

**SUPPLEMENT TO THE AGENDA FOR**

# **Regulatory Committee**

**Thursday 5 June 2014**

**2.00 pm**

**The Council Chamber, Brockington, 35 Hafod Road, Hereford**

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<b>MEETING</b>	<b>REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>5 JUNE 2014</b>
<b>TITLE OF REPORT:</b>	<b>HEREFORDSHIRE COUNCIL'S PROPOSED FOOD HYGIENE INSPECTION PROGRAMME FOR 2014/15.</b>
<b>REPORT BY:</b>	<b>HEAD OF ENVIRONMENTAL HEALTH &amp; DEVELOPMENT MANAGEMENT</b>

## Classification

Open

## Key Decision

This is not an executive decision.

## Wards Affected

County-wide

## Purpose

To inform the Committee of the performance in delivering the 2013/14 Food Hygiene Inspection Programme agreed by the Committee last year.

To agree the proposed Food Hygiene Inspection Programme to be undertaken in 2014/15 in respect of obligations under the Food Law Code of Practice (England) (April 2014).

## Recommendation(s)

**THAT: subject to any comments the Committee wishes to make, performance against last year's plan be noted and the implementation of a revised Food Hygiene Inspection programme be approved as detailed in Table 2 below.**

## Alternative Options

- 1 Implement a larger inspection programme that is fully compliant with the Food Standard Agency's Food Law Code of Practice (England) (April 2014). However, additional resource would need to be corporately provided in order to implement such an inspection programme

## Reasons for Recommendations

- 2 To continue to comply with the Council's internal audit report recommendations of 2012/13, which considered food safety enforcement and the Council's statutory minimum obligations.

## Key Considerations

- 3 Following a programmed audit of Herefordshire Council's Food Law enforcement, specifically in relation to Food Hygiene, the Council's Internal Audit reported in 2012/13 that the Council was not fully compliant with the requisite statutory Codes of Practice in relation to food safety and food hygiene when carrying out its food law enforcement role. As a consequence, a 'Limited Assurance' rating was issued.
- 4 The main reason for this 'Limited Assurance' rating being issued was because a revised Food Hygiene Inspection programme had been implemented which had not previously been reported to this Committee for information and approval. This revised programme was based on undertaking a limited number of programmed inspections to align with reduced staffing and budget allocation. It set out to achieve 100% of high risk categories classed as 'A' & 'B' and 'C1' and a lesser percentage for those premises risked as 'C2' & 'D', with no proactive inspections programmed for those premises low risked as 'E'.
- 5 The division of the 'C' rated risk category into 'C1' or 'C2', is one which Herefordshire Council had to initiate in order to manage its inspection workload better. This is based on assessing the risk in relation to its 'Confidence in Management' score. The higher the score, the higher the risk.
- 6 A 'reduced' Food Hygiene Inspection programme was agreed by Regulatory Committee on 25 June 2013. Table 1 below shows how the service performed against this in 2013/14:

Table 1: Food Hygiene Inspection programme for 2013/14

Risk Category	Programmed for the year 2013/14	Achieved for the year 2013/14
A	6	6
B	64	64
C1	200	197
<b>TOTAL FOR HIGH RISK</b>	<b>270</b>	<b>267</b>
C2	109	124
D	52	74
<b>TOTAL FOR LOW RISK</b>	<b>161</b>	<b>198</b>
Unrated	48	39

- 7 The reason why 3 high risk premises were not inspected is because the businesses had closed down at the time of programmed inspection and this was therefore unavoidable. The reason why 37 low risk premises were inspected more than required in the programme, was either in response to complaints from the public, a request by the business for an inspection visit or for efficiency reasons, i.e. if an officer was visiting another premises in a specific remote/rural geographical area.

- 8 During the period 2013/14, the average 'Food Hygiene Rating Score' of premises at satisfactory or above has remained constant at around 96%, which is significantly above the estimated west midlands average of around 90%.
- 9 It is worth mentioning that the performance of the council's Environmental Health Commercial Service was acknowledged by the 'Which Magazine' in February 2014 who classed Herefordshire Council as the best food regulator in the West Midlands and 16<sup>th</sup> best in the UK. This ranking was based on the high Food Hygiene Rating Scores achieved and the team's quick response time to inspect new businesses setting up, supporting the Council's corporate objective to support the economy and new business.
- 10 Table 2 below sets out the proposed inspection programme for 2014/15.

Table 2: Proposed Food Hygiene Inspection programme for 2014/15

HIGH RISK

Risk Rating	Total No of premises	No of inspections due in year	No of inspections planned	Target %
A	3	6	6	100
B	59	59	59	100
C	406	271	271	100
<i>Total High</i>	<i>468</i>	<i>336</i>	<i>336</i>	<i>100</i>

MEDIUM RISK

Risk Rating	Total No of premises	No of inspections due in year	No of inspections planned	Target %
D1	290	152	137	90

LOW RISK

Risk Rating	Total No of premises	No of inspections due in year	No of inspections planned	Target %
D2	351	262	N/A	N/A

- 11 Inspections are risk assessed in accordance with the following criteria:
- Hygiene & safety;
  - Structure; and
  - Confidence in management.
- 12 The Service will therefore aim to inspect all high risk food premises rated 'A', 'B' & 'C' (336 inspections) and 90% of the 152 inspections categorised D1 (medium risk). We will not routinely inspect any of the low risk 'D2' premises nor any unrated 'E' premises, although we will continue to respond to complaints and attend new businesses as they start up.
- 13 In order to manage the inspection workload better and also take into account changes in the Food Standard's Agency's Code of Practice (April 2014), the category 'C' has been reinstated and instead the category 'D' has been subdivided into 'D1' and 'D2' in order to better differentiate medium from low risk. It is also the Service's intention to tackle some of our band E premises through an 'Alternative Enforcement Strategy' (AES), which will be achieved through self-assessment questionnaires. 25 of these will be done each month. As Herefordshire currently has 1,379 'E premises', this will take approximately 4½ years to complete. This self-regulation approach is an approved method which is detailed in the Food Standard's Agency's Code of Practice and has proved reasonably successful elsewhere in the UK.
- 14 In addition to this plan, the Environmental Health Commercial Service will continue, at a statutory minimum level, to:
- Respond to complaints from the public about food premises or products;
  - Take part in any national and regional food sampling initiatives;
  - Sample food produced in Herefordshire during inspections of food factories or at other interventions; and
  - Sample food following complaints about hygiene standards in premises or food items.
  - Assist Public Health England and the Council's Director of Public Health in relation to any food or waterborne infectious disease notification and/or potential outbreak.
  - Fulfil the Council's enforcement role for health and safety at food premises within Herefordshire.
- 15 Having due regard to the resources available, it is proposed that the consequences and risks of non-compliance with the Code of Practice are minimised to an acceptable level by the implementation of this revised inspection programme, together with improved management controls and robust performance reporting. Similarly, Members should be reassured that any long term marked deterioration in food hygiene practices, hygiene standards, average food rating scores or increases in foodborne infectious disease notifications will also be reported at the appropriate level and acted upon.

## **Community Impact**

- 16 As low risk premises remain uninspected and therefore have an unknown compliance rating, there is a potential for an adverse impact upon the health and wellbeing of the population through a deterioration in food hygiene standards and consequential increased risk of food borne infectious disease. This could also have a knock on detrimental effect to the economic prosperity of the local community.

. **Equality and Human Rights**

17 None identified.

. **Financial Implications**

18 None identified.

. **Legal Implications**

19 The overarching Food Safety Act 1990 (section 40) requires that councils should have regard be the Food Law Code of Practice (England)(April 2014) when discharging their duties. Therefore, intervention by the Food Standards Agency, by way of direction pursuant to s.40 (1A), is possible although unlikely.

**Risk Management**

20 In view of the 'limited assurance' grading that was issued due to the Council's annual programme not fully according with the requirements of the Food Law Code of Practice (England) (April 2014), the risk of failing to fulfil relevant legislative requirements was recorded in the corporate Risk Register with reference 'RSK.EEC.35(EHTS)' and remains there.

21 The revised inspection programme is proposed in order to balance the requirements of the 'Code' with the resources that are available, whilst also mitigating the risk to an acceptable corporate level. Ongoing management control and performance reporting has been put in place to ensure that any adverse trends or major deterioration in food hygiene standards and practices are identified, raised and discussed at the appropriate level within the authority.

**Consultees**

22 None.

**Appendices**

23 None.

**Background Papers**

24 None.







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<b>MEETING DATE:</b>	<b>5 JUNE 2014</b>
<b>TITLE OF REPORT:</b>	<b>HEREFORDSHIRE COUNCIL'S PROPOSED FOOD STANDARDS INSPECTION PROGRAMME FOR 2014/15.</b>
<b>REPORT BY:</b>	<b>HEAD OF TRADING STANDARDS &amp; LICENSING</b>

## Classification

Open

## Key Decision

This is not an executive decision.

## Wards Affected

County-wide

## Purpose

To consider the proposed 2014/15 Food Standards Enforcement Programme to be undertaken by the Trading Standards Service in respect of its obligations under the Food Law Code of Practice (England)(April 2012).

## Recommendation(s)

**THAT: subject to any comments the Committee wishes to make, the implementation of the proposed Food Standards and Feed Hygiene Inspection programme as detailed at Appendix 1 and 2 to the report be endorsed.**

## Alternative Options

- 1 There are no alternative options identified as compliance with the Code is a statutory requirement.

## Reasons for Recommendations

- 2 To comply with the Food Standard Agency's (FSA) Code of Practice.

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Further information on the subject of this report is available from  
Mike Pigrem Head of Trading Standards & Licensing on Tel (01432) 261658

## Key Considerations

- 3 Following a previous audit of Herefordshire Council's Food enforcement return (LAEMS) by the FSA, it was noted that the Council was not fully compliant with the requisite statutory Codes of Practice in relation to food hygiene and food standards when carrying out its food law enforcement role. Implementation of the code was by means of a revised programme based on undertaking a limited number of programmed inspections to align with staffing resources and budget allocated. As a consequence, it was recommended that the Committee was notified by means of an appropriate report.
- 4 With a limited number of appropriately qualified officers available, it was only possible to undertake a reduced number of Food Standards inspections during the year 2013/14. This revised inspection programme was the subject of a separate report to this Committee in accordance with a recommendation made by both Internal Audit and the FSA following their respective audits
- 5 Following a review of the national premise risk rating scheme by the FSA and its subsequent adoption by the National Trading Standards Board (NTSB), a new risk rating scheme for food standards inspection has been adopted nationally. This was implemented by the trading standards service during November 2013 and involved considerable officer time and work to modify the department's database system APP/CIVICA.
- 6 As a result of its implementation, the risk rating criteria, risk rating categories and subsequent inspection frequency for food standards premises nationally has changed; effectively, the 'goal posts' have moved. The new rating system has significantly reduced the overall number of premises that are due for inspection during the year and especially those rated as high risk, reducing from 93 high risk premises in 2012/13 to only 1 due in 2014/15.
- 7 The new risk categories are now High, Medium High, Medium Low and Low and are now principally based on the confidence that the authority has in the operation of that business.
- 8 Although the overall risks have been reduced for 2014/15, it is envisaged that as the inspection programme is undertaken, the risk rating of premises is likely to increase and therefore in subsequent years, the number of high risk premises is likely to increase.

## Community Impact

- 9 Failure to implement or to complete this proposed inspection plan would potentially have an adverse impact upon the health and wellbeing of the population. This is likely to manifest itself through deterioration in food standards with regard to composition and descriptions thereby increasing the risk to the population's health as well as, increasing the likelihood of consumer fraud, which would have a detrimental effect on the economic prosperity of the local community and its legitimate businesses.

## Equality and Human Rights

- 10 None identified.

## **Financial Implications**

11 None identified.

## **Legal Implications**

12 Possible intervention by the FSA if the agreed inspection/sampling programme not completed.

## **Risk Management**

13 As the risk of implementing a non-complaint food standards inspection programme for 2014/15 will have been eliminated, the relevant risk register entry [RSK.EEC.35 (EHTS)] would be removed accordingly. A request to remove the limited assurance rating from this part of Environmental Health and Trading Standards at the next available opportunity would also be sought.

14 If the programme is not agreed and implemented, then the Limited Assurance grading that has previously been issued namely; that the Council's annual programme of planned food standard inspections does not fully accord with the requirements of the Food Law Code of Practice (England) (April 2012), the risk of failing to fulfil relevant legislative requirements is to be noted in the Economy, Communities and Corporate Risk Register with reference RSK.EEC.35 (EHTS) would be reinstated.

## **Appendices**

Appendix 1 - Proposed Food Standards Inspection and Sampling Programme.

Appendix 2 - Proposed Feed Hygiene Inspection & Sampling Programme.

## **Background Papers**

None identified.

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## Appendix 1 - Proposed Food Standards Inspection and Sampling Programme.

### Food Standards Inspection Programme

Risk rating	Total No of risk rated premises due in year as per the revised FSA risk rating scheme	No of inspections due in year and required by the FSA code of practice	Target % (Number)
High	1	93	100% (1)
Medium High	26	254	100%(26)
Medium Low	27	58	100%(27)
Low	85	0	85 thorough an Alternative Enforcement Strategy ( AES)

### Food Sampling Programme

- circa 40 food samples to be taken in line with the following criteria:-
- Take part in an FSA grant funded food/animal feed sampling initiative in partnership with Worcestershire Scientific Services and Worcestershire Regulatory Services subject to grant funding acceptance
- Sample food produced in Herefordshire during inspections of food producers for Protected Geographical Indications.
- Sample food following complaints concerning food composition and description.
- Officer discretion to sample food/food ingredients/feeding stuffs in order to assist and support local businesses when first trading.
- Sampling as part of a food incident either locally or nationally initiated (e.g. horsemeat substitution).

## Appendix 2 - Proposed Feed Hygiene Inspection & Sampling Programme.

<b>Types of feed Business Establishment</b>	<b>Activity Code</b>	<b>Numbers of planned inspections</b>
Approved Manufacturers	A01-08	3
Manufacturer - additives	R01	2
Manufacturer - premixtures	R02	0
Manufacturer - bioproteins	R03	0
Manufacturer - compounds	R04	9
Placing Compound Feeds on the Market	R05	1
Manufacturer - pet food	R06	0
Feed Materials / Ingredients / Surplus Food	R07	10
Transporter	R08	0
Stores	R09	1
Mobile Mixer - Additives (HACCP)	R10	0
On Farm Mixer - Additives (HACCP)	R10	17
Mobile Mixer - Compounds/ Additives	R11	0
On Farm Mixer - Compounds/ Additives	R11	6
Co Product Producer	R12	3
Livestock Farms (Feed & Food Hygiene)	R13	74

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Arable Farms (Feed & Food Hygiene)	R14	1
Importers		2
Total		129

### **Feeding Stuffs Sampling Programme**

Circa 26 feeding stuffs samples planned plus any complaint samples required.

