

TONBRIDGE & MALLING BOROUGH COUNCIL

STREET SCENE and ENVIRONMENT SERVICES ADVISORY BOARD

04 September 2018

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 ENVIRONMENTAL HEALTH PERFORMANCE 2017/18

Summary

This report summarises the operational activities of the Council in relation to its statutory Environmental Health functions undertaken by the Environmental Protection Team and Food and Safety Team for 2017/18.

1.1.1 The Environmental Health function is primarily concerned with protecting the public from the harm they may encounter in the wider environment, food, workplaces and with improving health. Environmental Health Officers act as advisers, educators and regulators and carry out site visits and give assistance to individual householders and businesses and to managers and workers. In certain circumstances, they take enforcement action to ensure compliance with legislation designed to protect the health of the public.

1.1.2 Two Teams work in this area:

- Food and Safety Team (FST) – responsible for the food premises inspection and food sampling programmes, health and safety in our local workplaces providing advice and guidance to employers and responding to requests for service relating to these areas; and
- Environmental Protection Team (EPT) – responsible for requests for service relating to alleged nuisances, responding to planning and licensing applications, contaminated land enquiries, proactive landfill gas and water quality monitoring and meeting the statutory requirements of the environmental permitting, local air quality management and private water supply regimes.

1.2 Food and Safety Team

1.2.1 A significant part of the work of the team is the food premises inspection programme, which includes full or partial inspections of high and medium risk food businesses and questionnaires to low-risk business. A total of 512 full or partial

inspections and 268 information gathering interventions were carried out which includes questionnaires sent to low risk premises. In addition 98 re-visits to food premises were undertaken to ensure legal contraventions had been remedied. All but six programmed interventions to low-risk food premises, that were due in 2017/18, were completed, mainly due to late responses by food business operators. Specific details of food safety interventions are shown in **[Annex 1]**.

- 1.2.2 The Council's results show that at the end of 2017/18, 96 per cent of our food businesses are broadly compliant and have achieved a rating of three or better in the National Food Hygiene Ratings Scheme. Full details are presented in **[Annex 2]**.
- 1.2.3 Food sampling is important to help ensure the safety of food. The Food and Safety team participated in national sampling surveys which examined ready to eat foods such as cooked meats and pies from retail establishments and legionella sampling and swabs from gyms and leisure premises. In addition, samples were taken as a result of food poisoning allegations or complaints of poor hygiene and routine surveillance of a variety of food businesses. In 2017/18, officers took 252 samples and sent them for microbiological examination. Twenty three unsatisfactory results and twelve borderline (acceptable) were investigated and advice given to businesses to resolve problems. Re-samples were taken where required. Further details can be found in **[Annex 3]**.
- 1.2.4 During 2017/18, a total of 257 reports of food poisoning were made and investigated when food businesses were implicated. Campylobacter cases continue to be the largest number of reported cases of food poisoning in the borough, with 191 cases, twenty two more than last year. The incidence of salmonella was just 22 in comparison. The team provides advice to people suffering from food poisoning or food related disease and, where necessary, further investigations and sampling are undertaken with businesses that may be implicated.
- 1.2.5 Officers continue to deliver food safety and hygiene training as part of the West Kent Local Authority Training Partnership, operated in conjunction with other West Kent local authorities. In 2017/18, officers delivered four Level 2 food hygiene courses at Tonbridge and Malling as part of the partnership arrangement, training 39 food handlers.
- 1.2.6 Twenty nine visits were made as a result of accidents at work or complaints about workplaces, mostly relating to workplace transport and slips and trips.
- 1.2.7 The team also made contact with sixty two pubs to ensure that gas appliances had been maintained. Many had not had their gas appliances checked by a Gas Safe engineer within the last twelve months and work is still on-going with a number of premises.
- 1.2.8 The Food and Safety team received 136 service requests in 2017/18. These included complaints about food, food premises and the hygiene of food handlers,

as well as workplace health and safety complaints. All these complaints were fully investigated and relevant action taken. All but three service requests were responded to within the five day target.

- 1.2.9 The team has had one approach by a company to set up a Primary Authority partnership covering workplace health and safety. Preliminary meetings have taken place and both parties are now exploring how the partnership will work in anticipation of a formal partnership request to the Office for Product Safety and Standards (Safety & Standards) who exercise the statutory responsibility for the operation of Primary Authority on behalf of the Secretary of State.
- 1.2.10 **Formal Enforcement Action** – Although our aim is to provide advice and guidance to business operators in the majority of cases, in order to protect public health, it is sometimes necessary to take formal action against businesses. In 2017/18, twenty three food hygiene improvement notices were served to secure compliance for offences such as lack of food hygiene training and inadequate food safety management systems. Twelve health and safety prohibition notices and two improvement notices were also served on other businesses.

1.3 Environmental Protection Team

- 1.3.1 During the twelve months from 1 April 2017 to 31 March 2018, 489 requests for service were received to which the team responded to all but two within five working days. Of that total, 60 concerned the odour from Drytec, which demonstrates a continued decrease from the previous years (739 in 14/15, 140 in 15/16 and 69 in 16/17). Other issues that generated significant requests for service included noise both from domestic and licensed premises, barking dogs, bonfires, and various types of accumulations on private land. Specific details of the types of requests received are shown in **[Annex 4]**.
- 1.3.2 On receipt of a complaint, letters are sent to the complainant (with diary sheets enclosed) and to the person alleged to be causing the nuisance, advising them that a complaint had been received and requesting them that if the allegation is correct to resolve the situation. In the majority of cases, no further communication is received by officers from either party, indicating that the initial letter to the person alleged to be source of the problem resolves the issue with no further involvement from officers.
- 1.3.3 On some occasions it is necessary for the team to instigate formal action to protect public health. This is usually because the enforcement options, as set out in the Enforcement Policy, have been exhausted. A summary of Notices served in this year is provided in **[Annex 5]**.
- 1.3.4 The EPT are formally consulted by their colleagues in the Planning Service on applications received and on which the EPT make recommendation for the inclusion of conditions or “informatives” if planning permission is granted. These recommendations are intended to pre-empt and address areas of environmental concern prior to development starting and ensure that appropriate mitigation

measures and/or remediation measures are addressed and implemented within the proposal to protect the quality of life for the future occupants of the development and neighbouring properties. During the year the team responded to 531 planning and discharge of condition applications.

- 1.3.5 Under the provisions of the Licensing Act 2003, Environmental Health is a statutory consultee in respect of applications for Premises Licences and Temporary Events Notices (TENS). During the year the team responded to 22 Premises Licence applications, 361 TENS applications.
- 1.3.6 Certain specified processes are required to obtain a 'permit to operate', under the provisions of the Environmental Permitting Regulations, which control emissions to land, air and water. Responsibility for enforcement of the regime is divided between the Environment Agency and Local Authorities. There are 45 permitted processes within the Borough for which we are responsible, covering processes which include road stone coating, dry cleaners, paint spraying and concrete batching. During the year the EPT conducted 34 proactive inspections, and the standard of compliance with the permits and any conditions attached remains high.
- 1.3.7 The Council has an important role in protecting the public from hazards associated with contaminated land. There are three principal aspects to this role:
- identification and prioritisation of known areas of contaminated land within the Borough;
 - ensuring that, through the planning process, areas of potentially contaminated land are identified, investigated and remediated during the development process; and
 - responding to specific enquiries from potential property purchasers who have had concerns raised about potential contaminated land on their prospective property.
- 1.3.8 As well as providing input into planning permission consultations, in 2017/18 the EPT provided 13 reports in relation to specific contaminated land enquiries, the majority from prospective property purchasers.
- 1.3.9 Members will recall that in February 2018 the EPT in conjunction with Leap Environmental Ltd began a landfill gas investigation at the former Jocopits site, now comprising Tolsey Mead and Eaglestone Close in Borough Green. Board Members will have received a briefing note on the outcomes of this investigation in July which has determined that landfill gas poses a low to very low risk to human health. Officers will continue to monitor landfill gas at the site until at least July 2019 to ensure there are no changes. A copy of the briefing note is attached at **[Annex 6]**

- 1.3.10 There are a number of private water supplies in the Borough and to safeguard the health of people consuming water from these supplies the team is required to risk assess and sample these supplies. Most occur in residential properties, although there are some commercial premises that maintain a private water supply. Samples were taken as required during the year to ensure the supplies met required standards.
- 1.3.11 The Local Air Quality Management (LAQM) regime requires the Council to periodically review and assess the air quality within its area. To fulfil these duties officers in the EPT monitor Nitrogen Dioxide levels across the Borough using diffusion tubes and a continuous analyser (located in Tonbridge High Street during this period). The results of this monitoring are reported annually to the Department for the Environment, Food and Rural Affairs (DEFRA). They identify areas of poor air quality and may result in the declaration of Air Quality Management Areas. During the year there were no new exceedances of annual or hourly NO₂ levels and no new AQMAs were required to be declared.
- 1.3.12 In January 2018 additional monitoring sites at Aylesford High Street and the A20/A25 junction at Wrotham Heath were set up following residents' concerns over air quality in those areas. The first annual average results for these sites will be available in January 2019.
- 1.3.13 Members will note that the number of complaints received about odours in Tonbridge has continued to decrease in the last year although the rate of decline is not as significant as in previous years. Officers continue liaise with management, and Drytec continue with a programme of renewal, the most recent being new ducting on the roof better suited to withstand high winds.

1.4 Proposed Service Improvements

- 1.4.1 The Environmental Protection Team proposes the following service improvements in 2018/19:
- Review and implement changes to our approach to air quality management in line with the soon to be published Clean Air Strategy.
 - Review and update team procedures to reflect new guidance and best practice.

1.5 Legal Implications

- 1.5.1 The Council has a statutory duty to undertake the full range of functions described in this report, with the exception of promotional and business support activity.

1.5 Financial and Value for Money Considerations

- 1.5.1 All service improvements will be undertaken within existing budgets.

1.6 Risk Assessment

- 1.6.1 Failure to properly manage and deliver the food safety functions could result in censure by the Food Standards Agency and breach of Section 18 of the Health and Safety at Work etc. Act 1974.
- 1.6.2 The failure of the EPT to meet its statutory obligations could result in formal complaints and potential criticism from DEFRA. It could also lead to a potential legal challenge.

1.7 Equality Impact Assessment

- 1.7.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.8 Recommendations

- 1.8.1 It is **RECOMMENDED** that the Cabinet **NOTE** the performance information relating to activities associated with the food and safety and environmental protection functions in 2016/17 and **ENDORSE** the service improvements for 2017/18 as detailed in paragraph 1.4.1 of the report.

The Director of Planning, Housing and Environmental Health confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers: Nil

Nil

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