

<b>Committee(s):</b>	<b>Date(s):</b>
Markets	10 July 2013
<b>Subject:</b> Enforcement Activity at Smithfield Market	<b>Public</b>
<b>Report of:</b> Director of Markets & Consumer Protection	<b>For Information</b>
<p><b><u>Summary</u></b></p> <p>This report advises your Committee of Enforcement Activity carried out by the Smithfield Enforcement Team within my Department and the Food Standards (FSA) Agency at Smithfield Market during the four month period from 1<sup>st</sup> February 2013 to 31 May 2013.</p> <p>It also provides information on the National Local Authority Enforcement Code on Health &amp; Safety, the on-going horsemeat in beef situation and the current FSA joint initiative.</p> <p>The FSA's Lead Veterinarian has reported that previously there was one stall on the FSA's 'Cause for Concern' list, but this was removed during the course of the reporting period and no further companies were added.</p> <p>In respect of enforcement under the Health &amp; Safety at Work etc Act 1974, it should be noted that there has been an increase in the level of Health and Safety compliance on the market which has resulted in a reduction in the number of occasions on which verbal advice was given to both Market traders and customers.</p> <p><b>Recommendations</b></p> <p>I recommend that your Committee notes the content of this report.</p>	

## Main Report

### **Background**

1. This is the twenty ninth such report submitted to your Committee. The attached table (Appendix 1) gives a more detailed breakdown of Health & Safety enforcement activity for the four month period (1 February – 31 May 2013), but without releasing the names of tenants to whom warnings were issued. The table in Appendix 2 shows the Health & Safety enforcement activity over a twelve month period.

### **Current Position**

2. As a result of Food Standards Agency (FSA) enforcement (Appendix 3), the FSA's Lead Veterinarian has reported that previously there was one stall on the FSA's 'Cause for Concern' list, but this was removed during April, and no new stalls were added to the list between 1 February 2013 and 31 May 2013.
3. Members will be aware from the report considered on 5 March 2013 of the Health and Safety Executive's consultation on a National Local Authority Enforcement Code. Since that time the Code has been published and it came into effect on 29 May 2013. The National Code has been developed and designed to ensure that local authority health and safety regulators take a more consistent and proportionate approach to enforcement. The Code sets out what is meant by adequate arrangements for enforcement of health and safety, and concentrates on the following four objectives:
  - I. It clarifies the role and responsibilities of businesses, regulators and professional bodies to ensure a shared understanding of the management of risk.
  - II. It outlines the risk based regulatory approach that local authorities should adopt and the need to target relevant and effective interventions, that focus on influencing behaviours and improving the management of risk.
  - III. It sets out the need for the training and competence of local authority health and safety regulators.
  - IV. It explains the arrangements for the collection and publication of local authority data and peer review to give assurance on meeting the requirements of the code.
4. The Code requires regulators to support, encourage, and advise; and where necessary hold businesses to account to ensure they effectively manage the

health and safety risks they create. It directs local authorities to use proactive inspections only for activities specified by the Health and Safety Executive or where intelligence suggests risks are not being effectively managed.

5. Activities at Smithfield Market fall within the scope of the list of activities specified by the Health and Safety Executive for proactive inspection by local authorities, e.g. workplace transport; working at height; the use of cutting machinery; and the use of lifting equipment.
6. My officers at Smithfield Market will target health and safety interventions in a manner which will enable the City Corporation to demonstrate compliance with the Code. The National Code will be communicated to the Smithfield Market Tenants Association for information.

#### **Update on equine (horse) DNA in beef products**

7. In response to the on-going UK investigations into the presence of equine (horse) DNA in beef products, officers at Smithfield, in collaboration with the FSA, have undertaken a programme of species authenticity sampling. Eight samples of beef products were obtained for analysis. In addition, a programme of unannounced visits to all Smithfield Market businesses was also carried out to assess documentation, physically examine product, and verify traceability. All samples analysed were found to be satisfactory and free from equine (horse) DNA.
8. Nationally, the FSA has recently published the full report of its local authority sampling survey. The final report of the survey showed that more than 98% of products tested were negative for horse DNA. The Agency also reported that the food industry submitted 19,050 test results since 1 March 2013, three of which tested positive for the presence of horse meat at or more than the 1% threshold.
9. Members may be interested to note that the FSA Board received on the 4 June 2013 a verbal update from Professor Pat Troop, the external reviewer of the FSA's response to the horse meat incident. Her report highlighted four key areas for the Food Standards Agency to consider:
  - The need for improved intelligence sharing and analysis.
  - The need to strengthen its major incident plan.
  - To improve clarity of the role of Government Departments in large complex incidents.

- Review the Agency's powers and the use of framework agreements and codes of conduct.

As this information is related to an internal report to the FSA Board on the FSA's performance, it currently has no impact on the City Corporation's activities. The situation will be reviewed when the full report is made available in July 2013.

10. There has been further action as part of the joint initiative being undertaken between the City Corporation and the FSA relating to food delivery vehicles, picking up and transporting product from Smithfield Market. Members will be aware that in Phase 1, the development and distribution of a food safety management leaflet, took place between the 4<sup>th</sup> and 8<sup>th</sup> February 2013. Phase 2 is due to take place on the 18 June 2013. The aim of Phase 2 is: (i) to assess the impact of the leaflet, and (ii) to assess the level of food business registration amongst food delivery vehicle operators as all should be registered with the City Corporation or another Food Authority. An oral update will be provided at your meeting.
11. Over the four month period from 1 February 2013 to 31 May 2013 informal enforcement has continued under the Health and Safety at Work etc. Act 1974. During this period formal enforcement was held in abeyance pending the publication of the National Local Authority enforcement code. Informal enforcement is detailed in paragraph 13 (Informal Action).

### **Formal Action**

12. The FSA's Lead Veterinarian has advised that during the period 1 February 2013 to 31 May 2013 the following actions have been taken against traders:

451 enforcement actions have been taken by the FSA during the period these were:

- On 422 occasions verbal advice was given
- 26 pieces of written advice
- One Hygiene Improvement Notice
- Two "Agreement to Destroy Food Notice"

Other relevant action during this period:

- The main non-compliances were 45 entries relating to Animal By-products mainly caused by the lack of identification and/or segregation of meat when the “use by date” had expired.
- 17 non-compliances related to 17 separate consignments arriving at Smithfield from slaughterhouses. The issues being related to non compliances which took place before the meat arrived at Smithfield.
- Following the horsemeat scandal, the FSA and the Smithfield Enforcement Team conducted joint visits to the individual stalls to verify traceability of the meat. These visits were highly successful and it was agreed to repeat them in the future.
- No new stalls have been added to the FSA’s ‘Cause for Concern’ list during the reporting period.
- Liaison meetings between the City Corporation and the FSA continue to be held every six weeks.
- General hygiene standards in the common areas and individual stalls are improving.
- FSA and the City Corporation’s solicitors are liaising in order to reach an agreement on the responsibility for unattended meat in the common areas of the market.

### **Informal Action**

13. My officers in the Smithfield Enforcement Team have taken the following action:
  - Verbal advice was given on 77 occasions (traders and visitors to the market) for Health & Safety infringements, e.g. not wearing personal protective equipment.
14. Overall there has been an increase in compliance on the market. Of the 77 occasions on which verbal advice was given, eight involved traders compared to eleven during the previous quarter.
15. Food Hygiene enforcement is governed by the FSA under the Compliance Code for Regulators. It will continue to be applied to Food Business Operators in the Market. This code is also applied when undertaking

Health & Safety enforcement, along with the Public Protection Service Policy Statement on Enforcement, as this is a statutory duty of the City.

## **Conclusion**

16. Over the last two reporting periods there has been an overall improvement in Health and Safety compliance as indicated in Appendix 2. There is on-going collaboration with the FSA and interventions will continue to ensure that standards are maintained on Smithfield Market.

## **Background Papers:**

**Please note:** the autonomous numbering system used for the stalls in Appendices 1 and 2 now differs from Appendix 3. The Food Standards Agency has imposed its own autonomous numbering system (Appendix 3) which is different from that used by the City's enforcement team for Health and Safety enforcement activity.

Appendix 1: Table showing breakdown of Health & Safety enforcement activity during the four month period of 1 February 2013 to 31 May 2013 (inclusive).

Appendix 2: Comparison table showing Health & Safety enforcement activity summary for the period 1 June 2012 to 31 May 2013 (inclusive).

Appendix 3: Table showing breakdown of Food Hygiene enforcement activity during the period 1 June 2012 to 31 May 2013 (inclusive).

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