



Meeting: Full Council

Date: 1 June 2015

Wards Affected: All

Report Title: Commercial Team Service Plan - Community Safety (incorporating the Statutory Service Plans for Food Safety and the Council's Under Age Sales Policy for Tobacco Products and Other Age Restricted Goods)

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1. Purpose and Introduction

- 1.1 For Members to note the overall contents of the Commercial Team Service Plan (part of the Community Safety Business Unit) and to specifically agree the Food Safety Service Plan, and the Policy on the Protection of Children in relation to Tobacco Sales and Other Age Restricted Good. The Commercial Team Service Plan includes the current work plan of the Commercial Team within Community Safety which comprises of the functions of Food Safety, Trading Standards, Licensing, Health and Safety, Emergency Planning, CCTV and Security, which are managed together as part of key front line services protecting the public.
- 1.2 By approving the Statutory Food Safety Service Plan, and the Policy on the Protection of Children in relation to Tobacco Sales and Other Age Restricted Goods, Members will ensure that businesses, residents, employees and the wider community of Torbay are protected and the resources allocated to the service are deployed to areas of highest risk.

2. Proposed Decision

- 2.1 That the Statutory Food Safety Service Plan set out in Appendix 2 to the submitted report be approved.
- 2.2 That the Policy on the Protection of Children in relation to Tobacco Sales and Other Age Restricted Goods set out in Appendix 3 to the submitted report be approved.
- 2.3 That the overall work plan of the Commercial Team for 2015/16 set out in Appendix 5 to the submitted report be noted.

3. Reason for Decision

- 3.1 The Commercial Team Service Plan covers the work undertaken by the Commercial Team within Community Safety, the majority of which are statutory functions of the Council. Contained within this Service Plan is the Food Safety Service Plan which is a statutory plan required by the Food Standards Agency.
- 3.2 Within the Service Plan is also the Policy on the Protection of Children in relation to Tobacco Sales and Other Age Restricted Goods. Torbay Council has a statutory obligation to review annually its Under Age Sales Policy with regards to enforcement action on tobacco and tobacco products in relation to the protection of children and young persons.
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Supporting Information

4. Position

- 4.1 The Commercial Team Service Plan covers the work undertaken by the Commercial Team, Community Safety, the majority of which are statutory functions of the Council. The resources allocated to this team have reduced year on year, as highlighted within the Service Plan. Although the current position is only a small reduction on the previous 12 months, the management of the Team has taken on responsibility for a new service, CCTV and Security, which has added significant pressure at that level of the service and has therefore impacted throughout the team, putting significant pressure on the overall resilience of the service. The plan outlines the risks associated with reduced resources in fulfilling its statutory obligations. It should however be noted that the Food and Safety Team is very close to meeting its Food Standards Agency's statutory obligation to inspect Category A, B and C premises, which it has been unable to do in the recent years.
- 4.2 As highlighted in previous reports to the Community Safety Business Units now prioritises its workload based on risk and will always target first, those businesses, activities, emergencies and disease outbreaks considered to be of the highest risk. However its resilience to continue to deliver its full range of statutory duties and meet customer expectations, within the resources allocated is now under significant strain.

Food Safety Service Plan

- 4.3 Food Standards Agency guidance entitled Framework Agreement for Local Authority Food Law Enforcement details many requirements for Local Authorities, which had to be implemented from April 2001. These requirements include the production and implementation of an annual Food Safety Service Plan and a Food Sampling Policy. The guidance provides information on how enforcement services plans should be structured and what information they contain. Service plans developed under these arrangements will provide the basis on which Local Authorities are monitored and audited by the Food Standards Agency.

- 4.4 The document shown in Appendix 2 is the Food Safety Service Plan. It includes food standards and food hygiene requirements in accordance with the Food Standards Agency prescribed format. It details matters such as achievements in service delivery, a review of last year's implementation and this year's work plan for 2015/16, this may alter during the year as the service is very reactive and responds to changes in legislation as and when is necessary.
- 4.5 In November 2011 the Food Standards Agency audited Torbay Council. The key issues highlighted in their report were:
- the large volume of seasonal businesses and the fact they need to be inspected quickly; and
 - the backlog of medium risk premises that require an intervention.
- 4.6 An action plan was developed and agreed with the Food Standards Agency to mitigate the issues raised. A Devon Audit Partnership inspection in 2012-13 identified significant risks and classified the matter as a 'Fundamental Weakness' in their report. Since 2011 hard work by the Food team have now resulted in 82% of the Category C premises being inspected, and those remaining outstanding were either permanently or temporarily closed premises, which must be included in the Food Standard Agency returns, or those who are seasonally closed and those will be inspected by the end of May 2015.
- 4.7 The new Food Hygiene Rating Scheme has been a huge success, with 840 premises scoring 4 or 5. (5 being the highest score). It has helped drive up standards and this has meant there has been a some reduction in the number of high risk premises, which has helped mitigate some of the loss in resources.

Policy on the Protection of Children in relation to Tobacco Sales and Other Age Restricted Goods

- 4.8 Torbay Council is required by Section 5 of the Children and Young Persons (Protection from Tobacco) Act 1991 to consider, at least once a year, the extent to which it is appropriate to carry out a programme of enforcement action in relation to tobacco and tobacco products. This report fulfils the requirements of this annual review, but also extends its remit to other age restricted goods. Through the control of age restricted products, Torbay Council has actively contributed to the reduction of anti-social behaviour and reduced the risks to children and other vulnerable groups.
- 4.9 Council last considered Torbay Council's Policy regarding enforcement of legislation prohibiting the supply of tobacco and tobacco products to children and young people, in July 2014. This report updates that Policy and renews our commitment to test purchasing, along with other early interventions to ensure that children and young people across Torbay are protected. See Appendix 3.
- 4.10 This Policy contributes directly to delivering Torbay Council's corporate priorities and delivers our statutory responsibilities. It also links with the Council's children's and young people's safeguarding and safety responsibilities.

- 4.11 The Policy also relates to the Community Plan, in particular to the theme of 'Community Safety'. There are strong links between drug and alcohol problems and crime. The Policy is aimed at protecting children and young people from the harmful effects of cigarettes and alcohol. It also encompasses the sale of fourteen other age restricted products, including knives and solvents.
- 4.12 The Policy is linked to Torbay Council's responsibilities as a Licensing Authority, under the Licensing Act 2003. Trading Standards are statutory consultees under the Licensing Act 2003, in relation to 'The Protection of Children from Harm'. The Policy also contributes to Torbay Council's agenda for safeguarding children under the Children Act 2004 and the responsibilities of the Every Child Matters agenda.
- 4.13 During the past 12 months only one Test Purchasing Operations has been undertaken involving 6 premises, 5 for alcohol and one for New Psychoactive Substances. Unfortunately 4 of the five premises sold alcohol as did the premises selling New Psychoactive Substances. The outcome for alcohol is at one premises the seller was issued with a £90 fixed penalty notice, as the premises owner could demonstrate good procedures and training. At two other premises the business owner were at fault and they were both invite to make minor variations to their Premises Licence to tighten the requirements upon them. At the fourth business these discussions continue to again invite a minor variation application. If these are concluded successfully then a Premises Licence review will be undertaken. The new conditions include the requirement for the Premises Licence holder to employ a third party company to undertake test purchase operation three times a year, which if they fail at any time will mean the requirement stays until they pass three times.
- 4.14 Torbay Council has no powers over underage sales for New Psychoactive Substances, however the premises was issued with a Police warning as they have some limited powers for some substances relating to under 18's.

5. Possibilities and Options

- 5.1 The Council has approved a Food Safety Plan and an Under Age Sales Policy annually. The tabled Service Plan ensures that the resources allocated to the teams through the budget process will be deployed to best affect and deal with the areas of highest risk. In supporting the recommendations the Council would be providing the baseline against which any future Food Standards Agency audits will be undertaken. If Members are not minded to approve the plans, then further negotiation will need to be undertaken with the Assistant Director Community and Customer Service and the Executive Lead.

6. Equal Opportunities

- 6.1 The recommendations in this report will ensure that the resources allocated to the team are targeted at areas of highest risk.

7. Public Services (Social Value) Act 2012

- 7.1 This report is not recommending any direct commissioning of services and therefore does not have a direct impact with Public Services (Social Value) Act 2012. The report seeks the endorsement of the statutory work already undertaken directly by the Council.

8. Consultation

- 8.1 No external consultation has specifically been undertaken on the Commercial Team Service Plan although the budget allocated to the team was subject to public consultation through the Councils overall budget processes during 2014/15. Though consultation does take place on key pieces of work, such as Policy reviews and on many applications made under the Licensing Act 2003 and the Gambling Act 2005.

9. Risks

- 9.1 Torbay Council is required to produce an annual Food Safety Service Plan, so providing that is agreed then there is no immediate risk. There is however a risk associated with the declining resources and the resilience within the Commercial Team which may have an impact on the delivery of the services it provides including food hygiene inspections.
- 9.2 Torbay Council is required by Section 5 of the Children and Young Persons (Protection from Tobacco) Act 1991 to consider the Policy on the Protection of Children in relation to Tobacco Sales, at least once in every period of 12 months, the extent to which it is appropriate to carry out in the area a programme of enforcement action in relation to tobacco and tobacco products. This is a statutory requirement with limited impact, as the work is already ongoing.

Appendices

- Appendix 1 Commercial Team Service Plan 2015-16
- Appendix 2 Food Safety Service Plan 2015-16
- Appendix 3 Supply of Age Restricted Products Policy
- Appendix 4 Gas Safety Report 2012-2015
- Appendix 5 Commercial Team Workplan for 2015-16
- Appendix 6 Equality Impact Assessment Commercial Team Service Plan

Additional Information

None