

Date: 23 March 2005

To: Heads of Service, Local Authority food hygiene and food standards departments
LACORS, LGA, CoSLA, NILGA, WLGA
CIEH, REHIS, TSI
Consumer and industry groups represented on the Agency's Enforcement Liaison Group
IT software companies serving Local Authorities

Reference: EPM 30/60
EPM 30/78
ENF/E/05/013

Dear Colleague

CONSULTATION

PROPOSED CHANGES TO THE LOCAL AUTHORITY FOOD LAW ENFORCEMENT MONITORING SYSTEM

RESPONSE REQUIRED BY FRIDAY 27 MAY 2005

This letter seeks your views and comments on the first phase of proposals to improve the monitoring system used by Local Authorities (LAs) to report food law enforcement activities to the FSA.

The key proposals are

- to simplify procedures for reporting data on inspections, for both food hygiene and food standards;
- revised outcome measures;
- measures of advisory and educational activity; and
- a matrix to measure each authority's overall performance.

Responses are required by Friday 27 May.

Background

The Food Standards Agency is currently undertaking an overall review of the monitoring system used for reporting on each LA's performance on the enforcement of food law. Consultation of all LAs will be carried out in two phases. These papers set out the first set of proposals emerging from the review, on which we seek your comments and views. These papers are also being copied to the Office of the Deputy Prime Minister and to the Department for Trade and Industry, for information.

Under the Food Standards Act 1999, the Agency is required to monitor the performance of enforcement authorities. The monitoring system is being reviewed for two reasons:

- to simplify the system, and to make the data returns more reliable, and
- to include in the system the important advisory and educational work which the LAs provide to local food businesses.

The Agency has already made some interim changes, in 2004, by moving to annual data returns, based on the financial year, and by requiring Heads of Service to validate the data.

In the Food Standards Agency's *Strategic Plan 2005-10* the Agency has set itself a target to:

'..... change the way we report on local authority enforcement activity by 2006 to recognise their important educational and advisory roles in helping local businesses to deliver higher standards of food safety, and work with local authorities to improve the accuracy, timeliness and relevance of local authority performance data'

To address this, we are working in partnership with LACORS, local authorities and software suppliers to design a better system. The review is to be completed by 2006, and LAs will be expected to implement the changes from 2007. Two working groups have been set up to develop specific proposals, which will be issued for general consultation in two phases, reflecting the separate progress of the two working parties involved:

- the Performance Strategy Group, comprising representatives from LAs, LACORS, the professional bodies, and Agency staff, to consider issues at the strategic level, and
- the Monitoring System User Group, comprising representatives from LAs, LACORS, and Agency staff, to consider issues of detail.

This month we have issued the first in a series of Newsletters on the review project. It is also available on the Agency's website, at

<http://www.food.gov.uk/multimedia/pdfs/monitornewsletter01.pdf>

Effects on stakeholders

The effects of the proposed changes will fall entirely on LAs themselves, and should simplify and lighten their administrative burden. There should be scope for some small cost savings to them in the long-term. There may be some start-up and training costs, within the total costs of introducing the new monitoring system being developed by the overall review. Other stakeholders should not be affected.

All known software suppliers for LAs have been consulted about the proposed changes, to ensure that their systems can be readily adapted if they are agreed. Feedback has shown that this will not be a problem.

Work of the Performance Strategy Group

The Performance Strategy Group (PSG), has been asked to:

- simplify procedures for reporting data on inspections, for both food hygiene and food standards;
- devise outcome measures that are more meaningful and relevant;
- measure advisory and educational activity; and
- develop a matrix to measure overall LA performance. The grading system could be similar to the system of five grades used for the Comprehensive Performance Assessment system.¹

Phase 1 Consultation

We would like to seek your views now on the PSG's proposals for simplifying the reporting of inspection data, and on a possible matrix for measuring overall performance. These proposals are set out in Annex A. The proposed matrix is not attached, but is available, in an Excel workbook format on the Agency's website, at <http://www.food.gov.uk/multimedia/spreadsheets/matrixversion10.xls>. This workbook shows the colour coding which guides the reader. If any LA is unable to access the workbook on the website, please contact us so that a hard copy may be sent. The draft data requirement is divided into three categories:

- (i) data which forms part of the matrix;
- (ii) data which supports the matrix; and
- (iii) data required for identifying national trends, for reporting to the Agency board and to the EU.

Comments should be addressed to the Agency's Monitoring Branch, either by e-mail to la.monitoring@foodstandards.gsi.gov.uk or by letter to Room 411C, Food Standards Agency, 125 Kingsway, London WC2B 6NH. Telephone enquiries should be made to 020 7 726 8419. Additional copies of these consultation papers can be found on the Agency's website at <http://www.food.gov.uk/foodindustry/Consultations/ukwideconsults/monitoringphaseone>

It is intended that the changes from the review will be introduced as a complete package in 2006, so as to avoid interim changes involving extra costs to LAs.

¹ Comprehensive Performance Assessment is a system used by the Audit Commission and the Office of the Deputy Prime Minister to measure the overall delivery of all major LA services.

Phase 2 Consultation

Further detailed work on the review will be required, for example, on the matrix scoring systems and on definitions of individual data requirements. There will be a second general consultation on this later in the year, which will start once the responses to this consultation on the first phase, on the PSG's proposals, have been collated and considered. The impact of revised EU data requirements under the Official Food and Feed Controls Regulation 882/2004 (replacing the Official Control Directive from 1 January 2006) are to be considered in a later phase of policy analysis work.

Publication of personal data and confidentiality of responses

As the publication of responses may include personal data, such as your full name and contact address details, please advise us of any objections to this by fully completing and returning the Publication of Personal Data Form (Annex B) together with your response to the consultation. Return of this form does not mean that we will treat your response to the consultation as confidential.

In accordance with the provisions of freedom of information legislation, all information contained in your response may be subject to publication or disclosure. If you consider that some of the information provided in your response should not be disclosed, you should indicate the information concerned, request that it is not disclosed and explain what harm you consider would result from disclosure.

Any automatic confidentiality disclaimer generated by your IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.

This consultation has been prepared in accordance with the Cabinet Office's Code of Practice on Consultation, available at: <http://www.cabinet-office.gov.uk/regulation/consultation/code.asp>. The Consultation Criteria have been reproduced at Annex C. For further details, please contact FSA Consultation Co-ordinator, Room 315B Aviation House, 125 Kingsway, London, WC2B 6NH. Tel: 0207 276 8630

Criterion 1 of the Cabinet Office Code of Practice states that a written consultation must be held for a minimum of 12 weeks for at least once during the development of the policy. This consultation is not being held for a full 12 weeks because it is the first phase of a broader consultation programme, exploring options as an overall package of proposals is developed.

Criterion 6 of the Cabinet Office Code of Practice states that a consultation must follow better regulation best practice, including carrying out a Regulatory Impact Assessment (RIA). This consultation is not accompanied by an RIA because the effects on LAs should not exceed the "Public Services Threshold Test" which specifies that an RIA is required if the extra monetary costs to public services will exceed £5 million per annum. However, we have little hard information on this, and would welcome your views on any start-up or ongoing costs which you feel may arise from these proposals.

Thank you, on behalf of the FSA, for participating in this consultation

GEOFF DEVILLE
Enforcement Division
Monitoring Branch

ANNEX A

PHASE ONE CONSULTATION ON THE PROPOSALS FOR CHANGES TO THE LOCAL AUTHORITY FOOD LAW ENFORCEMENT MONITORING SYSTEM

1. Colleagues are asked to let us have their agreement or disagreement with, or to give their broader views on, each of the following proposals:

- a. to reduce the number of categories of food premises from 10 to 6 (para 6);
- b. to reduce the number of inspection categories from 4 to 2 (paras 7-10);
- c. to change from reporting inspections planned (at the start of the year) and those achieved, to inspections due and those outstanding (at the end of the year) (paras 11-12);
- d. the proposed content of the draft matrix (paras 17-19),
- e. for advisory and educational work, see the worksheet page 'Advisory-Education-Awards (4.1)' in the proposed matrix (page 16), should the number of businesses that have received an award be reported in absolute terms, or on a "per 100 premises" basis? And should LAs be asked to report only those businesses that have received an award within the financial year being reported on, or to report all businesses which currently hold an award, even if from a previous year? (para 20),
- f. the broader data requirement for identifying national trends (para 22), and
- g. details of any extra costs which they think may arise from these proposals, with reasons why (paras 25-26).

PROPOSALS TO SIMPLIFY THE INSPECTION REPORTING PROCEDURES FOR FOOD HYGIENE (FH) AND FOOD STANDARDS (FS)

Current Arrangements

2. The current monitoring form is set out in Chapter 3 of the Framework Agreement on Local Authority Food Law Enforcement. Table 2.1 (FH) and Table 2.2 (FS), of Section 2, set out the detail of the inspections data to be reported by authorities to the Agency. Authorities are currently required to report:

- the total number of food premises in their area, broken down by 10 premises types (where the Official Control Directive (OCD) requirement is only for 6 premises types),
- the number of inspections/visits achieved against each premises type,

- the number of inspections planned (at the start of the year), by risk-rating category, and the number of these inspection achieved,
- number of premises to which inspections have been made (an OCD requirement), and
- details of in-year changes to that inspection programme, i.e. the number of food premises found to have ceased trading, and the number of A risk-rated premises (FH only) which are changed by the LA to another risk category.

Reason to consider change

3. Many local authorities feel that the current food hygiene (FH) and food standards (FS) inspection reporting procedures, which report inspections achieved against the programme of planned inspections set at the start of the year, on 1st April, fail to capture all of the inspection activities carried out during the year. Consequently, the Agency's assessment of their performance does not capture all of their inspection activity. The areas which are not adequately covered are the four types of "in year changes":

- (i) premises found to have ceased trading;
- (ii) hygiene premises downrated by the LA from category A, so that the second inspection is no longer needed;
- (iii) hygiene premises uprated to category A, so that a second inspection is needed; and
- (iv) newly opened premises (which often includes cases of change of ownership) which were not part of the programme.

Proposals

4. The proposals therefore seek to simplify the current system of reporting planned food law enforcement inspections and details of inspections achieved, and to bring the system into line with actual practice. Three specific changes are proposed:

- (a) to reduce the number of "types of premises" identified;
- (b) to reduce the number of lines for "inspections and visits"; and
- (c) to change from reporting on the numbers of inspections planned and achieved, to the numbers of inspections due, and those outstanding at the end of the year. This would enable the Agency to identify, and to report to the FSA Board, the percentage of due inspections achieved for that year.

5. The proposal to cease to submission of start of year plans will need to be kept under review, as it is not yet known whether the numbers of planned inspections may be required by the EU under the new Official Food and Feed Controls regulation.

(a) Reduce the number of types of premises identified

6. We propose to reduce the number of premises types to be reported from the current level of 10, set in the Framework Agreement, to 6, which are required by the EU under the Official Controls Directive. This would be achieved by combining 5 of the current

premises types (those for Slaughter-houses, Manufacturer processors, Packers, Materials and Articles Manufacturers and Suppliers, and Manufacture mainly selling by retail) into one new group, to be called 'Manufacturers & Packers'. LAs could decide whether they need to keep the 10 premises types for their own use, but the reporting requirement would be reduced to 6.

(b): Reduce the reporting of “inspections and visits”

7. We propose to reduce the number of inspection categories to be reported from four to two.

8. The four categories in the current monitoring form are:

- Full Inspections,
- Other inspections,
- Re-visits,
- Sampling & Advisory visits.

9. The current Code of Practice² specifies only two types of inspections: Primary (ie. full) inspections, and Secondary (ie. all other) inspections.

10. The data on the number of premises subject to official controls in the year, currently collected in line 6 of Tables 2.1 and 2.2, would still need to be collected, as it is required for OCD purposes.

(c): Changing from reporting inspections planned and those achieved, to due inspections achieved

11. We propose to change fundamentally how authorities report numbers of inspections of food premises. Although authorities will still have to have inspection programmes at the local level, based on their risk ratings of premises, they would no longer be required to:

- submit their planned annual inspection programme to the Agency at the start of the year;
- report inspection achievement against that start of year inspection programme, or
- report details of the number of food premises ceased trading and the number of A risk-rated premises (FH only) changed to another category.

² The Code of Practice is the statutory guidance issued by the Agency to all LAs on food law enforcement. The current version was issued to LAs in England and Scotland in October 2004, to LAs in Northern Ireland in January 2005 and to LAs in Wales in February 2005. This Code of Practice is subject to revision to take account of the coming into force of the new Official Food and Feed Controls Regulation from 1 January 2006.

12. Authorities would be required to report at the end of the financial year, for food hygiene and/or food standards, as appropriate:

- (a) the number of all “due” primary and secondary inspections carried out during the financial year (whether part of the start of year programme, or arising from in-year changes), by premises type, and by risk rating category. Unrated/new premises would be logged under the risk rating allocated following the primary inspection. All other primary inspections would be logged under the risk rating awarded prior to the primary inspection,
- (b) the number of “due” primary and secondary inspections which are outstanding at the end of the year, by risk-rating category. Those not risk-rated would be reported as un-rated, These two sets of information would enable the Agency to identify the percentage of due inspections achieved for that year,
- (c) the total number of “due” primary and secondary food hygiene inspections to ‘Approved Premises’. Under the Code of Practice, these premises are outside the formal inspection programme for food hygiene, because their inspections are driven by the product-specific food hygiene regulations, not by risk-rating by the LA). However, these premises do remain part of the normal inspection programme for food standards, and
- (d) the total number of “due” primary and secondary food hygiene inspections to ‘Approved Premises’ which are outstanding at the end of the year.

PROPOSALS FOR A MATRIX TO REPORT LAs’ OVERALL PERFORMANCE

Current arrangements

13. The current monitoring form contains a section on outcome measures (part 4 of the form), but this is limited in scope, and many LAs do not complete it. The current data requirements focus strongly on inspections and samples, and do not specifically cover educational and advisory work.

Reasons for change

14. The Agency is keen to:

- develop the current outcome measures so that they are more meaningful and relevant, and
- to reflect the broad range of food law enforcement activities.

At the same time, the information to be collected needs to be kept simple and as short as possible.

Proposals

15. During the development of the matrix the PSG identified that the information to be collected on food law enforcement activities from local authorities would need to serve several purposes, and would include:

- key data, to feed into the matrix, on each LA's level of service delivery;
- some supporting data to allow key calculations for the matrix, and
- additional data required for reporting national trends to the FSA Board and to the European Union under Directive (89/397/EEC) on Official Controls of Foodstuffs.

16. A copy of a draft matrix and data requirement can be found in an excel workbook on the Agency's website at <http://www.food.gov.uk/multimedia/spreadsheets/matrixversion10.xls>. Footnotes provide technical details/explanations on the data requirements. The excel workbook contains 20 individual tabs, for 20 pages. The workbook is colour coded to distinguish sections for LAs to complete (in white) from sections where the Agency will make calculations (in blue). Points to note and two specific consultation questions (see para 21 below) are in yellow.

Content of the Matrix

17. The content of the matrix has been designed for considering each LA's level of service delivery generally, and is not intended to cover every aspect of an LA's actions. The matrix will be based on the following key indicators:

- the percentage of all due high risk (risk ratings A-C for Food Hygiene and A&B for Food Standards) inspections achieved in the financial year, to include both primary and secondary inspections;
- the number of premises inspected in the financial year where the risk rating is changed, (risk ratings A-C for Food Hygiene and A&B for Food Standards only);
- the number of inspected premises where the confidence in management score has changed, for the higher risk rating categories (risk ratings A-C for Food Hygiene and A&B for Food Standards) in the financial year. To simplify data collection arrangements it is proposed that the supporting data tables for this outcome measure would be based on numbers of premises rather than percentages;
- the total number of samples taken (both formal and informal), per 100 premises; and
- for advisory and educational activities, the presence of an award scheme, of promotional activity and/or educational schemes. The data to be collected would be in a 'YES/NO' format. Any consideration of the nature of these actions would be left to any audit discussion with the individual LA. We recognise that specific guidance

will be required to define the terms used, for example, *'Number of Advisory Interventions'*, to ensure a consistency across the UK. This work will form part of the second phase.

18. The proposed content of the matrix has deliberately been kept short. If you wish to argue for additional areas to be included in the matrix, please tell us, with an explanation of why you feel that the extra data demand would be justified.

19. However, the PSG fully recognised that there may be specific local circumstances affecting individual LAs and their service delivery, which should be identified. Examples could include high levels of “home authority” work for nationwide businesses, or local action against major suppliers of illegal meat. The proposals therefore include a free text box, limited to 250 words, on page 2 of the proposed data requirement (the ‘cover sheet’ of the excel spreadsheet), where LAs may report any particular local factors.

20. On advisory and educational work (see the worksheet page ‘Advisory-Education-Awards (4.1)’ in the proposed matrix), there are two specific questions where we seek your views:

- should the number of businesses that have received an award be reported in absolute terms, or on a “per 100 premises” basis? and
- should LAs be asked to report only those businesses that have received an award within the financial year being reported on, or should they be asked to report all businesses which currently hold an award, even if from a previous year?

21. The scoring method for the matrix has yet to be considered by the PSG. The proposed matrix contains some illustrative examples.

Data for national trends

22. For reporting national trends to the FSA Board and to the European Union under the Official Control of Foodstuffs Directive (89/397/EEC), data will need to be collected on:

- details of the numbers of food premises and inspections made to such premises;
- information on enforcement actions;
- a revised data set on complaints received by LAs, which will be simplified into three categories:
 - food;
 - food premises, and
 - food poisoning (and suspected food poisoning) cases;

and

- formal and informal sampling data in the format agreed during the earlier consultation in 2004 on the interim changes to the Monitoring Form for 2004/05 and 2005/06 - i.e. restricted to main product headings

Summary

23. To summarise, the content of the proposed matrix therefore includes:

- Due inspections achieved (pages 3 and 4 of the excel workbook. Supporting data columns H-K of pages 5 and 6);
- Official samples per 100 premises (page 18 of the excel workbook. Supporting data – line 1 of pages 5 and 6 and pages 19 and 20);
- Inspection outcomes (pages 3 and 4 of the excel workbook. Supporting data – columns L, M and N of pages 5 and 6 and pages 7-11) and
- Advisory and Educational activities (page 16 of the excel workbook. Supporting data – same page).

24. The future data requirements on Imported Foods and on Animal Feedingstuffs were outside of the remit of the PSG, and will be considered separately.

COSTS TO LAs

25. Normally, a consultation exercise includes a Regulatory Impact Assessment (RIA), to measure the costs arising from the proposals. In this case, we believe that the effects of the proposed changes will fall below the threshold test of £5 million per annum, because:

- a. the changes to the recording of inspection data, with the removal of the need to report on in-year changes to the initial programme, should make data returns simpler; and
- b. the proposed matrix and data requirement largely comprises information already provided by LAs. Only the advisory and educational questions are new, and they are simply Yes/No questions. Therefore any additional costs from that change should be minimal.

However, we do recognise that there may be start-up IT and staff training costs, within the total costs of introducing the new monitoring system being developed by the overall review.

26. Consequently, no RIA has been drafted. However we recognise that we lack detailed information. Therefore we should be grateful for your views on whether there would be any extra costs (start-up, or on-going) for LAs from these proposals, and, if so, of what magnitude. This will help us to prepare an RIA if one is needed.

**Food Standards Agency
Enforcement Division**

March 2005

ANNEX B



Privacy Statement

The **FOOD STANDARDS AGENCY** is totally committed to complying with the 1998 Data Protection Act principles that protect facts and opinions about the individual. Any personal information that you provide will only be used for a specific purpose. We will not pass on personal information to others outside of our organisation unless the Data Protection Act allows us to do so. *If you have concerns about your personal data please contact the Food Standards Agency Data Protection Officer at*

Data.Protection@foodstandards.gsi.gov.uk



Publication of Personal Data

Please note that the Food Standards Agency may publish details that you supply in legitimate pursuit of the functions of the organisation.

As the publication of responses in full may include personal data (such as your full name and contact address details), would you please let us know if you object to us using this information.

Please tick the box below, complete the relevant details and return this form (together with your response) to indicate your objection.

I **do not** agree to the publication of my personal details.

*** If no objection is received we will assume that you consent to full disclosure of your personal details and these may be published.**

Full Name

Full postal address

To comply with the *Data Protection Act 1998*, it is essential that we keep our records up to date. Would you therefore please inform us if your personal details change in any way.

This form has been issued by:
If you have any queries, please contact:

FSA Monitoring Branch

Jennifer Reynolds, Tel: 0207 276 8419

General information about the most recent Data Protection Act can be viewed on the Information Commissioner's Office website at www.dataprotection.gov.uk.
For general enquiries you may contact Tel: 01625 545745

ANNEX C

CABINET OFFICE CODE OF PRACTICE ON CONSULTATION

THE SIX CONSULTATION CRITERIA

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

