

Scottish Authority Food Enforcement Re-Build (SAFER)

1 Purpose of the paper

- 1.1 In June 2022 the Board was presented with a paper that summarised the demand of food law delivery across the 32 Scottish Local Authorities (LAs) highlighting the challenges of maintaining a professional workforce, funding of the service and current and future challenges being faced. The Board agreed that the risk of current delivery model failure required urgent attention by FSS and escalation to the Minister.
- 1.2 In October of the same year the Board was asked to agree the principles and key aims upon which FSS will base the re-design of the current Scottish Local Authority (LA) Food Enforcement framework.
- 1.3 This paper presents the main workstreams and architecture of the Programme and outlines proposed timelines which the Board are asked to discuss and accept.
- 1.4 The Board is asked to:
 - **Commission** the Executive to work in partnership with key stakeholders to develop the future vision of delivery of food and feed official controls
 - **Discuss and Accept** the proposed work packages and timelines
 - **Discuss** their risk appetite to accepting that investment failure will result in the SAFER Programme taking longer and limit its level of ambition and record the conclusion during the Risk Appetite Board paper discussion
 - **Agree** to the proposal for a Risk Summit with key stakeholders if required

2 Background

- 2.1 Our food safety system is essentially a preventative model based on the understanding and identification of risks which are then managed and controlled. Primary responsibility for food safety lies with the food business operator but our Official Controls rely on verification and assurance. Currently this comes through two ways: the first through sampling which is undertaken by businesses and regulators and also through face-to-face inspection and intervention. The model is essentially a 1980s model which encourages frequent oversight and where necessary intervention. We now have the situation where both staff numbers and sampling volumes are reducing which means the system of prevention through assurance is increasingly at risk.
- 2.2 The risk of not developing a modernised, digitally led, fit for purpose system is not low cost or no cost. The Food Standards Agency Cost of Illness model estimates that the total burden for the UK from foodborne illness is approximately £9bn, which would equate to a cost of approximately £750 million per year in Scotland. Economically, food and drink exports are also significant for Scotland with the food

and drink export market worth £8bn in 2022, an increase of 30.6% from 2021 according to HMRC. While Scotch Whisky is the largest in value, fish, meat and other products are also exported. Our system of prevention through assurance isn't just about the prevention of illness it is also about the facilitation of trade which is even more important since EU exit. This year's Joint Report on Food Standards with FSA highlighted the risks to EHO and FSO numbers, but the answer is not simply to increase staff levels alone. Our system needs to be modernised and can be much more efficient and effective than it is. If we don't change then the inevitable consequence will be less assurance and verification, higher incidence of foodborne illnesses and increasing levels of concern from trade partners.

3 Scottish Authority Food Enforcement Re-Build (SAFER)

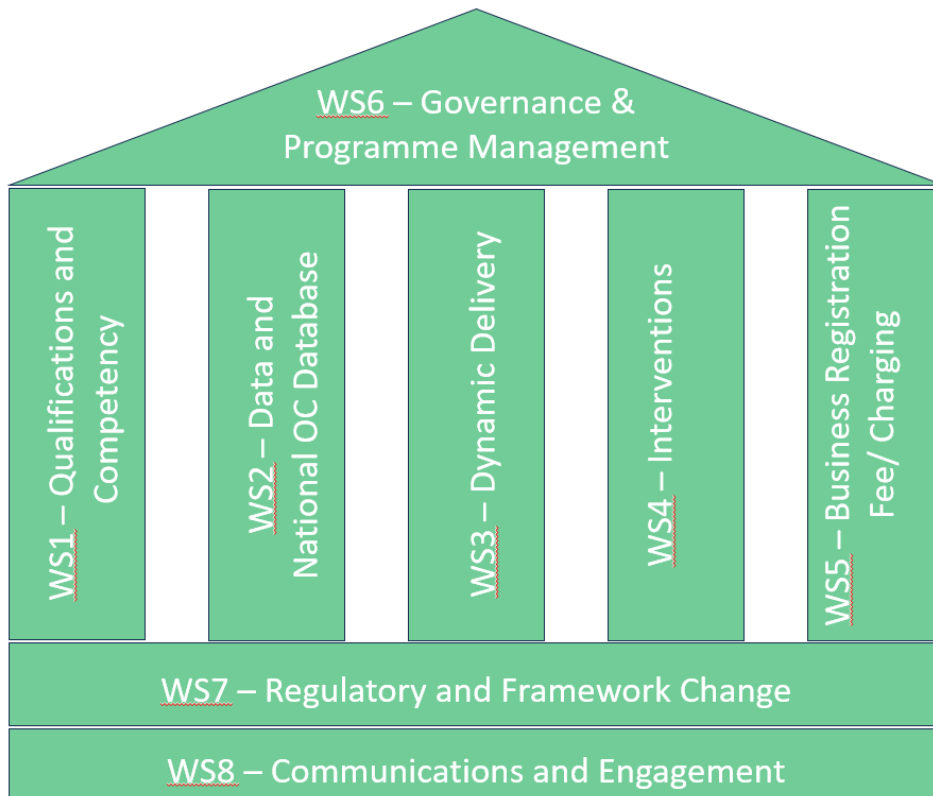
- 3.1 SAFER intends to undertake a wide ranging and radical revision of the food law delivery regime across the three broad categories:
1. Increasing resources; through a revision of competencies, qualifications, and pathways into the profession, combined with options for raising additional revenue.
 2. Decreasing demand through using data and intelligence to focus on the highest risk activities combined with a move to greater degree of business self-service in demonstrating compliance with legal requirements.
 3. Increased efficiencies through enhanced inspection techniques, greater use of digital technology and the introduction of a range of novel interventions.
- 3.2 The SAFER Programme is intended to be delivered utilising the 5th edition of the "Managing Successful Programmes" (MSP) approach to programme management. This is a recognised and structured approach to the delivery of critical complex programmes of work.
- 3.3 MSP identifies specific roles and functions and a structure of documentation required to support the programme. To ensure robust foundations for the programme it will be necessary to ensure these are in place and that the necessary resource is provided to operate and deliver. Proposed roles and structures to support the delivery of SAFER are outlined in Annex 1.

4 Vision Statement

- 4.1 The vision of SAFER is to:
- Modernise the delivery of Food Law Enforcement in Scotland to ensure it is sustainably resourced, focused on risk, and highly efficient - utilising technology to support businesses and Food Safety Professionals to provide safer food for Scotland.

5 SAFER Workstreams and Aims

5.1 The diagram below indicates the intended workstreams



5.2 Workstream 1

The Key Objective for workstream 1 is to increase the resources available to Local Authorities in Scotland to deliver food law. The most recent figures for this workforce and the challenges of training and recruiting professionals are outlined in Annex 2.

The purpose of the Workstream is to:

- Re-design the existing Competency Matrix to take account of alternate qualifications, experience and skills to deliver appropriate food law controls.
- Identify & engage with academic institution(s) to design and produce training/ syllabus for alternative qualifications (including modern apprenticeship) which would contain practical & and assessment/certification elements.
- Understand existing barriers to entering the food law enforcement profession and work with existing bodies to raise awareness and promote a Food Law Enforcement career for school leavers and those with alternative qualifications looking to join the profession.
- Work with existing certification bodies to refine and expedite existing routes into the profession.

5.3 Workstream 2

The Key Objective for Workstream 2 is to develop a new and enhanced centralised national food business database that will support the delivery of official controls in Scotland as well as future cost recovery frameworks, identifying the key data requirements of Food Law Enforcement practitioners (LA), Food Business Operators (FBOs) and FSS to support utilisation of data to target activity at highest risk areas.

The purpose of this Workstream is to:

- Identify key user requirements of a National OC database which Enforcement officials would be required to input into directly (not via their existing MIS) and map user inputs and outputs to develop a Common Data Standard to ensure that all reports are against standard information presented in a consistent manner. This will include user research prior to developing any digital solution in line with the Digital Scotland Service Standard (DSSS)
- Identify data governance standards and what data analysis is required to ensure the data generated is capable of being robust evidence on which to base intervention decisions
- Work with Scottish Government Legal Department to identify the key legislative powers and limitations in the development and delivery of a national OC database i.e. (ownership, GDPR, security etc). As a database with high value contents its security is critical.
- Consider the current databases used by FSS e.g. the Shellfish SHS 2 system, Feed System and Scottish National Database and assess their potential to be developed further for this purpose.
- Liaise with other Scottish Government Directorates to identify any systems already in development that could be adapted for our use thus reducing the time required in building an FSS bespoke system. To date, a number of key contacts have been approached with promising discussions in hand.
- If required, lead the development of the Procurement Specification and engage with SG Procurement to procure a data solution which could require the development of an entirely new database structure or the adaptation of an existing database framework. The Procurement Specification will include (but not be limited to):
 - Data requirements
 - Data analytics/Reporting requirements
 - Cyber Security requirements
 - Data protection requirements
 - Technical requirements
 - Interface with Finance systems

5.4 Workstream 3

The Key Objective for Workstream 3 is to help deliver effective savings to Local Authorities via the development of dynamic systems and approaches to drive an increase in efficiencies within the food law delivery service. This workstream also aims to provide tools to Food Business Operators (FBOs) during the registration process to facilitate a much greater degree of business self-service and self-assessment.

The purpose of this Workstream is to:

- Develop a Food Law Portal for use by Local Authorities and FBOs to support their requirements during FBO registration process ensuring legislative requirements are met.
- Ensure the Portals will act as the front-end dashboard to input data into the National official controls (OC) database and consist of:
 - An access portal to allow Enforcement Officials to directly provide information to support their delivery of official controls, including but not limited to: Interventions (Remote and in person), complaints, letters, notices, service plans, officer training records/Competencies etc. which would be stored in the national database.
 - A Food Law Business Portal (FLBP) to allow FBOs to register their food business online and undertake a user journey dependant on their activities providing targeted self-assessment tools and guidance before significant LA involvement may be required.
- Review and update existing guidance and tools to be made available via the FLBP to provide targeted support to FBOs in their self-service and self-assessment.
- Determine the legislative requirements to facilitate centralised Food Business Registration.
- Develop electronic, editable documentation to support officers in the field such as digital inspection forms, notices, letters etc.
- To identify tools to support officers in the field to access the Food Law Portal 'live' during their inspections and upload intervention information.

5.5 Workstream 4

The Key Objective for Workstream 4 is to develop a new food law Intervention framework to target resource at higher risk establishments whilst lower risk establishments will be subject to intelligence-led interventions. This area of work is critical to all other workstreams, it establishes the operational framework on which the data and digital needs will be based and which new codes of practice and potential new regulation must align and support.

The purpose of this Workstream is to:

- Review FLRS and establish intervention frequency based on risk.
- Establish the triage intervention system across the 3 business types.
- Embed Enterprise level regulation and TPA within the intervention cycle.
- Consider Approved Establishments and introduce these to FLRS.
- Review Approval requirements in relation to the 'small, local and marginal' activities for businesses that do not export.
- Establish national inspection pro-forma and food enforcement metric.

5.6 Workstream 5

The Key Objective for Work Stream 5 is to design and develop a framework for FSS to centrally recover and administer annual Business Registration Fees from Food Businesses across Scotland, to reinvest in Food Law Enforcement to support a sustainable function and enable an investment approach that supports both industry and regulators.

The purpose of this Workstream is to:

- Commission relevant research and propose options for fee recovery based on annual business registration according to business group and level of compliance.
- Identify, gather and assess all relevant financial data across LA's and FSS to identify minimum cost recovery i.e. the existing baseline of cost which is unclear given the allocation of regulatory resources by LAs and the range of activities EHOs can undertake.
- Provide economic impact assessments and statistical assessment of fee structures to support communication and engagement and provide evidence for required legislative change.
- Work with other relevant Work Streams to ensure effective system administration in terms of fee recovery and distribution of funds
- Develop implementation plan options based on what the evidence supports, and then subsequent go live date: the most obvious approach being that new businesses start on the new system and existing businesses are migrated over a timeframe.

5.7 Workstream 6

The key objective for workstream 6 is to ensure overall Programme Management and Governance across all workstreams.

The purpose of this Workstream is to:

- Ensure effective Governance of the Programme – includes oversight of PID's, SAFER Budget, Staffing, establishing rhythm of meetings and format, oversight of action points and minutes.
- Establish and maintain SAFER Programme Board.
- Key link with SAFER and SG Sponsoring Directorate/s.
- Maintain risk register and system of risk escalation.

5.8 Workstream 7

The Key Objective for Work Stream 7 is to determine and deliver the necessary regulatory and legislative change required by all workstreams within the SAFER Programme and publish associated updated Codes of Practice for Enforcement Officers.

The purpose of this Workstream is to:

- Develop technical policy statements across SAFER workstreams to identify key areas for legislative change. These will relate to fee recovery, penalties and sanctions, Consumer Information Scheme and Central Database and may include others as required.
- Lead SSI and/or Bill Team with SGLD to effect the change necessary.
- Conduct review of Food Law Code of Practice and Guidance to Enforcement Officials.
- Develop strategy for Code and Guidance updates.

5.9 Workstream 8

The Key Objective for Work Stream 8 is to ensure that FSS has an effective communication and engagement strategy for the SAFER Programme that accommodates external and internal audiences.

The purpose of this Workstream is to:

- Lead communication with external audiences accounting for the variability of interest (e.g. enforcement community, industry, consumers).
- Lead Internal communication with FSS staff.
- Lead on development of lines to take and FAQ for the Programme.
- Identify proactive opportunities for promotion of SAFER.
- Ensure Website is designed to accommodate SAFER.

6 Timelines and Dependencies

6.1 LA delivery continues to be the highest strategic issue for FSS. SAFER intends to be our primary mitigation and investment in the Programme is key to its success. The timelines below are based on assumed funding for capital, staff capacity and capability and programme.

6.2 Phase 1 (deliver April 2024)

- Establish Sponsor Team – 3 Directorates have been identified as suitable:

Local Government and Analytical Services Division,
Population Health Resilience, and
Protection and Scottish Exchequer.

- Establish programme Board

6.3 Phase 2 (deliver from mid-2024)

Conduct research, planning and evidence gathering across workstreams. Input from change managers to evidence timeline for delivery. Agree:

Data, Digital and Analytical Strategy
Procurement requirements and approach
Legal Framework requirements

6.4 **Phase 3 & 4 timelines to be determined by outputs from change management exercise but estimated as.**

Phase 3 (deliver by April 2025)

- Research, design, procure, build and test systems necessary for registration, central database food law business portal and fee recovery system.
- Ensure legal framework is in place.
- Maintain project outputs across all workstreams

Phase 4 (Deliver by April 2026)

Roll out delivery of new systems and framework for delivery.

7 What can be achieved without funding

7.1 Any programme has three key dependencies: time, cost and quality. A shortened timescale that maintains quality for example will need more resources. Lower quality may also be a means of meeting shortened timescales without undue pressure on costs. However, the proposals here are to deliver a secure, legally

compliant food safety system that protects consumers and enables and supports industry in terms of trade, including international trade and trade assurance. That means, that the “wriggle” room on quality is limited but is an issue that we will need to keep line of sight on. What we can do in this area though is consider what might be re-usable e.g. could current SND data requirements meet future requirements at least initially. However, the current challenge for FSS is twofold:

- Our resource position leaves very limited scope for investment; and
- The current system is not sustainable in its current form and desperately needs reform.

7.2 There are therefore two questions the Board needs to consider:

1. Its level of risk appetite in the absence of additional funding to support reform which is essentially accepting this is an on-going risk with limited means of resolution
2. What can be done in reform terms with an absence of additional funding and in what timescales can changes be made?

7.3 At the meeting in December 2022, the Board again considered the risk appetite for LA Delivery following discussion of the risk in June 2022. The December paper¹ noted that in terms of risk, that its appetite on issues which had “[a] *potentially significant impact on public health was “averse”, we were demonstrating more risk tolerance than the Risk Appetite suggested. On that basis it was suggested that the Board could either remain with the original Risk Appetite or amend it. The Board agreed that the Risk Appetite should not change and that given the risk had been severe for quite some time, the issue should be escalated to Scottish Ministers by way of a formal letter from the Chair, outlining the steps FSS had taken already, and potential solutions and recommendations for a way forward.*”

7.4 The issue has been escalated with the Chair writing to Ministers and indeed the Joint Report² with the FSA has highlighted the significance of a lack of LA resources but the reality is that there is little material difference in terms of this strategic risk: there are no more resources within LAs and even with our prioritisation exercise we still have insufficient resources to deliver reform that would fundamentally alter the scale of this risk. The Board may therefore wish to re-visit its appetite given the current situation. Put another way “aversion” to this risk can remain, but we find we are “open” to living with this scale of risk. The Board are therefore asked to consider whether they wish to change their appetite when the Board discusses the risk appetite Board paper. In terms of further actions, to try

¹ https://www.foodstandards.gov.scot/downloads/Board_Meeting_-_Risk_Appetite_Review_-_2022_December_07_-_221210.pdf

²

https://www.foodstandards.gov.scot/downloads/Our_food_2022_An_annual_report_of_food_standards_across_the_UK.pdf

and mitigate this risk we recommend that FSS convenes a “Risk Summit”, if there is no additional funding, with key stakeholders including SOLACE, COSLA, SG, etc.

- 7.5 In the absence of funding, we will reform the current system – that is effectively some of our mitigation of the strategic risk - but the scale of ambition (e.g. a new centralised database) would have to be curtailed and our ability to take advantage of digital solutions would be adversely impacted. In areas such as qualifications (Work Stream 1), we can still introduce changes but again, there would be limitations on efficiency without other elements of the programme being delivered. There would however be increased pressure in the LA Delivery Division’s ability to deliver business as usual support and further evaluation of measures to mitigate this risk would be required.
- 7.6 The reality is that for each workstream we could deliver some elements of it, but it would be over longer timescales, would have limits on the scale of efficiency we could generate and in terms of digitalisation that would be minimal.

8 External Risks

- 8.1 SAFER does not exist in isolation and there are a few external risks that could impact on our ability to deliver.

8.2 **Scottish Veterinary Service (SVS)**

A decision on SVS will be made by Ministers in due course. FSS has a source of qualified Official Veterinarians (OV’s), Meat Hygiene Inspectors and Feed Safety Officers which provides FSS with opportunities to deploy in other areas of Official Control activity for which they are qualified. If SVS is delivered apart from FSS we will be much less able to exploit opportunities, and hence efficiencies, associated with bringing food law delivery across all bodies and all professional disciplines closer together.

8.3 **Local Authority Funding Decisions**

Local Authorities have numerous areas of responsibility and will make decisions based on local priorities and spend their block grant allocation according to these. The provision of food law delivery, which is just one part of a wider Environmental Health Service, may decline further as budget cuts result in current vacant posts being removed from the Service. It is however anticipated that a new regime that offers opportunity to recover delivery costs will be welcomed by LAs and the need for them to balance cost recovery and the economic development of businesses remains an issue that will require careful consideration.

8.4 **Policy of Other Government Departments**

- 8.4.1 In April 2024, the new rules related to Imported Food and Feed Controls will begin. This system, a direct result of EU Exit, is a necessary requirement to

protect our consumers and businesses. No additional funding for this responsibility has been made available to LAs who will have a number of delivery responsibilities in this Policy area. There is a risk that our most qualified Officers (EHO's, TSO's and OV's) will be required to conduct checks at food and feed entering Border Control Posts.

8.4.2 There is also a risk that a food law delivery divergence gap opens more widely across the UK. Currently there are differences in the FSS and FSA approach e.g. In Scotland we have the Food Hygiene Information Scheme, FSA uses the Food Hygiene Rating Scheme. FSS has the Food Law Rating System and the Official Control Verification system for assessment of businesses, both of which are unique to Scotland. We have slightly different delivery models for the Dairy sector (FSA directly delivers Dairy controls, in Scotland LA's undertake this) However our models are still largely aligned in terms of outcome.

8.4.3 SAFER intends to develop and implement systems and ways of delivery that potentially widens that gap and is essentially a root and branch redesign of the food law delivery landscape to meet current and future needs. We will therefore need to be cognisant of how this may impact businesses, particularly those that trade across the UK and continued close engagement with FSA will be necessary.

9 Equality Impact Assessment and Fairer Scotland Duty

9.1 Completion of an Equality Impact Assessment (EQIA) and a Fairer Scotland Duty Assessment are not required for this paper.

10 Conclusion/Recommendations

10.1 LA food law delivery continues to be the highest strategic issue faced by Food Standards Scotland. It is a strategic priority for FSS to undertake a Programme of work to address this issue however support and additional resource is needed to deliver the programme. If this not forthcoming the SAFER team will continue to modernise the framework albeit within a longer timeframe. Whilst much can be achieved, the ambition of a modern data and digital led food law delivery framework will not be possible.

10.2 The Board is asked to:

- **Commission** the Executive to work in partnership with key stakeholders to develop the future vision of delivery of food official controls
- **Discuss and Accept** the proposed work packages and timelines
- **Discuss** their risk appetite to accepting that investment failure will result in the SAFER Programme taking longer and limit its level of ambition and record the conclusion during the Risk Appetite Board paper discussion

- **Agree** to the proposal for a Risk Summit with key stakeholders where required.

Please direct queries to:

Lorna Murray
Local Authority Delivery Division
Lorna.murray@fss.scot

13 December 2023

Annex 1

SAFER Governance Group (Sponsoring Group)

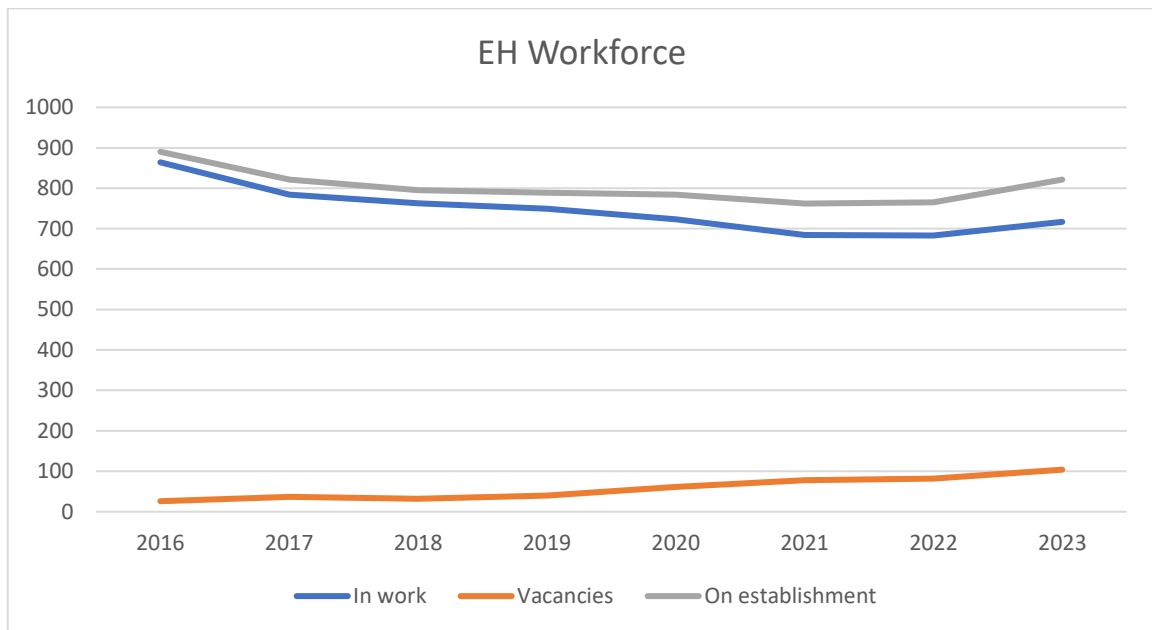
Food Standards Scotland
Food Standards Scotland Board
Scottish Government: Population Health Directorate
Scottish Government: Local Government Directorate
Scottish Government: Food & Drink Division
Scottish Government: Scottish Exchequer
Scottish Government: Digital Directorate
Convention of Scottish Local Authorities (CoSLA)
Society of Local Authority Chief Executives (SoLACE)
Society of Chief Officers of Environmental Health in Scotland (SoCOEHS)

Senior Responsible Officer – Ian McWatt, FSS (Senior Responsible Owner)
SAFER Programme Leads – Lorna Murray, Andrew Morrison (Programme Directors)
SAFER Programme Manager – Jackie McCann (Programme Manager)
SAFER Implementation Manager – Andrew Morrison (Business Change Manager)
Principal SAFER Project Leads – Lynsey Scullion, Tigan Daspan, Rebecca Callaby
Andrew Morrison
SAFER Programme Management Officer – Norika Moore (Programme Office Lead)
SAFER Assurance Leads – FSS Audit Team, SG Digital Assurance Office, SG Audit

Annex 2

Numbers of Officers for food law and Environmental Health Functions

- 1.1 Society of Chief Officers of Environmental Health in Scotland (SoCOEHS) circulated a statistical report in May '23. The figures showed a slight reverse to the downward trend in Environmental Health staffing levels across Scotland with a small increase in both vacancies (on establishment) and filled posts. However, the proportion of EH staff members in the 50+ age bracket has increased. This age grouping now constitutes 55% of the total workforce compared with 40% in 2016.
- 1.2 SoCOEHS is encouraged by the improvement seen in available resources. Members are reporting positive outcomes from recruitment in 2023. The Society will attempt to get more information from members from the 2024 survey to better understand the trends with officer numbers.



	2016	2017	2018	2019	2020	2021	2022	2023
21-34	110	77	73	68	62	62	56	57
35-49	408	363	329	309	298	256	256	267

50-54	162	160	169	168	161	164	165	145
55-59	128	128	132	142	140	118	129	157
60+	56	56	60	62	62	84	77	94
TOTAL WORKING	864	784	763	749	723	684	683	719
VACANT ON ESTABLISHMENT	26	37	32	40	61	78	82	97
TOTAL ESTABLISHMENT	890	821	795	789	784	762	765	816

- 1.3 Given the widely reported financial pressures facing local government, the Society has recommended that members undertake a prioritisation and resource calculation exercise across all Environmental Health functions. This would enable fully informed discussions on the service delivery impacts of any future reduction in officer numbers as well as the impact of future, additional enforcement demands. The underlying financial position in local government represents a real risk to Environmental Health’s ability to maintain the current delivery levels of its statutory functions.
- 1.4 It is acknowledged that there is, as yet no clear numerical correlation between existing perceived FTE deficits and the work capacity shortfall at Local Authorities generally. The aforementioned analysis of the existing EH workload will aim to facilitate the conversion of required work data into a FTE requirement. This would enable LAs/SoCOEHS to establish the number of additional FTEs required to undertake all existing [statutory] duties – as well as all foreseen legislative demands. Furthermore, SoCOEHS would, therefore, be in a position to provide an accurate estimate of any financial needs in this regard.
- 1.5 N.B. It should be noted that work undertaken by Local Authorities and Food Standards Scotland in 2021 identified a FTE requirement of 380 to undertake core food law enforcement duties in Scotland. Calculations conducted indicated that the existing FTE value devoted to food law was 202 (with an additional 60 vacant/establishment posts.) The real-terms deficit of 178 FTEs reveals that only 53% of the required workforce is engaged in food law enforcement at Local Authorities in Scotland.

At the same time as the resources available to deliver food law has diminished, the demand has increased through a combination of factors.

- A 21.4% increase in the number of food businesses recorded in the Scottish National Database
 - Anecdotal evidence of a decrease in compliance levels, to an extent due to the reduction of intervention during Covid, and the current financial difficulties facing the sector
 - A corresponding increase in the need for time consuming formal enforcement action to address poor compliance
 - An increase in resources required through combining food hygiene and food standards within a single intervention regime.
- 1.6 When equipped with the FTE shortfall data, the SoCOEHS will be better able to model future workforce needs – and determine how many students may be required via the BSc, Food Safety Officer and Modern Apprenticeship routes in order to establish suitable workforce sustainability. The aforementioned deficit in food law enforcement capacity will, inevitably, impact upon the overall EH figures.
- 1.7 The BSc Course in Environmental Health with Professional Practice is the only academic route into the Environmental Health Officer profession in Scotland. The last alternative route – a distance-learning MSc course offered by the University of Derby - no longer meets the essential criteria for EHO status in Scotland.
- 1.8 We have been advised that the BSc course is struggling to attract new undergraduate students for a number of reasons. These include an overall lack of awareness of the profession amongst career advisors, an outdated perception of the nature/structure of the BSc course, a long-term reduction in the number of EHO posts at Local Authorities and an absence of a national strategy with concomitant funding (à la the Republic of Ireland). The 4-year undergraduate profile is currently as follows:
- 4th Year – 6 Students
 - 3rd Year – 9 Students
 - 2nd Year – 11 Students
 - 1st Year – 9 Students
- 1.9 These existing numbers highlight the parlous state of the EH BSc course, and the fragility of the EH profession as well as the LA capacity in Scotland in the near future. Career advisors are, anecdotally, advising school-leavers that the EHO profession is not a worthwhile career path. This may be partly a consequence of the low level of engagement between LAs and Skills Development Scotland. The latter needs to be aware that student placement posts are, indeed, still available at many Local Authorities (although an increase in such places would be necessary to sustain the EH services over the next decade).

- 1.10 The University has stated that the sustainability of the course is under severe threat at a time when the nation-wide EHO deficit has been growing annually. Recent changes to the course structure and processes have made it more attractive, especially to those living out with Central Scotland. The time required to complete the academic and practical training processes has been significantly reduced also. Despite this student numbers remain stubbornly small.