

## Cabinet – 12 February 2020

### Walsall Council Food Law Enforcement Service Plan 2019 - 20

**Portfolio:** Councillor Perry – Community, Leisure and Culture.

**Related portfolio:**

**Service:** Regulatory Services

**Wards:** All

**Key decision:** No

**Forward plan:** Yes

#### 1. Aim

The Food Law Enforcement Service Plan (the Plan) attached as **Appendix A** illustrates how the Authority will enforce statutory controls regarding food safety and monitor food, premises and personnel in a structured manner. The Plan will also be used as the basis for any inspection or audit by the Food Standards Agency (FSA).

#### 2. Summary

- 2.1 Through the work of its Environmental Health and Trading Standards services, Walsall Council ensures that its statutory responsibilities in the respect of regulating the food industry are met.
- 2.2 Through the work of the Director of Public Health, issues around health and wellbeing are at the centre of policy development. The link between the health of residents and the local economy is a key issue in Walsall, and is enshrined in the Joint Strategic Needs Assessment, Health and Wellbeing Strategy and Corporate Plan. The aims and objectives of the Plan contribute significantly to both the health and economy agendas.

#### 3. Recommendations

That Cabinet receive the Food Law Enforcement Service Plan for the year 2019/20, as evidence of the Council's compliance with its statutory duties in relation to food law and recommend it to the Council for approval and adoption.

## **4. Report detail - know**

### ***Context***

- 4.1 The provision of safe food and water, the prevention of outbreaks of food and water borne disease and the investigation of allegations of food fraud, are fundamental principles of protecting the health of the public and the economy. Environmental Health and Trading Standards Officers work directly with businesses, residents and partner agencies. They are constantly striving to provide a balance between the economic success of the business against the need to protect the health of customers and staff.
- 4.2 The Plan sets out the Council's commitment to food safety enforcement for the year ahead. Section 6 of the Plan describes the outturn against last year's work programme.

### ***Council Corporate Plan priorities***

- 4.3 The Strategic Priorities and the ways in which Environmental Health and Trading Standards contribute to them are detailed below.

## **4.4 Economic growth for all people, communities and businesses**

The work of the service supports economic growth in a number of ways:-

- New and existing businesses are given advice and support to not only survive, but also thrive despite difficult economic conditions.
- Building consumer confidence when shopping in Walsall.
- Introducing competition into regulatory standards through the National Food Hygiene Rating Scheme, empowering residents to choose which business should receive their custom and motivating businesses to improve their standards, in order to gain new and retain existing customers.
- The service promotes those businesses who sign up to and achieve the Health Switch Awards. Thus encouraging residents to visit and enjoy their healthier food.
- We take robust enforcement action against those businesses or individuals who seek to gain an unfair advantage over competitors, by not complying with regulations, thereby putting their staff and customers at risk.

## **4.5 People have increased independence, improved health and can positively contribute to their communities**

The service ensures that unsafe practices and foodstuffs are identified and robustly tackled. This ensures the health of the public is protected, thereby preventing ill health that places a negative burden on the economy and peoples' lives.

The skills and opportunities available within the service are used to promote and implement key aspects of the Health and Well Being Strategy, for example; through Healthy Workplace Awards, Making Every Contact Count, the Health Switch Award and tobacco control/smoking cessation projects.

The service strives to prevent outbreaks of communicable disease, and where such disease outbreaks take place, available statutory powers are used to control and stop their spread as well as bringing to justice those who may be responsible.

#### **4.6 Internal Focus – All Council services are efficient and effective**

The service works with internal and external partners to give advice and expertise in relation to those matters that fall within its area of expertise. The service is an active member of the Safety Advisory Group, Health Protection Forum, Directorate Health and Safety Committee and Walsall Proud Programme work streams around resilient communities, income and customer contact.

The service also contributes actively to the Central England Environmental Health Management Board and the Central England Trading Standards Authorities Management Board. Staff are working closely with internal colleagues and external authorities in the respect of Brexit and the Commonwealth Games.

#### **4.7 Children have the best start and are safe from harm, happy, healthy and learning well**

The work the service undertakes has a bearing on the health of children, as well as all other members of the community. Premises that deal exclusively with children, such as schools and nurseries, are at present given a higher risk rating score due to the vulnerability or age of the children.

Trading Standards will respond quickly and effectively to national, regional or local food alerts, around compositional standards for infant formula and similar foods necessary for, or targeted at children.

Trading Standards conduct age restricted sales investigations around alcohol, cigarettes and knives in order to ensure young people are not at risk from unscrupulous traders.

#### **4.8 Communities are prospering and resilient with all housing needs met in safe and healthy places that build a strong sense of belonging and cohesion**

Food businesses are often at the centre of their community, and their success and regulatory compliance can have a beneficial impact on communities. Likewise. Inadequately run premises with overflowing bins, noisy equipment,

late opening and badly prepared food can have a detrimental impact on the image or self-esteem of communities.

Issues such as child sexual exploitation, modern day slavery, illegal immigration and other organised criminal activities can be associated with food businesses. The Council works closely with external agencies where they believe issues such as these exist.

Regulatory activity is prioritised based on risk, and where serious non-compliance is identified, robust enforcement action is taken against those businesses having the most detrimental impact on communities.

### ***Risk management***

- 4.9 Without a Plan that sets out a commitment to food safety and standards and a strategic review of the delivery of that service, the Authority could be challenged by the Food Standards Agency. Any audit or formal investigation by the Food Standards Agency would be more difficult for the Authority to defend without such a Plan.
- 4.10 The Plan highlights the good work carried out by the service to ensure food safety is maintained and to protect residents from harm. There have, and continue to be, pressures from other areas of work such as the new animal licensing regime, introduced in Autumn 2018, and reactive pressures from infectious disease, emergency prohibitions and other serious incidents. These pressures have led to a number of predominantly low risk food premises not receiving their programmed inspection. Whilst this is not ideal, it is a consequence of prioritisation of workload based on resource and ensuring wherever possible serious incidents and high-risk premises receive the most attention.
- 4.11 This current year has also seen a major emphasis on allergens, driven in large part by several high profile deaths (nationwide, not in Walsall) caused by unlabelled or mislabelled food. A significant amount of officer time is dedicated to ensure, the service has properly considered this area of work. Thus implementing the regulatory regime as effectively as possible based on current guidance and regional sharing of best practice. This is also having an impact on workloads, but is a key issue for the service to prioritise at present.
- 4.12 The service is currently in dialogue with the Food Standards Agency in relation to the backlog of food hygiene inspections from 2018/19. An initial response has been provided, assuring the Agency that measures are in place to prioritise and resolve unfinished work. The Agency require a further report in January 2020. Some of the detail of this dialogue is referenced in Section 6 of the Food Law report.

### ***Financial implications***

- 4.13 The service is funded from within the Council's cash limited budget, and the Plan will be met from within existing budgets. Section 4 of the Plan provides details of the costs associated with the service.

### ***Legal implications***

- 4.14 By virtue of Section 12 of the Food Standards Act 1999 the Food Standards Agency has the function of monitoring the performance of enforcement authorities in enforcing relevant legislation. That function includes, in particular, setting standards of performance (whether for enforcement authorities generally or for particular authorities) in relation to the enforcement of any relevant legislation. The Framework Agreement on Official Feed and Food Controls by Local Authorities is the mechanism by which the Agency puts into effect the powers contained in the Food Standards Act 1999. It provides for the following:

- published local service plans to increase transparency of local enforcement services;
- clear agreed standards for local authority feed and food law enforcement;
- local authority monitoring data used to select authorities for audit where there are concerns over enforcement performance; and
- an audit scheme aimed at securing improvements and sharing good practice.

Any plan produced by the Authority should comply with the Framework Agreement.

The Agency's audits of local authority food & feed law enforcement are conducted against the requirements of the Framework Agreement and, more specifically, a document called the Standard.

The Standard sets out the minimum levels of performance expected in relation to the full range of a local authority's feed and food law enforcement activity, including food hygiene, food standards, and imported food and feeding stuffs law enforcement.

The Standard draws together the obligations on local authority food and feed law enforcement services arising from legislation and related guidance, and codes of practice. This includes local authority performance in relation to inspections, sampling, complaints, formal enforcement, promotion and advice to business.

The work of the Division pertinent to this report is undertaken, pursuant to the provisions of the Food Safety Act 1990 and associated codes of practice, the Food Safety and Hygiene (England) Regulations 2013 and any other such regulations developing from the European Communities Act 1972.

The Food Safety Act 1990 states that every food authority shall enforce and execute within their area the provisions of this Act with respect to which, the

duty is not imposed expressly or by necessary implication on some other authority.

### ***Procurement implications/social value***

- 4.15 The Council is part of a national agreement/service level agreement with Public Health England for the analysis of any microbiological food samples taken. There is no cost for this service. The authority has to appoint a Public Analyst for food, and an agricultural or deputy agricultural analyst for animal feed and fertilisers. Depending upon the nature of any samples taken and the type of analysis required, the service will use on an ad-hoc basis those companies or other local authorities outlined in Section 2.2.

### ***Property implications***

- 4.16 There are no property implications arising from this report.

### ***Health and wellbeing implications***

- 4.14 The Council has a statutory duty to promote health and wellbeing. Through the work of the Director of Public Health, issues around health and wellbeing are at the centre of policy development. The link between the health of residents and the local economy is a key issue in Walsall and is enshrined in the Joint Strategic Needs Assessment, Health and Wellbeing Strategy and Corporate Plan. The aims and objectives of the Plan, contribute significantly to both the health and economy agendas.

The services contribution, to the corporate priorities also sets out how it contributes to the Marmot principles.

### ***Staffing implications***

- 4.15 There are no direct impacts upon staffing arising from the report.

### ***Reducing Inequalities***

- 4.16 The regulation of the food industry affects all members of society. With the resources available, the service will always prioritise those matters that more directly affect vulnerable persons. The service will assist where it can with translated material, interpreters or by coaching those who require it in the production or sale of safe food.

### ***Consultation***

- 4.17 Traditionally, this Plan has not been consulted upon with the communities of Walsall. It is a document setting out the Council's commitment based upon statutory guidelines and responsibilities therefore, not subject to influence or change based upon formal consultation responses.

## **5. Decide**

- 5.1 This Plan is a statutory document and the Authority must produce, agree, publish and measure its own performance against this. The Food Standards Agency have overall scrutiny of performance of local authorities to ensure the food industry in the UK is adequately regulated at a local, national and even international level.
- 5.2 The current Plan reflects a balance between the requirements of central government through the Food Standards Agency, and the local situation in Walsall. Resources are no longer such, that the authority can guarantee a fully compliant inspection regime. The Plan indicates that the service will use risk intelligence and the local knowledge and experience of inspectors to ensure high-risk activities are prioritised for urgent action. A response to certain low risk activities may therefore take longer.

## **6. Respond**

- 6.1 The Plan is a live document, therefore from 1 April 2019 all works relating to food safety have continued, and this generates the programme for 2020 going forward. If agreed, then the Plan will reinforce the direction of travel and the priorities for the service, or if there are different suggestions forthcoming allow the service to consider and implement recommendations given.

## **7. Review**

Monitoring and review of the Plan is incorporated in the document and includes regular team meetings, 121's, APC's, Portfolio Briefings, statutory annual returns to government, and a fortnightly update of the Food Hygiene Rating Scheme. The annual review brought before Cabinet and Council contributing a significant part of the review process.

## **Background papers**

Information is collated primarily from the Regulatory Services Software System and from the service area.

- Corporate Plan 2018-21

## **Author**

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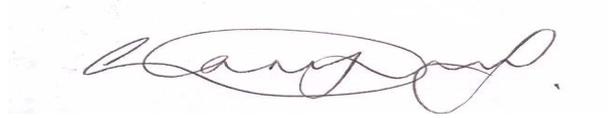
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Simon Neilson  
Executive Director

31 January 2020



Councillor Perry  
Portfolio holder

31 January 2020



**Walsall Council**

# **Food Law Enforcement Service Plan 2019-20**

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## **1.0 AIMS AND OBJECTIVES OF THE FOOD SERVICE**

### **1.1 AIMS OF THE FOOD SERVICE**

- To protect the public health from preventable food and water borne disease.
- To protect public health from contaminated food and undeclared allergens, ensure the integrity of food quality, labelling and compositional standards and to protect consumers from food fraud, food substitution and adulteration.
- To carry out the Food Standard Agency (FSA) Animal Feed Delivery Programme
- To promote and implement key aspects of the Public Health agenda
- To comply with the FSA Framework Agreement and relevant codes of practice.
- To have regard to the Regulation Policy when considering enforcement action
- To support those we regulate comply and grow.

### **1.2 OBJECTIVES OF THE FOOD SERVICE**

- To carry out a programme of interventions at food premises allocating resources to those premises posing the most significant risk.
- To assist new or existing businesses through frontline advice or Home or Primary Authority schemes to achieve compliance.
- To publish food hygiene ratings so consumers can make informed choices and businesses are encouraged to invest in raising standards and become profitable.
- Use intelligence to ensure that food particularly imported food offered or exposed for sale is fit for human consumption and to expedite the removal of hazardous products from the food chain.
- To investigate cases of food poisoning and tackle practices and processes identified as sources of infection.
- To investigate complaints relating to food and food premises and take appropriate, timely and where necessary robust enforcement action.
- To undertake a microbiological sampling programme proactively at manufacturing premises and where necessary in connection with outbreaks of disease or service requests.
- To undertake a sampling programme to ensure that food complies with legal standards relating to presentation, labelling and advertising, compositional standards and the absence of non-permitted or excessive levels of additives, contaminants and residues.
- To undertake an animal feed delivery programme in line with FSA requirements.

### **1.3 LINKS TO CORPORATE OBJECTIVES AND PLANS**

The Council has a Corporate Plan 2018-21 that is an articulation of the aspirations of the Council expressed as a strategic plan that can be delivered over the next three years and aligned to the budget. The plan is available at

<https://go.walsall.gov.uk/corporate-plan>

The Strategic Priorities and the ways in which Environmental Health and Trading Standards contribute to them are

#### **Economic growth for all people, communities and businesses**

- Our work supports new and existing businesses to not only survive but thrive despite difficult economic conditions.
- Our work gives consumers confidence when shopping in Walsall
- Our work continues to introduce competition into regulatory standards through the National Food Hygiene Rating Scheme, empowering residents to choose which business should receive their custom
- We confront those businesses or individuals who seek to gain an unfair advantage over competitors by not complying with regulations thereby putting their staff and customers at risk.

#### **People have increased independence, improved health and can positively contribute to their communities**

- Ensuring that unsafe practices and foodstuffs are identified and robustly tackled to ensure the health of the public is protected therefore preventing ill health that places a negative burden on the economy and peoples lives
- To use the skills and opportunities available to the service to promote and implement key aspects of the Health and Well Being Strategy for example through Healthy Workplace Awards, Making Every Contact Count, the Health Switch Award and tobacco control/smoking cessation projects.
- To prevent outbreaks of communicable disease and where such disease outbreaks take place using the statutory powers available to control and stop their spread as well as bringing to justice those who may be responsible.

#### **Internal Focus – All council services are efficient and effective**

- We will work with internal partners to give advice and expertise in relation to those matters that fall within our area of expertise. This could be as being a member of the Safety Advisory Group, Health Protection Forum, Training Forum, Directorate Health and Safety Committee, Exploitation Delivery Group, Transformation Groups and Walsall Proud Programme etc.

## **Children have the best start and are safe from harm, happy, healthy and learning well**

- The work we undertake has a bearing on the health of children, premises that deal exclusively with children such as schools and nurseries are at present given a higher risk rating score because of the vulnerability or age of the children. Complaints and infectious disease incidents involving children would also receive a higher degree of response or scrutiny on the basis of a potential higher impact on their lives.

## **Communities are prospering and resilient with all housing needs met in safe and healthy places that build a strong sense of belonging and cohesion**

- Food businesses are often at the centre of each community and their success and regulatory compliance can have a beneficial impact on communities. Likewise poorly run premises with overflowing bins, noisy equipment, late opening and badly prepared food can have a detrimental impact on the image or self-esteem of communities. Our services will therefore focus regulatory activity against those businesses having such a detrimental impact on communities.

## **2.0 BACKGROUND**

### **2.1 Profile of Walsall MBC**

Walsall is a unitary authority in the West Midlands region and is home to over a quarter of a million people (272,000). Whilst the Borough is predominantly urban, it does have significant areas of open space mainly in the east. Along with Sandwell, Dudley and Wolverhampton, Walsall forms part of the Black Country sub region which was designated a Local Enterprise Partnership in 2010.

Walsall lies at the heart of the national road and rail networks with the M6, M6 toll, M5 and M54 all running through or close to the Borough. Rail and bus routes feed into national networks meaning 5 million people are within 45 minutes of Walsall by public transport.

Walsall town centre is the strategic and economic centre of the borough, but there are also five key district centres: Aldridge, Bloxwich, Brownhills, Darlaston and Willenhall. All of these have distinct histories and identities and are important retail hubs serving their local communities.

Four out of five businesses surveyed serve clients locally in Walsall and around two in three serve the Black Country or West Midlands. Over 60% of businesses have customers in the rest of the UK and over 30% have customers overseas. Only a third of sales are outside the region meaning Walsall Companies are very reliant on the local economy. Over half of working residents are employed in the borough and it is estimated around 4.7% of the Boroughs residents are employed in the food and accommodation sectors. Walsall has a variety of manufacturing and service industries and is an operational base for a number of food wholesalers. There are also several companies producing a variety of food products which are distributed throughout the UK.

Over 1 in 7 Walsall adults 24,960 people (14.9%) are out of work and dependent on a key benefit. Walsall has been ranked as the 35<sup>th</sup> most deprived English local authority. The Borough is ethnically diverse, with 23.1% of Walsall's inhabitants coming from minority ethnic communities. In some wards, up to 70% of the population are from BME groups. Many people in these communities either own, or are employed in small food businesses.

In the past two decades the eating habits of the UK population have evolved rapidly and one of the major changes to the UK diet is that the average person is eating one in six meals outside the home. A number of studies have found that takeaway food outlets are often located in areas of higher socio-economic deprivation; people on low incomes continue to devote a higher proportion of their income to food than people who are better off so there is a clear health inequality.

The food service plays an important role in bridging the link between health and economy by protecting and improving the health of residents whilst also having regard to the economic prosperity of the business sector.

## **2.2 Organisational Structure**

The Framework Agreement on Official Feed and Food Controls by Local Authorities provides the Food Standards Agency with a mechanism for implementing its powers under the Food Standards Act to influence and oversee local authority enforcement activity. The Food Safety Act 1990 states that every food authority shall enforce and execute within their area the provisions of this Act with respect to which the duty is not imposed expressly or by necessary implication on some other authority.

Walsall Councils constitution, Part 2, Article 4.01 (a)(ii) lists the Food Law Enforcement Service Plan as a plan or strategy that must be approved by full Council before it can become operational. This Plan will therefore be submitted on an annual basis to Cabinet with a recommendation that it is sent to full Council for approval and adoption

The Director of Public Health may authorise members of staff to act on behalf of the Council and to enforce and administer relevant legislation. They are also authorised to appoint or recommend for appointment:

- Lead Officers for Food (Safety and Standards)
- The Chief and Deputy Chief Inspector of Weights and Measures
- An Inspector to institute legal proceedings in respect of the Health and Safety at Work etc Act 1974
- Public Analyst for the purpose of Section 27 of the Food Safety Act 1990

The Regulatory Services Manager (Business Compliance) is responsible for

1. Managing Environmental Health, Trading Standards and Licensing with respect to enforcing relevant legislative requirements.
2. Acting as a Lead Officer for the Food Safety Act and its codes of practice.
3. To authorise enforcement action including, the institution of legal proceedings, serving of legal notices and the issuing, suspension and revocation of licences and permits.
4. To ensure the service operates and performs in line with its various statutory responsibilities and that evidence of performance is submitted to Central Government for oversight in a timely fashion upon request.

The Team Leader Environmental Health and Team Leader Trading Standards are responsible for delivery of their respective services in line with current corporate, regional and national priorities.

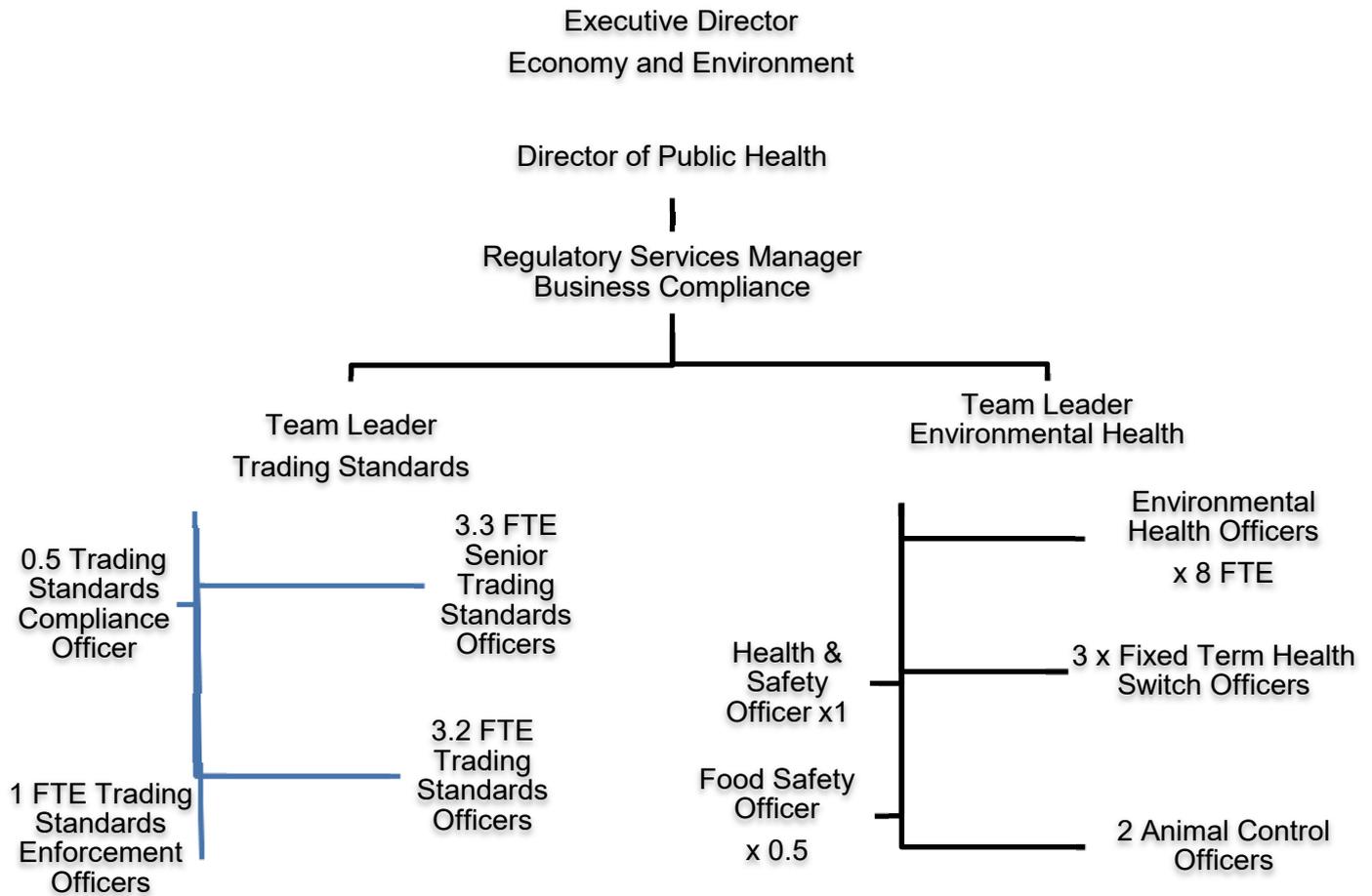
Presently there are 11 Environmental Health posts 10 require a qualification to undertake food safety duties of which 5.6 FTE's work predominantly on Food Safety, 2.5 FTE's work on Health and Safety related matters the remaining 2.9 FTE's work on animal licensing, nuisance, licensing and other regulatory activity.

There are presently 2 FTE Officers undertaking duties relevant to food standards within Trading Standards.

Environmental Health use the Public Health England Food, Water & Environmental Microbiology Laboratory via Good Hope Hospital, Sutton Coldfield for any samples taken.

Trading Standards used Worcester Scientific Services for compositional food samples in 2018/19 however the Laboratory closes during 19/20 and the process of authorising Eurofins, Kent and Hampshire Public Analysts has begun to ensure no break in service.

## 2.2 Structure of Service and Contact Details



Delivery of the Food Service	
<b>Service Delivery Point</b>	Civic Centre, Darwall Street, Walsall, WS1 1TP.
<b>Hours of Opening</b>	Monday to Thursday 8.45am to 5.15pm Friday 8.45pm to 4.45pm
<b>Telephone numbers</b>	EH 01922 653366 TS 0845 330 3313 Out of Hours 01922 650000
<b>E mail</b>	environmentalhealth@walsall.gov.uk trading_standards@walsall.gov.uk
<b>Website</b>	<a href="http://www.walsall.gov.uk">www.walsall.gov.uk</a>
<b>Social Media</b>	<a href="https://www.facebook.com/makemeasavvyshopper">www.facebook.com/makemeasavvyshopper</a> <a href="https://www.facebook.com/safeandsoundaroundtown">www.facebook.com/safeandsoundaroundtown</a> Twitter: @ehwalsall @savvyshopper

## 2.3 SCOPE OF THE FOOD SERVICE

The enforcement of food related legislation is a joint responsibility between Environmental Health and Trading Standards: All services are provided by officers employed by Walsall Council.

**Environmental Health** provide the following services relating to Food:

1. Food safety/hygiene inspections
2. Infectious disease investigations (food poisoning and water borne disease)
3. Microbiological food sampling
4. Food safety advice to new and existing businesses including promotional and educational activities.
5. Food and food hygiene complaint investigations
6. Private drinking water supply - monitoring and assessment
7. Operation of the National Food Hygiene Rating Scheme
8. Commercial complaints in respect of odour, noise, waste & drainage.
9. A statutory consultee in the respect of planning
10. A Responsible Authority in terms of licence applications.
11. Export Certificates for food and interventions relating to Imported Foods
12. Core member of Walsall Council Safety Advisory Group

**Trading Standards** provide the following services relating to Food:

1. Food Standards inspections
2. Feed Hygiene Inspections
3. The investigation of complaints in relation to food fraud, labelling, contamination and composition
4. Food sampling for compositional, nutritional and labelling conformity
5. Food Standards advice to business
6. Food Standards education to consumers
7. Import certificates for food & interventions relating to imported foods.
8. A Responsible Authority in terms of licence applications.
9. Underage sales of alcohol and tobacco

**Licensing** regulate the following Food related matters:

1. Late Night Refreshment Licences
2. Street Trading Licences and Consents
3. Personal and Premises Licences for Alcohol

## 2.4 Demands on the Food Service

A profile of the 2157 food businesses registered with Walsall Council is as follows:

FSA CODE	PREMISES TYPE	NO. OF PREMISES
A	Primary Producer	19
C	Manufacturer and Packer	36
E	Importer/exporter	0
F	Distributors/transporters	48
G01	Supermarket/hypermarket	44
G02	Small retailer	469
G03	Other retailer	103
H01	Restaurant/cafe/canteen	311
H02	Hotel guest house	15
H03	Pub/club	229
H04	Takeaway	300
H05	Caring premises	145
H06	School/college	124
H07	Mobile unit	111
H08	Restaurant/caterer other	203
	Total	2157

There are 21 premises approved to produce products of animal origin for distribution throughout the UK and Europe.

There are no red meat slaughterhouses in the borough. There is one small-scale Halal poultry slaughterer that is regulated by the Food Standards Agency.

There are 33 agricultural feeding-stuff (animal feed) establishments registered under the EU Feed Hygiene Regulation (183/2005) with the following breakdown of registration activities:

R6	Manufacture of pet foods	2 establishments
R7	Manufacture and/ or placing on the market of feed materials	20 establishments
R11	Mixing feed on-farm, with compound feedingstuffs which contains additives	1 establishment
R12	Food businesses selling co-products of the food industry which are destined as feed materials	2 establishments
R13	Livestock farms which do not mix feeds or mix feeds without additives	7 establishments
R14	Arable farms growing or selling crops for feed	1 establishment

Walsall as a Borough has a significant number of premises where English isn't the primary language spoken by many of the staff. Within certain sectors of the food industry there also tends to be a relatively high turnover of Food Business Operators meaning officers may not see the same person twice when carrying out visits. This is not conducive to building long term positive relationships where compliance can be improved with mutual cooperation.

Many food premises are opened in buildings not originally designed for such a purpose and therefore do not allow easy or economically viable compliance with the structural elements of food hygiene.

## **2.5 REGULATION POLICY.**

The Regulatory Services Enforcement Policy was approved by Cabinet on the 25<sup>th</sup> April 2018 it is available at this link <https://tinyurl.com/yb39zvt6>

## **3.0 SERVICE DELIVERY**

### **3.1 INTERVENTIONS AT FOOD ESTABLISHMENTS**

Interventions are defined as activities designed to monitor, support and increase food law compliance within a food establishment. Interventions also include activities that are effective in supporting food businesses to achieve compliance, such as targeted education and advice or information and intelligence gathering.

The FSA considers that an intervention programme is central to a local regulatory and enforcement regime, and local authorities must ensure that such a programme is appropriately resourced.

#### **Trading Standards Food Standards Interventions.**

Food Standards interventions are applied in accordance with the Intelligence Operating Model, in a risk-based intelligence-led manner, so that resources are effectively targeted and directed at those businesses that present the greatest risk.

Interventions will also be based upon and result from the national, regional and local sampling programmes that we contribute to. A flexible approach to resourcing enables the service to respond appropriately to incidents and to ensure the necessary protection to the Borough's food chain. An annual desk top review of the services database including information sharing with Environmental Health and Licensing assists in clarifying the position in relation to existing and new high risk food premises. All high risk premises identified as requiring an intervention will receive an intervention.

#### **Environmental Health Food Hygiene Interventions**

A rated premises will be subject to a full inspection at the appropriate frequency (6 months). Any other intervention, such as sampling or education/training, will be recorded for monitoring of enforcement actions but will not be used as the planned interventions

B rated premises will be subject to a full inspection at the appropriate frequency (12 months). Any other intervention, such as sampling, education and training, will be recorded for the monitoring of enforcement actions but will not be used as the planned intervention.

Premises rated as C will be subject to a full inspection, partial inspection or audit at the appropriate frequency (18 months).

Premises rated as D or E will receive an intervention based upon a number of factors including the overall pressures of the food service to deal with higher risk activity, their due date, complaints received, intelligence from other agencies, non-compliance with a broader regulatory framework and regional/national project work.

Other triggers for an alternative intervention will be:

- Consumer complaint
- Planning or building regulation applications
- Infectious disease notification
- Changes in activities or management
- Non-return of questionnaire

The number of food hygiene inspections planned for 19/20 are as follows:

RISK CATEGORY	A	B	C	D	E	Total
Frequency of visits	6 mths	12 mths	18 mths	2 yrs	Alt Strategy	
Inspections scheduled	14	82	277	259	182	807

It is anticipated that in line with figures from 2018/19 inspections that do not form part of the standard intervention programme may amount to

- 350 Inspections but not completed in the due in preceding 12 months
- 222 Unrated premises to analyse and resolve
- 439 New Food Business Registrations (252) and Initial Inspections (187)
- 32 Advisory visits and revisits to premises following an earlier intervention
- 34 Requests for new food advice
- 6 Sampling Visits

The estimated number of visits to food premises for 19/20 will be **1382**

### **Prioritisation**

Should a situation occur whereby demand outstrips staffing levels our priority will be targeted at matters of highest risk to ensure the greatest level of protection is afforded to the public

- an unsafe practice is occurs which represents a significant hazard to health;
- a particular food handling or food preparation practice is found to entail a previously unsuspected hazard to public health;
- a foodstuff previously thought to be safe is found to be hazardous to health;
- a food with widespread distribution is found to be contaminated and thereby presents a significant hazard to public health;
- widely distributed foodstuff is the subject of fraud in labelling or presentation
- Notifications of single cases of significant infectious disease e.g. E coli 0157
- Outbreaks of infectious disease of any type

As a consequence lower risk work will suffer and a secondary strategy will have to be devised to deal with the back log of work arising from the realignment of priorities. This may include

- Lesser qualified Officers making a first response
- Qualified agency staff brought in on a temporary basis
- Response by phone/letter/email only
- Signposting to other agencies or legal advisors.

Walsall Council implemented the Food Hygiene Rating Scheme on the 1<sup>st</sup> April 2011: It is encouraging to see that the proportion of businesses that are ranked “Broadly Compliant” (scoring 3, 4 or 5) has increased year upon year, despite the continued financial pressure on businesses.

Rating	Number of Businesses						
	April 13	April 14	April 15	April 16	April 17	April 18	April 19
5 (Very Good)	328	373	585	565	679	725	751
4 (Good)	308	349	347	368	390	355	349
3 (Generally Satisfactory)	336	353	321	306	295	298	307
2 (Improvement Necessary)	130	121	98	91	91	89	67
1 (Major Improvement Necessary)	180	149	153	153	118	84	75
0 (Urgent Improvement Necessary)	10	8	15	11	8	8	4
% achieving satisfactory ratings	75.2	79.5	81%	83%	86.5%	88.4%	90.6%

1833 businesses are recorded on the FHRs, 1553 are rated the other 280 being at present exempt, excluded, sensitive or awaiting inspection. Taking 3 and above as satisfactory then 90.6% of Walsall Businesses are at least satisfactory with 9.4% requiring varying levels of improvement. Staff are trained in the consistent rating of food premises having attended a number of FSA training sessions relating to this area. The results are therefore an honest reflection of the situation within the Borough.

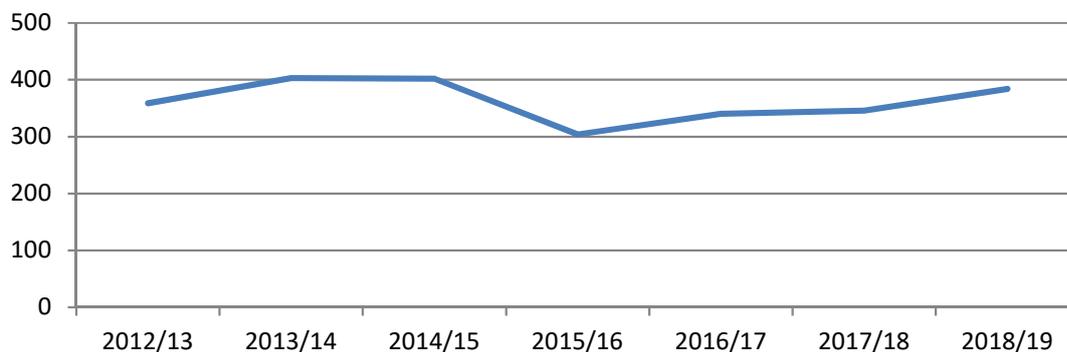
In 2018/19 11 business owners requested revisits to check improvements they had made. No business appealed their Rating or requested that a Right to Reply was published.

### 3.2 FOOD COMPLAINTS

Complaints are prioritised on the basis of the nature and severity of the matter reported. Many complaints relate to dissatisfaction with the condition of food and often fail because the continuity of evidence has been broken i.e. it is possible the contamination entered the food after opening. To allow staff to focus on areas of highest priority information will be made available to complainants on actions they may be able to take to resolve low risk complaints.

Environmental Health received 384 complaints relating to the condition of food and concerns over food practices or the hygiene of food premises in 2018/19.

**No of Complaints received regarding food or food hygiene at premises**



Trading Standards received 95 food and drink related complaints and referrals. These ranged from out of date, misdescribed, contaminated and incorrectly labelled food to serious allergic reactions, false health claims, food fraud and counterfeit alcohol. Where substantiated, advice and written warnings were issued as appropriate.

### 3.3 HOME AUTHORITY PRINCIPLE AND PRIMARY AUTHORITY SCHEME

#### Primary Authority

The Primary Authority Principle has its basis in law and is a government priority. The authority is permitted to recover its costs for advice given under the scheme and if the business follows the “assured advice” then enforcement action such as a prosecution by other authorities is not likely to be successful. On the 2<sup>nd</sup> July 2014 Cabinet approved the adoption and charging regime for this scheme. To date no Primary Authority partnerships have been signed up to.

#### Home Authority Principle

This principle was developed as an aid to good enforcement practice and aims to:

- Encourage Authorities to place special emphasis on goods and services originating within their area.
- Provide businesses with a Home Authority source of guidance and advice.
- Support efficient liaison between Local Authorities.
- Provide a system for the resolution of problems and disputes.

The principle has the support of local authorities, Government, trade and industry associations, consumer and professional regulatory bodies.

### **3.4 ADVICE TO BUSINESS**

The authority has always provided appropriate and competent advice, to local businesses and residents, within available resource constraints.

In recent times there has been an increase in the number of people wanting to prepare food for sale in their domestic kitchens. Officers recognise that certain low risk food items such as cakes can be prepared in a domestic kitchen and a number of factsheets for domestic caterers has been produced.

The services website has been made easier to use, with information about setting up a food business and application forms that businesses and members of the public can download free of charge. More work is needed to update and amend older information in line with proposals set out in Walsall Councils Proud Programme work streams.

Where possible advice is given to businesses before they start trading: It is easier to give advice on layout, equipment and practices at the planning stage before a business commences trading. Under the FHRS, a business that does not have a fully implemented Food Safety Management System cannot score higher than 1 (Major Improvement Necessary) so where time permits, officers carry out coaching visits to Food Business Operators to ensure they understand the importance of this requirement.

The Environmental Health twitter account @EHWalsall has 858 followers and over 3000 messages have been 'tweeted'.

The Trading Standards Twitter account @Savvyshopper6 has 427 followers and has tweeted over 1800 messages.

We will continue to use social media for communicating food safety, trading standards, infectious disease and health and safety messages. The Tweets are made by officers and managers within the team and are regularly retweeted by other councils, businesses and members of the public.

### **3.5 FOOD SAMPLING**

#### **MICROBIOLOGICAL FOOD SAMPLING**

Microbiological food sampling is carried out to meet four main objectives:

- To determine the current state of food safety in the Borough
- To improve the effectiveness of food hygiene inspections.
- To investigate suspect cases of food poisoning linked with local businesses.
- To investigate complaints about food.

Microbiological examinations will be carried out using credits allocated by Public Health (England). Samples are taken by the Food Safety Officer; other Officers are authorised and can take samples if necessary.

## **SAMPLING PROGRAMME 2018/19 Manufacturers selling mainly by retail.**

There are a number of manufacturers in Walsall and we prioritise our sampling regime to ensure the products distributed both locally and nationally are safe.

Historically our own microbiological sampling has given a clear indication of where the manufacturing processes require improvements to secure food safety. Common issues officers find include unsatisfactory levels of microorganisms associated with cleanliness and growth of organisms due to extended shelf life dating of products. Using the results Officers are able to more accurately target interventions with the businesses to correct any poor results as well as to verify where the processes used are working well.

Eleven manufacturers were visited between January 2018 and May 2018 and 80 samples taken or assessed. Sixty five samples were returned as satisfactory. Samples that were deemed unsatisfactory / borderline of acceptability were referred to EHO's for liaison with the business to make improvements to their practices and procedures.

One sample from a sandwich manufacturer contained *Listeria monocytogenes* which is a dangerous pathogen. The manufacturer was visited and given advice on food handling practices. Follow up sampling took place and all of the samples were found to be satisfactory.

During 2019/20 we plan to sample food manufactured at the following premises.

<b>Company</b>	<b>Address</b>	<b>Food</b>
Gormans Pork Pies	Bloxwich	Pork Pies
Timezone Ltd	Willenhall	Scotch Eggs
Midland Chilled Products		Cooked meat products
T C Morris	Willenhall	Pork pies
Coopers Butchers	Darlaston	Cooked meats
A E Poxon	Brownhills	Sausages
Madni Frozen Foods	Walsall	Kebabs and Asian snacks
The Traditional Indian Catering Co.	Brownhills	Asian snacks, sandwiches
Direct Food Solutions	Willenhall	Curry, ready to eat meals & sandwiches
Lawrences	Walsall	Sausage
Potters Pork Products	Walsall	Sausage
Fresh Co Sandwich Ltd	Walsall	Sandwiches
The Sandwich Company UK Ltd	Walsall	Sandwiches

## FOOD SAMPLING (Food Standards)

An annual sampling programme is drawn up to ensure that food is accurately labelled and meets compositional and safety standards. It also facilitates the support and auditing of local businesses and contributes to national healthy food / healthy eating campaigns. It is enhanced by additional sampling in response to complaints. The Authority also successfully contributes to regional sampling programmes. This provides economies of scale, associated value for money and a greater impact from a larger results base. We also participate in additional FSA food authenticity projects

The Trading Standards Service targets its proactive sampling at locally produced foods, those products/ingredients from companies that manufacture in, are based in, or import into Walsall. In addition, foods are targeted which are causing current concerns. These are identified through communication with the Food Standards Agency, the National Food Crime Unit, the Department of the Environment, Food and Rural Affairs and the European Commission; through local, regional and national intelligence held by local authorities; and through consultation with the Public Analyst.

Emerging food fraud risks can also be identified by looking at economic drivers: High value / high volume products, products in short supply; products with rising prices; products with a complex global food chain. Looking at some of these factors gives us a chance of identifying the next 'horsegate'.



All sampling undertaken by officers is in accordance with relevant legislation and all formal food and animal feed samples are taken in accordance with the relevant Food or Feed Law Codes of Practice.

Samples are analysed and/or examined by the Service's Public/Agriculture Analyst appointed in accordance with the procedures laid down in Regulations and relevant Food and Feed Law Codes of Practice. Alternatively, some samples are examined/tested in house, if it is appropriate to do so.

### Food Standards Sampling Projects 2018 -19

The Trading Standards service took 75 samples during 2018/19 with 37% being analysed as unsatisfactory. This resulted in several FSA incident reports, recalls, warning letters and pending prosecutions. Many of these samples were taken covertly by Trading Standards Officers posing as customers. The most notable findings from the year's sampling projects include:

#### Rhodamine B in Asian sweets

As part of ongoing monitoring of the presence of an illegal, carcinogenic, industrial dye - Rhodamine B - in brightly coloured Asian sweets, 4 retailers were visited and all samples analysed were found to be uncontaminated. This represents a significant improvement over previous sampling exercises and shows the benefit of Trading Standards working with business to achieve compliance.

### **Goat meat substitution.**

There is a continuing problem in some areas of the central England region with the passing off of mutton meat as goat. Goat meat can cost up to double that of mutton on the wholesale market and whilst most butchers do not openly sell goat meat when asked for it some will try and pass off mutton in order to ensure a sale. This year 3 butchers sold mutton as goat to undercover officers. None actually sold goat. One butcher has received a formal caution and investigations are ongoing with the others

### **Allergens - Peanuts in takeaway food.**

Over the last few years national and local surveys have shown a high occurrence of undeclared peanuts in takeaway foods. This is either the result of intentional substitution, cross contamination or ignorance. Such activity has resulted in a number of deaths and the high profile prosecution of a non Walsall based restaurateur for manslaughter.

This year undercover Trading Standards Officers acting as peanut allergy sufferers were sold meals contaminated with peanuts in 15 out of 45 Walsall takeaway/restaurants. Despite the high failure rate this was an improvement on previous years and when follow up purchases were attempted all but 2 establishments were able to provide correct allergy advice to officers. Investigations are ongoing together with further advice to high risk businesses.

### **Allergens – Milk in takeaway Donner Kebabs.**

Following the death of a non Walsall based allergy suffering teenager after eating a donner kebab contaminated with milk, undercover officers posing as milk allergy sufferers bought kebabs from 10 takeaways. Two of these kebabs were found to contain sufficient milk to cause a severe allergic reaction. Follow-up work found that these takeaways were not aware of the presence of milk and did not have sufficient allergen precautions in place. These businesses have now been brought into compliance.

### **Lamb substitution in takeaway food.**

Again this has been a high profile issue over recent years with 60% of lamb dishes sampled from Walsall caterers typically found to be adulterated with other meat species. Some of this has been down to contamination but there has also been a number of instances of food fraud where lamb dishes contained no lamb at all. Following a number of years of intensive business advice, including a regional project led by Walsall Trading Standards, compliance has been steadily improving with no intentional substitution found this year. There remains some non compliance with regard to contaminated/substituted minced lamb products such as kebabs but this is very often as a result of poor food information given by manufacturers or suppliers. These issues have been raised with the manufacturers/suppliers and compliance achieved.

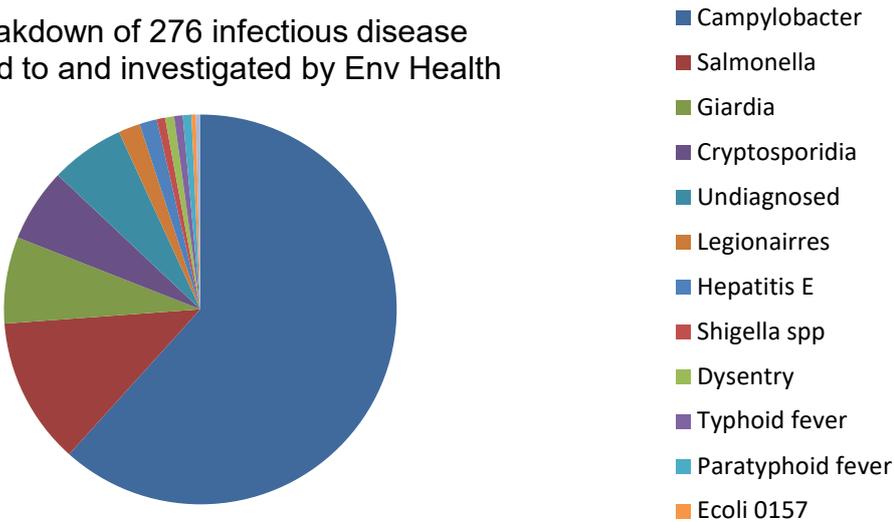
### 3.6 CONTROL & INVESTIGATION OF FOOD RELATED INFECTIOUS DISEASE

Public Health England (PHE) are appointed to act as Proper Officer for Walsall Council in respect of infectious disease notifications. PHE notify Environmental Health of food poisoning cases in the Borough via secure electronic communication. Environmental Health have a statutory duty to carry out an investigation to ascertain the source of the illness and check to ensure that there is no risk of the illness spreading further.

Environmental Health staff work closely with colleagues in PHE and have powers to formally exclude people from work or school if they are classed as a high risk case and their actions place other people at risk of catching communicable disease.

Campylobacter remains the primary pathogen with 172 cases in the Borough with Salmonella accounting for 34 cases. During 2018/19 the service recorded allegations of food poisoning where people claim to have been ill but have not had a formal diagnosis. This led to an additional 73 cases of potential food poisoning highlighting the large amount of undiagnosed food borne illness that may be present in society but not formally identified and recorded. There was one reported outbreak of disease to Environmental Health from a conscientious trader however this never escalated into a full investigation as no formal reports of illness were ever received.

Breakdown of 276 infectious disease notified to and investigated by Env Health

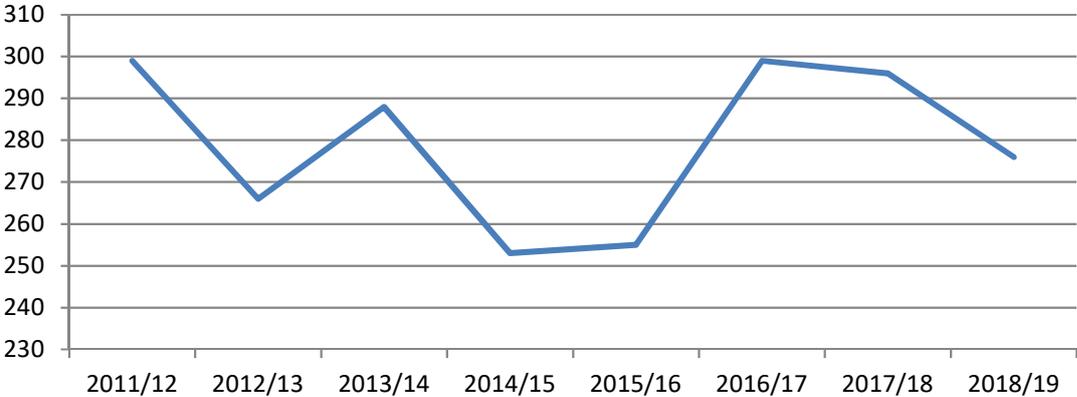


Responses to infectious disease notifications are measured against the PHE document - Roles and Responsibilities for Investigation of Gastrointestinal Infectious Diseases. Having no specific out of hour's duty staff for responding to infectious disease notifications does however pose a difficulty in dealing with emergency notifications i.e. those required within 24 hours.

This issue is currently addressed by invoking the Emergency Planning procedure of identifying and contacting relevant Senior Managers. The services response rate to infectious disease notifications which is agreed with Public Health England currently stands at 93%

In a large scale outbreak the Council could draft in staff from other services to assist in some of the basic duties. For additional resource from expert or qualified officers assistance may have to be requested from other West Midlands Councils through the Memorandum of Understanding that all 7 Councils have signed up to.

**No of Infectious Disease Notifications by Year**



**3.7 FOOD SAFETY INCIDENTS**

The Food Standards Agency issues information about product withdrawals and recalls to let consumers and local authorities know about problems associated with food. This information is issued electronically to Environmental Health and Trading Standards.

A Product Withdrawal Information Notice or a Product Recall Information Notice is issued where a solution to the problem has been put in place – the product has been, or is being, withdrawn from sale or recalled from consumers, for example.

A Food Alert for Action is issued where enforcement by authorities is required. These notices and alerts are often issued in conjunction with a product withdrawal.

During 2018/19 Trading Standards instigated 2 food alerts and corresponding product withdrawals

**3.8 LIASION WITH OTHER ORGANISATIONS**

The Authority works in partnership with the following organisations either on an ongoing basis or as the result of targeted work programmes.

1. Food Standards Agency (FSA)
2. Public Health England (PHE)
3. Director of Public Health
4. Eurofins – Public Analyst
5. Central England Trading Standards Authorities Management Board
6. Central England Environmental Health Management Board (CEEHMB)
7. Department of Health, DEFRA and the Animal and Plant Health Agency (APHA)

### **CEEHMB Food Liaison Group**

This Group represents the seven West Midlands councils but is also linked by a coordinating board to Food Liaison Groups in Staffordshire and Shropshire, Warwickshire and Worcestershire. It aims to provide consistency of enforcement, acts as a facilitator for benchmarking activities and provides 'standardisation' exercises to facilitate consistency. It provides comments on consultations on behalf of the region and provides a valuable link between local authorities and the FSA.

### **CEntSA Food Standards Liaison Group**

The above Group is made up of food standards lead officers plus the regional Public Analysts. Walsall's Food Standards Lead officer is Chair of this group and as such is responsible for leading on regional projects including sampling, guidance to business, legislative consultations and sharing best practice.

### **National Food Standards and Labelling Focus Group**

Walsall's Food Standards Lead officer also sits on the National Food Standards and Labelling Focus Group which gives guidance to regulators and industry as well as working with FSA, DEFRA and DoH on consultations and codes of practice.

### **Knowledge Hub**

The Knowledge Hub is the LGA's professional network which helps people in local government connect and share in a secure environment. It is used as a vital tool for sharing intelligence and best practice, both regionally and nationally.

### **Rapid Alert System for Food and Feed (RASFF) and the European Commission.**

This system provides food and feed authorities with an effective tool to exchange information about measures taken responding to serious risks. This exchange of information helps Member States to act more rapidly and in a coordinated manner in response to a health threat caused by food or feed.

### **IDB and FSA Intelligence Databases**

Intelligence on food issues is also collected by Trading Standards departments in the CEntSA region through the national Intelligence Database - IDB which also inputs into the Food Standards Agency food fraud database. Data from IDB and the FSA database is used to produce a Regional Control Strategy.

### **Walsall Council Safety Advisory Group**

A Representative from Environmental Health, Trading Standards and Licensing attends the Safety Advisory Group to provide advice and direction to event organisers so that events are run safely – food safety is a significant part of the application form and discussions at the meetings.

### **3.9 FOOD SAFETY AND STANDARDS PROMOTIONAL WORK**

#### **World Food Safety Day 2019 (7<sup>th</sup> June)**

Twitter campaign in association with the Food Standards Agency mainly aimed at encouraging people and businesses to sign up to food alerts, recalls and withdrawals.

#### **National licensing Week June 2019**

Promoting the good work of all Services involved in Licensing including food registrations, late night refreshment, street trading, farm animal welfare, alcohol sales etc.

#### **Social Media Campaigns**

Environmental Health and Trading Standards use Social Media such as Twitter and Facebook to communicate current messages of local, regional or national importance. This can include checking Food Ratings, Food Alerts, safe summer food, BBQ's, picnic safety, Christmas food preparation etc.

#### **Presentations**

From time to time and where resources allow staff will carry out presentations to schools, colleges or other forums to promote the work of the service and the profession.

#### **Trading Standards Business News.**

CEnTSA publish a quarterly online business newsletter covering a range of regulatory articles. Walsall Environmental Health and Trading Standards are regularly contributors notably for food safety, allergens, food labelling and have also recently contributed to articles in relation to waste duty of care, licensing of events and pest control.

The articles can be found at <http://tsbn.org.uk/>.

#### **Health Switch Award**

The Health Switch Award is implemented using funding from Public Health and has continued to grow and become more successful each year since it began.

The service will again aim to work closely with the business to ensure they understand the concepts and principles of basic healthy eating and how they can use this knowledge to positively influence both the food they offer for sale and their business, making changes to their menu. Maintenance of standards and fulfilment of the award criteria will be monitored during routine food hygiene inspections.

150 takeaway premises are currently engaged on this programme 63 businesses have been issued Bronze Awards, 34 have been issued Silver Awards and 16 have been issued Gold Awards.

It is envisaged that by achieving the award local publicity may increase interest in the premises from residents as well as motivating other premises to come forward leading to a greater roll out of the scheme.

Other achievements include

- A soft play centre pilot has been completed and a resource pack developed based on the outcomes of the pilot. This is now being rolled out.
- A mobile trader pilot was carried out and resources developed to reflect the limitations with regards to food choices, food storage and preparation facilities that mobiles as smaller catering units such as mobiles.
- The YOUTUBE clips have continued to be developed and additional clips have been added around encouraging and supporting healthier food preparation techniques and choices.
- A pilot around mentoring premises on a FHRS score of 3 was carried out in the period 2018-19 and the associated supporting resources and procedures have been developed to enable us to mainstream this for all our food mobiles.
- The Health Switch team have adopted and are actively promoting the Refill scheme. This is a campaign run by Severn Trent Water and the City to Sea organisation. The campaign aims to reduce plastic pollution by making it easier to reuse and refill your bottle with free tap water rather than buy a new one. It also supports healthier lifestyle choices in encouraging people to consume more water. The Health Switch. We currently have four Health Switch awarded businesses which have signed up to the scheme, these include Bloxwich Active Living Centre, Willenhall Park, Living Water and Expressions Coffee Lounge Walsall .

## 4.0 RESOURCES

### 4.1 FINANCIAL ALLOCATION

The table below shows the cost of Food Safety for 18/19 and includes an estimate of its cost for 2019/20.

	<b>18/19 Actual</b>	<b>19/20 Estimate</b>
Staffing Costs	330,295	342,660
Support Services	0	0
Supplies and Services	23,123	24,672
Transport Costs	2,223	3,262
Income	(7,400)	(6,742)
Expenditure	348,241	363,852

## 4.2 STAFFING ALLOCATION

Environmental Health and Trading Standards staff also undertake a great deal of work in relation to health and safety, animal health and welfare, skin piercing, public funerals, product safety, rogue trading, weights and measures, age restricted sales, counterfeiting etc.

The allocation below relates primarily to the food safety function.

The Team Leader Environmental Health and Team Leader Trading Standards are responsible for delivery of their respective services in line with current corporate, regional and national priorities.

Presently there are 11 Environmental Health posts 10 require a qualification to undertake food safety duties of which 5.6 FTE's work predominantly on Food Safety, 2.5 FTE's work on Health and Safety related matters the remaining 2.9 FTE's work on animal licensing, nuisance, licensing and other regulatory activity.

Trading Standards is delivered in one Borough-wide team of 3.3 FTE Senior TSO's, 3 FTE TSO's, 1 FTE Enforcement Officer and 1 Compliance Officer (0.5 FTE) supervised by a Team Leader. The amount of resource dedicated to Food Standards equates to 2 FTE members of staff.

The amount of resource dedicated to Feed Hygiene equates to 0.10 FTE members of staff. The service also uses a contractor to undertake certain aspects of work coordinated regionally using national funding.

Income received from Public Health for commissioned work allowed three fixed term contract officers to be employed to assist in the provision of the Health Switch programme.

The qualifications and competency of food officers is set out in legislation (Regulation (EC) No.882/2004 on Official Controls) and implemented in the Food Law Code of Practice published by the FSA.

The Food Law COP has clarified the requirements for suitably qualified and competent officers and this will be reviewed each year. This could result in additional training costs and time out of the Office attending training courses or similar.

Environmental Health Officers all possess a BSc. or MSc. in Environmental Health and are registered with the Environmental Health Officers Registration Board (EHORB). The Food Safety Officer has a Higher Certificate in Food Premises Inspection from the EHORB.

Trading Standards Staff working in food and feed law enforcement possess the relevant qualifications required by the Food/Feed Law Code of Practice.

For both services the level of staffing described above allows for compliance with a basic statutory service or relevant and agreed national or regional priorities. Where work is required beyond that basic service the service will either not be able to fulfil that additional requirement or have to stop other statutory functions in order to carry out the work. In the event of a major emergency all staff will be directed to work to control the emergency and basic work will cease for an agreed period - recovery from this will inevitably take time.

### **4.3 STAFF DEVELOPMENT**

Walsall Council has a regime of Annual Performance Conversations where action plans including training requirements are drawn up for each staff member. These reviews will take account of the food law code of practice requirements as set out above. This may pose an additional cost to the service to ensure all staff are fully qualified and competent.

External and internal training provision will then identified in accordance with staff and service requirements. To maximise budgetary provision wherever possible support is given to courses provided by CEnTSA or other Local Authorities who have proven to be cost effective training suppliers. The FSA have recently withdrawn much of their free training due to their own budget constraints and so alternative providers will need to be sought. Officers are also able to identify forthcoming training via the CEnTSA annual training plan. In house development in the form of workshops and cascade training is also utilised where appropriate.

#### **OFFICER TRAINING PROGRAMME**

- Legalities and Technicalities of Food Law Enforcement
- Traceability e learning
- Licensing & Street Trading Training Workshop
- Outbreak Investigation and Management
- Vacuum Packing e learning
- HACCP for food standards

Training relating to allergens will play a major part in the training programme for 2019/20.

#### **5.1 Quality assessment and Internal Monitoring**

The Team Leader makes periodic accompanied visits with Environmental Health Staff this includes the checking of formal notices and paperwork.

Officers will participate in national and regional standardisation exercises, benchmarking and peer reviews as and when they are organised.

It will be the Management Team's responsibility to react swiftly to performance monitoring reports. This will include reflection on inspections where non-compliant premises are found to ensure the right level of intervention has taken place.

The Regulatory Services Manager will undertake a regular assessment of the work of the service culminating in the Annual Review which is part of the Food Law Enforcement Service Plan process.

The Councils Internal Audit Team last inspected Environmental Health in 2012 giving an assurance level of Significant.

The FSA last audited Environmental Health in 2010 with a revisit in 2011 on the subject of Local Authority Assessment of Hazard Analysis and Critical Control Points (HACCP) Compliance in Food Business Establishments.

Each May the Service provides data to the FSA through the LAEMS return. This data is scrutinised by the Agency and published on their web site.

In October 2019, the Food Standards Agency contacted Walsall Council asking for reassurance in relation to the outstanding inspections from the 2018/19 service plan and LAEMS return. A full response was made and was positively received by the Agency who also asked for examples of work undertaken at Walsall as case studies that may be useful for other authorities with similar burdens.

Further work is required to satisfy the FSA that the programme of work will be complete and the statutory LAEMS return for 19/20 will accurately reflect the programme of work undertaken this year and a follow up response will be provided in January 2020.

## 6.0 WORKPLAN AND REVIEW

Action	Target		Action lead
Implement the Food Law Enforcement Service Plan	Target 19/20	<ul style="list-style-type: none"> <li>Plan to be submitted to Cabinet &amp; Council for approval</li> <li>Quarterly monitoring of the Plan shared with Management team and staff.</li> </ul>	David Elrington/ Stuart Powell/ Paul Rooney
	Review 18/19 Green	<ul style="list-style-type: none"> <li>Plan was submitted to Cabinet in Oct 2018 and Council Nov 2018</li> <li>Food related matters were shared with EH and TS Teams also Health Protection Board and in Portfolio meetings.</li> </ul>	
Identify and carry out appropriate interventions at high risk premises in relation to food standards	Target 19/20	<ul style="list-style-type: none"> <li>Premises requiring intervention to be agreed.</li> <li>100% of identified high risk premises to receive an appropriate intervention</li> </ul>	David Elrington/ Stuart Powell
	Review 18/19 Green	<ul style="list-style-type: none"> <li>100% of identified high risk premises received an appropriate intervention</li> </ul>	
Identify and carry out appropriate interventions at high risk premises in relation to food hygiene	Target 19/20	<ul style="list-style-type: none"> <li>Premises requiring inspection to be agreed.</li> <li>100% of premises identified to receive a visit</li> </ul>	David Elrington/ Paul Rooney
	Review 18/19 Red	<ul style="list-style-type: none"> <li>Premises identified thorough standard inspection programme</li> <li>413 high risk premises (A-C) identified for inspection 79% complete 711 actual inspections undertaken. The work we do around prioritisation suggests a lot of reactive work is affecting planned inspection work.</li> </ul>	
Maintain the Food Hygiene Rating System	Target 19/20	<ul style="list-style-type: none"> <li>Fortnightly uploads to the national database</li> <li>Results reported back to Inspecting officers</li> <li>All appeals dealt with in compliance with the brand standard.</li> </ul>	David Elrington/ Paul Rooney
	Review 18/19 Green	All complete	

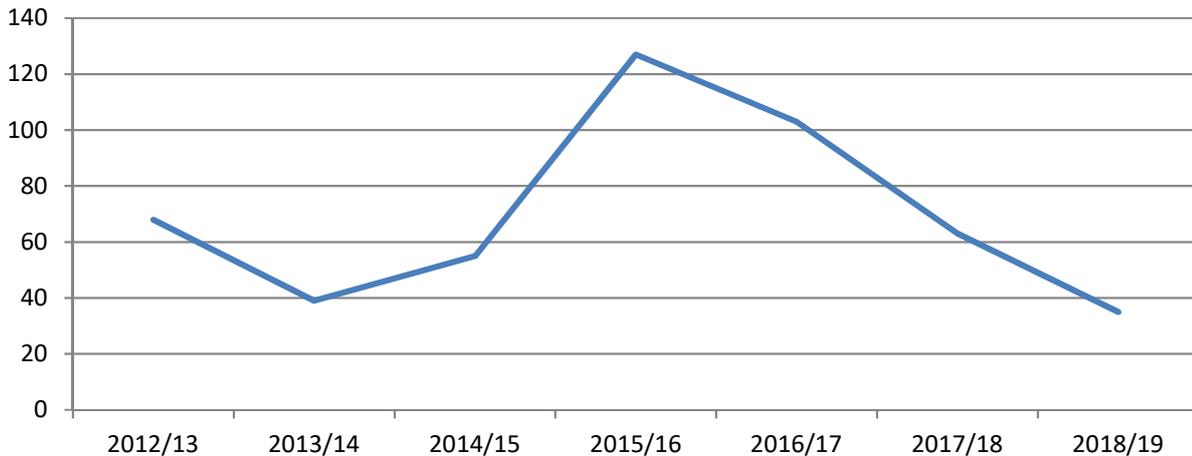
Implement the microbiological food sampling programme focusing on high risk premises and manufacturers	Target 19/20	<ul style="list-style-type: none"> <li>• Premises requiring sampling to be agreed.</li> <li>• 100% of premises receive a sampling visit</li> <li>• 100% of premises where failures or issues identified receive a follow up intervention.</li> </ul>	David Elrington/ Paul Rooney
	Review 18/19 Green	Complete	
Implement the CEnTSA regional food standards sampling programme	Target 19/20	Premises requiring sampling to be agreed. 100% of premises receive a sampling visit 100% of premises where failures or issues identified receive a follow up intervention	David Elrington/ Stuart Powell
	Review 18/19 Green	Complete	
Implement a local food standards sampling programme	Target 19/20	Premises requiring sampling to be agreed. 100% of premises receive a sampling visit 100% of premises where failures or issues identified receive a follow up intervention	David Elrington/ Stuart Powell
	Review 18/19 Green	Complete	
Implement the FSA Feed delivery programme	Target 19/20	Premises requiring inspection to be agreed. 100% of premises receive an inspection 100% of premises where failures or issues identified receive a follow up intervention	David Elrington/ Stuart Powell
	Review 18/19 Green	Complete	
Respond to all disease notifications using timescales developed by PHE	Target 19/20	100% response within PHE recommended timescales	David Elrington/ Paul Rooney
	Review 18/19 Amber	93% of responses within timescales agreed water borne infection notifications lower than expected. Non identified pathogen reports also low but it is to be expected that these are lower priority.	

Respond to requests for advice and visits to new premises within 21 days.	Target 19/20	Number of responses Re-establish web authors and a quarterly check of business advice on walsall.gov.uk Regular Tweets of relevant business advice.	David Elrington/ Stuart Powell/ Paul Rooney
	Review 18/19 Green	53 requests Web Authors were identified however there was slow progress with the web site update due to changes to incorporate the web site and additional training required etc. Regular tweets are successful.	
First Response to complaints about trading practices within service standards.	Target 19/20	100% response within standard timescales and completion of investigations within relevant timescales.	David Elrington/ Paul Rooney
	Review 18/19 Amber	343 complaints received 75% responded to within current service standard. Standards need to be reviewed to ensure they are fit for purpose and realistic based upon resources.	
Continue the Health Switch project.	Target 19/20	Identify and work with businesses. Promote attainment of awards through the media.	David Elrington/ Paul Rooney
	Review 18/19 Green	Complete additional funding secured for 19/20	
Review training opportunities and number of CPD hours per Officer quarterly.	Target 19/20	Number of hours per officer and competency submissions submitted, reviewed and action determined.	David Elrington/ Stuart Powell/ Paul Rooney
	Review 18/19 Green	Officers routinely carrying out official food safety controls completed minimum FSA core and non-core CPD requirements.	

## Prosecutions & Enforcement Actions 1/4/2018 – 31/3/2019

Date	Premises	Offences	Penalty
<b>Prosecutions</b>			
15/5/2018	Pizza Cottage	Unhygienic premises	6 months imprisonment
15/11/2018	Bangla Store (owner 1)	Unhygienic premises	Fine £461 Costs £603.96
15/11/2018	Bangla Store (owner 2)	Unhygienic premises	Fine £461 Costs £603.96
29/11/2018	Blakenall One Call Peri Peri Chicken	Unhygienic premises	Custodial sentence 6 months suspended for 18 months, 20.00 – 08.00 curfew for 6 months £775.20 costs
<b>Simple Cautions</b>			
25/5/2018	The Corner Cafe	Unhygienic premises	Simple Caution
23/11/2018	Willenhall Supermarket	Unhygienic premises	Simple Caution
4/12/2018	Ahmed Sweets (owner 1)	Unhygienic premises	Simple Caution
4/12/2018	Ahmed Sweets (owner 2)	Unhygienic premises	Simple Caution
<b>Closures</b>			
15/5/2018	Family Shopper	Unhygienic premises	Emergency Prohibition Notice
18/6/2018	Mizan Spice	Unhygienic premises	Emergency Prohibition Notice
5/07/2018	Ahmed Sweets	Unhygienic premises	Emergency Prohibition Notice
4/10/2018	Naya Bazaar	Unhygienic premises	Emergency Prohibition Notice
11/3/2019	Bobs Fast Food	Unhygienic premises	Emergency Prohibition Notice

### No of Prosecutions or formal legal actions



2015 - 17 were very intense years from the perspective of enforcement. A larger than expected number of rodent infestations led to an increase in closures and subsequent prosecutions. Due to the time taken to bring prosecutions to court those started in one year are often concluded in the following year.

Also in this period a concerted effort was made to identify health and safety issues with equipment at food premises - mainly from a lack of guarding on equipment such as dough rollers and unsafe electrical installations. This led to significant increases in the number of Improvement and Prohibition notices served to prevent harm to staff at the premises.

The impact of this spike in 15/16 led to a review of enforcement principles and the service is now more experienced and efficient in dealing with such matters. Each case however is scrutinised before deciding upon an appropriate course of action.

The custodial sentences in May and November 2018 were a highly significant result following very poor practices at premises leading in one case to a salmonella outbreak

During 2018/19 Environmental Health also dealt with:

- 93 planning applications
- 101 complaints about waste associated with commercial businesses
- 149 complaints of noise at commercial premises
- 13 concerns about H&S at food premises
- 5 Emergency Prohibition notices (Closure Notices) served against food premises that posed an imminent risk to health leading to 3 Emergency Prohibition Orders issued by the Magistrates Court.
- 5 Food Hygiene & Health and Safety Improvement Notices at food premises
- 12 Emergency Prohibition notices for Health & Safety matters at food premises often dangerous equipment

## 6.2 Identification of any variation from service plan

2018/19 was probably the most challenging year in recent memory for the service. The loss of two experienced and high performing environmental health officers one to a new job and one to maternity leave had a significant effect on the service. During 19/20 the vacant post will be recruited to and the other officer will return from maternity leave. The introduction of new national animal licensing regime meant that most of the Environmental Health team spent October to January concentrating huge efforts on introducing, inspecting and reviewing existing as well as newly established premises.

A review of the structure of Trading Standards and Licensing also lead to a reduction in operational staffing and the creation of two new team Leader roles to more effectively manage the very specialised areas of work in both of these services.

The following programmed inspections remain outstanding from 2018/19 at the time of drafting the report and have been added to the work programme for 19/20.

Risk Band	Number of food hygiene interventions outstanding from 2018/19
A	0
B	4
C	46
D	31
E	181

There are 101 unrated premises to be analysed and resolved of these around 80 premises requiring their initial inspection as they are newly registered these will be given priority over the 2019/20 period.

Cooperative working between Trading Standards, Environmental Health and Licensing will continue to stop the creation of duplicate premises and other anomalies

Improvements to the services ICT system including linking to the corporate address gazetteer should also assist with reducing duplicate or inaccurately recorded premises.

The number of compliant businesses using the FHRS system is 91% this is lower than regional (94.1%) or national average (95.4%). We believe our figures are accurate and have been arrived at fairly. They have continued to improve each year since the start of the FHRS system. Walsall does have a higher number of total rated premises (84%) than is the regional (78.5%) or national (81%) average which is positive but may also affect our compliance figures.

For 19/20 the following strains on the service have been identified

- The recruitment of an EHO in November was later than we would have liked and therefore the work he is undertaking whilst positive has come at a later stage of the programme.
- The return of an experienced officer from maternity leave in January is welcome but again at a later stage in the year and so will have a reduced impact on the attainment for the year.
- Reactive/unplanned work including closures (HEPN) and prosecutions whilst a key component of our Food Law Service Plan do have a major impact on the programmed inspection work. It has been estimated that closures and prosecution can be the equivalent of 30 or more programmed inspections. We do however believe these are equally if not more significant than programmed work as they identify and tackle the most serious premises or products.
- The 'churn' of Food Businesses is also an issue within Walsall where in excess of 10% of businesses change hands in any given year – some businesses changing hands 2-3 times per year. Whilst this can lead to improvements in how a business is run (if investment is made) it can also lead to inconsistent approaches, poor compliance levels and a drop in standards which the officers are repeatedly then having to deal with.
- The introduction of the new animal licensing regime in 18/19 had a major impact on the service as it was largely the EHO's who had to conduct the inspections. It increased the number of licensed premises we had to visit without massively increasing the revenue we received from these licences. This impact will lessen over the years as the premises improve and inspections frequencies reduce however as this is only the second year of that regime it is still impactful.
- Updating staff and reviewing how we deal with allergens has taken a considerable amount of time in this financial year and is an ongoing issue as regards training and benchmarking with other local authorities.
- The authority is undergoing a transformation programme which will make it more fit to respond to future and ongoing challenges however this is taking up considerable managerial and supervisory time as new ways of working are assessed and implemented.
- A significant amount of managerial time is also being taken up monitoring activity and attending meetings to discuss BREXIT. This can be intensive at times and then slows down at others however its impact has still been significant.

Actions to mitigate these strains during 19/20 have been identified as follows.

- a. The shortfall in inspections has been identified on the Services Risk Register in terms of the impact it could have in terms of the view of the Food Standards Agency but also in terms of the impact on traders and the public.
- b. The shortfall in inspections has been reported to the Health Protection Forum which meets to provide assurance to the Director of Public Health that the health of the public in Walsall is being adequately safeguarded.
- c. Matters relating to food safety are regularly discussed and updates provided at monthly Portfolio Holder meetings where service and senior managers and the elected member for this area of work meet to discuss issues within the service.
- d. D rated Premises – Staff will be carrying out two intensive periods of visits between now and the New Year (and likely between January and April 2020). These intensive periods will focus on food businesses with a rating of D and will involve alternate inspection and non-official control ‘monitoring’ visits. Obviously future visits to these premises will switch back to full official control inspections and will inform future inspection programmes. Where necessary and depending on the nature of conditions found at the time of visit full inspections will be undertaken and any necessary enforcement activity undertaken.
- e. E rated premises - These businesses will be assessed using an Alternative Enforcement Strategy. For this purpose, we have recently appointed an Environmental Health intern who is responsible for a specific project work stream relating to the Alternative Enforcement Strategy for E rated businesses. This strategy includes postal, telephone and face to face questionnaires; sample inspections to check the validity of the information gained and, where necessary, follow up inspections.
- f. We are liaising with our Housing Standards Manager with regard to a bid for additional funding for a joint operation looking at businesses (including food businesses) and HMO’s or other rented sector properties above the business premises. This will also cut across modern day slavery and human trafficking priorities.

### **6.3 Areas of Improvement**

In addition to those activities that will mitigate strains on the service the following areas of improvement or activities will be necessary in 19/20

1. Continue to monitor and develop a priority rating/intelligence based system that can be used to target work effectively taking into account statutory responsibilities in relation to the Food Law Code of Practice and FHRS Brand Standard
2. Ongoing review of training and development needs in order to identify how staff can continue to be compliant with the Food Law Code of Practice Competency Framework. Specifically during 2019/20 focussed training and policy development is needed around allergens
3. Continue to review the various registration and licensing processes internally so that businesses are identified and recorded appropriately e.g. Street Trading Permits, Late Night Refreshment and Premises Licences, Food Registrations and that intelligence flows around the Regulatory Services appropriately and effectively.
4. Identifying efficient work methods to cope with diminishing resources using resources available as part of the Proud programme – customer contact, income, IT development, Resilient Communities.
5. Continue developing relationships with other services and partners to assist with identification of Modern Day Slavery and human trafficking and other community safety priorities.
6. Keeping updated and in a state of readiness for Brexit and the Commonwealth Games.

## Equality Impact Assessment (EqIA) for Policies, Procedures and Services

<b>Proposal name</b>	Food Law Enforcement Service Plan 19-20		
<b>Directorate</b>	E&E		
<b>Service</b>	Regulatory Services		
<b>Responsible Officer</b>	David Elrington		
<b>Proposal planning start</b>	1/4/2019	<b>Proposal start date (due or actual date)</b>	31/3/2020

<b>1</b>	<b>What is the purpose of the proposal?</b>	<b>Yes / No</b>	<b>New / revision</b>
	Show which category the proposal is and whether it is new or a revision.		
	Policy	<b>Yes</b>	
	Procedure	<b>No</b>	
	Guidance	<b>No</b>	
	Is this a service to customers/staff/public?	<b>No</b>	
	If yes, is it contracted or commissioned?	<b>No</b>	
	Other - give details	It is a statutory	
<b>2</b>	<b>What is the business case for this proposal? Please provide the main purpose of the service, intended outcomes and reasons for change?</b>		
	The Plan is required as evidence of the Councils performance of its statutory duties in relation to ensuring businesses produce, supply and sell safe food. The regime ensures consumers are protected from unsafe food including food poisoning, allergens, contaminants, fraud, substitution and adulteration it sets out the level of work planned and achieved, indicates the level of resource devoted to food safety and identifies the way in which performance is monitored and measured. The plan forms part of the Councils Policy Framework.		
<b>3</b>	<b>Who is the proposal likely to affect?</b>		
	<b>People in Walsall</b>	<b>Yes / No</b>	<b>Detail</b>
	All	Y	
	Specific group/s		
	Council employees		
	Other (identify)		
<b>4</b>	<b>Please provide service data relating to this proposal on your customer's protected characteristics.</b>		
	Many food business operators are from a BAME background and therefore information is provided in a multitude of languages and in documents that are visual in nature – most are from the national regulator FSA. We also have access to translation services and use this regularly where enforcement action is taken so that the FBO is fully aware of what is happening. We also have several members of staff who can communicate in predominantly Asian languages (Urdu, Hindi, Punjabi)		



Walsall's population has risen by 6.2% from 253,401 in 2001 to 269,323 according to the 2011 census. The minority ethnic group population (everyone who is not White; English, Welsh, Scottish, Northern Irish or British) has shown an increase from 37,547 (14.81%) in 2001 to 62,085 (23.05%) in 2011.

Compared with the rest of the West Midlands (33.98%), Walsall (23.05%) has a lower percentage of minority ethnic group people and is the fifth lowest, compared with the other West Midlands areas. However, it is clear that, with new communities emerging, this figure is likely see higher percentages in the 2021 census.

### **Walsall population by broad group 2001 to 2011**

<b>Group</b>	<b>2001</b>	<b>2011</b>
White British	85.2%	76.9%
All other White	1.2%	1.9%
Mixed	1.4%	2.7%
Asian	10.4%	15.2%
Black	1.4%	2.3%
Other	0.4%	0.8%

The largest increase is in people of Asian background, with a rise from 10.4% of all ethnic minority people in 2001 to 15.2% in 2011. Within this group, those of Pakistani background have increased the most to 5.3% of all residents (although Asian Indian remains the largest minority ethnic group at 6.1%).

Nine out of ten Walsall residents (90.1%) were born in the UK. There does not appear to be a high volume of residents from Eastern European countries living in the borough, with only 1.0% of residents, 2,681 people, born in EU Accession countries. This is in contrast with 2.0% in England and with neighbouring authorities of Wolverhampton (2.1%) and Sandwell (2.6%).

The Council is committed to meeting the needs and expectations of people who use its services. This means fair access for all, ensuring that the customers of Walsall are treated with dignity and respect. All groups of customers will positively benefit from our services. Information to customers about services will be provided in accessible formats, based on their particular need as far as reasonable and within resources available.

**5 Please provide details of all engagement and consultation undertaken for this proposal. (Please use a separate box for each engagement/consultation).**

Consultation has taken place with internal services - Finance, Human Resources, Legal Services, Public Health, Communications, Equalities team and the Councils Consultation Officer in order to reassure decision makers that the content of the report and the plan are correct and meet the requirements of Council Policy making. As this is a statutory plan setting out performance and not the provision of a service public consultation is not necessary.

<b>Consultation Activity</b> None undertaken			
<b>Type of engagement/consultation</b>	e.g. focus group, survey, drop in, local, area panels, local engagement.	<b>Date</b>	dd/mm/yy
<b>Who attended/participated?</b>	e.g. general public, service users (specify if it was for a protected characteristic group e.g. Disability Forum).		
<b>Protected characteristics of participants</b>	Summary of the protected characteristic monitoring data.		
<b>Feedback</b>			
<b>6</b>	<b>Concise overview of all evidence, engagement and consultation</b>		
	None undertaken		
<b>7</b>	<b>How may the proposal affect each protected characteristic or group? The effect may be positive, negative, neutral or not known. Give reasons and if action is needed.</b>		
<b>Characteristic</b>	<b>Affect</b>	<b>Reason</b>	<b>Action needed Yes / No</b>
<b>Age</b>	Identifies elderly and the young as vulnerable groups where higher levels of priority will be given to investigations or inspections at premises where they live or attend.		
<b>Disability</b>	None		
<b>Gender reassignment</b>	None		
<b>Marriage and civil partnership</b>	None		
<b>Pregnancy and maternity</b>	None		
<b>Race</b>	Translated material and Interpretation services provided		
<b>Religion or belief</b>	None		
<b>Sex</b>	None		
<b>Sexual orientation</b>	None		
<b>Other (give detail)</b>			
<b>Further information</b>			

8	Does your proposal link with other proposals to have a cumulative effect on particular equality groups? If yes, give details.			(Delete one) <b>No</b>
9	Which justifiable action does the evidence, engagement and consultation feedback suggest you take?			
	A	No major change required		
<b>Action and monitoring plan</b>				
Action Date	Action	Responsibility	Outcome Date	Outcome
12/2/2020	Plan is considered at Cabinet	DElrington/S Gunther.	12/2/2020	Plan will be approved to proceed to Council or not.
27/2/2020	Plan is considered at Council	DElrington/Cllr Perry	27/2/2020	Plan will be approved or not
31/3/2020	Current plan concludes – review and implementation of new plan starts	DElrington, PRooney, SPowell	31/3/2020	Plan is concluded for 19/20

Update to EqIA	
Date	Detail
Use this section for updates following the commencement of your proposal.	

### Contact us

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