

Neighbourhood Services & Scrutiny Commission

Report

REGULATION OF LEICESTER'S FOOD BUSINESS SECTOR – THE SERVICE PLAN 2019/20

Lead director: **JOHN LEACH**

Useful information

- Ward(s) affected: **All**
- Report author: **David Howard**
- Author contact details: **Tel: 0116 454 3215 Email: dave.howard@leicester.gov.uk**
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1. Summary

- 1.1 Leicester City is home to large, diverse and vibrant food sector making and supplying food not only to the people of Leicester but also all over the country and the world.
- 1.2 Leicester City Council's regulation and support of the sector is similarly diverse and includes food hygiene, food standards [such things as labelling and composition] and the health and safety of workers and other persons.
- 1.3 This report introduces the draft Food Service Plan 2019/20 and provides information on:
 - The food sector from a food law regulatory perspective
 - Proposed food law regulatory interventions for 2019/20
 - Key issues in the development of the national framework in response to the growth and diversity of the food industry and reduced local authority budgets.
- 1.4 The finalised Food Service Plan 2019/20 will be presented to Council for member endorsement.

2. Recommendations

- 2.1 The Commission is asked to:
 - a) Note the work undertaken by Leicester City Council's Food Safety Team
 - b) Comment on issues raised and proposed work programme.

3. Leicester's Food Sector

3.1 Leicester is the largest city in the East Midlands region and the tenth largest in England. The city is a major regional commercial, manufacturing and retail centre located close to the M1 and M69. Although it is known for diversity of its trades rather than for the dominance of any single industry, it has a sizeable food manufacturing sector which includes a number of specialist ethnic food producers and importers.

3.2 A number of Leicester's food businesses are of national significance such as Walkers Snack Foods (Pepsico), Walkers Midshires, Samworth Brothers, Fox's Confectionery and Cofresh Snack Foods. The city is also home to a number of smaller specialist food producers.

3.3 A small number of food businesses import and distribute foods from third countries outside the EU.

Establishment Type	2015	2016	2017	2018	2019
Primary producers	0	0	0	0	1
manufacturers & distributors	73	81	90	93	100
importers/exporters	6	6	9	7	17
distributors/transporters	77	82	87	94	95
retailers	730	773	782	795	821
restaurants & caterers	1942	2000	2028	1991	2079
totals	2828	2942	2996	2980	3113

Table: Food sector profile by type of establishment (Source: Local Authority Enforcement Management System – hygiene)

1.1 In 2008 there were 2,411 registered food businesses/establishments in Leicester. This has risen to 3,113 registered establishments in 2019. There has been an underlying increase of about 25% in the food sector since 2008.

1.2 The leisure sector has increased substantially over the last ten years with more restaurants, fast food outlets, pubs and clubs opening up. This is likely to continue given Leicester's increased attraction as a visitor destination.

1.3 Any operator of an establishment making and/or supplying food is required to register with Leicester City Council. This includes establishments such as shops and restaurants, establishments supplying food as part of other services such as hospitals, nursing homes, works canteens, and establishments not usually considered as businesses, such as voluntary organisations and places of worship.

- 1.4 Leicester's food industry has a high number of Asian and other restaurants. Leicester's food businesses are generally small (less than 50 workers) and micro (less than 10 worker) enterprises. Some are run by people for whom English is not their first language. Several languages are spoken by operators and staff including Bengali, Gujarati, Urdu, Chinese and Turkish.
- 1.5 A feature of Leicester's food sector is the high turnover of operators and their establishments, particularly in the restaurants & caterer's sub-sector.

	2015	2016	2017	2018	2019
New Business Registrations	527	507	540	519	559

Table: New Food Business Registrations in the City

- 1.6 The Leicester & Leicestershire Enterprise Partnership (LLEP) 2014-2020 Strategic Economic Plan views 'food & drink manufacturing' as a sector in which the area has "higher than average concentrations of employment and competitive advantage where the aim is to accelerate existing enterprise growth". 'Food & drink manufacturing' is identified as a Priority Sector for Intervention in the form of business development and support.

2. Standards in the Food Sector

- 4.1 Food hygiene standards are monitored by Leicester City Council using national criteria including the facilities, structure, procedures, cleanliness and operational practices.
- 4.2 Two performance reports are available:

	2015	2016	2017	2018	2019
percentage "broadly compliant"	79%	82%	84%	84%	85%

Table 'Broad compliance' with standards in Leicester (all establishments) national average at end of 2016/17 was 88%

Food Hygiene Rating	2015	2016	2017	2018	2019
5 very good	1008	1157	1337	1397	1518
4 good	472	493	483	462	464
3 generally satisfactory	536	575	452	407	427
2 improvement necessary	143	141	160	151	123
1 major improvement necessary	193	156	127	103	105
0 urgent improvement necessary	19	21	8	11	14
Totals	2371	2543	2567	2531	2651

Table: 'Food Hygiene Rating' in Leicester (those businesses that directly supply the public)

3. The Proposed 2019/20 Intervention Program

5.1 Based on statutory guidelines the inspection programme for 2019/20 consists of:

- 1209 food businesses to be inspected
- 13 Approved Establishments to be inspected
- 540 new food businesses/establishments are forecast to be registered and which will require support and inspection

87 food businesses/establishments have been carried over from the 2018/19 inspection program. Carry over is for a variety of reasons for example access issues e.g. refurbishment and Seasonal operation e.g. sports clubs. These businesses carried over are a priority for inspection in 2019/20

178 Low risk E category inspections have been carried into 2019/20. As low risk these will be assessed for alternate intervention as many will be suitable for self-assessment.

5.2 Areas of Focus for 2019/20

5.2.1 Allergens

Allergens continue to be a high-profile food issue that affects all food establishments. In recent years several food allergen fatalities have been reported in the national press. There are 14 key allergens that food businesses must be aware of. Legislation requires that food establishments must be able to identify and provide information on any of the key allergens if they are present in the food they serve or sell.

Food officers review allergen controls on inspection however Food business operator knowledge is often poor. The team are developing inspections strategies to ensure allergen risks are identified and information is available.

The Leicestershire Food Group have allergens as part of their 2019/20 work Plan and are looking to provide a consistent approach to advice, inspection and enforcement. The LLEP are supporting this in conjunction with the Leicestershire Food and Drink Forum

The FST will continue the allergen sampling project started last year. The initial focus has been on peanut in take away meals as this has been the allergen of concern in some fatalities. First results have been reassuring in terms of any widespread issues as only 2 of 22 samples failed. However, the potential for serious harm that can be caused by poor allergen management means that both 'fails' have been followed up, investigated and improvements secured. This sampling exercise is under review to determine next steps.

5.2.2 Street Trading

The FST are this year developing a strategy in conjunction with the Licencing Team to tackle the growth in unregistered/unlicensed traders that on a seasonal basis start selling food in the street.

FST will work with Licensing to identify such traders, advise on correct and safe/hygienic trading and have an agreed approach to enforcement where appropriate.

5.2.3 Leicester Food Plan and Public Health

The FST are working with the Food Plan and Public Health to formulate strategies to tackle food poverty and healthy eating. Whilst this is non-statutory work for the FST there are links to hygiene and standards. Furthermore, its recognised that the FST are already engaged with the Food Sector in the city and have an understanding of challenges that food establishments face.

- The FST is currently directly involved with Food Poverty Project. FST Officers are working with Public Health on the Holiday Food Provision project to ensuring that the provision of food is done so safely.
- The FST have been put forward as a possible resource to support healthy eating/nutritional campaigns. This work is in early stages and work has been done to understand the challenge, map and identify possible problems and consider solutions, further consideration will need to be given to resource implications. Whilst non-statutory, this is valuable complementary work that supports the wider health and wellbeing agenda for the city.

5.2.4 Primary Authority

In the first of its kind for Leicester City Council the FST and Public Safety Team have successfully set up and agreed a Primary Authority Agreement with Navitas/ESB Limited, a Leicestershire based Food Safety and Health & Safety Consultancy. This is a formal agreement whereby we act as a central point of assured advice for the partner. The partnership will involve a period for review of all the food safety/Health & safety documentation used by the company for its clients to assure they meet legal requirements. Ongoing there will be a relationship for support and review where there are changes to legislation or guidance.

This first year will be particularly intensive in setting up and review. However, this work is carried out on a cost recovery basis.

5.2.5 Wet Bars/Nightclubs

A Joint project with the Licensing Team is proposed. The focus is on late night bars and clubs. These are establishments that due to their opening hours are difficult to access and low risk from a food hygiene perspective as they do not serve food. The project will consider the best use of resources to achieve both Food Hygiene/Standards and Licencing inspection requirements and ensure compliance.

4. Supporting Information – Leicester City Council as Food Regulator

4.1 Leicester City Council's regulatory aims, based on its statutory powers and duties, are:

- Prevent ill-health and death arising from food related illness.
- Ensure that Leicester's food businesses supply good quality food
- Prevent and detect fraud in the production and description of food
- Assist Leicester's food businesses to comply with food law.

4.2 In undertaking its regulatory activities Leicester City Council is obliged to do so in a way which supports business growth [see Regulators' Code 2014].

4.3 Leicester City Council is a unitary authority and has responsibility for:

- food hygiene (traceability of supplies, management and production procedures, hygienic practices, building structures)
- food standards (labelling and ingredients, composition, product 'dates')
- feed (labelling of pet food, registration of businesses diverting surplus food into animal feed, handling procedures)
- weights & measures (accuracy of weighing/dispensing machines; weight/volume statements)

4.4 The organisational arrangements are as follows:

- Food Safety Team – deals with regulation of food hygiene, food standards and feed. Leicestershire County Council are commissioned to deliver Feed interventions. To provide business advice (e.g. allergens, documented procedures)
- Trading Standards – food related fraud investigations and deliver any Weights & Measures services required.
- Public Safety Team – Leads on outbreak management and on health and safety enforcement in food premises

4.5 A variety of interventions are used in order to monitor and improve compliance with food law by food businesses in the City. This range includes inspections, sampling for analysis and examination, education and advice and the investigation of complaints.

4.6 Intervention programmes take due regard of the Food Law Code of Practice, March 2017. Risk assessment schemes are used to reflect levels of compliance and determine intervention frequency. There is a separate risk scheme for food hygiene and for food standards.

4.7 The following regulatory activity was reported for 2018/2019:

Food Safety Team Activity and Actions

Advice Visits	Inspections (Hygiene)	Inspections (Standards)	Compliance Verification	Sampling Visits	FHRS Re-ratings
246(238)	1675(1663)	862(811)	1561(1360)	140(151)	99(139)

Voluntary Closures	Seizure, Detention & Surrender	Suspension/ Revocation of Approval	Emergency Prohibition Notice	Improvement Notice	Remedial Action & Detention Notice	Written Warning	Simple Caution	Prosecution initiated
10(4)	3(2)	1(0)	5(4)	36(46)	0(0)	1558 (1701)	10(10)	2(1)

Numbers in brackets are values for 2017/18

5. Significant Issues on the Horizon

- 5.1 **Regulating Our Future** - As part of its duties under the Food Standards Act 1999, and in accordance with the requirements of Regulation (EC) No 882/2004 on official feed and food controls, the Food Standards Agency is responsible for ensuring that the national regulatory framework is “fit for purpose”.
- 5.2 ROF was launched in Feb 2016. It is the FSA’s strategic plan to modernise how food businesses in England, Wales and Northern Ireland are regulated to check that our food is safe and what it says it is.
- 5.3 The search is for a new delivery model that is suitable for the changing world in which we operate. The model needs to be dynamic to keep pace with innovation in the food sector and flexible to allow adaptation to future circumstances including when the UK leaves the EU.
- 5.4 The FSA aim to have the new model in place by 2020.
- 5.5 **Food Standards Review** - The FSA are also reviewing the current regime for Food Standards. There is significant and increasing crossover between Food Standards and Food Hygiene issues, for example allergens require correct labelling (Standards) and effective management (Hygiene). The regime for Food Standards regulation is currently under review.
- 5.6 **EU Exit** - The extent of impacts from the UK exiting the EU remain unclear. However, whilst fundamental food hygiene requirements/controls will not change there will be issues for food establishments in relation to sourcing ingredients, sourcing food handlers, importing and exporting food.

6. Financial, Legal and Other implications

Financial implications

None

Colin Sharpe
Head of Finance
Tel: 0116 454 4081

Legal implications

The Food Standards Agency supervises local authority regulatory activity and the requirements from local authorities are set out in the Framework Agreement on Official Feed and Food Controls by Local Authorities.

Under the Framework Agreement the local authority is required to produce a service plan that sets out how and at what level official feed and food controls will be provided in accordance with Codes of Practice.

Local authorities should take account of the Government's better regulation agenda when planning and delivering their services. Key to this agenda are the five principles of good regulation:

- targeting (to take a risk-based approach);
- proportionality (such as only intervening where necessary);
- accountability (to explain and justify service levels and decisions to the public and to stakeholders);
- consistency (to apply regulations consistently to all parties); and
- transparency (being open and user-friendly).

The Service Plan has been produced in accordance with the guidance in the Framework Agreement.

Local Authorities have the flexibility to decide locally whether or not service plans should be approved at Member level.

The Food Law Enforcement Service Plan is an element of the City Council's Policy Framework and the Council's Constitution reserves approval of the Food Law Enforcement Service Plan to Full Council as a matter of local choice.

Kamal Adatia
City Barrister & Head of Standards
Monitoring Officer
Tel: Ext 37 1401

Climate Change and Carbon Reduction implications

Delivery of the services described in the report will generate some carbon emissions from the travel involved. Carbon emissions from travel undertaken by staff across the

council are managed through a policy of asking staff to consider options for using sustainable travel options, where this is feasible and will not negatively affect the effectiveness and efficiency of service delivery.

Leicester City Council runs a scheme called Green BELLE, which provides grants to improve SMEs energy efficiency, reducing their costs and carbon emissions. The scheme is currently applying for further funding and should be able to support food businesses in the city later in the year.

Aidan Davis, Sustainability Officer, Ext 37 2284

Equalities Implications

Food regulatory activities are delivered in accordance with the Food Law: Code of Practice (England), March 2017. The Code of Practice is issued pursuant to section 40(1) of the Food Safety Act 1990, regulation 24(1) of the Food Safety and Hygiene (England) Regulations 2013 and regulation 6(1) of the Official Feed and Food Controls (England) Regulations 2009.

The risk assessment scheme in the Code of Practice takes account of vulnerable risk groups. In this context, vulnerable risk groups are those that include people likely to be more susceptible to the effects of illness that arise from poor food hygiene such as those who are under 5 or over 65 years of age, people who are sick or immune compromised.

The Service Plan does not propose changes or departures from the Code of Practice with equalities implications.

9. Background information and other papers:

None.

10. Summary of appendices:

Appendix 1 – Food Service Plan 2019/20

11. Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?

No.