

# FSA 23-03-06 Achieving Business Compliance Programme (March 2023)

23-03-06. This paper provides a comprehensive update on the Achieving Business Compliance (ABC) Programme.

## 1. Summary

1.1 This paper provides a comprehensive update on the Achieving Business Compliance (ABC) Programme.

1.2 The Board is invited to:

- support the refreshed programme scope and objectives – noting prioritisation of activity to support local authority delivery.
- agree that FSA should begin implementing the new food standards delivery model in England and Northern Ireland in 2023/24.
- note that we aim to pilot a new food hygiene delivery model in England, Wales and Northern Ireland commencing in January 2024.
- note that the Enterprise Level – Large Retailers (England) trial will begin formally in April 2023.

## 2. Introduction

2.1 The Board agreed the objectives and overall approach to the ABC programme in [December 2021](#), and then considered progress [last September](#). The wider context has changed significantly since then, with the Government working on a new Borders Target Operating Model and with the introduction of the Retained EU Law Bill. Both have placed resourcing demands on the FSA which have led us to re-prioritise and re-brigade work.

2.2 Following the FSA's decision to turn the Operational Transformation Programme into an Operations Modernisation Programme, some parts of the former Operational Transformation Programme were merged into the ABC Programme, in January 2023. This has triggered us to review and refresh the programme scope, objectives and structure. This paper sets out our proposals, as well as providing an update on delivery.

2.3 The case for change for both the Operational Transformation Programme and the Achieving Business Compliance Programme remains strong – our assurance models to assess regulatory compliance have not kept pace with significant changes (driven by multiple factors) in the food industry. That is true both for the areas in which the FSA acts as 'competent authority' (essentially the meat, dairy and wine industry) and for the rest of the industry, where the FSA acts as 'central competent authority' overseeing and co-ordinating the activity of local authorities.

2.4 Over recent years, the whole system has experienced significant shocks and disruption, and pressure on regulatory resources has increased, while the numbers of professionals available to deliver the assurance regime – whether veterinarians, meat hygiene inspectors, environmental

health officers or trading standards officers – has been in decline. For example, by the start of the pandemic, local authorities were operating with about 50% fewer professional staff overall on food standards and about 11% fewer professional staff overall on food hygiene than they had ten years ago. It is important to note that we have not seen evidence of a corresponding deterioration in food safety over a similar period ([footnote 1](#)), but there is a risk this may change, particularly if the current economic climate leads to further pressure on local authority resources and on food businesses themselves.

2.5 As the Board is aware, while the programme has been running, the delivery landscape has gradually been recovering from the impact of the pandemic. Throughout the pandemic, the FSA maintained the delivery of official controls to approved meat establishments, although often under challenging circumstances. But at the height of the pandemic, the majority of staff in local authority food teams were diverted onto other urgent areas, leading to a large backlog of businesses due interventions.

2.6 The Board and Business Committee has been monitoring progress against the recovery plan we set for local authorities in 2021. Local authorities in England, Wales and Northern Ireland are now broadly back to pre-pandemic staffing levels and have met all the milestones we set in the plan, so from April 2023 we intend to return to monitoring local authority performance against the full set of requirements set out in the Food Law Code of Practice (although we will need to bear in mind, in our approach to performance management, that many still have a backlog of interventions to carry out at lower risk establishments).

2.7 However, local authorities were not meeting these requirements in full before the pandemic ([footnote 2](#)), and we had already identified, particularly in relation to food standards, that our requirements might no longer be fit for purpose. The changes being developed by the ABC programme are critical to address these challenges.

2.8 In the longer term, as the food system evolves, both in the parts of the system where FSA delivers controls directly and those where local authorities deliver them, there will be opportunities to regulate in more efficient and effective ways. The ways in which we buy and consume food are changing. Businesses are becoming more data-rich and data-enabled, particularly those selling online. There are large, national or multi-national companies who exert considerable influence across the food industry. In the ABC programme we need to focus not only on how to address the immediate challenges in the system, but also on how the regulatory system should evolve in the future, to make best use of their opportunities.

## **Programme Scope, objectives, and structure**

2.9 We have reviewed the overall aim and objectives of the ABC Programme, which still reflect our ambition and the guiding principles in our FSA strategy. We propose to keep these largely unchanged since they were agreed with the Board in December 2021:

Our aim is to make sure consumers continue to have food they can trust in the future. So, in a rapidly evolving food system, we need to regulate in a smarter way to make sure that food is safe and is what it says it is. So the ABC programme will develop a set of regulatory approaches that:

- target available regulatory resources at the areas which pose the greatest risk
- improve compliance across the whole system by working with and through others
- make it easier for businesses to provide safe and trusted food to consumers

2.10 We are, however, proposing some changes to the programme structure and to the various projects which sit within it. These are summarised here, and then some of the projects are described in more detail below, in the sections updating the Board on each area.

2.11 The refreshed programme is in three parts:

## **Modernising the delivery of local authority regulation**

The programme already included two projects to reform the way in which local authorities deliver food standards controls and food hygiene controls. We have now brought within the programme scope two other linked projects. Our local authority data project is designing how we will collect or access the data we need for local authority performance management in the future (this links closely to the food standards and food hygiene projects, which are developing new Key Performance Indicators (KPIs) in those areas). And our capacity and capability review is carrying out research and developing proposals to address some of the challenges faced by local authorities in recruiting and retaining environmental health and trading standard professionals.

By bringing together this closely linked work under one reform programme, we will be better able to manage the interdependencies and co-ordinate the changes that will affect local authorities over the next few years (Annex 1).

## **Testing new approaches to regulation**

This part of the programme is a set of projects which aim to test out potential new approaches which could be used in future regulation, or which could help to drive compliance across the system. It includes the trial on Enterprise Level Regulation with large retailers and the development of the new Food Safety Charter with online aggregators. We aim to develop further projects in the future, for example to explore enterprise level regulation in other sectors, or to test out new approaches to meat hygiene controls, if such testing can be done within current legislation and without jeopardising exports. We will identify these projects through the mapping work described below.

## **Designing the blueprint for the future regulatory assurance system**

The final part of the programme is essentially a piece of policy work on the future regulatory system. Now that the UK has left the EU and is responsible for its own food law, we need to take our own view on what the future regulatory assurance system should look like. We are currently doing some detailed mapping of the current system (for example, looking at who is responsible for assurance at each stage of the food journey, what types of intervention are used, what other actors are involved, where there might be duplication, gaps or inconsistency). This initial work will help identify any areas in which we might want to test different approaches. Ultimately, the product of this work should be a blueprint for the future system, which could inform any future legislative changes.

2.12 For completeness, it is worth noting that the ABC Programme is looking at the regulatory system for food. Feed will be captured as part of the as-is mapping work, but otherwise remains outside of the programme scope.

# **3. Updates on projects within the ABC programme**

## **Modernising the food standards delivery model**

3.1 We successfully piloted the new model for local authority food standards controls last year in England and Northern Ireland, and we have now consulted publicly on changes to the Food Law Codes of Practice in England and Northern Ireland to introduce the new model into the system. We received 35 responses to the consultations, primarily from local authorities, associated groups and the professional bodies for environmental health and trading standards officers.

3.2 During the consultation period a series of engagement events with local authority officers were held across England and Northern Ireland. These provided a very useful opportunity to discuss the proposed model, including the greater focus on intelligence-led working, and the draft

initial KPIs developed for assessing delivery and outcomes. The proposed initial KPIs for food standards delivery, which have been refined to take account of feedback from the events, are detailed in Annex 2.

3.3 The response to the consultations and feedback from events was broadly positive.

Respondents thought that the new approach is better aligned to the intelligence-led and risk-based way that many local authorities already work to deliver food standards official controls.

The main concern is the implication for individual Local Authority Management Information Systems (MIS) as local authorities are likely to need to make some changes to their systems to enable operation of the new risk matrix and to capture the data that will be required for reporting and KPIs. The concerns relate both to cost and implementation of the changes in a timely manner.

3.4 Local authorities are also concerned about having sufficient resources (finance and suitably qualified people) to be able to deliver the new model in full. However, we believe the concern about lack of resources is not specific to this model but is indicative of the wider challenges local authorities are facing (see section below on LA Capacity and Capability Review). The new model is intended to support local authorities to make best use of the resources they have available by targeting activity where it will have the greatest impact and providing flexibility to determine the nature of the intervention needed, which the current model does not achieve.

3.5 We have provided the MIS providers with the data standard for operation of the model, and associated draft KPIs, and we are engaging with them to establish the feasibility of making the required changes to their systems, potential timelines for delivering these and to identify any barriers that will need to be overcome. This information will be used to develop the implementation plan for roll-out of the model in England and Northern Ireland.

3.6 We have taken on board the responses to the consultations. If the Board agrees to begin implementing the new model in 2023/24, we will ask Ministers in England and Northern Ireland to issue revised Food Law Codes of Practice. We will then carry out a phased transition of local authorities to the new model, taking into account the time needed to change different management information systems, and will provide support and training to enable them to implement the new approach effectively and consistently.

3.7 In Wales, we are planning to undertake a pilot of the new delivery model, in the first quarter of 2023/2024.

## **Modernising the food hygiene delivery model**

3.8 Following the Board's endorsement last September of the headline policy proposals and principles, the Food Hygiene Delivery Model Working Group, which includes local authority representatives from England, Wales, and Northern Ireland, has developed policy proposals for modernising the model. The proposals include:

- a modernised food hygiene intervention rating scheme, which aligns where appropriate with the new food standards model to support consistency of application, particularly where local authorities have responsibility for enforcement of hygiene and standards controls
- an updated risk-based approach to the time limits (where not prescribed in legislation) within which initial official controls of new food establishments should be completed, and for undertaking due official controls
- increased flexibility as to the methods and techniques of official controls that can be used to risk rate an establishment, including the appropriate use of remote assessment
- extending the activities that officers, such as regulatory support officers, who do not hold a 'suitable qualification' for food hygiene can, if competent, undertake.

3.9 We will hold a series of face-to-face and online events for local authorities in England, Wales and Northern Ireland on the proposals. We then intend to carry out a six-month pilot in England, Wales and Northern Ireland.

3.10 If the pilots are successful we expect to be able to introduce the revised hygiene model from April 2025 (if Ministers agree). This is ten months later than we had originally planned since we had not originally intended to pilot first. However, we think the pilots are important to test the impact of the changes in reality, identify any unintended consequences for the Food Hygiene Ratings Scheme (FHRS) and obtain input from across the three countries to shape the detail of the changes. We have learnt a great deal from the food standards pilots and have had very positive feedback from local authorities on the process we followed.

3.11 An additional benefit is that this timeline would enable us at the same time to take account of any changes required to enable Enterprise Level Regulation, subject to evaluation and if the Board were to agree to continue with this approach, following the trials with large retailers (see 3.18 below).

### **Local authority data project**

3.12 The FSA has responsibility for the regulatory system for feed and food official controls and it is therefore important for us to understand how the system is working and if the standards we set for it are being achieved. We also have a legal obligation, under the Food Standards Act 1999, to monitor the performance of enforcement authorities in enforcing relevant legislation and are required to provide assurance on the delivery of official controls to various stakeholders including, in the case of Northern Ireland, an annual report to the EU on official controls (AROC). There is a similar requirement for England and Wales regarding the provision of information on the delivery of official controls to Defra as part of the Multi Annual National Control Plan (MANCP) annual report that Defra co-ordinates.

3.13 The LA Data project aims to introduce a mechanism for accessing or collecting local authority data which enables us to deliver these obligations. It should enable more effective and timely performance and reporting data on the delivery of official controls than the Local Authority Enforcement Monitoring System (LAEMS) that was used to gather data prior to the pandemic. We need to replace LAEMS because it is a legacy system that does not lend itself to re-configuration to allow reporting of outcome-based performance KPIs, which we are planning to introduce. Design principles to be followed in developing the new approach are detailed in Annex 3.

3.14 The project will initially focus on capturing food standards data as the new delivery model is introduced in 2023/24. This will include sampling data, data needed to underpin the new KPIs, and data needed for the AROC in Northern Ireland and the MANCP report in England and Wales. It will then look at the data required to support the implementation of the revised food hygiene delivery model and feed and imported food controls.

3.15 We have undertaken two discovery projects with local authorities to better understand the current and future user needs of the FSA and local authorities, the benefits and limitations of LA EMS and potential data transfer options.

### **Local authority capacity and capability review**

3.16 Over the last 10 years we have seen a decline in the number of professional staff employed by local authorities to deliver the food and feed official controls. This decline, which has been more severe in relation to food standards (47% reduction [\(footnote 3\)](#)) than in food hygiene (11% reduction [\(footnote 4\)](#)), is due to a combination of factors – local authority budgetary pressures and the lack of suitably qualified and competent people available to recruit. Feedback from the Food Liaison Groups indicates that it has become increasingly difficult for local

authorities to recruit and retain professional staff – primarily, but not exclusively, Environmental Health and Trading Standards Officers.

3.17 We are undertaking a review to fully understand the nature and scale of the problem and gather evidence to inform action that we or others could take to help address it. The review, which is scheduled to be completed by the end of March, comprises three components: 1. mapping the current system of producing suitably qualified and experienced officers across all three nations and identifying the barriers hindering the flow of potential officers into local authorities and recommending solutions 2. determining the rate of flow of students into the system and of suitably qualified and experienced officers out of the system, across all three nations 3. mapping common qualifications from other relevant disciplines against the FSA's Competency Framework, to assess alignment and gaps in the knowledge and skills that could be demonstrated by successfully completing them.

## Testing New Approaches to Regulation

3.18 Since the last update in September 2022, work has continued to design a trial to test the concept of Enterprise Level Regulation (for food hygiene only) with some of the large retailers, in England. The 12-month trial is scheduled to go live on 1 April 2023 with 6 retailers (sixth to be confirmed) and their Primary Authorities (PAs):

Large Retailer	Primary Authority
Asda	Wakefield
Morrisons	Wakefield
Sainsburys	Cherwell District Council
Tesco	Luton Borough Council
Waitrose	Milton Keynes

3.19 The trial will happen in a “sandbox” environment, with trial activity undertaken alongside existing regulatory arrangements, with no impact on local authorities, and at no risk to consumers. Local Authorities will continue to carry out routine planned and reactive food hygiene interventions.

3.20 The trial is built around four key elements:

- **Assurance Framework** - A formal framework has been agreed which details the eligibility criteria (a retail enterprise will only be eligible for the Scheme if >95% of the locations are rated FHRS 4 or 5), and the standards required to assure compliance during the trial period (which include an assured Food Safety Management System consisting of documented audits, an ongoing monitoring programme, customer complaints capture and data access requirements).
- **Data Access Solution** - A data solution is in place with each of the retailers providing FSA access into their systems via individual portals. This is a low-cost solution that minimises data security concerns and has been assessed as a 'low risk' approach by the FSA Knowledge and Information Management Security (KIMS) team.
- **Relationship / Account Management Function** – Two new posts were introduced in Autumn 2022 and will remain in place for the duration of the trial, working closely with the retailers and their primary authorities. The Account Manager will analyse the monthly food safety compliance data, and work with the Relationship Manager (RM) to review this data to assess how the Food Safety Management System is contributing to the business's overall compliance. In addition, the RM will build insight into how the Large Retailer manages overall food safety and develop a robust working relationship between regulators and businesses.

- **Validation Process** – A process has been developed to check if the data is presenting an accurate picture of compliance. The data will be analysed on a monthly basis, to produce a summary report which will be aggregated to form the evidence for a quarterly assurance meeting between the FSA, retailer and primary authority. An additional review process is in development with Internal Audit colleagues to ensure independent scrutiny and assurance. This will be tested and refined in the trial.

3.21 The trial will help us to understand if enterprise level regulation can provide an accurate picture of the effectiveness of the retailers' food safety management systems and processes. It involves a major shift of focus away from premises level compliance checks, and if successful, could offer an alternative regulatory approach for some businesses in future. There would need to be further consideration (including the opportunity to trial) in NI and Wales too, but this is not being pursued until the outcomes from the trials in England are known.

## 4. Conclusions

4.1 Together, these projects comprise a substantial programme of change activity for local authorities over the new few years, set out in the plan at Annex 1. We believe the changes in our modernising delivery workstream are essential to ensure that local authorities are able to continue to provide effective assurance of food safety and standards, keeping pace with a changing food system and dealing with the current resourcing challenges. In tandem, the new approaches workstream enables us to test out ways in which regulation could evolve further in the future. We aim to bring this all together in our future blueprint workstream, in time producing a model for the assurance system in the future. As set out in para 1.2, we ask the Board to agree this refreshed programme scope and structure, and to agree that we should now move to implement the first major change project across England and Northern Ireland, the new food standards model.

4.2 The Board is invited to:

- support the refreshed programme scope and objectives – noting prioritisation of activity to support local authority delivery.
- agree that FSA should begin implementing the new food standards delivery model in England and Northern Ireland in 2023/24.
- note that we aim to pilot a new food hygiene delivery model in England, Wales and Northern Ireland commencing in January 2024.
- note that the Enterprise Level – Large Retailers (England) trial will begin formally in April 2023.

## Annex 1: Cumulative impact of change on LAs

## **Annex 2: Draft initial key performance indicators for the new food standards delivery model**

### **Food Standards Delivery Model: year 1 Key Performance Indicators 2023**

#### **Effective Enforcement and Intelligence**

##### **KPI 1 Prioritising food safety risks**

- KPQ: 1. How effective is the local authority at prioritising its food service delivery on a risk basis?
- DQ: 1.1 Does the local authority maintain and update data of its food businesses, in order to improve service delivery and reduce risk?
- PI: 1.1.1 How many food businesses are unrated?
- PI: 1.2.1 What are the spread of food businesses across the decision matrix?
- DQ: 1.2 Does the local authority manage its service delivery timelines appropriately in order to reduce risk?
- PI: 1.2.1 How many food businesses in each category of the decision matrix is overdue an official control?
- PI: 1.2.2 Are local authorities prioritising official controls and other regulatory activity to the higher risk businesses?

##### **KPI 2 Utilisation of information, including intelligence and complaints**

- KPQ 2. How effectively does the local authority evaluate all incoming information as it is received, in order to take appropriate action?
- DQ: 2.1 How well is the local authority's food service delivery informed by information including complaints and intelligence?
- PI: 2.1.1 How does the local authority analyse, record, and prioritise information, including intelligence and complaints?

#### **Achieving a positive change in compliance**



### **KPI 3 Effecting a positive change in compliance**

- KPQ: 3. How effective is the local authority at applying the full range of official controls (including enforcements) to improve compliance in businesses?
- DQ: 3.1 The number of businesses that were subject to an official control (including enforcement) which improved their compliance rating
- PI: 3.1.1 After being subject to an official control, does the level of compliance score for the food business improve, remain unchanged or fall by its next official control?
- PI: 3.1.2 The number of enforcement activities carried out by local authority in previous quarter.

### **Managing a quality service**

#### **KPI 4 Local Sampling**

- KPQ: 4. How effective is the local authority at managing their local sampling programme to assess compliance with food standards issues?
- DQ: 4.1 How well does the local authority record their official sampling data, shown by analysis type?
- PI: 4.1.1 The number and type of samples taken and the initial reason for doing so.
- PI: 4.1.2 Following an unsatisfactory sample result, and appropriate enforcement activity, how many premise compliance assessment risk ratings improve?

#### **KPI 5 New food businesses**

- KPQ: 5. Have local authorities got effective procedures in place to triage new food businesses?
- DQ: 5.1 Does the LA keep and maintain a register of new food businesses?
- PI: 5.1.1 How many new food businesses are recorded, registered, and triaged within 28 days of trading?
- PI: 5.1.2 How many of your new businesses that have been prioritised as higher risk are still awaiting an inspection after 28 days of commencing trading?
- DQ: 5.2 Is the LA risk profiling new food businesses effectively?
- PI: 5.2.1 Did the initial inherent risk score assessment remain correct at point of official control?

## **Annex 3: Design principles for LA Data project**

### **Purpose of the project**

Given the legislative requirement under Retained Regulation (EU) 2017/625 and the Food Standards Act 1999, the LA Data Project will explore and develop mechanisms for collecting LA data on their delivery of Official Food and Feed Control activities. This data will allow us to monitor and report on the performance of official controls and understand the type and frequency of official control activity being undertaken to verify business compliance and ensure food is safe and is what it says it is.

The first phase will look at how we can capture LA data based on the assurance and reporting data requirements of the Food Standards Delivery Model, Food Hygiene Delivery Model, KPI project and Annual Report on Official Controls (AROC) and Multi Annual National Control Plan (MANCP).

### **Design Principles**

## **1. Identifying and understanding user needs**

We will engage with LAs and FSA colleagues to understand what data is relevant to them and what their needs are. Once the users' needs and the wider problem is understood we will develop options for consideration.

## **2. Utilise the value of data.**

We will look for ways that data can be utilised to provide value to both the FSA and LAs. We will explore how users can benefit from useful insights on the data we utilise to help with the delivery of their strategic objectives. We will maximise the value of the data and capture useful insights by improving the quality of the data used.

## **3. Minimal standardised data**

We will utilise data on the LA delivery of Official Food and Feed control activities to fulfil our obligations under Retained Regulation (EU) 2017/625 and the Food Standards Act 1999. We will clearly justify why the data is required and introduce standardised data registers to promote consistency in the data used.

## **4. Use and contribute to open standards, common components and patterns.**

We will consider how we can use open standards, standard government technology components and patterns where possible. We will look to maximise flexibility in their use of technology, for example by using and creating application programming interfaces (APIs) and, where possible, authoritative sources of data.

## **5. Data retention and decommission of old systems.**

We will ensure data is stored securely and for only as long as needed, to comply with laws, regulations, and contractual requirements. We look to decommission old systems as early as possible to reduce costs and avoid storing data beyond what is needed.

## **6. Minimise burdens.**

We will work with LAs and relevant bodies to introduce new mechanisms that will minimise the burdens and the overall effort LAs must undertake to share data with the FSA. We will undertake an assessment of new burdens placed on LAs and ensure any net additional costs are funded in accordance with the New Burdens Doctrine.

## **7. Iterate. Then iterate again.**

We will prototype mechanisms with LAs and capture their feedback during design and use. We will continue to reiterate and make refinements based on feedback during alpha and beta stages.

## **8. Procuring sustainable products and services**

We recognise our obligations under The Greening Government Commitments (GGCs). We will continue to reduce our impacts on the environment by buying more sustainable and efficient products and services with the aim of achieving the best long-term, overall value for money for society.

## **9. Accessible and inclusive by design**

Everything we build should be as inclusive, legible, and readable as possible. We will make sure everyone can use the information collated as much as possible.

## **10. Make things open: it makes things better.**

We will work in an open and transparent way with LAs and internal FSA colleagues. We will share our ideas and intentions and actively encourage feedback.

Consideration has been given to GDS Service Design Principles.

1. There has been a steady increase in the proportion of businesses with a food hygiene rating of 3 or more (from 91% in 2013 to 97% now).
2. By the start of the pandemic, in England, local authorities were delivering about 85% of food hygiene inspections and interventions within the timescales set by the Code, with about 89% delivered to time in Wales and NI. The picture was considerably poorer on food standards, with around 36% of due interventions achieved in England, 61% in Wales and 84% in NI.
3. From 741 FTE in 2011/12 to 395 FTE in 2021/22.
4. From 1839 FTE in 2011/12 to 1644 FTE in 2021/22