

LOCAL AUTHORITY DELIVERY AND PERFORMANCE

Report by Maria Jennings, Director for Regulatory Compliance, People and Northern Ireland

For further information contact Michael Jackson: Tel : 0777 5703141/ Email: Michael.Jackson@foodstandards.gov.uk

1. Summary

- 1.1 This paper reports on local authority delivery of official food controls pre-COVID-19 based on monitoring returns for 2019/20. It highlights the pressures local authorities have faced during the pandemic, the impact on resources and the challenges faced in meeting the FSA's expectations for delivery of food controls. It also outlines the consequential impact for our local authority performance management programme.
- 1.2 Looking to the future, the paper outlines proposals for our expectations of local authorities in the short term until the end of June 2021, and also for the medium and longer term. Once agreed, these will shape the way we monitor and gain assurance from local authorities.
- 1.3 The Business Committee is asked to:
 - **Comment** on local authority delivery in 2019/20, the impact of COVID-19 on local authority resources and on the FSA's performance management programme;
 - **Consider and agree** the proposals for our expectations of local authorities in the short and medium term; and
 - **Comment** on our proposal for development of options for reforming the food hygiene delivery model in the longer term.

2. Introduction

- 2.1 COVID-19 has created unprecedented challenges for local authorities in delivering their statutory food functions as well as protecting their communities and controlling the spread of the disease. In addition, local authorities, particularly those in Northern Ireland, are preparing for the end of the transition period and our new trading relationship with the EU and other international partners. These challenges are stark when considered in the context of the funding constraints local authorities have faced in recent years and the impact this has had on delivery in line with the intervention frequency requirements of the Food Law Codes of Practice (see [Annex 1](#)).
- 2.2 This has served to emphasise the need for us to continue our work to ensure that the food hygiene and food standards delivery models are as effective as they can be, with resources consistently aligned to risk so that every intervention adds value.

3. Impact of COVID-19 on local authority delivery of food controls

Local authority performance in 2019/20

3.1 Local authority enforcement monitoring (LAEMS) data for 2019/20 provides a picture of delivery at the point the UK-wide lockdown began in late March. A comparison of the 2019/20 data with that from 2018/19 is provided at [Annex 2](#). Although there were some changes from the previous year for different elements of delivery, in general terms, the overall picture in 2019/20 is not dissimilar to 2018/19, particularly in England and Wales. In Northern Ireland, there were some improvements in the picture including increases in the proportion of due interventions undertaken for food hygiene and for food standards.

FSA guidance and advice on delivery during the pandemic

- 3.2 Our guidance and advice to local authorities has changed during the course of the pandemic to reflect the impact this has had on them and the profile of risk and activity in the food industry. This enables available resources to be targeted at businesses posing the greatest risk to public health, either due to historical risk factors or those arising as a result of the pandemic. Details are provided at [Annex 3](#).
- 3.3 In essence, we have made clear that we expect local authorities to continue to undertake certain core activities. These include undertaking controls where these are specifically prescribed in law or which are key to the end of the transition period, urgent reactive work, and dealing with high-risk and non-compliant businesses. They can temporarily deviate from the prescribed intervention frequencies in the Food Law Code of Practice (see [Annex 1](#)) so that they can prioritise core activities above planned due or overdue interventions particularly at low risk category businesses.
- 3.4 This approach ensured that where physical onsite inspections are prescribed in law or are key to the end of the transition period, these have continued. During the UK-wide lockdown from March to June, local authorities were advised that in other cases remote assessment could be used to determine the need for an onsite visit to deal with public health risks. This helped to reduce footfall in businesses at that time. As restrictions eased in early July and the hospitality sector reopened, the FSA amended the advice, asking that local authorities resume onsite interventions prioritising those for high-risk and non-compliant businesses.
- 3.5 Based on available historical data on non-compliance, not completing planned interventions at low risk category establishments may not have a significant impact in the short term, particularly as we have asked local authorities to prioritise action where there is intelligence of change in business activities. We also have evidence to demonstrate that there is a lower likelihood of foodborne disease outbreaks arising from businesses that are compliant and have a FHRS rating of 3 or above, which is the case for a significant majority of businesses in low risk categories D and E. If deferral of planned intervention is sustained over an extended period, however, it would be a matter of concern.
- 3.6 It is difficult to estimate precisely how many planned interventions are being deferred, and the impact this may have. Using LAEMS data from 2019/20 we

can, however, estimate the projected number of interventions that would have been due in 2020/21 for each risk category for food hygiene under the intervention rating scheme within the Food Law Code of Practice - see [Table 1](#). This demonstrates that a significant majority of planned interventions would be at lower risk establishments - D and E categories. Analysis of the LAEMS data also shows that the proportion of all businesses in each risk category that are 'broadly compliant' (have standards that are equivalent to a food hygiene rating of 3 or above) is greater in the D and E categories – see [Table 2](#). We also know that enforcement activity is significantly lower in these categories because of the high levels of compliance.

Table 1 – Projected number of interventions due in 2020/21

Risk category	A	B	C	D	E
Total number of establishments in 2019/20*	1,484	19,272	104,846	191,593	195,499
Average number of interventions per year per establishment according to the Food Law Codes of Practice	2	1	0.67	0.5	0.33
Projected number of interventions due in 2020/21	2,968	19,272	69,897	95,797	65,166
Projected proportion of interventions due in 2020/21	1.2%	7.6%	27.6%	37.8%	25.7%

*Based on 98% of LAEMS returns

Table 2 – Compliance levels by risk category– 2019/20

Risk category	A	B	C	D	E
% 'broadly compliant' establishments (standards equivalent to a food hygiene rating of 3 or above)	17	64	91	98	100
% 'non-broadly compliant' establishments (standards equivalent to a food hygiene rating of below 3)	83	36	9	2	0

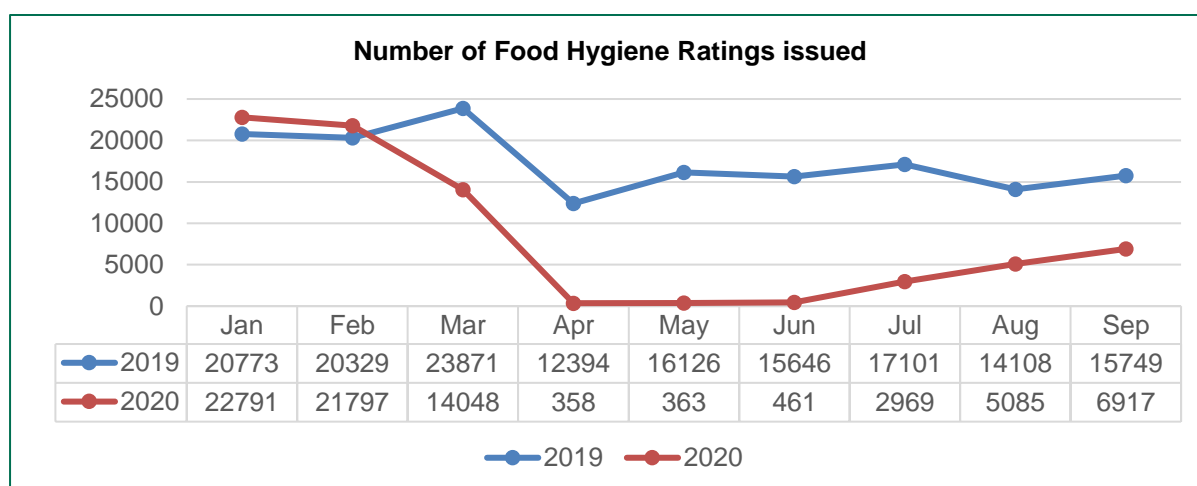
*Based on 98% of LAEMS returns

3.7 The guidance and advice we have given local authorities is enabling them to be more responsive to changing risks across the business landscape and within individual businesses rather than prioritising planned interventions of businesses in the lower risk categories. This is in keeping with our longer term aims – see section 6.

Position at September 2020

- 3.8 In late August, we asked local authorities in England and Northern Ireland for limited data to help us assess the impact of COVID-19 on resources and to assess the backlog of overdue interventions. Data from Wales was collected separately through the Safe, Sustainable, Authentic Food Wales Committee (this comprises representatives from FSA, local authorities and their professional bodies, WLGA, industry and consumers) and the Food Hygiene Expert Panels.
- 3.9 Although the position at this time varied across the three countries and from authority to authority, COVID-19 had already had a significant impact. An estimated 46% of local authorities in England that responded had redeployed at least half of their food team professional staff to COVID-19 related activities as had one of the nine councils in Northern Ireland that responded. Local authorities in Wales reported that most food related activities were being limited to urgent reactive work where there was an imminent risk to consumers.
- 3.10 A very significant number of planned interventions have been deferred. This reflects our advice. In due course, we will need to consider how to reset the clock on undertaking planned interventions more routinely.
- 3.11 Given the advice we gave to local authorities, it was inevitable that the number of FHRs ratings uploaded from March was much lower than in previous years - see [Figure 1](#). The numbers of ratings uploaded started to steadily increase from July when the scheme could operate more routinely.

Figure 1 – food hygiene ratings published January and September 2019 and 2020



- 3.12 There was also an inevitable sharp increase in the number of businesses ‘awaiting inspections’ in the data being uploaded – see [Table 3](#). This includes new businesses awaiting their first inspection (at which the local authority will also determine which risk category the establishment falls into). Our advice to local authorities to give priority to considering registration information for new businesses and to take action where there were any concerns about potential public health issues aims to minimise risks in this respect.
- 3.13 The ‘awaiting inspection category’ also includes businesses waiting for a requested FHRs re-rating inspection to be completed. This increase has

started to slow since July as postponed visits to new businesses could be made and more routine operation of the FHRS has been possible.

Table 3 – Month on month change in numbers of businesses ‘awaiting inspection’

	Dec-19	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun- 20	July- 20	Aug-20	Sept-20
Awaiting inspection	17,137	17,441	17,343	16,685	18,894	22,325	27,785	33,346	37,123	40,073
Change from previous month		304	-98	-658	2,209	3,431	5,460	5,561	3,777	2,950

4. Assessing delivery during 2020/21

- 4.1 The August survey findings and FHRS data significantly increased our concerns about local authorities’ resources available to deliver food controls. At the start of September, we strengthened our guidance and advice and made clear the controls and priorities that we expect local authorities to undertake as a minimum. In addition, the Chief Executive wrote to the Chief Executives of all local authorities in England and Wales and Northern Ireland to make clear that continuing to fulfil their statutory responsibilities in relation to food is critical to public health, consumer safety, the food industry and to the UK’s ability to export food. We urged Chief Executives to ensure that sufficient resources are allocated to meet our priorities and that they continue to protect these resources.
- 4.2 We introduced an exception reporting mechanism whereby local authorities unable to deliver the core activities we identified must alert us as a matter of urgency. The core activities represent the increased limit of risk that we can tolerate in the unprecedented circumstances that COVID-19 has created. This exception reporting will enable us to get real-time insight without imposing new burdens on local authority through regular data returns. Importantly, it will provide evidence to illustrate there is insufficient resourcing for food safety work.
- 4.3 More recently we have undertaken a ‘temperature check’ on the position through informal engagement with the two national local authority focus groups and with some other local authorities (see [Annex 4](#)). Over 90% (of the 57 local authorities we contacted) report being able to sustain a focus on completing the core activities that we have identified. Some, however, have indicated that they are not able to such that the level of risk exceeds what we can tolerate. We are considering how we can best support and work with these local authorities, and any others that notify us that they cannot complete the core activities.
- 4.4 Of those we contacted, around half reported further loss of resources for food control activities since the end August mainly as a result of redeployment to track and trace and other COVID-19 related activities.
- 4.5 A significant majority of the local authorities we have engaged with agree that that the advice we have issued on prioritisation is appropriate to target interventions to reflect the impact of the pandemic on food safety. The key challenges are arising from an increase in new business registrations including existing businesses diversifying, sales via social media and other online

platforms. In Northern Ireland, complying with the requirements of the statutory food hygiene ratings schemes was also raised as a significant issue.

- 4.6 Around half of the local authorities that we have engaged with highlighted challenges in recruiting suitably qualified staff. In terms of contractors, they are competing to recruit from a small pool of suitably qualified staff.
- 4.7 To ensure that we obtain a more detailed picture over the whole of 2020/21, we are developing a bespoke survey to capture data on delivery against our expectations during this period.

5. Impact of COVID-19 on FSA performance management programme

- 5.1 As the Board is aware, we have been working towards a new approach to assessing local authority performance, underpinned by use of a wider range of data to provide more timely evidence. This was being developed in the first instance for food hygiene in England and will be extended to food standards and to Wales and Northern Ireland in due course. We had planned to start using FHRS data in 2020/21 to monitor performance and to report this on a quarterly basis from September 2020. We have identified potential key performance indicators related to, for example, the risk to consumers from persistently low scoring businesses but have not yet been able to test their use because of COVID-19.
- 5.2 This means that the annual LAEMS data set collected at the end of each financial year, looking back on the previous 12 months of performance, remains key to our assessment. We had planned in the summer to use the 2019/20 data to assess progress on the 62 open performance cases we had and to identify authorities with which we may need to initiate engagement. The open cases predominantly relate to outstanding lower risk interventions, which are low priority within our current advice, or inspection of unrated premises i.e. new establishments, which remain a priority. From our engagement to end of March 2020, most local authorities were making steady progress in addressing issues. This includes Birmingham City Council and Northamptonshire County Council at Stage 3 of our escalation process (engagement at Chief Executive level). We have kept in contact with these two authorities and both have reported that they are continuing to meet the minimum expectations (delivery of the core activities) that we have specified.
- 5.3 The pandemic and our adjusted expectations of local authorities since March have completely changed the delivery landscape. Consequently, it would not be feasible for those authorities with open cases to continue to pursue improvement plans as their focus must be on delivering the core activities we have identified. The information we have on these local authorities, however, will form part of any future trend analysis on performance. We will continue to engage with Birmingham at working level in the run up to the 2022 Commonwealth Games and with Northamptonshire until local government changes take effect in April 2021 (when two unitary authorities will be created from the eight existing councils in the area).

6. Future expectations of local authorities – next steps

Short and medium term

- 6.1 The position at the end of September and our more recent engagement with local authorities highlights just how stretched resources are as a result of COVID-19 and the position is unlikely to get better over the winter months. The end of the transition period will increase pressures further.
- 6.2 To help address the shortage of suitable individuals available to undertake food control activities, we have fast-tracked planned changes to the qualification requirements in the Food Law Codes of Practice and Practice Guidance with the associated introduction of a competency framework. We anticipate this will apply in early February 2021 in England and Northern Ireland and in the spring/early summer in Wales. The changes will facilitate more effective use of existing local authority resources and enable individuals with other qualifications to be recruited to undertake specified activities. This will help to start to alleviate resource issues but there will be a lag time before these changes have any material impact.
- 6.3 In the interim, we need to be clear as soon as we can on our guidance and advice for the short-term period beyond 31 January 2021. Retaining the current guidance and advice - which deviates from the requirements of the Food Law Codes of Practice - would continue a targeted approach that ensures that existing resources address identified risks rather than undertaking planned interventions at low risk establishments. It also recognises the continued pressure across Government to minimise burdens on local authorities so that they can focus on controlling the spread of COVID-19. Importantly, it would be consistent with our longer-term plans to reduce the level of intervention required for lower risk establishments so that resource can be released to further target those that are non-compliant and presenting the greatest risk to consumers.
- 6.4 In taking this approach it is recognised that continued deferral of interventions at low risk establishments will, over an extended period, result in a shift towards non-compliance. For food hygiene, if inspections are not undertaken, the integrity of the FHS - be that the statutory schemes in Wales and Northern Ireland or the scheme in England - will also be compromised in the long term.
- 6.5 **Recommendation to the Board for the short term:** Taking the above into account, on balance, we recommend that the Board agree that the current guidance and advice to local authorities gives the best possible framework for the short term until end of June 2021. In doing so, we will continue to rely on using FSA powers in the Food Standards Act 1999 to enable local authorities to deviate from the prescribed frequencies for planned interventions. Exception reporting by local authorities will remain in place during that period. The end of 2020/21 survey will provide a picture of delivery across the year as a whole and inform our approach for the medium term – see below.
- 6.6 **Recommendation for the medium term:** For the medium-term period beyond June 2021, our options are limited given that the Codes of Practice cannot be revised quickly. One option would be to continue with the current guidance and advice for a longer period. By that time, rather than having to continue to use

FSA powers in the Food Standards Act 1999 to enable local authorities to deviate from the prescribed frequencies for interventions, we anticipate being able to rely on a provision being introduced in the current revision of the Codes of Practice (see para 6.2) to deviate from the intervention frequencies in the case of public health emergencies. Alternatively, we could revert to the Code of Practice requirements in place prior to the pandemic but reset our expectations of local authorities in terms of prioritisation of activities through the approach we take to performance management. The course of action we take will depend on whether the current pressures on local authorities resulting from COVID-19 have reduced.

Longer term

- 6.7 The need to reform the food hygiene delivery model, including the risk assessment scheme in the Food Law Code of Practice that drives planned intervention programmes, has now become urgent. Through the Achieving Business Compliance Programme, we aspire to focus more on outcomes, and work with businesses to draw assurance from their methods to reduce risk, rather than assuming that in all cases assurance can only be provided by onsite inspection at establishment level. We will consider different segments of business types and define how we can work with them to gain assurance that their management controls and approach are sufficiently robust to manage the hygiene risk. We will aim to target the scarce local authority resources where we believe that a premises-based inspection is the most effective way to mitigate risk, or where intelligence gathered requires a reactive local authority response. To achieve this, we will need to review and revise the requirements in the Food Law Code of Practice and ensure that they reflect the reformed approach and our revised expectations of local authorities. In particular, we will explore how best to reduce interventions in low risk establishments so that resource can be better targeted at those presenting the greatest risk and are non-compliant. This is a substantial programme of reform, which we will start in 2021, with an eye to consulting on changes in the course of 2022, and then seeking Ministerial agreement to implement.
- 6.8 The pandemic has brought into sharp focus the funding constraints within local authorities, which had already been highlighted by the NAO following their audit of the food controls system last year. The responses to our survey in August indicate that many local authority food teams went into the pandemic without the full level of resource required to deliver against the requirements of the Food Law Code of Practice.
- 6.9 We have actively raised the funding issues across Government, making the case for additional support, as part of the SR20 one year roll over and we propose to build on this for the next spending review.
- 6.10 We also propose to work with other central government departments with regulatory asks of local authorities, with the Local Government Association and with local authorities themselves to identify how we can support them to make difficult decisions on funding and prioritisation of local services.

6.11 We remain committed to urgently reforming the food standards delivery model and, subject to the findings of the pilots taking place next year, to implementing this across the three countries.

6.12 The reformed delivery models will determine our future expectations of local authorities in terms of outcomes. This will shape the way in which we gain assurance that agreed outcomes are being met and the metrics that we set to monitor and assess local authority performance.

7. Conclusions

7.1 We need to continue to work closely with our local authority colleagues during the pandemic to support them prioritise their resources to best protect public health in relation to food and to help us re-shape the food hygiene delivery model as we have successfully done when re-designing the food standards model. We also need to continue to work with others within government to address funding constraints and to reform the food controls delivery models to ensure they remain fit for purpose and are outcomes based.

7.2 The Business Committee is asked to:

- **Comment** on local authority delivery in 2019/2020, the impact of COVID-19 on local authority resources and on the FSA's performance management programme;
- **Consider and agree** the proposals for setting our expectations of local authorities in the short and medium term; and
- **Comment** on our proposal for development of options for reforming the food hygiene delivery model in the longer term.

ANNEX 1 – Statutory Food Law Codes of Practice

1. European legislation - Regulation (EU) 2017/625 on official controls - sets out in broad terms the minimum controls that competent authorities, including local authorities, must deliver. Specific direction on delivery in respect of most food businesses is given through the statutory Codes of Practice - the Food Law Code of Practice (England) and equivalent codes in the other countries - and local authorities must have regard to these.
2. The Codes prescribe the nature, frequency and intensity of official controls that should be undertaken for most of the food establishments that local authorities are responsible for. The approach is risk based such that the frequency of inspections and other interventions at the highest risk establishments is greatest. Local authorities have planned intervention programmes in place that reflect the prescribed frequencies and should undertake interventions within 28 days of the due date. For new food businesses, initial inspections should normally take place within 28 days of registration or from when the local authority becomes aware that the business is trading. There is flexibility on this where there is a conflict for resources such that high risk establishments are prioritised.
3. The following tables summarise the frequency of interventions for different risk categories where A is the highest risk. For food hygiene the table gives an indication of the proportion of food businesses at the end of 2019/20 in each category

Food hygiene intervention frequencies

Risk category	Minimum intervention frequency	% total businesses at end 2019/20
A	At least every 6 months	0.3
B	At least every 12 months	3.4
C	At least every 18 months	18.7
D	At least every 24 months	34.2
E	A programme of alternative enforcement strategies or interventions every three years	34.8
Not yet rated	-	5.5

The remaining 3.1% are businesses that are outside the planned intervention programme

Food standards intervention frequencies

Risk category	Minimum intervention frequency
A	At least every 12 months
B	At least every 24 months
C	Alternative enforcement strategy or intervention every five years

4. For certain sectors, the frequency and nature of official controls that local authorities must undertake is specifically prescribed in legislation rather than in the statutory Codes. This includes:
 - food/feed import controls at points of entry
 - official control monitoring relating to shellfish harvesting areas
 - visits carried out as part of the process of granting conditional and full approval for certain activities such as the production of meat or dairy products.

ANNEX 2: Comparison of 2019/20 and 2018/19 LAEMS returns – key findings

Notes

We published the [Annual report on local authority food law enforcement for England, Wales and Northern Ireland - 1 April 2019 to 31 March 2020, together with the data for each local authority](#) as official statistics on 27 November 2020.

The 2019/20 LAEMS data provides an indication of local authority delivery just as lockdown began in late March. The data includes regulatory activity in relation to food hygiene (microbiological quality and contamination of food by micro-organisms or foreign matter) and food standards (composition, chemical contamination, adulteration and labelling of food).

Official food controls are undertaken by the 344 local authorities in England, 22 in Wales and 11 in Northern Ireland. Local authority returns are validated and signed off formally as being accurate by each local authority's Head of Service.

All expected food standards and 98% of food hygiene returns for 2019/20 had been received with only six food hygiene returns from local authorities in England were not validated and signed off in time for the analysis in this paper.

For a comparison to be made on food hygiene, the data for the six authorities where validation is not yet complete has been removed from the 2018/19 food hygiene figures.

During 2019/20 there were additional demands on local authorities that will have had an impact on delivery. This includes preparations for EU Exit and work required for the end of the transition period, particularly in Northern Ireland with preparations for implementation of the Northern Ireland Protocol. Some local authorities, particularly in Wales, were also involved in the emergency response to flooding in the early part of 2020. During March, a time when many local authorities catch up on backlogs of due interventions, the COVID-19 pandemic was already having an impact on resources.

Number of food businesses

- Across the three countries, the number of food businesses registered or approved by local authorities at the end of March decreased by 0.2% from 562,337 in 2018/19 to 560,977

Professional staff resources for food hygiene (full time equivalent posts)

- Across the three countries there was a decrease of 0.4% compared with 2018/19
- In England there was a decrease of 1.3% from 1,230 to 1,214
- In Wales there was an increase of 5.7% from 140 to 148
- In Northern Ireland there was an increase of 3.6% from 56 to 58

Professional staff resources for food standards (full time equivalent posts)

- Across the three countries there was an increase of 1.8% compared with 2018/19
- In England there was an increase of 1.1% from 263 to 266
- In Wales there was a decrease of 2.1% from 48 to 47
- In Northern Ireland there was an increase of 13.3% from 30 to 34

Numbers of food hygiene due interventions undertaken across all risk categories

- Across the three countries the total number of interventions undertaken decreased by 2.4% from 341,544 in 2018/19 to 333,426
- In England there was a decrease of 3.4% from 302,286 in 2018/19 to 292,000
- In Wales the decrease was 0.8% from 25,182 in 2018/19 to 24,981
- In Northern Ireland there was an increase of 16.8% from 14,076 in 2018/19 to 16,445

Percentage of food hygiene due interventions undertaken across all risk categories

- Across the three countries there was a decrease from 86.4% in 2018/19 to 85.7%
- In England there was a decrease from 86.0% to 85.3%
- In Wales the decrease was from 91.5% to 89.1%
- In Northern Ireland there was an increase from 85.1% to 89.0%

Percentage of food hygiene due interventions achieved for high risk establishments (Categories A, B and C)

- In England, the percentage of due interventions undertaken decreased from 99.5% to 98.9% for Category A establishments, from 99.1% to 96.3% for Category B establishments and from 94.2% to 91.3% for Category C establishments
- In Wales, the percentage of due interventions undertaken decreased from 100% to 99.7% for Category A establishments, from 99.9% to 98.5% for Category B establishments and from 97.6% to 93.2% for Category C establishments
- In Northern Ireland, the percentage of due interventions undertaken at Category A establishments was maintained at 99.2%, with an increase from 98.3% to 98.7% for Category B establishments and from 88.5% to 92.5% for Category C establishments

Percentage of premises awaiting a first inspection (not yet risk rated) for hygiene

- Across the three countries, there was an increase from 4.8% in 2018/19 to 5.7%
- In England there was an increase from 5.0% to 5.9%
- In Wales there was an increase from 2.3% to 4%
- In Northern Ireland there was a small increase from 2.9% to 3%

Food hygiene compliance levels

- Across the three countries there was a decrease overall in the level of 'broad compliance' (equivalent to a food hygiene rating of 3, 4 or 5) from 90.7% in 2018/19 to 90.4%
- In England there was a decrease from 90.4% to 90%
- In Wales there was a decrease 93.1% to 92.7%
- In Northern Ireland there was an increase from 94.1% to 95.4%

Numbers of food standards due interventions undertaken across all risk categories

- Across the three countries the total number of interventions undertaken increased by 2.1% from 104,575 in 2018/19 to 106,770
- In England there was an increase of 1.3% from 84,248 in 2018/19 to 85,301
- In Wales there was a decrease of 4.0% from 11,489 in 2018/19 to 11,033
- In Northern Ireland there was an increase of 18.1% from 8,838 in 2018/19 to 10,436

Percentage of food standards due interventions undertaken across all risk categories

- Across the three countries there was a decrease from 40.8% in 2018/19 to 39.7%
- In England there was a decrease from 36.8% to 35.7%
- In Wales there was a decrease from 66.7% to 61.1%.
- In Northern Ireland there was an increase from 83.5% to 84.4%

Percentage of food standards due interventions undertaken for Category A (high risk) establishments

- In England, the percentage of due interventions undertaken decreased from 83.7% to 75.7%
- In Wales, the percentage of due interventions undertaken at decreased from 95.1% to 90.8%

- In Northern Ireland, the percentage of due interventions undertaken increased from 94.2% to 94.7%

Complaints about the safety of food or the hygiene at food establishments

- Across the three countries the total number of complaint investigations increased by 4.8% from 67,542 in 2018/19 to 70,771
- In England the number increased by 5.2% from 61,191 in 2018/19 to 64,397
- In Wales the number increased by 9.3% from 4,097 in 2018/19 to 4,480
- In Northern Ireland the number decreased by 16% from 2,254 to 1,894

Food standards complaints

- Food standards complaints dealt with increased by 3% from 10,585 in 2018/19 to 10,907 in 2019/20
- In England, the number increased by 4.7% from 9,117 in 2018/19 to 9,542
- In Wales, the number decreased by 14% from 724 in 2018/19 to 623
- In Northern Ireland, the number decreased by 0.3% from 744 in 2018/19 to 742

Food hygiene enforcement actions

- In England, there was an overall decrease in the number of establishments subject to enforcement actions, with a decrease of 10.8% in formal enforcement actions from 4,796 in 2018/19 to 4,278 and a 2.5% decrease in written warnings from 135,408 in 2018/19 to 132,081
- In Wales, there was an overall increase in the number of establishments subject to enforcement actions, with a decrease of 3.3% in formal enforcement actions from 457 in 2018/19 to 442 and a 1.1% increase in written warnings from 12,322 in 2018/19 to 12,454
- In Northern Ireland, there was an overall increase in the number of establishments subject to enforcement actions, with an increase of 10.3% in formal enforcement actions from 58 to 64 and a 32.6% increase in written warnings from 5,087 in 2018/19 to 6,747

Food standards enforcement actions

- In England there was an overall increase in the number of establishments subject to enforcement actions, with an increase of 44.7% in formal enforcement actions from 273 in 2018/19 to 395 and a 7.7% increase in written warnings from 18,749 in 2018/19 to 20,186
- In Wales there was an overall decrease in the number of establishments subject to enforcement actions, with an increase of 47.4% in formal enforcement actions from 38 in 2018/19 to 56 but a 11.8% decrease in written warnings from 3,050 in 2018/19 to 2,689
- In Northern Ireland there was an overall increase in the number of establishments subject to enforcement actions, with an increase of 40% in formal enforcement actions from 5 in 2018/19 to 7 and an increase of 8.3% in written warnings from 2,049 in 2018/19 to 2,220.

Sampling

- Across the three counties, there was an increase of 0.9% in the number of samples from 43,651 in 2018/19 to 44,026
- In England there was a 4.2% increase from 29,881 in 2018/19 to 31,125
- In Wales there was a 6.7% decrease from 4,698 in 2018/19 to 4,385
- In Northern Ireland there was a 6.1% decrease from 9,072 in 2018/19 to 8,516

Issues that may affect performance in 2020/21

Local authorities were asked for the first time this year to highlight factors that they considered may affect performance for the coming year. Unsurprisingly, the key issues relate to availability of staff resources, the impact of COVID-19 and, particularly in Northern Ireland, the impact of the UK's exit from the EU and end of the transition period.

ANNEX 3: FSA guidance and advice to local authorities during the pandemic

Core activities undertaken throughout the pandemic

1. Since the start of the UK-wide lockdown in March we have given clear guidance to local authorities that they must continue to undertake the following core activities:
 - a) controls where the nature and frequency are prescribed in legislation - this includes food/feed import controls at points of entry, monitoring activity relating to shellfish harvesting areas, and conditional and full approval visits for establishments dealing with animal products
 - b) controls that are key to the end of the EU transition period, to enable businesses wishing to export to be able to do so – this includes inspection of fishing vessels
 - c) urgent reactive work including responding to food incidents and investigating outbreaks of foodborne illness
 - d) following up on intelligence of change in business activities which may give rise to an increased risk to food safety, particularly for businesses with a FHRs rating below 3 – examples include ‘wet’ pubs starting to provide takeaway food, a restaurant starting an order and delivery service or a takeaway introducing processes they have not routinely used before so that a more diverse menu can be offered – and to undertake intervention where there are concerns about public health risks
 - e) identifying new businesses to sign post them to appropriate guidance and to undertake intervention where registration information raises concerns about potential public health risks
 - f) follow up with businesses where enforcement revisits were due

Deferral of planned interventions from late March to end June

2. From late March to the end of June, when only manufacturers, retailers and those catering businesses providing takeaway/delivery were open, we advised that all planned interventions and any FHRs requested re-inspections be deferred. This advice represented a deviation from the Food Law Codes of Practice.
3. For core activities c) to f), the advice was that remote assessment could be used to determine the need for an onsite visit to assess and address public health risks.
4. Operation of the FHRs was affected as new ratings cannot be given unless an onsite intervention is undertaken. Local authorities were advised, however, that where a business with a rating below 3 – those with less than generally satisfactory standards - requested a re-inspection and provided documentary evidence demonstrating they had made improvements, they could be given an ‘awaiting inspection’ status. This enabled them to trade via the main online/delivery platforms which was key for many businesses to remaining viable.

Resumption of onsite visits from July 2020

5. Intelligence obtained from a range of sources during the March to June period, including from local authorities, confirmed that the risks in the food safety system had changed. The highest risk establishments are those where there are inherent risks associated with the food being produced or the processes used, or where the food is specifically intended for vulnerable consumer groups as well as those with very poor compliance. Businesses were, as we had anticipated, diversifying their routine activities to adapt to the changing market, creating potentially new risks that must be controlled through their food safety management systems. For example, specific procedures are needed when re-opening after prolonged closure. New businesses were also being set up where operators may not have the necessary knowledge or skills for putting a food safety management system in place or be aware that they must register with their local authority, for example community groups preparing meals to share with others locally.
6. We took this intelligence into account when we adjusted our guidance and advice as COVID-19 restrictions eased in early July and the hospitality sector reopened. Local authorities were advised to give the highest priority to the core activities but with a focus on resuming onsite interventions. Medium priority should be given to undertaking planned due/overdue interventions of high risk and poorly compliant establishments not covered by the core activities. For the lowest risk establishments, due interventions can be deferred unless remote assessment suggests that there are serious public health issues that need to be assessed and addressed in which case onsite interventions should be undertaken.
7. This prioritisation of activities was informed by discussions with the national Food Hygiene Focus Group and Food Standards and Information Focus Group, which include representatives from local authorities in England, Wales and Northern Ireland. We consider that this guidance and advice provides the most effective and risk-based approach to ensuring public health protection in relation to food at this time and the best possible framework for allocation of available resources. It also reflects the cross-Government expectations that routine local authority activities are prioritised to ensure that resources can be re-directed to managing the pandemic response.
8. We strengthened this advice at the end of September to make clear that, as a minimum, we expected local authorities to continue with the core activities and high priority onsite interventions. This remains in place until 31 January 2021.

ANNEX 4: Intelligence obtained from the national Food Hygiene Focus Group and Food Standards and Information Group on position at start of November 2020

Notes

The focus groups comprise representatives of local authorities in England, Wales and Northern Ireland.

The intelligence has been gathered on an informal basis from 57 local authorities.

It gives an indication of the position since the time of our late August survey but not a complete picture.

Has the position in your local authority on FTEs available for delivery of official food controls changed since the survey at the end of August?

- Very mixed picture, 47% stating that resources have stayed the same since the last survey.
- 40% have reported a reduction in resources, reasons given are due to covering NHS Track and Trace, COVID-19 complaints and other high-risk non-compliances.
- 7% are recruiting additional resources, of these three respondents said their local authority is employing COVID Marshalls which they are hoping will free up some time for food control delivery
- A significant number of respondents highlight unprecedented changes with a shift away from resources being used for planned inspections in order to complete high priority work including; food complaints; supporting businesses to prepare for end of EU transition.

How has your local authority performed against the expectations set out in FSA advice of 25 June and reiterated on 30 September?

- Over 91% reported that they have been able to broadly sustain a focus of completing the high priority work as directed by the FSA.
- Of these, 40% stated that they are not meeting the FSA's expectations for medium and low priority controls and other activities.
- A number have reported that completion of physical inspections is low, although some are resuming onsite inspections where safe.
- Five respondents stated that they are not following the expectations and unable to undertake food interventions due to the demands and prioritisation of COVID-19 activities.

Do you consider the FSA's advice on approach to prioritisation of official food controls provides an appropriate basis for targeting interventions to reflect the impact of the pandemic on food safety?

- Over 91% agreed or broadly agreed with the approach the FSA has set, highlighting that flexibility is essential.
- Four respondents said no.
- Comments received include: FSA must set longer-term expectations including future approach to clearing the backlog of inspections; could low risk inspections be deferred/exempt; FHRS ratings to be given following a remote inspection.

How do you see the current landscape and how this impacts on the businesses in your area and your authority's ability to deliver official controls?

- The majority of respondents highlighted increases in new business registrations, providing business support and advice.

- They also highlighted that many businesses are diversifying, including sales via social media and other online platforms to allow them to remain open
- Diversion of resources to cover COVID- 19 activities remains a substantial issue for the majority of respondents.
- Over 50% highlighted challenges recruiting suitably qualified staff including competition with other local authorities when appointing contractors and an insufficient pool of qualified staff available to recruit.
- 35% indicated that their workload is exhausting and relentless, concerns about officers' future resilience and mental health.
- Opportunities for the FSA to review current ways of working i.e. FHS Brand Standard allowing rerating following remote inspections; FSA steer on future inspections and how to manage the significant backlog is required.

Anything else you would like to tell us to understand the current challenges?

- Challenges for food safety work versus infectious disease work – for many local authorities this work is undertaken by the same team and COVID-19 is the current priority
- How will the FSA be monitoring local performance for 2020/21?
- Challenges with online business – e.g. Just Eat not accepting home caterers who are 'awaiting inspection', and new businesses setting up on Facebook
- Over 90% highlighted concerns relating to the unknown challenges linked to the end of the EU Transition period/Northern Ireland Protocol and insufficient resources to manage imports.