
Cabinet Member for Policing and Equalities

2nd February 2023

Name of Cabinet Member:

Cabinet Member for Policing and Equalities - Councillor AS Khan

Director Approving Submission of the report:

Director of Streetscene and Regulatory Services

Ward(s) affected:

All Wards

Title:

Food and Safety – Introduction of a discretionary, chargeable advisory service

Is this a key decision?

No - Although the matters within the report affect all wards in the city, it is not anticipated that the impact will be significant.

Executive Summary:

The purpose of this report is to seek approval for the introduction of a charge for discretionary food and safety advice to local businesses.

Recommendations:

The Cabinet Member is recommended to:

1. To approve the provision of a charge for discretionary food and safety advice.
2. Adopt the proposed fees set out in Appendix 1 of the report.

List of Appendices included:

Appendix 1 – Proposed advice fees.

Other useful background papers:

Localism Act 2011
Food Law Code of Practice (England)

Other Useful documents

None

Has it been or will it be considered by Scrutiny?

Not applicable

Has it been or will it be considered by any other Council Committee, Advisory Panel, or other body?

Not applicable

Will this report go to Council?

Not applicable

Report title:

Food and Safety – Introduction of a discretionary, chargeable advisory service

1 Context (or background)

- 1.1 The Food and Safety team is responsible for overseeing a wide range of legislation and are committed to working with local businesses to ensure they have the correct advice necessary to run businesses safely and to ensure that food produced, prepared or sold in the city is safe to eat and without risks to health and that places of work are safe for employees, for members of the public who visit such premises, and for contractors who undertake work at the premises.
- 1.2 New businesses in particular find it helpful to have access to expert advice on many areas that are relevant to successfully planning a business before it starts trading. The Food and Safety team offer advice on, but not limited to:
- Guidance on food registration.
 - Premises layout, structure, facilities and equipment.
 - Food safety practices and procedures.
 - Food Hygiene Rating Scheme requirements.
 - Food legislation specific to businesses.
 - Food safety management procedures and control systems.

All businesses currently have free access to business advice via links available at the Food and Safety pages of the Council's website. Despite this, some businesses will seek additional advice particularly on more complex queries. This report sets out the proposal of how we will decide when additional advice or support requested by a business will be subject to a charge or provided at no cost.

2 Current arrangements

- 2.1 Providing advice to local businesses is not a statutory function of the team. Section 93 (1) (a) of the Local Government Act 2003 and the Food Law Code of Practice (England) permits Local Authorities to charge for the provision of discretionary services, such as the provision of business advice.

Currently, the Food and Safety team offers advice free of charge to any local business that requests it. The team has a wealth of resources on the Council's website so businesses can help themselves to food safety and health & safety advice and support, however, many businesses request a more detailed and bespoke advice service from a trusted professional that they already have a rapport with.

- 2.2 The time spent with a business providing this more detailed advice can take a considerable amount of time and has a direct impact on the resource available to provide statutory services. Sometimes, if requested, officers will visit a food premises to give advice e.g. to help advise on the completion of documentation, give advice on surface finishes in a food business or give advice on the set up of a new food business. Officers do not provide on-site health and safety advice as the nature of that is significantly different in that to give specialist health and safety advice, the advisor needs to have a full and comprehensive understanding of how a business operates. The team simply does not have the resource at the current time to deliver this type of service.
- 2.3 The team receives approximately 200 requests for advice each year and on average, each one of them takes an officer about one hour to deal with in total. On occasions, an on-site advice visit will be made which takes longer to complete and also incurs the associated

costs of return travel and parking. So, in essence, giving business bespoke advice takes a full-time equivalent officer approximately 5.5 weeks per year. As this work is discretionary, it is proposed that this type of advice is charged for. It is anticipated that even if only half the number of current requests for advice is received in the future, a new income stream of approximately £8,000 could be achieved.

3 Reason for recommendations

- 3.1. The provision of completely free business advice is no longer considered to be appropriate given the high number of requests for advice made by local businesses each year. The provision of business advice is discretionary and is given by officers in addition to any visits or interventions undertaken as part of the team's statutory functions. Advice is given freely at the current time based on business requests rather than in response to public health risk.
- 3.2. The proposal to introduce a discretionary chargeable advice service holds benefits for the Council. Officers believe that the assistance offered under the proposed advice scheme will benefit residents and persons present in the city. It will also benefit businesses to improve standards, thus avoiding contraventions under associated legislation.
- 3.3. Officers are increasingly spending a considerable amount of time providing advice, which has an adverse impact on the other day to day work of the team, which is unsustainable. However, officers want to continue to assist businesses as much as possible, so the introduction of fees to formalise the giving of bespoke advice, will be covered within the costs of running the service instead of being at the expense of it.
- 3.4. The number of Local Authorities charging businesses for food and safety advice is somewhat limited at the current time, however, given that this is a discretionary service conducted within limited resource, many are starting to consider a similar model of service delivery. Of the Local Authorities who have already implemented such a service, the fees proposed in Appendix 1, benchmark favourably.

4 Proposal & Process

- 4.1 It is important to note that significant, free support for businesses is provided on the Council's website for businesses to 'self-help' themselves to. It is proposed that businesses will also be provided with 30 minutes of initial general advice on food and safety legislation, for free per annum. This advice will include signposting of businesses to alternative sources of advice and self-help and will normally be delivered over the telephone or by email.
- 4.2 It is proposed that if this is not sufficient or does not meet the needs of the business, the customer will be given the opportunity to pay for either an online advisory service or pay for a site visit which can provide bespoke advice on food and safety legislation. Chargeable advice provided would include tailored advice on for example, documented procedures, cleaning, layout of the food premises etc. All advice will be appropriate and proportionate to the business to give reassurance on compliance.
- 4.3 It is anticipated that for some local businesses, an online advisory service will be very helpful. This will enable them to have a one-on-one conversation with a competent officer via Teams, over the telephone, or via email exchange, where they can seek support on a range of food and safety related matters. The officer will follow up the conversation with a summary of the discussions, sent electronically. It is proposed that this type of advisory service is allocated on an hourly basis, therefore, dependant on the experience and knowledge of the customer, they may need more or less time as appropriate.

4.4 The type of support outlined in 4.3 above may not suit all businesses and therefore it is proposed to also offer the following packages of support for food businesses:

Food safety new business start-up site visit – aimed at start-up businesses or newly registered food business to help them understand the regulatory framework and achieve the best possible national food hygiene rating.

Food safety keeping on track site visit – aimed at existing food businesses to help them keep on track in between statutory inspections, keeping them updated on the current regulatory landscape to help them retain the best possible national food hygiene rating.

Food safety pre inspection site visit – aimed at existing food businesses who are due for a statutory inspection, or who have applied for a food hygiene rating scheme revisit, to help them prepare for the inspection.

Support in completing Safer Food Better Business (SFBB) pack on site – aimed at helping all food business operators complete their SFBB packs.

4.5 The proposed fees are set out in Appendix 1 of this report. The proposed fees have been calculated by assessing the time it takes for each step in the advisory process from the receipt of the request for advice to the follow up report and data input of the work. For site visits, it also includes travel time, mileage and parking costs. The time taken is assigned to different roles and the costs based on hourly rates.

4.6 The advisory service will apply to those areas of work set out in paragraph 4.3 and 4.4 of this report. The fees will be reviewed on an annual basis to determine if the service can be extended to encompass other advisory work, to reflect any changes in the cost of providing the service (such as pay inflation) and to assess the effectiveness of the service.

4.7 Businesses who decide not to take advantage of the proposed new advisory service will still be signposted to the relevant guidance notes and policies on our website, as mentioned in 4.1 above.

4.8 It is important to note that there will be a clear separation between officers that provide advice and those who are responsible for the subsequent statutory inspection, official control or other official activity at the premises. This will help to avoid any potential conflict of interest from occurring. There are currently enough staff in the existing team to ensure an appropriate division of duties.

4.9 In order to further protect against risk, the following will be provided:

- clear information to businesses on fees and how they were calculated;
- clear information to businesses on the main features of the advisory service;
- clear information to businesses on any terms and conditions applicable.
- details of how to complain about the service provided;
- details of the conflict-of-interest procedure;
- it will be made clear that other providers of advisory services are available;
- it will be made clear that uptake of the advisory service is voluntary; and
- it will be made clear the advisory service is separate to statutory activities.

4.10 The introduction of the proposed fees will not affect the Council's statutory duties. Officers will continue to carry out their statutory functions and these functions will not be charged for.

4.11 The service manager will be responsible for on-going performance and compliance management of the advisory service.

5 Options considered and recommended proposal

5.1 There are two options available for the Cabinet Member of Policing and Equalities to consider:

5.1.1 Option 1 is to authorise the proposal contained within this report to introduce a charge for discretionary food and safety advice to recover the costs of providing the service; or

5.1.2 To continue giving free advice at a cost to the Council.

5.2 Your officer recommends Option 1 to enable the Council to continue to provide advice on a cost recovery basis.

6 Results of consultation undertaken

6.1 No consultation is required to be undertaken however, it is recommended that whenever fees are set, an explanation is provided to potential applicants as to how the fees are calculated to promote transparency and reasonableness.

7 Timetable for implementing this decision

7.1 If approved, the decision will take effect as soon as possible.

8. Comments from Chief Operating Officer (Section 151 Officer) and the Chief Legal Officer

8.1 Financial implications

The proposed fees have been calculated on a full cost basis, which considers both the direct and indirect costs associated with providing an advisory service.

The service currently has a target of £100k additional income to be achieved from commercialisation. It is estimated that this proposal will deliver approximately £8, 000 towards the target.

8.2 Legal implications

The Localism Act 2011 introduced a 'general power of competence'. It gives local authorities the legal capacity to do anything that an individual can do that is not limited by the existence of any other power of the authority which (to any extent) overlaps the general power. This general power of competence can be exercised for the benefit of the authority, it's area or person(s) resident or present – or otherwise.

The Localism Act also allows authorities to make a charge where it is not under a duty to provide the service and the person has agreed to the service being provided. The Localism Act only allows charges to be made for a non-statutory service where taking one financial year with another the income from the charges does not exceed the cost of the service.

9 Other implications

None

9.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint or Coventry Sustainable Community Strategy

It is the Regulatory Services team's responsibility to ensure that members of the public in Coventry are not put at risk. This contributes to the Council's core aim of ensuring that citizens live longer healthier lives. Cost recovery of such a service will mean that costs are not taken from existing budgets.

9.2 How is risk being managed?

Decisions of Regulatory Services are open to challenge by way of Judicial Review. The fees and charges are designed to ensure our compliance with legislation minimising the risk of legal challenge.

9.3 What is the impact on the organisation?

None

9.4 Equalities / EIA

This decision will not affect the service provision and therefore details of the Equalities Impact Assessment are not relevant in this case.

9.5 Implications for (or impact on) climate change and the environment

None

9.6 Implications for partner organisations?

None.

9.7 Human Rights Act Implications

None.

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