

**Meeting of the Cabinet – 22<sup>nd</sup> September 2010**

**Report of The Director of the Urban Environment**

**Food Service Plan 2010/2011**

**Purpose Of Report**

- 1 To advise members of the contents of Directorate of the Urban Environment (DUE) Food Service Plan 2010/2011.

**Background**

2. Local authorities are required by the Food Standards Agency (FSA) to produce and implement an annual Food Service Plan that sets out how the authority will deliver food law enforcement functions to ensure national priorities and standards are addressed and delivered locally.
3. The Food Service Plan was presented to the select Committee for Environment on 24<sup>th</sup> June 2010 and the report was noted.
- 4 The food service is located within the Planning and Environmental Health Division of the Directorate of the Urban Environment and provided by officers within the Food and Occupational Safety (FOS) and Trading Standards sections.
- 5 The service consists of inspections of food businesses to ensure compliance with food safety and food standards legislation, investigation of complaints relating to food and premises, sampling of foods for microbiological and compositional requirements, the investigation of food borne disease as well as educational and promotional activities.
- 6 By ensuring the safety of food produced and consumed within the borough and encouraging healthy eating and reducing health inequalities, the delivery of the food enforcement service contributes to the Jobs and Prosperity theme and the Health and Well-being theme of the Council Plan and the Dudley Community Strategy. The service helps maintain public confidence in the standards of our local food industry and provides practical support to businesses in difficult economic times, which helps to ensure fair competition and allow well run food businesses to flourish and contribute to the local economy.

- 7 Service plans developed under the framework agreement produced by the Food Standards Agency provide the basis on which local authorities are monitored and audited by the Agency. It is a requirement that food service plans are submitted to Members for approval to ensure local transparency and accountability.
- 8 A summary of this year's service plan is appended to this report (Appendix 1). A full copy of the Food Service Plan is located in the Members' Room.
9. Regarding performance in 2009/2010 items to note are:
  - 100% of due programmed inspections of food premises for food safety and food standards was achieved (1004 food safety inspections and 362 food standards inspections- these figures do not include inspections completed which were outside the programme, for example inspected earlier than the due date as the result of a complaint or where there has been a change in food business proprietor).
  - The Scores on the Doors scheme publishing the results of food hygiene inspections on the website was updated monthly. The proportion of food premises published that were broadly compliant with food hygiene legislation rose from 79% at the beginning of the year to almost 89% at the year end.
  - 108 Dudley Food for Health Awards were made to catering establishments in the borough, exceeding the DUE Strategic Plan target of 65. This work also contributes to the delivery of the Health Inequalities and Obesity Strategies. Over achievement of the target is thought to be due to increased interest in the award from businesses as a result of the Scores on the Doors scheme and publication of the awards on the Council's website in conjunction with the star ratings for hygiene.
  - Trading Standards in conjunction with NHS Dudley contributed to a national study of the nutritional value of food provided by nurseries. The study showed that food standards were improved when childcare providers were given better information by dieticians about how to give very young children the right diet.
  - FOS participated in the Dudley Food Retail Project, led by NHS Dudley, which aims to increase the consumption of fruit and vegetables in the Hawbush area of the borough by the use of social marketing principles aimed to achieve sustained behaviour change. The project also involves Hawbush Primary School, parents, a local greengrocer, NHS Dudley and the National Social Marketing Centre. The project received an award from the National Social Marketing Centre at a ceremony in the House of Lords in June 2009 as one of ten public health projects nationally piloting the use of social marketing techniques.
  - The council has a clearly laid down enforcement policy, which focuses on providing advice and guidance for businesses to secure compliance. However, where businesses consistently fail to comply with the law or present a severe threat to public health it is important that action is taken to protect consumers. During the year, 8 prosecutions and formal cautions were completed involving six food safety and hygiene cases and 2 food standards cases. All prosecutions are published in the prosecution register on the Council's website. In addition 2 food

- 10 The level of compliance of food businesses with food safety and hygiene legislation is measured and reported against in National Indicator (NI)184 from 2008-09 which includes those food businesses which are not yet inspected and rated. The figure returned for NI 184 for Dudley for 2008-09 was 81.7%. It has not yet been possible to compare Dudley's performance on NI 184 with other local authorities as this information has not yet been published nationally. However in March 2010 the Food Standards Agency (FSA) published comparative information from the statutory returns made by local authorities for 2008-09 and stated that 86% of UK food businesses were broadly compliant with food safety law, excluding unrated premises. The figure published by the FSA for Dudley premises broadly compliant with the law, excluding unrated premises, is 87.1% with the range for metropolitan boroughs nationally being between 68.8% and 93.6%. The achievement on NI 184 for Dudley for 2009-10 is expected to be 88.9%, including unrated premises, an improvement from 81.7% in 2008-09 largely due to an increase in compliance by businesses as a result of "Scores on the Doors" and increased efforts made to inspect unrated businesses, which often occur as a result of business turnover which has increased during the current economic climate.
- 11 The Regulatory Services Peer Challenge process was carried out within Environmental Health and Trading Standards during 2009-10. This is part of a national programme of challenges for Regulatory Services, which includes the food enforcement services. The purpose of this programme is to challenge how well regulatory services are performing and to help them identify improvements. The peer challenge process has two key elements. Firstly, a self-assessment carried out against twelve criteria in a Regulatory Service-specific framework of excellence. Secondly, a follow-up peer challenge visit by a team of senior staff from other regulatory services and an elected member appointed by the Improvement and Development Agency's Peer Clearing House. The external challenge team reported in their feedback report that "the Environmental Health & Trading Standards Service at Dudley is very well paced to build further on the excellent services that they currently deliver. The teams are well motivated and have a positive approach to service improvements; they want to deliver excellence".

### **Finance**

- 12 Financial implications from implementing the Food Service Plan are met from within existing budgets

### **Law**

- 13 The Council's duties with respect to protecting consumer interests in relation to food safety and standards are set out under the Food Safety Act 1990.
- 14 Powers to enable the Agency to monitor and audit local authorities are contained in the Food Standards Act 1999.

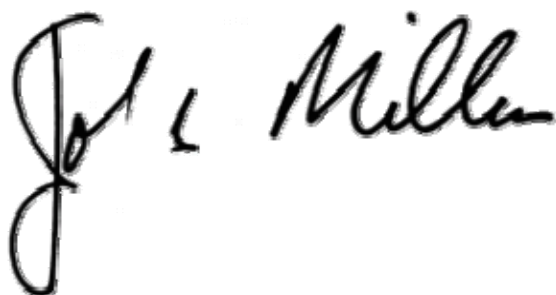
- 15 Section 111 of the Local Government Act 1972 authorises the Council to do anything which is calculated to facilitate or is conducive or incidental to the discharge of any of its statutory functions.

### **Equality Impact**

- 16 This report does not conflict with the Council's policy on equal equality and diversity.
- 17 The Food Service Plan contributes towards reducing health inequalities for all residents in the borough by promoting healthy eating. In particular healthy eating is encouraged for children and young persons and also elderly people through the Dudley Food for Health Award. The vast majority of premises achieving the award are schools, nurseries and residential homes.

### **Recommendation**

- 18 It is recommended that members note the contents of the Food Service Plan of the Directorate of the Urban Environment 2010/2011 and recommend referral to full Council.

A handwritten signature in black ink, appearing to read 'J. B. Millar'. The signature is written in a cursive style with a large initial 'J'.

**J. B. Millar – Director Of The Urban Environment**

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### **Background Papers**

- 19 Food Service Plan 2010-11



**Directorate of the Urban Environment**  
**Planning and Environmental Health Division**

**Food Service Plan**  
**Summary**  
**2010/2011**

# **Food Law Enforcement Service Plan 2010 – 2011**

## **Summary**

### **1 Service Aims and Objectives**

#### **1.1 Aims**

- To improve and sustain the health of the local people in the borough by contributing to the reduction of the health inequalities gap via the Health Inequalities Strategy.
- To ensure that food and water available in the borough is safe to consume.
- To work to prevent avoidable illness and reduce the spread of communicable disease within the Borough.

#### **1.2 Objectives**

- To carry out a programme of routine inspection of food premises.
- To implement procedures to ensure compliance with the Food Standards Agency Framework Agreement.
- To ensure food offered or exposed for sale is fit for human consumption and to expedite the removal of hazardous/risk product from the food chain.
- To investigate service requests relating to food and the conditions of food premises and where appropriate prepare reports for prosecution.
- To investigate where appropriate cases of communicable disease, including the investigation of practices and processes identified as sources of infection at commercial premises.
- To produce and undertake a food sampling programme and to undertake reactive sampling as required in connection with outbreaks/service requests.
- To ensure that all food service work is carried out in accordance with relevant codes of practice and quality systems.
- To contribute to the work of the Obesity Strategy including encouraging food businesses to apply for and gain the Dudley Food for Health Award and working with schools on issues such as labelling and nutrition.
- To respond to requests for advice, and where appropriate liaise and advise businesses in accordance with the LACORS home authority principle and the new Primary Authority scheme coordinated by the Local Better Regulation Office (LBRO).

The Environmental Health and Trading Standards Service directly supports and contributes to the themes and priorities in the Council Plan and the Dudley Community Strategy and the objectives and the Health and Well Being Agenda by ensuring the provision of the following:

- Clean and safe food and water,
- A trading environment that is fair and equitable to the consumers and businesses of the Borough.

## **2. Service Delivery**

The food service is located within the Planning and Environmental Health Division of the Directorate of the Urban Environment. The service is provided by officers within the Food & Occupational Safety (FOS) and Trading Standards sections.

The split between the two services is outlined below. To illustrate matters dealt with by the two services and how the split works in practice there is a sliding scale of seriousness for breaches of food legislation. A complaint concerning the sale of out of date food which has allegedly caused food poisoning will initially be considered by FOS as the food poisoning is the more serious issue. If the food poisoning allegation proves unfounded then the matter will be referred to Trading Standards for investigation.

Trading Standards deal with issues relating to the labelling of food and compositional requirements. This area of work is important in the current concern surrounding obesity. FOS link into this area of work as they pursue important work in the area of education and nutrition.

The aim of the two Services is to provide a comprehensive and complete food service. It is recognized that they need to work together and have effective referral mechanisms in place to ensure that the best service is provided to the public.

The **Food & Occupational Safety Section officers** are allocated to food legislation enforcement and are responsible for the enforcement of:

1. Issues relating to food which fails to meet the requirements of Section 8 of the Food Safety Act 1990 and Article 14 of General Food Regulations 2004 in relation to unsafe food. Issues relating to food which fails to meet the requirements of Section 14 of the Food Safety Act in respect of substance or quality including extrinsic foreign bodies.
2. Issues relating to the premises, practices and conditions under which food is prepared, stored and handled.
3. The investigation of cases of food borne infectious disease, to identify its source and prevent further cases.
4. To register or approve food premises as legislation requires.

The **Trading Standards Section officers** are involved in food legislation enforcement and responsible for the enforcement of:

1. Issues relating to food which fails to meet the requirements of Section 14 of the Food Safety Act 1990. It must be noted that the Food & Occupational Safety section investigates issues relating to the contamination of food by extrinsic foreign bodies.
2. Issues relating to food that is falsely described or presented in contravention of Section 15 of The Food Safety Act 1990.
3. All regulations relating to the manner of marking and labelling of food. Principally this will be the Food Labelling Regulations 1996 but will also include labelling requirements of regulations relating to specific foods.
4. All regulations relating to compositional requirements.

5. The Agricultural Act and associated regulation relating to the labelling and sale of feeding stuffs.

### **3. Demands on the Food Service**

Dudley has 2274 food premises within its area as of 1<sup>st</sup> April 2010. This is made up of

<b>39</b>	<b>Manufacturers/Producers</b>
<b>32</b>	<b>Distributors</b>
<b>633</b>	<b>Retailers</b>
<b>480</b>	<b>Restaurants, Cafes, other Caterers</b>
<b>368</b>	<b>Pubs/Clubs</b>
<b>16</b>	<b>Hotels/Guest Houses</b>
<b>258</b>	<b>Takeaways</b>
<b>128</b>	<b>Schools/Colleges</b>
<b>228</b>	<b>Caring establishments</b>
<b>86</b>	<b>Mobile traders</b>
<b>6</b>	<b>Others</b>

For Food Safety inspection purposes (**Food & Occupation Safety Section**) the ratio of premises in each score banding on 1<sup>st</sup> April 2010 as set out in The Food Standards Agency Code of Practice is as follows:

<b>Category A (inspected at 6 month intervals)</b>	<b>8</b>
<b>Category B (inspected at 12 month intervals)</b>	<b>144</b>
<b>Category C (inspected at 18 month intervals)</b>	<b>1118</b>
<b>Category D (inspected at 2 year intervals)</b>	<b>419</b>
<b>Category E (inspected at 3 year intervals)</b>	<b>533</b>
<b>Unrated premises</b>	<b>52</b>

N.B. Category A are the higher risk premises and E the lowest risk.

There are 2 licensed abattoirs in the Borough.

There are 15 premises approved for the production of meat, fish or dairy products.

For Food Standards Inspection (**Trading Standards**) purposes the number of premises in each score banding are as follows

<b>high</b>	<b>23</b>
<b>medium</b>	<b>590</b>
<b>low</b>	<b>754</b>

### **4. Review of Activity from Service Plan 2009/2010**

- **100%** high and low risk food hygiene inspections that were due were achieved (1004 inspections) plus 217 inspections outside the programme.
- **100% (362)** programmed high and medium risk food standards inspections that were due were carried out.



- **335** food samples (target 300) were procured and examined for microbiological safety. All unsatisfactory samples received appropriate follow up.
- **200** food samples (target 200) were procured and analysed to ensure correct labelling, description and compliance with compositional standards.
- Eight prosecutions/formal cautions of food business proprietors were successfully concluded and 2 food businesses deemed to pose an imminent health risk were closed using emergency closure powers requiring a court order.
- **148** food standards complaints were received. Many related to out of date food and quality issues.
- A total of **620** food service requests were actioned by FOS during the year. Of this total figure, 128 related to food complaints, 223 related to food premises conditions and food hygiene practices and 269 were general requests for service.
- The number of infectious disease investigations for the year was **534**, of which **362** were cases of Campylobacter, these were responded to by postal questionnaire or advice. The response time for the remaining cases is 24 hours with some diseases requiring immediate attention.
- The Dudley Food for Health Award, delivered in conjunction with the public health division of the NHS Dudley (formerly Dudley PCT), proactively encourages premises to provide a healthy eating choice whilst ensuring compliance with food hygiene regulations. This work contributes to meeting targets in the Health Inequalities Strategy and Obesity Strategy. 108 Awards were made during the year to catering premises, including 3 Platinum, 50 Gold, 31 Silver, 16 Bronze and 8 Takeaway Awards.
- The Scores on the Doors scheme publishing the results of food hygiene inspections on the website was updated monthly. The proportion of food premises published that were broadly compliant with food hygiene legislation rose from 79% at the beginning of the year to almost 89% at the year end.
- Performance on the new National Indicator NI 184: Proportion of premises broadly compliant with food hygiene legislation, including unrated premises, was 88.9% at 31<sup>st</sup> March 2010.
- Trading Standards in conjunction with NHS Dudley contributed to a study coordinated by LACORS, part of the Local Government Association Group, on the nutritional value of food provided by nurseries. The 29 councils which took part in the project, working with more than 100 nurseries, showed that food standards were improved when childcare providers were given better information by dieticians about how to give very young children the right diet. LACORS is now urging government to establish a single source of practical guidance for nurseries in association with local authorities and health professionals.
- Sampling projects in conjunction with CEnTSA (Central England Trading Standards Authorities) were participated in by Trading Standards. These included

- National Food Safety Week was participated in during June 2009 and a Christmas food safety campaign carried out in December 2009.
- Evaluation was carried out of the six month trial within DUE of a Dudley MBC Food Policy, committing to ensure that healthier options are always available whenever food is served for staff or visitors to Council premises. Reports of the evaluation were made to DUE Directorate Management Team and a decision made to implement the Food Policy in DUE during 2010-11, following renewal of the vending contracts containing specified conditions for providing healthier options.

#### **5. Issues for consideration during the year 2010/2011**

- Since the launch of the Scores on the doors scheme in April 2008, the proportion of premises listed on the website that were broadly compliant at last food hygiene inspection has risen sharply from 75% to 89%. Research arising from similar schemes in other local authorities also shows that the biggest rise in the number of broadly compliant premises comes between the first and second inspections to be published for an individual business. Therefore, in order to remain in the upper quartile of top performing local authorities, as well as continuing to achieve high levels of inspections, Dudley will need to demonstrate that the impact of those inspections is leading to a sustained improvement in standards of food premises in the borough.
- A national Scores on the Doors scheme is due to be launched by the Food Standards Agency in 2010-2011, based on a similar six tier scheme as the Dudley scheme. Issues around migrating to the national scheme, including costs, branding, issuing certificates and technical IT support required will need to be considered when details of the national scheme become available.
- The Pennington Report of the Public Enquiry into the outbreak of E.Coli in South Wales in 2005 was published in March 2009 and its recommendations in relation to local authority food law enforcement were considered and acted upon in 2009-10. The report highlighted concerns about “light touch” inspections and recommended that regulatory and enforcement bodies keep the choice of light touch enforcement for individual food businesses under constant review. The Food Standards Agency Code of Practice (CoP) (June 2008) does create a suite of interventions alternative to inspections to increase efficiency and target resources more appropriately at the worst performing food premises. A revised interventions policy for Dudley was produced in 2009-10 which introduced the use of partial or themed interventions for higher star rated businesses in order to focus more resources on dealing with non compliant premises and this will need to be

- In April 2009 the statutory Primary Authority Scheme was introduced whereby any business or regulated entity which operates across more than one local authority boundary is eligible to apply for a nominated local authority to act as the primary advisor on regulatory matters. This is a resource intensive activity and therefore to date the Food and Occupational Safety and Trading Standards services have worked in an unofficial capacity only. Additionally, where a Primary Authority arrangement exists, there are requirements for all local authorities to seek guidance from the Primary Authority before taking enforcement action against the business. In the first 12 months of the scheme, no Dudley based regulated entities have requested a Primary Authority arrangement. However this does not mean that there will be no requests in future. As businesses recover from the current economic down turn and new businesses move into the borough, requests could be received for a Primary Authority partnership. There has been little impact on Dudley in the first 12 months over the need to liaise with Primary Authorities where enforcement action is being considered as only a handful of companies have so far signed up to the national scheme, although many more Primary Authority partnerships are planned nationally in 2010-11. As the number of companies with a Primary Authority agreement grows nationally, there will be an increasing need to seek guidance from other local authorities before taking enforcement action in Dudley, hence the impact of this new measure still needs to be assessed and will be monitored closely.
- Officers in both FOS and Trading Standards are responsible for a wide range of duties and there is a risk that increasing work in other priority areas may impact upon food enforcement work. This risk has to be managed within existing resources to ensure that food enforcement work remains a high priority.