

ENVIRONMENTAL SCRUTINY COMMITTEE

3 OCTOBER 2017

Present: County Councillor Patel(Chairperson)
County Councillors Philippa Hill-John, Owen Jones, Lancaster,
Lay, Mackie, Owen, Wong and Wood

10 : APOLOGIES FOR ABSENCE

No apologies for absence were received.

11 : DECLARATIONS OF INTEREST

The following declaration of interest was received in accordance with the Members' Code of Conduct:

Councillor Mackie	Item 4	Personal
-------------------	--------	----------

12 : MINUTES

The minutes of the meeting held on 5 September 2017 were approved by the Committee as a correct record and were signed by the Chairperson.

13 : MANAGING FOOD HYGIENE IN CARDIFF

Councillor Mackie declared a personal interest in the following item under the Members Code of Conduct, as the Authority's appointed member of the Cardiff Port Health Authority.

The Committee received a report on the approach taken by the Shared Regulatory Service in managing food hygiene in Cardiff. The report sought to highlight the role, responsibilities and challenges; aims and objectives; performance targets and the resources available to Shared Regulatory Services (SRS) for managing food hygiene in Cardiff.

Members were advised that the Shared Regulatory Service, a collaborative service between Bridgend, Cardiff and Vale of Glamorgan Councils, was established in May 2015. SRS delivers the Trading Standards, Environmental Health and Licensing functions under a single management structure. The authority has a duty to enforce the Food Safety Act 1990, the Official Food and Feed Controls (Wales) Regulations 2009 and an array of food and feed legislation, and as part of the Food Standards Agency Framework Agreement the authority is required to produce a Food and Feed Plan setting out the arrangements in place to discharge its duties. The Shared Regulatory Services – Food and Feed Law Service Plan 2017/18 (Draft) was attached at Appendix A to the report.

SRS is responsible for, and committed to, the safety and quality of the food chain. To achieve this the service has adopted 12 aims and objectives detailed in the report. SRS also places the corporate priorities of the three councils at the heart of its operations. In developing its strategic priorities SRS has considered the priorities of

all three councils and the needs and aspirations of its partners and customers. Details of the three strategic priorities were also set out in the report.

Members were advised that there are 5,928 food premises within the area covered by SRS: 1,294 in Bridgend; 3,325 in Cardiff; and 1,309 in the Vale of Glamorgan. A profile of the food premises was provided in Appendix A of the report. SRS has the responsibility to monitor these premises to ensure that they meet the required food hygiene standards.

Decisions about enforcement action, and in particular decisions to prosecute, have serious implications for all involved and SRS has adopted a Compliance and Enforcement Policy. The Policy sets out the standards that will be applied by the Service when dealing with issues of non-compliance, and what residents, consumers and businesses can expect. The Policy aims to promote efficient and effective approaches to inspection and enforcement, and balance the need for improvement whilst minimising unnecessary burdens on business.

The Policy ensures that food and feed businesses receive interventions, for example, inspections in accordance with codes of practice and practice guidance. The local authority has a planned programme of interventions based on the requirements of the Food Law and Feed Law Codes of Practice and Practice Guidance. Following inspection from officers, premises are categorised from A (high risk) to E (lowest risk). Interventions are planned in accordance with the risk rating. The report provided the Committee with further details of the appropriate interventions for food premises categories A to E.

New businesses, or unrated premises, are subject to full inspection. These are undertaken within 28 days of the premises opening. Members were advised that Cardiff has a high turnover of businesses and this presents an additional challenge to the service. In 2016/17 416 new businesses were identified in Cardiff – compared to 194 in Bridgend and 140 in Vale of Glamorgan.

The report also provided a summary of the key food hygiene performance indicators.

The Food Hygiene (Wales) Act 2013 requires all relevant food businesses to display their food hygiene rating sticker in a prominent place so that customers can clearly identify the food hygiene score achieved. The scheme has been successful in raising public awareness of food hygiene in Wales, and has in turn increased food safety standards. Appendix 2 to the report provided the Committee with a breakdown of food hygiene standards ratings for food establishments in the city.

Furthermore, since November 2016 takeaways in Wales have been asked to include a bilingual statement on leaflets or flyers such as menus telling customers where they may find details of the food hygiene rating on the website of the Food Standards Agency. Members were advised that there is a need for additional enforcement for these additional requirements, in addition to the enforcement relating to the display of a food hygiene rating sticker.

The overall SRS financial budget for food and feeds safety is estimated to be £3,520,442. The Cardiff allocation is £1,968,050 net, which included £1,748,639 for staffing, £25,507 for travel/subsistence, £44,231 for sampling and £139,673 for

supplies and services. There are 34.09 FTE posts dealing with food hygiene issues across SRS; 19.45 of which are apportioned to Cardiff.

The Chairperson welcomed Councillor Michael Michael, Cabinet Member for Clean Street, Recycling and Environment; Dave Holland, Head of Regulatory Services; and Christina Hill, Operational Manager, Food Safety; to the meeting. Councillor Michael was invited to make a brief statement.

Councillor Michael stated that whilst the Shared Regulatory Service was established 3 years ago the service has taken time to gel. The SRS is performing well and the report before the Committee reflects this. Food hygiene was an important area of responsibility for the service.

Christine Hill provided the Committee with a verbal presentation on Food and Feed Law Service Plan 2017/18. Members were invited to comment, seek clarification or raise questions on the information received. Those discussions are summarised as follows:

- Officers confirmed that 100% of Category A and Category B premises were inspected during the year, along with 90% of Category C premises. The service area has a KPI which aims that all new businesses are inspected within 28 days of the business opening. 90% of new businesses are inspected within this timescale and those that are not inspected are usually not operating and ready for inspection. High risk new premises will always be prioritised.
- Members asked whether the services' aims and objectives are manageable within the resources available. Officers stated that the service is target driven and it was anticipated that all KPIs would be achieved. SRS are able to call on additional resources from Bridgend and Vale of Glamorgan the need arises. Working practices have changed and staff have adopted agile working. For example, staff are no longer office based. The FLESP sets out what is achievable with the budget available.
- Members asked whether income from training/advice sessions could be allocated towards the provision of additional staff. Officers stated that the income from providing advice to food business was insufficient to provide additional staff. The level of the fee is set nationally in conjunction with other authorities.
- Members noted that 94% of business were broadly compliant. Officers were asked whether any trends had been identified with the 6% of businesses that were failing and whether a plan of action had been implemented to address these failings. Officers considered that in view of the range of premises types and cuisines in Cardiff direct comparisons were not possible.
- Members questioned whether SRS had considered offering its services to other local authorities. Officers stated that SRS is expanding on its 'paid for' advice visits and uptake was increasing. SRS are also the primary authority for businesses with outlets in more than one local authority area. The Cabinet Members suggested that some expressions of interest have been received from other local authorities but he considered that the SRS should have time to settle before considering such steps.

- Officers advised that, in terms of food hygiene, South Wales compares poorly when compared to North and West Wales. The Food Hygiene Standards are acting as a competitive driver and this is driving up standards.
- A Member stated that there has been an increase in reports from Members of the public that food businesses are not displaying their food hygiene ratings in prominent places. Members asked how proactive the authority is the enforcement of this requirement. Officers confirmed that complaints are received from the public and the service is proactive in enforcement. A Fixed Penalty Notice (FPN) is issued to businesses which are found not to be displaying their ratings. Display of the notice is the first thing inspectors will look for during visits and officers will pay particular attention to this.
- A Member referred to concerns raised on a recent television programme, featuring staff from the SRS, that food businesses are not displaying their correct hygiene rating and are providing incorrect information on the telephone when asked for their hygiene rating. The Member asked whether the public could have faith in the food hygiene rating system. Officers stated that the television programme did help to raise public awareness. Officers were disappointed that the food businesses highlighted had not displayed correct scores and follow-up actions were planned. Members were asked to note that hygiene ratings can be checked on the Food Standards Agency website. More could be done to signpost members of the public to this information.
- Members asked whether food hygiene rating results were broadly improving since their introduction in 2013. Officers referred to the graph on page 75 of the report which indicated that food hygiene rating had consistently improved since 2013.
- Members asked whether, given the churn of food businesses in the City, there was any potential for pre-opening inspections or for making pre-opening advice visits mandatory. Officers considered that pre-opening inspections would impact on resources and businesses that were already trading would not be visited as a result.
- The Cabinet Members stated that in instances where businesses apply for change of use planning permission to allow for a food business to being trading, then officers in SRS should be notified early to enable SRS to start their processes. Discussions are on-going with a view to implementing a joined up approach between service areas.
- Members asked how often businesses that are rated 0 and 1 receive spot check visits and also what are the most common reasons for failures. Officers advised that there are set timescales for revisits, depending on the score achieved. A rating of zero means that there are poor practices and inspectors will make a judgement whether to revisit or to close the premises. Common reasons for failures were hygiene practices, temperature control and record keeping.
- A Member asked whether bi-lingual statements on take-away leaflets were statutory and how compliant businesses were. Officers indicated that leaflets to not need to be bi-lingual but they should contain information on how to access the FSA website. There is also no requirement to put food hygiene ratings on their

websites.

- Members commended the success of the food business workshops hosted by SRS at the Millennium Stadium and asked whether there was scope to hold smaller, more localised workshops, in the future. Officers welcomed the suggestion.

RESOLVED – That the Chairperson writes on behalf of the Committee to the Cabinet Member to convey their comments and observations.

14 : CARDIFF'S TAXI SERVICES

The Committee received a report providing a briefing on the way in which taxi services in Cardiff currently operate, the challenges they face and where improvements can potentially be achieved.

Members were advised that the Council acts as the Licensing Authority for taxi vehicles, taxi driver and taxi operators in Cardiff. The Licensing Authority has responsibility for setting the conditions and issuing licences to ensure that vehicles are safe and comfortable and that operators are fit and proper persons, medically fit, knowledgeable and free from relevant convictions.

There are two types of taxi licences in the UK; the Hackney Carriage Vehicle Licence and the Private Hire Taxi Licence. There are currently 946 Hackney Carriage Vehicle Licences, 1289 Private Hire Vehicle Licences and 80 Operator Licences issued in Cardiff. The differences between the two vehicle types were explained further in the report.

There have been recent developments within the taxi hire business with the arrival of new forms of business models where customers use online apps to access taxi services, such as Uber. Uber charge owner drivers a fee provided through their app and all payments are dealt with electronically. When a customer requests a taxi journey through the app the details are placed on a platform and Uber drivers are given an opportunity to bid for a fare; the customer then has the option to agree or decline one of the offers.

The Council developed a code explaining that Cardiff taxi operators and drivers are firmly committed to offering the highest levels of service to all passengers. The 'Cardiff Taxi Driver Code – Our Promise to Passengers' set out what passengers can expect from drivers and what drivers expect from their passengers.

The Committee heard that the legislation surrounding taxis is currently in the process of being devolved to the Welsh Government. The Welsh Government is reviewing its options around future arrangements and a consultation exercise based on a recent Law Commission review of the law governing taxi and private hire vehicles has been conducted. The review made 84 recommendations, many of which were reflected in the Welsh Government's proposals for reform. A number of the proposals were details in the report.

Members were also advised that on 6 December 2016 the Public Protection Committee received a report entitled 'Hackney Carriage Vehicle Licence Limitation. The Public Protection Committee resolved to continue with the moratorium, originally

implemented in 2010, on granting new Hackney Carriage Vehicle licences as it was satisfied there was no significant unmet demand for taxis in the City.

The Chairperson invited Will Lane, Operational Manager, Public Protection, to deliver a brief presentation on taxi services in the City. Members of the Committee were then invited to comment, seek clarification or raise questions on the information received. Those discussions are summarised as follows:

- Members asked what enforcement was in place to prevent taxis using bus lanes as unofficial taxi ranks and how many prosecutions or other actions have been carried out. Officers advised that Fixed Penalty Notices (FPNs) can be issued to drivers parking in bus lane. Responsibility for FPNs lies with officers in Highways. Officers did not have any figures in terms of prosecutions as this information is not routinely provided to the Licensing Team. Officers stated that if any particular taxi drivers were identified who are continually blocking bus lanes then they would be happy to report the matter to the Public Protection Committee.
- A number of Members of the Committee considered that the use of bus lanes as unofficial taxi ranks was the result of there being insufficient rank space in the City Centre. Taxis are regularly forming unofficial ranks after 6.30 pm. Drivers are also causing problems by parking on junctions in Greyfriars and on Wood Street. Concerns were expressed regarding the lack of official taxi rank spaces in the City Centre and the implications for these unofficial ranks had for public safety.
- Members asked whether the Council has the authority to form new or temporary taxi ranks during peak periods, for example a rank in the Civic Centre near City Hall or Museum Place. Officers stated that the matter was currently being investigated and has been raised previously at Taxi Forum meetings. Any solution will be the responsibility of the Highways Authority, though the Licensing Authority will be consultees.
- Referring to the number of complaints received, Members asked whether it was possible to have a breakdown of the complaints received, for example, the issues the complaints relate to; the number of complaint received; the number of complaints subsequently considered at Public Protection Committee. Members also asked whether the complaints procedure was over complicated and whether it could be streamlined. Officers stated that a new database was being developed which would be able to provide the level of detail suggested. Officers noted the comments made regarding the complaints procedure. Members were advised that the process, in terms of gathering evidence and statements, needs to be robust as the Committee's decisions are often tested in the Magistrates Court during appeals.
- Responding to a question, officers explained that spot checks do not target particular drivers or vehicles. Spot checks are conducted and checks a made on whether the vehicle is operating in compliance with the conditions of service, e.g. is driver I.D. displayed? is for hire light illuminated? 'Mystery Shopper' exercises are also occasionally carried out e.g. to test whether private hire vehicles are willing to take fares from customers who flag them down in the street (which they are not permitted to do).

- Members sought further information regarding how taxi licensing fees are set. Officers advised that fees are calculated by using an all-Wales toolkit. The authority may only recharge the cost of providing the licensing service and the authority is constrained by legislation.
- Members noted that drivers who are licenced by another authority are legally permitted to ply for trade in Cardiff. Officers were asked to comment. Officers stated that the Welsh Government consultation exercise has sought views regarding this issue. This Authority has no enforcement powers over drivers licenced by other authorities. Officers considered that the issue is recognised and the legislation that allows it is old and arguably no longer fit for purpose. Drivers working within the SRS area: Cardiff, Vale of Glamorgan and Bridgend; are asked to declare which area they intend to work in.
- A Members asked whether it was possible to reduce licence fees for drivers who were operating 'cleaner' vehicles. Officers stated that the legislation does not allow for the authority to offer such incentives.
- Referring to the use of the meter for all journeys within the city limits, a Members asked what training or testing drivers receive and what action can be taken to reduce the number of complaints. Officers stated that taxi drivers are professionals and it is their duty to know where the city boundaries lay. Drivers are required to pass the 'knowledge' test – which asked drivers to most appropriate route between locations in the city.
- Members noted that a survey indicated 57% of passengers felt safe in a taxi. Members considered this to be a poor result and asked what additional measure to be taken to improve matters. Officers felt that those who felt unsafe may be concerned with their safety at potential flashpoints such as at taxi ranks. The Business Improvement District scheme is looking to bolster the taxi marshal service. References are not required from applicants for taxi drivers licences but an enhanced DBS check is necessary.
- Members asked for clarification on the remit of taxi marshals, for example, how they deal with refusal of fares. Officers advised that taxi marshals were part of the City Centre Management Team. Officers offered to provide further details re taxi marshals instructions to the Committee. Members were advised that officers from City Centre Management and Licensing have regular meetings to discuss the night time economy management.
- Officers described the circumstances under which it would be reasonable for a taxi driver to refuse a fare. Members were also advised that taxi drivers are permitted to ask for a deposit or part payment at the commencement of a journey. Passengers are not obliged to pay in advance or give a deposit and the driver cannot refuse the fare if passengers are unwilling to pay.
- Referring to the recent decision by Transport for London to refuse Uber an operators' licence, Members asked whether similar issues have been experienced in Cardiff. Officers stated that they were unaware of any concerns. There were estimated to be 40,000 Uber drivers operating in London, compared with between 250 and 300 in Cardiff. Uber in London and Uber in Cardiff were also operated

by different companies. Officers considered that there were some positives to the 'app-based' approach and it was popular with customers.

RESOLVED – That the Chairperson writes on behalf of the Committee to the Cabinet Member to convey their comments and observations.

15 : MEMBER BRIEFING: FIRST CARDIFF LOCAL DEVELOPMENT PLAN
ANNUAL MONITORING REPORT

Members noted the content of the 'First Cardiff Local Development Plan Annual Monitoring Report' that was presented to Cabinet at its meeting on Thursday 21st September 2017. The Principal Scrutiny Officer talked Members through the content of the report, this included the structure of the document, key findings and recommendations. Members agreed with the view that it was too early to draw any real long term conclusions from the report and that it should be used as an initial baseline document against which future progress should be measured. The Committee agreed to include the 'Second Cardiff Local Development Plan Annual Monitoring Report' to the list of potential work programme ideas for 2018/19; the suggested aim would be to scrutinise this document against the progress achieved in terms of delivering Cardiff's Local Development Plan and comparing this against the baseline figures set out in the 'First Cardiff Local Development Plan Annual Monitoring Report'.

In addition to deferring more detailed scrutiny of the 'Second Cardiff Local Development Plan Annual Monitoring Report' to 2018/19 Members stressed the long term importance of driving 50:50 modal shift. They felt that Cardiff's Local Development Plan was an important vehicle for driving 50:50 modal shift and that scrutinising the transport element of this was very important going forward, as a result the Committee is very keen to scrutinise any future transport plans for Cardiff, this would include the green paper on transport due to be produced before the end of the 2017/18 financial year.

Finally, the Committee are aware that the Council is updating a number of Supplementary Planning Guidance documents that link directly into the progressing Cardiff's Local Development Plan. Members confirmed that they will review the suite of new Supplementary Planning Guidance documents and look to scrutinise these during 2017/18 should they feel it is appropriate.

AGREED – That the report be noted.

16 : ENVIRONMENTAL SCRUTINY COMMITTEE - WORK PROGRAMME
2017/18

The Principal Scrutiny Officer presented an update on the Committee's Work Programme. Members were asked to consider potential items for the November and December committee cycle. The Committee discussed the work programme and a number of options were put forward including the Cycling Strategy, Drainage Programme and Winter Maintenance.

AGREED – That the Principal Scrutiny Officer write to Members of the Committee outlining the Committee's Work Programme for November and December.

17 : DATE OF NEXT MEETING

Members were advised that the next Environment Scrutiny Committee is scheduled for 7 November 2017.

The meeting terminated at Time Not Specified

This document is available in Welsh / Mae'r ddogfen hon ar gael yn Gymraeg