

WRS BOARD

26th September 2019

Food Safety Interventions

Recommendation

That members note the report

Introduction

For many businesses WRS is still perceived as primarily a regulator, even though we have long adopted the principle of supporting businesses to thrive. Whilst we do not precisely know the drivers that help make for successful sustainable compliance, the figures we often quote to members are a success story. At the end of 2017-18 we had only 68 businesses rated at Level L0-L2 on the Food Hygiene Rating System (FHRS) indicating that they were not broadly compliant with food safety requirements. This is from a FHRS database of some 4,700 premises.

Food safety remains a high profile issue with much TV and newspaper coverage and despite such a high level of compliance, we seem to spend a lot of time thinking about, and rightly taking action against, poor performers. This helps demonstrate to businesses that we are fair but firm in our dealings with the food business sector.

Report

Food Premises in Worcestershire

The WRS database of food businesses currently stands at over 5,000. However members should note that this is a fluid figure, with some 500-600 new businesses registering each year and a similar number closing.

Table 1: Registered businesses: 5710

DISTRICT	REGISTERED PREMISES
BDC	898
MHDC	937
RBC	724
WCC	946
WDC	1289
WFDC	916

Table 2: Figures for the past three financial years

OPENED	16/17	17/18	18/19
BDC	72	97	81
MHDC	69	84	75
RBC	54	81	70
WCC	94	86	126
WDC	100	141	137
WFDC	66	81	115
Total year	455	570	604

CLOSED	16/17	17/18	18/19
BDC	56	93	82
MHDC	53	107	81
RBC	56	60	61
WCC	46	98	154
WDC	86	125	141
WFDC	78	101	133
Total year	375	584	652

Note: 2018/19 figures included a major data cleansing exercise to meet GDPR

Table 3: Food Inspections only:

FH INSPECTIONS	16/17	17/18	18/19
BDC	271	312	313
MHDC	234	311	268
RBC	206	201	233
WCC	315	242	435
WDC	367	381	443
WFDC	306	315	332



Table 4: Interventions including inspections, audits, verification/surveillance, sampling, advice/education, information gathering:

TOTAL FH INTERVENTIONS	16/17	17/18	18/19
BDC	342	388	456
MHDC	302	466	398
RBC	246	247	361
WCC	370	321	645
WDC	516	562	644
WFDC	416	413	570

Approximately one-third of registered food premises are inspected annually in accordance with the FHRS inspection regime.

Trends in the figures include:

- Less independents are opening/surviving especially on the high streets;
- There has been a virtual standstill in new producers and manufacturers around the county;
- There has been an increase in coffee shops and takeaways (the majority supplying pizzas, chicken and burgers).

The Sentencing Guidelines

As will be seen from previous Activity Reports WRS is not afraid to prosecute for food offences. The Sentencing Guidelines 2014 for Food and Health and Safety offences have created a seismic shift in the potential impact on businesses as the Courts now understand what kind of punishments they should impose. In many cases this is significantly higher than previously. Businesses that are prosecuted are now fined according to turnover with reductions for early guilty pleas. This means that a major household name can be fined £Millions, whilst a smaller independent may only be fined £Hundreds for similar offences.

This is a welcome change in the legal landscape as fines for larger businesses were in real terms relatively insignificant in the past. Although prosecution in Worcestershire is a rarely used tool, it does mean that we have had to further tighten our enforcement processes as stronger legal challenges (especially on technical aspects of investigations) are now inevitable.

Multi-Agency Activity

We now have much wider involvement with our partner agencies. For the past year we have been working closely with the Police, Fire and

Rescue Service, Housing officers, Immigration, Gangmasters, etc on multi-agency targeted 'disruptive' enforcement activities against modern slavery, county lines, immigration and fraud. Food premises have been a focus for some of this activity, with arrests being made. This is whole new landscape for WRS and officers have all undergone training to be aware of signs of these wider issues. It is worth noting that where we have made multi agency visits the food rating of the premises has often been poor.

Food Hygiene Rating Scheme (FHRS)

The FHRS has also gradually changed the food landscape. The scheme includes restaurants, cafes, takeaways, mobiles, retail outlets, schools, hospitals, care homes, etc but excludes manufacturers. Low risk premises are exempt e.g. wet bars and cake makers. Prior to its introduction nearly a decade ago the outcome of inspections, good or bad, was usually only known to the business and the local authority. Several successful schemes operated locally but lacked the impact of a national scheme. As with all new schemes awareness has slowly grown over the past decade. The rise of social media interest about all things food has also increased and, although sometimes mis-informed, can primarily be seen as supporting our food enforcement activities. An example of this was a premise where the owner denied serving food and implied that officers were lying (*sic*). When the press story appeared about the poor rating a chorus of public voices responded saying that they too had been served food on the premises.

In England there is still no legal requirement to display a FHRS sticker but in most businesses it is now visibly displayed as a badge of honour. It is an offence for a business to display an incorrect rating, a misleading action under the Consumer Protection from Unfair Trading Regulations 2016 and consumers regularly report inconsistencies between stickers and the rating on FHRS site. In these cases the business is given a written warning to remove the incorrect rating.

Members may wish to note:

- Local compliance rates remain high with some 98% of business scoring FHRS L3-L5;
- Food inspection reports left by officers are not subject to Freedom Of Information requests but are freely releasable on request under the FHRS Brand Standard (www.food.gov.uk/brandstandard) The number of such requests continues to rise;
- Where a business changes hands the previous rating immediately ceases.

The Food Standards Agency has committed to the future of the FHRS and ultimately to a legal requirement to display ratings. Local councils



should actively support this even if it adds to pressure of work. Most importantly we need to continue to employ resources to visit and inspect premises to maintain a level playing field and maintain customer confidence. The FHS Brand Standard recognises this (www.food.gov.uk/brandstandard) and requires that we visit premises to rate them.

Risk Rating of Premises

The old system was simple. Every business has a next inspection date generated to a set FSA formula and was visited accordingly. It comes as a surprise to many that the time between visits can be up to two years for those with L5 (Very Good) FHS scores. For the rare L0 premises formal closure, improvement notices, prosecution and more regular interventions are the likely options.

Members should note that social media on reading press reports of poor scores often ask why the business isn't being closed. There is a legally established process for closure which must involve an *imminent risk to public health*. This is a legal term which must be evidenced by such conditions as a dangerous process, the high risk of cross contamination, a serious active pest infestation or extremely dirty conditions. In Worcestershire very few premises deteriorate to this stage but WRS will not hesitate to make a formal closure using a Hygiene Emergency Prohibition Notice which must be ratified as an Order by magistrates within 7 days of issue. The business cannot re-open until an Environmental Health Officer is satisfied the imminent risk no longer exists.

It is impossible with available resources to visit every premise, a system which in many ways is now acknowledged as archaic and has been replaced by risk based and intelligence systems. Large national companies, often supported by the Primary Authority scheme, have upped their game so need fewer visits. Independents need more support and ethnic businesses also have different needs. Many frequently require more face to face time due to language and cultural barriers.

Each year the Food Lead Officer (an official FSA appointment under the Food Safety Act 1990) now assesses risk at all premises due an intervention in the coming year and works an active programme based on resources. All high risk businesses, restaurants, cafes, schools, hospitals, mobiles continue to receive their programmed visit.

For the 40% of our business that are identified as low risk we send out a self-assessment questionnaire. This list includes small retailers, wet bars, cake makers, church halls, community centres etc. This has proved very successful with a high level of response. Where there is any doubt about the answers given we include the business to the inspection list. It has also helped us to remove from the database small businesses long since closed thus improving compliance with GDPR. In 2019 we have also started to send out start up questionnaires to

new registrations which appear to be low risk. We shall monitor the outcome of this new process.

Food Premises 'Enhanced' Registration

Although the requirement to register as a food business dates back to the 1970s and is an offence under Regulation EU 852/2004, food officers continue to regularly find such premises. With reduced resources across the Districts it is less easy to spot new openings or changes of management signs, so we seek out intelligence and welcome the public making us aware.

The FSA is currently rolling out a digital scheme for the registration of food businesses. The aim is to enhance nationally FSA information on the £69bn UK food industry. Details are still limited but WRS has signed up to be part of the pilot from December 2019. There are reservations amongst Food Authorities as to how effective this will be and, more importantly, on the information being collected.

WRS 'enhanced' its registration information several years ago so we know a considerable amount about our businesses from day one. We acknowledge all food registrations and send out tailored information to all independents to assist them with compliance. If this amount of information is no longer collected it will make our risk assessment approach more difficult and possibly increase the number of visits required annually.

Allergens

Without doubt, leaving aside the issue of Brexit, the biggest challenge to food officers has been achieving allergen compliance. The Food Information Regulations 2014 required businesses to assess 14 specific allergens and ensure customers were aware of which foods contained them. The major issue is not with larger businesses but with smaller ones who are struggling to comply. Members will be aware of several deaths linked to allergens, not least the Pret a Manger case which is leading to a tightening of the law (currently under consultation).

Allergen control is primarily a Trading Standards matter in Worcestershire but the legislation gives powers to both Trading Standards and Food Safety Officers. WRS works extremely closely with the County Council's Trading Standards Team on allergen enforcement in the catering sector. The publicity around the unacceptable deaths has also changed expectations of the public. The FSA has instructed Local Authorities that they must now look at allergens as part of food hygiene inspections and take compliance into account as part of FHRS.

Although we have been supporting business with this issue since 2014, this change of approach has resulted in many independent businesses getting reduced FHRS scores and we may find our overall levels of compliance reduced at the end of the current year as a



consequence. As the ultimate outcome of consuming allergens is a fatality this is a not unreasonable approach.

OTHER FOOD SAFETY WORK DONE BY WRS

Business Advice Service

We offer a paid-for business advice service with packages targeted at new or failing businesses. We continue to meet resistance from businesses who regard any fee for services as unreasonable. This probably dates back to the period when the FSA encouraged Local Authorities to provide 'free' education and advice. Government now expects a business to contribute to the cost of the services it receives and cultural landscape shift is needed which will take time to embed.

Export Certificates

A less well known role for LAs is the issue of export certificates for food going to non EU countries for which there is a charge. We have a limited number of exporters in Worcestershire but if there is a No Deal Brexit then we are likely to see a huge upsurge of requests especially for products of animal origin (POAO) as all exports to the EU will then require certification. A contingency plan is in place to deal with this including an enhanced inspection regime for exporters which will be introduced to ensure these businesses are checked annually.

Healthier Choices Scheme

This fee paying 'membership' scheme has been set up to encourage more food businesses to introduce healthier options on their menus and meets the government's programme to reduce obesity. It has had limited initial success as businesses are reluctant to pay any fees to local authorities. The businesses who have joined this community receive newsletters, nutrition advice and website publicity. For all sign ups we have achieved a positive media story. We have recently redesigned the scheme to better meet the revised national agenda. This will be relaunched shortly.

Triple Five Award

Much of the press publicity about food in recent years has been negative – from the "Horsegate" meat scandal to unsustainable food production, allergen deaths and business failures. We have seen many articles in the local media about poor performers, often leading to the business ceasing trading.

To end on a positive note, the Board last year approved a scheme to reward longstanding high performers. In the autumn we are introducing the Triple Five Award for those businesses who achieve three successive L5 FHRS ratings. The numbers are not high. The last data check showed there were under a 100 so they really are an elite band. It does show how difficult it is to run a successful and compliant food business! We will give the Award as much publicity as we can with a

special section on the WRS website. We also see it as an additional tool to help drive up food safety standards in the county.

Contact Points

David Mellors
Community Environmental Health & Trading Standards Manager
Worcestershire Regulatory Services
01562-738060

Background Papers

None

