

Committee(s):	Date(s):
Markets	20 November 2013
Subject: Enforcement Activity at Smithfield Market	Public
Report of: Director of Markets & Consumer Protection	For Information
<p><u>Summary</u></p> <p>This report advises your Committee of Enforcement Activity carried out by the Smithfield Enforcement Team within my Department, and the Food Standards Agency, at Smithfield Market during the four month period from 1 June 2013 to 30 September 2013.</p> <p>It also provides information on the Food Standards Agency's (FSA) National Co-ordinated Food Sampling Programme 2013-14 in which the City of London Corporation is participating; information on the on-going City of London Corporation / Food Standards Agency joint initiative regarding food delivery vehicles that visit Smithfield Market, an update on the equine (horse) DNA in beef products incident; and National Audit Offices recent report on food safety and authenticity in the processed meat supply chain.</p> <p>The Food Standards Agency's (FSA) Lead Veterinarian has reported that there is currently one stall on the FSA's Cause for Concern list. In respect of food safety and hygiene a number of formal enforcement notices have been served and there has been an increase in the number of enforcement actions taken during the period in line with the hierarchy of enforcement.</p> <p>In respect of enforcement under the Health & Safety at Work etc Act 1974, there has been a decrease in the level of Health and Safety compliance on the market which has resulted in an increase in the number of verbal advices given both to Market traders and customers.</p> <p>Recommendations</p> <p>I recommend that your Committee notes the content of this report.</p>	

Main Report

Background

1. This is the thirtieth 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, but without releasing the names of tenants to whom warnings were issued. The table (Appendix 2) shows the Health & Safety enforcement activity over a twelve month period.

Current Position

2. As a result of FSA enforcement (Appendix 3), the FSA's Lead Veterinarian, Raquel Lugue, has reported that there is currently one stall on the FSA's national Cause for Concern list.
3. Following a successful bid to the Food Standards Agency, £28,370 has been awarded to the City of London Corporation to undertake a food sampling programme at Smithfield Market, as part of a National Co-ordinated Food Sampling Programme. The programme will run from June 2013 to March 2014. In respect of Smithfield, the programme aims to analyse a total of 70 samples from a wide range of manufactured meats and minced meat products to verify compliance in respect of compositional standards and species authentication.
4. To date, 36 samples have been analysed by the Public Analyst, 34 of which have been found to be satisfactory, two have failed. One sample failed regarding excess fat content over and above the maximum permitted levels; and the other sample failed in regard to the presence of sheep DNA in a beef product not identified on the label. The manufacturers of the failed products in addition to the home local authorities (the local authority that has enforcement responsibility for the producer and the sellers on Smithfield Market) have all been written to and advised of the failures. A further update will be provided in future reports.
5. Members will be aware from the report considered on 10 July 2013 that officers from the Smithfield Enforcement Team are currently involved in a joint initiative with the Food Standards Agency in relation to food delivery vehicles that visit Smithfield Market. Phase 1 involved the development and distribution of a food safety management leaflet which was undertaken in February 2013. Phase 2 assessed the impact of the leaflet amongst the food delivery vehicle operators, and the level of food business registration, and was undertaken in June 2013. The initiative is currently at Phase 3,

where officers are liaising with local authorities throughout England and Wales. To date, 25 local authorities have been written to, seeking confirmation that those businesses are registered with them and 11 replies have been received so far. A further update will be provided in future reports.

6. Since the last report to the Committee on 10 July 2013, the Food Standards Agency Board have agreed an action plan to be delivered by the Food Standards Agency to address the findings of Professor Pat Troop's final report, which reviewed the Food Standards Agency's response to the contamination of beef products with horse and pork meat and DNA, and the action plan can be found at:
<http://www.food.gov.uk/multimedia/pdfs/board/board-papers-2013/fsa-130704-annex.pdf>
7. The action plan will not impact directly on the City of London Corporation's activities. However, the plan indicates the need for consideration for further targeted sampling programmes in the future which may involve local authorities.
8. On 10 October 2013, the National Audit Office published its report on Food Safety and Authenticity in the Processed Meat Supply Chain. The report examined the overall effectiveness of the assurance the Government gives consumers regarding food safety and authenticity. The January 2013 horse meat in beef products incidents revealed a gap between what the public expect of the controls over authenticity of their food and the effectiveness of the controls in reality.
9. The report found that while arrangements for identifying and testing for risks to food safety are relatively mature and effective, similar arrangements for the authenticity of food are not. It found that Government failed to identify the possibility of adulteration of beef products with horse meat despite indications of heightened risk, as substantial rises in beef prices were not being reflected in retail prices together with a world-wide fall in the price of horsemeat. It also found that the split in responsibilities for food policy between the Food Standards Agency and two Government departments in 2010 led to confusion amongst stakeholders about the role of the Food Standards Agency and the Department of Food and Rural Affairs in responding to food authenticity incidents.
10. The report notes that a Food Standards Agency review of the 2013 horse meat incident found that some of its own staff and local authorities were confused during the incident's early stages. The report also found that the

Food Standard Agency does not have a complete picture of all public testing, and that only one third of all English local authorities record laboratory results on the Food Standards Agency's national database, and that the number of food samples tested by official control laboratories have gone down by a quarter since 2009-10. Although a substantial amount of testing is carried out by private food businesses.

11. Members should note that the results of all food samples taken by officers at Smithfield are entered onto the Food Standards Agency's United Kingdom food surveillance system (UKFSS) national food sampling database.
12. Amongst its recommendations, the National Audit Office recommends that some resource should be shifted away from activities such as the inspection of abattoirs to the checking of the manufacture of processed meat products and the long and complex chains involved. The report concludes that Government needs to remove the confusion that has been created and improve its understanding of potential food fraud and how intelligence is brought together and shared.
13. The Committee will note that one of the key findings of the National Audit Office report is that the number of public analysts in England has reduced from 40 to 29 since 2010. This clearly impacts on the capacity of public analysts to examine food samples submitted by local authorities and this has the potential to increase analysis times and costs. The report's summary and key findings can be found in Appendix 4.
14. Over the four month period from 1 June 2013 to 30 September 2013 informal enforcement has continued under the Health and Safety at Work etc. Act 1974. Informal enforcement is detailed in paragraph 9 (Informal Action). During this period formal enforcement has been reinstated following the publication of the National Local Authority Enforcement Code. The Code states that at premises where high risk activities such as workplace transportation, working at height, and the use of cutting and lifting equipment takes place, these premises will continue to be subject to proactive inspection. These high risk activities are all undertaken at Smithfield Market.

Formal Action

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

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

- On 659 occasions verbal advice was given, of which 37 related to Animal By Product controls
- 36 written advices
- 11 Detention of Food Notices and Agreement to Destroy Notices
- 2 referrals to local authorities

Other relevant action during this period:

- The main non-compliances related to high temperatures in the chillers and freezers of several tenants during the summer period of hot weather. In particular one business was unable to maintain its freezer lower than -2^o Centigrade.
- 17 non-compliances related to 16 consignments arriving to Smithfield from different slaughterhouses.
- Tenants had been disposing of the drain waste they produce as Category 3 material following advice from their Consultant. As a result of a meeting with the Smithfield Market Tenants Association, agreement was reached to categorise this type of waste as Category 2 material.
- 1 new stall has been added to the “Cause for Concern” list during the reporting period. As the FSA anonymise the information, we are unaware which stall this is.
- A protocol has been agreed between the Food Standards Agency and the Market Superintendent to deal with product that has either been delivered to the Market but not to a tenant (transhipped) or product that has been dumped in common areas. In the case of transhipped product, if the sender or the buyer of the product has been identified, they are required to collect within a specified time (for the sender 4 hours as they may further to travel, for the buyer 1 hour), or the product is removed to the ABP facility and disposed of, and the owner will be invoiced for disposal of the product. If ownership cannot be established, the product is removed to the ABP facility and disposed of with the cost being borne by the City. Once product has been identified as being dumped, the Market Constabulary attempt to establish

ownership. If successful, the owner will be charged disposal costs and issued where appropriate with a Fixed Penalty Notice of £80. If however, the Market Constabulary is unable to identify the owner, the product is removed and disposed of with the cost being borne by the City.

- Liaison meetings between the City Corporation and the Food Standards Agency continue to be held every six weeks.
- There has been an increasing practice of visitors and staff not wearing adequate personal protective equipment in service areas despite advice on the issue.
- Improvements have been made on the traceability of products left in common areas due to action taken by the tenants. This is an arrangement between the FSA and the SMTA. The FSA are in the process of improving traceability of product upon arrival in service corridors. Previously product has been delivered without any stall identification details. The sender/producer is now putting a label on the product to advise of which stall the product is intended. Discussion between the FSA and the SMTA is continuing to seek further improvements, additionally the FSA would like to see both the time of arrival and the temperature upon arrival detailed on the consignment. The food safety significance is that the product can be monitored to see how long it remains in the service corridors and what temperature change has occurred in that period and whether it remains compliant.

Informal Action

16. Officers in the Smithfield Enforcement Team have taken the following action:
 - Verbal advice was given on 124 occasions (traders and visitors to the Market) for Health & Safety infringements, e.g. not wearing personal protective equipment.
17. Overall there has been a decrease in compliance on the market. Of the 124 verbal advices given, 22 involved traders compared to 8 during the previous quarter.
18. 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

19. Over the last two reporting periods there has been a fall overall in Health and Safety compliance. Interventions will continue to improve standards 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 June 2013 to 30 September 2013 (inclusive).

Appendix 2: Comparison table showing Health & Safety enforcement activity summary for the period 1 October 2012 to 30 September 2013.

Appendix 3: Table showing breakdown of Food Hygiene enforcement activity during the period 1 October 2012 to 30 September 2013 (inclusive).

Appendix 4: Summary and key findings of the National Audit Office report on Food Safety and Authenticity in the Processed Meat Supply Chain
10 October 2013.

Contact:

Jon Averbs

020 7332 1603

jon.averms@cityoflondon.gov.uk