



# Decision Report

## ISLE OF WIGHT COUNCIL

### DECISION UNDER DELEGATED POWERS

### DECISION CANNOT BE TAKEN BEFORE

Title	<b>FOOD HYGIENE AND STANDARDS INTERVENTION PROGRAMME 2023/24</b>
Report of	<b>CABINET MEMBER FOR REGULATORY SERVICES, COMMUNITY PROTECTION and ICT</b>

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## Executive Summary

1. This report seeks to set out the current position in relation to the proactive inspection programme and, in addition, seeks approval for the council's Food Hygiene and Standards Intervention Programme 2023/24.
2. The Council is required to produce a Food Service Plan under the Framework Agreement on Official Feed and Food Controls by Local Authorities. This sets out what the Food Standards Agency (FSA) formally require from Local Authorities regarding their planning and delivery of official control, based on statutory Codes of Practice the Food Law Code of Practice (FLCoP). Local Authorities are required to consider and approve the Plan to ensure local transparency and accountability.
3. The Food Service Plan ensure that national priorities are delivered locally and linked to corporate and financial planning. It also provides a means of managing performance and providing relevant information to stakeholders.
4. This report contains the elements within the Food Service Plan related to the delivery of proactive food inspection responsibilities. However, the full team plan demonstrates how this function is combined with the other reactive food service demands and incorporates work undertaken on other associated activities, including Health and Safety, Infectious Disease Control and the regulation of Private Water Supplies. The proposed plan is based on managing risk and recognises we are not able to achieve all of the intervention requirements for some lower risk premises.
5. The timing of this report is following an action (ref IWC-2223-001) under the consideration of Governance following an internal audit on the Service was that the Food Service Plans are forwarded to Senior Management and the Portfolio Holder for approval on an annual basis.

- This is of particular importance as we are now outside of the Covid Recovery Plans and milestones in assisting the backlog of work, and the expectation is that Local Authorities will return to delivering plans in line with the FLCoP.

## Background

- Local authorities are responsible for delivering activities such as inspections, audits and surveillance and sampling (known as Official Controls) in most food establishments. These controls relate 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).
- The Isle of Wight as a holiday destination has a high proportion of hospitality businesses and a growing sector of innovative and diverse businesses requiring regulation and support.
- Although the council is not fully meeting the requirements regarding the frequency of inspecting of food establishments on the Island, there is an acceptance of the current issues facing Local Authorities in terms of recruitment and retention of qualified staff. The FSA accepts a level of pragmatic risk-based response, as well as an expectation that we will continue to make progress to comply with the FLCoP.
- During the pandemic response, the team continued to be committed to keeping food safe, alongside the broader work in the council's response. The impact was significant on the service and the FSA have supported a covid recovery plan in assisting the backlog of routine work.
- As of the 1 April 2023 there were 2,005 food premises registered with the Council, the majority of these are catering or retail establishments. The minimum frequency of intervention is determined by the FLCoP and is dependent on the risk category score that is calculated by a combination of potential hazard based of the business and compliance at the last intervention.

## Food Hygiene

Risk Category	Minimum Intervention Frequency
A	at least every six months
B	at least every 12 months
C	at least every 18 months
D	at least every 24 months
E	Alternative Enforcement Strategies/interventions every three years.

## Food Standards

Risk Category	Minimum Intervention Frequency
A	at least every 12 months

B	at least every 24 months
C	Alternative Enforcement Strategies/interventions every three years.

12. The Food Service Plan states the council will only routinely inspect premises that are due an inspection for food standards if there is a visit due at the premises for food hygiene.
13. Unrated premises: where the new establishment is believed to be undertaking high-risk food activities, the Competent Authority should undertake an initial inspection within 28 days of commencement of operations. Where the establishment is believed to be low risk from the available information, consideration can be given to postponing the initial inspection in circumstances where conducting it would delay planned interventions to premises involved in, or believed to be involved in, high-risk activities.
14. The Food Service Plan is risk based but has been planned to balance the targeted interventions with the capacity and resources within the team and since 88% completion in 2015/16 service year the overall achievement has not been greater than 68%.
15. The number of premises that have been overdue a food hygiene inspection over time:

Risk	01/04/18	01/04/19	01/04/20	25/02/21	11/04/22	08/02/23	08/11/23
A	1	1	0	2	1	1	1
B	6	3	9	67	14	4	19
C	119	14	170	288	175	97	69
D	206	205	268	418	406	223	185
E	203	182	364	427	593	464	366
Unrated	176	184	230	354	669	329	248
Total	711	589	1041	1556	1858	1118	888

16. There are many challenges that the council faces in delivering statutory services, and these are set out in the Corporate Plan, but its financial position remains a serious challenge.
17. The total number of full time equivalents (FTE) to complete the full interventions as expected by the FLCoP is 7 FTE for Food Hygiene and 2.3 FTE for Food Standards.
18. On the 1 October 2023, considering other service demands, the council has the FTE staff available as set out in the table below for the intervention programme. There is a recognised national shortage and reduction in qualified officers. A decision was taken after unsuccessful recruitment to look at alternative options in career progression posts and this continues and will improve the position and is critical to the strategy to address the backlog.

Food Hygiene	Authorised Officers	Regulatory Support Officers	Trainee Officers
Allocated	3.65	0.65	2.3
Occupied	2.9	0.65	1.8
Food Standards	Authorised Officers	Regulatory Support Officers	
Allocated	0.35	0.15	

Occupied	0.3	0.15	
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19. There is a need to protect existing resources within the Environmental Health Teams and continue to lead and manage the team so that the resources are targeted where they add greatest value in providing safeguards for public health and consumer protection in relation to food. In addition, this will work towards safeguarding the Food Hygiene Rating Scheme (FHRS).
20. This plan places priority and ensures that authorised officer's time is focused on the highest risk premises. This considers risk rating, date since last inspected and those that score 0/1/2 in the national food hygiene rating scheme. It does make the best use of the training posts and the flexibility permitted in the FLCoP.
21. The Service will continue to participate in the National Food Hygiene Rating Scheme and will accept requests for re-inspection, which will mean an earlier re-rating, at a cost to the business.
22. In addition, the Service will continue to ensure reactive enforcement in cases of non-compliance in accordance with the FLCoP and Enforcement Policy. It will ensure a reactive management of food incidents and hazards and investigating food complaints, in addition to having an active sampling plan.
23. The allocation and delivery will be based on the most effective methods possible while meeting with the expectations of the FLCoP and ensuring that businesses are supported and to ensure that at the conclusion of any intervention that the business is fully aware of any corrective action necessary, timescale for action and any recommendations of good practice that the officer considers appropriate.
24. Reporting will through the National Statutory Returns to the FSA in addition to internally and on a quarterly basis and include any exception reporting that may impact these targets, including any Statutory duties.
25. Food Hygiene Inspection programme 2023/24:

Risk Rating	Total no	Number Due or Overdue Intervention	Number and type of planned intervention		Total Interventions	Target %
			Inspect/ Audit	Surveillance		
A	2	2	3	-	2	100%
B	70	70	70	-	70	100%
C	298	226	128	80	208	94%
D	713	461	166	163	329	71%
E	681	424	10	30	40	7%
Unrated	239	239	200	-	200	84%

New Estimate		200	150	-	150	42%
Total	2003	1622	726	273	999	62%

26. E rated premises are those that retail handling of foods other than high-risk, and other ambient shelf stable products and/or have less than 20 customers a day and have a history of good compliance.

## Corporate Priorities and Strategic Context

### Responding to climate change and enhancing the biosphere

27. There is limited direct impact to climate change, and this report does not provide anything additional to the current situation.

28. In the delivering of the food Service Plan and to ensure the team are working as effectively as possible, the need for officer travel is considered and limited by the methods in the allocation of work.

29. In addition, the review of the process and the implementation of different ways of working and the use of technology has limited the use of paper forms and the need to follow up with written correspondence.

### Economic Recovery and Reducing Poverty

30. *FSA's Mission food you can trust – is an outcome we want for everyone, wherever in the UK they live and whatever their personal circumstances. This will only happen if everyone is able to access the food they need and to make informed choices about the food they eat.*

31. This plan goes towards the role of ensuring food is safe and food is what it says it is.

32. The economic landscape has changed significantly due to the impacts of the Covid19 pandemic, and it has never been more important to ensure our local businesses are supported.

33. The plan is risk-based and proportionate in its approach focusing on food and businesses that pose the greatest risk, whilst ensuring that the burden on business is no more than it needs to be.

### Impact on Young People and Future Generations

34. The decisions the Council makes now not only affect current residents, but may have long term impacts, both positive and negative, on young people and future generations. These impacts may not immediately be apparent or may not emerge for several years or decades. Impacts will be interrelated across the various domains of young people's lives from housing, employment or training, health, and the environment.

## Corporate Aims

35. The Alliance priorities as presented in the Corporate Plan 2021-2025 and the Food Service Plan supports the corporate plan by working to achieve increased levels of food safety and hygiene in premises; high rated food businesses in the national food hygiene rating scheme (resulting in increased consumer confidence in local businesses); and the control of foodborne diseases.
36. The Food Service Plan ensures regulatory compliance through support, intervention, and enforcement, which in turn enables the successfulness of our business sector as well as economic growth.
37. As a part of the ongoing business of the council the Food Service plan sets out the delivery of statutory regulatory functions to keep the Island businesses, residents, and visitors safe from harm.
38. A key activity listed in the plan is the delivery of a revised statutory intervention programme 2021-23 to prioritise the highest risk areas including the backlog of regulatory work following the Covid pandemic. This plan seeks to work toward this with the resources and funding available.

## **Consultation and Engagement**

39. No statutory duty to consult, however the plans are shared with the FSA.

## **Financial / Budget Implications**

40. A decision was taken in September 2021 to release £326k from the corporate contingency budget for additional resources in order to tackle the backlog/high risk areas of work in Regulatory Services caused by the covid pandemic. A proportion of this has been spent on the Food Service Delivery,
41. Due to there being a recognised shortfall of qualified officers in the workforce there has not been the opportunity to increase the team FTE significantly. However, this funding has allowed retention/recruitment of current FTE and the use of an authorised contractor, in addition to increasing capacity with officer overtime and using Regulatory Support staff to increase inspection time and efficiency of authorised officers.
42. There remains £112k of this funding and this has been approved to be carried over to 2024/25 year to continue to assist the Food Service Delivery and tackle the backlog.

## **Legal Implications**

43. The FLCoP provides statutory guidance to which Local Authorities must have regard when engaged in the enforcement of food law. Local Authorities must follow and implement the relevant provisions of the code unless there are exceptional reasons not to.
44. It is a statutory requirement to produce a Food Service Plan and allows for the efficient planning of resource to deliver official controls as required by the Food Law Code of Practice and to deliver other commitments such as sampling, internal monitoring and business advice as required by the Framework Agreement.

45. If the Council is unable to meet its commitments according to the Framework Agreement, and deliver them according to the Code of Practice, then it could be in breach of the statutory guidance incurring potential FSA sanctions and damage to the reputation of the council.

## **Equality And Diversity**

46. It is considered that there are unlikely to be any direct equalities and/or diversity implications arising from this proposal.

## **Options**

47. This plan relates to the delivery of a statutory function, so limited alternative options are available at this time.

Option 1: That the Cabinet Member for Regulatory Services, Community Protection and ICT approves the Food Service Plan contained at Appendix 2 of this report.

Option 2: The Cabinet Member for Regulatory Services, Community Protection and ICT not to approve the Food Service Plan contained at Appendix 2 and to prepare or request an alternative plan.

## **Risk Management**

48. If the Council is unable to deliver an intervention in food premises as they become due in accordance with the FLCoP then a potential public health risk such as food poisoning outbreak may occur. The risk of this occurring is much reduced due to the focus of interventions being on higher risk food premises.

49. There could be reputational risks to the business and council and credibility of the Food Hygiene Rating Scheme (FHRS) if a failure to provide a sufficient intervention programme.

50. If the Council is unable to meet its commitments according to the Framework Agreement, and deliver them according to the Code of Practice, then it could be in breach of its statutory duty with potential FSA sanctions and damage to reputation.

51. Emergencies and unusual situations could happen, and the impact could mean FTE have to be re-deployed which could have implications for the programme. This could be due to, a major emergency or food/infection related incident, health and safety service demand, increase in enforcement, reduction in standards at premises resulting in longer time that anticipated to completed inspections or a further depletion in resources due to staff leaving or sickness.

52. The Island does have a large percentage 97% of broadly complaint premises (those that have a score at the last inspection of a hygiene rating of 3/4/5), therefore this risk is mitigated.

53. Approval of the plan offers partial mitigation of this risk, by adopting a risk-based approach on the highest risk premises and activities. High risk new food establishments and for high-risk and/or non-compliant establishments.

54. This will be implemented alongside a plan which allow for:

- the nature and frequency are prescribed un-specific legislation and official controls recommended by the FSA guidance that support trade and export.
- Reactive work including enforcement in the case of non-compliance, managing food incidents and food hazards and investigating and managing complaints
- Sampling and ongoing proactive surveillance.

55. The service plan is achievable within the resource plan outlined and if no other circumstances change. If the situation does change, the implications on service delivery of this Plan will be escalated to the Service Director and strategic Director of Communities.

56. There is little resilience in the current team the impact of other service demands is likely to be short term is risk is realised then can potentially seek to use contract staff to backfill if necessary.

### **Evaluation – Performance Management**

57. Documented internal monitoring procedures are required by Regulation (EU) 2017/625 on Official controls and other official activities, the relevant FLCoP, and centrally issued guidance. The internal monitoring will include the number of business interventions completed which were due, the number of businesses which are broadly compliant, the number of unrated high risk in addition to enforcement activities.

58. An annual (and mid-way) statutory return is also provided to the FSA, this includes the data that they request across the full service delivery of the food service. This is monitored and reported through the FSA.

59. The operation of the Food Hygiene Rating Scheme is monitored by the FSA against the Brand Standard. The service has robust monitoring and data procedures relating to operation of this scheme.

60. Quality assurance is provided through the service's consistency and internal monitoring procedures.

### **Appendices Attached**

Appendix 1 – Mid way progress report as reported to the FSA

Appendix 2 – Food delivery sections of the full business regulation team plan 2023/24

### **Background Papers**

Food Standards Agency Framework Agreement <https://www.food.gov.uk/about-us/local-authorities>

Food Law Code of Practice and Guidance <https://www.food.gov.uk/about-us/food-and-feed-codes-of-practice>



Full Service Audit <https://www.food.gov.uk/other/local-authority-audits-2011-2017-england>

Internal Audit Report – Environmental Health – Food Safety Standards as reported in the Audit and Governance Committee 31<sup>st</sup> July 2023 [Agenda for Audit and Governance Committee on Monday, 31st July, 2023, 10.00 am - Isle of Wight Council \(moderngov.co.uk\)](#)

<https://www.cieh.org/ehn/public-health-and-protection/2021/april/eh-workforce-survey-highlights-recruitment-difficulties/>

National Audit Office – Ensuring food safety and standards  
<https://www.nao.org.uk/reports/ensuring-food-safety-and-standards/> - Page 20, paragraph 1.6 highlighting the decline in resources for local authority delivery of food controls.

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