

Achieving Business Compliance Programme

FSA 23-12-05 - This paper provides a comprehensive update on the Achieving Business Compliance Programme

1. Summary

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

1.2 The Board is invited to:

- note progress on all the projects within the ABC programme;
- note that all the activities set on modernising local authority delivery should be concluded by April 2025, and that next steps on enterprise-level regulation should be decided after the evaluation next year;
- comment on the longer-term building blocks for the future assurance system proposed in para 10.5, and agree that further work on potential legislative change should be undertaken during 2024.

2. Introduction

2.1 The Board agreed a refreshed structure for the programme in March 2023, with a view to:

- modernising the delivery of local authority regulation
- testing new approaches to regulation
- designing the blueprint for the future regulatory assurance system

This paper provides progress update for projects in these three workstreams.

3. Modernising the delivery of local authority regulation: Food Standards

3.1 Following our successful pilots and consultations, in June the Food Law Codes of Practice for local authorities in England and Northern Ireland were updated to enable local authorities in those countries to implement the new food standards delivery model. Local authorities will begin transitioning to the new model in early 2024, with the aim that all 167 local authorities who deliver food standards controls will be running the new model by the end of March 2025.

3.2 The development and rollout of the new food standards model represents the most significant reform by the FSA in food official control delivery in over 30 years. It fundamentally changes the way that local authorities consider the levels of risk and compliance associated with food businesses and how this informs the subsequent intervention frequency, including more intensive intervention for the most non-compliant businesses and less frequent controls for those that are less risky. It also embeds the use of intelligence to inform official controls, so the system

is agile enough to respond to the changing food system.

3.3 Rolling out this model to 167 local authorities will involve making changes to the management information systems (MIS) of six different IT providers (some with multiple versions of their systems) and training of 681 local authority officers. Given the scale and complexity of the rollout, we are adopting a phased approach, with local authorities grouped based primarily on their MIS provider and MIS version. It is important that we support local authorities through this significant change process, building on the collaborative way in which the new model has been developed to date.

3.4 The Food Standards Model pilots began in Wales in September 2023 and are due to be completed by end February 2024. This will be followed by a period of post-pilot evaluation and then a potential consultation on changes to the Food Law Code of Practice in Wales in Autumn 2024.

4. Modernising the delivery of local authority regulation: Food Hygiene

4.1 In March 2023 we advised the Board of our intention to consult on the headline policy proposals for a revised food hygiene delivery model. As a reminder, the four proposed developments that we sought views on were:

- a modernised food hygiene intervention rating scheme
- an updated risk-based approach to the timescales for initial official controls of new food establishments, and for undertaking due official controls
- increased flexibility as to the methods and techniques of official controls that can be used to risk rate an establishment, including the appropriate use of remote official controls
- extending the activities that officers, such as Regulatory Support Officers (RSOs), who do not hold a 'suitable qualification' for food hygiene can, if competent, undertake.

4.2 During summer 2023, we held 9 local authority engagement events across the three nations and an online webinar which were all well attended. We also attended some industry group meetings. In parallel, we held a 12 week written consultation on the proposed developments, covering [England](#), [Wales](#) and [Northern Ireland](#). A range of non-local authority stakeholders were notified about the consultation including industry, MIS providers and other Government departments. We received 114 consultation responses and gathered over 2000 pieces of feedback from across the three nations.

4.3 We had consulted on ideas such as changing the intervention frequencies for food hygiene inspections, in a similar way to the food standards model, and had expected to pilot these changes. But the consultation led us to place less priority on the need for our proposed changes to align with the changes in the food standards model as some consultees felt there was insufficient evidence to justify the cost of doing this and the scale of change required at this point in time. Some consultees also encouraged us to think about a wider range of options. Areas such as broader enforcement powers, charging for official controls and exploring the potential to use data from third parties were all raised during the consultation. We have ensured that all these areas are being considered in our work on the future blueprint model described in section 10 below.

4.4 As a result of the consultation and engagement, we have decided to take forward the proposals to extend the role of Regulatory Support Officers, the use of remote assessments and other flexibilities in specific circumstances and the triaging of new food businesses and due official controls.

4.5 Other elements of the proposed developments which would have required piloting, or significant management information system (MIS) changes are not progressing. This includes the proposed changes to food hygiene intervention scoring and planned official control frequencies. So the planned pilot will also not be going ahead.

4.6 As discussed briefly at the September Business Committee this represents a change in our approach. As a result of these changes, we have decided to conclude the Food Hygiene Delivery Model project as a specific project within the ABC programme. The proposals that will be taken forward will now be consulted on in Autumn 2024 as part of the next update to the Food Law Code of Practice.

5. Modernising the delivery of local authority regulation: Local Authority Data Project

5.1 The FSA has statutory responsibilities of monitoring and reporting on the delivery of food and feed official controls by local authorities across England, Wales and Northern Ireland. This project aims to provide more relevant and timely performance data on the delivery of official controls undertaken by local authorities, to enable us to carry out this duty. Local authorities are currently facing acute financial and resourcing challenges to delivering their services, so it is more critical than ever that the FSA has the right tools to deliver effective interventions when individual local authorities are struggling.

5.2 Four options have been identified by the project:

- continue to collect limited data using existing surveys
- the development of a mechanism to capture/store structured establishment level data from 370 local authority management information systems in a similar way to the LAEMS system used before the pandemic.
- purchase an off the shelf solution which includes an insight engine to process structured and unstructured data, enabling FSA to analyse data provided to us in different forms.
- the development of an integrated service that allows the FSA to capture/store and process data, but also enables local authorities to directly interface with the platform. Although attractive in theory, this is likely to be extremely expensive, and could have implications for how LAs store and share data with other regulators.

5.3 We are currently testing the third option, which involves the use of AI to take structured and unstructured data from a range of sources and bring together information about local authority performance and business compliance. If this option can meet our requirements, it may be the most cost-effective and easily implementable solution for both the FSA and local authorities. It may also have potential for other uses which can give us better insights into the food system.

5.4 Once testing is complete, towards the end of 2023, and we understand whether the insight engine could meet our business requirements, we will be in a position to decide on next steps for this project.

6. Modernising the delivery of local authority regulation: Safer Food, Better Business

6.1 The Safer Food Better Business toolkit is the FSA's most used online guidance, attracting approx. 20,000 hits per month. It is used by local authorities and food businesses across England, Wales and Northern Ireland to support small businesses with their food safety management procedures and food hygiene regulations.

6.2 The online guidance was in need of review. The ABC programme has facilitated a short project to update the existing content and meet the requirements of the Public Sector Bodies Accessibility Regulations, through the production of fully compliant PDF toolkits. The project will re-launch the revised content in early 2024.

7. Testing new approaches to regulation: Aggregators Food Safety Charter

7.1 The aggregators food safety charter is a joint project between the FSA and Deliveroo, Just Eat, and Uber Eats. These online food aggregators have designed a food safety charter, in which they commit to:

- ensuring that all food businesses registered on our (aggregator) platforms are registered as a Food Business Operator (FBO) with their local authority.??
- setting (aggregator) minimum standards of Food Hygiene Rating Scheme (FHRS) ratings and introducing FHRS rating filters for consumers.??(UberEats and Deliveroo have a minimum of 2, JustEat has a minimum of 3)
- working with the FSA to use our (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.?

7.2 Through the joint work on the charter, we have been able to deliver some tangible changes to the way the aggregators' operating models help to promote food safety, including:

- Training Aide Memoire for Aggregator Onboarding Teams, a jointly developed FSA product that directly addresses local authority concerns about registration of small businesses, and helps to ensure FBOs trading on their platforms are complying with food safety requirements. Direct feedback from local authorities is that there has been a reduced number of registration queries since this product was launched.
- FHRS Supplementary Information Sheets, a jointly developed FSA product that addresses local authority queries in relation to aggregator use of FHRS on their platforms.
- Dossier of aggregator policies, processes and future product plans in relation to hypersensitive consumers. The FSA can now directly input into the development of policies and product changes, with the ability to reach thousands of food businesses on this critical subject.
- promotion of FSA/FSS guidance and training. Through the aggregators, the FSA now has indirect access to a larger number of food business operators (over 100k), predominantly SMEs. We intend to use this route to deliver allergen training, which will now reach a greater percentage of higher risk businesses, enhancing the consumer safety and supporting FBOs.

7.3 Building on this work, we will look at whether there are other areas of the aggregator operating model or other food safety elements that could be included in the charter and consider how we could work together in this way with other online businesses.

8. Testing new approaches to regulation: Enterprise Level Regulation

8.1 Further to the update to the Board in March 2023, the Enterprise Level Regulation Large Retailer Trial commenced in England only, in April 2023, with Asda, Aldi, Sainsburys, Tesco and Waitrose.

8.2 The retailers and their primary authorities have worked with the FSA Relationship Manager and Account Manager to explain their operating models and food safety management systems. This has included in-store visits and shadowing auditors, to gain more insight and build capability.

8.3 To date we have received all the required data from participating large retailers, and have held two sets of quarterly review meetings. The volume of data and subsequent analysis time has led to the investigation of options to improve our internal efficiency in this process, and some of the data from retailers will be used to test whether the insight engine mentioned in para 5.3 above could help to make the process more efficient with more standardised reports / outputs to help drive risk profiling activity. This is scheduled for testing in late November.

8.4 This trial is testing an entirely different approach to regulation, and aligns with an outcome-based collaborative regulatory model. This approach operates successfully in other sectors, including aviation and the nuclear industry, with more regulators assessing the feasibility within their own sectors. So far the access to the business level data, and the increased dialogue with the retailers has exposed a number of opportunities which could be explored further in future:

- the ability to see business-wide impacts of policy changes, which could enable us to forecast where risk may materialise in future. For example, where we know a business has introduced new cleaning contracts, we can see in the data a short-term variation in standards, followed by improvement and subsequent maintenance. In future we could use this insight to set leading indicators and target controls
- increased understanding of the wider food system. We are starting to comprehend the supply chain links and the industry controls in place to identify and manage risks. If the trial is successful we would seek to explore a similar approach with other sectors, like manufacture, to further increase our understanding and investigate where greater value can be added, and share good practice
- the potential to reduce local authority planned inspection numbers if the model is proven successful. During the twelve month trial there will have been up to 3000 planned food hygiene inspections [\(footnote 1\)](#) for the five participating retailers' premises in England.

8.5 The trial is scheduled to run until March 2024, with an end evaluation planned to complete by July 2024.

9. Testing new approaches to regulation: Enhanced Registration (Wales)

9.1 In April 2023 the Deputy Minister for Mental Health and Wellbeing (Wales) published a written statement and a collaborative agreement which set out her expectations and principles to the FSA, Directors of Public Protection Wales and the Welsh Local Government Association with respect to the ABC programme including an ask that the FSA, as part of the programme, explore an enhanced system of registration or licensing, prior approval rather than a right of registration.

9.2 We plan to undertake a deep dive to gather evidence from local authorities in Wales into the identified areas of concerns that lie behind the requests for implementation of an enhanced system of registration or licensing.

9.3 We don't yet know what this discovery might tell us, but we hope it will indicate what processes we could consider at the point new food businesses register, to ease the burden of repeated / duplicate / inactive registrations or businesses that are repeatedly non-compliant with food law, whilst ensuring the process remains efficient for food businesses.

9.4 In the first instance, the FSA will work with local authorities in Wales to review the evidence, and if relevant, co-produce an initial set of recommendations by Spring 2024. These would be based on the evidence and data available, and focus on the scale and risk of the

identified areas of concern across the food business landscape in Wales.

10. Designing the blueprint for the future regulatory assurance system

10.1 Since March, the ABC programme team have undertaken research activity with actors across the food system, to help us consider what regulatory assurance should look like in the longer term. This includes 75 in depth interviews, 80 questionnaires and several workshops with internal experts, delivery partners, trade associations, professional associations, research bodies, regulators and third-party assurance schemes, across primary production, manufacturing, wholesale, retail and catering.

10.2 Reassuringly, throughout this exercise we heard strong support for the requirements of food law, the demand for clear expectations, and the need for a strong food safety culture. We are not hearing from stakeholders that food safety law is too onerous, although we have heard the desire for more guidance to make the law simple to understand.

10.3 But we are hearing both from local authorities and businesses alike that the current model for assuring compliance with food law needs to improve. This is firmly focussed around how we assure compliance, thinking about who is best placed to deliver different activities, as opposed to what we're asking businesses to comply with.

10.4 During the exercise, we have heard that:

The local authority system isn't sufficiently resourced. Whilst this message isn't new, and we heard the same message from our Ipsos research (as described in more detail in the local authority Performance Management Paper) it's clear that local authorities are increasingly struggling to deliver their obligations and to recruit and retain skilled staff. We should note that resource level concerns are mirrored in the delivery of controls in meat.

The current system doesn't appear to drive compliance as effectively as it could do across the whole system. Larger and smaller businesses have very different experiences of the current model. Broadly, the largest businesses have both the expertise and resources to comply with food law, relying on their own internal assurance systems and drawing on third party assurance. Smaller businesses have a greater need for guidance and support and are more reliant on – and appear to find much more value in – a local authority relationship. The fact that many local authority colleagues are trying to carry out an increasing volume of inspections with diminishing resources, including to the more compliant businesses, means they don't always have the time to provide this guidance and support. This leads us to the conclusion that the current “one size fits all approach” is not the most efficient and effective way of using local authority time, or of driving business compliance.

FSA and local authorities aren't able to seize opportunities to use data more effectively. Local authorities have identified challenges with businesses providing up to date information. Businesses and third-party bodies tell us they have data that could assist in identifying risk within the system, but there is no current mechanism for the FSA or local authorities to view or analyse that information, even if it could be shared. We need to set some clear standards around data, critically review what we need to access and how we could use that information to target risk within the system to improve compliance.

The regulatory framework, which has evolved over a number of decades, is seen as failing to keep pace with the changing size and nature of the food industry in several ways:

- **Registration:** the growth in new food businesses came up frequently with local authorities, who struggle to keep on top of new registration volumes and are concerned that some

people operate these businesses without the necessary competence and knowledge. Some see the registration process as a missed opportunity – to quantify and prioritise the workload, give guidance to new businesses and target activity.

- **Enforcement powers:** prosecutions are time-consuming for local authorities, who want quicker, easier and more proportionate enforcement mechanisms like fixed penalty notices.
- **Guidance:** Businesses told us they seek guidance on how to comply from a range of sources, depending on the size and nature of their business, but would like to see this in a single, easy to understand format. Local authorities find our guidance unhelpful in some cases and would like to see this improved.

Finally, in the course of our engagement, some businesses told us that there are areas of food safety where they work more closely with third party organisations than with the regulator. We already have a track record of successfully working with third party assurance schemes such as Red Tractor and Agricultural Industries Confederation to build on, and our recent work with our food fraud working group has exposed challenges and opportunities relating to data sharing with third parties. There is clearly an opportunity for the FSA to further consider the role of third-party assurance in the wider context of regulation and to explore the associated opportunities, risks and benefits.

10.5 These findings from our research lead us to the conclusion that a future assurance system for food you can trust might have the following building blocks:

- national-level regulation for the largest, most powerful businesses, providing appropriate regulatory oversight for their systems and processes, and setting up a regulatory relationship which can be used to drive positive behaviour throughout their supply chains. the feasibility of enterprise-level regulation is being tested through our trial at the moment. If successful, a future national-level regulatory model for the biggest businesses could free up local authorities to spend more time focusing on the smaller businesses who need their guidance and challenge;
- An enhanced registration process for the rest of the food industry, ensuring that local authorities have good quality data to support their assurance activity. This might include considering an appropriate registration fee, which could be used to improve the current system without placing undue burdens on smaller businesses;
- a central role for the FSA in collecting, co-ordinating and sharing intelligence about risks to drive activity, building on the role already developed as part of the food standards model. This might also involve greater use of data and information from businesses and third party assurance providers;
- The right enforcement toolkit to drive compliance, with proportionate sanctions; and
- a high-quality guidance hub for businesses.

10.6 Within the ABC programme, we have been seeking to develop this future blueprint so that we understand our long-term vision for the future and can ensure that change activity aligns to it. We do not propose to deliver all these building blocks within the ABC programme, and do not have the resources to do so. Some would involve very substantial reform to the regulatory system and would require legislation to implement fully. There would first need to be an extensive process of policy work and consultation with stakeholders to develop these building blocks into detailed proposals. We set these ideas out here only as early thinking about the direction of travel, and seek the Board's initial views about whether this direction is right.

11. Conclusions

11.1 On modernising the delivery of local authority regulation, the roll out of the new food standards model is now underway and we have identified, through the food hygiene consultation and our research on local authority capability and capacity, a set of proposals that will further support local authorities in delivering food hygiene controls set out in paras 4.1 - 4.6. We expect

to have delivered all these changes by April 2025.

11.2 On testing new approaches, both the aggregator food safety charter and the enterprise-level regulation proof of concept trial are providing useful learning on how regulation might be done differently. We propose to keep working with the aggregators through the charter, beyond the duration of the ABC programme. We will await the evaluation next year before deciding on next steps in relation to enterprise level regulation, but the signs so far are positive. Depending on the evaluation, we might propose to continue with a form of enterprise-level regulation beyond the proof of concept, to the extent possible within the current legislative framework.

11.3 The work on a blueprint for a future assurance system has now identified some early building blocks for the long term future assurance system, informed in part by the testing work we have done and by our consultations so far. If the Board agrees that this is the right direction of travel, some of our projects and decisions in the coming year - for example, the work on new approaches to registration, any next steps following the proof of concept trials for enterprise-level regulation - can help us to develop these ideas further. We could also do further work on potential legislative options next year, when resources allow.

11.4 The Board is invited to:

- note progress on all the projects within the ABC programme;
- note that all the activities set out above on modernising local authority delivery should be concluded by April 2025, and that next steps on enterprise-level regulation should be decided after that evaluation next year;
- comment on the longer-term building blocks for the future assurance system set out in para 10.5, and agree that further work on potential legislative change should be undertaken during 2024.

1. Based on 5,367 premises, predominantly classified as category D, requiring a minimum intervention frequency of 24 months