\_ID=511530](http://www.northtyneside.gov.uk/pls/portal/NTC_PSCM.PSCM_Web.download?p_ID=511530)

‘Reducing Regulation Made Simple’  
<http://webarchive.nationalarchives.gov.uk/+/http://www.bis.gov.uk/policies/better-regulation/better-regulation-executive/reducing-regulation-made-simple>

## **PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

### **2.1 Finance and Other Resources:**

There are no financial implications arising from the report. The Food Law Plan will be delivered under the strategic partnering arrangements with the Authority’s Technical Services Partner via the revenue budget that they manage on behalf of the Authority.

### **2.2 Legal:**

The Food Standards Agency recommends that a Food Law Plan be produced and submitted to the relevant member forum to ensure local transparency and accountability. Further detail on the legislative framework governing the Plan is set out in the body of the report.

Cabinet Members are authorised to approve service specific plans such as the Food Law Plan, in accordance with the Elected Mayor’s Scheme of Executive Decision Making to Cabinet Members.

### **2.3 Consultation/Community Engagement:**

The Food Law Plan is driven by statutory requirements and the expectations of the Food Standards Agency.

There is little scope for the Plan to be influenced by the views of external consultees. The Member approval process, as referred to in section 2.2 above, therefore provides the key element to the consultation process. Member approval is recommended by the Food Standards Agency.

### **2.4 Human Rights:**

Food Law investigations and enforcement decisions are taken within the scope of subject-specific legislation and due regard is taken of the Authority’s corporate Enforcement Policy

the Human Rights Act 1998 and other relevant legislation such as the Regulation of Investigatory Powers Act 2000.

## **2.5 Equalities and Diversity:**

An Equality Impact Assessment is in place for the Food Law Plan. It is considered that there are positive outcomes for equality and diversity as a result of having an up to date Food Law Plan. The Food Law Plan recognises the diverse range of food business proprietors and employees within North Tyneside. An extensive range of food safety guidance literature is available in languages that reflect this diversity. Where language difficulties occur, the service has access to an interpretation service.

## **2.6 Risk Management:**

There are no risk management implications directly arising from this report. Risks associated with delivery of the Authority's Public Protection function are monitored via the Technical Services Partnership risk arrangements included within the strategic partnership governance framework.

## **2.7 Crime and Disorder:**

There are no direct implications for crime and disorder arising from this report. Instances of food-related crime are investigated in accordance with specific legislation and in accordance with criminal procedure legislation.

## **2.8 Environment and Sustainability:**

There are no direct implications for environment and sustainability arising from this report.

### **PART 3 – SIGN OFF**

- Deputy Chief Executive ☐
- Head(s) of Service ☐
- Mayor/Cabinet Member(s) ☐
- Chief Finance Officer ☐
- Monitoring Officer ☐
- Head of Corporate Strategy ☐