

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

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 Northern Ireland ('the Code') to support the introduction of the new Food Standards Delivery Model (the new model) in Northern Ireland.??

Introduction

The Food Standards Agency (FSA) is grateful to those stakeholders who responded to the consultation. The table below sets out the responses in order of the issues considered/group responding.

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?
- changes to the sections of the Code on the delivery of interventions and enforcement to support the principles of the new food standards delivery model??

The Food Standards Agency's considered responses to stakeholders' comments are given in the last column of the table.

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

- the availability of district council (DC) resource to support the new model
- the need for the FSA to ensure that the Management Information Systems (MIS) used by DCs 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 DCs to be in a position to work to the new framework. Given that a number of comments and concerns throughout Northern Ireland and England were raised in relation to these aspects in response to a number of the consultation questions, we have included an FSA response to these issues below.

DC Resource

In Northern Ireland, the responses indicated support for the new delivery model. However, wider concerns were raised around whether Local Authorities (LAs) and DCs have the resource to fulfil the requirements of the model, and whether the FSA is aware of and dealing with the general lack of suitable qualified and competent officers, which is causing significant recruitment challenges for many DCs and LAs.

The FSA acknowledges the need for sufficient DC resource to provide assurance on food safety and standards. We are exploring how we could potentially support DCs 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 the FSA designed the new model to be fit for purpose and to ensure that the available DC resource is used as effectively as possible. It was not designed to reflect the current levels of resource. The new model is intended to help DCs 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 Ipsos to carry out the Local Authority Capacity and Capability Discovery research. 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, local authorities, and other bodies (as appropriate).

Ipsos is carrying out 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 of food and feed controls, further details of which can be found [here](#) on Smarter Communications. Students attending courses or apprenticeships enabling them to qualify for the delivery of official food and feed controls are also being interviewed by Ipsos as part of the research.

The FSA has also identified the need to explore any potential barriers 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 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 DCs to operate the new model. We will continue to engage with DCs to communicate up to date information 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, identifying which aspects may introduce cost implications. We will assess the overall financial impacts on DCs in Northern Ireland prior to implementation. Reflecting the concerns around timescales, we did not propose national implementation on 1 April

2023. Instead, we plan to take a phased approach to implementation, meaning that 2023-24 will be a transitional year for DCs as they move from the current Code to the new model. Further details on our intended approach to implementation, and the scheduling of the phased approach, will be provided in due course.

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/DCs 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 mapping process will be provided as part of our implementation process.

Changes made

A summary of changes to the original proposals resulting from stakeholder comments is set out in the final table. A number of these changes are in consideration of England's stakeholder responses, and these have been reflected in the NI Code to ensure consistency across nations. Changes proposed based on the responses to the consultation in NI have also been considered and reflected in England's Code where appropriate.

Stakeholders

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

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
District Councils	Agreed that the presentation and layout of the revisions of the code facilitated consistent interpretation	Noted
Awarding/ Professional Body	Lack of alignment and consistency when cross referencing the current Code number and the revised Code numbers within the proposals.	Noted

Question 2: Do you agree that the proposed changes to the food standards intervention rating scheme will provide DCs 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).

Respondent	Comment	Response
District Councils	DCs agreed that the proposed changes to the food standards intervention rating scheme does provide DCs with the ability to deploy current resources more effectively as the proposed matrix will enable focus on non-compliant businesses. They noted that the proposed scheme provides for a more realistic assessment of risk by assessing inherent risk and business compliance separately which provides for a more proportionate and targeted enforcement regime.	Noted
Awarding/ Professional Body	Agreed that the proposals enable DCs to direct their increasingly limited resources in a more appropriate and proportionate manner.	Noted

Respondent	Comment	Response
Awarding/ Professional Body	The respondent felt the proposed changes did not address the main cause for concern regarding resources - current resources are insufficient therefore the proposals do not get to the root of the problem.	See sections above on resource and LA capability research.
Awarding/ Professional Body	The respondent raised that there was concern amongst some members that upon initial inspection requiring a revisit for higher risk premises within a one-month timeframe afforded said premises the least practicable time possible to make the required changes.	<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 the business the check improvements have been made).</p> <p>The increased frequency of interventions for high-risk businesses, and the ability to re-score 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>

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
District Councils	DCs suggested that the proposed frequency of 6 and 10 years is too long a period to leave a business uninspected as business activities could significantly change in this time.	Noted. The frequencies are intended to reflect the level of risk/compliance posed by the business, and it is important to emphasise that these are minimum frequencies for intervention and controls can be brought forward in light of relevant intelligence or where resources allow, and the model allows the use of alternative enforcement strategies or other business verification activities as interim measures.
District Councils	DCs believe that the priority intervention frequencies of 1 month will be onerous especially as these require an inspection, partial inspection, or audit.	<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 the business the check improvements have been made).</p> <p>The increased frequency of interventions for high-risk businesses, and the ability to re-score 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>
District Councils Awarding/ Professional Body	The code should be clear if a re-score 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.	The FSA are proposing minor changes at Section 4.3.2.2 to the wording of the code to reflect this. The code wording will be amended to reflect that a re-score can be undertaken after completing a full inspection, partial inspection or audit. Further detail will be provided in accompanying guidance.
Awarding/ Professional Body	Concerns raised regarding frequency of inspections at both sides of the scale, arguing that 1 month is too onerous on both the FBO and the LA. Not providing the FBO with sufficient time to make the appropriate changes. Also placing strain on already limited LA resources.	<p>Noted. 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 the business the check improvements have been made).</p> <p>The increased frequency of interventions for high-risk businesses, and the ability to re-score 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>
Awarding/ Professional Body	Concerns on higher end of scale that the timeframes may lead for some FBOs not receiving any inspections. May pose significant risk to public health.	The frequencies are intended to reflect the level of risk/compliance posed by the business, and it is important to emphasise that these are minimum frequencies and controls can be brought forward in light of relevant intelligence or where resources allow, and the model does not preclude the use of e.g. alternative enforcement strategies or other business verification activities as interim measures.

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
District Councils Awarding/ Professional Body	Respondents foresee problems in the mapping of data for the new Food Standards Delivery Model and subsequent implementation. DCs stated that Management information systems (MIS) will require significant revisions, which will take considerable time and verification to ensure the data has mapped correctly.	Noted. See section above on MIS.
District Councils	DCs anticipate a large volume of premises will require an inspection in the initial period of operating the new model, which will put additional resource pressures on the department.	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 (or taking appropriate action where they don't), the overall frequency of interventions should decrease over time.
District Councils Awarding/ Professional Body	Respondents are aware that a number of proposals e.g., the Scenario rule and the additional compliance risk factor for allergen information were not included in the pilot and therefore the impact on workload has not been assessed.	The pilot demonstrated that the new model enabled LA s/DCs 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 OCs 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. We will include an example on the spread of businesses across the decision matrix in guidance and will outline the impact of the new allergen risk scoring factor as part of that.
District Councils	DCs anticipate a significant increase in priority interventions resulting from these changes and request that the impact of these changes are evaluated.	The model will be subject to a formal evaluation once it has been fully implemented. This will provide an opportunity to make improvements to the model if needed.
District Councils	DCs anticipate difficulties with food service planning due to the reactive nature of the new model. It will be difficult to estimate the numbers of planned interventions as a premises requiring a priority intervention may require multiple interventions in year. In addition, this will be further complicated due to the intelligence element of the model.	Service planning 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). Whilst this may take some time to bed in, Pilot LAs/DCs 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.
Awarding/ Professional Body	Suggested that the 'Scenario rule' should also include establishments that receive a score of 2. They note this would have a significant impact on resource and capacity of DCs.	This proposal was considered during the development of the new Model. It was not brought forward as it was considered unnecessary and more burdensome. This proposal was not reflected in any NI DC responses.
Awarding/ Professional Body	Concerns raised in relation to significant financial outlay on the part of DCs in upgrading MIS.	See section above on MIS.
Awarding/ Professional Body	Desire for an improved approach regarding sharing of intelligence between FSA and DCs to ensure proposals implemented as desired.	Noted and raised with appropriate teams.

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

Respondent	Comment	Response
District Councils Awarding/ Professional Body	Respondents expressed concern that the impact assessment is not accurate, and that 1 full time equivalent (FTE) is not equal to 1 officer. Respondents recommended that the true number should be a combination of Food Hygiene and Food Standards FTE figures.	The FSA recognises the concern of many respondents regarding the calculation of FTEs. The FSA will be asking DCs for the number of officers involved in the delivery of food standards in the end of year LA survey and this will be used to ensure a more accurate calculation when assessing the impacts.

Respondent	Comment	Response
District Councils Awarding/ Professional Body	Respondents highlighted concerns that 1.7 hours per officer for familiarisation is insufficient.	FSA would like to clarify that familiarisation is for 1.7hrs is reading time, which should be sufficient for officers to complete. 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 proposals need to be reviewed to reflect this.
District Councils	One DC noted that they cannot agree to implementation unless it is at a neutral cost to the Council.	Noted.
District Councils Awarding/ Professional Body	Respondents noted that the FSA should include ongoing consistency exercises during the initial roll out and implementation of the revised scheme to ensure consistency in application across Northern Ireland.	Noted. Consistency exercises will be included by way of ensuring effective and consistent implementation across the countries
District Councils Awarding/ Professional Body	Respondents noted that there is an unknown cost specified for updating of MIS and mapping data to the new model.	See section above on MIS concerns.
District Councils Awarding/ Professional Body	Respondents stated they would appreciate clarification on financial support available for this	See section above on MIS concerns.

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
District Councils Awarding/ Professional Body	Respondents do not foresee additional impacts other than those noted in the previous question.	Noted.

Summary of changes

Comment/Issue	Response
Respondents sought clarity if a re-score can be undertaken after assessment of the non-compliance identified in priority intervention rather than completing a full inspection, partial inspection, or audit.	The Code wording at Section 4.3.2.2. has been amended to include an inspection or audit, partial or full. Further guidance will be provided in accompanying guidance.
A number of respondents in England commented that the requirement to inspect within 28 days of registration would be onerous if undertaking them at lower risk businesses FBEs would mean that official controls at higher risk and/or non-compliant establishments would be delayed. 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	We have noted these concerns and have amended the text provided in the Code (Chapter 4.2.4.2.) in relation to the initial inspection of newly registered food businesses. This will now require an initial desktop assessment of the inherent risk of new food businesses establishments within 28 days of registration, or from when the Competent Authority becomes aware that the establishment is in operation, whichever is the sooner.
A suggestion was made by a respondent in England 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.	It was agreed this would be more logical and has been incorporated into the Code both in Northern Ireland and in England

Actions to be implemented

- The code will be amended to reflect consultation responses as per summary of changes made above.
- The updated Code will be published in due course.
- DCs will be updated throughout the implementation of the new FSDM model.

List of respondents

1. Derry City & Strabane District Council
2. Mid Ulster Council
3. Fermanagh & Omagh District Council
4. Antrim & Newtownabbey Borough Council
5. Mid & East Antrim Borough Council
6. Chartered Institute of Environmental Health
7. Belfast City Council
8. Causeway Coast & Glens Borough Council
9. Armagh City Banbridge & Craigavon Borough Council
10. Lisburn & Castlereagh City Council
11. Newry Mourne & Down District Council