

Neighbourhood Services & Community  
Involvement Scrutiny Commission

# Briefing Report

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**LEICESTER'S FOOD SECTOR:  
PUBLIC PROTECTION AND  
REGULATION BY LEICESTER CITY COUNCIL**

Lead director: **JOHN LEACH**

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## Useful information

- Ward(s) affected: **All**
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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 deals with issues of food hygiene, food standards including labelling and worker safety.
- 1.3 This report provides information on:
  - The food sector from a regulatory perspective
  - Our regulatory interventions
  - Case studies illustrating the diversity of our interventions
  - Key issues in the development of the national framework in response to the growth and diversity of the food industry and reducing local authority budgets.

### 2. Recommendations

- 2.1 The Commission is asked to:
  - a) Note the work undertaken by Leicester City Council's public protection teams in this area
  - b) Comment on issues raised.

### 3. Supporting Information – Leicester’s Food Sector

#### Introduction to 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.

	2011	2012	2013	2014	1/4/15	28/10/15
manufacturers & distributors	80	73	72	73	73	84
importers/exporters	7	11	11	11	6	5
distributors/transporters	73	81	83	80	77	77
retailers	817	835	868	848	730	761
restaurants & caterers	1894	1964	2052	2100	1942	1982
totals	2871	2964	3086	3112	2828	2909

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

- 3.4 In 2008 there were 2,411 registered food businesses/establishments in Leicester. This rose to a peak of 3,112 registered businesses in 2014. As at 28 October 2015 this figures stands at 2,909. There has been an underlying increase of about 25% in the food sector since 2008.
- 3.5 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 for King Richard III heritage.
- 3.6 Any establishment making and/or supplying food is required to register with Leicester City Council. This includes food businesses such as shops and restaurants, and also establishments supplying food as part of other services such as hospitals, nursing homes, works canteens.
- 3.7 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 proprietors and staff including Bengali, Gujarati, Urdu, Chinese and Turkish.

- 3.8 A feature of Leicester's food sector is the high turnover of businesses, particularly in the restaurants & caterers sub-sector.

	2011	2012	2013	2014/15	28/10/15
New Business Registrations	529	506	456	527	248

**Table: New Food Business Registrations in the City**

- 3.9 The Leicester Leicestershire Economic 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.

#### Standards in the Food Sector

- 3.10 Food hygiene standards are monitored by Leicester City Council using national criteria including the quality of buildings; procedures and operational practices. Two reports are available:

#### **'Broad compliance' with standards in Leicester (all establishments)**

	2010	2011	2012	2013	2014	1/4/2015	30/09/2015
percentage "broadly compliant"	73.4	70.6	71.1	70.4	71.5	79%	81%

#### **'Food Hygiene Rating' in Leicester (those businesses that directly supply the public)**

Food Hygiene Rating	2011	2012	2013	2014	1/4/15	28/10/15
5 very good	-	626	674	784	1008	1105
4 good	-	280	347	370	472	491
3 generally satisfactory	-	394	414	418	536	574
2 improvement necessary	-	86	119	114	143	156
1 major improvement necessary	-	215	225	225	193	154
0 urgent improve'nt necessary	-	45	39	24	19	20
Totals	-	1646	1818	1935	2371	2500

**Table: Food sector profile by food hygiene ratings**

- 3.10 Promoting and raising standards in some sub-sectors Leicester is challenging due to a mix of factors:
- Highly competitive market/low profit margins
  - High turnover– discontinuity of management
  - Proportion of new entrants into the food sector
  - Entrenched/habitualised practices which do not meet generally accepted standards
  - Lack of customer pressure to drive up standards
- 3.11 Many languages are spoken in food establishments in Leicester, for example, Tamil, Gujarati, Punjabi, Turkish, Hindi, Cantonese, Urdu, Italian, and Portuguese. For some businesses there isn't the common language of English to facilitate communication between food business owners, their staff and regulators.
- 3.12 This is a barrier to compliance given that (a) most official guidance materials are only available in English (b) managers cannot effectively communicate instructions to staff as they lack a common language.
- 3.13 The absence of a common language is also a barrier to effective regulation in that it can be difficult to verify the food business owners version of what happens by questioning the staff as to practices and/or ascertaining their level of knowledge of food hygiene standards.
- 3.14 Food businesses and regulatory staff have utilised a number of stratagems to overcome communication difficulties; including the use of friends/family members that speak English; employing interpreters; translating reports into first language. In one case, the food report was recorded onto a CD in Cantonese because the operator couldn't read in any language.
- 3.15 Whilst the lack of a common language is a barrier to compliance, fluency in English is not one of the fundamental drivers influencing food standards in Leicester.

#### **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 poisoning
  - Ensure that retailers and caterers 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.
- Business Regulation Support Team – provide business advice (e.g. allergens) and training (food hygiene); and deliver any Weights & Measures services required.
- Trading Standards – food related fraud investigations
- 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, April 2014. A single risk assessment scheme is used for food hygiene and food standards.

4.7 As of the End of December 2015 the following regulatory activity was reported:

#### **Food Safety Team Activity and Actions**

<b>Advice Visits</b>	<b>Inspections (Hygiene)</b>	<b>Inspections (Standards)</b>	<b>Compliance Verification</b>	<b>Sampling</b>	<b>Intelligence /Info Gathering</b>	<b>FHRS Re-ratings</b>
112	1071	500	1094	133	62	111

<b>Voluntary Closures</b>	<b>Seizure, Detention &amp; Surrender</b>	<b>Suspension/ Revocation of Approval</b>	<b>Emergency Prohibition Notice</b>	<b>Improvement Notice</b>	<b>Remedial Action &amp; Detention Notice</b>	<b>Written Warning</b>	<b>Simple Caution</b>	<b>Prosecution initiated</b>
4	15	0	7	39	4	906	1	0

## **5. Supporting Information – Food Regulation Improvement plan**

5.1 In May 2014 The Food Standards Agency undertook an audit of Leicester's food function and an Improvement Action Plan was agreed with Leicester City Council.

5.2 The Improvement Plan was 'signed off' as completed by the Food Standards Agency in December 2015 following revisits by the auditors and the provision of

documented procedures and performance reports.

5.3 The following main changes have been made in the implementation of the Improvement Plan:

- The employment of an additional two food safety officers
- The retraining of all the Team in the regulation of 'approved food establishments'
- A review of each 'approved food establishment' and our regulatory approach.
- The review and writing of procedures and guidance to supplement nationally issued FSA guidance for enforcement officers
- The introduction of enhanced management monitoring of officers' regulatory and enforcement decisions
- The re-profiling of the food hygiene inspection programme for 2015/16 and establishment of approach for following years
- The reorganisation of the team's work into two patches North and South.
- Transfer of 'infectious diseases' responsibility to the Public Safety Team.
- The adoption of a corporate 'General Regulatory Policy'.

5.4 The commitment of additional resources and other measures taken enabled the Food Safety Team to complete the 2014/15 Intervention Programme; clear the backlog of inspections and make it less vulnerable to slippage as a result of high priority incidents (e.g. food poisoning outbreaks) occurring and requiring a regulatory response).

## 6. Supporting Information – Case Studies

### Approving a new establishment

A food business requires 'Approval' from its home local authority if it handles food of animal origin such as meat, fish or dairy and then supplies other food businesses. These Approved Establishments pose a higher risk in the supply chain and demand a closer level of attention than other food businesses. There are currently 23 Approved establishments in the city.

RJC Trade Limited made an application for approval for their unit based on the New Leicester Food Park. An initial advisory visit from food officers established that the company were willing and keen to comply with all requirements but needed further guidance on the layout and flow of their process.

Following our guidance, RJC Trade implemented all the outstanding legal requirements and officer recommendations. The establishment passed its 'approval' inspection and has since entered into its 3 month review period. After the 3 months a further inspection will take place to ensure the establishment remains compliant.

### Tacking 0s and 1s

The rules of the Food Hygiene Scheme include the requirement for rating to take place only after application by the operator in writing. Since 2013, in Leicester officers have been instructed to re-rate establishments when they revisit to check

improvements and to do this irrespective of whether the operator has requested a re-rating.

In the summer of 2015 one officer did preliminary work with operators with food hygiene ratings of 0 or 1. She offered to support them in making improvements in order to get better food hygiene ratings, after which she would check the improvements and issue new ratings. With few exceptions operators with low ratings did not want this support. It seems that their rating had not adversely affected their custom and there was no motivation to participate. This preliminary work was abandoned and emphasis placed on supporting operators of new establishments yet to be inspected for the first time – at pre inspection advice visits

### **Pre inspection advice visits**

Since resources had increased and capacity added to the volume of inspection available, in the autumn of 2015, before being inspected for the first time operators of new food business establishments were contacted and advice and support visits arranged. At these visits the new operators were informed what they had to do to meet food law requirements, especially things linked with food hygiene ratings. Inspections then took place after the operators had time to achieve a good rating and with an interval of approximately 28 days between starting to operate and being inspected.

This initiative is to be evaluated at the end of the financial year – early April 2016. The numbers and proportions of 0s and 1s on a date in October will be compared to the date five months later.

### **Food Information and Allergens**

In December 2014 general labelling rules under the Food Information Regulations 2014 came into force and require the declaration of allergens on non-prepacked food.

BRAST officers visited 436 take-aways and restaurants over a 5 week period to advise them of how they could comply. The help given was practical (such as going through menus to identify allergenic ingredients). The distributed Recipe Matrix had a positive reaction and the “Please speak to our staff” notice can be found displayed in most takeaways.

Key findings were that:

- Large/national chains were already aware of their obligations and most were already compliant but the micro businesses were unaware and not ready.
- Micro businesses knew that a lot of people are allergic to peanuts but they were not aware that there are now 14 allergens they need to watch out for.
- Businesses that take orders over the phone found it burdensome to tell customers all the allergens present in the food they ordered.

## **Food Information and Nutrition**

On 13<sup>th</sup> December 2016 NEW rules on nutrition declarations will come into force – required for most prepacked foods.

62 food businesses were identified earlier this year as requiring a contact from the City Council. An introductory letter was sent out in January 2016 alerting them to the new requirements and inviting them to make an appointment with a BRAST officer.

Two food businesses have already sought advice on their labels.

### **Bespoke advice on coffee**

A small specialist food producer/importer of coffee sourced from Colombia, asked for advice in relation to 3 products they were developing. The business was previously based in Kibworth but as they wanted to start producing their own flavoured coffee – an upscaling from importing pre-packed coffee, they moved to the Leicester Food Park last year. The trader supplies Harrods and distributes directly and through Amazon

BRAST committed 2 days to ensure that the labels would be correct and ensure that the business understood their legal requirements.

In the course of the intervention, advice was provided on proper labelling including the description, name of the food, origin, claims and the figure declared under the nutritional declaration heading of ENERGY.

The business suspended promotion of their products pending amendment of their labels. .

## **Untreated milk in sweets**

In October 2015 officers in the Food Safety Team identified an Asian Sweet Mart in the city receiving raw cow's milk from a Leicestershire farmer. This practice is illegal as raw milk can only be supplied to the final consumer (a domestic round) or to an approved processing establishment. These restrictions are in place to control risks to public health from bacteria frequently found in raw cow's milk such as E.coli, Salmonella and Campylobacter. Indications were that the use of raw milk was common practice in the city sweet marts.

Officers subsequently carried out unannounced visits to eighteen food establishments likely to have used this milk supply. In total 5 were found to have the milk. Where the milk was found it was surrendered to officers and has been

subsequently destroyed. Investigation is ongoing to determine if further action is appropriate against the supplier or those supplied.

The Food Safety Team has coordinated efforts with the Dairy Hygiene Inspectorate (DHI), Food Standards Agency (FSA) and Blaby District Council to stop the supply from the farm in question. The investigation identified that this was a 'cross border' issue and the Food Safety Team raised concerns with the FSA that the existing controls were confused and weak. Following this incident the DHI have been tasked by the FSA to strengthen their enforcement and work closer with Local Authorities.

### **A closure**

A routine inspection of a grocers shop on Green Lane Road in December 2015 by the Food Safety Team revealed evidence of mice and rats and constituted imminent risk of injury to health.

The officer served a Hygiene Emergency Prohibition Notice to prohibit the use of the establishment for any food business immediately, and set out in writing what the operator had to do in order to remove the imminent risk condition. The officer and a support officer took photographs, drew a plan, checked records and wrote witness statements.

Three days later an application was made by the council in the Magistrates' Court for A Hygiene Emergency Prohibition Order. At this hearing the court considered and confirmed that the imminent risk condition existed at the time the notice was served, and also continued the prohibition by issuing a Hygiene Emergency Prohibition Order.

At a fourth revisit after the one at which the notice was served, the operator had done enough for the prohibition to be lifted. Since then the operator has handed over the business to a cousin/brother; a new operator for our purposes.

### **Protecting employees fingers**

In August 2014 Leicester City Council was alerted to two separate finger amputations in Leicester's butchers shops.

Public Safety Team officers launched a major inspection programme. 80 butchers shops were inspected. In 50% of premises equipment was in a dangerous state and this equipment such as band saws and mincers was immediately prohibited from use. In about 33% of premises basic health & safety arrangements were not in place, for example chainmail gloves/aprons, employee training, accident books, first aid boxes.

Officers worked with business managers throughout 2015 to secure compliance and have lifted prohibitions on equipment.

## **Protecting employees other parts**

In June 2014 the Public Safety Team was alerted to un-safe dosa mixture making machines by a FST officer. These machines were not adequately guarded or suitably interlocked and therefore moving parts could be accessed whilst the machines were being operated.

The Public Safety Team then visited a total of 16 restaurants to secure compliance across Leicester. The Public Safety Team prohibited the use of two machines as they were deemed to be likely to cause serious imminent injury.

Officers worked with business managers to secure compliance and as a result of the project all machines have now been adequately guarded and/or interlocked. In addition, a safety alert was also issued to all local authorities in England and Wales warning of the dangers of this type of machine.

## **7. Supporting Information – Change in the national regulatory framework**

- 7.1 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 monitoring and reporting the performance of local authorities in enforcing relevant food safety legislation.
- 7.2 Local authority delivery of official food controls on behalf of the FSA supports the delivery of three of the FSA's four strategic outcomes for 2015 to 2020, namely that food is safe, food is what it says it is, and that consumers can make informed choices about where and what to eat.
- 7.3 National key facts are:
- The number of UK food businesses continues to increase year on year (by 6.7% from 587,890 in 2010/11 to 627,425 in 2014/15).
  - The number of food hygiene interventions has followed a downward trend from 431,852 in 2010/11 to 402,475 in 2014/15, a decrease of 6.8%.
  - the number of UK official samples has followed a steep downward trend (apart from a small increase in 2013/14 which was likely the result of increased activity relating to the horsemeat incident) from 92,122 samples in 2010/11 to 68,471 samples in 2014/15. This equates to a reduction of 25.7%.
  - The professional staffing resource of UK local authorities has continuously declined over the five years from 2,775 full time equivalents (FTEs) in 2010/11 to 2,303 in 2014/15, a reduction of 17%. The decline has been most significant with regard to food standards where there has been a reduction of 38.6% FTEs (compared to 7.9% for food hygiene).
  - The number of consumer complaints being investigated in the UK has increased from 66,402 in 2010/11 to 72,558 in 2014/15, an increase of 9.2%.

7.4 In their report to the Food Standards Agency Board 28 January 2015, officials expressed the following views:

**7.5 The FSA's principles for the regulatory strategy 2015-2020 "can be summarised by the following:**

**We're here to make sure businesses do the right things for consumers, and encourage them to change their behaviour if they're not.**

7.6 "At present our regulatory regime relies largely on physical inspection to gain assurance that food safety and integrity is being achieved by businesses. Fundamentally our regulatory system relies on methods – physical inspection by local authority officials or FSA inspectors and official veterinarians – unchanged in decades. We can do much more to take advantage of the opportunities available from modern scientific techniques, we can make far better use of businesses' own data and of the information gathered by other government departments/agencies.

7.7 Officials announced the beginning of a process of engagement and joint working with businesses, consumers, regulatory partners in local authorities and elsewhere in government, and other bodies in developing the strategy.

7.8 Key lines of enquiry are:

- Consistent principles for regulatory delivery in relation to all categories of food – products of animal origin, meat and others – and all types of business
- Differentiation. A one-size- fits-all approach is not suitable and the assurance mix will vary according to the business. FSA will have clear role to help businesses understand what they need to do to produce safe food.
- Objective and rigorous. Businesses will be challenged to prove they are meeting their responsibilities and assessments will be rigorous.
- Using best data. There are many ways to gain insights into whether businesses are meeting their responsibilities. There are many sources of assurance which could be used to focus efforts more precisely on the businesses that need the most help.
- Businesses pay the cost of regulation. Businesses benefit from the confidence of an effective regulatory system and the cost should increasingly pass from the taxpayer to the business. Those businesses that require less state intervention should pay less.
- Modern digital technology. Advantage should be taken of modern technology such as sensors to provide assurance and social media should be exploited to crowdsource information on where there are problems or likely to be.

- Use of regulatory effort in the most effective way and at the most effective time. For many businesses, the most effective time will be at the point of their registration and better, more accessible packages of advice and guidance need to be delivered to meet this objective.

## **8. Details of Scrutiny**

- 8.1** This report has been requested by the Neighbourhood Services & Community Involvement Scrutiny Commission in order to provide assurance on Leicester City Council's regulation of the local food sector.

## **9. Financial, Legal and Other implications**

### **9.1 Financial implications**

There are no significant financial implications arising from this report

Colin Sharpe  
Head of Finance  
Ext 37 4081

### **9.2 Legal implications**

9.2.1 The local authority is required to comply with all of its obligations concerning food regulation as set out in paragraph 4.3 above, the contents of this report do not present any new legal obligations, however the increased number of officers within the Food Safety Team undertaking a higher volume of inspections will inevitably result in an increase in matters being referred to Legal Services for advice, training and prosecution.

9.2.2 Solicitors from Legal Services will be providing specific training courses for FST officers in due course

Nicki Agalamanyi  
Solicitor-Advocate  
Legal Services  
Ext. 37 1453

### **9.3 Climate Change and Carbon Reduction implications**

There are no climate change implications resulting from this report.

Louise Buckley,  
Senior Environmental Consultant,  
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## **10. Background information and other papers:**

- 10.1 None.

**11. Summary of appendices:**

11.1 None.

**12. 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)?**

12.1 No.