

Summary of Responses: Consultation on the Food Law Code of Practice to introduce the new Food Standards Delivery Model

This consultation, which was issued on 17 October 2022 and closed on 09 January 2023, sought stakeholder views on the proposed changes to the Food Law Code of Practice (the Code) to support the introduction of the new Food Standards Delivery Model (the new model) in England. ??

Introduction

The Food Standards Agency (FSA) is grateful to those stakeholders who responded and the table below sets out the responses in order of the issues considered/group responding. The FSA's responses to stakeholders' comments are given in the last column of the table.

The key proposals on which the consultation sought views were:

- modernisation of the approach to food standards delivery specified within the Code, in particular the incorporation of a new food standards intervention rating scheme, and a decision matrix to determine the appropriate frequency of Official Controls based on the risk posed by a food business?establishment; and?
- changes to the sections of the Code on the delivery of interventions and enforcement to support the principles of the new model.??

Responses to the consultation highlighted two main areas of concern for stakeholders in relation to the implementation of the new model:

- the availability of local authority (LA) resource to support the new model; and
- the need to ensure that the Management Information Systems (MIS) used by LAs to record details of their regulatory activity can be updated to support the new model.

Responses emphasised the need for the FSA to ensure that consideration has been given to the costs, timescales and other implications associated with the software development and rollout needed for LAs to be in a position to work to the new model. Given that comments and concerns were raised in relation to these aspects in response to a number of the consultation questions, we have included a collective FSA response to these issues below.

LA Resource

A number of responses indicated support for the new model, but raised wider concerns around whether LAs have the resource to fulfil the requirements of the new model, and whether the FSA is aware of, and addressing, the general lack of suitable qualified and competent officers which is causing significant recruitment challenges for many LAs.

The FSA acknowledges the need for sufficient LA resource to provide assurance on food safety and standards. We are exploring how we could potentially support LAs in this area through the development of the activities-based competency framework and the workstream on LA capability

and capacity (see below). It is important to emphasise that we designed the new model to be fit for purpose and to ensure that the available LA resource is used as effectively as possible. It was not designed to reflect the current levels of LA resource. The new model is intended to help LAs focus their resource towards the areas of greatest risk or need, with the aspiration that the new approach to Key Performance Indicators (KPIs) will better emphasise the positive impacts effective food regulation can have on local consumers and legitimate businesses.

Local Authority Capacity and Capability Discovery work

The FSA has recently commissioned some research to carry out LA Capacity and Capability discovery work. This is a priority for the FSA as it will help us quantify the nature and extent of the issues and inform the short-term and long-term action needed to provide for a sustainable workforce in the future. We recognise this is a very complex issue and are collaborating on this with the Chartered Institute of Environmental Health, the Chartered Trading Standards Institute, LAs, and other bodies (as appropriate).

The research includes a series of focus groups and interviews with three specific groups of people within LAs; individuals currently or previously employed to deliver official food and feed controls and those responsible for employing those individuals. This is with a view to gaining important insights into the retention and recruitment issues of all involved in the delivery food and feed controls

Students attending courses or apprenticeships that will enable them to qualify for the delivery of official food and feed controls are also being interviewed as part of the research.

The FSA has also identified the need to explore any potential barriers that the current qualification requirements for officers (in the relevant Food or Feed Law Code of Practice) create and to assess the potential transferability of skills and knowledge from other relevant disciplines to the delivery of official controls.

Management Information System (MIS) Concerns

A number of respondents, particularly LAs and Regional Groups, raised concerns around the development needed in respect of their MIS to enable them to implement and work to the new model. Some respondents identified concerns around the costs involved with this work, and the resources needed to adapt to the new model. Some respondents raised concerns over the time it will take to migrate to the new model, with further concerns relating to the mapping and transfer of business data from the existing model to the new model.

We are currently engaging with MIS software suppliers to determine the most effective and efficient approach to implementation, taking into account the development needs of their software, to enable LAs to operate the new model. We will continue to engage with LAs throughout the implementation process. In terms of cost, we are working with MIS providers to understand which aspects of this work will be covered under their standard contractual terms and identifying which aspects may introduce cost implications. Under the [New Burdens Doctrine](#) we will assess the overall financial impacts on LAs in England prior to implementation.

In relation to the concerns around timescales, the revised Code now includes transitional arrangements. Each LA will transition to the new model once it notifies the FSA that it is in a position to do so, with a longstop date of 31 March 2025, by which time all LAs must follow the new model.

We have developed a mapping process to convert existing food business data (under the three different risk schemes currently in use) to the new risk assessment scheme. Feedback from pilot LAs was gathered to understand the effectiveness of this process and any concerns they had

regarding the process to help us refine our approach. Further details on mapping of date will be provided as part of our implementation process.

Out of scope

A number of comments were made that did not directly relate to changes being proposed. Responses to these comments are provided in the 'Additional Comments/Questions' section following the consultation questions.

Changes made

A summary of changes to the original proposals resulting from stakeholder comments is set out in the final table.

Stakeholders

A list of stakeholders who responded can be found at the end of this page.

Summary of substantive comments

Question 1: Does the layout/presentation of the proposed revisions to the Code facilitate consistent interpretation? If not, how could they be improved?

Respondent	Comment	Response
LAs Regional LA groups Professional bodies Industry Other Government Departments (OGDs) Trade bodies	The majority of respondents agreed that the layout/presentation of the proposed revisions to the Code would facilitate consistent interpretation.	Comments noted

Respondent	Comment	Response
LAs	A suggestion was made to change the order of the Compliance Assessment risk factors (Table 2 in the Code) so that Confidence in Management (CIM) comes last. This would be more logical as CIM is the last thing LA officers would assess.	We agree with the suggestion and have changed the order of the Compliance Assessment risk factors to reflect this feedback.
LAs	One respondent felt that the Decision Matrix and the scores in Table 1 (inherent risk factors) and Table 2 (compliance risk factors) should be the other way around (i.e., 5-1 rather than 1-5).	The new risk assessment scheme was developed to align and be consistent with the Food Hygiene Rating Scheme (FHRS). The tables referred to in the comments follow the format of 1/high risk on the left and 5/low risk on the right. This approach is also proposed as part of the ongoing hygiene model review.
LAs	One respondent suggested that Chapter 4 – Delivery of Interventions would be clearer if it was split into two sections: food hygiene and food standards interventions. Having all the relevant information under these two headings would make it easier to read and follow.	Comment noted and will be considered as part of a subsequent Code update.

Question 2 - Do you agree that the proposed changes to the food standards intervention rating scheme will provide LAs with the ability to deploy current resources more effectively by improving the way in which the levels of risk and compliance associated with a food business are assessed? If not, why not? (Please specify any aspects of the new model which require further consideration, and why).

Respondents	Comment	Response
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<p>LAs</p> <p>Regional Groups</p> <p>Awarding / Professional bodies</p> <p>Trade Bodies</p> <p>Industry</p>	<p>The majority of respondents agreed that the proposed changes would support more effective targeting of resources and the flexibility within the model was welcomed.</p>	<p>Comment noted</p>
<p>LAs</p> <p>Regional Groups</p> <p>Awarding / Professional bodies</p> <p>Trade Bodies</p> <p>Industry</p>	<p>Some respondents requested further information on implementation and expectations on LAs, including how the establishments in their area would be mapped across to the new scheme and more specifically how they would be distributed across the decision matrix.</p>	<p>We recognise that each LA will require support to transition to the new model, including training on the use and implementation of the new model. We will provide further details on these activities in due course.</p> <p>An example of how businesses are distributed across the decision matrix is being developed and will be shared with LAs.</p>
<p>LAs</p> <p>Regional Groups</p> <p>Awarding / Professional bodies</p> <p>Trade Bodies</p> <p>Industry</p>	<p>One LA noted that there was potential for a lot of variation in terms of scoring and interpretation of the risk factor descriptors and the importance of guidance to support consistency of approach</p>	<p>As part of the implementation process, LAs will receive appropriate training and support from the FSA to facilitate the process. This will include consistency exercises to ensure that officers interpret and apply the new risk scheme as intended</p>

<p>LAs</p> <p>Regional Groups</p> <p>Awarding / Professional body</p>	<p>A number of respondents highlighted concerns around the resource needed to support the new model.</p>	<p>See sections above on LA resource and LA Capacity and Capability Discovery work.</p>
<p>LAs</p> <p>Regional Groups</p>	<p>Concerns were raised about the practicalities of the delivery of combined food hygiene (FH) and food standards (FS) official controls.</p> <p>The main concern was that food businesses might require a FS intervention before their next FH intervention (currently most interventions are hygiene led). This could result in resource issues.</p>	<p>The approach to combined inspections is outlined in chapter 4.2 of the Food Law Practice Guidance which states that: “...where the same officer is responsible for the enforcement of both FH and FS matters...the officer should decide whether it is appropriate to cover one or more matters at a single intervention, even though an intervention may not be due under one of the Competent Authority’s planned intervention programmes.”</p> <p>Where combined official controls are carried out, their frequency should be determined by the enforcement discipline with the highest risk/shortest frequency.</p>
<p>LAs</p> <p>Regional Groups</p>	<p>Further clarification was requested regarding the approach to new businesses and the flexibilities in the new model (i.e. more clarity around flexibility to postpone the first inspection of lower risk businesses).</p> <p>Some LAs reported concerns around the requirement to inspect all new businesses within 28 days, as this could significantly impact on resources.</p>	<p>We have noted these concerns and have amended the text in the Code in relation to the initial inspection of newly registered food businesses to allow greater flexibility based on an initial desktop assessment of inherent risk.</p>

<p>LAs Regional Groups</p>	<p>A query was raised as to whether information from Environmental Health colleagues could be used to inform risk scoring a new business.</p>	<p>Guidance to LAs will be updated to specify what information can be considered when applying a risk score to a new business.</p>
<p>LAs Regional Groups</p>	<p>Some respondents welcomed the inclusion of a specific score for allergen compliance, while others raised concerns that this could bring more businesses into the high-risk categories and result in an increased demand on resources.</p>	<p>See section on LA resource above.</p> <p>The FSA recognises the concern of respondents. The new model may initially increase the frequency of controls for some businesses because the new model targets resource where needed to bring them into compliance, taking appropriate action where non-compliance persists. We will include further details on this in LA guidance.</p>
<p>LAs Regional Groups</p>	<p>One LA stated that the use of remote assessments would need careful consideration as these may not always be appropriate (e.g., in the assessment of allergen controls). Another requested guidance on situations where the business only handles prepacked foods.</p>	<p>The pilot version of the decision matrix specified the type of official control that should be used, such as a remote assessment. Feedback from the pilot was that the specified official control in the decision matrix was not always appropriate. Therefore, the decision matrix no longer specifies the official control activity that should be used. Instead, LAs are given the flexibility to use the most appropriate official control as specified in Article 14 of Retained (EU) Regulation 2017/625.</p> <p>The overarching principle is to choose the most effective official control activity so that the officer is satisfied that either a single method/technique or combination of methods/techniques allows them to adequately verify compliance with food law.</p> <p>The use of different types of official controls will be covered in LA guidance and training.</p>

Industry	Some respondents felt that industry assurance schemes and Primary Authority were not sufficiently recognised in the risk scheme. One respondent felt that assurance schemes should be considered under all four Compliance Assessment risk factors.	Guidance will be provided for LAs on scoring individual risk factors. This will allow LAs to determine the most appropriate score for a business based on the evidence available, which may take into account membership of an industry assurance scheme or Primary Authority Partnerships.
Industry	The 'Management Systems & Procedures' scoring factor refers to membership of 'recognised' industry assurance schemes – one respondent queried whether this intended to restrict consideration to a scheme formally recognised by FSA (e.g., Red Tractor's Earned Recognition)?	The reference to 'recognised' will be removed from the Code.

Question 3 - Do you agree that the proposed frequencies for official controls, specified in the decision matrix, within the new food standards intervention rating scheme are appropriate based on the levels of risk and compliance associated with the food business? If not, please identify and concerns you have with the proposed frequencies.

Respondent	Comment	Response
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<p>LAs</p> <p>Regional Groups</p> <p>Trade Bodies</p> <p>Industry</p>	<p>The majority of respondents agreed that the proposed frequencies for official controls are appropriate based on levels of risk and compliance.</p> <p>Comments supported the principle of more frequent official controls at high-risk businesses.</p> <p>Comments were made that it was difficult to provide an informed response to the consultation without seeing the spread of businesses across the decision matrix.</p>	<p>Comments noted.</p> <p>We are developing an illustrative example of business spread across the decision matrix and will include this in guidance for LAs.</p>
<p>LAs</p> <p>Regional Groups</p>	<p>A number of respondents indicated concerns that they would not be able to meet all the intervention frequencies specified under the new model due to current resource levels.</p>	<p>See section on LA resource above.</p>

<p>LAs</p> <p>Regional Groups</p>	<p>Linked to the above, some LAs raised concerns about the number of businesses that would fall in the 'Priority Intervention' categories and the impact this would have on their resources. LAs were concerned how this could affect their ability to regulate lower and medium risk businesses.</p>	<p>The new model may initially increase the frequency of interventions at high-risk food businesses. However, because the model targets resource at these businesses to bring them into compliance, taking appropriate action where non-compliance persists, the overall frequency of interventions should decrease over time.</p> <p>The pilot demonstrated that the new model enabled LAs to prioritise their work more effectively. Whilst it is true that the majority of businesses are focused in the middle of the decision matrix, the decision matrix specifies minimum frequencies and allows official controls to be brought forward if intelligence demonstrates a need, if regulatory activity in another discipline is due (e.g. food hygiene), or if resources allow. As above, we will include an example on the spread of businesses across the decision matrix in LA guidance.</p>
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<p>LAs Regional Groups</p>	<p>One LA suggested providing greater flexibility in how LAs could deliver priority interventions (including the possibility of remote interventions where appropriate).</p>	<p>We will monitor the effectiveness of the new model as it is rolled out and seek feedback from early adopters to identify any operational issues. If feedback suggests that greater flexibility is needed and is considered appropriate in respect of priority interventions, we can review the approaches LAs are able to take.</p> <p>The new model will be subject to a formal evaluation once it has been fully implemented. This will provide an opportunity to make improvements if needed.</p>
<p>LAs Regional Groups Awarding/Professional Bodies Trade Bodies Industry</p>	<p>A few respondents indicated concerns about the frequency of official controls for the lowest risk/highly compliant businesses, and that the length of time between intervention could give rise to the possibility of significant changes to a business' management and practices going unnoticed with too much reliance on complaints (at which stage there has already been consumer detriment) or other intelligence, to inform review.</p>	<p>Comments noted.</p> <p>The frequencies of official controls are intended to reflect the level of risk/compliance posed by the business. It is important to emphasise that these are minimum frequencies and official controls can be brought forward in light of relevant intelligence or where resources allow. The new model allows the use of alternative enforcement strategies or other business verification activities as interim measures.</p>

<p>LAs</p> <p>Regional Groups</p>	<p>A number of comments were made by LAs who deliver combined FH and FS controls in relation to the impact of the new model on their approach to prioritisation. Concerns were raised that the new model would result in higher frequencies for food standards official controls in certain premises compared to food hygiene. There were also requests to ensure that hygiene and standards frequencies are aligned where possible.</p>	<p>It is entirely appropriate that, under the new model, some premises will have a higher frequency of official controls in relation to food standards. This will reflect the level of risk and compliance posed by the business from a food standards perspective.</p> <p>The approach to combined inspections is covered in the Code. The new model does not change the options for LAs delivering their service in this way. However, the new model may lead to changes to how LAs prioritise and schedule their delivery of controls.</p> <p>Requests for consistency between the hygiene and standards models are acknowledged and will be considered as part of the hygiene review.</p>
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<p>LAs Regional Groups</p>	<p>One LA raised concerns as to the additional administrative burden which would result from the new model and its associated intervention frequencies. In particular, the LA stated that the food standards intervention programme would need running potentially every couple of weeks, which could require a significant admin/management resource to support (the LA also indicated that they currently already do this but that many LAs may not).</p>	<p>This was identified by the pilot LAs as an initial challenge under the new model, as it required a change in how they approached their intervention planning (i.e., a move from annual intervention planning to a more dynamic approach).</p> <p>Whilst this may take some time to bed in, pilot LAs gave positive feedback about the new approach. We will look to incorporate some examples of how these challenges were overcome by pilot LAs in the implementation support and guidance for LAs.</p>
<p>LAs Regional Groups</p>	<p>One LA flagged potential resource challenges in getting inspection paperwork uploaded on their systems, intervention reports run and work allocated in time for officers to plan visits in respect of 1 month intervention frequencies.</p>	<p>We recognise that the new model will change the way in which LAs currently plan their workload, and recognise that each LA will require support in adapting to a more dynamic and responsive delivery model. We will provide further details on workload planning under the new model in due course.</p>

<p>LAs</p>	<p>One LA raised concerns as to the decision matrix outcome in respect of a specific business they had scored under the new model, indicating that the resulting frequency was too long in their opinion.</p>	<p>It is difficult to comment on specific examples as we do not know what information was used to undertake the scoring.</p> <p>We are confident that the pilot demonstrated appropriate intervention frequencies for businesses under the new risk assessment scheme. We will address any concerns, anomalies or potential outliers as part of our implementation process, which will include consistency exercises for officers.</p>
<p>Regional Groups</p>	<p>One regional group had concerns around meeting deadlines for initial inspections, commenting that the requirement to inspect within 28 days of registration would be onerous if undertaking them at lower risk businesses would mean that official controls at higher risk and/or non-compliant establishments would be delayed.</p> <p>It was suggested that the 28-day requirement should apply only to the highest risk food activities with all other initial official controls being undertaken within the first year, based on risk and resource.</p>	<p>We have updated the new model in relation to the initial assessment and initial inspection of newly registered food businesses.</p>

<p>Awarding/Professional Bodies</p>	<p>The response outlined concerns in respect of higher risk businesses, as a requirement to inspect within a 1-month timeframe is unnecessarily onerous on food business operators (FBO) and LAs - the timeframe will not afford the FBO sufficient time to make the changes necessary to ensure compliance, and the timeframe will place undue strain on the limited resources of local authorities.</p>	<p>The non-compliance issues that would result in a short intervention frequency are issues that LAs will already follow up within a short timeframe due to their seriousness (e.g. revisit to the business to check improvements have been made).</p> <p>The increased frequency of interventions for high-risk businesses, and the ability to rescore a business outside of a full inspection was seen as a benefit of the new model by pilot LAs, providing greater credit and recognition for the work undertaken to return these businesses to compliance.</p>
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Question 4 - Do you foresee any challenges with the implementation of the proposals under consultation? If yes, please outline what these challenges are and what, if any, solutions we should consider.

Respondent	Comment	Response
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<p>LAs Regional Groups</p>	<p>There was a concern that the new model has been insufficiently tested on a small number of LAs, and that more trialling was needed by LAs who do both FH and FS interventions on a combined visit.</p>	<p>A representative group of LAs were selected to pilot the new model, which included LAs that deliver combined food hygiene and food standards interventions. No issues were identified during the pilot regarding the delivery of combined inspections in relation to the new model.</p> <p>The pilot was designed to ensure that the evaluation findings would be statistically significant and could be used to inform the final design of the new model.</p>
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<p>LAs</p> <p>Regional Groups</p> <p>Awarding/Professional body</p> <p>Industry</p>	<p>Some respondents raised concerns about the costs associated with the new model, and the time it will take to migrate to the new model. Concerns were also raised about the conversion of food business data.</p>	<p>We are engaging with MIS software suppliers to determine the most effective and efficient approach to implementation, taking into account the development needs of their software to enable LAs to operate the new model. We will continue to engage with LAs throughout this process to keep them up to date on developments.</p> <p>We have developed a process to convert existing food business data (under the three different risk schemes currently in use) to the new risk assessment scheme. Feedback from pilot LAs was gathered to understand the effectiveness of this process and any concerns they had regarding the process to help us refine our approach. Further details on the conversion process will be provided as part of our implementation process.</p>
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<p>LAs</p> <p>Regional Groups</p> <p>Awarding/Professional body</p>	<p>Concerns were raised over the number of unrated businesses and the resource needed to bring those into the inspection plan. One LA was concerned that, due to resource, if a business was not rated as a priority, it may never receive an inspection again.</p>	<p>See section on LA resource above.</p> <p>The FSA was able to provide some grant funding to LAs in early 2023 to undertake data cleansing within their MIS. This was primarily to remove duplicate or closed premises, thereby improving the quality of their business data. This should also identify those unrated businesses who may not have commenced trading following registration. We will consider running this exercise again if it proves effective.</p> <p>The increased use of intelligence as a driver for regulatory activity under the new model should help to ensure that LAs can maintain better oversight of those businesses at the lower end of the risk scale, assisting them in identifying where issues may be arising and there may be a need for intervention to address non-compliance. This aspect of the new model should gradually improve as our familiarity with using intelligence in this manner matures.</p>
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<p>LAs</p> <p>Regional Groups</p> <p>Trade Body</p>	<p>A number of concerns were raised in relation to how the new model could impact LAs that deliver combined FS and FH controls.</p> <p>For example, a business that is low risk for FH may be higher risk for FS and there is a risk that they may fall into a new category for FH, and that it may migrate to a non-priority business in the new model.</p>	<p>Where LAs deliver both food hygiene and food standards official controls, “the officer should decide whether it is appropriate to cover one or more matters at a single intervention” (as stated in Chapter 4.2 of the Food Law Practice Guidance). Where food hygiene and standards controls are undertaken at the same time, the expectation is that the risk outcome under each aspect of enforcement responsibility will be given due consideration to ensure that officers are verifying compliance and targeting resource towards the areas of greatest risk, which will need to be considered on a case-by-case basis.</p>
<p>LAs</p> <p>Regional Groups</p> <p>Trade Body</p>	<p>One respondent felt that the new model could hamper the delivery of combined FH and FS interventions, while another requested flexibility to enable due interventions to be carried out early/late to potentially tie in with FH interventions.</p>	<p>Work to modernise the food hygiene delivery model is underway, and we will ensure that both models complement each other where appropriate.</p>
<p>LAs</p>	<p>Some respondents made comments regarding the time period for initial inspection of new food businesses. One respondent stated that the 28-day initial inspection for FS may not be as appropriate as it is for FH.</p>	<p>See responses to Question 2</p> <p>We have noted these concerns and have updated the new model in relation to the initial inspection of newly registered food businesses.</p>

<p>LAs Trade Body</p>	<p>Some respondents identified challenges with the concept of some official controls being delivered remotely. One LA felt they could not be used confidently as officers would need to see practices, check labels, see how food is handled etc. A trade body felt there could be issues for businesses who struggle with IT in terms of providing and presenting documents in order to enable remote interventions.</p>	<p>The pilot version of the decision matrix specified the type of official control that should be used, such as a remote assessment. Feedback from the pilot was that the specified official control in the decision matrix was not always appropriate. Therefore, the decision matrix no longer specifies the official control activity that should be used. Instead, LAs are given the flexibility to use the most appropriate official control as specified in Article 14 of Retained (EU) Regulation 2017/625.</p> <p>The overarching principle is to choose the most effective official control activity so that the officer is satisfied that either a single method/technique or combination of methods/techniques allows them to adequately verify compliance with food law.</p> <p>The use of official controls will be covered in LA guidance and training</p>
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<p>LAs Regional Groups</p>	<p>A number of comments were made regarding the inclusion of a specific allergens scoring factor within the risk assessment scheme. It was felt that the allergens risk factor was not needed, as it would dilute the value of the individual compliance scores.</p> <p>One respondent suggested that if the cross-contamination/allergen/HACCP element now sits with FS rather than FH then the potential legalities and enforcement of this needs to be considered, while another stated that if allergen scores are taken into the FS intervention rating and not the FH intervention rating, any issues with allergens will not be brought into the FHRS which could give an inaccurate representation to the consumer.</p>	<p>We acknowledge that the role of allergens within the new model is a complex area which generated significant discussion during the pilot. Feedback from the pilot suggested that the way in which allergens were considered under the new model did not always sufficiently recognise the risks associated with non-compliance in this area. The introduction of a specific allergens risk factor does not affect allergen enforcement arrangements under the Code, and we encourage LAs to consider the guidance that has been provided on allergen enforcement.</p>
<p>LAs Regional Groups</p>	<p>It was noted that it would be beneficial for reporting to retain a simple classification system, similar to the present CAT A to CAT C (as opposed to the current 25 risk score output categories), which would help to ensure that there is consistency adopted by LAs</p>	<p>The new model has been developed in consultation with LAs and feedback provided throughout the development of the new model, piloting and consultation has been broadly supportive of the new decision matrix approach</p> <p>We will continue to consider any feedback on the model during implementation to identify potential improvements.</p>

Question 5 - Do you agree with our assessment of the impacts on LAs and our assumptions on familiarisation resulting from the proposed changes to the Code? If not, why not?

Respondent	Comment	Response
LAs Industry	<p>Overall, there were mixed responses to this question, with some respondents stating that the proposed impacts seemed reasonable, while others felt that these had been underestimated as outlined below. In general, respondents appreciated that the FSA is committed to the provision of training and familiarisation activities to support officers in understanding the new model.</p>	<p>Comments noted.</p> <p>We will consider the feedback received in respect of the likely impacts associated with the implementation of the new model and will amend our impact/LA burdens assessment as appropriate based on the information provided.</p>
LAs	<p>One respondent felt that 1.7 hrs for familiarisation and 8 hours training per officer would be insufficient and should be increased.</p> <p>Another stated that officer time will be required to update the LA service's food plan and review and update procedures considering these changes.</p> <p>One respondent did not agree that additional training and familiarisation with the Code should be classed as 'opportunity costs' with no additional financial costs, and felt that this statement should be clarified further</p>	<p>Familiarisation is for 1.7 hrs reading time, this was calculated in line with BEIS guidance on the appraisal of new guidance, where one-off familiarisation time is estimated by multiplying the average number of words a person can read per minute with the document's word count. Consequently, there is no scope to increase this further.</p> <p>We acknowledge the feedback in relation to the potential need for additional time for wider familiarisation and change activities and will consider whether the current estimates need to be reviewed to reflect this.</p>
LAs	<p>A number of respondents challenged the use of Full time Equivalent (FTE) figures when determining the impact on LAs. They explained that the number of officers delivering food standards is greater than the FTE figure as officers deliver other duties.</p>	<p>The FSA recognises the concern of many respondents regarding the calculation of FTEs. The FSA will be asking LAs for the number of officers involved in the delivery of food standards in the end of year LA survey.</p>

Respondent	Comment	Response
LAs	One LA stated their main concern was the cost burden of MIS data cleansing and migration	See general statement on MIS above.

Question 6 - Do you foresee any other impacts from the implementation of the main proposals detailed beyond those we have identified? Where possible, please explain your views and provide quantifiable evidence (for example, costs associated with updating your administration systems, existing procedures, the benefits of greater flexibility to allocate staff to activities).

Respondent	Comment	Response
LAs	Some concerns were raised regarding the potential impact the new approach could have on certain businesses. In particular, poor performing businesses could fail to improve despite the increased OC frequency. This would result in a drain on LA resources.	We are aware that some food business establishments could potentially require multiple interventions. Feedback from pilot LAs indicated that after a series of interventions, compliance within those establishments increased, and inspection frequency decreased. Ultimately, there will be a need to escalate to formal enforcement action where compliance cannot be achieved through informal means.
LAs	Another concern was that food businesses could move from non-compliant to highly compliant within the risk scheme within a short space of time without demonstrating meaningful change.	It is unlikely that businesses will move from non-compliant to highly compliant in a short space of time as the Confidence in Management risk factor considers compliance history.

Respondent	Comment	Response
LAs	One respondent suggested that the root cause of food standards compliance issues lie typically with suppliers rather shops, and that the new model doesn't address the root cause of these issues.	The new model has been designed to address issues with non-compliance by focusing regulatory activity at the part of the food supply chain where it will be most effective in addressing non-compliance. The risk assessment scheme considers activities such as scale of supply and distribution, and responsibility for food information. Businesses higher up the supply chain will be subject to more frequent interventions where there are issues with compliance. In addition, the intelligence aspect of the new model will improve the targeting of compliance issues in the supply chain.
LAs	A few respondents commented on the need to ensure adequate LA training is provided (including consistency exercises), and that enough time is given to LAs to make any administrative or procedural changes needed to enable them to work to the new model.	We recognise the importance of providing adequate training for officers on the application of the new model, and the need for sufficient time and support to ensure familiarisation with the new way of working and to make any associated changes to local processes and procedures. We are developing a training package, which will include consistency exercises, and will provide the necessary support to LAs as part of the implementation process.
LAs Regional Groups	Some respondents identified concerns around MIS costs, and the resources needed to adapt to the new model, including work to onboard existing establishments to the new model and associated costs. One LA stated that they were in the process of changing MIS provider, and that their new system would not be ready for the end of April 2023.	See general response on MIS concerns above.

Respondent	Comment	Response
Regional Groups	One respondent highlighted the potential impact of divergence across the UK because the new model will be implemented across England, Wales and Northern Ireland at different times.	We will endeavour to ensure alignment across the nations as far as possible. The new model is due to be piloted in Wales for a six-month period (anticipated to start shortly). We anticipate that the period of divergence will be limited due to the planned phased rollout of the new model.
Regional Groups	How does the new model fit with other Workstreams within the FSA including FH	We are liaising with the other teams, across the FSA to share experiences and lessons learnt, and will strive to ensure consistency where appropriate.
Regional Groups	Intelligence aspect could be resource intensive and costly as systems are not mature	We recognise that the intelligence aspect of the new model will take time to evolve and have factored that into ensuring burdens are managed and allow our delivery partners time to adapt and embed new practices into their delivery. A new team has been established in the FSA to support development of the intelligence-led function.

Additional comments and questions

Summary of additional comments and questions from stakeholders

Respondent	Comment	Response
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<p>Regional Groups</p> <p>Industry</p>	<p>Given the significant increase in online sales and distance selling, which can significantly increase risks, the guidance is limited on how officers should take this into account in their prioritisation decision making. We appreciate this is a complex area, however, it is our view that risks are likely to be mitigated and intelligence/transparency improved where such businesses have a good Primary Authority relationship or are subject to third party support and assurance.</p> <p>Specific questions were also raised around expectations with respect to virtual businesses and guidance is requested on the role of intelligence to achieve outcomes in the most efficient way.</p>	<p>Comments noted.</p>
<p>OGDs</p>	<p>There was a concern that food examination papers (as a route to qualification) are not taken in isolation to boost numbers.</p>	<p>The FSA has commissioned research to understand the barriers and enablers facing LAs in terms of capacity and capability. This work is a priority for the FSA as it will help us quantify the nature and extent of the issues and help inform the short term and long-term action needed to ensure a sustainable workforce in the future.</p>

<p>LAs Regional Groups</p>	<p>Comment made that many LAs use an intel-based model, using a threat matrix to grade intel and inform workload. The new model has 25 outcomes – far more than the previous National Trading Standards Board model – so this is unlikely to integrate with other risk rating aspects of TS work. A more flexible solution would be to acknowledge a robust intel led approach is encouraged under the CoP and permit LAs to determine parameters.</p>	<p>The decision matrix includes 25 different possible regulatory outcomes for food businesses depending on their associated levels of risk and compliance, establishing 10 different risk-based minimum frequencies for official controls of between 1 month and 10 years..</p> <p>Whilst the risk assessment of a food business may be informed by intelligence, the matrix is not a tool for LAs to assess whether intelligence received is actionable.?</p> <p>It is expected that LAs will have a process in place for the assessment of intelligence in line with the existing Code and the Practice Guidance, and we will consider any local intelligence arrangements as part of our future work in this area.????</p>
<p>LAs Regional Groups</p>	<p>Some concerns were raised with the time limits of the new proposed KPIs, and one respondent stated that local considerations should be taken in account if LAs are to be peer reviewed.</p>	<p>The KPIs remain under review prior to implementation of the model and a project has begun on the proposal for a 'Most Similar Family' approach to compare performance on a 'like for like' basis, however it is recognised that this is both complex and aspirational, and further consultation with LAs will play a key part in this project.</p>
<p>LAs Regional Groups</p>	<p>It was stated that new food businesses take up a lot of resources, and more information is needed about a business at the point of registration.</p>	<p>Comment noted</p>

LAs	One respondent noted that the proposals do not clearly state the type of intelligence that might be useful from businesses, and failure to be more specific may result in valuable sources of intel not being used or being used inconsistently.	The FSA is looking into different ways that we can provide support to LAs, including the development of knowledge and skills relating to the use of intelligence in a regulatory context where needed, and the inclusion of intelligence examples in any future training or consistency exercises.
Trade Body	The impacts put forward [in relation to the new model] are suitable, however as mentioned above if Halal standards are integrated an additional time and costs may be needed for LAs to be familiar with these.	The inclusion of halal standards is outside the scope of this consultation and would need to be underpinned by policy and legislation.
LAs Regional Groups	Concern about potential impacts on the Food Hygiene Rating Scheme were raised.	Work to modernise the food hygiene delivery model is underway and this will include consideration of any impact on FHRS.
Trade Bodies	One trade body provided a detailed response seeking better communication between LAs and mobile food businesses. They suggested a change in approach as to how their members could be regulated.	Comments noted.

<p>LAs Regional Groups</p>	<p>A regional group felt that a separate allergen compliance score should be included in FHRS as a direct link to a business's rating would be more likely to have a greater impact on achieving compliance.</p>	<p>The proposed developments for the modernised food hygiene delivery model include having a separate compliance element relating to 'allergens (cross-contamination)', but at this stage, it is not anticipated that this compliance element would be considered as part of the Food Hygiene Rating Scheme (FHRS). A food allergy safety scheme, similar to FHRS, has been considered previously. However, as reported to the FSA Board in June 2022, it was recommended that this is not taken forward at this time, as evidence shows that an information-based regulation model is unlikely to be effective for allergens as the nature of the risk (information-based regulation is less effective for managing higher risks) and because people with food hypersensitivity are advised to seek specific information about a food business based on their personal requirements before making choices about what and where to eat.</p>
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Summary of changes

Comment/Issue	Response
<p>A suggestion was made to change the order of the Compliance Assessment risk factors (Table 2 in the Code) so that Confidence in Management (CIM) comes last. This would be more logical as CIM is the last thing LA officers would assess.</p>	<p>Compliance risk factors within the Compliance Assessment have been reordered to reflect the comment made.</p>

Comment/Issue	Response
<p>Further clarification was requested regarding the approach to new business and the flexibilities in the model (i.e., more clarity around flexibility to postpone if lower risk). Some LAs reported concerns around the requirement to inspect new businesses within 28 days, as this could have the potential to draw a significant amount of resources to new businesses, even lower risk, and stated it is not clear if information from colleagues in Environmental Health could be used to inform our risk scoring.</p>	<p>We have noted these concerns and have updated the text provided in the Code (Chapter 4.2.4.2.) in relation to the initial inspection of newly registered food businesses.</p>
<p>Further clarification was requested around whether a rescore can be undertaken after assessment of the non-compliance identified in the priority intervention rather than completing a full inspection, partial inspection or audit provided other areas of the business's activities have remained the same</p>	<p>We have noted comments made and have updated the text provided in the Code (Chapter 4.3.2.2) in relation to revision of intervention ratings.</p>
<p>Wording amended to the 'Management Systems & Procedures' scoring factor following comments made during the consultation in question 2.</p>	<p>Code updated - text changes to table 2 of Annex 1 including the reference to 'recognised' removed.</p>

Actions to be implemented

- Changes made to the Food Law Code of Practice as highlighted above
- Supporting guidance to be developed

List of respondents

1. Apetito
2. Bedford Borough Council
3. Campaigner on E.coli O157
4. Central England Trading Standards
5. Chartered Institute of Environmental Health
6. Cornwall Council
7. Derby City Council Trading Standards
8. East of England Trading Standards Association Ltd
9. East Riding of Yorkshire Council
10. Essex County Council
11. Government Chemist
12. Halal Animal Welfare Association
13. Halton Borough Council
14. Hammersmith and Fulham Council
15. Hillingdon Council
16. Institute of Food Science and Technology
17. Leicester City Council

18. Leicestershire County Council
19. London Food Coordinating Group
20. Manchester City Council
21. Nationwide Caterers Association (NCASS)
22. Nottinghamshire Trading Standards
23. Safe to Trade
24. Telford & Wrekin Council
25. Trading Standards South East Ltd
26. Yorkshire and Humber Trading Standards Group