FSA 22-09-05 Achieving Business Compliance Programme (September 2022)

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

1. Summary

1.1   This paper provides a comprehensive annual update on the Achieving Business Compliance (ABC) Programme. There are some specific issues on which we would like Board input and endorsement, and we would also welcome overall comments on the programme.

1.2   The Board is invited to:

- agree to progress towards implementation of the new Food Standards Model in England and Northern Ireland
- endorse the direction of travel for the Food Hygiene Delivery Model
- support the plans to move into the pilot stage, to test the proof of concept for Enterprise Level Regulation (for large supermarkets in England)
- endorse the collaborative working with food aggregator platforms, to launch a Food Safety Charter.

2. Introduction

2.1   As the Board agreed last year, our aim is to make sure that consumers continue to have food they can trust in the future. To do this in a rapidly evolving food system, we need to do this in a smarter way, by developing new regulatory approaches which:

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

2.2   Whilst the programme has been organised into a series of projects under three workstreams, the work we are doing essentially falls into two different categories:

- modernising the existing regulatory framework, ensuring it is fit for purpose in the short-medium term, under existing legislation
- designing and testing a series of new, transformational, regulatory approaches, to enable the development of a future, longer-term regulatory framework, which is likely to require new legislation.

2.3   It is important to acknowledge the challenges in seeking to modernise the existing system whilst also thinking about the future. It makes communicating our plans more challenging and requires a sharp focus on prioritisation of programme activity. As the programme develops it is

likely that we will move more into the transformation space, but our current activity is split roughly equally.

2.4   Since the last FSA Board update, the programme has continued to make progress, with the summary delivery plan [for financial year 2022/23] attached at Annex A. Each project within the programme is at a different stage of development, with some elements close to delivery, and some still in early design.

3. Modernisation of Food Standards Delivery

3.1   The first workstream in the programme, described in sections 2 and 3 of this Board paper, is about modernising the current regulatory framework, under existing legislation, to make it more risk based, targeted and proportionate. This work will support Local Authorities to help them make the most effective use of the resources they have and target their effort at the riskiest areas. The Board discussed Local Authority (LA) performance and the LA recovery plan in June, and this paper does not seek to update on this position. However, this work within the ABC programme is an important part of the longer-term solution to some of the challenges faced by LA s.

3.2   We started with food standards (section 2 of this paper) because the model was most urgently in need of reform, but we are now moving on to the food hygiene model too (section 3).

Background

3.3   In 2018 we carried out a Food Standards delivery review survey, which told us that LAs were struggling to comply with current Food Law Code of Practice (the Code/FLCoP) requirements. The current FLCoP requires LAs to deliver a programme of predominantly on-site interventions (most routinely these would be food standards inspections) at all food businesses at a specified frequency – an establishment rather than product approach to delivery. Responses also indicated that officers felt the approach to food standards official controls was no longer fit for purpose, failing to support LAs in targeting resources at the areas of greatest risk within the food chain. The current establishment-based system is rigid and fails to recognise the differences that exist within food businesses and the benefits that can be achieved by targeting interventions at the key parts of the supply chain where they can have the greatest impact. It also fails to recognise the important role that intelligence can play in directing LA regulatory activity - an approach that is already embedded in other regulatory functions.

3.4   In December 2018, the Board endorsed a root and branch review of the food standards delivery model. Working in collaboration with LAs and other key stakeholders, we have developed, piloted and evaluated a new, dynamic delivery model that seeks to support LAs in targeting their resources. The model provides for a more accurate risk assessment scheme for food standards and a more agile system of controls, linked to current intelligence rather than just the previous intervention at an establishment. It also gives LAs more flexibility in deciding how controls are delivered, including whether this is on-site, remotely or at a different point in the supply chain. This enables them to target resource towards food businesses presenting the greatest risk, utilising intelligence to help direct regulatory activity and identify new and emerging risks in the supply chain. The model also provides for more frequent official controls in businesses where significant non-compliance is identified. The pilot sought to evaluate the new model and compare its effectiveness with the existing framework within the Code.

3.5   The pilot was conducted with LAs in England and Northern Ireland. In those countries there were provisions in the Code enabling deviation from it for the purposes of accommodating FSA approved pathfinder projects or pilots. There are no such provisions in the Code in Wales, and we needed to take a different approach to enabling a Welsh LA to join the pilot.   In developing

that approach, it was identified, initially by Welsh Government lawyers and then more generally, that the categorisation of very low risk businesses as 'no actionable risk' in the Pilot, which would result in no programmed intervention, might not be in line with the legislative requirements. As explained below, as a result of this question, we have revised the model as part of the changes reflecting the Pilot evaluation. With this resolved we are working to pilot the new model in the near future, before we review the Code in Wales.

Pilot Evaluation

3.6   The evaluation of the pilots provides a good body of evidence in support of the new model. Officers reported a number of positive aspects of the new model and the pilot in general, in particular the levels of support and guidance provided by the FSA and the ease of use and flexibility of the new model in comparison to the current framework. LAs highlighted that the new risk rating scheme was more effective at combining the assessment of inherent risk with compliance, providing a more realistic and up to date assessment of the business than the current Code intervention rating scheme. Evaluation data also suggests that the new model is more effective at directing officers to food businesses where they are more likely to identify non-compliance with food standards requirements. The report of the pilot evaluation will be published shortly.

3.7   The increased use of intelligence has produced significant results, for example in identifying appropriate sampling priorities where high levels of non-compliance were found, and in relation to wider intelligence, identifying growing concerns about counterfeit 'Wonka' chocolate bars, which generated a high level of media and consumer interest and successful enforcement activity by a number of LAs.

3.8   The evaluation did not identify any fundamental concerns with the new delivery model. Some areas of challenge were experienced by participating LAs, which we are currently addressing as we refine the new model in prepa

3.9   ration for consultation on changes to the FLCoP. Many of the challenges are relatively straightforward and had already been flagged as part of our ongoing engagement activity throughout the Pilot. This includes the need for greater clarity in relation to some of the language and terminology used to improve consistent application and the need for timely coordination of any planned directed sampling requests to ensure that LAs and their appointed Public Analysts have the capacity to undertake the work.

3.10   It has also identified the need to refine the compliance assessment within the new risk rating scheme and to amend the decision matrix to ensure that it complies with the legal requirement for all registered food businesses to be subject to some form of official control at an appropriate frequency. We will continue to work through and address these challenges as part of our work to further refine the model, seeking further feedback from pilot LAs and wider stakeholders through the consultation process.

3.11   The pilot has also flagged some areas for further development around the effective use and sharing of intelligence, both internally within the FSA and with external stakeholders such as LAs. This is not unexpected as use of the intelligence-led approach within the new model is still in its infancy and the intention has always been that this will grow as the new model is rolled out to all LAs. As part of this evolution, across the FSA we have significantly increased our awareness throughout the pilot of the wider use of intelligence, working across the organisation to build collaborate with other users of intelligence, most notably the National Food Crime Unit.

Next steps and recommendations

3.12   We have been refining the new delivery model to address the feedback received and to ensure that all challenges identified, are addressed prior to consultation on changes to the Codes that will be required to give effect to the new model. The next stage will be to consult on the proposed changes, which we hope to have delivered in England by the end of 2022. We will then reflect on any feedback received with a view to finalising the changes to the Code and obtaining Ministerial approval to introduce the Codes in England at the start of 2023/24, and endeavour to deliver this work to a similar timeline in Northern Ireland. It is proposed that 2023/24 will then be a transitional year, providing time for all LAs to migrate to implementing the new model by April 2024.

Conclusions

3.13   The Board is invited to:

- consider the findings of the Food Standards Pilot and the feedback received
- agree to the proposed next steps: to refine the model, consult on changes required to the Codes to give effect to it and move towards implementation in England in 2023/24 and to a similar timeline in Northern Ireland.

4. Modernisation of the food hygiene delivery model

Background

4.1   Work to modernise the food hygiene delivery model in England, Wales and Northern Ireland commenced in September 2021.

4.2   We established an LA/FSA Working Group to provide a mechanism for working collaboratively across the three countries to modernise the model. The Group helped to critically review and inform our thinking on the proposed headline policy approach to modernising the model and the principles to evaluate success.

4.3   We have also engaged with the national Food Hygiene Focus Group and all local authorities in England, Wales and Northern Ireland on our proposals.

Assessment of the current system

4.4   The food hygiene delivery model, particularly the intervention rating scheme that drives planned interventions, remains generally fit for purpose in terms of protecting consumers. There are, however, a number of challenges associated with it that have emerged over recent years as the pace of change in the food industry has increased.

4.5   Through our discussions with the LA/FSA Working Group, we have identified several key challenges, which include that:

- all new establishments currently require an initial inspection irrespective of the nature of the business or potential risks posed to public health
- planned interventions are not weighted by all available relevant data, information and intelligence, and that sustained compliance and controls undertaken by the business itself, including third-party audits, are not fully taken into account
- the weighting of inherent and compliance risk can result in compliant establishments being inspected more frequently than is arguably necessary
- the current model drives inputs and outputs rather than outcomes and does not drive compliance.

4.6   We have assessed the impact of these challenges to provide a solid evidence base for developing the headline policy approach to modernising the model. Our findings are detailed in Annex B.

4.7   Discussions with the LA/FSA Working Group also identified elements of the current model that should be retained, which include:

- the current intervention rating scheme's clear framework, which generates the nature and timescales for official controls, as it is simple and easy to use
- the flexibility regarding who can do what
- the inherent risk and compliance elements of the intervention rating scheme.

Headline approach to modernising the model

4.8   We propose the headline policy approach should focus on developing:

A more proportionate approach - implement an updated risk-based approach to the timescales (where not prescribed in legislation) for initial official controls of new food establishments, and for undertaking due interventions of existing establishments, to further enable prioritisation of interventions at those which are high-risk and/or non-compliant.

Increased flexibility - provide flexibility on:

- the methods and techniques of official controls that can be used to risk rate an establishment, including, where appropriate, the use of remote assessment.
- who can undertake official controls and other official activities, including extending the role of regulatory support officers.

A targeted intervention rating scheme - retain the inherent and compliance risk elements of the current system but amend the weighting (the risk factors, descriptions and scoring profiles) and intervention frequencies to:

- focus official controls on the highest risk and/or non-compliant establishments
- reduce regulatory burdens on those that are compliant and/or low risk, including recognition of sustained compliance
- require follow-up interventions to be undertaken, where appropriate, until compliance is achieved
- reflect current and future risk management practices and business models
- align, where appropriate, to the review of the food standards model (recently piloted in England and Northern Ireland).
- clarify the role of food safety culture
- clarify the aspects of allergens to be considered within the food hygiene intervention rating scheme and the division of responsibility for allergens in two-tier LA areas.

Effective use of data - enable relevant data, information, and intelligence (including industry assurance data, where appropriate) to be taken into account when risk rating establishments and developing intervention programmes.

Appropriate performance monitoring - implement a framework for monitoring the delivery of official food hygiene controls based on a range of key performance indicators which recognises all relevant activities used to achieve compliance.

Principles to evaluate success

4.9   To ensure the success of the modernised model, we propose to evaluate the outcomes of this workstream against the following principles:

- **Effective** – protects public health and provides the assurance needed to maintain consumer confidence, reduce regulatory burdens on compliant and/or low-risk businesses, and facilitate trade and export now and in the future
- **Risk-based** – provides a proportionate, risk-based, and consistent approach for dealing with new and existing food businesses that is compliant with existing legislation and makes effective use of data, information, and intelligence
- **Adaptable** – adapts to different types of food businesses and takes account of current, emerging, and future risks (local, regional, national and international) in the food system, changing business models and innovation in the food industry
- **Sustainable** – facilitates resilience and capability within LAs by providing flexibility, enabling and encouraging them to target their resources effectively to ensure every intervention adds value and drives continuous improvements in business compliance
- **Considered –** takes account of the food hygiene rating scheme so that it can continue to operate successfully and maintain consumer confidence; and, where appropriate, the food standards delivery model, other ABC programme workstreams, and the animal feed intervention rating scheme (where applicable).

4.10   Further details on the post implementation evaluation will be developed when initial policy proposals have been agreed. However, at this stage it is envisaged that this will include both quantitative and qualitative assessments.

Engagement with local authorities

4.11   In addition to our engagement with the LA/FSA Working Group we engaged on a three-country basis with all LAs on the proposed headline policy and principles throughout May, June and July. This included an online event attended by over 490 LA officers.

4.12   There has been broad support for the proposed headline policy and principles to evaluate success. Feedback primarily focused on broader regulatory reform and the desire from LAs for legislative changes, such as the introduction of 'a permit to trade' system and broader enforcement powers.

4.13   We will use the outcomes of this engagement to develop more detailed proposals for modernising the model. The feedback will also assist the ABC programme in identifying areas where legislative change might support the programme's objectives and where we may wish to make recommendations for change.

Potential impacts on the Food Hygiene Rating Scheme

4.14   We recognise that a modernised model will need to ensure that the Food Hygiene Rating Scheme (FHRS) continues to operate successfully. The potential impacts on FHRS in each country have been considered in relation to the headline policy approach, including how this could impact the potential introduction of a statutory FHRS in England. These impacts will be considered along with the findings of recent research on the value of FHRS as initial policy proposals are developed.

Timetable and interaction with the Local Authority (LA) Recovery Plan

4.15   The COVID-19 LA Recovery Plan provides a framework for restarting the official control delivery system after the pandemic. Local authorities should continue to implement the plan as a means to return to the current requirements in the Food Law Codes of Practice, while we work on modernising the model for the longer term.

4.16   We envisage that the modernised model will be agreed in 2023/24 with implementation commencing in 2024/25 following publication of amended Food Law Codes of Practice.

4.17   Although phase 2 of the Recovery Plan refers to the period 2023/24, guidance provided to local authorities explains that it will, in essence, apply in each of the three countries until decisions are made in relation to the modernised model and the proposed revised food standards delivery model.

4.18   In the interim, we will be keeping the Recovery Plan under review and should circumstances require significant revision of this, we will engage with local authorities on proposed changes.

Next steps

4.19   We will develop initial policy proposals in collaboration with the LA/FSA Working Group and consider the potential impacts. We will informally engage with stakeholders on the initial policy proposals early next year and formally consult in late 2023.

Action required

4.20   The Board is invited to:

- consider and comment on the findings of our assessment of challenges associated with the current model at Annex B
- endorse the headline policy approach for modernising the model and principles to evaluate success.

5. Enterprise Level regulation

This workstream is about designing and testing a new regulatory approach, to help us better understand what works, what doesn't work, and ultimately what we might want from a future regulatory framework. We are testing bold concepts in a safe environment (essentially a sandbox environment), by running them alongside the existing regulatory framework so we avoid any risk to consumer safety, while minimising any additional burdens on Local Authorities. This approach enables us to be more creative and innovative in our thinking. However, introducing changes of this nature in the longer term would require new legislation.

5.2   Since the FSA Board in December 2021, we have been engaged with ten supermarkets and their Primary Authority Partners to design a trial to test the concept that we can regulate these businesses at an enterprise (business) level, as opposed to as a series of standalone premises. At this stage, the trial is being designed to test the concept in England only. The Welsh Government are keen to observe the impact in England and have indicated that they may consider participating in future trials once they have been able to evaluate our findings. The position in Northern Ireland is more complicated, as the Primary Authority function for food is not required in Northern Ireland, but the far lower number of eligible supermarket premises means any trials might not have the same impact. The emerging findings from the trials in England will enable the programme to understand more about what might work in future.

5.3   Following a successful event in March 2022 with all ten eligible supermarkets, five of the ten have formally indicated their appetite, capacity and capability to work with us on the detailed design. This is a sufficient number of partners to test a new approach with, and we're now involved in detailed planning sessions with Asda, Morrisons, Sainsburys, Tesco and Waitrose. The project is built around four key elements that together will help test our concept and will be underpinned by a Memorandum of Understanding between the FSA / Supermarkets / Primary Authorities that sets out the terms of the trial.

Figure 1: Large retailer regulatory framework components

5.4   The trial will begin in Autumn 2022, with the appointment of two new posts in the FSA: a Relationship Manager and an Account Manager, who will liaise directly with the supermarkets and their Primary Authority, and act as the single point of contact for trial participants into the FSA. They will work with the PA to assess the supermarket compliance with the requirements laid out in the Assurance Framework (Annex C), which has been designed to provide assurance that the business as a whole is compliant with the required regulations. To achieve this the FSA will require sight of certain data sets from the supermarkets, through a reporting system, again in tandem with the PA. We researched the possibility of setting up a data trust, or alternative data sharing system, but the costs and resource implications to achieve this would likely outweigh the benefits to be gained for a trial approach. Our research on alternative solutions can be recalled later if required. Once we have established the reporting cycle, the FSA and PA will test this compliance via a verification process, beginning in early 2023. This final element of the trial is still in the early stages of design, and we have plans to engage LA colleagues later in 2022 as part of this process.

5.5   This proof of concept will help the FSA learn more about how supermarket operating models, how we can work with, and through, others to help make it easy for businesses to meet their obligations, and where there are opportunities for future regulatory development. The relationships have already proved beneficial, with some of the supermarkets involved in this project also working with us on how the FSA can play a role in tackling household food insecurity.

6. Action required

6.1   The Board is invited to:

- support our plan to move into pilot stage with the supermarkets.

7. Online assurance

7.1   This workstream includes a combination of activity to modernise the existing regulatory framework and to consider what we changes might be needed for the future regulation of online food sales.

7.2   In December 2021 we briefed the Board on our analysis of potential risks involved in the consumer journey purchasing food online. Since then, we have looked at the different ways in which people buy food online (directly from food businesses, via food aggregator platforms, via marketplaces, via social media), the rates of use of those different routes, the types of food they are buying and the potential risks. We also looked at the levers we have to mitigate these risks. The Board was updated on this work in a briefing session in March 2022.

7.3   In summary we have concluded that food sold online is not an unregulated space, as online sales generally involve a food business with a physical premise, which should be registered and inspected. However, online sales can decrease the consumer's visibility of the business providing the food, particularly when not buying directly. One of the most frequently used routes is through food aggregator platforms, and there is a lot we can do by working directly with these businesses. But sales become less and less visible as you get into marketplaces and social media, and platforms will be less focused on food safety. Our initial levers in these areas are a combination of supporting LAs to ensure businesses are registered and traceable, and making sure consumers are well informed about the risks.

7.4   Our focus to date has been with the food aggregator platforms, as this is an area where we have developed relationships with some of the largest businesses, and where we can therefore work with and through these businesses to make an immediate impact, within the existing regulatory framework. We are developing some guidance to help the aggregator platforms to 'onboard' food businesses, with the intention to support food businesses operating online, and consequently reduce the volume of queries of this nature being directed to LAs. We have also engaged LA colleagues to understand the challenges they face in regulating online businesses and will feed these findings into our future plans.

7.5   We have been working closely with three of the biggest aggregators: JustEat, UberEats and Deliveroo, to develop their proposed Food Safety Charter. We have been assessing both the concept and content of their proposal and are currently working with them on what it might mean in more detail. We intend to continue to work in collaboration with these three businesses to support their commitment in four areas:

- ensuring that all food businesses registered on our platforms are registered as a Food Business Operator (FBO) with their LA
- setting minimum standards of Food Hygiene Rating Scheme (FHRS) ratings, and introducing FHRS rating filters for consumers
- working with the FSA to use the aggregator distribution channels to share any FSA information to support couriers and restaurant partners in meeting appropriate food safety and hygiene practices
- working with restaurant partners and third-party groups to support those with food hypersensitivities

7.6   Our research to date, and the charter project outlined above, is a useful learning exercise for us. Building on this work with the three biggest aggregators, we intend to develop this concept to create our own best practice framework for food businesses who facilitate the sale of food online. We will bring an update on our progress to the Board in six months' time.

7.7   Given the scale of this workstream, and the need to think about both modernisation and transformation opportunities, we still have more work to do to identify actions across other sectors within the online environment and will continue to update the Board on our progress with this.

8. Action required

8.1   The Board is invited to:

- endorse the collaborative working with food aggregator platforms, to launch a Food Safety Charter.

9. Conclusions

9.1   The ABC Programme has developed at pace in the last six months. We have concluded our Food Standards Pilot activity and developed our policy headline approach for the Food Hygiene Delivery Model. We have continued to build and nurture relationships with influential actors in the food system, seeking new ways of working with, and through, others to think about how we can regulate in a smarter way in the future. And the creation of a sandbox-style environment to test our thinking on enterprise-level regulation, without affecting LA delivery or consumer safety, means we can be innovative in our approach, generating evidence to support future plans. Underpinning all of this we have continued to ensure the programme is governed in a robust and transparent manner, and that our communications and engagement activity is effective.

The FSA Board is invited to:

- agree progress towards implementation of the new Food Standards Model in England and Northern Ireland
- endorse the direction of travel for the Food Hygiene Delivery Model
- support the plans to move into the pilot stage, to test the proof of concept for Enterprise Level Regulation (for Large Retailers – supermarkets - in England)
- endorse the collaborative working with food aggregator platforms, to launch a Food Safety Charter

Annex A: Summary Programme Delivery Plan (financial year 2022 to 2023)

Annex B: Assessment of the current food hygiene delivery model

1. Introduction

1.1   This Annex summarises the findings of the review of the current food hygiene delivery model in England, Wales and Northern Ireland.

1.2   The model, and particularly the intervention rating scheme that drives planned interventions, has remained, for the most part, fit for purpose in protecting public health, but a number of challenges have been identified.

1.3   We recognise that local authorities are facing challenges with recruitment and retention of competent officers. The FSA is planning work to identify barriers that appear to hinder the flow of new food and feed officers into the official control systems. This work is separate to the modernisation of the food hygiene delivery model, so these challenges are not considered within this annex.

Approach to the assessment of the challenges

1.4   We have assessed the identified challenges using available data and anecdotal evidence to provide a solid evidence base for developing the headline policy approach to modernising the model. Where practicable, we have considered data for England, Wales and Northern Ireland, with any differences between countries highlighted.

1.5   Due to the impact of COVID-19 on LA delivery of official food controls, references to the LA Enforcement Monitoring System (LAEMS) relate to 2019/20 rather than 2020/21. However, we acknowledge that COVID-19 may have affected food business establishments' compliance with food hygiene legislation, with anecdotal evidence from local authorities suggesting a decline in standards. This is possibly due to staff shortages in food establishments or to a lack of regular interventions during the pandemic.

1.6   Our assessment of the identified challenges has been informed by the approaches taken in the current feed delivery model and those in the new food standards delivery model being piloted in England and Northern Ireland.

Challenge: new establishments currently require an initial inspection

1.7   The majority of new establishments require an initial inspection irrespective of the nature of the business or the potential risks posed to public health. The Food Law Codes of Practice (the Codes) require these initial inspections to be undertaken within 28 days of registration, or when the LA becomes aware the establishment is operating, whichever is sooner. The Codes provide the flexibility to postpone an initial inspection of an establishment considered to be low risk if undertaking it would delay the inspection of an establishment involved in high-risk activities.

1.8   A report by Ipsos MORI published in 2017 of FSA commissioned research to inform work on the modernisation of the risk intervention rating systems for UK food establishments found that LA officers saw the requirement to undertake an initial inspection within 28 days as a drain on resources, particularly in urban areas with significant business churn. Many officers said they would welcome the removal of this requirement.

1.9   By comparison, the Food and Feed Law Codes of Practice in England and Wales, subject to certain exceptions, provide for newly registered establishments operating at the level of primary production not to receive an initial official control before their inclusion in an intervention programme, unless intelligence suggests an intervention is necessary.

1.10   There are no legislative provisions requiring an initial inspection within a specific timeframe other than import controls at points of entry and monitoring of shellfish harvesting areas. Additionally, although Retained (EU) Regulation 2017/625 (England and Wales) and Regulation (EU) 2017/625 (Northern Ireland) - the OCR – provides that establishments subject to approval must receive an on-site visit, no timescales are provided for this.

Headline policy consideration: a modernised model should introduce a more proportionate risk-based approach for initial official controls of new food business establishments.

Challenge: planned interventions are not currently weighed by all available relevant data, information and intelligence

1.11   The Codes require local authorities to establish and implement a risk-based intervention programme that takes into account inherent risk, compliance and confidence in management and includes all establishments. The Food Law Practice Guidance (the Practice Guidance) advises that local authorities can use information supplied by food business operators in connection with the registration or application for approval of their establishments to determine when to carry out interventions. However, it does not enable consideration of other relevant data, information, and intelligence when developing their intervention programmes.

1.12   The Codes also require that intervention programmes are planned, so interventions occur no later than 28 days after their due date. There is discretion for local authorities to defer interventions in circumstances outside their control, such as seasonal business closures, but does not provide a mechanism to defer (or bring forward) an intervention (nor amend the intervention programme) based on relevant data, information and intelligence. However, it is acknowledged that the deferral and bringing forward of interventions happens in practice, for example, on receipt of a complaint.

1.13   Intelligence is considered in relation to food businesses at the level of primary production in England and Wales. In Northern Ireland, official controls at food businesses at the level of primary production are, subject to some exceptions, undertaken by the Department of Agriculture, Environment and Rural Affairs. The Codes provide that, when prioritising interventions at the level of primary production, local authorities must make the best use of evidence available and sets out examples of intelligence that can be used to prioritise interventions. This includes membership of an FSA approved assurance scheme and intelligence from other statutory inspections.

1.14   Intelligence also forms an integral part of the new food standards delivery model being piloted in England and Northern Ireland, to help direct LA resources to the greatest risk areas and review an establishment's food standards risk rating.

Headline policy consideration: a modernised model should enable local authorities to use data, information and intelligence to deliver an appropriate and effective, risk-based programme of initial and due interventions.

Challenge: there is inconsistent use of current flexibilities

1.15   The current model already provides some flexibility to local authorities, such as postponing initial inspections of low-risk establishments and undertaking partial inspections and audits rather than full inspections or audits. However, local authorities use these flexibilities inconsistently and, in some cases, not at all.

1.16   Local authorities may also use Alternative Enforcement Strategies (AES) to maintain surveillance at low-risk establishments instead of undertaking inspections or audits. Examples of AES include questionnaires, surveys and intelligence gathering visits.

1.17   LAEMS data does not directly provide numbers for AES. Therefore, we have considered the number of low-risk (category E) establishments that received 'advice and education' and 'information/intelligence gathering' as an intervention type against those that received inspections or audits. (Table 1).

Table 1: Number of local authorities using 'advice and education' or 'information/intelligence gathering' at low-risk establishments (Source: LAEMS data)

Percentage of low risk category (E) establishments receiving an 'advice and education' or 'information/intelligence gathering' intervention	Number of local authorities (2018/2019)	Number of local authorities (2019/2020)
0%	61	51
Greater than 0% but less than or equal to 20%	102	109
Greater than 20% but less than or equal to 40%	41	42
Greater than 40% but less than or equal to 60%	34	38
Greater than 60% but less than or equal to 80%	50	44
Greater than 80% but less than or equal to 100%	64	62

his data shows that in 2018/19 and 2019/20 across England, Wales and Northern Ireland, just over 60 local authorities used 'advice and education' or 'information/intelligence gathering' for 80 to 100% of low-risk establishments. In contrast, over 160 local authorities used 'advice and education' or 'information/intelligence gathering' for less than 20% of these establishments.

1.19   As current flexibilities are being used inconsistently, and in some cases not at all, if further flexibilities are introduced, developing training and guidance will be essential to support local authorities to use them fully. This training and guidance may also assist in providing assurances to DG Sante and other third-country auditors that we have arrangements in place to ensure consistent use of these flexibilities.

Headline policy consideration: A modernised model should provide flexibility to local authorities so that they can make the best use of their resources, complemented by training, guidance, and support to ensure the benefits of flexibilities are realised and used consistently.

Challenge: the latest risk management practices used across industry, supply chains and within food businesses are not currently reflected

1.20   The current food hygiene intervention rating scheme does include some elements of risk management practices. It consists of an assessment of the appropriateness of food safety management systems in place for the nature and size of the business and a judgement on the likelihood of satisfactory compliance being maintained in the future. However, it does not refer to other risk management practices that have developed in recent years that businesses may voluntarily implement, for example, threat analysis critical control points (TACCP), which assists businesses in assessing food fraud risks.

1.21   Food safety culture is also something to consider. The Global Food Safety Initiative has defined food safety culture as 'shared values, beliefs and norms that affect mindset and behaviour toward food safety in, across and throughout an organisation'.

1.22   The current food hygiene intervention rating scheme does consider elements of food safety culture - in the confidence in management/control procedures part, for example, 'the attitude of the present management towards hygiene and food safety' is assessed. However, no reference is made to food safety culture.

1.23   The FSA published a food safety culture diagnostic toolkit for local authorities in 2012. A recent review of this toolkit by Cultivate SA found 'it was unclear how it fitted with the requirements of the Food Law Code of Practice'. It was recommended that the FSA should determine how best to integrate an updated toolkit into frameworks, such as the Codes.

1.24   In addition to this, Regulation (EC) 852/2004, which is applicable in Northern Ireland, has been amended to require businesses to establish, maintain and provide evidence of appropriate food safety culture. This requirement was not included in Retained Regulation (EC) 852/2004 (and there are no plans to amend these regulations), but the same food safety culture principles are included in the Codex Alimentarius General Principles of Food Hygiene.

Headline policy consideration: a modernised intervention rating scheme should appropriately reflect the current and future risk management practices used by food businesses and the role of food safety culture.

Challenge: sustained compliance is not currently fully taken into account when determining the nature and frequency of official controls

1.25   The current food hygiene intervention rating scheme includes within the confidence in management/control procedure's part consideration of the 'track record' of the establishment. This means if an establishment has sustained compliance, it should be reflected within this part. However, there is no guidance on how long an establishment must be compliant to have a 'good' or 'excellent' record of compliance. There is the potential for the confidence in management score to be applied inconsistently and for there to be no consideration of sustained compliance. The 2017 Ipsos MORI report on the modernisation of the risk intervention rating systems for UK food establishments found that LA officers thought the risk rating descriptions were too brief, unclear, or open to too much interpretation, and no time period is specified for assessing the history of compliance.

1.26   In 2018, consultations in England, Wales and Northern Ireland on changes to the Codes proposed recognising sustained compliance by reducing an establishment's risk rating. The rationale being that establishments are more likely to have good levels of compliance if demonstrated on at least their previous two interventions. The data underpinning the proposal showed establishments with a Food Hygiene Rating Scheme (FHRS) rating of five at their last two interventions were 99.1% likely to be broadly compliant at their subsequent intervention.

1.27   Feedback to the 2018 consultation showed broad agreement for recognising sustained compliance, but there were some concerns about applying it in practice. The majority of responders wanted clear safeguards preventing certain establishments from dropping into a low-risk category as a result.

1.28   Food Standards Scotland's (FSS) Food Law Rating Scheme recognises sustained compliance, with longer intervention frequencies for establishments that can demonstrate compliance at the previous three interventions.

Headline policy consideration: a modernised food hygiene intervention rating scheme should better recognise sustained compliance.

Challenge: the current weighting of inherent and compliance risk can result in compliant establishments being inspected more frequently than is arguably necessary

1.29   The food hygiene intervention rating scheme consists of three parts:

Part 1: Potential hazard – made up of three factors (type of food and method of handling; method of processing; and consumers at risk)
Part 2: Level of (current) compliance – made up of two factors (hygiene compliance and structural compliance)
Part 3: Confidence in management/control procedures.

1.30   Each factor within these parts has a range of scores used to risk rate an establishment, but the maximum score for each part does vary (Table 2).

Table 2: Intervention rating scheme score ranges

Part of the food hygiene intervention rating scheme	Score range
Part 1: Potential hazard	5-97
Part 2: Level of (current) compliance	0-50
Part 3: Confidence in management/control procedures	0-50

1.31   Due to the scoring range of the potential hazard, in particular, the additional score applied where food is intended for vulnerable risk groups of more than 20 persons, it could mean that an establishment with high compliance and an excellent track record is considered high-risk (category A) and inspected every six months solely due to their potential hazard score. Conversely, an establishment with a low potential hazard but significant non-compliances and a significantly varying compliance record could be considered category D and inspected once every four years.

1.32   Although there will be a risk that a compliant establishment with a high potential hazard score becomes non-compliant, data from LAEMS shows this risk is relatively low (Figure 1).

Figure 1: Percentage of broadly compliant establishments that remained broadly compliant at their subsequent intervention by risk rating category (Source: LAEMS data)
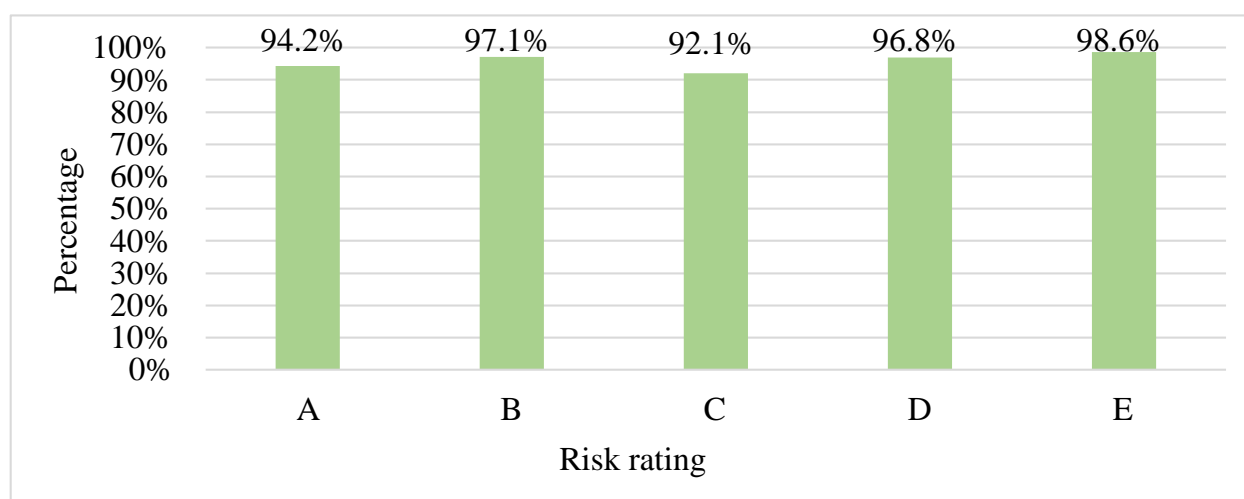
1.33   This data shows that across England, Wales, and Northern Ireland, where a high risk (category A) establishment was found to be broadly compliant at their previous intervention, over 94% were still broadly compliant at their subsequent intervention. This figure then rises to over 97% for category B establishments. These figures are comparable to 2018/19, where over 94% of category A and 96% of category B broadly compliant establishments remained broadly compliant at their subsequent intervention. This suggests that if an establishment is broadly compliant, it will likely remain compliant on its subsequent intervention, and this applies to all risk categories.

1.34   As part of this review, we considered approaches taken to risk rating in other countries, considering the findings of a 2017 Ipsos MORI report on the modernisation of the risk intervention rating systems for UK food establishments. The report shows that risk rating systems in other countries contain broadly similar factors to the food hygiene intervention rating system, based on inherent risks and compliance levels.

Headline policy consideration: a modernised food hygiene intervention rating scheme should retain the inherent risk and compliance risk elements. However, the weighting of each needs to be balanced more effectively to ensure official controls are focused on the highest risk and/or non-compliant establishments while reducing regulatory burdens on those that are compliant and/or low risk.

Challenge: the current model drives inputs and outputs rather than outcomes, potentially driving local authorities away from making the most effective use of their resources

1.35 The Codes include a risk-based intervention rating scheme with five risk categories (A – E) and intervention frequencies based on these categories. Table 3 details the current intervention frequencies.

Table 3: Food Hygiene intervention frequencies

Category	Minimum intervention frequency
A	At least every 6 months
B	At least every 12 months
C	At least every 18 months
D	At least every 24 months
E	A programme of AES or interventions every three years

1.36 Based on these intervention frequencies and the requirements of the Codes, local authorities must establish and implement an intervention programme that sets out the number of interventions they plan to undertake in the following service year, with priority given to those likely to be high-risk. Local authorities then report performance against their intervention programmes.

1.37 We reviewed LAEMS data to identify the percentage of interventions achieved at different risk-rated establishments across England, Wales and Northern Ireland (Figure 2).

Figure 2: Planned interventions achieved by risk rating category (Source: LAEMS data)
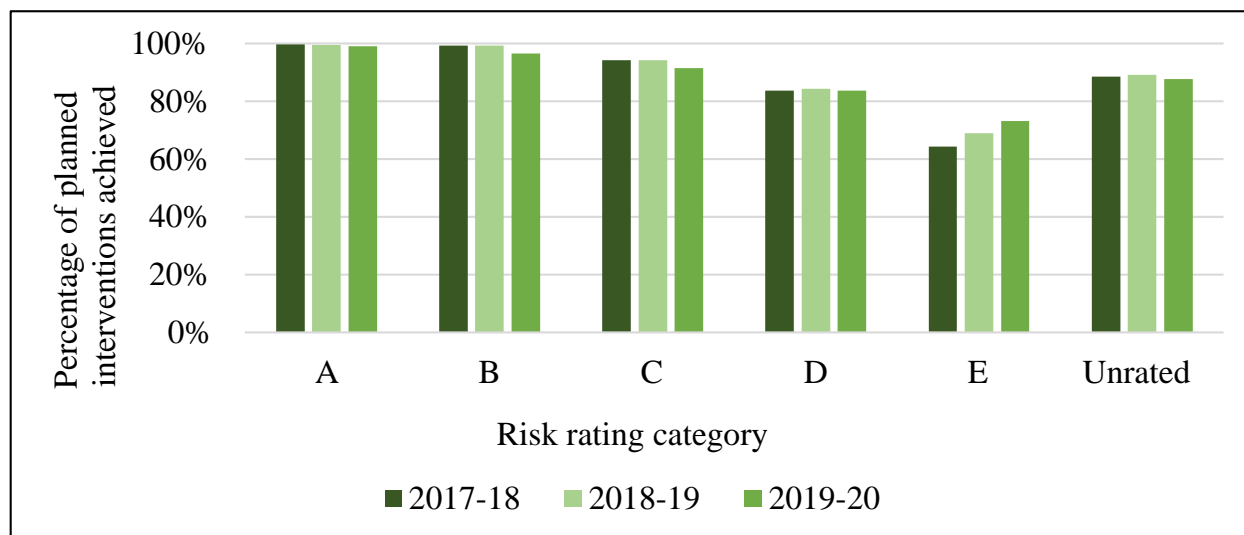
1.38 This data shows that across England, Wales and Northern Ireland, the number of interventions undertaken at category E establishments has increased. In contrast, those in the higher-risk categories have generally decreased.

1.39 The 2019/20 data also shows that 59% of due interventions at D and E rated establishments were undertaken by local authorities who had not completed 100% of their due

interventions at A and B rated establishments. This shows that some local authorities may not have prioritised interventions at higher risk establishments as set out in the Codes. However, we have been unable to establish specific reasons why interventions at higher risk establishments were not prioritised.

Headline policy consideration: A modernised model should enable local authorities to target their resources at the highest risk and/or non-compliant establishments rather than focusing on the number of interventions undertaken. The approach taken by the FSA to monitoring and managing performance and outcomes should support this approach.

Challenge: the current model does not drive compliance

1.40   The Codes require local authorities to carry out a food hygiene revisit at food establishments that have a:

- compliance score of 15 or higher for hygiene and/or structure and/or
- confidence in management/control procedures score of 20 or higher.

1.41   The Codes do not set out specific timescales for revisits but instead require timing to be determined by the severity of the identified non-compliances and action taken because of the earlier intervention.

1.42   In comparison, FSS implemented a new Food Law Rating Scheme in 2019, which includes a one-month minimum intensive intervention frequency for establishments that have sustained non-compliance and/or issues of public health or fraudulent activities. The scheme also includes a three-month intervention frequency for establishments that are found to have significant non-compliance and/or the officer has no confidence in the establishment's compliance going forward. Safeguards are then provided, so that establishments subject to intensive one-month frequencies, when non-compliances have been resolved, must be subject to a three-month minimum intervention frequency before their intervention frequencies can be extended further. These minimum intervention frequencies are significantly shorter than those provided in the food hygiene intervention schemes in England, Wales and Northern Ireland. The new food standards delivery model being piloted in England and Northern Ireland includes a similar approach.

1.43   Anecdotal evidence from colleagues in FSS suggests these intensive intervention frequencies drive compliance without adding additional burdens, as local authorities should have been revisiting these establishments anyway.

Headline policy consideration: A modernised model should drive compliance by requiring intensive follow-up interventions at non-compliant establishments.

Challenge: methods and techniques of official controls are prescriptive

1.44   The Codes currently stipulate that an intervention risk rating can only be revised:

- at the conclusion of an inspection or audit (partial or full); and
- where sufficient information is gathered to justify a revision of the rating.

1.45   The requirement that an intervention risk rating can only be amended following an inspection or audit is reflected in the types of intervention undertaken by local authorities in 2019/20 (Table 4). This data shows that across England, Wales and Northern Ireland, nearly 70% of all interventions were inspections and audits.

Table 4: Percentage of food hygiene interventions by type (Source: LAEMS data)

Country	Inspections and audits	Verification and surveillance	Sampling visits	Advice and education	Information/intelligence gathering
England	70.9%	12.1%	2.5%	4.1%	10.3%
Wales	66.6%	18.7%	5.8%	1.7%	7.1%
Northern Ireland	54.0%	20.5%	13.8%	5.2%	6.5%
Totals	69.8%	13.0%	3.3%	4.0%	9.9%

1.46   By contrast, the Feed Law Code of Practice (England) enables local authorities to use any method and technique of official control for feed establishments that are broadly compliant or better.

1.47   The OCR provides at article 14 a list of methods and techniques of official controls, which include examination of controls, inspections, assessment of procedures, examinations of documents, verification of measurements, sampling, audits and any other activity required to identify cases of non-compliance. The OCR does not prevent a risk rating being amended following any method and technique of official control (individually or a combination), but those used must be appropriate, effective and verify compliance.

1.48   Anecdotal evidence suggests that local authorities need a flexible toolkit of interventions that they can use to best effect in their area.

Headline policy consideration: a modernised food hygiene intervention rating scheme should widen the range of methods and techniques of official controls that can be used to amend an establishment's risk rating.

Challenge: does not enable the use of remote assessments

1.49   Remote assessments can involve telephone discussion, videoconferencing, desk-based examination of relevant documentation received electronically or otherwise (such as food safety management system documentation), checks on labelling, advertising material and menus, examination of websites, or use of video/photographic evidence where appropriate and possible.

1.50   During the COVID-19 pandemic and the current recovery period, local authorities have been able to use remote assessments in limited circumstances, including:

- to facilitate the targeting of what to focus attention on at a subsequent on-site visit-for food hygiene
- to help inform the need for on-site intervention at lower risk establishments where an intelligence/information-based approach can be used during the recovery period
- for FHRS requested revisits, in limited circumstances in England - this does not apply in Wales or Northern Ireland due to requirements of the statutory schemes
- to establish if corrective action has been taken and non-compliances found during an on-site visit have been rectified.

1.51   ICF Consulting Services Limited undertook an evaluation of the use of remote assessments by local authorities during the pandemic. This evaluation found that the benefits of remote assessment for local authorities included:

- enabling them to have more structured conversations with businesses
- giving more time to review documents prior to a visit
- enabling them to prioritise the most urgent work and postpone less urgent visits, thus reducing time spent in low-risk establishments.

1.52   The report also highlighted limitations, which included:

- providing a perceived opportunity for businesses to conceal information and falsify/mask problems
- creating added burden in terms of time and resources for local authorities.

Headline policy consideration: a modernised food hygiene intervention rating scheme should enable the effective use of remote assessments, taking into account the findings of the ICF report and any legislative restrictions, including those relating to FHRS in Wales and Northern Ireland.

Challenge: the frequency of interventions are prescriptive and static, so the system does not keep pace with rapidly changing business models

1.53   Minimum intervention frequencies are set out in the Codes, ranging from six months for the highest risk establishments to three years for the lowest. These minimum frequencies are static, but they are risk-based, so if the risk of an establishment changes, so does the intervention frequency.

1.54   The minimum frequencies for food hygiene differ in Scotland, where their food law rating system provides intervention frequencies ranging from one month to five years, depending on business type and levels of compliance. Establishments that pose the same food hygiene risks, as a result, are subject to different intervention frequencies in Scotland than in England, Wales and Northern Ireland.

1.55   The OCR does not prescribe the frequency of official controls. However, article 9 requires them to be performed on all operators regularly, on a risk basis, and with appropriate frequency, which should take into account, among other things, identified risks and the business' past record.

Headline policy consideration: a modernised food hygiene intervention rating scheme should revise the intervention frequencies to ensure they appropriately reflect the risks posed by all food establishments.

Challenge: unclear risk rating descriptions

1.56   A report by Ipsos MORI published in 2017 on the modernisation of the risk intervention rating systems for UK food establishments found that many LA officers thought the risk rating descriptions were too brief, unclear, or open to interpretation. It was also felt that supporting guidance should be more explicit and, where necessary, more detailed to avoid risk-averse scoring, inconsistent scoring, and double scoring. Additionally, most LA officers considered the guidance on scoring descriptors in the FHRS Brand Standard helpful and suggested including them in the food hygiene intervention rating scheme. The guidance on scoring descriptors is also included in the FHRS statutory guidance in Wales and Northern Ireland.

Headline policy consideration: a modernised food hygiene intervention rating scheme should ensure the descriptors and guidance provided enable consistent application and that the risks of all businesses are appropriately reflected.

Challenge: the current intervention rating scheme does not fully take account of the reliability and results of controls that have been undertaken by the business itself, such as third-party audits

1.57   The confidence in management/control procedures part of the current scheme provides that, 'officers should also reflect the level of reassurance provided by checks undertaken on the food safety management systems directly at an individual establishment via an independent third party as part of an assurance scheme which addresses applicable legislation'. The guidance on

the scoring system provides that for a score of five, an establishment must have access to food safety advice which could be from an assurance scheme, and for a score of zero, an establishment must also have access to this advice and may have external audit processes in place. However, a report by Ipsos MORI published in 2017 on the modernisation of the risk intervention rating systems for UK food establishments found there was no clear consistency on how this is applied by LA officers.

1.58   The new food standards delivery model being piloted in England and Northern Ireland takes a similar approach, with membership of recognised industry assurance schemes being considered as a way of demonstrating high and sustained compliance with the management systems and procedures part of the model.

1.59   In comparison, in Scotland, the food law intervention rating scheme provides that to achieve the highest level of compliance with the food safety management systems part, businesses must have in place, a fully documented and appropriate food safety management system, and followed, with additional third-party accreditation. In relation to other parts, such as structure and food safety, to achieve the highest level of compliance, businesses need to demonstrate evidence of a proactive approach and evidence of compliance with third party programmes, which are recognised as additional or beyond legislative requirements. However, no guidance is provided on which third party programmes or accreditations this would apply to.

1.60   A different approach is taken in relation to animal feed establishments, as the Feed Law Codes of Practice in England and Wales include the concept of earned recognition. This reduces the intervention frequencies of feed businesses who are members of an FSA approved assurance scheme and have a satisfactory level of compliance. Having earned recognition means LA intervention for businesses with the highest inherent risks and a satisfactory level of current compliance, go from every two years to every four years.

1.61   In England, earned recognition also changes the type of intervention businesses receive. For example, a business with a satisfactory level of compliance will receive either an inspection or an audit. However, if this business is a member of an FSA approved assurance scheme, any method and technique of official control may be used.

1.62   The OCRs provide that the reliability and results of own controls that have been performed by the operators, or by a third party at their request, including, where appropriate, private quality assurance schemes, for the purpose of ascertaining compliance with relevant food law, can be taken into account when considering a risk-based approach to official controls.

Headline policy consideration: a modernised food hygiene intervention rating scheme should enable the appropriate use of assurance schemes and third-party audit data.

Challenge: the current system could be more risk-based

1.63   The current food hygiene intervention rating scheme does not permit low-risk establishments to be removed from the intervention programme but provides that low-risk (category E) establishments can be subject to AES once every three years, rather than an inspection or audit.

1.64 The 2019-20 LAEMS data shows that 35% of all food establishments in England, Wales and Northern Ireland are low-risk (category E) and make up 26% of due interventions a year. The data also shows that 99.8% of category E establishments were broadly compliant.

1.65 Taking this into account, although low-risk (category E) establishments can currently be subject to AES, the number of due interventions at these establishments still requires a significant amount of LA resources, particularly when considering the low levels of non-compliance identified.

1.66 The OCR requires official controls to be performed on all operators, which means that it is not possible to remove low-risk establishments from the intervention programme. However, as the OCR provides for different types of control, it does not necessarily mean low-risk establishments have to be subject to an inspection or audit.

Headline policy consideration: a modernised model should ensure the approach to official controls at low-risk establishments is effective and appropriately reflects the risks posed.

Challenge: there are inconsistencies between the current food hygiene and food standards risk rating scheme

1.67 The difference between the current food hygiene and food standards intervention rating schemes creates additional complexities for local authorities who enforce food hygiene and standards.

1.68 Although they are both made up of the same three parts, their descriptions, scores applied, range of intervention ratings, and minimum intervention frequencies differ.

1.69 The Practice Guidance permits local authorities responsible for food hygiene and food standards to base their intervention programme on the food hygiene intervention rating scheme as long as they complete a food standards risk assessment. The Practice Guidance also permits an officer to cover food hygiene and standards simultaneously, even if both are not due.

1.70   The new food standards delivery model being piloted in England and Northern Ireland includes a new intervention rating scheme. If implemented, this could increase complexities for local authorities enforcing both food hygiene and standards if the models are not appropriately aligned.

Headline policy consideration: a modernised model should align, where appropriate, with the new food standards model to avoid unnecessary burdens on businesses and local authorities.

Challenge: there is currently a lack of clarity around allergens

1.71   The current food hygiene intervention rating scheme does not specifically reference allergens. The Practice Guidance provides that allergen-related cross contamination should be part of the general assessment of hygiene procedures, but also that allergen controls should be considered as part of confidence in management. Anecdotal evidence from local authorities suggests this lack of clarity causes inconsistencies when risk rating an establishment.

1.72   There is also a lack of clarity around allergens in two-tier authority areas in England where there is a division of responsibility for enforcing food hygiene and food standards legislation between District Councils (hygiene) and County Councils (standards). Generally, District Councils will enforce allergen cross-contamination, and County Councils enforce the provision of allergen information. However, District Councils in two-tier areas in England have the power under The Food Information Regulations 2014 to enforce allergen information provisions for non-prepacked and prepacked for direct sale foods.

1.73   The Code in England requires District and County Councils to agree at a local level how enforcement of the provision of allergen information for non-prepacked and prepacked for direct sale foods will be shared. The Practice Guidance provides guidance on setting out these agreements in a Memorandum of Understanding.

Headline policy consideration: a modernised model should further clarify the division of responsibility for allergens and how allergens are considered within the food hygiene

intervention rating scheme.

Challenge: regulatory support officers are currently limited in the types of activities they may undertake

1.74   The Codes require that officers undertaking official controls must hold a 'suitable qualification' and be competent. Regulatory support officers (RSOs) who do not have a 'suitable qualification' can, if competent, only be authorised to undertake the following activities:

- alternative interventions (interventions other than official controls conducted at low-risk food businesses)
- education, advice, and coaching
- information gathering, excluding the sub-activity gathering, processing, and sharing intelligence
- shellfish environmental monitoring (England and Wales only).

1.75 The role of the RSO was expanded in 2021 in England and Wales to include shellfish environmental monitoring (local authorities in Northern Ireland do not undertake shellfish environmental monitoring). This was part of the modernisation of the knowledge, skills and experience requirements in the Codes. When consulting on this amendment, feedback from some local authorities in England was that the RSO role could be expanded further, particularly to undertake official controls at low-risk establishments.

Headline policy consideration: a modernised model should enable local authorities to make more efficient use of resources, including the extension of the RSO role to allow them, if competent, to undertake a broader range of activities.

Conclusions

1.76   To ensure the model maintains public health, remains fit for purpose, is sustainable, drives continuous improvements in business compliance, and provides the assurance needed to facilitate trade and export, it is recommended that the headline policy approach to modernising the model focuses on developing:

A more proportionate approach - implement an updated risk-based approach to the timescales (where not prescribed in legislation) for initial official controls of new food establishments, and for undertaking due interventions of existing establishments, to further enable prioritisation of interventions at those which are high-risk and/or non-compliant.

Increased flexibility - provide flexibility on:

- the methods and techniques of official controls that can be used to risk rate an establishment, including, where appropriate, the use of remote assessment
- who can undertake official controls and other official activities, including extending the role of regulatory support officers

A targeted intervention rating scheme - retain the inherent and compliance risk elements of the current system but amend the weighting (the risk factors, descriptions, scoring profiles) and intervention frequencies to:

- focus official controls on the highest risk and/or non-compliant establishments
- reduce regulatory burdens on those that are compliant and/or low risk, including recognition of sustained compliance
- require follow-up interventions to be undertaken, where appropriate, until compliance is achieved

- reflect current and future risk management practices and business models
- align, where appropriate, to the review of the food standards model (being piloted in England and Northern Ireland)
- clarify the role of food safety culture
- clarify the aspects of allergens to be considered within the food hygiene intervention rating scheme and the division of responsibility for allergens in two tier LA areas

Effective use of data - enable relevant data, information, and intelligence (including industry assurance data, where appropriate) to be taken into account when risk rating establishments and developing intervention programmes

Appropriate performance monitoring - implement a framework for monitoring delivery of official food hygiene controls based on a range of appropriate key performance indicators which recognises all relevant activities used to achieve compliance.

1.77   We would provide support to local authorities through guidance and training to enable consistent implementation of the modernised model.

Annex C: Large retailer regulation

Draft: This is a draft document designed in collaboration with the FSA and stakeholders, it is not intended to be implemented as new policy direction without further discussion and consultation.

Enterprise level regulation: Large retailer assurance framework

Qualifying criteria exist for retail Enterprises and Primary Authorities to be eligible for the Scheme...

Qualifying Criteria to be agreed between the FSA and PA

FHRS ratings:
A retail Enterprise will only be eligible for the Scheme if more than 95% of the locations are rated FHRS 4 or 5. All locations rated FHRS 3 or below will continue to be subject to ongoing LA Inspection and their compliance data will not be part of the process and they will be outside of this scheme

PA relationship:
A formal Primary Authority relationship concerning Food Hygiene must be in place with the retail Enterprise prior to inclusion in this scheme.
The Primary Authority will be responsible for ensuring the retail Enterprise has in place the processes and procedures to deliver all applicable elements described in this Scheme.
Evidence will be provided to the FSA that the minimum standards are in place by the Primary Authority for the Enterprise applicable to them (suggest using template provided by OPSS - Primary Authority Service Review)

An Assured Food Safety Management System:
The Primary Authority must satisfy itself, and have evidence, that the business has a documented food safety management system in place consistent with the current requirements of retained regulation (EC) 852/2004. Details of how the primary authority assesses the business's food safety management system must be provided to the FSA.

Regulatory prosecutions:
Any outstanding prosecutions or current investigations into serious food hygiene related matters

must be made known to the FSA at the point of entry to the scheme. The FSA may, for a defined period, delay its recognition of the retailer to the Enterprise Level Scheme or remove one or more locations from the Enterprise Level Scheme, until the matter(s) have been fully resolved.

The regulator (primary authority) assured Food Safety Management System must consist of...

A documented audit by a suitably qualified auditor of every location in the Enterprise to regulatory food safety requirements at suitable risk based frequencies.

The Primary Authority will need to provide evidence to the FSA that they have assessed the Enterprise's audit programme(s) taking into account the following points:

Frequency: Each location in the enterprise shall be audited in line with the Enterprise's own, approved risk-based frequencies. Expected audit frequencies must be deemed suitable by Primary Authority, for each format of the entity.

Scope: Audits shall cover the Food Safety Management of Stores consistent with Regulation EC 852/2004 on the hygiene of foodstuffs.

Scoring: All audits must be rated or scored in such a way as to enable the enterprise to prioritise the locations based on food safety and hygiene risk.

Audit Report: A documented report must be generated for each location, following the audit to include the scope, areas audited, non-conformances, corrective actions, timescales for completion.

Auditor: The suitability of Auditors conducting the Enterprise's audit programme(s) must be reviewed by the PA taking into account their qualification, experience, training and CPD, and consistency. (To be discussed)

Recording: All audit reports must be held centrally and be retained for at least 2 years (to be defined) from the date of audit, or in locations where the audit frequency is more than 1 year, the last 2 audit reports must be retained.

Action and closure: All audit reports must be subject to a management review to monitor progression of actions and closure of audit

An ongoing monitoring programme in place at every location of food safety key performance indicators with oversight of conformance / non-conformance by the Enterprise.

Monitoring Programme

Scope: A monitoring programme must be in place at each location to include measurement of food safety critical controls and pre-requisites which as a minimum must include Temperature (storage chillers / freezers, display chillers / freezers, hot holding cabinets, cookers, etc.), Cross contamination, Cleaning, Training and Pest control.

Oversight: A mechanism must be in place at the Enterprise to verify compliance to the monitoring programme at all the locations with an associated process for escalation and review of non-compliance to food safety requirements

A customer complaints capture, recording and escalation process to rapidly determine food safety non-compliance

Customer complaints process

The retail Enterprise must have a documented customer complaints process with the following elements.
A defined capture mechanism for store, online, contact centre or LA notified complaints.
A structured categorisation of complaints to record location, product / SKU, nature of complaint.
A reporting mechanism to monitor trends (normalised for sales).
A defined process for internal escalation of the serious complaints e.g., LA notified complaints to the business and/or to the primary authority and complaints notified to the business from any parties indicating an imminent risk to consumers or that generate LA intervention.

Serious Incident Procedure
The retail Enterprise must have a documented serious incident procedure appropriate to the FSA Guidance on Food Traceability, Withdrawals and Recalls within the UK Food Industry.

Compliance data is key to the framework and the following requirements must be in place...

Notification of Serious Food Hygiene Contravention
The retail Enterprise must notify the Regulator of a contravention to food hygiene requirements presenting an imminent risk to health or fraudulent or deceptive practices. This includes matters arising from audits, ongoing monitoring, customer complaints and serious incidents.

Other Specific Areas of Notification following LA Intervention
Formal regulatory notices received (including hygiene improvement notices, hygiene prohibition orders, hygiene emergency prohibition notices) and any pending prosecutions.
Locations voluntarily closed due to a food hygiene risk

A report must be available for reviewing by the Regulator, updated at monthly intervals and include:
The number and location of audits carried out (to enable verification to be carried out).
Details and actions taken of any items that meet the criteria of Notification of Serious Food Hygiene Contravention, arising from audits, ongoing monitoring, customer complaints and serious incidents.
Details and actions taken of any items that meet the criteria of Other Specific Areas of Notification following LA Intervention

A quarterly report must be available for reviewing with the accountable Manager for Food Safety (to be defined by the Enterprise) and the Regulator.

The report should provide a summary of:
Audit trends, ongoing monitoring assurance, analytical assurance, customer complaint trends and a commentary on any outstanding risks and recommended actions from such data.
Any key food safety decisions/significant amendments to the Food Safety Management System that may affect the processes identified in this scheme.

Verifying the measures defined in the Scheme for the retail Enterprise and the Primary Authority is essential to ensure confidence in the Scheme…

Verification mechanisms

An independent assurance programme to verify compliance with the requirements of the Scheme as stated above will be managed by the Regulator. For example, selected Local Authorities carry out verification visits to ensure compliance data is accurate.

Assurance of the Primary Authority will be required to ensure confidence in the Scheme…

An assessment will be conducted by the FSA:
Regular FSA, PA & Retailer (quarterly) retailer compliance assurance meeting, ensuring compliance information is delivering expected outputs, highlighting trends, issues & good practice.
Assurance of Primary Authority performance will be conducted through audit of the Primary Authority (by the FSA) on a risk basis.
Evidence that the PA/Retailer partnership is reviewed must be provided to the FSA on an annual basis (suggest using template provided by OPSS - Review of Direct Partnership).