



WRS Board

Date: 29<sup>th</sup> February 2024

Food Service and Food Standards Agency engagement

Recommendation	<p>Members are asked to:</p> <ul style="list-style-type: none"><li>(i) <b>Note the report.</b></li><li>(ii) <b>Agree the consequent increase in establishment that flows from the funding uplift agreed by the partners.</b></li></ul>
Background	<p>The Food Standards Agency is the main competent authority for food controls in England. The food function is devolved in Scotland, Wales, and Northern Ireland. The Agency has been pushing local authorities recently to increase their commitments to food law enforcement and to align activities more closely with the letter of the Food Law Code of Practice issued under section 40 of the Food Safety Act 1990. After engagement with senior officers and lead members, the partners have agreed to an uplift in the WRS budget specifically for Food Safety Act enforcement. This paper explains the detail of this and how the additional expenditure will be deployed.</p>
Report	<p>In line with the Systems Thinking approach taken in these functional areas by the partners since 2011, our shared service has been piloting alternative approaches as financial pressures on local authorities forced the partners to make difficult decisions in relation to support for many of their services over an extended period. The Agency was made aware of WRS’s experiments at the time and expressed some interest in the work being done, albeit the Agency would not endorse any changes that occurred, no matter how beneficial.</p> <p>During the audit visit in 2017, our officers were left with the clear impression that the Agency was moving in the direction of accepting that intelligence-driven regulatory services offer the most cost effective and efficient form of control model available. This clearly seemed to be the direction of travel in the reviews of the Food Standards and then Food Hygiene codes, which were clearly labelled as seeking to build the role of intelligence into process.</p> <p>Following the initial consultation on the revision to the Food Hygiene code, the Agency has decided not to go forward with further change before 2027. At the same time, its performance teams have indicated an expectation that authorities that have chosen to move away from aspects of the code will be expected to re-align their activities to be more reflective of the letter of what is required. This means relying less on intelligence and going back to increased levels of traditional inspection and alternative enforcement approaches within the Code.</p>



**The Food Hygiene  
Code of Practice  
and issues raised.**

The Food Hygiene Code of Practice is made under section 40 of the Food Safety Act 1990. Local authorities are required to have regard to it, but the Agency is empowered by the legislation to seek Ministerial direction to make local authorities comply with it. Given this power, after much discussion, officers and lead members felt that at least moving some way towards the Agency's requirements would be sensible. We would not accept that the approach taken by the service has created issues and there is no evidence of any significant problems arising from the approaches taken. Officers also hope that the Agency will engage fully with WRS when it comes to revising the Food Hygiene code as officers feel there is much that the service could contribute in terms of our experience of working through intelligence.

The Agency identified several areas, but the main area impacted is how the service addresses lower risk premises, those coded category D and E for the purposes of the Code. This represents over 4,000 of our approximately 5,800 registered food businesses across the county. The detailed business case indicates that, in 2009/10 there were 5123 food registrations across the six districts compared with the current 5791, representing an increase of 13%. Many of these have been in the lower risk categories.

Currently the service uses a range of intervention forms to address these including inspection for those of the highest risk. Adhering to the letter of the Code requires an intervention every 2-years to category D premises, which the Agency will allow to alternate between inspection and allowable alternative intervention. The latter are required to be deployed with category E premises every 3 years. The proposed resourcing uplift will allow the service to achieve this, and to better address new registrations, which tend to be a mix of changes in ownership of existing food premises, often with wholly new operations or food offers, and some totally new registrations, many of which in recent years have been domestic operators or owners of mobile outlets who may then work outside of Worcestershire. Again, the current WRS approach is to risk assess these premises and visit those that are, on the face of it, likely to fall into the higher risk categories. Others are contacted and spoken to without this formal intervention. The additional resource will allow more physical interventions at new registrant premises.

Two further issues were raised by the Agency, one of which related to caring premises: everything from day nurseries to residential care and nursing homes. The premises in this group that meet the criterion of having 20 persons attending or resident are subject to an additional risk score in the Code, which means they will score as category B and should be visited annually, in line with our other B-rated premises. The others, that do not trigger the additional risk factor in this group, have been assessed as other food businesses and many have been given a D rating. Most of these are good performers, scoring 4 and 5 stars routinely on the Food Hygiene rating scheme, so producing safe food and this had led to their reduced risk rating. The Agency is, however, concerned that this does not address their inherent risk and wants them to revert to category B. Officers have sought a compromise position on this point as they feel our approach to risk has been reasonable in this case and



have asked to see the risk assessment used by the Agency to reach this conclusion. Rather than bluntly resisting, officers have offered to address those businesses that provide “full meals” as part of their service, which might be perceived to offer a greater risk than, for example, a day nursery that simply provides snacks or toast and jam to the children attending. Again, this work can be accommodated within the resource uplift and by re-purposing some current vacant capacity (where officers have reduced hours,) to be dedicated to food law activities.

The final aspect is the timeliness of interventions at category A, B and C rated premises. The letter of the Code requires these to be visited within 2 weeks either side of the due date, so a 4-week window. Our fully qualified Environmental Health Officer resource is used flexibly to address all aspects undertaken by the Community Environmental Health division. This means that the service aims to intervene with these premises in the financial year they are due, but not necessarily in the window specified. Whilst there are some premises that do fall into Category A (potentially hospitals and hospices,) that have to be visited every 6-months, many are usually poorly performing premises that would otherwise be rated B (annual visit,) C (18month visit interval,) or D (2-yearly visit.) With these premises, the approach taken is to work with them to bring them back to normal compliance rather than labelling them as category A and visiting them in 6-months. This is not a requirement of the Code, but officers feel this is the right approach to take for the sake of the businesses and their customers. To achieve Code compliance would require the service to create dedicated Environmental Health Officer capacity within a food or EH Commercial team, and this would require additional resource as we could not continue to deploy the existing resource flexibly to address all forms of demand. On that basis, in the absence of evidence that the approach creates significant additional risk, especially as we address poor performing businesses in the way we do, the partnership will continue to operate this aspect in the current way. It is hoped that the increase in resource and the re-purposed current resource will mean that a proportion of visits can be timelier.

#### **Staffing changes and costs**

Given that the increase in resourcing is mainly necessary to tackle our lower risk outlets, officers have suggested focusing recruitment on both specialist Senior Technical Officers, who can visit all premises, and Regulatory Support Officers, with the latter able to be trained to discharge interventions at category E premises and work with well performing category Ds. The intention is to recruit 3 Regulatory Support Officers and 2 Senior Technical Officers. The cost of this additional capacity, broken down following the normal partner contributions is outlined in the appendix, along with an indication of how this will impact the overall spend for each partner. The Community Environmental Health Manager will also use a number of hours that have been released by several officers going part-time, to create a further Senior Technical Officer post at no additional cost to partners. This will be added to this capacity, so creating a team of 6FTE dedicated to addressing mainly lower risk and new registered premises but also with some capacity to deal with some higher risk premises. This increase will necessitate changes to how the three Principal Officers within Community Environmental Health address the wider workload, but this can be achieved without compromising our approaches in other technical areas.



The resource increase has been agreed by the partners and has been built into medium term financial plans in the recent budget-setting process, so the service can begin to move forward with this from April 2024. Whilst officers appreciate the current financial situation for the sector, these duties do fall within statute and since there are powers to compel compliance, it seemed sensible to at least move toward what is required.

On 14<sup>th</sup> February, the Agency confirmed in a letter to Chief Executives that it would de-escalate its engagement with the WRS partners and move back to the normal level of engagement between its officers and our Food Lead. The letter indicates they would still like to see further changes to our approach but, at this stage they will simply monitor our performance. Members are therefore asked to note the report and formally approve the increase in establishment that is described in the report. The service will however continue to lobby for the intelligence-led approach to take a greater role in all forms of regulatory activity in the future as the service has demonstrated how this can succeed.

#### Contact Point

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#### Appendix: Cost and impact on Partner Contributions

Council	2024-25 agreed %'s	Total Partner Contribution 24- 25 - including Technical Officers	Budget for Additional Food Employees	Total Partner Budget 2024-25
	%	£	£	£
Bromsgrove District Council	14.45%	760,755	33,855	794,610
Malvern Hills District Council	13.13%	521,190	30,762	551,952
Redditch Borough Council	17.68%	685,334	41,423	726,757
Worcester City Council	16.07%	658,493	37,650	696,143
Wychavon District Council	23.43%	917,177	54,894	972,071
Wyre Forest District Council	15.24%	594,280	35,706	629,986
<b>Total</b>	<b>100.00%</b>	<b>4,137,229</b>	<b>234,290</b>	<b>4,371,519</b>

The following sums will be added to the base budget to cover the cost of the additional 5 posts. The total includes and allowance of £11,000 for car allowance, equipment, IT kit and training requirements to maintain competence.

