

TONBRIDGE & MALLING BOROUGH COUNCIL

STREET SCENE and ENVIRONMENT SERVICES ADVISORY BOARD

05 October 2020

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Information

1 ENVIRONMENTAL HEALTH PERFORMANCE 2019/20

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 2019/2020.

1.1.1 The Environmental Health function, made up of the Environmental Protection and the Food and Safety Teams is primarily concerned with protecting the public from the harm they may encounter in the environment, from food consumption, unsafe workplaces and with improving 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.

1.2 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 509 full or partial inspections have taken place in 2019/20. In addition 95 re-visits to food premises were undertaken to ensure legal contraventions had been remedied. All but 16 programmed interventions and 17 new business registrations were completed that were due in 2019/20. These were not completed mainly due seasonal closures, new businesses registering but not yet ready to operate and the beginning of the COVID lockdown restrictions. Specific details of food safety interventions are shown in **[Annex 1]**.

1.2.2 The Council's results show that at the end of 2019/20, 97.8 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 included vacuum packed ready to eat foods and swabs of vacuum packers from retail and catering establishments, raw milk cheeses (UK and non UK in origin) and flour from retail, catering and manufacturing 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. We also continue to sample from Approved establishments (normally manufacturers). In 2019/20, officers took 153 samples and sent them for microbiological examination. Twelve unsatisfactory results 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 2019/20, a total of 264 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 203 cases. 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, outbreak 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 2019/20, officers delivered one Level 2 food hygiene course at Tonbridge and Malling as part of the partnership arrangement. During 2019, one of the Food & Safety officers developed an allergen awareness course for food handlers resulting in 3 courses and 58 food handlers receiving training.
- 1.2.6 Seven targeted health and safety inspections were undertaken to warehouses as part of the Kent and Medway Warehouse project. The project looked predominantly at the safety arrangements for working at height and workplace transport. Seven visits were made as a result of formal accident reports received.
- 1.2.7 The Food and Safety team received 169 service requests in 2019/20. 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.
- 1.2.8 **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 2019/20, one business agreed to close voluntarily due to a rodent infestation and four food hygiene improvement notices were served to secure compliance for offences such as lack of hot water and poor repair. One health and safety prohibition notice was served for unsafe working at height and seven improvement notices were also served on other businesses for failing to maintain electrical systems, work place transport and risk assessment.

1.3 Environmental Protection Team

- 1.3.1 During the twelve months from 1 April 2019 to 31 March 2020, 471 requests for service were received. Of that total, 68 concerned the odour from Drytec in Tonbridge. 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]**. Given the delay to the usual timing of this report, also shown in Annex 4 is a brief comparison of April-August 2020 compared to April-August 2019 and the increase in the number of complaints received during lockdown to which the team have responded.
- 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. Often no further communication is received by officers from either party, indicating an informal resolution to 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/prevent Statutory Nuisance. This is usually because the enforcement options, as set out in the Enforcement Policy, have been exhausted. A summary of Notices served in this period is provided in **[Annex 5]**.
- 1.3.4 The Environmental Protection Team (EPT) are formally consulted by their colleagues in the Planning Service on applications received and on which the EPT make recommendations 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. They also 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 period the team responded to 378 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 31 Premises Licence applications, and 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 from site. Responsibility for enforcement of the regime is divided between the Environment Agency and Local Authorities. There are 47 permitted processes within the Borough for which we are responsible, covering processes which include, petrol stations, dry cleaners and car resprayers. During the year the EPT

conducted 9 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 as already discussed in 2019/20 the EPT provided 18 reports in relation to specific contaminated land enquiries, the majority from prospective property purchasers.
- 1.3.9 Members may recall that in August 2019 the EPT in conjunction with Ecologia Ltd began a detailed landfill gas investigation at the Priory Wood Public open Space in South Tonbridge. This work is now drawing to a close (at time of writing) with a full site risk assessment for landfill gas being produced. A detailed report to board on this matter will be provided in due course.
- 1.3.10 There are a number of private water supplies (PWS) 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, and no Statutory Notices for failures of sample quality were required in this period.
- 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 (Wateringbury) with a second continuous monitor installed in Tonbridge High Street in October 2019. The results of this monitoring are reported annually to the Department for the Environment, Food and Rural Affairs (DEFRA). 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 Finally members will note that the number of complaints received about odours in Tonbridge associated with the Drytec factory has remained steady between 60 and 70 per year over the past three years. Officers continue to investigate whether

the odour amounts to a statutory nuisance at complainant's properties, however the test of statutory nuisance is not whether an odour is present but whether its nature, extent and degree including its frequency and duration is sufficient to materially interfere with the use and enjoyment of property. In that regards no evidence has been obtained to date that the odour at any one property amounts to a statutory nuisance.

1.4 Legal Implications

- 1.4.1 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 services offered are managed 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 censure from DEFRA and the Local Government Ombudsman. 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 2019/20.

Background papers:

Nil

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