

<b>Committee(s):</b>	<b>Date(s):</b>
Markets Committee	26 November 2014
<b>Subject:</b> Enforcement Activity at Smithfield Market	<b>Public</b>
<b>Report of:</b> Director of Markets & Consumer Protection	<b>For Information</b>

### Summary

This report advises your Committee of Enforcement Activity carried out by the Smithfield Enforcement Team within my Department. Information from the Food Standards Agency (FSA), on their enforcement activity at Smithfield Market which has previously been provided at Appendix 3 is not currently available.

It provides information on two successful funding bids to the FSA in respect of i) the FSA's National Co-ordinated Food Sampling Programme 2014/15 and ii) a food standards and traceability project.

Details of a study visit to Smithfield by an international delegation as part of a recent government conference on regulation is also provided, together with data provided by the FSA on enforcement actions taken during the period in line with the hierarchy of enforcement.

In respect of enforcement under the Health & Safety at Work etc Act 1974, it should be noted that there has been a decrease in the level of verbal advice given to traders and market customers; however verbal advice given to self-employed persons has increased.

### **Recommendations**

I recommend that your Committee notes the content of this report.

## **Main Report**

### **Background**

1. This is the thirty fourth such report submitted to your Committee. The table at Appendix 1 provides a detailed breakdown of health and safety enforcement activity for the four month period June to September 2014. The names of tenants in respect of which warnings were issued have not been included. The table at Appendix 2 shows health and safety enforcement activity over a sixteen month period. FSA enforcement action usually shown at Appendix 3 is currently not available.

### **Current Position**

2. Members will be aware that following a successful bid, the FSA provided funding of £28,370 to the City of London Corporation for the purpose of food sampling at Smithfield Market as part of their 2013/14 National Co-ordinated Sampling Programme. The results of this sampling programme were reported to your Committee in July 2014.
3. A further successful bid for funding was made to the FSA in February 2014 to participate in their 2014/15 National Co-ordinated Sampling Programme. The value of this funding is £1,590 to cover officer costs in obtaining the samples. A total of 53 samples will be analysed comprising uncooked chicken (16 samples) and minced meat (37 samples). Public analyst costs will be funded directly by the FSA.
4. The objective for the minced meat sampling is to check whether it is being correctly labelled in terms of its fat content, connective tissue or collagen/meat protein ratio, descriptions and/or claims.
5. The objective for the uncooked chicken sampling is to check for correct labelling declarations in terms of meat content, added water and hydrolysed proteins.

6. The Committee will be updated on progress as sampling results become available.
7. The joint initiative between officers of the Smithfield Enforcement Team and the FSA in relation to food delivery vehicles that visit Smithfield has continued with FSA officials following up vehicles with the relevant local authorities across England and Wales.
8. At a meeting attended by FSA officials and City of London Corporation officers on 3rd July 2014 it was confirmed that FSA attendance on the market would be reduced from 75 hours to 35 hours per week. This significantly reduced inspection regime, a central Government responsibility under the FSA, will increase the risk of poor food-handling practices at the Market and will place a greater degree of responsibility for food safety on the individual meat traders. The City has made a representation to the FSA about our concerns but understands that budget pressures on the FSA mean that the reduction is unlikely to be reversed in the near term, and the FSA are prepared to tolerate the increased risk.
9. It was agreed that, in order to ensure official controls are in place on Smithfield Market, the FSA would fund the City of London Corporation to carry out a 3 month project (October 2014 – January 2015) focusing on food standards and traceability. Work on any other areas of specific concern to the City of London was also agreed, including continuation of the joint initiative assessing compliance by food delivery vehicles, food labelling compliance and animal by-product controls.
10. Funding of £26,600 was agreed for this targeted work to assess the level of food business compliance with the following:-
  - Traceability requirements - Article 18 of Regulation (EC) No. 178/2002.
  - Food labelling requirements (backed up by sampling, including speciation). Proposals for the production of guidance and training specific to the needs of Smithfield market traders on new food Information legislation have also been included.
  - Animal By-Product Controls.
  - Delivery Vehicles (food business registration and hygiene controls).

11. The Committee should be aware that Regulation (EC) No.178/2002 introduced the traceability requirement with the objective of ensuring food safety and to assist in enabling unsafe food/feed to be removed from the market place. Traceability is meant to ensure that targeted and accurate withdrawals or recalls can be undertaken, appropriate information can be given to consumers and food business operators, risk assessment can be performed by control authorities and unnecessary wider disruption of trade can be avoided.
12. The traceability requirement relies on the “one step back - one step forward” approach which implies for food business operators that:
  - They shall have in place a system enabling them to identify the immediate supplier(s) and immediate customer(s) of their products
  - A link “supplier-product” shall be established (which products supplied from which suppliers)
  - A link “customer-product” shall be established (which products supplied to which customers)

Note: - food business operators do not have to identify the immediate customers when they are final consumers. (for example, retail customers).

13. On 11 September 2014 the Smithfield Enforcement Team took part in a study visit to the market. The visit was requested by the Better Regulation Delivery Office as part of a three day international conference organised by the UK Government for officials from across the world engaged in driving inspection reform. On the last day of the conference delegates were given the opportunity to attend one of 12 study visits to look in more depth at particular aspects of the way regulation operates in the UK and the relationship that exists between business and regulators to support compliance. The 15 delegates who attended, from countries such as the Philippines, Thailand, Armenia, Mongolia, Georgia and Serbia had a particular interest in the meat sector. In their feedback following the visit they reported that the visit had been one of the most useful aspects of the conference.

14. Over the four month period from 1 June -30 September 2014 formal and informal enforcement has continued under the Health and Safety at Work etc. Act 1974. Formal enforcement is detailed in paragraph 20 and informal action in paragraph 21.

### **Food Standards Agency Action**

15. Communication has been received from the FSA, advising that the enforcement data usually provided to the City of London Corporation for this report is not currently available for the following reasons i) changes to their veterinary management structure has reduced their capacity to analyse and generate the data and ii) significantly reducing their veterinary attendance at Smithfield from 75 hours to 35 hours per week from July 2014 will mean that fewer non compliances will be observed, this means that comparisons cannot be made between data before and after July 2014. However the City has requested the FSA to provide information on trends and or specific issues within the Market.

The FSA has advised that during the period 1 June 2014 and 30 September 2014, 340 enforcement actions have been taken against market traders, compared to 442 enforcement actions in the previous reporting period.

- On 328 occasions verbal advice was given to market traders, of which 17 related to animal by-product controls
  - On 12 occasions written advices were given to market traders.
16. The most frequently observed non compliances leading to advice /enforcement action by the FSA relate to:
- personal protective equipment (both staff and customers) and, less frequently, food and drink being consumed in food areas;
  - unhygienic storage of equipment, packaging and wrapping materials e.g. bags or boxes with product on the floor;
  - inadequate temperature control of product e.g. in non-refrigerated and common areas, minced meat and offal being offered for sale above the legal temperature requirements;
  - insufficient cleaning of structure and equipment e.g. fans, ceilings and freezers a very common fault;
  - maintenance e.g. issues with bulb covers (mostly in display cabinets), maintenance of lower floors in the Poultry Market;

- food safety management based on HACCP e.g. failure to monitor temperatures and take corrective action;
  - animal by-product (ABP) including storage, segregation, labelling and disposal;
  - labelling - referrals to the local authority regarding the removal of vac-packs from original box and then being sold without applying a further label, also frequent enforcement regarding the lack of freezing date.
17. Regular liaison meetings continue to take place between the City of London Corporation and the FSA. Further, FSA officials meet with the Smithfield Market Traders Association on a regular basis.
18. A request has been received from a Member of the Committee in respect of FSA data i.e. to provide additional context by comparing levels of enforcement at Smithfield with other markets of a similar size and nature. The FSA has responded by advising that
- “Comparisons with other markets would not be straightforward. The FSA do not have a tool that allows comparison other than getting the 43 enforcement programmes of Smithfield and the other documents from Liverpool and Birmingham and manually analysing the data. I do not think this analysis is worth carrying out because the nature of the other two markets is very different compared to Smithfield. The other markets consist of a number of cutting plants concentrated in the same area, however, the number of plants is much smaller and the common areas are not like Smithfield. Having spoken to colleagues that cover those markets, the issues that are enforced are generally not much different from those enforced in London”.
19. Notwithstanding the above, the FSA confirmed that businesses on the market would be audited less frequently from August 2014. They advised that the average business will receive one audit per year and that they will be relying on unannounced inspections between audits.

### **Formal Action**

20. Between 1 June 2014 – 30 September 2014 my officers in the Smithfield Enforcement Team took formal action by way of providing written advice to four companies in respect of failing to implement a health and safety management system, following an audit.

### **Informal Action**

21. My officers in the Smithfield Enforcement Team took informal action by providing verbal advice on 243 occasions (traders, customers and self-employed persons) for health and safety infringements, e.g. not wearing personal protective equipment. This represents improved health and safety compliance on the market during the period compared with the previous reporting period (338) . It should be noted that on the 243 occasions when verbal advice was given only 17 involved traders, the remainder involved customers (221) and the self-employed (5).
22. Food Hygiene enforcement is governed by the FSA under the Compliance Code for Regulators. It will continue to be applied to Food Business Operators on 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**

23. Over the last three reporting periods there has been an improvement in the number of occasions that verbal advice was given to market traders in respect of health and safety compliance. However, for this period there has been an increase in the number of occasions that verbal advice was given to self-employed persons.

## **Background Papers:**

Appendix 1: Table showing breakdown of health and safety enforcement activity during the four month period 1 June 2014 – 30 September 2014.

Appendix 2: Comparison table showing health and safety enforcement activity summary for the period 1 June 2013 – 30 September 2014.

### **Contact:**

*Jon Averbs*

*0207 332 1603*

[jon.averms@cityoflondon.gov.uk](mailto:jon.averms@cityoflondon.gov.uk)