

**REPORT FOR: Licensing and General
Purposes Committee**

Date of Meeting: 6 September 2012

Subject: Commercial Safety Service Plan
2012/13

Responsible Officer: John Edwards - Divisional Director,
Environmental Services

Exempt: No

Enclosures: Commercial Safety Service Plan
2012/13

Section 1 – Summary and Recommendations

By virtue of the Food Safety Act 1999, the Health and Safety Act 1974 and associated statutory guidance, the Council, as statutory enforcement authority, has a duty to budget, plan and deliver the inspection and enforcement of food safety and health and safety services within the borough. The attached Plan, known as the Commercial Services Plan, satisfies these requirements. In accordance with the Constitution, the Health and Safety elements are to be considered and approved by the Licensing and General Purposes Committee.

Recommendations:

That the Commercial Safety Service Plan for 2012/13, in relation to the health and safety aspects, be approved.

Reason: (For recommendation)

By virtue of the requirements contained in Section 18 Health and Safety at Work etc Act 1974 statutory requirements, under guidance of the Health and Safety Executive (HSE), an annual health and safety plan must be produced and approved by the delegated body of the Council.

Failure to do so may result in the HSE revoking the Council's health and safety enforcement powers.

Section 2 – Report

2.1 Introduction & Background

- 2.1.1. Harrow Council is committed through its Commercial Safety Team to ensure that:
- a. Food and drink intended for sale for human consumption, which is produced, stored, distributed, handled or consumed within the London Borough of Harrow (the 'Council') is without risk to the health or safety of the consumer; and
 - b. Protect the health, safety and welfare of people at work, and to safeguard others, mainly members of the public, who may be exposed to risks from the way work is carried out;
 - c. Reduce the incidents of infectious disease affecting the community, and prevent spread.
- 2.1.2. The Council has statutory duties under Food Safety and Health and Safety legislation for providing an inspection and enforcement service. The Food Standards Agency (FSA) and Health and Safety Executive monitors the Council's enforcement activities and requires approval of the service plan by elected members. These functions cannot be delegated to bodies outside of the Council.
- 2.1.3. The Health Protection Regulations place a requirement on the Local Authority to be the Responsible Authority for the reporting, investigation and enforcement of health protection. This responsibility is carried out by the Commercial Safety Team.
- 2.1.4 The plan is drafted in the format required by the FSA and the HSE and in accordance with the guidance contained in the Framework Agreement and Section 18 guidance and includes: the service provided, service standards and performance, targets and a statement of variances against the previous year's plan.
- 2.1.5 Approval of the health and safety elements of the Plan, as detailed in the Council's Constitution, rests with the Licensing and General Purposes Committee (LGPC). A joint food safety and health and safety service plan is produced to prevent duplication and because the work is essentially delivered through the same team. A joint plan also provides all parties with details of the Council's commitment to the regulation of food safety and health & safety within the borough.

3.1 Options considered

- 3.1.1. There is an expectation that the Council will agree to the plan as it is wholly based on requirements contained in the Food Standards Act 1999, the Health and Safety at Work Act 1974 and associated statutory

guidance. The options are to approve the plan or make appropriate changes, whilst still following the National Food Framework Agreement requirements

4.1 Current situation

- 4.1.1 A food service plan has been produced annually since the introduction of the Food Safety Act 1999. Section 18 health and safety guidance issued in 2010 requires a similar plan for health and safety enforcement activities. In 2011 the Council, through Cabinet and LGPC approved a combined plan, the Commercial Safety Service Plan, which meets both the FSA and HSE requirements.

5.1 Resources, costs and risks

- 5.1.1 Failure to have an approved plan presents a risk of failure to Harrow Council. The FSA and the HSE are the national bodies overseeing these activities and the way they are delivered at a local level. The FSA and HSE require Councils to make annual returns of performance and are at liberty to request information and/or audit our arrangements. Failure to have an approved plan in accordance with statutory guidance may attract criticism and/or other sanctions. Ultimately, if our arrangements and performance was considered unsatisfactory, then the Council may face the removal of these duties and the imposition of external management, with the adverse publicity that this would attract.
- 5.1.2 The past 4 years has seen a reduction in the numbers of officers in the Council's Food Safety and Health and Safety Team. In January 2011, the Team Leader (H&S) was granted voluntary severance. To deliver efficiency savings and to improve line management, the two teams merged. Together with other staffing changes, the team is considerably depleted from earlier years whilst additional legislation has increased workload. This continues to put the team under considerable strain to comply with statutory centralised targets and commitment to comply with and deliver local needs.
- 5.1.3 There have been considerable difficulties in recruitment despite several attempts to recruit. There has for many years been a recognised national shortage of Environmental Health professionals. This has affected the team which currently carries a 25% vacancy rate. The statutory requirements placed upon individuals who are able to undertake these duties limits our recruitment options, as we require individuals with specific qualifications.
- 5.1.4 The net effect is that the team struggles to deliver its statutory duties and deliver on the local requirements. In its current set up, the team continues to prioritise statutory inspection targets but remains very exposed in the event of an unusual event, for example, a large scale food poisoning outbreak. Approval was received to re-organise the team to provide better resourcing to meet the demands placed upon it. However, due to economic pressures facing the Council and the impending service transformation programme, the vacancies within this

new structure have been frozen, with no foreseeable date set for a new round of recruitment.

- 5.1.5 Until additional resources are available, high risk areas and statutory duties will be the team's priorities. This approach does run the risk that any short term demand resulting from an emergency situation, for example a large scale food poisoning outbreak, means that the capacity to deliver statutory targets may be adversely affected.

6.1 Staffing and workforce

- 6.1.2 The HSE Section 18 Legal Standard states "The Enforcing Authority must have sufficient managerial, political, legal and administrative capacity to comply with the Section 18 Standard. Such capacity includes the ability to... put in place and maintain levels of resource compliant with the requirement to make adequate arrangements for enforcement, ensure the intervention plan is delivered"
- 6.1.3 As indicated in 6.1.2 above, our inspection targets and service standards are only capable of being met if there is a recognition that this will be at the expense of non statutory local needs. In addition, if there were a short term spike in demand (food poisoning outbreak) the lack of capacity could jeopardise delivery of our statutory duties.
- 6.1.4 The service plan also sets out that the Health & Safety inspection plan is subject to change as 2,500 premises in the borough require re-assessment. This is because these premises have only ever been subject to a "desk top" assessment. Initial indications show that approximately a quarter of these (approximately 600 premises) will need to be visited, which will also impact on staffing and the ability to meet the service plan requirements.

7.1 Equalities Impact considerations

- 7.1.1 A separate equalities impact screening assessment has been completed for this report. The screening assessment followed the screening methodology recommended in the Council's Equalities Impact Assessment. The screening assessment did not conclude any adverse effect on any particular or recognised minority group and did not recommend a full assessment.

8.1 Financial Implications

- 8.1.1 There is no additional financial implication in approving this policy for either the current budget plans or for the Medium Term Budget Strategy.
- 8.1.2 The impending reorganisation of the team is a significant process but is not expected to have significant financial impact in terms of service delivery and will subject to approval by Cabinet. The changes will be

designed to improve the capacity and efficiency of the team. This change is not contingent on an increase in the budget.

9.1 Performance Issues

- 9.1.1 The policy does not impact on any of the Council's National Indicator targets.
- 9.1.2 The commercial safety service is subject to periodic auditing by the FSA and HSE. Failure to demonstrate compliance with the actual requirements, the spirit of the Framework Agreement and Section 18 may result in adverse reporting. An extreme sanction would be for the FSA and or the HSE to remove the Council's statutory enforcement powers.
- 9.1.3 In the event that this policy is not approved, it will mean that the Council will be acting contrary to the Section 18 requirements. The HSE, after consulting with the relevant Government Minister, can direct a Council to comply with the requirements.

10.1 Environmental Impact

- 10.1.1 The policy is not expected to have any significant direct positive or negative effect on the environment, although the amalgamation of Health and Safety enforcement duties will mean that there will be a reduction in business journeys made by officers.
- 10.1.2 Approving this policy does not require an Environmental Impact Assessment.

11.1 Risk Implications

- 11.1.1 This policy is not included in the Directorate's or any other Corporate risk register.

12.1 Corporate Priorities

- 12.1.1. The Council's main priorities are detailed in the Year Ahead Statement 2011/12. The Commercial safety Plan and the Commercial Safety Enforcement Policy links with these:
 - a. Keeping neighbourhoods clean, green and safe: Fundamentally, the plan covers food safety and health & safety of the community, as well as the public health agenda.
 - b. United and Involved Communities: The service plan sets out statutory inspection and enforcement actions, but includes proactive health promotion and training opportunities for the community.

- c. Supporting and protecting people who are most in need: The plan covers all in its intention to protect people, including those that are vulnerable such as the elderly, the young and the sick.
- d. Supporting our town centre: The plan works towards a level playing field for all in terms of trade and compliance, allowing legally compliant businesses to thrive and benefit.

12.1.2 Resources permitting, the team is developing partnerships with the NHS to increase its impact on a number of key and developing Public Health and Wellbeing issues. Notably: to help drive down childhood obesity by providing better understanding around food quality and food labeling and to improve the risks of bacterium infections arising from the community and impacting the acute settings. This work is instrumental in the NHS/Primary Care Trust (PCT) targets to reduce the time patients stay in acute hospitals occupying bed space. Partnership working between the PCT (to be merged into the Council in 2012/13) and the Commercial Safety Team is already in place to take advantage of these changes to the NHS.

12.1.3 The Commercial Safety Team will continue to deliver public health goals alongside the PCT, although this will be dependent on current reviews of the Environment Directorate and the capacity to deliver non statutory services.

Section 3 - Statutory Officer Clearance

Name: Jennifer Hydari	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 26 June 2012.		
Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 26 June 2012		

Section 4 – Performance Officer Clearance

Name: David Harrington



on behalf of the
Divisional Director
Partnership,
Development and
Performance

Date: 1 June 2012

Section 5 – Environmental Impact Officer Clearance

Name: Andrew Baker



on behalf of the
Divisional Director
(Environmental
Services)

Date: 18 June 2012

Section 6 - Contact Details and Background Papers

Contact for information: Taiq Chowdry Service Manager,
Environmental Health Team: 020 8736 6236, Ext 6236