

WRS Board

Date: 29 June 2023

Food interventions: Post pandemic recovery programme and next steps

Recommendation | That the Board notes the Report and that members use the contents of the information provided in their own reporting back to fellow members of the partner authorities.

Background | Members will be aware that the six district councils are responsible for delivering official food safety controls and related activities in most food establishments in Worcestershire to ensure that businesses are complying with the relevant requirements of food law and to enforce those requirements where necessary. WRS undertakes these activities on behalf of all six local authorities. These control activities include inspections, audits, surveillance, sampling and other types of interventions such as projects and questionnaires. Prior to the pandemic, Local Authorities were expected to undertake all official controls and related activities prescribed in specific legislation and those contained within specific Food Standards Agency (FSA) Guidance and Codes of Practice.

At the beginning of the pandemic response, the FSA suspended the routine food hygiene intervention programme in recognition of the challenges local regulatory services faced in protecting our communities from COVID-19. The suspension also reflected the changing business landscape, with many food businesses closing or changing operations due to the Covid control regime.

Report | At its Board Meeting 26 May 2021, the FSA set out its plan for the recovery of local authority (LA) programmed food interventions and related activities. The plan described two phases running from 1 July 2021 to April 2023 and beyond. It focussed on re-starting the regulatory delivery system in line with the Food Law Codes of Practice for the highest risk establishments while providing greater flexibility for lower risk establishments. The plan also set out arrangements for monitoring LA delivery during the recovery period. This report describes the progress WRS has made in implementing the recovery plan locally.

1. Introduction

One impact of Covid was all Local Authorities having a long list of overdue inspections. Whilst many of the businesses were closed for a period, many continued to provide

takeaway services. The FSA advised that routine inspection programmes were to be suspended. Post pandemic the FSA implemented a two-year FSA Inspection Recovery programme (April 2021-March 2023). The timeline and action set out by FSA is below together with WRS outcomes:



We have provided quarterly progress reports to the FSA throughout the recovery phase and will continue to do so in coming year.

The total of overdue interventions across the county at start of the 2022-23 financial year was over 3,500 existing registered businesses. During any year we also expect to deal with 700-900 new business registrations. As we have always had a high level of FHRS (Food Hygiene Rating Scheme, the “Score on the Door”) compliance, the numbers with A/B (low FHRS) scores were <5% of our total. Officers were, therefore, able to conduct a wide range of visits across all FHRS ratings.

In reading this report members should note

- business compliance rates remain high with some 98% of business scoring FHRS Level 3-Level 5 meaning that they are deemed generally compliant with legal requirements.
- food inspection reports left by officers are not subject to Freedom Of Information requests but are releasable on request under the FHRS Brand Standard (www.food.gov.uk/brandstandard). The local press frequently reports on poorly performing businesses which we believe assists in driving up standards generally.
- where a business changes hands the previous FHRS rating immediately ceases.

2. Current Competent Officer Status

Inspections of high-risk premises (restaurants, cafes, pubs, schools, care homes, retail, mobiles) always requires a physical presence. Each inspection takes approximately two to three hours to complete allowing for travel time and the detailed recording of visits which is required to fulfil both FSA reporting and internal intelligence gathering requirements.

Food inspectors must have specific (high level) competency requirements under the FSA Food Law Code of Practice. All food officers must undertake at least 20 hours of training per year to maintain their competency.

Resources available to carry out increasingly complex and specialised food work will always remain an issue when the demand across the whole of the Environmental Health Service is considered. Indeed, staff resources available to carry out increasingly complex food work are falling in real terms when taking into account the increasing demand across the whole of the Community Environmental Health Service to investigate increasingly complex, challenging and time-consuming nuisance and health and safety cases, which include fatalities.

Your officers are multi-disciplinary and work on an intelligence-led basis to deliver services across all environmental health functions including health and safety, statutory nuisance, infectious diseases, and income generation work including Primary Authority relationships with Worcestershire businesses. However, this means that there is no specifically dedicated team to deliver food safety work and on any working day, the wider demand on the service means that we are unlikely to have more than 6 competent food officers to deploy to this work. During 2022-23 and into the new financial year we have been able to support our FTE with some backfill thanks originally to Covid support funding.

Reliance on backfilling with external contractors has become more difficult as there is a national shortage of competent officers set against rising Local Authority demand for such services. We can no longer rely on immediate availability if we need to backfill.

End of year analysis suggests that we currently operate our food programme on 1.2 officers per District due to the increase in other demands across the team.

Regulatory Support Officers (RSO)

To support our Environmental Health Practitioners who undertake multi-disciplinary duties, (i.e., food, nuisance, licensing, health and safety, Primary Authority) we introduced a dedicated food RSO role to the service early in 2022. All were former Covid advisers. At the end of 2022-23 we had one person dedicated to support the CEH food work. This has proved to be a high value role enabling WRS to undertake low risk food visits, sampling, FHRs sticker compliance checks we lack resource to undertake on a regular basis.

Changing Landscape

Covid brought major challenges to food businesses, although many were able to diversify and survive. Now businesses face an economic crisis with staff shortages, increased fuel costs and inflationary food costs of up to 20%, all in a declining market. Premises are adapting by reducing opening hours, changing from restaurant to takeaway, revising menus and suppliers. There are signs of increasing closures of businesses although currently the numbers are being matched by new premises registrations.

Intelligence led

We no longer base our food intervention programmes solely on the arbitrary inspection dates set in the national Food Law Code of Practice and automatically generated by our IT system. Instead, we are proactive in recording and considering intelligence through Tactical Assessment and Tasking programmes. This opens many options including sectoral approaches (e.g., geographical, new premises, ethnics, bakeries, small retail) and specific projects (e.g., sampling, FHRs sticker checks, arising from complaints). The FSA is now considering a similar model as part of its ABC Review and in November they visited WRS to see how our system worked. Whilst we wholeheartedly welcome this development the FSA's current audit approach appears wedded to its rigid Code of Practice

requirements, so is yet to catch up with its declared policy direction. We look forward to working with the FSA locally, regionally and nationally on this Agenda through our representation and involvement at all of these levels.

Visits Done

Between April 2022 and the end of March 2023 WRS completed 2058 inspections. This figure includes both site visits and assessments of low-risk premises done by remote monitoring (e.g., questionnaires). Whilst the data below indicates that we continue to have high levels of compliance, officers report that they are finding more premises with major non-compliances, particularly in the independent sector. As we entered 2023-2024, we still had to complete over 300 interventions (including new premises) to meet the FSA Recovery Plan. About half of these are in the High-Risk category.

Visits carried out with FHS rating			
FHS	20/21	21/22	22/23
0	2	5	5
1	13	58	43
2	2	30	27
3	18	166	150
4	39	322	296
5	514	1500	1537
Total	588	2081	2058

There is no doubt that the majority of Food Business Operators value the personal contact of visits, not only to provide them with support but to help ensure a level playing field across the sector. The focus of our routine inspections continues to be to provide support and advice to business to help them trade well, unless circumstances are such that a more formal approach is needed to address serious non-compliance. Resource constraints have reduced the supportive action we can give, but WRS does offer an advisory service on a cost recovery basis.

District breakdown:

	FHRS	20/21	21/22	22/23
Bromsgrove	0	2	0	1
	1	2	4	3
	2	0	3	1
	3	5	21	22
	4	0	62	52
	5	85	286	259
Malvern	0	0	1	0
	1	2	13	7
	2	0	3	3
	3	2	16	15
	4	9	44	47
	5	89	196	246
Redditch	0	0	1	3
	1	5	6	5
	2	0	5	5
	3	2	35	19
	4	8	41	29
	5	54	178	161
Worcester	0	0	1	0
	1	2	11	5
	2	0	6	4
	3	5	35	33
	4	9	47	54
	5	100	337	263
Wychavon	0	0	1	0
	1	1	14	12
	2	0	7	7
	3	3	31	39
	4	7	58	65
	5	111	273	366
Wyre Fo6.rest	0	0	1	1
	1	1	10	11
	2	2	6	7
	3	1	28	22
	4	6	70	49
	5	75	230	242

Food Hygiene Rating Scheme (FHRS)

The continuing importance of FHRS to most businesses must not be underestimated. Operators are much more aware of when a visit is due and will call to ask when it is to be done, sometimes adding to resource pressures. Bonuses are paid by some companies to managers who maintain Level 5 standards, for others it can ensure contracts or being accepted to operate at events. Inevitably, with the current pressures on hospitality, some food business operators are becoming more 'aggressive' when they get a reduced FHRS Score.

The outcome is that we are receiving more appeals and more re-rating requests. Re-ratings are only done for a fee paid in advance (£165 2022-23; £178 from 1 April) and operators put considerable pressure on officers for immediate responses. For FHRS Level 4 to Level 3 officers are authorised carry out the process. For Level 2 to Level 0 there is a specific process undertaken through your Food Lead Officer. The revisit period can be up to three months where the premises has a poor history, as WRS needs to be satisfied of a sustained improvement and demonstration that the business can subsequently manage food safety effectively.

A pilot project carried out by WRS has indicated that many who get a reduced FHRS score do not remove the former higher FHRS sticker being displayed (they cannot be removed at time of inspection because of appeal period). We are therefore implementing a new system enabling us to carry out periodic checks. This practice is an offence under the Consumer Protection Act but to date advisory action has always led to compliance.

FHRS Snapshot as of 8 June 2023 for our 5791 food premises:

FHRS	Bromsgrove	Malvern	Redditch	Worcester	Wychavon	Wyre Forest
L5	665	677	420	708	951	567
L4	111	102	67	96	154	115
L3	43	44	57	42	95	55
L2	2	4	6	3	8	8
L1	4	4	4	4	9	3
L0	1	0	0	0	0	1
Unrated	86	99	135	129	181	131
Total	912	930	689	982	1398	880

Dealing with Poor Premises

Whilst the number of poor premises remains well below 5%, the time spent on these businesses is high, in some cases amounting to up to the equivalent of three weeks work to resolve issues (i.e., some 100 hours per premises). If the decision is made to prosecute then it can be further months of work to bring a case to the courts. Your Officers currently have four prosecutions pending with a Simple Caution having been issued to a Malvern food business in mid-January.

Whilst the number of poor premises remains at < 3% the time spent on these businesses

can amount to the equivalent of three weeks of work to resolve issues, i.e., some 100 hours per premise compared with 2-3 hours for a high scoring business. If the decision is made to prosecute then it can be further months of work to bring a case to the courts.

The common areas of non-compliance are food safety paperwork (having no food safety management system will immediately reduce FHS to a Level 1- Level 2 maximum), poor cleaning, pest control, allergen safety and lack of staff training.

We operate a Food Lead review process in respect of premises where three consecutive poor FHS scores have been issued i.e., Level 0- Level 3. For these premises, visits will be more frequent to ensure that standards improve. If they do not, they will either be informally interviewed or sent a letter from the Food Safety Lead. In most cases where these systems have been used, improvement has been made and maintained and enforcement action has not been required.

Using Enforcement Powers

There are several options available for enforcement, which can be found in the WRS Enforcement Policy previously endorsed by Members and available at the website.

All businesses are left a written compliance report. The next steps for escalation include service of Hygiene Improvement Notices [HIN] and formal closure through a Hygiene Emergency Prohibition Notice [HEPN]. HINs can be issued by officers, HEPN must subsequently be approved by a court Order. We are also now responsible for recovering costs awarded by the Magistrates for such actions, which presents its own difficulties.

Many of the public ask why poor premises are not closed more often. The simple answer is that the FSA Food Law Code of Practice has very specific requirements for closure known as *imminent risk* which set a very high bar and are not often met. Prosecution is the option of last resort in this graded enforcement approach. Unfortunately, we have had cause to pursue this latter course of action with four businesses in the past year (several cases are still *sub judice* so premises cannot be listed here by name but include a public house, a food manufacturer, a bakery, and an ethnic restaurant).

Food Notices Served by FHS			
Notices Served:	20/21	21/22	22/23
L5	0	1	1
L4	1	2	0
L3	7	4	2
L2	0	1	2
L1	1	5	16
L0	0	4	7
Totals:	9	17	30

Food Notices Served by District			
District	20/21	21/22	22/23
Bromsgrove	0	1	0
Malvern	0	0	6
Redditch	8	1	6

Worcester	0	4	2
Wychavon	0	4	3
Wyre Forest	1	7	13
Totals:	9	17	30

New Premises:

Despite the current financial climate, we continue to receive some 20 new food registrations per week across all sectors and prioritise rating visits to this sector (unless we have intelligence to the contrary, we operate a policy of two months to achieve this which we feel is an appropriate time to allow the business to establish its operations).

There seems to be an emerging pattern of more businesses opening/re-opening without registering, which is free and can easily be done online. We are currently finding 3-4 a week, some of which are businesses that have been closed for a period and then re-opened under new management. It is impossible with limited resources to make physical checks on them all, but we are looking to improve monitoring systems for the coming year.

A table of new registrations by type is outlined below:

New Food Registrations by Premise Type			
Premise Type	20/21	21/22	22/23
Caring Premises	10	24	18
Distributors/Transporters	9	12	8
Hotel/Guest House	12	5	8
Importers/Exporters (EU)	4	16	7
Manufacturers and Packers	19	22	15
Mobile Food Unit	75	86	71
Primary Producers	7	3	2
Pub/Club	88	59	64
Restaurant/Cafe/Canteen	106	137	166
Restaurants and Caterers - Other	24	14	12
Retailer - Other	383	212	126
School/College	24	27	33
Small Retailer	61	63	51
Supermarket/Hypermarket	3	1	8
Takeaway	71	114	79
Total	896	795	668

Closed Premises

Food Premises closed by Premise Type			
Premise Type	20/21	21/22	22/23
Caring Premises	8	32	361*
Distributers/Transporters	6	8	12
Hotel/Guest House	12	25	21
Importers/Exporters	0	9	4
Manufacturers and Packers	7	23	15
Mobile Food Unit	36	57	121
Primary Producers	2	4	15
Pub/Club	73	74	99
Restaurant/Cafe/Canteen	70	122	142
Restaurants and Caterers - Other	16	29	70
Retailer - Other	55	165**	238**
School/College	16	25	30
Small Retailer	30	55	96**
Supermarket/Hypermarket	0	3	6
Takeaway	50	96	108
Total	381	727	1338

* Includes former childminders removed from database

** Includes home based businesses that set up during pandemic and not continued to trade

Food Premises closed by District			
District	20/21	21/22	22/23
Bromsgrove	48	96	189
Malvern	53	121	197
Redditch	47	76	216
Worcester	76	155	237
Wychavon	89	156	249
Wyre Forest	68	123	250

Service Requests

The table below outlines volumes of requests for service in the previous 3 years. As members will see, the volume of complaints about premises is roughly the same as the level of requests from the business community for support.

Food Service Requests	20/21	21/22	22/23
Food - Alert (FSA Notification Only)	6	28	11
Food - FHRs Re-Rating Request	16	72	59
Food – Complaint	401	533	356
Food Project for WRS	3	3	1
Food – Enquiry	542	698	475
Food - Export Health Certificates (charged at £90 per certificate)	74	98	88
Food - Hygiene of Premises Complaint	96	111	124
FHRs Appeal	-	8	9
Totals:	1138	1551	1123

Food Service Requests by District			
District	20/21	21/22	22/23
Bromsgrove	173	218	162
Malvern	179	246	185
Redditch	188	212	121
Worcester	191	259	175
Wychavon	229	317	269
Wyre Forest	139	256	186
General/Outside of District	39	43	25
Totals:	1138	1551	1123

Food Sampling.

We use our RSO to undertake sampling. Most of our samples are environmental e.g., food contact surfaces, tea towels, sponges (the latter two produce consistently unsatisfactory results). During the run up to Christmas we also sampled pates, again with some unsatisfactory results. In every case the business is advised of the outcome and appropriate advice given.

Food Sampling			
District	20/21	21/22	22/23
Bromsgrove	0	43	17
Malvern	5	26	34
Redditch	5	14	13
Worcester	8	21	12

Wychavon	27	11	21
Wyre Forest	4	47	17
Primary Authority	0	1	0
Totals:	49	162	114

Low Risk Premises

Although not a priority in the FSA Recovery Programme our support team continue to send out self-assessment questionnaires to low risk retail, cakemakers, community centres, sports clubs, wet bars, etc which make up some 30% of our registered businesses. Our RSO has also been able to make visits to premises some of which have not seen an officer for over 5 years due to being such low risk. A common non-compliance in small retail premises has been sale of food past its use-by date, which again initially attracts an advisory option.

Visits Due 2023-24

1740 premises were listed for inspection as of 1 April, with an additional 750 new premises and those outstanding inspections from previous years. Reactive inspections may also arise from in-year food complaints.

This continues to represent a very challenging area of our work in terms of significant demand and draw on resources.

Additional Food Work:

Primary Authority Partnerships

We continue to offer Primary Authority Partnerships to several food businesses for which we recover costs. Our current partners, set up under the Enterprise Act and approved by the Secretary of State in BEIS, are with Aspens Food Services (over 450 mainly educational outlets), Alimenti Food Science (a small consultancy), Kelsius (providing food safety monitoring equipment internationally), Mindful Chef (on line food orders working out of Redditch), Servest (over 600 catering outlets), Venture Events (wedding and events operator with c 10 premises) and My E Chef (provides food safety management systems for small businesses).

In each case we are legally required to work with the business to ensure they comply with the law, holding regular meetings and providing advice on their systems.

The role of PA is likely to become more important under the FSA national review. Your Food Safety Lead currently chairs a national panel of Local Authorities for the Hospitality and Catering Sector. This is a new role which BEIS wish to develop as part of their relationship with local authorities.

Export Certificates

We continue to offer a paid for export certificate service, primarily to two companies (Microferm in Malvern and Dawn Foods in Wychavon) with whom we have a close working relationship.

Allergens

Without doubt one of the biggest challenges for businesses and food officers remains achieving allergen compliance. As previously reported the major issue is not with larger

businesses but with smaller independents who are still struggling to comply. Whilst many businesses constantly change suppliers due to costs, they do not update their allergen records. Our work in this area is done jointly with the Worcestershire County Council Trading Standards service. We are currently dealing with some very challenging and complex allergen investigations and reviewing how we can better advise businesses to achieve compliance.

Conclusions

In common with all local authorities, the backlog of interventions across Worcestershire following the pandemic remains very challenging in terms of numbers, but Members can be assured that we have a very high base of some 98% broadly compliant operations (i.e., businesses scoring Level 3 or more on the Food Hygiene Rating Scheme or FHRS.)

The prioritisation and initial inspection of new food businesses presents a key risk given the numbers involved and the resource required.

We also face challenges in recruiting new officers and securing competent contractor resource. It is anticipated that recent changes to the Codes of Practice in England and Northern Ireland, which widens the baseline qualifications that demonstrate competence and the implementation of an activity-based competency framework, will also help ease the situation. To this end we have been piloting a new role within the team of Regulatory Support Officer, whose purpose is to review and visit low risk premises and make verification visits, escalating issues to a food competent Environmental Health Officer where there are any significant concerns relating to food safety. RSOs have been trained in house and check lists have been provided. This model reflects that used during the pandemic by engaging Covid Advisors, who have successfully conducted visits and escalated serious issues to the dedicated enforcement team for action.

Contact Details

That said, this report shows that we continue to make good progress in our recovery plan, interventions being risk-based, and intelligence led, focusing resources where they add greatest value in providing safeguards for consumers and securing business compliance. The focus continues to be on those businesses scoring lowest on FHRS and those found to be persistently non-compliant.

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