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| Scrutiny Committee | Communities Scrutiny Committee |
| Date of Meeting | 11 October 2018 |
| Title | Food Standards Agency Audit of Gwynedd Council's Food Law Enforcement Services, 22nd -26th of February 2016. |
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| Cabinet Member | COUNCILLOR DAFYDD MEURIG |
| Purpose | To report the progress made to meet 34 recommendations published by The Food Standards Agency following their audit of The Council's provision for enforcing food safety legislation. |

1. BACKGROUND

- 1.1 The Food Standards Agency (FSA) carry out a programme of planned audits of the provision of food law enforcement services by Local Authorities in Wales on a 3 yearly cycle. The audit focus on all aspects of service provision. This includes (but is not limited to) an assessment of policies and procedures which relate to food law enforcement, the performance of services in terms of undertaking programmes of official controls such as food hygiene and food standards inspections as well as the accuracy and completeness of records.
- 1.2 The FSA completed a full audit of Gwynedd Council's food law enforcement services over five days from the 22nd of February to the 26th of February last year (2016).
- 1.3 The purpose of the audit was to assess the Council's conformance against the feed and food law enforcement standard. The standard was published by the Agency as part of the framework agreement on official food and feed controls by local authorities.
- 1.4 The ASB's final report following the full audit (22/2-26/2/16) was received on the 14/2/17. The report contained 34 recommendations for the Council to meet and one recognition of good practice.
- 1.5 As part of the process the Service provided a plan detailing how and when we were to address the recommendations.

2. THE FOOD STANDARDS AGENCY REPORT ON GWYNEDD COUNCIL'S FOOD LAW ENFORCEMENT SERVICES, 22-16/2/16.

- 2.1 The FSA's report identifies service failings in the following areas.

- The Annual Service Plan
 - Officer Authorisations
 - The number of officers available to undertake food law enforcement work
 - Logging and keeping records
 - Undertaking interventions in line with current guidance with particular reference to the number and frequency.
 - Resources and service performance issues
 - Contact / communications under the primary authority scheme
 - Procedures
 - Enforcement Policy
- 2.2 The service submitted a progress report relating to work undertaken to meet the recommendations to the Scrutiny Committee on the 10th of October 2017.
- 2.3 It was noted at the time that meeting some of the principal recommendations was proving difficult due to a lack of resource available to the service, following a programme of cuts which has impacted upon the Public Protection Service over a number of years. One of the principal recommendations was:
- ‘Ensure an appropriate number of authorised officers are appointed to deliver food hygiene and food standards official controls in accordance with the food law code of practice.’*
- 2.4 There are approximately 2,200 food businesses in Gwynedd at any one time. All require an inspection / official control within a timescale as stipulated in the Food law Code of Practice. The frequency of inspections / official controls is dependent upon the risk category of a businesses which is established during the previous inspection. For food hygiene the frequency of inspection can range from six months (high risk) to 3 years (low risk). The same arrangements apply for food standards work.
- 2.5 The number of food safety inspections required in any given year varies from 1500 – 1800.
- 2.6 The service has failed to inspect a significant percentage of food businesses within the required timescales on a yearly basis since 2015. This is primarily due to the reduction in officers and a corresponding increase in workload. For example, previously an officer would undertake food hygiene work only. Now the same officer is also required to undertake food standards, public health and health and safety work. This situation is ongoing and creates a significant risks to the Council because:
- Businesses are not inspected within prescribed timescales which leads to a potential for food / drink which is produced or sold in the County to pose a risk to health.
 - Instances of food poisoning or food fraud can have a significant detrimental economic impact within the food sector locally.

- The Council is not fulfilling its obligations to The Welsh Government (as required in the food law code of practice) which leads us open to criticism / sanctions.

3. THE FOLLOW UP VISIT BY THE FSA – PROGRESS ASSESSMENT 28/2/18

3.1 On the 28th of February 2018 FSA officers re-visited the Public Protection Service to assess whether or not we had satisfactorily completed our improvement plan based on their original 34 recommendations.

3.2 Their subsequent report received during March contained a summary, as follows:

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| Total Recommendations | 34 |
| Completed | 14 |
| Good Progress | 14 |
| Limited Progress | 2 |
| No Action taken | 2 |
| Target date not reached | 2 |
| Total recommendations which require further work | 20 |

3.3 The table in appendix 1 of this report lists the 20 outstanding recommendations as noted during February of this year with an explanation of the progress made since then and, where applicable, any further work which is intended to be undertaken in future.

4. PROGRESS SINCE FEBRUARY 2018 AND FUTURE PLANS

4.1 Dealing with the difficulties in food safety provision due to the reduction in staff has been a major consideration for the Public Protection Service for a number of years, particularly with reference to undertaking food safety inspections within set target dates. At the start of the 2018-19 financial year a source of money was identified and re-allocated for the purpose of employing an officer for a period of 12 months. An individual was appointed as a public protection officer (temporary) during June.

4.2 The newly appointed officer has recently graduated and will require further training (3-4 Months) before being able to undertake official food safety controls.

4.3 The interim head of the FSA in Wales met Gwynedd Council's Chief Executive on the 21st of May this year to discuss our performance in terms of food safety legislation enforcement, with a specific focus on long term food safety service provision. The FSA advised that at least two further officers were required to meet statutory requirements in terms of the enforcement of food law. Subsequently an assessment

of the resources available to the Public Protection Service was undertaken. The assessment considered what resources were required to meet all the duties imposed on the service, including food safety work, and considered options for financing actions to rectify identified deficiencies.

- 4.4 In July 2018 a report detailing the outcome of the resource assessment was presented to the Cabinet whereupon support was given for the Environment Department to use £70,000 of an annual income from the Transport and Countryside Service , previously identified as a contribution towards the Council's savings plans, for the purpose of employing an officer / officers on a permanent basis within the Public Protection Service.
- 4.5 The Service will be advertising the post of Public Protection Enforcement Officer in October and the post of Public Protection Officer in late November / early December.

5. CONCLUSION

- 5.1 The service has taken significant steps to meet the 34 recommendations which resulted from the FSA's full audit of Gwynedd Council's arrangements for food regulations enforcement in February 2016.
- 5.2 Following their re-visit in February of this year confirmation was received that we had met a proportion of the recommendations, had made good progress in meeting a number of others but that we had made little progress or none in meeting 4.
- 5.3 There was a recognition, in line with some of the recommendations, that the service had insufficient resources to satisfy the Welsh Government's requirements with regard to the enforcement of food safety legislation. Due to the importance placed on the service's work in meeting statutory requirements, the nature of the work and the potential risks to Gwynedd residents from failing to comply with the requirements the Cabinet decided to allocate more resources to the Public Protection Service for this purpose.
- 5.4 A review determined that the most efficient / appropriate use of this additional resource is to employ two new officers. Following recruitment and a period for familiarisation / training it is expected that, in time, this will allow the Authority to meet its food safety enforcement obligations in line with the national food safety framework agreement.
- 5.5 We will continue with our efforts to meet all 34 of the recommendations as detailed in our improvement plan. A backlog of inspections will require time to be cleared. There are currently 290 inspections which should have been completed by the end of March this year which remain outstanding. If we are successful in recruiting staff within the next few months it is expected that this work should be completed by 2021.

5.6 The Service has updated the FSA of our plans to address the lack of resource. We have also enquired whether there is any financial assistance available to the Authority to deal with the inspections backlog.

Appendix 1.

**Gwynedd Council Action Plan
Audit Date: 22 – 26 of February 2016
Recommendations which require further action post February 2018.**

Key – FSA Opinion on efforts made to meet the recommendations as of February 2018

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| | Good progress |
| | Limited Progress |
| | No Action |

| TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH) | FSA Status opinion February 18 | Improvements made since 02/18 | Further action |
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| 3.20 (i) Ensure future Service Plans for food hygiene and food standards are developed in accordance with the Service Planning Guidance in the Framework Agreement. In particular, an estimate of the resources required to deliver the services against those available should be provided and an explanation provided for any variances identified in the service review. [The Standard – 3.1] | Good Progress | The 2018-19 plan has been completed which includes the additional information required | A copy of the plan has been directed to the FSA with a request for feedback. We have not received a response to date. |

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| <p>3.20 (ii) Ensure the performance review based on the previous year's Service Plan is submitted for approval to the relevant member forum or senior officer. [The Standard – 3.2]</p> | <p>No Action</p> | <p>Discussions have been ongoing relating to who /how the plan should be approved. The FSA have taken a view that it should be the full Council, The Head of Service or Portfolio leader</p> | <p>A request for advice has been directed to the Authority's Legal Service – how the plan should be approved in accordance with our current delegation of powers scheme.</p> |
| <p>5.10 (i) Review and amend its authorisations to ensure officers are appropriately authorised under all relevant legislation and ensure officer competency assessments are documented. [The Standard – 5.1]</p> | <p>Good Progress</p> | <p>An audit of all authorisations has been undertaken with some amendments made – inclusion of legislation.</p> | <p>Undertake regular reviews.</p> |
| <p>5.10 (iii) Ensure an appropriate number of authorised officers are appointed to deliver food hygiene and food standards official controls in accordance with the Food Law Code of Practice. [The Standard – 5.3]</p> | <p>No action</p> | <p>A Public Protection Officer (temporary) was appointed in June 2018.</p> | <p>Finance has been identified and allocated to employ two new members of staff on a permanent basis.</p> |
| <p>5.10 (iv) Ensure all authorised officers meet the training requirements set out in the Food Law Code of Practice; including training in HACCP. [The Standard – 5.4]</p> | <p>Limited Progress</p> | <p>The FSA have stated their intention to organise HACCP enforcement training during 2018-19. Three Gwynedd officers require such training to satisfy the recommendation. No other training providers who offer HACCP enforcement training have been identified.</p> | <p>As yet (September 2018) relevant training has not been identified. Officers will undertake such training as and when it becomes available.</p> |

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| <p>7.26 (i) Ensure that food hygiene interventions/inspections are carried out at the minimum frequency specified by the Food Law Code of Practice. [The Standard -7.1]</p> | <p>Target date 1/1/19</p> | <p>Public Protection Officer (Temporary) employed in June 2018. One of the post's main duties is to undertake food hygiene inspections</p> | <p>The Service will endeavour to appoint two officers on a permanent basis during the Autumn of 2018. One of the main responsibilities of both posts will be undertaking food hygiene interventions.</p> <p>The appointments will permit us to meet the recommendation but not, in all likelihood, by the target date of 1/1/19.</p> |
| <p>7.26 (ii) Carry out food hygiene interventions/inspections in accordance with the Food Law Code of Practice, centrally issued guidance, and its procedures [The Standard – 7.2]</p> | <p>Good Progress</p> | <p>Tightening of procedures to ensure that all food business registration forms are date stamped upon receipt and that the correct procedure is followed whilst processing / determining applications for the approval of food establishments.</p> | <p>Regular monitoring of records / arrangements.</p> |
| <p>7.26 (iii) Fully assess the compliance of establishments in its area to the legally prescribed standards. [The Standard -7.3]</p> | <p>Target date 1/4/20</p> | <p>Regular performance monitoring against set targets</p> | <p>It is expected that an increase in resources (in terms of additional members of staff) will allow the team sufficient time to undertake more comprehensive assessments.</p> |
| <p>7.26 (v) Ensure that observations made and data obtained in the course of a food hygiene inspection are recorded in a timely manner to prevent loss of relevant information. [The Standard – 7.5]</p> | <p>Good Progress</p> | <p>Use of amended recording forms. Monitoring of records to ensure food labelling and imported food requirements have been assessed, where necessary.</p> | <p>Continue to monitor a proportion of records on a regular basis.</p> |

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| 7.46 (i) Ensure that food standards interventions/inspections are carried out at the minimum frequency specified by the Food Law Code of Practice. [The Standard -7.1] | Good Progress | | The Service will attempt to appoint two new members of staff on a permanent basis this Autumn. One of the main requirements of both posts will be to undertake food standards interventions. The additional resource should ensure that this recommendation is met in time. |
| 7.46 (iii) Assess the compliance of establishments in its area to the legally prescribed standards. [The Standard – 7.3] | Good Progress | Monitoring of assessment records to ensure sufficient consideration given to business compliance with food composition, labelling and traceability requirements. | Continued performance monitoring. |
| 7.46 (v) Ensure that observations made and / or data obtained in the course of a food standards intervention/inspection are recorded in a timely manner to prevent the loss of relevant information. [The Standard – 7.5] | Good Progress | Regular assessment of officer records to ascertain proper and sufficient assessments undertaken. | Continued performance monitoring. |
| 9.6 (i) Ensure it liaises with the Primary, Home or Originating authorities in relation to offences identified during interventions and unsatisfactory samples. [The Standard – 9.1, 9.4 & 9.6] | Limited Progress | Staff reminded of the need to contact Primary Authorities, Home Authorities and / or Originating Authorities in relation to identified offences. Also the need to record such actions. | Continued monitoring of records / performance. |
| 11.4 (i) Ensure food hygiene and risk rating data and due inspection dates for food hygiene and food standards are correctly entered and accurately maintained on the authority's database. [The Standard – 11.1] | Good Progress | Running regular reports from our computer database to identify and correct instances of incorrect inputting of data | Continued monitoring / rectification of records |

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| <p>12.10 (iii) Take appropriate action in accordance with its Enforcement Policy where sample results are not considered to be satisfactory. [The Standard – 12.7]</p> | <p>Good Progress</p> | <p>Regular assessment of unsatisfactory food sample records to establish if they have been directed to the food business operator. Also, that appropriate enforcement sanctions are used to deal with such samples.</p> | <p>Continued monitoring of records / performance.</p> |
| <p>15.20 (i) Review and amend its enforcement policy to include details of its arrangements for ensuring compliance with food hygiene and food standards requirements in establishments where it is the food business operator and reference to the Primary and Home Authority Schemes. [The Standard – 15.1]</p> | <p>Good Progress</p> | <p>Draft Policy produced</p> | <p>Draft policy to be finalised and approved under the relevant delegated powers.</p> |
| <p>15.20 (iii) Ensure that food hygiene enforcement including Remedial Action Notices and Hygiene Improvement Notices are carried out in accordance with the Food Law Code of Practice, centrally issued guidance and local procedures. [The Standard - 15.3]</p> | <p>Good Progress</p> | <p>Regular checks of records to ensure that the method of serving notices has been logged and that a compliance assessments have been undertaken promptly. Also, assessments of records relating to the voluntary surrender of food or the voluntary closure of a food business to ensure that the correct procedures , in accordance with the code, have been followed.</p> | <p>Continued monitoring of records / performance.</p> |

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| <p>15.20 (iv) Ensure all decisions on enforcement action are made following consideration of its Enforcement Policy. The reasons for any departure from the criteria set out in the enforcement policy shall be documented. [The Standard - 15.4]</p> | <p>Good Progress</p> | <p>Staff reminded that the enforcement policy should be followed when dealing with the results of unsatisfactory inspections / samples, Records monitored.</p> | <p>Continued monitoring of records / performance.</p> |
| <p>16.15 (i) Ensure that food business registration forms are maintained and retrievable, that businesses are provided with reports following an intervention / inspection and that food standards reports contain all the information required by Annex 6 of the Food Law Code of Practice. [The Standard – 16.1]</p> | <p>Good Progress</p> | <p>Regular review of business inspection records to ensure that the details of persons interviewed / seen are noted and that legal requirements and recommendations are differentiated clearly in food safety reports.</p> | <p>Regular performance monitoring</p> |
| <p>19.10 (ii) For food hygiene and food standards, verify its conformance with the Standard, relevant legislation, the Food Law Code of Practice, centrally issued guidance and the authority's documented policies and procedures. [The Standard – 19.2]</p> | <p>Good Progress</p> | <p>Monthly / Bi-monthly performance monitoring programme and quarterly reporting in place. Results scrutinised by management / scrutiny committee.</p> <p>'Live' reports available to assess some aspects of performance via the service computer database</p> | <p>Continue with the arrangements.</p> |