

Economy and Neighbourhoods Scrutiny Panel Minutes Tuesday 21 March 2023

Present:

Cllr Yusra Hussain
Cllr Matthew McLoughlin
Cllr Tyler Hawkins
Cllr Aafaq Butt
Councillor John Taylor
Jane Emery (Co-optee)
Jonathan Milner (Co-optee)

Attendees:

Councillor Elizabeth Smaje, Chair of Scrutiny
Councillor Will Simpson, Cabinet Member for Culture and Greener Kirklees
Katherine Armitage, Service Director - Environmental Strategy and Climate Change
Judith Stones, Operational Manager Public Protection
Leanne Perry, Environmental Health Group Leader
James Kaye, Environmental Health Group Leader

Apologies:

Councillor Martyn Bolt
Chris Friend (Co-optee).

1. Membership of the Panel

Apologies were received from Councillor Martyn Bolt and Chris Friend (co-optee).

2. Minutes of the Previous Meeting

The Panel considered the Minutes of the Meeting of the Panel held on 28th February 2023.

RESOLVED: The Minutes of the meeting held on 28th February 2023 were agreed as a correct record.

3. Interests

No Interests were declared.

4. Admission of the Public

All items were considered in the public session.

5. Deputations/Petitions

No deputations or petitions were received.

6. Public Question Time

No questions were received from the public.

7. Statutory Health and Safety Service Plan 2022-2023

The Panel considered the Statutory Health and Safety Service Plan 2022-2023 presented by James Kaye, Environmental Health Group Leader. Councillor Will

Simpson, Cabinet Member for Culture and Greener Kirklees was also in attendance. It was highlighted that:

- Legislation determined the type of activities that Local Authorities were required to regulate.
- 65% of GB workplaces were enforced by Local Authorities, including retail and leisure businesses, warehouses and office environments.
- Kirklees Council Health and Safety team was a small team (1.8 full time equivalents and 3 warrant officers).
- Kirklees Council was duty bound under the act to have the provisions in place to deliver the health and safety function.
- The Health and Safety Team aimed to work with others to protect people's health and safety by ensuring risks in the workplace were properly managed.
- This was achieved through risk-based interventions, the use of national/local intelligence to inform priorities and the use of a wide range of interventions.
- It was also important to deliver service priorities whilst working towards Corporate Outcomes: People, Partners, and Place.
- Work was delivered in accordance with the Enforcement Code Guidance and a transparent approach was taken through welcoming review by the HSE (LAE1 stat return) and other critical friends.
- In year 21/22, the health and safety team carried out 9 proactive inspections.
- There were also 96 non-inspection interventions including legionella advice to nightclubs opening after the pandemic in July 2021 to ensure water systems in these venues were safe and flushed prior to re-opening.
- The team liaised with the safety advisory group to provide insight into users of large inflatable devices (i.e.- bouncy castles or slides) and how operators should manage risk.
- Work was undertaken around wet cupping interventions to address blood borne disease risks.
- Service priorities for 2022/23 included:
 - The proactive inspection of warehouses to address, workplace transport, working at a height, manual handling and welfare facilities for drivers.
 - Electrical safety within the hospitality was also a key service priority due to the increased prevalence of outdoor spaces following the Covid-19 pandemic.
 - A review of customer safety information was to be given to user of trampoline parks.
- Potential emerging demands which may impact future service delivery included the provision of the Aesthetics Industry.
- Currently the delivery of non-cosmetic treatments such as Botox and facial fillers were unregulated.
- The associated risks had led the UK government to begin to bring forward an amendment to the Health and Care Act 2022.
- The suggested approach would be to introduce a licensing regime for Aesthetics businesses and practitioners.

- There were 70+ businesses in Kirklees, who would all require visits, advice and a licence which would place additional pressure on the Health and Safety Team.
- Historic terror attacks within the UK identified that security at public venues needed to be improved.
- The proposed legislation (Martyn's Law-Protected Duty) placed a legal duty on those responsible for certain locations to consider the threat of terrorism and to implement appropriate and proportionate controls.
- The government had promised to introduce a regulatory inspection regime, but it was still unclear if local authorities would be made responsible for regulation.
- Premises would fall into scope of the new duty if the venue delivered a qualifying activity (i.e.- food and drink, sports grounds, public building etc)
- Maximum capacity was also considered, and 2 thresholds were to be created, which were 100+ or 800+.
- If responsibility for regulation fell to the Local Authority, the impact would be high and additional resources would be needed.

The Panel welcomed and noted the presentation and, in the discussion, to follow asked a number of questions in relation to performance monitoring, comparability with other local authorities and recruitment challenges, which James Kaye responded to as follows.

In response to questions, from the Panel in relation to how well Kirklees compare with other Local Authorities and performance monitoring and assessment it was advised that the 'Critical Friend' approach was used to compare Kirklees, in areas such as recruitment of staff and performance with other West Yorkshire Authorities. This showed that Kirklees did compare favourably or in line with its neighbours. In relation to challenges around recruitment, the Panel were reassured that statutory requirements were being fulfilled with current staffing levels, but there were national challenges in the recruitment of trained health and safety staff. The Panel were advised that this was due to a number of factors, but it was highlighted that the Private Sector had a stronger offer which drew staff away from the Public Sector in this area. To address this, Kirklees were looking at training staff internally and ensuring that more experienced staff shared their knowledge and skills with newer staff to ensure this wasn't lost following their retirement. In relation to performance monitoring and assessment, it was noted that Local Authorities were regulated externally by the HSE.

In response to a question from the Panel in relation to the number of fatalities investigated, it was highlighted that there had been no fatalities as a result of an accident/ health and safety risk since 2013 which was positive.

In response to a question around apprenticeship offers in the service area, it was advised that there were currently 2 apprentices employed and there was potential to recruit a third going forwards.

In response to a question from the Panel in relation to the number of accident/ reports and complaints which were then followed up, it was advised that due to lack of resources that it was not possible to follow up on every report. It was explained that the HSE had a developed a selection criterion which must be adhered to. The

threshold to trigger investigation was high due to the limited resources. The team was also not notified of near misses.

The Panel noted the response and expressed understanding that not every complaint could be investigated acknowledging that this highlighted how under resourced the Health and Safety field was.

In response to a question in relation to occurrences of multiple complaints, and if there were trigger points for investigation following receipt of these (even if the nature of the complaints were minor). James Kaye provided reassurance that a number of complaints for the same premise would trigger visit and proactive investigation.

In response to a question about health and safety in relation to work related stress and how this may be investigated going forwards, it was advised that the approach was still to be developed but was a part of the services forward plan.

In response to a question around the schedule for checking Wet-Cupping and Aesthetics Providers, and how soon these regulations would be approved, it was advised that there would be no schedule, and that the visits for wet-cupping ended in 2022. The amendment to the legislation was awaiting consultation and if the scheme was introduced once licensed premises would be provided with advice on a 2 yearly cycle for example.

The Panel acknowledged the response but asked for reassurance that local complaints would trigger investigation highlighting that any report of the transmission of blood borne illness required action. In response James Kaye confirmed that any complaints of that nature would be investigated and agreed with the importance of this.

Councillor Elizabeth Smaje, Chair of Scrutiny, noted that several venues had been transferred to local community groups in Kirklees and asked what information would be provided in relation to the new regulations under Martyn's Law to help them understand what they should do to ensure compliance.

In response, James Kaye advised that information would be provided if it was confirmed that Local Authorities would be responsible for regulation when the legislation was introduced. The type of advice to be provided was not known yet, but there would be thresholds which would determine what each type of business would be required to do.

The Panel noted the response and recommended that liaison with those Council services who supported Community groups who had taken on an asset transfer be undertaken to support this work.

The Panel asked further questions covering partnership work, spotting data trends, staff retention and progress in meeting the set targets for the Warehouse Project. The Panel also wanted to know if staff were trained to identify breaches of labour law, or signs of slavery and trafficking when visiting premises.

In response to a question from the Panel about meeting the set target for the warehouses project, James Kaye confirmed that the team were currently working in line with the timescales set out. The project may continue into new financial year, but the national priorities wouldn't change, and the scope of the project may be broadened.

In response to the question from the Panel in relation to staff retention, James Kaye advised that the team and senior management endeavoured to retain staff and a lot did remain with the Council however the private sector financial offer was currently more attractive than the public in this area and this did have a significant impact on recruitment and retention.

In response to a question from the Panel in relation to action against breaches in labour law and identifying signs of slaver/ trafficking, James Kaye reassured the Panel that staff were trained to identify signs of this activity and any concerns arising would be raised immediately and cascaded through the intelligence portal to be acted on as soon as possible.

In response to a question from the Panel around the amendment to legislation in to introduce a licensing regime for Aesthetics businesses and practitioners and whether the new duty would be accompanied by additional resources to support this, James Kaye advised that it was anticipated that this would be the case and Service Leads had been forthcoming with praise for the team, and expressed confidence that when needed additional resources would be provided.

The Panel noted the responses to their questions, and further highlighted that there were currently several Boards who managed the aesthetic industry and wanted to understand more about how the Council would work alongside the external organisations following the amendment.

In response, James Kaye advised that these organisations were professional bodies which practitioners and business paid to be a part of or be trained by. These bodies could not but regulate themselves so this would be a part of the Councils responsibility, but the Council could also work closely with Boards and contact these bodies for advice for example. In the ascetics industry there was no gold standard yet, and these organisations would play a key role to play in terms of licensing and health and safety regulations.

Councillor Will Simpson closed the discussion by expressing thanks to the Health and Safety team for their positive, important, work in helping to keep residents safe.

RESOLVED: The Panel noted the Statutory Health and Safety Service Plan 2022- 23 and recommended that:

1. Liaison with Council services who supported Community Groups be undertaken to help increase their understanding of the regulations under Martyn's Law, if this responsibility be delegated to the Local Authority under the new legislation.

8. Food Safety Service Plan 2023

The Panel considered the Food Safety Plan 2023 which was presented by Leanne Perry, Environmental Health Group Leader. Councillor Will Simpson, Cabinet Member for Culture and Greener Kirklees, was also in attendance. It was highlighted that:

- The Food Standards Agency (FSA) had a key role overseeing local authority activities concerning food safety enforcement.
- Food Safety Service Plans are seen by the Agency as an important part of the process to ensure that national priorities and standards are addressed and delivered locally.
- The Food Safety Service Plan was a requirement of the Food Law Code of Practice.
- **The Plan outlined:**
 - The number and types of food businesses in Kirklees (4,052 businesses)
 - The demographics of Kirklees
 - The Councils approach to delivery of official controls
 - The assessment of the number of official controls that will be due over the course of the year (including new registrations of approximately 550 businesses per year, on average)
 - The assessment of whether adequate resources existed to meet the Councils obligations.
- **Reporting against the priorities of the Food Safety Service Plan 2022, at Quatre 3 (Q3) of the 2022/23 period showed that:**
 - All milestones were achieved with regards to meeting the minimum requirements of the FSA Local Authority Recovery Plan from 1 July 2021 to 2023/24.
 - The ambition to exceed the expectations of the Recovery Plan and complete 50% of lower risk premises was achieved with only 38% of these businesses remaining.
 - FSA Milestones for 31st March 2022 were on target.
 - Maintaining the implementation of the Food Hygiene Rating Scheme (FHRS) included monitoring officers' ratings and participating in the national FHRS consistency exercise.
 - A review of alternative intervention approach for lower risk premises was ongoing in Q3.
 - All officers had completed appropriate Continuing Professional Development (CPD)
 - Work to increase and improve access to information for businesses on the Council website was ongoing at the end of Q3.
 - 'Steps to Success' Workshops were delivered to 0-2 FHR businesses in January 2023 and these were being expanded to include areas of high deprivation and poor levels of food hygiene.
 - The first food sampling contract was set up and quotes requested from others at the end of Q3.
 - Further promotion of consultancy services, to support local businesses with technical advice was ongoing.
 - Joint work had been undertaken with West Yorkshire (WY) Food Safety Teams and WY Trading Standards in relation to the promotion of changes to food labelling requirements in 'Natasha's Law'.

- This work included the development of clear and consistent messages across West Yorkshire and Yorkshire.
- A trial of a mobile working solutions to improve efficiency and provide high-quality reports for food businesses was in progress and used by 4 officers.
- The trial was to be evaluated at the beginning and end of Q3.
- **The Priorities of the Food Safety Service Plan 2023/2024 included:**
 - Undertaking 100% of the inspection programme of interventions in accordance with the frequencies set out in the Food Law Code of Practice.
 - Continuing to meet statutory obligations, using a risk-based approach and continuing to implement the National FHRs.
 - Continue to review the alternative approach to food hygiene interventions and work consistently with Food Safety Teams in West Yorkshire.
 - The continuation of a more focused, place-based approach, to address inequalities that indicate a correlation between areas of deprivation and poor food hygiene ratings.
 - Further development of potential commercial opportunities to provide support to our businesses and protect public health.
 - Increase businesses' resilience through improved information on the website; adopting the FSA's online 'Register a Food Business' platform.
 - Develop a communications strategy to address poor standards and provide information to businesses in a way they like to access information.
 - Continue the trial of the use of mobile solutions with a view to expand this to all officers.
 - The Steps to Success Workshops were to be expanded to businesses in areas of deprivation and poor food hygiene ratings.
 - The further promotion of Natasha's Law across West Yorkshire.
- **Longer term priorities and emerging issues for the Food Safety Team included:**
 - Workforce planning and 'growing our own' to address the lack of appropriately qualified and competent officers nationally, including FSA developments in officer qualification.
 - Increasing the amount of proactive work being undertaken, such as the Steps to Success workshops, sampling of food and environmental swabbing and follow up visits/intelligence gathering.
 - Engaging with the consultation process that related to the FSA's development of a new regulatory model and to consider the longer-term impacts and resource implications.
 - Monitoring food hygiene standards in relation to the impacts on businesses of the Cost-of-Living Crisis and support businesses.

The Panel noted the presentation commenting that the information presented was very interesting and important.

In the discussion to follow the Panel asked questions in relation to; (i) the number of farms shown in the data, (ii) the challenges around recruitment and what action had been taken locally (i.e.- joint working with local education providers) to address this. In relation to improving the website and the information available the Panel also commented that this was positive work but that it was important to provide the information to those businesses who did not seek information and required

intervention. The Panel also wanted to know what was being done to support businesses with the cost of appropriate food hygiene interventions. In response to the questions raised, Leanne Perry advised as follows.

In response to the question from the Panel about the low number of registered farms, it was advised that some farms were categorised as primary producers whereas others may sell their own produce. Their registration was dependent on how they were categorised which was why the number in the data appeared low for the area.

In response to the question around working with local education providers, it was advised that this work had not been undertaken yet, but this was in view as an important step in encouraging students who had just completed apprenticeships in environmental health into work with the Local Authority. The Panel noted the answer and suggested Kirklees College and local 6 form colleges as key partners. This was noted and it was agreed to work in partnership with local education partners to support the attraction and retention of qualified staff into this area of work.

In relation to the question around providing information to poor performers around food hygiene, it was advised that following a visit those businesses were invited to the Steps to Success workshops. If they did not respond to the invite, they would be visited by a steward who would encourage their attendance. Those who were not proactive about improving their food hygiene rating would then follow the path to enforcement. The Panel noted the response and wanted to understand more about the path to enforcement. Leanne Perry advised that the pathway included 'Improvement Notices,' a legal document which once served provided timescales for improvement and compliance. If needed, this would be followed by an invite to a PACE interview followed by formal cautions or prosecutions. It was emphasised that the enforcement pathway was a graduated approach which allowed timescales for improvement at every step.

In relation to the question round the cost to businesses in meeting hygiene standards, it was advised that this didn't just effect businesses in areas of high deprivation, but prices were rising, and all businesses were feeling the impact of this. However, there was a correlation between areas of high deprivation and businesses with poor hygiene ratings, which is why the place-based approach was important to support those businesses.

The Panel noted the responses and further asked why consultation/engagement had not been carried out prior to the development of the plan. In response, Judith Stones, Operational Manager Public Protection advised that consultation and engagement was not undertaken in the development of the service plan as the creation of the plan was a statutory requirement and to report under the code of practice. The purpose of the plan was to identify what work was to be undertaken under the next 12 months and if there were adequate resources to facilitate this. Judith further agreed however that engagement was essential to understanding, how to support businesses and agreed the possibility of incorporating engagement could be taken forward and developed in subsequent years, alongside increasing place-based working and engagement with elected members. The Panel also requested that the conflicting wording in the report be amended to reflect this.

The Panel noted the responses and asked a number of further questions to understand more about; (i) the healthy holidays scheme, (ii) the nature of the 5 high risk premises listed, (iii) the categorisation of Farm Shops (iv) the complaints process, and (v) the data, noting areas of significant increases as well as the downwards trend in the number of requests for advice from businesses. Leanne Perry responded to the questions asked and issues raised as follows:

- Businesses could apply to be on the Healthy Holidays Scheme which provided a budget to provide food. All businesses must have achieved a food hygiene rating of 3 or above.
- Farm shops were categorised under Retail.
- The high-risk businesses were listed under category A, these were inspected regularly so these figures fluctuated month on month. Food businesses were rated high as category A if there were numerous contraventions.
- Complaints were RAG rated; high risk complaints would determine the response.
- Significant increases in data trends were a result of decreases during the pandemic, where figures declined in 19/20 and then began to increase this year.
- The decline in the requests for advice may be due to automated information sent upon registration by email and the improvements to information on the website.

The Panel noted the responses and asked further questions in relation to (i) notification of complaints to ward members, (ii) how businesses were rated, were these judged only by hygiene standards or were there different elements of consideration for different types of business, and (iii) were inspections a surprise? Leanne Perry responded to the questions asked and issues raised as follows.

- Where there was successful prosecution or a closure, contact was always made by email to inform ward members, but notification was not given of routine complaints due to the volume received.
- The unrated businesses were newly registered, low risk businesses.
- Type of businesses were risk rated (i.e., a manufacture would be rated as a higher risk as they produced more products). The rating was also dependent on three factors including hygiene, structure, and confidence in management.

The Panel noted the responses and expressed congratulations to the team for their work highlighting its importance in keeping residents safe. The use of mobile devices was also noted as a positive step in improving efficiency and the Panel expressed interest in understanding the outcomes of the trial in the future. The Panel also wanted to understand more about how work with WY Services around trading standards was monitored to avoid any duplication or reduce this.

Leanne Perry responded to advise that Kirklees Council worked closely with Trading Standards and other West Yorkshire authorities. In respect of allergens and Natasha's law responsibilities were clearly split, between cross-contamination and labelling. Where there were issues with Natasha's Law that Kirklees did not have enforcement powers to address, Kirklees would consult with Trading Standards to follow up on.

Councillor Will Simpson closed the discussion by thanking the team for their positive work, highlighting its importance.

RESOLVED: The Panel noted the Food Safety Service Plan 2023 and recommended that:

1. Work be undertaken in partnership with local education partners to help address recruitment challenges by attracting qualified new staff.
2. Consultation/engagement exercises be developed and incorporating into the approach in subsequent years, alongside increasing place-based working and engagement with elected members.
3. The conflicting wording around engagement be clarified in the report.
4. The outcomes of the mobile device trial be provided to the Panel at an appropriate time.

9. Work Programme 2022/23

The Panel considered its work programme for the 2022/23 and were invited to put forward comments and suggestions for inclusion in 2023/2024. The Panel expressed thanks to the Chair, and the Chair thanked the Panel for their contributions to scrutiny throughout the year.

RESOLVED: That the 2022/2023 work programme be noted.