

GWYNEDD COUNCIL CABINET



Report to the Cabinet

Date of meeting:	31 July 2018
Cabinet Member:	Councillor Dafydd Meurig
Contact Officer:	Gareth Jones, Senior Manager, Planning and Public Protection Service
Contact Number:	34092
Item Title:	Review of Public Protection's level of resources

1. DECISION SOUGHT

- 1.1 That the Cabinet accepts the report.
- 1.2 That the Cabinet agrees that £70 thousand of the department's existing income is diverted to increase staff resources, to meet the food law enforcement requirements in accordance with this report and therefore agrees that the Environment Department:
 - Implements one of its proposed savings schemes (in relation to income from road closures) early during 2018/19
 - Utilises £70 thousand additional income from this savings scheme for the purpose of the department, in order to implement the permanent transfer of budget to finance 2 posts in the food law enforcement service.

2. REASON WHY DECISION IS NEEDED

- 2.1 Following the audit by the Food Standards Agency (FSA) in February 2016, and its subsequent audit in February 2018, they have raised concerns regarding the Council's level of resources to deliver its food law enforcement service in respect of food hygiene and standards. These concerns were reiterated in subsequent letters from the FSA at a recent meeting with the Chief Executive, Senior Officers and the Cabinet Member.
- 2.2 We acknowledge the FSA's concerns and appreciate their willingness to advise us on the provision of the food law enforcement service to the future. Nevertheless, it is essential that we look carefully at the likely level of additional resource required to meet the deficit, as well as look at how we will create the additional resource, without leading to further unacceptable impacts to the Council.

2.3 We are asking for a decision as a result of:

- The potential risks to the residents of Gwynedd and to the Council if we do not put positive measures in place to provide additional resources in an attempt to meet the legal requirements in terms of food hygiene and food standards.
- The situation that has arisen in terms of the lack of resources is mainly associated with the cuts that have been implemented over the years in the Council's Public Protection Service.
- The inability to direct existing resources within the Public Protection service, or the Council departments, in order to address the deficit.

3. INTRODUCTION

The Audit of the Food Standards Agency (FSA)

- 3.1. Concern relating to lack of resources for enforcing food law is a matter that has been highlighted specifically as a result of the FSA's audits in February 2016 and then in 2018, as well as correspondence from the FSA since. Confirmation of those concerns can be seen in the FSA's letter dated 11 April 2018, addressed to the Chief Executive (See appendix 1).
- 3.2. The FSA's letter (see appendix 1) refers to an Action Plan agreed with the Council following its audit, which contained 34 recommendations that the Council needed to address over a specific time. They draw particular attention to the recommendations relating to the provision of resources to undertake intervention / inspection work in the fields of food hygiene and food standards. The specific recommendations in the Action Plan include:

Ensuring that an appropriate number of authorised officers have been appointed to undertake the official food hygiene and food standards controls in accordance with the Food Law Code of Practice.

There are two further recommendations associated with the above which note:

Ensure that food hygiene interventions / inspections are undertaken at the required frequency determined by the Food Law Code of Practice.

Ensure that food standards interventions / inspections are undertaken at the required frequency determined by the Food Law Code of Practice.

- 3.3 Therefore, a consequence of the lack of resource is that the interventions / inspections for Gwynedd food businesses, in terms of food hygiene or food standards, are not being undertaken at the required frequencies.

4. REASON AND JUSTIFICATION BEHIND THE DECISION

What are the legal requirements in relation to food law enforcement?

- 4.1 The main purpose of the **food hygiene** arrangements is to ensure that food and drink sold for human consumption, manufactured, stored, treated or used in the County, is free of any risk to the health and safety of the consumer. The frequency of the interventions / inspections that need to be undertaken at food businesses are prioritised subject to the risk category previously designated to the business. The frequency required varies from interventions / inspections every 6 months for businesses in the highest risk category (namely A), to a strategy every three years for businesses in the lowest risk category (namely E).
- 4.2 Responsibilities in relation to **food standards**, relate to ensuring that food produced and / or sold within the County comply with constitutional and labelling requirements. The Council also has responsibility to ensure that food businesses provide full information in relation to allergens contained in the produce they provide to customers. These interventions / inspections undertaken based on the risk category of the business vary in terms of frequency from 12 months (minimum) for risk category A (the highest risk), to every 5 years for businesses in risk category C (the lowest risk).

How is the food law enforcement service provided in Gwynedd?

- 4.3 The food law enforcement service is provided by the Welfare, Health and Safety Unit within the Public Protection service (Environment Department), with input also from officers from the Trading Standards Unit. In April 2018, the Council was responsible for enforcing food safety requirements at 2,155 food businesses in Gwynedd.
- 4.4 Providing the food safety service includes programming inspections 12 months ahead every year and in 2018/19, 1067 food hygiene inspections and 601 food standards inspections have been programmed. As well as carrying out inspections in accordance with the annual programme, the work also includes:
- Establishing a current register of every food premises within the County
 - Re-visits, where required, following programmed inspections
 - Investigating complaints that businesses do not comply with the relevant requirements and enforcing food law when required (this could mean prosecution in some cases)
 - Sampling food and water as part of business inspections
 - Dealing with health and safety matters arising from food hygiene and standards inspections and investigate cases of workplace health and safety.
 - Investigating outbreaks associated with water and infectious diseases, excluding cases of food poisoning.
 - Authorising specific food establishments and assessing their operational arrangements by following a specific programme of inspections.
 - Maintaining the score ratings for food hygiene in Gwynedd
 - Providing advice to businesses and promoting food safety.

- 4.5 For 2018/19, between the officers of the Welfare, Health and Safety Unit and the Trading Standards Unit, there are 11.75 FTE officers who contribute towards the above-mentioned duties. It is emphasised that the work done is specialised and there is a need for relevant qualifications in order to undertake the work.
- 4.6 As part of the cuts implemented as a result of the Gwynedd Challenge in 2016-17, the Council decided to cut two posts in the Public Protection Service, which included a Public Protection Officer and a Health and Safety Officer. Also during this period, one Public Protection Officer left and an officer was appointed in his place who required training and relevant qualifications, in order to achieve all food safety duties in full.
- 4.7 The service has sought to mitigate the side-effects of losing staff by prioritising the work based on risk, and therefore, the inspections of businesses in the highest risk category have received priority. The service had also attempted to qualify and train officers in a range of work fields, in order to offer opportunities to coordinate food hygiene, food standards and health and safety inspections at the same time, if possible. It was also intended to attempt to deal with any backlog of inspections that had not been carried out gradually over 2 to 3 years. The service also intends to adopt more efficient arrangements for recording inspections, through the use of technology out on site, which will reduce the existing administrative work. It must be noted that legislation such as the Food Hygiene Rating (Wales) Act 2013, and the Food Information (Wales) Regulations 2014, have placed an additional substantial enforcement burden on Councils in terms of the work that must be done in the food hygiene and food standards field.
- 4.8 Despite the efforts to attempt to mitigate the side-effects of staff cuts, it is likely that the greatest impact of recent cuts has been seen during 2017/18, with this being highlighted in reports on the performance of the food safety service. Although we have attempted to prioritise inspections for high-risk businesses, and having received additional resources in February / March 2018 to carry out 35 inspections over weekends, 8 high-risk food hygiene inspections were not carried out during 2017/18. Also, a backlog of 73 low-risk businesses had not been inspected during the period.
- 4.9 By now, the service reports on performance measures that look at all food establishments over the year (high-risk and low-risk) that have received a food hygiene and food standards inspection in line with the required frequency. The situation at the end of June 2018 was that 212 out of the 243 programmed inspections had received a food hygiene inspection, with a backlog of 45 additional inspections which needed to be carried out as well. In terms of food standards inspections, the situation at the end of June 2018 was that 107 out of 135 businesses had been inspected, with a backlog of 192 inspections that should have been carried out last year on top of this. In terms of the inspections in general, it is noted that the FSA, historically, had placed the main priority on carrying out the food hygiene inspections, although it is noted that the requirements in terms of food standards inspections need to be met also. As previously noted, we have sought to adopt a procedure where food standards inspections are carried out at the same time as food hygiene inspections where possible.

- 4.10 It is believed that performance figures in terms of what the current food safety service can achieve justify the concerns that the FSA have highlighted with the Council. This led to a meeting with the Chief Executive, Senior Officers and Cabinet Member during May 2018 and the subsequent letter in June 2018 (See appendix 2) from the FSA.

How much additional resources are needed in an attempt to meet food safety law enforcement requirements?

- 4.11 It is emphasised that the FSA's main concern with this is that the Council has insufficient resources to meet the legal requirements relating to food hygiene in the main, but also food standards (noting the additional requirements on the Council as a result of recent legislation). It was very important in our meeting in May 2018, that we gave a firm commitment of our intention to address the lack of staff resources, in order to show that we are attempting to work towards achieving our statutory duties. It was also important to note that addressing the lack of resource would not change the situation overnight and that this would be something that would happen gradually over time. Also, it must be noted that it is difficult to estimate the scale of the resource required as it is difficult to anticipate what can arise from year to year, considering the nature and variety of the service's duties.
- 4.12 Following an assessment of how much and what type of resources are believed to be required, including looking at historical workloads and patterns, the current workload and the likely backlog over time, it is believed that a permanent staff resource of 2.25 at least is needed, with this to be achieved over time by:
- Employing 2 new posts to include an Environmental Health Officer and Enforcement Officer (or equivalent). This would need an additional permanent budget of around £70,000. It is noted that during the meeting with the FSA, they estimated that the Council would need at least £70,000 to address the issue.
 - Arrange that an existing enforcement officer follows a masters degree in environmental health (including aspects of food regulation enforcement). This is already in progress and is being achieved within existing budgets.
- 4.13 To show our commitment and seek to respond quickly to the FSA's concerns, the service has recently appointed an environmental health officer (temporary) for 12 months, but there is no permanent budget available for this.
- 4.14 We have confirmed the above to the FSA following our letter dated 20 June 2018 (see appendix 3), noting at the same time that we will be asking the Cabinet, by the end of July 2018, for support so that we can direct a permanent budget of £70,000 to employ two additional officers for the Public Protection Service. We are yet to receive a response from the FSA.

Is it possible to direct £70,000 from the existing Public Protection budget?

- 4.15 The starting point in terms of looking at an additional resource, is to consider whether there are other opportunities to direct resources out of the existing Public Protection budget. It is believed that the starting point with this is to consider the nature of the Public Protection Service's work as a whole, how much cuts have been made in the past and the current staff resource in the Service.
- 4.16 The service is a part of the Planning and Public Protection Service and includes three units that relate specifically to the Public Protection fields of work, namely, Welfare, Health and Safety Unit, Trading Standards Unit and Pollution Control and Licensing Unit.
- 4.17 The nature of the work of the Welfare, Health and Safety Unit has already been explained, along with the fact that the Trading Standards Unit also contributes towards the work duties. As well as contributing towards food safety work, the statutory duties of the Trading Standards Unit also include:
- Safeguarding the health and welfare of the public from potentially harmful business practices, by ensuring that retail businesses adopt and maintain arrangements and comply with the legal requirements that are relevant to their business. The priority is attempting to tackle fraudulent trading practices, protecting vulnerable users and improving health by means of functions including fair trading, dealing with scams, safety of goods, dealing with fake goods, undertaking weights and measures requirements, etc.
 - Carrying out inspections of establishments that produce, treat and distribute animal feed in accordance with the FSA's requirements and any subsequent action. In April 2018, it is noted that there were 1836 of these businesses in Gwynedd - the majority of which are farms. The FSA has adopted a specific procedure that is coordinated regionally in order to inspect these businesses and this includes a target regarding the number that need to be inspected annually. The target for 2018-19 for Gwynedd is 102 - down from 130 for last year. It is noted that this can change from year to year - it can go up or down.
 - Carrying out inspections relating to animal health including dealing with cases relating to animal diseases and take relevant enforcement action when required.
 - Dealing with markets and fairs.

- 4.18 The work carried out by the Pollution Control and Licensing Unit includes the following statutory duties:
- Pollution Control - the purpose of the work is to safeguard the public's health and welfare from unsafe practices and includes the following duties:
 - Investigating cases / complaints relating to pollution and dealing with environmental permits, including inspecting businesses with industrial processes, dealing with abandoned cars and providing specialist advice,
 - Monitoring and controlling air pollution and dealing with cases of contaminated land
 - Undertaking the Council's duties in relation to public health
 - Inspecting private water supplies to ensure that they meet the relevant hygiene standards
 - Undertaking enforcement duties where needed in the context of the above-mentioned work fields.
 - Licensing - the purpose of this work is to support and protect users, businesses and communities and the work involves the processing of enforcement duty licence applications, including the licensing of:
 - Caravan parks
 - Taxis (including driver, vehicle and operator licences).
 - Alcohol, Gambling and Entertainment (including premises and events licences)
 - Animal boarding / protection establishments
 - Scrap metal businesses
- 4.19 It is noted that the three Public Protection Units provide a statutory service and the main purpose of the work is safeguarding the health of Gwynedd's residents; however, providing support to businesses is also an important element of the work.
- 4.20 Substantial changes have been made to the Public Protection service over the years, particularly considering the situation in 2011/12 when a Senior Public Protection Manager was in post, along with 7 Units and 7 Unit Managers. The 7 Units were as follows:
- Food Hygiene
 - Health and Safety
 - Pollution and Pest Control (Pest Control has now transferred to the Property Service)
 - Licensing
 - Trading Standards (Retail)
 - Trading Standards (Industry)
 - Operational Support
- 4.21 As can be seen, the current situation is that six of the Units have merged to create three Units that carry out Public Protection work, and the Operational Support Unit has merged with the Planning Support Unit to create a joint Support Unit for the Planning and Public Protection Service. A substantial change has been seen in the service's structure over the past six years with a number of jobs being cut and expertise being lost as a result. See below the changes in Public Protection staff numbers (including Support staff), over the past six years:

Year	Number of staff
2011/12	63.10
2017/18	42.80

- 4.22 It can be seen that approximately 20 posts have been cut from the Service over the past six years, which equates to a 32% cut in the number of Public Protection staff (including Support staff). The most recent cuts implemented in 2016/17 (2 – permanent posts) - mainly affected the Welfare, Health and Safety Unit; however, it is emphasised that cuts have been made across the three current units over the six years. All three units have experienced side-effects as a result of the cuts implemented. It is likely that those effects are most evident in the Welfare, Health and Safety Unit (and the Trading Standards Unit that contributes to the food safety work), due to the concerns expressed by the FSA.
- 4.23 Cuts of 32% in staffing levels over six years have affected the resilience of the three Public Protection Units, with this being highlighted during periods of staff absences (annual leave or sickness), or during periods where complex cases need to be prioritised. When the Department was looking for potential savings schemes recently, all of the Department's Service Units were considered. It was concluded that further cuts in the three Public Protection Unit, due to the nature of the work, the associated risks and the previous cuts, would likely have the greatest impact on the residents of Gwynedd.
- 4.24 If an additional resource of £70,000 is obtained for the Public Protection Service, it is believed that there is an opportunity not only to address the lack of resources in terms of the food safety work, but this resource may also offer more resilience to the three Public Protection Units.
- 4.25 Considering the nature of the three Public Protection Units, and the cuts implemented over the years, it is not believed that it is possible to direct £70,000 from the service's existing budget, without having a further negative impact on the service provided. The additional requirements on the Council following various legislation that has come into force over the past six years, on top of the cuts, has made the situation even more challenging. It is noted that discussions have been held over time with the Adults Department, but it is understood that there is no capacity within the service that deals with private housing, to address the deficit.
- 4.26 Considering the circumstances, we therefore ask for support to direct £70,000 of income out from one of the Department's savings schemes that relates to road closure income, in order to address the lack of resource.

5. NEXT STEPS AND TIMETABLE

- Divert £70 thousand for 2 permanent posts (Environmental Health Officer and Enforcement Officer (or equivalent) in the Public Protection Service.
- Advertise and appoint as soon as possible and put in place arrangements for training.

6. ANY CONSULTATIONS UNDERTAKEN PRIOR TO MAKING THE DECISION

- 6.1 See the appendices below which include the correspondence and discussions held between the Council and the FSA over the last few months.

7. VIEWS OF THE STATUTORY OFFICERS

Chief Finance Officer:

Our financial projections, as reported to the Cabinet on 22 May 2018, forecast that there will be a funding deficit by 2019/10, as the Government grant is likely to be insufficient to meet salary inflation and the demand for Council services.

Therefore, it is inevitable that we will need to identify further savings, and the Environment Department has been preparing conscientiously in order to contribute towards the corporate funding deficit. However, it can be seen in the report submitted that there is a need to increase the staffing resource now, in order to meet food law enforcement requirements.

The solution proposed here is to harvest £70,000 of additional income by realising the 'road closure arrangements income' saving scheme during 2018/19, and commit the £70,000 to increase the food law enforcement staffing resource. I confirm that this is practically possible, but of course, it will mean that the product of the relevant saving scheme will be committed on a permanent basis, and will therefore be unavailable to contribute towards the corporate funding deficit in 2019/20.

The Cabinet will need to consider the strong justification for increasing the food law enforcement staffing resource, bearing in mind that committing this saving / income of £70,000 to the Environment Department could result in a cut in another Council service.

Monitoring Officer:

The statutory duty to enforce food standards under the Food Safety Act 1990 and related Regulations lies with the Council. Statutory guidance as to how to exercise this duty is provided by the Food Law Code of Practice (Wales) 2014. Having regard to this framework the recommendations in the report support the achievement of these requirements.

Appendices

Appendix 1: Letter dated 11 April 2018 from the Food Standards Agency

Appendix 2: Letter dated 5 June 2018 from the Food Standards Agency

Appendix 3: Letter dated 20 June 2018 from the Council