

# FSA 22-06-17 Local Authority Performance update

This paper includes an update on the performance of local authorities, a proposal to amend the escalation process, update on the development of a framework for new performance indicators and a progress update on the Local Authority Data Collection project.

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

## 1. Summary

1.1 This paper includes:

- an update on the performance of local authorities on their delivery against the expectations of the local authority Recovery Plan during 2021/22
- a proposal to amend the escalation process for the period of the Recovery Plan where any significant causes for concern in local authority performance are identified
- an update on the development of a framework for new Key Performance Indicators for assessment of local authority performance
- a progress update on the Local Authority Data Collection Project.

1.2 The Board is asked to:

- **consider and comment** on the performance of local authorities in delivering the Recovery Plan
- **agree** the revised escalation process for the duration of the Recovery Plan
- **comment** on the development of the new framework to introduce new KPIs alongside new business models.
- **note** progress on the Local Authority Data Collection Project

## 2. Introduction

2.1 Local authorities continue to make progress in the delivery of their official control obligations in line with the expectations of the Recovery Plan (the Plan), which provides a risk-based roadmap for a return to the normal activities that they undertake to protect the consumer.

However, the environment in which they are operating remains a challenging one, with a number of factors impacting on some authorities' ability to move any faster than the Plan envisages.

Details of the progress against the most recent milestones are summarised in this paper.

2.2 The recent changes in our performance management approach have reinforced the need for the FSA to continue to challenge how we have oversight of the delivery system and obtain assurance that it is achieving the desired outcomes that food is safe and what it says it is. The paper outlines the proposed methodology for our future approach to performance management and provides an update on the work undertaken to put in place a fit-for-purpose solution for gathering information that works for the FSA and its local authority delivery partners.

## 3. Evidence and Discussion

## **Update on the Local Authority Performance against Phase 2 requirements of the Recovery Plan**

3.1 The information and analysis in this section are based on the end of year local authority data return for 2020/21, the October 2021 temperature check survey, the end of year return for 2021/22, and information obtained through our attendance at local Food Liaison Group Meetings.

3.2 The 2021/22 return, which covers the period 1 April 2021 to 31 March 2022, collected data on ongoing reactive and proactive work required under the Plan, resources available for delivery of the food service, whether local authorities anticipated being able to achieve the requirements of the next milestone (30 June 2022), information about inspection of new establishments, the numbers of food establishments, interventions achieved, enforcement action taken, complaints dealt with, and sampling undertaken. We received 97% and 96% of the expected food hygiene and food standards returns respectively in time for the data analysis in this paper.

3.3 The bespoke end-of-year surveys that we have undertaken since the onset of the pandemic enable us to identify the risk of local authorities not meeting the requirements of the Plan and to assess progress against delivery of the Plan at individual local authority level. However, the data obtained does not allow us to assess the impact and effectiveness of local authority interventions and the outcomes achieved. The aim is to address this for future years through the development of new Key Performance Indicators (KPIs) and the Local Authority Data Collection project. Updates on this work are provided later in this paper.

### **Resources**

3.4 The latest data, presented in Figures 1 and 2 below, indicates an ongoing positive trend in resources returning to food teams to deliver official controls. The percentage of allocated full time equivalent professional posts that were occupied and available to undertake official food controls work was 87% for food hygiene and 89% for food standards on 31 March 2022. This has increased significantly in all three countries since 31 March 2021 (when it stood at 42% for food hygiene and 52% for food standards) and is now approaching the pre-pandemic figures of 90% and 93% for food hygiene and food standards, respectively.

3.5 The number of professional FTE staff reported as being redeployed to COVID-19 or other duties is 115 for food hygiene (8%) and 22 for food standards (6%). In addition, information obtained from Food Liaison Group meetings has indicated that staff absence during the year due to COVID-19 and some local authorities focussing on the Homes for Ukraine programme, has impacted on available resource for food control work. A small number have reported staff are being diverted to work in preparation for the Commonwealth Games. We have provided funding to seven local authorities to undertake additional targeted food safety interventions in the locality of the Games before they begin, helping to mitigate food safety risks to consumers. The additional visits and provision of advisory services are aimed to promote better business compliance, and therefore greater public protection.

**Figure 1: Food hygiene FTE professional posts occupied and available to undertake official food controls**

**Figure 2: Food standards FTE professional posts occupied and available to undertake official food controls**

3.6 Only 4% (13) of local authorities reported that they anticipated they would not have sufficient resources to deliver the food hygiene requirements in the Plan for 30 June 2022 and for food standards this was 9% (16).

3.7 A number of professional posts for food hygiene (107 FTE) and for food standards (33 FTE) were reported to be vacant due to retention. Whilst a significant number of the authorities experiencing recruitment and retention issues are in Wales, Northern Ireland and the London Boroughs, issues were also reported in a spread of other authorities across England.

3.8 This supports the position reported in Food Liaison Group meetings, which indicates a large number of authorities are struggling to recruit suitably qualified staff. Budget cuts and recruitment freezes have also been reported as having an impact on staff resourcing. Recruitment and retention continue to be a non-localised significant issue across the three countries.

## **Planned intervention programme**

3.9 The Plan provides a framework for re-starting the delivery system in line with the Food Law Code of Practice (the Code) for new food establishments and for higher risk and/or non-compliant establishments. High-risk establishments are those that are Category A and B and Categories C and D that are less than broadly compliant (equivalent to FHRS 0, 1 or 2) for food hygiene and for food standards Category A.

3.10 By 31 March 2022, all Category A establishments for hygiene should have received an onsite intervention and thereafter be back in the system for interventions in accordance with the Code. The timeline for achieving Category B for hygiene establishments and A for standards establishments is 30 June 2022.

## **Food Hygiene**

3.11 The total number of food hygiene interventions carried out at Category A establishments due an inspection across the three countries was 3,109 (96%). This compares with 1,236 (72%) for food hygiene interventions carried out at A-rated establishments in 2020/21 indicating that local authorities have been following the risk-based guidance within the Plan.

3.12 The 2021/22 data also indicates that local authorities have carried out 14,933 (80%) of the food hygiene interventions at Category B establishments which are due by the end of June 2022. This shows local authorities are progressing significantly quicker than the minimum requirements of the Plan.

## **Food Standards**

3.13 The 2021/22 data indicates that across the three countries local authorities carried out 3,698 (75%) of the food standards interventions of Category A establishments compared to 1,965 (29%) the previous year. This indicates that significant progress is already being made in achieving the Plan requirement for all Category A establishments due an inspection being completed by the end of June 2022. In relation to Category B establishments, there is no specific milestone for completion of inspections, however, further evidence of progress being made against the Plan is highlighted in the number of inspections completed, rising from 16,622 in 2020/21 to 19,628 reported in 2021/22.

3.14 More detailed intervention data for both food hygiene and food standards at Category A and B establishments in each of the three countries is given in **Annex A**.

## **Progress with other Phase 2 requirements of the Plan**

3.15 The number of newly registered establishments awaiting first inspection across the three countries as of 31 March 2022 was reported as 48,996 for food hygiene and 86,581 for food standards. Not all of the newly registered businesses go on to trade, and some cease trading before an inspection is undertaken but they all add to the time pressure on local authority resources. This is higher than the numbers reported to the Board at the start of the pandemic in April 2020, when 30,968 and 73,214 respectively were reported for food hygiene and food standards. Concerns have been raised at Food Liaison Groups about the volume of new business registrations. This suggests there is an unknown risk in the food system associated with

these businesses that has increased.

3.16 Of all newly registered establishments yet to be inspected, 9,793 and 11,650 were reported as still needing to be prioritised and programmed for food hygiene and food standards interventions, respectively. Of those establishments that have been prioritised and identified as high risk, 8,917 and 3,702 were reported as still awaiting an inspection for food hygiene and food standards, respectively.

### **Anticipated issues with local authorities meeting Phase 2 requirements due by 30 June 2022**

3.17 The majority of local authorities (97% for food hygiene and 92% for food standards) reported they anticipate being able to deliver the Phase 2 expectations by the end of June 2022. They also anticipate meeting the requirement for carrying out interventions at Category B establishments for food hygiene (99%) and Category A establishments for food standards (94%) by that date.

3.18 However, information from Food Liaison Groups indicates that local authorities are concerned about meeting all of the food hygiene and food standards intervention targets over the period to 31 March 2023, once they are back on track with the higher risk establishments. A large number of lower Category establishments will require food hygiene inspections and the Category A and B establishments will be due inspections again.

3.19 Local authorities have also commented on a noticeable decline in compliance with food law that they are detecting when undertaking inspections. This has led to local authorities having to take more formal enforcement action than prior to the pandemic and to conduct more re-inspections, which is time consuming. The decline in compliance is due to a number of factors including staff shortages in food establishments, financial pressures within food businesses as a result of the pandemic and in some cases planned inspections by local authorities not being undertaken. This could lead to an increased risk in the food system and a concern to consumer safety.

3.20 In summary, most local authorities are meeting the expectations of the FSA and have made significant progress in relation to inspections and interventions, clearly taking a risk-based approach in line with the Plan. The progress made has not been easy as local authorities have been faced with complex challenges. These include a reported increase in non-compliance found in some establishments, a continued rise in the number of new registrations, and across the three countries difficulties with the recruitment and retention of suitably qualified and competent staff meaning that some local authorities may find it challenging to maintain the progress they have made in returning the official control system to its pre-pandemic state.

### **Update on Risk-based approach to monitoring local authority performance**

3.21 Following the October 2021 temperature check survey to monitor delivery of the Plan, a total of 91 local authorities were engaged with due to concern in their ability to meet the minimum expectations. Following our intervention 71 local authorities have provided assurance that they are going to be able to meet the plan requirements, with 20 remaining as active engagements.

Support is ongoing to ensure there are appropriate measures being implemented or agreed plans put in place and these are being monitored. Whilst there is an escalation process that can be initiated if concerns are not addressed, no local authority has reached the threshold where that has been considered necessary

3.22 Assessment of the 2021/22 returns commenced immediately on receipt to ensure that any local authorities who are struggling to meet the Plan requirements were identified as soon as possible, and performance management engagement started without delay. This early analysis

has led to 31 local authorities being engaged with to date who have been assessed as being of high concern. A programme of engagement activity working through the approach described to the Board in December 2021 will be ongoing.

### **Update on local authority verification programme**

3.23 A pilot verification assessment was carried out by our Local Authority Audit Team in April to test the practicality and effectiveness of using new remote assessment techniques to conduct audit activities, including the remote verification of key records. Feedback from the pilot has been used to improve the process, and a further six assessments have been initially scheduled with a range of local authorities between May and the beginning of July 2022, with parallel programmes being undertaken in Wales and NI. The feedback from the pilot was very positive and the local authority appreciated the opportunity to provide feedback on the key work activities it had carried out during the pandemic. The local authority had been able to move well ahead of the milestones in the Plan, largely due to the way it had used COVID-19 funding provided by government to help backfill any gaps in its Food Safety Team. The local authority broadly welcomed the Plan and felt it provided useful guidance on FSA expectations and helped to raise the profile of food safety controls with their own senior management team. Once the verification programme has been completed an anonymised summary report will be published with key findings and recommendations for local authorities and the FSA.

### **Level of risk with the local authority delivery system**

3.24 The 2021/22 return indicates that the positive trend continues in terms of local authorities being able to effectively manage the known risks within the system, and they are proactively addressing non-compliance when it is identified. However, in the medium term, the expected demands on local authorities will only increase as we return to the arrangements for delivery of official controls specified in the Food Law Codes of Practice. This coupled with ongoing challenges with recruitment and retention of staff means that it will be necessary for us to maintain the current enhanced approach to performance oversight and management for the foreseeable future, to ensure that timely intervention takes place with any authority that appears to be struggling to deliver against expectations and effectively manage the risk to consumers.

### **Amendment to the Escalation Procedure**

3.25 In December 2021, the Board was updated on the use of an established escalation procedure to engage with any local authorities that are struggling to meet the requirements of the Plan. No authorities have reached the threshold where escalation has been necessary. However, given that during the early stages of the pandemic local authorities were operating at the edge of the Board's risk appetite and the challenges envisaged in achieving the latter stages of the Plan, we are proposing an amendment whereby the Chief Executive of the FSA will be notified when interventions by the performance management team have failed to elicit an appropriate response at the operational level and we have begun escalation with more senior officials with the LA in question. Early notification to the Chief Executive will allow for a decision on more rapid escalation, should the situation warrant one.

## **4. Development of new Key Performance Indicator framework**

4.1 Robust and appropriate KPIs are an essential element of the FSA's role in the system of official controls for identifying whether local authorities are delivering official food and feed controls appropriately and protecting consumers.

4.2 From 2008 to 2019, we used the Local Authority Enforcement Monitoring System (LAEMS) to capture food law enforcement activity data on an annual basis, the analysis of which was then been reported to the Board. However, a review of this process has highlighted that the LAEMS system is outdated, and the data collected is no longer appropriate to meet the assurance needs of the FSA.

4.3 The KPI project was established with the aim of identifying what information and data is required to assess local authority performance in the delivery of official controls, ensuring that it is necessary, proportionate, and relevant to meet minimum data standards, whilst providing a more robust, comprehensive, and holistic oversight of performance. As well as providing greater assurance for the FSA, the project will help us monitor and support the performance of local authorities and provide confidence to stakeholders, including consumers and trading partners. The Local Authority Data Collection Project is reviewing how the new data required will be collected and stored.

4.4 The project builds upon previous work to develop a balanced score card approach undertaken prior to the onset of the pandemic; however, the focus of the project is now to develop KPIs for the two new delivery models (food hygiene and food standards) that are being developed within the ABC programme. Any agreed methodology could also apply to other local authority business areas which may benefit from a fresh look at KPIs, and it is therefore proposed that the project will be developed and delivered in stages, with approximate timescales as follows: -

**Stage one by 31st July 2022 – Development of a Performance Management Framework (PMF)**

- adopting the principles laid out in the ‘Performance measurement by regulators’ (National Audit Office Good Practice Guide 2016)
- agreeing the definitions used for the stages of the PMF (Inputs, Activities, Outputs, Outcomes, and Strategic Objectives) and the process flows which illustrate the connectivity between each stage. As each local authority, rather than the FSA, is responsible for the inputs into food teams (resources for example) and for delivering officer activities, the focus for the KPIs is to determine the measurable outputs that will evidence whether the desired outcomes for the food safety system have been achieved. An example of application of the PMF to an activity within the new food standards delivery model is provided in Annex B
- explore the potential for a more fair and meaningful reporting system, designed to compare performance, drive improvements, and highlight good practice through grouping similar local authorities based on a range of social and economic factors, recognising they operate in very different environments, facing different challenges. This will allow us to meaningfully evidence the root cause of any underperformance.

**Stage two by 30th September 2022 - Use the PMF to develop the KPIs for the new food standards model**

- initiate a joint local authority and FSA working group with representatives and subject matter experts from all three countries to ensure an open, transparent, and consultative approach to the PMF approach to developing KPIs
- comprehensively map the activities within the new model that local authority food services undertake, identifying the direct outputs that are delivered and the data that can be obtained from each and agree whether this data would be appropriate, proportionate, and relevant, linking to a defined outcome and assurance for the FSA in achieving its strategic objective as a regulator
- agree the KPIs that will be reported on.

**Stage three during 2023 to 24** (dependant on timing of roll-out of new delivery models) Research and explore the potential for the “most similar family” approach to local authority performance comparison, review the PMF and utilise the approach in a consistent manner for future models.

- identify the readily available and reliable data sets that could be used to group local authorities into those that are most similar
- utilise the local authority and FSA joint working group to develop the process and the approach to how this will be embedded into future reporting
- review the PMF approach for KPI development and ensure any learning is incorporated into the development of KPIs for the food hygiene delivery model when review of that has been completed.

4.5 In summary, new delivery models and rapidly changing business landscapes have necessitated a new approach to monitoring and reporting of local authority performance.

Developing a suite of KPIs utilising a consistent methodology that adopts the best practice principles as laid out by the National Audit Office, will give a more comprehensive, holistic, and qualitative assessment of performance. The potential to develop a robust method of comparing performance, drive improvements and identify and share good practice should give the FSA enhanced assurance in its regulatory role.

## **5. Local authority data collection project update**

5.1 During the pandemic, new data collection arrangements were introduced to monitor local authority progress against the recovery plan. Our attention has now turned towards creating and implementing a long term and sustainable solution for the collection, analysis and reporting of data on the delivery of official food and feed controls by local authorities. The initial focus will be on capturing data on the delivery of food standards controls to support the introduction of the new delivery model that is planned for implementation in 2023/24.

5.2 The new approach will enable better reporting in the future for a number of reasons.

- outcome based measures - Data collected through LAEMS was largely focused on measuring outputs as opposed to outcomes. The current bespoke local authority surveys have helped us to monitor local authority progress against the pandemic Recovery Plan, but they do not provide the richness of data we require for monitoring and tracking business compliance over time to better assess the impact and effectiveness of local authority interventions and the outcomes achieved
- a balanced and holistic assessment of local authority performance - The new approach will be designed to provide data to support the new suite of KPIs that will allow the FSA to more effectively monitor and support local authorities in delivering official controls
- improved timeliness of data - LAEMS data was provided by local authorities on an annual basis resulting in the data being 15 months or older by the time of analysis. The new approach will improve the frequency of capturing data to allow more responsive performance management and local authority support.

5.3 Work on the Local Authority Data Project is progressing well. The first discovery has been undertaken. This looked at the problem to be solved, analysed user research from teams across the FSA and local authorities and identified constraints and challenges to be considered. We are now embarking on a more in-depth discovery to understand how local authorities use data to help ensure food is safe and is what it says it is. We need this to understand the shared value of data to increase the benefits and minimise the burdens of utilising data for both the FSA and local authorities.

## **Conclusions**

The Board is asked to:



1. **Consider and comment** on the performance of local authorities in delivery of the Recovery Plan
2. **Agree** the revised escalation process for the duration of the Recovery Plan
3. **Comment** on the development of the new framework to introduce new KPIs alongside new business models.
4. **Note** progress on the Local Authority Data Collection Project.

## Annex A

All of the 2021/22 end of year return data is based on 97% of expected returns for food hygiene and 96% of expected returns for food standards.

Local authorities that are participating in the pilot of the new food standards model did not have to complete all sections of the 2021/22 return.

**Table 1: Food hygiene FTE professional posts occupied and available to undertake official food controls**

Date	Country	FTE posts allocated to undertake official food controls	FTE posts occupied and available to undertake official food controls	% of allocated FTE resources occupied and available to undertake official food controls	FTEs redeployed or diverted
31 March 2021	England	1,335	556	42%	654
31 March 2021	Wales	148	51	34%	93
31 March 2021	Northern Ireland	63	47	75%	7
31 March 2021	Total	1,546	653	42%	754
1 October 2021	England	1,380	1,123	81%	137

Date	Country	FTE posts allocated to undertake official food controls	FTE posts occupied and available to undertake official food controls	% of allocated FTE resources occupied and available to undertake official food controls	FTEs redeployed or diverted
1 October 2021	Wales	140	89	64%	46
1 October 2021	Northern Ireland	65	50	77%	1
1 October 2021	Total	1,585	1,262	80%	184
31 March 2022	England	1,371	1,210	88%	84
31 March 2022	Wales	155	112	73%	30
31 March 2022	Northern Ireland	59	50	85%	1
31 March 2022	Total	1,585	1,373	87%	115

\*For October 2021, the FTEs redeployed or diverted figure is resource diverted to COVID-19 duties and for the other two datasets it is for FTEs redeployed or diverted to COVID-19 and other duties.

**Table 2 Food Standards FTE professional posts occupied and available to undertake official food controls**

<b>Date</b>	<b>Country</b>	<b>FTE posts allocated to undertake official food controls</b>	<b>FTE posts occupied and available to undertake official food controls</b>	<b>% of allocated FTE resources occupied and available to undertake official food controls</b>	<b>FTEs redeployed or diverted</b>
31 March 2021	England	283	147	52%	112
31 March 2021	Wales	52	19	37%	29
31 March 2021	Northern Ireland	32	24	75%	4
31 March 2021	Total	367	190	52%	145
1 October 2021	England	276	242	88%	15
1 October 2021	Wales	60	41	68%	11
1 October 2021	Northern Ireland	31	26	84%	1
1 October 2021	Total	367	309	84%	27

Date	Country	FTE posts allocated to undertake official food controls	FTE posts occupied and available to undertake official food controls	% of allocated FTE resources occupied and available to undertake official food controls	FTEs redeployed or diverted
31 March 2022	England	300	272	91%	17
31 March 2022	Wales	54	45	84%	4
31 March 2022	Northern Ireland	33	28	84%	1
31 March 2022	Total	387	345	89%	22

\*For October 2021, the FTEs redeployed or diverted figure is resource diverted to COVID-19 duties and for the other two datasets it is for FTEs redeployed or diverted to COVID-19 and other duties.

**Table 3 The number of food hygiene interventions carried out at higher risk establishments**

Date	Country	A rate carried out	A rated still due	% A rated carried out	B carried out	B rated still due	% B rated carried out
2020/21	England	1,117	434	72%	8,015	8,701	48%
2020/21	Wales	97	48	67%	465	908	34%
2020/21	Northern Ireland	22	3	88%	306	95	76%

Date	Country	A rate carried out	A rated still due	% A rated carried out	B carried out	B rated still due	% B rated carried out
2020/21	Total	1,236	485	72%	8,786	9,704	48%

Date	Country	A rate carried out	A rated still due	% A rated carried out	B carried out	B rated still due	% B rated carried out
2021/22	England	2,937	113	96%	13,713	3,259	81%
2021/22	Wales	112	3	97%	842	299	74%
2021/22	Northern Ireland	60	0	100%	378	74	84%
2021/22	Total	3,109	116	96%	14,933	3,632	80%

**Table 4 The number of food standards interventions carried out at higher risk establishments**

Date	Country	A rate carried out	A rated still due	% A rated carried out	B carried out	B rated still due	% B rated carried out
2020/21	England	1,758	4,529	28%	15,264	75,313	17%
2020/21	Wales	123	196	39%	984	5,241	16%
2020/21	Northern Ireland	84	31	73%	374	609	38%

Date	Country	A rate carried out	A rated still due	% A rated carried out	B carried out	B rated still due	% B rated carried out
2020/21	Total	1,965	4,756	29%	16,622	81,163	17%

Date	Country	A rate carried out	A rated still due	% A rated carried out	B carried out	B rated still due	% B rated carried out
2021/22	England	3,400	1,124	75%	17,104	-	-
2021/2	Wales	217	109	67%	1,678	-	-
2021/2	Northern Ireland	81	20	80%	846	-	-
2021/2	Total	3,698	1,253	75%	19,628	-	-

## Annex B Example of the PMF framework being applied for one objective of the New Food Standards Model

PDF

[Gweld Annex B: Example of the PMF framework being applied for one objective of the New Food Standards Model as PDF\(Open in a new window\)](#) (132.91 KB)

### Accessible version:

1. Inputs (what is invested): TSO/EHO officer resource.
2. Activities (what is done): serving a formal notice to seize food, intervention to assess compliance and providing guidance on compliance.
3. Outputs (what are the direct products): unsafe/misdescribed products withdrawn or corrected, appropriate actions to address the non-compliance issues, primary authority actions Assured advice NIP (not in the Northern Ireland).
4. Outcomes (what is trying to be achieved): Outcome 1: reduce the number of harmful or non-compliant products that enter the market.
5. Strategic objectives (top level): Food is what it says it is.

Other outcomes are not covered in detail: for example, outcome 2 improve and sustain levels of compliance.