



**Meeting: Full Council**

**Date: 18 July 2013**

**Wards Affected: All**

**Report Title: Commercial Team Service Plan. Community Safety (incorporating the statutory service plans for Food Safety and the Councils 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 and Emergency Planning 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 **(i) To approve the Statutory Food Safety Service Plan as set out in Appendix A of Appendix One.**  
**(ii) To approve the Policy on the Protection of Children in relation to Tobacco Sales and Other Age Restricted Goods as set out in Appendix C of Appendix One.**  
**(iii) To note the overall workplan of the Commercial Team for 2013/14.**

## 2.2 Reason for Decision

The Commercial Team Service Plan covers the work undertaken by the Commercial Team within Community Safety, all 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.

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, all 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. The plan outlines the risks associated with reduced resources in fulfilling its statutory obligations especially with regard to the level of food hygiene inspections which are undertaken and the overall resilience of the service.
- 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

- 4.2 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.
- 4.3 The document shown in Appendix A of the Commercial Team Service Plan 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 years implementation and

this year's work plan for 2013/14, this may alter during the year as the service is very reactive and responds to changes in legislation as and when is necessary.

4.4 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;
- the backlog of medium risk premises that require an intervention.

An action plan was developed and agreed with the Food Standards Agency to mitigate the issues raised however with the current level of resources allocated to this service the Food Safety Team is not able to carry out 100% of interventions in all the premises as laid out in the statutory Food Law Code of Practice. This is reflected in the Food Safety Service Plan. This may result in further Food Standards Agency inspections as resources have reduced further since that inspection.

4.5 The new Food Hygiene Rating Scheme has been a huge success, with over 600 premises scoring 4 or 5. (5 being the highest score). It has helped drive up standards and has meant there has been a recent reduction in the number of high risk premises, which has helped mitigate some of the loss in resources. However, the team cannot remedy the continued resource gap to enable them to inspect all C rated premises, as previously identified.

4.6 The Food Standard Agency's 'Official Food Control' National Review has been brought to an early close. One option that was being considered was the centralisation of the food hygiene inspection work. They have concluded that the enforcement of food hygiene in premises should remain with the Local Authority, though this will be with greater scrutiny.

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

4.7 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.

4.8 Cabinet last considered Torbay Council's Policy regarding enforcement of legislation prohibiting the supply of tobacco and tobacco products to children and young people, in December 2011. 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 C of Appendix One.

- 4.9 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.
- 4.10 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.
- 4.11 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.
- 4.12 During the past 12 months only one Test Purchasing Operation has been undertaken. There has been and continues to be difficulties in getting willing volunteers to undertake these test purchases. This resulted in a different approach whereby a young looking 19 was used. Although this means that no offences are committed if a sale takes place it does test the policy of the premises in question. Eight premises were visited and three sold tobacco and alcohol and six didn't ask for identification. Those premises have been written to and advice has been given to ensure their own policies are followed.

## **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 Executive Head Community Safety and 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 2012/13. 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 One      Commercial Team Service Plan

## **Additional Information**