Qualitative Research
Exploring Regulation
Cultures and Behaviours

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Executive Summary

Background and Approach

- Following the outbreak of E. Coli O157 in South Wales in 2005 and the publication of the March 2009 Public Inquiry Report, the Food Standards Agency (FSA) has taken the lead in addressing the Report’s findings and recommendations. One aspect of the FSA’s response has been the development of the Food Hygiene Delivery Programme. One project within this programme has focused on food safety cultures, particularly on ‘food safety organisational cultures’ and ‘what works’ in achieving compliance with food safety regulation. As part of this project, the FSA conducted an Evidence Review summarising what is already known about culture and behaviours in businesses and enforcement bodies, and how these affect compliance.

- In order to build on the findings of the Evidence Review, additional qualitative research was required with stakeholders to explore their response to the key findings of the Review. This research was to understand overall levels of agreement with the key findings of the Evidence Review, and to identify any significant gaps within the findings or areas of disagreement. It also sought to fill two gaps in the literature around why large businesses are more likely to comply and how other regulators achieve compliance.

- The sample included 26 one hour in-depth interviews with food safety stakeholders (including a range of consultants, academics, business representatives) and non-food regulatory representatives. Respondents were provided with the key headline findings of the Evidence Review to enable them to consider these prior to the interview. This also allowed them the opportunity to consider if any other bodies of evidence or other studies might be relevant to the findings.
The findings of the report represent the views and opinions of the 26 people that were interviewed. The findings provide an indication of areas of agreement with the key findings of the Evidence Review, as well as areas worthy of further consideration. As this research is based on a small sample of respondents and is qualitative in nature it does not allow for empirical generalisations. The aim of qualitative research is to define and describe the range of views and explore linkages, rather than to measure their extent. Qualitative methods neither seek, nor allow, data to be given on the numbers or proportions of people holding a particular view nor having a particular set of experiences.

**Key Findings**

**Response to the Evidence Review**

- Overall, there was broad agreement with the key findings of the Evidence Review, with findings generally considered to reflect the respondents’ experiences and knowledge.

- However, three areas were not necessarily reflective of respondents’ own experience:
  
  - The assertion that large businesses may have proportionally lower compliance costs than SMEs. Within the large business sample it was stated that managing and training larger staff numbers in compliance has increased costs.
  
  - The assertion that UK food regulators tend to take more preventative, conciliatory approaches towards dutyholders.
  
  - The point that tensions can occur if enforcers occupy the dual role of educator and enforcer.
A few additional factors were also raised by respondents which were felt worthy of consideration:

- Businesses and regulators may define ‘compliance’ differently. It was suggested that businesses often distinguish between regulatory compliance (complying with food safety law) and effective compliance (producing safe food).

- Profit margins are an important consideration when understanding whether a business will comply; for example, compliance may compete with other business needs for priority.

- Increased size of an organisation may make compliance more logistically difficult.

The sample also raised several factors that were considered to deserve greater attention due to their impact on compliance:

- The importance of high-level management commitment to the creation of successful compliance cultures, particularly the existence of a motivated and knowledgeable Person in Charge (PIC).

- Business forces such as customer expectation and issues of brand and reputation.

- The importance of consistent, multi-channelled communication about compliance objectives and practices between top-level management and all employee levels including the availability of tailored communication and training materials.
Role of Business Size in Achieving Compliance

- Achieving compliance was considered to require meeting some necessary conditions; businesses must be motivated to comply, understand how to comply and be able to comply.

- The development of an effective ‘compliance culture’ was also regarded as important, and it was considered that businesses must have the necessary management structures to filter compliance goals, information, and best-practice throughout the organisation on an ongoing basis.

- Although large businesses may face their own challenges in terms of increased size it was considered that they may be better placed to comply due to;
  - Being more motivated due to corporate responsibility, maintaining brand reputation, retention of customer base and acceptance of regulation.
  - Having greater understanding of compliance obligations and how to implement these through internal experts and access to external experts including membership organisations.
  - Having more available resource to meet needs.
  - Effective management systems with formalised governance procedures, for example, internal audits and a motivated person in charge to filter compliance goals on an ongoing basis,

- However, it was noted that a committed small business may still be able to create a compliance culture. It was also noted that small businesses do not face large business challenges such as communicating.
compliance objectives throughout large staff numbers and multiple management layers.

- Ongoing supervision and risk monitoring (including sanctions and incentives), the provision of multiple channels of compliance information, and worker involvement and engagement were also seen as important aspects of sustained food safety cultures regardless of size.

- Business sector and subsector were considered to potentially play a role in achieving compliance. In particular, business complexity may make compliance more difficult.

- Finally, staff profile was also viewed as a potentially important factor, and respondents acknowledged that businesses with high numbers of low-entry staff, high staff turnover, or high numbers of staff for whom English is not their first language may face additional communication and training challenges. Provision of tailored training and materials was thus considered important.

Approaches of other Non-Food Regulators

- Two main regulatory approaches were discussed. Primarily, a mixed enforcement approach based on an advisory, partnership model of enforcement with recourse to more rigid enforcement models as necessary. This was viewed as successful for fostering strong working relationships with dutyholders and promoting compliance.

- There was no strong suggestion of potential tensions that may arise from this approach. Instead provision of information and transparency about regulator ethos and enforcement – particularly regarding past or current sanction activities – was considered a useful way to manage the relationship.
The second approach discussed was a more rigid enforcement style, utilised more recently by one regulator due to a perceived culture of non-compliance within a particular industry.

Risk-assessment of dutyholders was considered important in informing the regulator’s approach and managing limited regulator resource, with the suggestion that additional auditing, enforcement attention or gatekeeping practices ought to be directed towards dutyholders judged to present higher levels of overall risk, for example those who operate more complex businesses.

It was also suggested that risk-assessment should inform response to non-compliance, with more rigid approaches taken with dutyholders who do not seem motivated to engage with the enforcer or resolve compliance problems or those who have a greater risk to public health.

Other methods within these regulatory approaches included the use of self-regulation models, which required dutyholders to proactively demonstrate that they meet compliance requirements on an ongoing basis. High standards of entry to operate by the regulator were also considered a useful way of reducing non-compliance and it was suggested that this could potentially be useful in the food industry.

Auditing was seen as an important part of a regulator’s role in order to ensure that compliance obligations were being met. The type and extent of auditing varied, generally depending on the type of business and the approach of the regulator.

The use of sanctions and penalties were common practice across regulators and were used to encourage compliance. However, none of the regulators had access to data regarding the success of incentive schemes in promoting compliance.
- In terms of communicating and engaging with dutyholders, regulators were using a wide range of channels to reach their audience. This multi-channel approach was considered important to reinforce compliance obligations and also the regulators’ approach and ethos.

- Face-to-face contact was generally considered key to establishing strong working relationships with dutyholders. However, a range of written, digital and in-person communication methods were also used to disseminate information to dutyholders. The use of clear, jargon-free communications with minimal technical language was considered important within written communication. Making compliance objectives as applicable to the business and its needs as possible was also considered beneficial.

Perceptions of Ideal Regulatory Approach

- Consistent with the approach suggested by enforcer respondents, the broader sample suggested that a mixed enforcement approach – a mix of a partnership style to encourage compliance and prevent risks and more rigid enforcement styles as required - might be most successful in encouraging compliance with food safety regulations.

- Audits and sanctions were considered important aspects of this partnership-based but mixed model of enforcement, particularly so that businesses that do not seem motivated to comply or that are judged to pose strong risks to food safety are penalised accordingly. However, sanctions that are perceived as excessive or inappropriate were considered to potentially impact negatively on perceptions of regulation and enforcement officers.

- Ideally, it was suggested the rigidity and severity of enforcement should be decided on a case-by-case basis according to the level of risk presented by the individual business.
Both the FSA Food Hygiene Rating Scheme and local existing Scores on the Doors schemes were raised as potential ways of increasing compliance however there was a mixed perception as to the impact of these types of schemes.

Perceptions of Current Regulatory Approach

Respondents perceived that the current regulatory approach could be variable or inconsistent. Respondents also indicated that they felt that enforcement approach could be guided by individual inspector’s personality or subjective perceptions of risk. Perceptions of regional variation in enforcement approach were also noted.

Lack of local authority resource was perceived to be a potential issue for the adoption of a partnership model, particularly if inspectors have to invest time and energy adapting their approach and communication style with each business under their authority. Respondents also appreciated that partnership working often requires a level of understanding and knowledge about food safety that LA regulators simply may not have.

Communication

Multi-channel communication between dutyholder and regulator was considered important to support compliance. Face to face communication was seen to be ideal to build relationships but necessarily supported by written communication which are clear and jargon free. Framing compliance objectives in business or food safety terms (for example, noncompliance is a potential danger to reputation, brand and profit) was suggested to be helpful as was providing businesses with guidance about how and why to comply within the context of their organisation. It was also suggested that consideration should also be given to language and cultural issues which may impact on understanding.
III Introduction

A. Background

The outbreak of *E. coli* O157 in South Wales in 2005 and the publication of the Public Inquiry Report in March 2009\(^1\) have brought renewed attention to the issue of cultures and behaviours in businesses and enforcement bodies and compliance with food hygiene legislation. The Inquiry Report concluded that this outbreak was caused by food, in this case cooked meats, which had been contaminated with *E. coli* O157. This occurred due to serious and repeated breaches of Food Hygiene Regulations by the food business operators (FBOs) involved in the chain of supply.

One of the contributing factors to the breach of regulation was considered to be the nature of the FBO’s food safety culture.

In July 2009 the FSA Board agreed that the Agency should take the lead in addressing the Report’s findings and recommendations that lay within the Agency’s remit\(^2\). The Board also agreed that, while the Inquiry focused on *E. coli* O157 in meat in Wales, the Agency’s work programme should cover all food borne pathogens and all food groups across the UK and delivery through local authorities, the Meat Hygiene Service (MHS) and the Department of Agriculture and Rural Development (DARD)\(^3\). The Food Hygiene Delivery Programme was set up to meet these aims.

One project within the Food Hygiene Delivery Programme concerns **food safety cultures**. The intention of this project is to understand ‘food safety organisational culture’ and ‘what works’ in achieving compliance with food safety requirements.

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\(^3\) The Food Standards Agency works with enforcement officers to ensure that food and feed law is applied across the entire food chain. Information about the different types of Enforcement authorities and the responsibilities of all the enforcement authorities in the UK are set out in the Single Integrated National Control Plan for the UK; details of which can be found on the following link: [http://www.food.gov.uk/multimedia/pdfs/uknationalcontrolplan.pdf](http://www.food.gov.uk/multimedia/pdfs/uknationalcontrolplan.pdf) (updated 2009 version)
In addition, the Agency is interested in a better understanding of cultures and behaviours in relation to compliance with food safety legislation to complement its wider, ongoing research into other food-borne illnesses[^4].

The first piece of work commissioned to respond to these recommendations was an Evidence Review[^5], which sought to summarise and assess what is already known about culture and behaviours both in businesses and in enforcement bodies in relation to compliance with regulations. It also sought to investigate the nature of the communication between individuals in these two groups, and prioritisation of food safety organisational culture and compliance with food safety legislation.

To complement the review, the FSA wished to conduct a number of in-depth interviews with individuals interested and knowledgeable about regulatory compliance, organisational cultures and communication between business and enforcement bodies.

The purpose of these interviews was to sense check findings from the Evidence Review on regulatory cultures and behaviours, confirm that there are no major omissions in the review from the existing evidence base, and fill some of the gaps identified in the literature.

**B. Research Aims and Objectives**

The overall aim of the research was to *explore cultures and behaviours in relation to regulatory compliance.*

Within this, specific objectives that the research needed to fulfil included:

- ‘Sense checking’ findings from the Evidence Review on regulatory cultures and behaviours recently commissioned by the Agency. That is:

[^4]: Research includes work on campylobacter, listeria and salmonella. You can read more information on these, and other, research projects on the following link. [http://www.food.gov.uk/science/research/researchinfo/foodborneillness/](http://www.food.gov.uk/science/research/researchinfo/foodborneillness/)

– to what extent did the findings reflect the understandings and opinions of respondents?
– identify any areas which were considered to be different to those of the Evidence Review
– identify any additional information that is not mentioned in the review

• Confirming that there were no major omissions in the Evidence Review from the existing evidence base:
  – anything missing from the review from spontaneous discussion
  – any areas that were considered missing on reading the Review

• Filling some of the gaps identified in the literature namely:
  – why are large businesses more likely to comply?
  – how do other regulators achieve compliance (beyond ‘Food’ and ‘Health and Safety’ regulators, which is where most of the Review evidence was drawn from)

C. Method and Sample

Method

A qualitative research method of in-depth interviews was considered most appropriate to meet the objectives of this project. This approach allowed respondents the opportunity to discuss compliance issues from their own perspective as well as allow for the opportunity for discussion around the findings of the Evidence Review. Respondents were informed that any opinions not arising from or referencing the pre-information document were welcomed. In-depth interviews were also chosen as the method, as opposed to group discussions, as respondents were from different backgrounds and experiences and one to one sessions allowed the conversation to focus on their individual views as well as ensure confidentiality and respondent comfort within the discussion. Further, many of the respondents were in senior positions and one to one sessions enabled the timing of the interviews to fit better into their schedules.
Sample

The total sample was twenty-six in-depth interviews. This included twenty-two face-to-face semi-structured interviews and four telephone interviews of approximately one hour. Telephone interviews were necessary due to the availability and location of some respondents.

Respondents comprised a mix of food safety consultants (including auditors, training providers and certification bodies), academics, representative of other Government department, large food businesses and franchises (both meat-only and other businesses), food-safety regulators, and non-food regulators. Many contacts or areas of inclusion were suggested by the FSA, and added to as appropriate by the researchers to ensure a broad range of backgrounds and expertise were represented. Respondents were drawn from across the UK and also included two experts based overseas.

Approach

Interviewees were initially approached via formal written invitation (see Appendix 2) requesting their anonymous contribution to the research.

On agreement to take part, all respondents were sent a pre-information document (see Appendix 3) that they were asked to read and consider prior to the interview. The pre-information document was developed between FSA and Define Research & Insight Ltd and was created to summarise the key findings from the FSA’s Evidence Review. Given the limited time in the interview and the likelihood that senior stakeholders might not have time to read the full review, pre-placing summary information with the respondent was considered an important part of the methodology. This allowed respondents a chance to read and consider the key findings and also to consider if they knew of any evidence that could support or build on the

6 http://www.food.gov.uk/science/socsci/ssres/crosscutss/ssculturereview
findings. Respondents were also offered the opportunity to read through the pre-information during the interview if they had not done so previously.

In order to assess interviewees’ spontaneous response to the Evidence Review, respondents were asked briefly for their initial impressions of its findings before being prompted with more targeted questions about approaches to compliance and any potential gaps (in terms of data, potential factors of interest, literature for review, and so on) in the Evidence Review. The respondents were then asked again about their responses to the findings towards the end of the discussion in order to ensure that any additional thoughts or examples raised by preceding discussion were included.

Prior to the interview, all respondents were asked for their permission to take part in the research. They were also notified that they were free to refuse questions or withdraw participation at any time.

Tailored discussion guides were prepared for large business, academic, and regulator respondents – for their areas of expertise (see Appendices 4-6). These guides were developed in collaboration with FSA and also an external expert peer reviewer. The guides queried specifics of the FSA’s Evidence Review but also requested interviewees’ spontaneous responses and areas of key agreement, disagreement, or information to understand the gaps identified by the Review.

After the interview, respondents were sent verbatims within the context of the report to allow them to individually approve their inclusion. Respondents were offered the opportunity to refuse their inclusion or to edit them to ensure they reflected their views. They were also asked if they would like to share full transcripts of their interview with the FSA for record keeping, all respondents were informed that this was not mandatory and they had the option to refuse this.
All project recruitment, interviewing, and analysis was conducted by a senior team at Define Research & Insight Ltd.

Analysis

All interviews were recorded and full transcriptions were prepared. In some cases, respondents also contributed their annotated copies of the pre-information document for researcher use. Each research executive then worked through the available data (transcript and annotated pre-information document as appropriate) of each interview separately in a systematic and ongoing process of analysis and data reduction. Transcripts were roughly coded by the research executive according to the key questions of the research; points of disagreement, and agreement with the findings of the Evidence Review were noted, as were any identified gaps. Coding also sought to identify key drivers and barriers to compliance, to successful compliance cultures, and successful regulator/dutyholder communication. From across the above, core themes, with evidence and illustration, were identified as available from each interview and collated into summary notes of key findings (key issues, themes, concepts and verbatim in respect of these) for that interview.

Cross-team dialogue was then undertaken in a series of internal debriefing sessions to understand the extent to which key findings from each interview applied to the sample as a whole versus specific interviews only.

Session notes were drawn up which identified key findings. These were then distilled into a draft report, using the interview notes to verify any detailed points and to illustrate key findings via verbatims that were raised by the respondents. Prior to the final report, any additional points of clarification were then also discussed with the research team.

The following findings are drawn from respondents’ perceptions and own experience about ‘what works’ to secure compliance, regulatory and business cultures that support sustained compliance, and ideal
communications between regulators and dutyholders. The findings include verbatims from respondents across the sample to indicate the breadth of views.

The findings provide an indication of areas of agreement with the key findings of the Evidence Review, as well as areas worthy of further consideration. As this research is based on a small sample of respondents and is qualitative in nature it does not allow for empirical generalisations. The aim of qualitative research is to define and describe the range of views and explore linkages, rather than to measure their extent. Qualitative methods neither seek, nor allow, data to be given on the numbers or proportions of people holding a particular view nor having a particular set of experiences.
IV  Detailed Findings

The following sections provide detailed findings from this research. The first presents an overview response to the findings of the Evidence Review, focusing on areas of disagreement and agreement reported by the sample. Issues raised by the Evidence Review but which respondents highlighted as worthy of additional emphasis or clarification are also discussed.

The report then looks in detail at the issue of size as a factor in compliance.

Finally, the report discusses issues of regulation and relationships between enforcement bodies and duty-holders. The report discusses approaches from other regulators in encouraging compliance. The report then proposes the ideal regulatory approach according to broader respondents.

We acknowledge that there is no single definition for the term ‘culture’ and it would have been inappropriate for the research to assume a preconceived notion of the term. Interviewees were selected who were interested and knowledgeable on the area of regulatory compliance, some including but not exclusively, organisational culture.

1.  Response to the Evidence Review

1.1  Overview of Responses

Overall, there was broad agreement with the key findings of the Evidence Review. Most did not know of any empirical evidence or further research to support the findings, however the findings were considered to reflect the respondents’ own experiences and knowledge in the food safety area and regulatory approaches.
That said there were some points raised in the Evidence Review that were questioned by members in the sample, based on personal experience, namely:

- The suggestion that the cost of compliance is proportionally lower for larger businesses.
- The assertion that UK regulators overall tend to take more preventative, informal and conciliatory approaches.
- The suggestion that tensions can occur due to enforcers occupying a dual role as both educator and enforcer.

There were also some further points raised consistently across the sample, which were felt to be important considerations in understanding why a business may or may not be compliant. These points were felt to be either in addition to the Review findings or were considered of perhaps greater importance than indicated in the Review and potentially should be considered more strongly.

Additional factors mentioned by respondents:

- **How businesses define compliance** – respondents suggested that businesses often distinguish between regulatory compliance (complying with food safety law) and effective compliance (producing safe food).
- **The importance of profit margins**, irrespective of business size, to the financial resource dedicated to compliance. The sample broadly suggested that businesses with low profit and thus resource may be less likely to be compliant.
- Respondents also suggested that the **increased size of an organisation might make compliance more logistically difficult** in terms of the dissemination of information, training and procedures. This issue is not currently discussed in the Evidence Review but was raised by academics, business representatives, consultants and a regulator in the sample.
Areas to be considered more strongly:

- The importance of **high-level management commitment** and in particular the existence of a **motivated and knowledgeable Person in Charge** driving compliance cultures.
- The importance of **business forces** such as customer expectation and concerns about brand or reputation as a motivation for compliance.
- The importance of **consistent and multi-channel communication** about compliance objectives and practices between **top-level management and employees to achieve sustained compliance**. This included two minor additional points which were considered important to help communication, namely:
  - the importance of making compliance tools and instructions widely and easily available to all employees
  - *tailoring* of training to employees and specific business requirements

Further, respondents felt that the Evidence Review did not readily comment on any emphasis between organisational culture and characteristics. That is, whether business characteristics or culture are more important in creating compliance. It was acknowledged that the characteristics and culture of an organisation are inter-related. However, this sample considered the *culture* of an organisation - that is the values, beliefs and working practices and so forth - to be of greatest importance in achieving and sustaining compliance.

These points are discussed in turn below.

### 1.2 Areas of Question within the Review

#### 1.2.1 Compliance Costs and Business Size

There was a mixed response towards the Evidence Review’s assertion (Section 3.2.4) that the costs of compliance are proportionally higher amongst SMEs than in larger businesses.
Responding to the Evidence Review, respondents agreed compliance costs might be proportionally larger for smaller businesses. For example, they acknowledged that SMEs might find it very difficult to source or justify the financial resource required for the wide variety of compliance expenses: internal and external training, compliance staff or consultants, new technologies, audit payments, and so on.

“When we carry out risk assessments, prepare procedures, put on training courses, buy in services – that cost is supported by a greater number of profit generating units – so proportionally our costs will likely be lower.”

[Business]

However, among larger businesses in the sample there was some discussion that that whilst they may have greater resource for training, including on-line training, size could also involve significantly increased costs, particularly if there is heavy investment in ongoing employee training and auditing.

“I don’t think the costs of compliance are any more expensive proportionally. I don’t actually think the costs are necessarily worse for a smaller or larger organisation; I think it’s relative to the size. You know, I’ve got 5500 people to train.”

[Business]

Additionally, respondents noted that the costs of ‘up scaling’ compliance may be affected by industry sector and subsector. More complex organisations – defined by respondents as businesses with more complex processes of production, more types of products produced, and in some cases, by more variation in practice or because of being set up across geographic locations, may find compliance more difficult.7

1.2.2 Dutyholders May Not Perceive UK Regulators as Informal and Conciliatory

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7 As discussed in Section 2.3.1, size is not the only factor affecting the likelihood of business compliance. For example, business subsector and relative levels of complexity also play a role.
There was a mixed response to the Evidence Review’s assertion (5.2.1) that UK regulators tend to take what it terms preventative and conciliatory approaches. Respondents strongly preferred partnership models in enforcement and felt these most positively impacted on compliance (as discussed in Section 3.2).

Whilst it was commented that regulators could be preventative and conciliatory, respondents (including businesses and associations, consultants and academics) frequently suggested that businesses tend to perceive the Local Authority approach as fairly rigid and focused on punishment, rather than on helping businesses avoid compliance problems. Businesses and consultants often reported frustration with Local Authority inspectors, considering them ‘tick-box’ enforcers unwilling to discriminate between effective compliance or food safety risks and less critical non-compliance.

“The nature of interaction is often very top down and telling them – well let’s say it’s instructive rather than communicative. And that creates the relationship, doesn’t it! ...I think interventions could be more developmental. So for example if these inspectors talk about initiatives that exist [to help] or what money’s available for various bits and pieces to help the owners and managers develop their work rather than ‘I’m going to come around and check whether or not you got your stainless steel facility for food preparation.’”

[Academic]

“The enforcers are seen as being too officious, too inflexible, lacking the ability to interpret the rules in a way which still preserves food safety. It doesn’t actually make any difference to the quality of the product, so a lot of them are jobsworths because they’re frightened to do anything that’s not in the rulebook. The FSA is supposed to be risk based and proportionate. We don’t expect them to take risks which could jeopardise consumers’ health because this could result in illness. But there are a lot of things where a bit of flexibility would not actually be detrimental to the product, but they will not do it because it’s easier to tick the boxes than to think, ‘Well there’s another way of doing that.’ So they don’t use any kind of ingenuity or flexibility and that causes problems.”

[Business]
1.2.2 Tensions for enforcers in occupying a dual role as both educator and enforcer.

A discussion on this point can be found later in section 3.1.1

1.3 Points Raised in Discussion around Compliance

1.3.1 Defining Compliance

A broad range of definitions emerged in relation to compliance. However, across the sample respondents emphasised that food businesses’ definition of ‘compliance’ was not solely focused on meeting legal requirements for food production. It was considered that for many food businesses food safety is also equally if not a more important goal.

Interviewees drew strong distinctions between two related but distinct aspects of compliance – ‘regulatory compliance’ (meeting legislative and auditing requirements, including paperwork-level compliance) and ‘effective compliance’ (effective governance of food safety and the production of safe food for consumption). Effective compliance was considered an important factor in helping to sustain compliance on an on-going basis. This distinction was made by a range of respondents including consultants, business representatives, and representatives of business associations.

“I’m interested in whether you’re looking at food safety compliance or regulatory food safety compliance because there’s a difference. In other words, are you just complying with the law, the food safety law, or actually, are you complying with food safety requirements?”

[Consultant]

“When we look at compliance, we talk about it from a manufacturing point of view as a licence to operate. It’s a phrase we use to help people understand how it sits; it’s like a driving licence or it’s like an MOT on your car. There are lots of situations where it covers health & safety or food safety, but there also sections of legislation, codes of practice and then company standards that we need to have in place
to deliver food that’s safe and also meets the quality and the expectations of what we’re trying to sell to the consumers.”

[Business]

Among the consultants in the sample there was some suggestion that the focus of enforcing bodies on regulatory compliance can sometimes feel at odds with businesses that may be more focused on effective food safety and thus can put less emphasis on regulatory compliance. These respondents also noted that governance procedures and documentation, while important in their own right and particularly important to achieving regulatory compliance, can be misleading; just because a system is formally compliant does not necessarily ensure it is effective and producing safe, high-quality food. For example, consultants to food safety businesses offered examples of businesses that achieve regulatory compliance on paper and nonetheless fail to achieve effective food safety. Other respondents – drawn from the business representative and consultant groups – discussed instances in which following ‘the letter of the law’ might actually produce unsafe food in certain circumstances.

“Sometimes if you look at the records you’d be able to say that everything was completed absolutely perfectly. But if you actually ask the guys doing the job, they’ll say they deal with delays, the system causes frustration, records are completed after the event and all this sort of non-conformance ‘stuff’ goes on – despite the records being correct... Actually, the system is ineffective and doesn’t really comply at this level, but the traditional audit doesn’t identify that.”

[Consultant]

“For instance, the law allows you to store food above 8 degrees centigrade for up to four hours, but in certain circumstances, arguably, that could be unsafe. So you comply with the law, but you’ve got an unsafe operation. So is it food safety that’s important to you or is it the, the legislation?”

[Consultant]

1.3.2 The Role of Profit Margins

Across the sample, profit margins were highlighted as a very important factor for compliance. Regardless of size, compliance might be seen as
more of a burden – and a risk to overall profit and business sustainability – as financial resource shrinks.

“What you will frequently find is that food standards – and better standards – will be dependent on whether the manufacturer is making a satisfactory return or not... I’ve seen where people who have had good standards all of a sudden there’s a drive to the bottom because people can’t make a living. We try to ensure we’re at the top end of the market... otherwise the competition is more fierce, the commercial market become more intense, people start doing things on a marginal cost basis and that’s great day one but day two you’re dead. And that’s when the commercial pressures start coming on: people start to find ways of cutting corners.”

[Business]

“Most companies don’t want to fall foul of the regulator, so they will try and do what they need to do to cooperate within the rules. But there are some sectors where under quite serious economic pressure, companies will, will run to the wire. They will shortcut, bend a bit, flex the rules in order to remain competitive economically because compliance may carry quite a serious cost burden, so there is a risk of that.”

[OGD]

Respondents widely perceived that businesses fear that reports of unsafe food may harm their brand, customer reputation, and profit (see Section 1.3.3) and this can help drive compliance. Respondents across the sample (business representatives, academics, consultants and representatives of membership groups) however also suggested that as profit margins shrink, businesses may be less likely to commit resource to compliance and may begin to ‘cut corners’ in terms of compliant behaviours. Although this was not spontaneously broached by interviewees, it could be inferred that this might cascade into further non-compliance: cutting corners might result in unsafe food, which might result in lowered customer trust and reputation, with might result in further reduced profits.

There was also some discussion from interviewees that in times of lean profit, large and small organisations also tend to make cuts in the amount of resource dedicated to compliance, from cutbacks in training provision to the elimination of dedicated compliance staff. For example, a consultant
respondent noted some businesses cutting back on mid-level compliance and governance staff during the recession.

“Big organisations might have departments that look at governance issues, but... as organisations become leaner because of the recession, they're actually getting rid of the fat. Smaller organisations never had that fat – a canteen doesn't have that fat.”

[Consultant]

1.3.3 Impact of Increased Business Size on Compliance

Whilst it was generally suggested that large organisations are more likely to have factors in place to support compliance (see Section 2), this was tempered by respondents’ suggestion that larger organisations also face their own challenges in terms of ensuring compliance. It was discussed that in larger organisations, with higher employee numbers and potentially several management layers, it may be more difficult to develop and sustain compliance cultures and that they may have to work hard to ensure compliance. For example:

- In larger organisations, the increased scale of numbers of staff and different site locations can make effective training and sustaining a compliance culture more complex.

- Larger organisation size also introduces additional layers of management and potentially conflicting staff policies and procedures that can make compliance 'through' an organisation more difficult.

“In an organisation, it doesn't matter whether it’s one person, two people, 2000 people, 10,000 people – you get an increasing level of complexity as the number of interfaces grows. Complexity increases driven by these many to many relationships. In non-automated processes we are reliant on people all behaving as they should all of the time, focused on required outcomes. Unless we are all robots, this is difficult to achieve. Therefore managing the complexity (i.e. the culture) is what needs to be understood in the context of what is to be achieved.”

[Consultant]
“I disagree that the cost of compliance in large businesses are proportionally smaller – it actually can cost far more because you may have far more people you need to influence and change. Invariably the bigger you are the more overheads you have – to do some training may cost hundreds of thousands of pounds instead of tens of thousands or less. So sometimes the bigger you are it’s harder to get funding because when you’ve got the balance sheet in front of you there’s a lot more zeroes at the end!”

[Business]

“I think sometimes the bigger a business gets, it can be harder to keep hold of that culture because it is so big and there are invariably so many people that can influence that culture as it grows. Sometimes that can be harder because instead of having only one person who is the driving force to define that culture for the business and therefore embeds that in all the people that they work with, you can have several people. Businesses who’ve got a board of directors – if they don’t see that culture in exactly the same way, their influence on their team or their function, when they’re out interacting with the rest of the business they can change that culture.”

[Business]

1.4 Issues Highlighted for Greater Emphasis

1.4.1 Person in Charge & High-Level Management Commitment

Respondents across the sample suggested that organisational culture is led ‘from the top’ and that compliance is difficult if not impossible to achieve without high-level management commitment towards it.

“I would personally say that the most important thing is management commitment. It doesn’t matter whether you’ve got a small premises or you’ve got a large premises; whether it be a board with 20 members or a premises with five people employed, with an owner, it’s the commitment to food safety of the person who makes the decisions, spends the money, etc. which is most important. If you haven’t got that, then you’ve got a problem.”

[Consultant]

“You might have had compliance, but it will disappear if the person at the top changes... so unless it’s repeated and repeated, it will be watered down. In the same way, if you want to change the environment, that person’s got to work very hard and you’ve got to be
replacing them with people that are going to work very hard to change the ethos.”

[Business]

In particular, interviewees suggested the importance of the ‘Person in Charge’ (PIC) in setting the entire organisation’s approach to compliance and food safety. The Evidence Review mentions this as an important factor in obtaining compliance, (for example, Pennington Inquiry definition of culture, Section 4.2, p. 27) although it appears to not be emphasised to the extent noted by interviewees.

The likely impact of the PIC was often perceived from across the sample to outweigh many organisational characteristics such as business size and sector; a range of respondents spontaneously mentioned the PIC as a very important factor in obtaining compliance. Interviewees stressed that if this person prioritises compliance – and is trained in food safety – there can be very positive consequences for levels of compliance and for the compliance culture as a whole.

“There is one thing that isn’t included in here anywhere that surprises me and that is something called a Person in Charge. Now this has been tried in America and it’s been tried in Australia and its being implemented in Dubai. The FDA of America have just published a 10 year study on regulatory compliance⁸... and one of the things they found is that organisations that had a recognised person in charge had a greater compliance rate. Of all the schemes I’ve seen over the years, [the Person In Charge] scheme is by far the best that I believe will improve food safety and improve regulatory compliance.”

[Consultant]

“You will find some very big businesses with very good standards and very poor standards and you will find very small businesses with very poor standards and very good standards. And that will depend upon the ethos of the people running the business.”

[Business]

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The presence of a PIC was perceived to help ensure that compliance priorities are managed within an organisation, and are focused upon when other factors, for example profit, may be raised as a priority.

Discussions across the sample suggested that a PIC role provides multiple important functions, including to:

- act as a single reference on compliance matters for internal and external stakeholders
- make compliance and governance someone’s chief responsibility
- ensure compliance remains firmly on the business agenda amongst the other business drivers at play
- set an example for other employees regarding correct behaviour and practice
- take responsibility to communicate compliance messages throughout all layers of the organisation
- monitor to ensure compliance procedures are followed

“*The person in charge is somebody who has the authority and responsibility to implement food safety within the premises – it might not be the owner. They’re the ones that have a link with the enforcement officers to make sure everything complies: they have to do routine inspections, feed information back to the owner*."

[Consultant]

Conversely, respondents suggested that businesses in which food safety was clearly *not* a priority to high-level management or the PIC, achieving a compliance culture is less likely.

“*The main thing which we try to emphasise to businesses is that underpinning everything, you have to have a core commitment to compliance. It’s all very well putting it into policy, but if the directors and the top of the organisation take a lax view in terms of compliance, then you’re likely to hit problems in the market. And you’ll probably find that risks will materialise, so that needs to be the core central culture within the business.*"

[Regulator]
1.4.2 Business Forces such as Customer Expectation, Brand and Reputation

Respondents across the sample strongly suggested that other business forces such as issues of meeting customer expectation and business reputation constituted strong drivers of compliant behaviour. Although this was discussed in the Evidence Review (Section 4.3.2), for example as a determinant of management attitude to risk, it was not highlighted to the point that it was emphasised by interviewees. Moreover, respondents felt that brand and reputation were very important to protect largely as a matter of potential impact on profit, not just because of moral or ethical obligations to produce safe food.

“What really pushes people to comply is their customers – these are the people that really matter to them. If you asked them, ‘Ok, give me a list of your key influences, what makes you do things,’ they’d look to the door and say ‘It’s the customers, it’s the suppliers, and it’s the government’. But when you come in and prod, really it’s, ‘Our customers are the people that we serve; we don’t serve government’…”

[Academic]

“I believe larger companies have a reputation to uphold and business continuity will always be the driver, the motivation for most businesses – but the reputation of our customer and our own business, obviously, are really key. Customers do tend to set their standards one up from legislation or one up from what’s required from the government or global standards because it’s a USP, isn’t it, to have a higher standard?”

[Business]

Respondents from across the sample frequently singled out the level of expectation of a business’ customer base as the key driver of both regulatory and efficient compliance – as one respondent noted, “the more demanding the customer base, the more you’re going to raise your game.” This may in some cases be related to business sector.

“Non-compliance is not an option and poor food safety is not in the interests of FBOs. Going beyond the legal requirements of compliance might actually take you into a higher level of the market
which is very graduated, from you know, a small shop selling mince and cheap cuts to blue chip restaurants selling the best steaks.”

[Business]

Compliance is about the customer – for abattoir operators meat wholesalers, meat processors, it’s the customer drive for quality that tends to drive compliance: one thing follows the other. If you’re in the higher end of the market or if you’re serving schools and hospitals the risk to your business if you get it wrong is huge – as they found out in the business in South Wales. It’s absolutely huge when they’re dealing with the public sector: children’s schools, old people and those kinds of groups.

[Business Association]

Large or more established businesses with a strong brand presence and well-developed reputations reported themselves, or were considered by others in the sample, as highly motivated by a need to maintain a good brand reputation. This was because food scares (or simply not achieving compliance) might damage reputation and result in loss of business and impact on profits. Large business respondents suggested that in their experience, companies with a stronger brand profile generally approached compliance more actively to maintain ongoing customer faith.

“It seems to be taken as a given that large organisations will put more resource into food safety, and my experience is that is absolutely the case. I also liaise with other big food organisations and they get it: they get the fact that if they don’t put resource into food safety it could put their customers at risk and potentially put their business at risk.”

[Business]

[Compliance] is passive in those premises that don’t have a valuable brand; whereas it’s completely proactive in premises which have really good reputations: they may be small, medium or large, and in that sense, scale is irrelevant. If they’ve got a real brand, I could take you to premises where the food safety controlled by the plant operator is exemplary because they’ve got a really good brand and that brand is worthless if something goes wrong.

[Business Association]
That said and as discussed above, respondents recognised that some small businesses supply to customers with very high demands and also have an established brand or public reputation of high quality to protect.

It was also noted by interviewees that issues of brand and reputation played a role in relationships with large customers such as retailers. These relationships were also seen to influence compliance. Large businesses in the sample were providing products to a third party - for example to other retailers to sell - as well as providing products direct to the general public. For these third party customers, such as large retailers, branded food producers and restaurant chains, it was noted that the value of their product is directly attributable to the consumers’ perception of their brand and its reputation. Thus, these large business respondents generally viewed maintaining their relationships with major retailers and/or restaurant chains as a key driver of compliance. This was based largely on the need to meet expectations of additional auditing and the risk to the business profit if they failed to do so.

Avoiding any situation where damage could be done to their customer’s brand was seen as critical, even where some of the desired measures to meet customer satisfaction were believed to be excessive. Indeed the sample generally reported supply chain inspections to be more demanding and certainly more frequent than Local Authority or Agency audits.

“The retailers would be, over many years, the best enforcers of those standards: much more so than the FSA. If you’ve got people supplying the main supermarkets, they would be doing their unannounced audits and spot checks. So you have to ensure that the standards that you talk about, you’re actually working to... because it’s unannounced audits. In a lot of cases we’ve got a lot of dedicated sites, so a lot of the customers will live at our sites, they’ll be there every week. And they’ll be walking round so all the technical standards that you say that you deliver, they’ve got to be real.”

[Business]

“Larger businesses will be supplying retailers so they’ve got retailers crawling all over them as well – they’re subject to not just statutory
regulation but the retailers’ regulations as well... they are incredibly demanding; if you go to any of our members, most will have had some kind of technical visit from somebody that week...”

[Business Association]

Large businesses representatives raised the point that, although time consuming, this relationship with their customers could be a driver of compliant behaviour. It also helped them understand compliance requirements and provided additional information that small businesses may not have access to.

“I think it is more difficult for small businesses. They don’t have perhaps the same level of verification that we do, so they don’t have people coming round and helping them. Even an audit from a customer does help you understand what you need to do because they are setting their expectation on the table – what they have in their codes of practice that are impacting potentially on the quality or the risk of a failure in their product. So you can see that helps us understand the interpretation and the standard moves forward.”

[Business]

However, other business representatives expressed opinions that associations with major retailers sometimes resulted in a great deal of commercial pressure and potentially reduced profit margins. This was perceived to potentially have an impact on maintaining standards.

“We’re in one of those periods of time [with retailers] where price is the most important thing...so what increasingly is happening is that the margins that are being made in the food industry are getting smaller and smaller and smaller... And you’re then looking at, ‘Well OK, how do you maintain the standards that you want to maintain in that kind of environment?’ and that’s quite difficult.....”

[Business]

1.4.3 Consistent Messaging to Drive Top-Level Objectives Through the Business
Respondents suggested that consistent and multi-channelled communication of compliance objectives throughout the organisation was critical to achieving compliant cultures and behaviour. This was thought to include ongoing visibility of management commitment – particularly via continued face-to-face discussions about compliance on behalf of management – and very consistent messaging in all channels about compliance objectives and the company ‘ethos’. The importance of consistency in implicit and explicit communications was also raised.

**Ongoing Visibility of Top-Level Commitment to Compliance**

Discussions with business and consultant representatives suggested that in order to achieve sustained compliance, top-level management representatives must continually engage with employees, using a variety of methods. One business representative (speaking from personal experience) emphasised that in order to achieve compliance, businesses must continually re-emphasize the importance of compliance to the senior and middle management who engage with entry-level staff. This respondent noted it is particularly important to make sure that profit does not outweigh compliance as a top-level priority.

“[Compliance is about] communication. If you want to instil something into the business, you’ve got to demonstrate by your words that it is important and you’ve got to keep demonstrating that... If you’ve just sent a note out but then don’t ask questions about it, it won’t happen because people will very quickly pick up which are the important things to you: ‘What am I going to get told off about, what am I going to get quizzed about, what am I going to get questioned about?’ So if you want to make a change in any particular area, you’ve got to demonstrate that it’s important to you and make it important to them.”

[Business]

Regarding communicating with lower-level staff, business representatives in the sample suggested that ‘a memo and a manual are not enough’. Supervisory staff and high-level managers should be seen to regularly ask questions about compliance performance, lead by example by always engaging in compliant behaviour themselves, and include compliance on the
agenda in high-level and company-wide meetings. Ongoing contact and conversation, at least partly face-to-face, between supervisory staff and lower level employees was considered key.

“Training’s the first step; it’s how you reinforce and it’s the day to day management of behaviours that really starts to build the culture. If you train people and don’t actually enforce what you’ve trained in whatever way, you might as well have not bothered. And I think the smaller and medium sized businesses don’t necessarily have teams of people sat there who can help them with that.”

[Business]

“Businesses always talk about compliance and I’ve been in some that they talk about that they look after their people, they do this, they do that, they do the other and then once they’ve put it into their manual, that’s it. And you have got to talk about it as much as the bottom line if people are going to believe what you say... the best way of demonstrating importance is talking about it, quizzing people about it, praising their results, criticising their poor results in a sensible way.”

[Business]

Poor Management and Unintentional Disincentives
Consistency in messaging about compliance was also considered important. Several examples arose from the respondents suggesting the importance of examining both explicit and implicit messages about compliance that management communicate to employees. It was sometimes raised by respondents that implicit messages about priorities or preferred employee behaviour might contradict top-level statements about the importance of compliance. In particular, that communications about compliance are not, inadvertently or otherwise, contradicted by a focus on profit. For example, interviewees reported that in organisations with poor organisational management structures, different departments or initiatives might promote conflicting objectives or behaviours – with real potential risks to food safety and compliance.

Findings suggested that compliance cultures would also be inhibited in businesses that do not examine the overall effect of company policies,
sanctions and incentives – whether explicit or implicit – on employee compliance.

For example, a consultant interviewee recounted the story of a hotel chain whose profit-focused policies built up structures that were clearly anti-safety and translated into very poor staff compliance behaviour.

“...he could never get the managers to improve the standards at the hotel, whatever he did. And what he found was that the managers were paid a very low wage and a very high commission based on profit. Training and cleaning actually detracted from profit, so that affected their wages. The more they spent on training, the more they spent on cleaning, the lower their wages. If you set up a policy like that, it doesn’t matter what you say at the top – it’s not going to work.”

[Consultant]

Another offered a health and safety example of a pub manager with a history of issues with slips and falls. Profit was so strongly emphasised by the pub management that the manager did not feel justified in spending a small amount of money on equipment to eradicate this problem.

“They eventually provided, free of charge to the restaurant, equipment and materials that made it much easier and quicker to clean up spillages. It went down fantastically, but the cost of it had to come off the pub’s profit and loss. The biggest thing that a manager ever gets asked about is profit and loss. So they would very tightly control their daily/weekly spend. Even though there was a big insurance benefit to the company – millions of pounds – the pub manager wouldn’t spend a few hundred pounds because he or she wasn’t managed on the corporate metric.”

[Consultant]

This respondent offered a further example specific to food regulation, in which a major supermarket’s employee policies on food wastage unintentionally pushed employees to behave in a seriously noncompliant way – by simply re-labelling out-of-date or near-date food.

“It’s not unknown even in large reputable companies for profit based initiatives to adversely affect safety. For example head office
An academic respondent noted that policies that overburden employees or place significant resource constraints on them would also affect compliance. If employees have limited time to accomplish necessary tasks, they may choose to behave in a noncompliant fashion.

These examples suggest that effective compliance cultures must ensure that top-level compliance priorities are supported by appropriate and pro-safety employee policies and practices.

*Making Compliance Tools Widely Available*

It was raised by several respondents that it is useful for employees to have easily accessible sources of information about compliance procedures (such as information flyers, charts, manuals or other written information or senior staff). This was considered useful because it was perceived that fear of employer penalty or judgment may result in employees being unwilling to ask questions if they are confused about or have forgotten procedures. It was suggested that businesses that welcome and encourage staff to ask questions about appropriate procedures could avoid this problem. Alternatively, businesses that provide accessible and relevant printed information that employees can access more discreetly is also considered helpful.

Further it was also noted that where compliance manuals or instruction guides are in place, employees must be guided through their content and alerted to their location. Ideally, they should also know which staff members to approach – and what levels of food safety and compliance knowledge that staff members are likely to have – in case of questions. Respondents considered it helpful to embed this into the training process with an explicit day-by-day guide that required them to access various information materials and support in their business environment over a course of several days.
Relevant and Tailored Training Sessions

It was suggested by respondents in this sample, particularly business representatives and consultants, that training is most effective when perceived as relevant and tailored to the specific needs and practices of the organisation at hand. At worst, ‘one size fits all’ training sessions that include irrelevant or generic material (for example, safe meat handling procedure for a business that does not serve meat products) may send an implicit signal to employees that compliance is a ‘tick-box’ exercise rather than a real management priority.

It was considered that at best, training sessions can provide an excellent opportunity to engage employees, embed overall cultural expectations of compliance, and explain why food safety practices are important – not simply tell them what to do.

“[You need] simple ways of demonstrating to your staff what it means if you don’t wash your hands, what it means if you’re not wearing your hairnet. And the best businesses will have good ways of demonstrating that to their staff, rather than just sticking it up on a notice board or telling them that this is what you should do; they’ve got to understand what they do and why they’re doing it... somehow or other you’ve got to find a way of demonstrating to that individual: ‘This is the consequence. If you don’t do that job properly, this is what can happen.’”

[Business]

“People at the factory floor level need to understand that every action they have has a potential reaction on the safety and the conformance of the product. It’s making them understand that we don’t want to see customer complaints, we don’t want to see food poisoning complaints, we don’t want to see rejections for poor quality or food that’s not standing up to its shelf life – as an example, any discolouration. So it’s educating them that what they do here has an effect.”

[Business]

Respondents also considered it important that any training is reinforced in day-to-day working practices in order to be effective.
“Training’s the first step; it’s how you reinforce and it’s the day to day management of behaviours that really starts to build the culture. If you train people and don’t actually enforce what you’ve trained in whatever way, you might as well have not bothered. And I think the smaller and medium sized businesses don’t necessarily have teams of people sat there who can help them with that.”

Large businesses, which are likely to be multi-site, tend to have one location from which compliance procedures are developed. But there was also evidence of a local, tailored approach to ensure that individual sites participate in the implementation of general procedures to make sure that they are fit to purpose.

“The company takes the legislation and customer codes of practice and we turn that into local standards, local procedure and local policy. So the law will say that you’ve got to have a food safety risk assessment process such as HACCP, and we’ll say this is how we do it, this is our procedure for doing it and then we will roll that out and use it at our factories. We will provide nominated training courses or provide the training ourselves and then our teams at our factories will then actually implement those procedures and processes. They will then do their local study with their local expertise of their process.

Business representatives at times discussed their success in tailoring training and education sessions to the specific needs of their employees. They suggested that this potentially saves time and money, and reduces the chance that employees may consider training irrelevant or useless and thus miss important information. To achieve this may involve seeking out specialist training rather than enrolling staff on more generic, standardised safety courses.

Ideally, it was also suggested that training ought to be subject to revision on an ongoing basis as the needs, structure and risks of any given business develop. Respondents suggested that staff also need to be re-trained over time, particularly as roles change.
Summary
There was broad agreement with the key findings of the Evidence Review. However, three areas were not necessarily reflective of respondents’ own experience. These were assertions that larger businesses have lower proportional cost of compliance, the view that UK regulators tend to take more preventative, informal and conciliatory approaches, and the view that tensions can arise if enforcers occupy the dual role of educator and enforcer. Additional factors, linked to achieving or sustaining compliance in organisations, were raised or emphasised and were felt worthy of consideration. These included how businesses might define compliance, the role of profit margins (and thus the business’ priorities) and the increased size of an organisation may make compliance more logistically difficult. The findings also highlighted the importance of high-level management commitment and a motivated Person In Charge in helping to create a compliance culture, the need to understand the influence of business forces on company activity, for example business reputation, and the importance of consistent and multi-channel communication between top-level management and employees. The latter was considered to be aided by making compliance tools available and the tailoring of training and information.
2. Role of Business Size in Achieving Compliance

2.1 Perceived Necessary Conditions for Compliance

Discussion with respondents indicated that there appears to be some important necessary conditions to achieve compliance and that lacking any one of these necessary factors may contribute to reducing compliance. These perceived necessary conditions fell into the following categories:

- **Want to comply and believe compliance is important**
  - business drivers to compliance, for example, corporate responsibility, protecting brand, reputation and customer base
  - attitudes towards regulation including perceived fairness and relevance of regulation
  - avoidance of sanctions and penalties (discussed in Section 4)

- **Understand how to comply**
  - that is, understand what their compliance obligations are and how to meet these within their particular business context

- **Be able to comply**
  - that is, have the necessary resource available to them (for training, equipment, and so on)

- **Have effective organisational cultures and management structures to filter compliance goals and knowledge through the organisation on an on-going basis**
  - this was typically driven by the ‘management team’ with a strong drive from a ‘Person in Charge’

2.2 Rationale for Why Large Businesses are more likely to Comply

The Evidence Review (Section 3.2.1) suggests that business size is an important factor to consider in relation to achieving compliance. It also
indicates that larger businesses may be more likely to comply than Small and Medium Enterprises (SMEs) (p.11).

Based on their own experience and knowledge, respondents in this sample generally believed that although it is not the only factor that determines compliance (for example, PIC, customer base, business sector, and profit margins were also seen as important) the size of an organisation can play a part in achieving compliance and that larger businesses may be better placed to comply although as mentioned there may be other factors of a large organisation that may impact on compliance.

These views tended to be based largely on anecdotal evidence or personal experience of working within a large business; no respondents were able to offer firm data to confirm the importance of business size to compliance. For example, one large business representative commented:

"While it’s anecdotal and a general statement, the incidents that seem to cause public health issues that we see in the press and on the news seem to be related to smaller businesses."

[Business]

Respondents’ rationale for the reasons why large businesses may be better placed to comply can be considered against the perceived necessary conditions for compliance.

- Large businesses may be more motivated to comply:
  - larger businesses may be more motivated to comply in order to protect their ‘brand’, reputation and share-holder interests (as discussed)
  - small businesses may be more likely to be defensive towards external regulation
  - large businesses may be subject to additional compliance checks from their customers, that is food businesses they supply products to
Large businesses and their employees may also generally have more information about how to comply:
- they are more likely to have greater access to information and support

They may also be more able to comply
- they may have more resource to devote to training

Large businesses may also be more likely to be able to communicate top-level compliance objectives throughout the organisation, and to monitor behaviour to achieve sustained compliance:
- are more likely to have a dedicated ‘Person In Charge’ and supporting team(s) who is responsible for compliance, has appropriate technical knowledge or education, and is responsible for driving compliance messages across other staff layers
- are more likely to have formalised governance procedures and documentation
- they are more likely to have on-going internal audits and supervision

In contrast, it was perceived that the likelihood of smaller businesses having all these factors in place was lower and as such potentially reduced the likelihood of compliance.

Respondents did note that although a larger organisation may have more factors in place to help them achieve compliance, the size of an organisation can bring its own challenges, for example distilling compliance through an organisation (see Section 1).

Whilst it was generally accepted that size can play a part in achieving compliance interviewees cautioned against over-stating the importance of size in characterising compliant businesses. There was some belief that with appropriate commitment, small businesses with a motivated owner or manager may still be able to create successful compliance cultures.
“I’m thinking in some smaller companies, in some start-ups, they have some great cultural values, so you wouldn’t think it’s necessarily the scale that drives it.”

[Business]

2.2.1 Motivation to Comply

A range of factors driving compliance were discussed, ranging from shareholder expectations and concerns about profit to maintaining a good reputation amongst customers. These can be grouped into three broad areas: corporate responsibility (expectations that businesses need to ‘do the right thing’ and produce safe food), governance/regulation (legal compliance requirements), and business forces (profit is impacted by customer expectation, brand, and reputation).

“*In our business we talk about three main reasons for having very good food safety. There are moral reasons: we’re all human and quite simply we don’t want to make people ill or put them in danger in any way. Then there are business reasons: our customers expect us to have high standards, and something like a food poisoning incident could be very damaging to the business, our sales and profitability. We’re also very aware of the need to comply with the law, indeed exceed the requirements wherever we can*”

[Business]

Although size was not spontaneously raised as a factor in a business’ commitment to corporate responsibility and the ethical imperative to produce safe food, respondents broadly suggested that larger businesses are very motivated by regulatory requirements and business drivers such as brand.

However, respondents alternatively noted that perceptions of the fairness or relevance of regulation – particularly whether it is viewed to be scientifically sound – might reduce motivation to comply. This was not mentioned as a factor of size.

These are now discussed below.
a) **Motivation of corporate responsibility**

Although the Evidence Review (Section 4.3.2, p.31) suggests that SMEs are less motivated by moral or ethical factors than by regulatory requirements, interviewees did not readily draw any distinction between small and large businesses for this driver. Large businesses in the sample clearly indicated that having a strong ethical or moral obligation to produce safe food for customers was a motivating factor for compliance.

“We're a big business but we’re ultimately we’re run by normal people who care about other people and communities. We want to do things properly, and we don’t want to cause harm to our customers or staff.”

[Business]

There were also suggestions, however from across the sample, that some small businesses may also be motivated, depending on the values of the PIC.

b) **Large business emphasis on brand and reputation**

As discussed previously, business forces drivers were considered more important for large businesses – for example, protection of ‘known’ national brands and meeting expectations of customers (either general public or 3rd party suppliers).

c) **Business attitude towards external regulation**

It was considered by respondents that the PIC in an SME was very likely to be the owner or manager. It was also noted that this person was unlikely to have compliance as their only responsibility (in contrast to a larger organisation) – rather they would be likely to be covering a range of different roles and responsibilities within their business. Within SMEs it was considered that ‘attitudes’ towards food safety compliance and its priority within the business were more likely to vary, with suggestions that some SMEs may be more defensive and make it a lower priority and others more enthusiastic.
An academic respondent noted that SME owners or managers were more likely to be defensive to external regulation, due to their focus on running their own business. In addition, a food business consultant reported that SME owners were often resistant to what they saw as ‘interference’ from regulators and enforcers.

“I don’t think I could do a regulator’s job... If I walk into a butcher’s shop with a suit on, I can see it in their face right away. The roller shutters go down in the back of their eyelids, they start thinking – Oh, this is either VAT, Inland Revenue, or an EHO!”

[Consultant]

“The cultural disposition of a lot of owner/managers is standing up on their own two feet, demonstrating self help, and not really wanting to engage with government for a number of reasons... With small businesses, you’re always behind the starting blocks because they have this negative disposition towards any government intervention and as a result, it’s a sales job, you’ve really got to work on them... If you start your own firm, you’ve got a tremendous amount of autonomy and freedom, but then of course the walls start to close in internally because maybe the business is growing and then externally you’ve got government saying, ‘We want tax from you and by the way, you have to comply with these regulations.’

[Academic]

It was reported that the competing day-to-day demands of a multi-tasking SME owner may mean that they tend not to focus on regulation until they need to – some confirmation of the Evidence Review finding (4.3.2) that SMEs tend to approach regulation fairly passively. (This in contrast to larger organisations who claim to proactively seek advice and guidance from external experts and organisations – see Section 2.2.2)

“There are real inefficiencies of management within small enterprise. I don’t mean to say that they’re not productive on their day to day work – what I’m saying is inefficiencies in their ability to cope with the multiple demands that are made upon them, and they tend to work on the immediate: the immediate is more important than tomorrow or next week... I think it’s quite difficult for owner/managers even if you have a team of managers in a small enterprise, because they’re covering a number of different roles and then it’s difficult for them to easily tune in. And I think the reaction then amongst owner/managers
is to be hostile or be helpless and it’s quite difficult for them to tune in.”

[Academic]

That said it was also considered that being an SME business did not preclude businesses from having a PIC with the values and drive to help embed compliance - dependent again on the values and attitudes of the owner. Several examples were offered of owners or managers that believed in compliance and created powerful compliance cultures in their organisations.

“The reasons we have visions and values is because our board and leadership team have decided these things are important, so it’s down to the few individuals in the leadership team. Now if those individuals worked in a smaller organisation, would they think differently about that? So I don’t think size is necessarily the only driver of culture and actually, in a bigger organisation it’s difficult to make the culture change because you’ve got thousands of people to talk to about it.”

[Business]

“Interestingly enough, it’s some of the really small organisations that can make that jump to a higher standard because they’re often entrepreneurially led by a strong personality. If you can convince, someone with a strong personality that they need to improve, they have the authority and drive to say to the organisation, ‘I don’t want to be here…”

[Consultant]

“Businesses that are run by erudite and visionary owner/managers will just accept regulation. They see that as part of the job, so businesses that are moving and dynamic, they will just absorb [the regulation].”

[Academic]

d) Perceptions of Fairness and Relevance of Regulation

As suggested in the Evidence Review (3.4.2), there was some discussion that businesses might be less likely to comply with legislation that is perceived by dutyholders or workers as not relevant to their own business practice or as not resulting in safe food.
“Tom Tyler’s been working for about 20 years on the basic question of why people obey laws and his work has been absolutely seminal in American law and society circles... [he discusses issues such as] ‘How do you elicit compliance from people?’ Are the inspection process and the enforcement process thought to be fair such that if you do get caught out in some deficiency, you’re processed in a way that you experience fair and proper and you sort of put your hands up to it? Or do you see the system as arbitrary, irrational, unpredictable, uncertain? In which case, your motivation to comply may be much less because why should you comply with an arbitrary system?”

2.2.2 Knowing How to Comply: Access to Information and Support

As proposed in the Evidence Review (Section 3.2.3), respondents confirmed that organisational size can be related to business access to information about compliance regulations and food safety best practice.

At a management level, the large businesses in the sample reported having access to a broad range of experts and in addition often had organisational memberships in third-party trade associations or other schemes. This was able to offer them opportunities for access to information and advice. This was also supported by the experience of others in the sample.

At an employee-level, respondents also judged larger businesses as more likely to have resource to spend on external training and other information provision, and to formally provide compliance tools or information materials. This was confirmed by the large businesses in the sample.

a) Organisational access to internal and external experts

It was widely suggested that smaller businesses were likely to have lower levels of knowledge and understanding of their regulatory obligations – beginning at the owner level. Overall, respondents indicated that small (or micro) businesses led by heavily involved owner/managers often simply lack the internal resource to understand how to comply. Furthermore, SMEs were considered less likely to retain specialist staff with high levels of
technical knowledge to support less knowledgeable owners. This was particularly the case for smaller micro businesses.

“With micro businesses, the level of understanding can be very, very low. They tend typically to be hands-on, single operators who are employing a few people, very busy running the business, and one can assume a fairly high level of ignorance in terms of what they are required to do legally... so compliance for them is kind of a grey area: they’re not sure whether they’re compliant or not... It depends a lot on the industry but in my experience you would need to be employing at least 100 people before you could afford a full-time HR person because it’s difficult to justify it below that figure.

[OGD]

“I’m generalising here because there are some small firms run by highly educated owner/managers, but in all probability they’re not going to be able to cover all the bases in all areas of expertise including compliance.”

[Academic]

“There’s a traditional divide in terms of the size of business – so the larger businesses are more likely to have compliance officers or legal officers. Part of their role is maintaining that relationship with a regulatory body and increasing their understanding of what the law is. A lot of the SMEs just don’t have the time to focus on these kinds of issues.”

[Regulator]

In contrast, it was noted that all of the larger businesses within the sample had access to an array of experts both internal and external who were there to inform and provide guidance on compliance and provide up-to-date, business-relevant compliance information.

“If you were talking to a large organisation, let’s say you’re interested in environmental practices or a legal aspect of business, in all probability you can phone up that corporate sector organisation and speak to a relevant person who is an expert in that specific field. But that’s quite hard for owner/managers and even if you have a team of managers within a small enterprise, because they’re covering a number of different roles it’s difficult for them to easily tune in.”

[Academic]

“I think there are definitely some pros of being a large organisation. We have thousands of people, several manufacturing sites, lots of networks and distribution centres. Where you have a lot of infrastructure in the size of the company, it allows you to have
experts. So I’ve got a team of people directly in a central function; we have a legal function as well; we have a health & safety function. I can imagine that you look at a small takeaway business... do they have the same level of access to finance and to the actual technical expertise – and even the people?”

[Business]

“There’s no doubt that I mean a bigger organisation has more resources to accomplish compliance. You know – it can afford specialist staff, it can have people who are devoted to surveying the literature, it can have internal inspection and challenge processes. It can internalise the regulatory regime and model that within the business itself. The problem for the small operator is that you simply don’t have the time and you don’t have the resources to do that.”

[Academic]

b) Use of consultants

Respondents noted that in their experience, SMEs (or larger organisations with limited financial resource to retain full-time technical staff) often retained external consultants to provide information about legislative duties, advice about how to apply these regulations to business practice, and potentially strategic management advice about how to analyse compliance risks.

“In small or medium (but not micro) businesses they’ll often employ a consultant to assist them in understanding their legal obligations and advise as to whether they were compliant or not, and that can be quite expensive. On the one hand, they can’t afford to employ someone full-time because they’re not big enough, don’t have the resource. They hear all these sort of scaremongering stories about no win, no fee legal cases, feel exposed and will often buy in the expertise and the knowledge from a consultant at some exorbitant fee, just to reassure themselves.”

[OGD]

“Very often small businesses don’t have a food safety manager. I mean there’s even still some quite large businesses that don’t; [instead] there’s a tendency to use consultants a lot – and particularly for small businesses.”

[Business]

Consultants across the sample tended to view themselves as filling in the ‘how’, ‘what’ and ‘why’ of compliance for businesses that had not accessed
or did not understand food safety legislation. That is, consultants not only helped businesses ensure they were aware of any relevant legislation, they also provided insight into **why compliance standards might be important and how to actually put these into practice at a management and employee level.**

Alternatively, it was noted that finding the right consultant in terms of information provision and management advice might be more difficult for small businesses.

> “I think in a smaller organisation it becomes more difficult because you’re looking for Jacks of all trades [for staff] and you really perhaps are looking at buying these services in, so it’s about how effective you are in your procurement of those things.”

[Business]

Additionally, there was some suggestion from respondents that consultants are less preferable than full-time compliance staff or technical 'Person in Charge' (PIC). These interviewees suggested that from a perspective of compliance cultures and sustained compliance, technical specialists or PICs with a good understanding of the business structure and context should ideally be embedded in the day-to-day workings of the company. This allows them the benefit of being able to quickly re-assess either practice or policies in response to any emerging compliance risks or errors. In contrast, whilst a consultant may provide recommended structures or policies, without constant revision or management these can become irrelevant as the company changes or develops.

> “I think what you tend to get is the situation where rather than having [a staff person], you get a bunch of consultants who are brought in and who are told to create a safety culture and they kind of come in with a package. And it’s like, ‘Do this, this, this and this.’ What you’re not doing is starting from: ‘What is the place of safety in this organisation here and now and how can we work with the grain of this organisation to achieve a set of outcomes that are better for whichever group of stakeholders we’re interested in?’”

[Academic]
“They’ll employ consultants on an ad-hoc basis who goes in, sorts them out, gets them to a level and then six months later they need to go in again and almost do the same thing again because invariably standards will slip if you don’t have someone there driving it along.”

[Business Association]

c) Membership bodies and information provision

The sample suggested that memberships to third-party trade groups (such as the British Retail Consortium, IGD⁹ and others) helps drive compliance in food businesses. Representatives from businesses and third-party membership groups generally perceived that large businesses were members as a matter of routine. The large businesses in the sample noted that they were members of at least one third-party industry organisations or trade group.

These respondents suggested that such third-party membership offers an excellent source of specialist industry and compliance information to food businesses. For example, membership associations might inform member businesses about potential proposed legislation, help them translate this into the potential impact on their business, and discuss how to comply. These groups may also offer the opportunity to share information and advice with other businesses in the sector, of produce guidelines on legislation and compliance. It was sometimes raised in discussion with regulators in the sample that participation in trade groups and industry membership schemes tended to be linked to higher levels of compliance and higher overall knowledge about how to comply.

“We’ve found that most businesses want to comply with the law, actually most businesses will say they do comply with the law, and then you kind of dig a bit deeper and you find that actually there’s lack of understanding there and that lack of understanding is often amplified where there’s not direct kind of support roles by other organisations such as trade associations.”

[Regulator]

⁹ IGD is a team of experts, dedicated to the development of the food and grocery industry and committed to the needs of its consumers. (www.igd.com)
However, large businesses and membership association representatives also noted that large businesses are likely to be *active* members – for example being involved in conferences, having a presence on the board or playing a role in legislative lobbying – and as such are well placed to access information about current legislation, technological improvements, and proposed changes to compliance regulations.

“Being group technical director, then I get involved with all of the retailers, I have some contacts within the FSA, we get involved in groups like the IGD, again, where you know, meet up with a number of other technical directors from retailers and food manufacturing groups, where you know, sort of some of these issues come up quite often within things like that.”

[Business]

It was suggested by a membership association representative that conversation with other businesses, lobbying groups, and in some cases direct conversation with the FSA, might also help members break through initial anxiety or defensiveness to new regulation.

Additionally, some third-party schemes require evidence of some important aspects of compliance culture and governance; for example, a consultant noted that the British Retail Consortium (BRC) membership requires continued demonstration of management commitment to audits via high-level staff presence at opening and closing meetings as well as stated documentation regarding chain of command in case of any compliance problems. Such memberships offer businesses opportunities to develop or reinforce these aspects of their own organisational culture.

“One of the changes that were made in the last revision of BRC was that there has to be some sort of demonstration on the day of audit of management commitment, otherwise it’s an immediate non-compliance. For example, there’s an opening meeting, there’s a closing meeting and there will be meetings in between, so you would expect high-level staff to be available at both the opening and closing meeting and perhaps some in between. Plus you need something in your quality systems manual about who you would report to or
Membership and engagement to these associations by SMEs was perceived to potentially vary more widely due to resource constraints. However, there were some examples raised of engagement by SMEs with membership bodies, which in these cases were perceived to serve as a good source of information. It was noted that membership of small businesses to other organisations was growing but perhaps not as high as large businesses.

“I remember doing some work with a lady from a local enforcement authority and we’d done a lot of work on salt reduction with local retail butchers and she’d used a guidance note for small to medium size businesses we’d written. And when she’d gone in and spoken to some of those businesses and said, ‘Do you know that the FSA have these targets?’ they weren’t really aware of it. That was their first point of contact and information.”

“There are quite a few small businesses that are members of Campden actually: they have an open day every year I have met quite a few businesses that normally you wouldn’t expect to perhaps either be joined to Campden or be doing something like BRC, but in conversation they do. Not as many as the larger companies, but they are building a small membership base.”

**d) Access to the regulator**

There was some discussion from large business representatives of direct conversations with the FSA and ad-hoc meetings. This was also considered to be of benefit when considering current regulations or in discussions about implementation of regulations to achieve compliance. It was not mentioned if this was typical behaviour of all large businesses.

“We have contact with the FSA directly and we have contact with our EHOs quite closely. We can really engage with the FSA, we do have one to one meetings with them, we talk to our local authorities quite often.”
2.2.3 Being Able to Comply

a) Resource for training provision

Although the point in the Evidence Review about proportional costs was queried by large businesses in the sample, size was perceived to impact the amount of resource available (both in terms of finance and time) for the provision of employee training and education. It was generally agreed that larger businesses are likely to have more resource available (both financial and time) for staff training, (including potentially on-line training) and in particular formal or external training. In contrast, it was acknowledged that smaller businesses might rely more heavily on on-the-job education and training; there was no indication as to whether this was more or less satisfactory.

“Our size is an issue because in the big companies you have structured staff development, you usually have a graduate training program, a graduate entry scheme, and you then have ongoing professional development... you’ve got a plan and that staff development structure that produces people that are more likely to understand [compliance].”

[Business]

It was noted in discussion with academics and consultants that the loss of productivity could be a barrier to small businesses use of formal, external training sessions. In small businesses, ‘every employee has a place,’ and it can be very disruptive to lose work hours from key staff. It was also suggested that small businesses could be reluctant to be involved in training as a matter of course.

“It’s an economy of scale problem: if you have 10 employees and one person goes off sick, another person goes on holiday and another wants to go on a training course, you’ve lost almost 30% of your labour force. Whereas if we’re looking at [a large business] it doesn’t matter that much. Of course if you scale it up it’s still big numbers but you can absorb any loss of productivity; it’s more immediate in a small enterprise.”

[Academic]
“The days are gone where you can get people to come away from the business, and you can have groups of 10 and 15. Instead, it’s very often done in the business. And it’s done because regulators say that you’ve got to get some training done. I’d like to see businesses say, ‘Right, now before we start doing this, we’d better get some training done,’ but it doesn’t work like that. They’re very often dragged, kicking and screaming to, to do training – or forced to do it. It’s an issue of overhead in terms of pound notes but an overhead in time they haven’t got.”

[Consultant]

Third party membership schemes may play a role in employee-level training as well as in overall information as discussed above. For example, one respondent noted that the business they represented frequently sent employees on training schemes offered by a membership scheme the business belonged to. This respondent noted that as a large business they were thus able to ‘cherry pick’ relevant courses that smaller businesses might not even be aware of, let alone have resource to access.

“When you want advanced HACCP training, well it is quite easy for me. I’m a member, I pay my yearly subscription to be a member and, my guys can just cherry pick the courses off the calendar to suit the business needs. Again, in a smaller organisation, (a) – do you know they exist; (b) – can you afford to be a member and (c) – how do you find access to those kinds of services in the same way?”

[Business]

2.2.4 Sustaining a Compliant Culture

Through discussion with those in the sample, and as mentioned previously, it was evident that the culture of an organisation was vital in securing and sustaining compliance. Organisational culture was often regarded as the key factor that helped ensure compliance in an organisation, sometimes outweighing organisational characteristics such as size and resource. It was mentioned by nearly all respondents and often spontaneously.

In terms of defining culture, it was broadly suggested that it is comprised of a number of different factors and elements, fundamentally driven by the values and ethos of an organisation. The culture of an organisation was often linked to the values of the management and leadership and how these
values are distilled through day-to-day working practices. This then is linked to the behaviours and models used within an organisation. A successful compliance culture was regarded to be one in which all employees in an organisation behaved in a compliant fashion as a matter of course, internalising the message that “that’s just the way we do things here.”

“Compliance is about culture. It’s effectively got to be part of the value of the organisation if you like – you’ve got to have a belief that you don’t do things. You’ve got to have some morals and some values: honesty, integrity, doing the right thing for the consumer.”

[Business]

“There is often this notion that somehow or other you have a safety culture which is different than your organisational culture – all organisations have cultures and the organisational practices around safety are part of that culture... Culture is just there and the whole framework of values and ideas that define what the enterprise is, what its mission is. It’s quite a difficult thing to define, and it’s quite a difficult thing to change.”

[Academic]

Interviewees also suggested that management cultures are varied and do not rely on any specific management structure; the best way to encourage compliance across an organisation will vary according to a variety of factors such as sector, size, and so on.

“You can’t say that one approach is right and one is wrong; it’s what is appropriate to that situation that matters. So if we’re trying to understand the culture we need to think, ‘What is being achieved from the management approach?’ as opposed to saying, ‘What is the management approach? We need to understand if the culture is delivering the desired outcomes or not, not saying which culture is right – the reality is that every organisation will have a different culture.’”

[Consultant]

As per the Evidence Review, respondents perceived that a number of key factors drive strong compliance cultures. Some of these were perceived to be influenced by the size of an organisation and for other factors there was less distinction made between different sizes of an organisation.
The key factors considered to drive compliance cultures were:

- The existence of high-level management commitment to compliance, and particularly of a **person in charge** who values compliance as an organisational priority and or for whom it is their responsibility
- Governance and compliance management
- Employee training and information provision (as discussed)
- Ongoing supervision and risk monitoring including sanctions
- Multiple channels of compliance information
- Worker involvement and worker investment

**a) Size and Person In Charge**

As previously discussed (in section 1) interviewees suggested that in their experience, ‘who’ the PIC would be varies between organisations, particularly between small and large businesses. In large organisations, compliance is often the key role and responsibility of a particular staff member – such as a technical director or health and safety officer who will be likely to be reporting to a board. Given their role and position, these were more likely to have expertise and knowledge to be able to understand and implement compliance. In contrast, within SMEs the PIC of compliance is likely to be the owner him/herself. It was noted by one respondent that in their experience in the meat industry, SMEs were beginning to recognise the importance of having a dedicated person in charge.

“I think if you go into a lot of the SMEs, there’s a different culture to 10 or 15 years ago and that is because of the weight of regulation that’s come down the pipe over the last 10/12 years; the plant operators, owners of the business are far better at delegating responsibilities for particular areas of production to an individual. So you’ll go into even very small businesses and they’ve got one guy who’s patently, obviously in charge of any particular section of the business; whereas not that many years ago,, the plant operator, it was all in his head.”

[Business Association]
However, this was not perceived to be standard practice for SMEs, particularly for businesses at the very small end of the spectrum.

“In bigger business we tend to be, as I say, ‘You’re going to look after this, you look after that, you look after that,’ and you all talk to each other. Often, in a smaller business you’re spreading that accountability if you like over fewer individuals you know and you know, you got to the very small end, it might be one: one person at the end of the day”

[Business]

b) Size, governance and compliance management

Supporting the findings of the Evidence Review (Section 3.3), respondents across the sample (including consultants, academics, regulators and large business representatives) perceived or discussed from personal experience that larger businesses are often likely to put into place formal governance procedures that guide and document regulatory practice. They perceived that often very small business tend to manage this issue directly via one-to-one communication.

“A large company will have a manual on dealing with employment agencies, this that and the other – they’ve got the resource to do that [documentation]. They’ve got all the documentation there, they’ve got their HACCP plans because BRC requires a HACCP plan, all that stuff.”

[Business Association]

“If you have a larger organisation, you’re going to have a formalised compliance arm and you’re going to have a risk management department. In a smaller firm it’s not that these things won’t happen, it’s just that there may be only one person doing it.”

[Regulator]

These interviewees suggested that formal governance procedures tend to emerge as a function of business growth. For example, respondents with experience of SMEs charted a timeline in which owner/managers generally began businesses with very informal management procedures employing on-the-job supervision and information provision and then were ‘pulled
It was suggested in conversation with academic and consultant respondents that small businesses’ lack of formal governance and management experience can affect their ability to achieve documented regulatory compliance. SMEs may be more focused on ‘effective compliance’ than ‘regulatory compliance’ and formalised proof that they produce safe food. For example, they might not have developed formal systems to manage paperwork, or documentation about how compliance is managed within the organisation.

“Informality is the predominant way [small businesses] operate. Formality is often introduced once the firm gets to maybe employing 20 or 30 people, and once formalisation kicks in there are different demands on the owner/managers – they get dragged into roles that they didn’t originally start out with the goal of achieving. They’ll only introduce formality when they have to because they don’t enjoy it – they start their business because they enjoy producing that product or service. A lot of them are reluctant managers who then have to manage appraisals and HR policies and so on.”

[Academic]

“I agree that the smaller premises often have poor documentation and poor policies, which may or may not be particularly relevant. And I say that because if you’ve got a small premises and a manager who is committed to food safety and knows what he’s doing, he doesn’t have to write things down. ‘You’re there and I’m telling you what to do;’ written policies and procedures aren’t as important. However, when you’ve got a large organisation, documented policies and procedures are very important...”

[Consultant]

An academic expert respondent believed that SMEs are at a general disadvantage when it comes to achieving and demonstrating regulatory compliance. This respondent perceived that this might be particularly problematic for small or medium businesses – as in the example above, they are past being able to simply manage informally on-the-job, but have not yet put appropriate governance procedures into place. This assertion
was also highlighted in conversation with consultant interviewees. This was linked to the distinction that respondents made between regulatory and effective compliance. SMEs for example may generally be less resourced to focus on technical compliance issues such as documentation, spending more energy on the production of their product.

It was also occasionally purported that achieving regulatory compliance could be viewed as imposing a layer of bureaucracy, with additional paper work and effort required. If businesses or employees view compliance regulation as counter to fast, effective working practices this may pose a barrier to compliant behaviours.

“There can be a perception on all kinds of compliance – whether it’s health & safety or whether it’s food safety – that there is an element of bureaucracy involved, and therefore sometimes things that are relatively simple could take more time. I think that’s one of the challenges for my team and the health & safety guys in particular. It’s about finding ways to make the process simple and efficient so that the guys have the tools on the shop floor to actually deliver what they need to in a compliant way that they don’t feel is compromising.”

[Business]

“In terms of the form filling and everything else and HACCPs and so on – You know, 16 years ago we didn’t have to do any of this; literally, you just produced the product, sold it, hopefully got paid for it and that was it. You produced a good quality product and you were judged by the quality of the product and if you didn’t produce a good quality product people wouldn’t buy it. There was no paperwork, no HACCPs, none of this stuff and I would say that our food is no more safe now than it was then, but the cost of compliance is absolutely enormous.”

[Business]

Although small businesses were generally perceived as having less formal procedures it was noted that there are always exceptions to this general rule and that large businesses are sometimes less adept at compliance governance and management than their size would suggest. For example, one ‘Person in Charge’ in a large business mentioned that when they took
up their role there was no real food safety infrastructure beyond the existence of an outdated food safety manual.

c) *Ongoing supervision and risk monitoring – internal audits, sanctions and feedback*

An organisation’s internal audits were also considered an important factor in achieving sustained compliance and these were generally perceived to be more common in large businesses. Businesses in the sample felt that, internally, on-going audits acted as a reminder of the importance that top-level management placed on compliance and food safety.

Interviewees generally viewed large businesses as having more resource to devote to formal internal quality monitoring and inspections, although it was also noted that micro or quite small businesses are likely to simply engage in more hands-on, informal and ongoing monitoring of staff. In larger organisations in which this type of real-time supervision was not possible, business stakeholders tended to use formal internal audits to ensure compliance. Audits and internal sanctions, including dismissal for non-compliance, were considered to provide important feedback about employee or management policies requiring revision or alternatively to acknowledge and reinforce positive behaviour. Audits and sanctions also helped to ensure staff operating at a distance from those in an organisation who had set the standards were fully monitored.

It was noted by one respondent that audits and monitoring may be particularly important because of the phenomenon of *behavioural drift*. This was described as a process whereby after a desired behaviour such as a compliant food handling technique had been developed, this behaviour can subtly and slowly change over time, and without revision may eventually ‘drift’ into non-compliance. The risk of behavioural drift makes continued monitoring and risk assessment critical to the success of sustained compliance.
“With behavioural drift, people move away from the stated norm very subtly and often this is not a problem until [changes] accumulate. You then have a disaster – like Deepwater Horizon… we need to understand the impact of these subtle changes to people and team behaviour that drives in the risk. If it’s not identified early enough, then the likelihood of having a problem increases without necessarily knowing this is happening.”

[Consultant]

Respondents generally considered *internal sanctions* and *incentives* important in reinforcing compliance cultures and providing additional motivation for employees to comply, again helping to reaffirm the importance of compliance to top-level management. No interviewees had access to data regarding the respective effects of incentives on employee compliance. However, the use of internal sanctions (ranging from reprimands to probationary periods or firing for severe infractions) was often discussed.

“It’s not just pats on the backs all the time; you’ve got to be strict but fair and ensure that when people do break the rules there are consequences. You always want to coach and train, develop, and help people to do the right thing – it’s a little bit like we were talking about with food standards inspectors – but you’ve also got to know when to draw the line. Because if you have a bad apple in the business, you have got to discipline them and you have got to get rid of them.”

[Business]

“You can do all the training in the world you want; if somebody then allows the bad behaviour to carry on, it just says, ‘Well that’s how we operate round here, that’s the culture.’ So where we’ve had cases where we’ve done all the right things and somebody has blatantly broken the rules and done the wrong thing for the wrong reasons - they’ve made that conscious decision, ‘Oh, it doesn’t matter, let’s just get on with it,’ - then we’ve fired them. It just says, ‘This is important to us.’ And I think from our point of view it’s about (a) the culture of the values: but (b) we’d be doing ourselves a disservice as an organisation because if that problem had occurred and we didn’t take any action, we’re as guilty as them.”

[Business]

In terms of incentives, they were also helpful to reinforce compliance cultures and providing additional motivation for employees to comply. The
public utility representative in the sample also felt sanctions were useful in obtaining compliance internally, although he stressed that these should be a 'last resort' and the reasons for sanctions should be well communicated.

“There are organisations that provide sanctions and food safety has improved considerably. For example, once a person's salary is affected by the standard of the food safety they comply because it becomes important to them.”

[Consultant]

“The management teams in our units do have a bonus scheme, and their bonus is affected by both their unit and individual performance. If there was poor performance in food safety or health and safety that absolutely could adversely influence their remuneration.”

[Business]

There were also indications of incentives being used to encourage worker involvement (see below).

Finally, it was noted that sustained compliance might be more likely in organisations that learn from their mistakes, suggesting that compliance errors or oversights should be viewed as opportunities to amend systems and practices. Large businesses in the sample suggested they had systems in place to help manage any incidents.

“Our ethos is to have systems that are designed to remove risk – that’s always the first option. Removing risk from the system is far better than relying on controlling it. In the event that something goes wrong, we’ll always learn from that experience and make sure that procedures and training are revised as needed.”

[Business]

The following two drivers of sustained compliance were also noted. These were considered important but there were no indications as to the impact of size on these activities.
d) **Multiple channels of compliance information**

In line with the findings of the Evidence Review, ongoing communication through different communication channels, from top-level management through to middle management and entry-level employees was considered crucial to achieving sustained compliance. It was also noted that these factors are often strongly interrelated and can be in flux as the business context changes.

“*If you have the expertise in your business, then* what you’ve got to try to do is to translate legislation, advice, and recommendations appropriately to the different levels of people that you have. You take very different approaches to your director and your QA inspectors and the shop floor... Because to make sure that you’ve got the right environment, you have to find the way of getting that message correctly to your shop floor... they’ve got to understand what they do and why they’re doing it.*”

[Business]

Consultants and business representatives also highlighted the importance of providing multiple channels of training and information provision to employees, suggesting that compliance is reinforced best via the use of several types of different communication: visual, spoken, written, interactive, and so on.

Ideally, it was perceived that training should aim to engage employees’ interest via a variety of different methods. For example, a consultant in the sample used training materials including word searches and quizzes, and businesses themselves often used a very wide variety of materials.

“*Different people are going to react in different ways. I think that people are more likely to comply if you keep reinforcing instructions with different types of communication: some visual, some spoken, some written. We produce training materials and we have to have regard to the effect on different people. Some people don’t want to attend training. If I’m going to motivate people to learn, I need to stress the importance to them. I try to use something that enables them to enjoy the training or find it interesting and useful...*”

[Consultant]
“We have interpreters, we have forums, we have notice-boards, and we have leaflets that are handed out. At a factory floor level – so the people that pack the meat - we put a lot of effort into getting boards up. So for example, we do them in a sort of cartoon format to show the employee action and a reaction: don’t do something against the procedure. So they’re trained to do it this way: ‘If you don’t do it this way and you do something different, this is the outcome…”

[Business]

e) Worker involvement

Respondents also perceived that it was important to engage workers with top-level compliance directives, which was seen as crucial to sustained compliance. This was seen to empower workers to feel part of the business and its ethos, often by instilling a sense of pride and ownership.

“Worker involvement - This is the real bit that makes the difference. It’s about once you get the people involved and get them on board and get them to be with you and understand the whys and the wherefores, that’s when it really starts to work. It’s when you get the people involved and get them all fighting on the same side, we’re all going in the same direction, that’s when it really starts to work.”

[Business]

“Well one thing that we don’t do is we don’t have a manual that says, ‘This is what you’ve got to do to encourage worker involvement.’ Because I think that is artificial and what tends to happen when you do that is people go, ‘Oh, another manual from head office.’ What you’ve got to try and do is recruit people that have similar philosophies as yourself and then empower them within that culture to do those things themselves...

So if you went round our businesses, you would find them all doing those things in a totally different way because that’s the personality of the MD in each of the businesses... So the things that excite you about being rewarded, about being patted on the back, about the MD coming along to them and saying, ‘Well done, that was a brilliant job you did last week,’ or whatever: all the things that give you a buzz, make sure you’re doing it to them.”

[Business]

It was frequently raised in discussion with business representatives that top-level management should clearly respect employees’ contribution enough to interact with them directly, rather than solely via intermediary management layers. For example, it was suggested that having management working directly with entry-level employees at some points in the year can help
promote worker involvement and engagement. It was also felt that as part of this interaction, top-level management must ensure that they are setting a pro-compliance example for other employees; respondents suggested that respect is in part communicated by top-level staff showing that they hold themselves to the same standards as those they supervise:

“I will personally go and work on the floor in the factory for a week. My team love it, they love me working with them and I actually find it very therapeutic and it’s much more fun than answering the phone Christmas week when everyone’s trying to dement you.”

[Business]

As suggested above, there were also examples of a range of other methods for worker engagement, such as recognition programs, company away days, worker ‘swap’ periods in which employees were able to take up other positions within the company to gain a broader understanding of organisational structure, and others.

“Each of the sites will do it in a different way: some of them will take employees horse racing; some of them will take them on a boat trip. In one particular business, there’s an employee of the month and they’ll have a car parking space saved for the week or for the month. With others, they will have suggestion schemes and prizes for the suggestion schemes. Some have cultural events celebrating a certain number of years of service, or a charity challenge or a gym. It doesn’t matter what they do, so long as they do something.”

[Business]

“We’ve started quite a lot of food tourism now and groups of people come to us, where we sort of talk to them about the history of the industry, talk to them about how the industry’s changed and then one of my team does this demonstration... So we do try and give our team opportunities to develop their own characters. We also have employees work in different parts of the business. And now that we have a restaurant, we have a venue and we have other things going on within the business, we give people the opportunity to move around so they’re not just stuck in one position for the rest of their lives.”

[Business]
2.3 Other Organisational Characteristics to Consider

In addition to business size, respondents perceived that some other organisational characteristics played an important role in compliance. Some of these have been discussed previously, such as the profit margin of a business and whether or not the business has a dedicated Person in Charge of compliance. Respondents also mentioned the issues of business sector, subsector and complexity and staff profile.

2.3.1 Role of Business Sector, Subsector and Complexity

As highlighted in the Evidence Review (Section 3.2.2), interviewees also commented on differences in technical knowledge between sectors and subsectors of the food business. It was suggested that there are differences between different types of businesses and organisations regardless of size and this can have an impact on compliance. Motivation, technical knowledge, and ability to comply can vary significantly across the sector, subsector, and level of complexity of an organisation.

“You can’t group them together, really; they’ve got different cultures, different backgrounds and different things that make them comply.”

[Consultant]

Business Complexity

Interviewees raised the suggestion that governance of large organisations is much easier in businesses with relatively simple or largely automated production processes. Although the Evidence Review suggests that manufacturing and processing environments pose overall higher compliance risks (Section 3.2.2), it was discussed in conversation with business representatives and consultants that in some ways these sectors experience fewer barriers to compliance than businesses in the food service or retail sectors because, with effective management, it is easier to control and regulate employee behaviour.
However, businesses with more complicated production structures face very complex training and education challenges. As suggested by the Evidence Review (3.2.2), it was at times raised that businesses with higher complexity, for example, involving multiple process layers, producing a variety of foodstuffs (for example, raw and cooked) or working in a variety of locations with heterogeneous layouts – may find it more difficult to comply. It was perceived that these issues might be exacerbated by business size.

Business Sector and Risk

Two respondents from large meat business or large business associations suggested that some sectors of business, such as abattoirs and meat manufacturing businesses, are perceived as higher-risk and thus subject to an increased level of scrutiny. They suggested that this does positively impact compliance achieved in these sectors:

“So if you take for instance, abattoirs, where you’ve got FSA staff there permanently, both in terms of vets and in most plants meat inspectors as well, then the culture whereby they are looking over the operator’s shoulder the whole time is quite powerful. So although they won’t have large management structures, because in abattoirs you’ve got a permanent veterinary and inspector supervision, you would expect the level of compliance in those circumstances to be good and there’d be no reason why not.”

[Business Association]

However, there was also some comment from those in the meat industry that businesses felt this level of scrutiny was sometimes misplaced and that this sector did not in fact present very high risk, as compared to businesses with higher levels of complexity.

How much benefit is conferred on food safety by permanent supervision in the abattoir sector? And the reason this is a reasonable question to ask is that that is the least risk end of the food chain. so long as you then chill it (the carcass) properly, that’s pretty well as much as the abattoir can do within reason, i.e. prevent the cross-contamination and all that sort of stuff. Which suggests – and I think everybody agrees – that the regulations concentrate the greatest amount of control in the area with the least amount of risk.
Technical Knowledge

In addition to the issue of business complexity, it was raised in conversation with consultants that in their experience, personnel within manufacturing sectors had a higher degree of science education and specialist training in their field than did retail food businesses. For example, supporting the findings in the Evidence Review (3.2.2), one respondent suggested that sectors that require less specialist training and technical knowledge, such as catering, often require more technical assistance to put regulatory compliance into practice.

“In manufacturing, I often came across people that knew more about food safety (regarding their factory processes) than I did! These were people with degrees and PhDs who specialised in their process, whether it be canning or cooked or chilled meats or whatever. A QA manager in a small factory will have a lot more technical expertise than a small catering business, or even a large caterer.”

[Consultant]

It was also suggested that businesses in the food manufacturing and meat business sector are likely to include specialist technical staff to meet the production needs of the business.

2.3.2 Staff Profile

Low Entry Staff and High-Turnover

Overall, the sample confirmed findings from the Evidence Review (3.2.5) that businesses which employ high levels of entry-level staff or have high staff turnover may find it more difficult to create successful compliance cultures. In addition this also correlates with staff pay levels; for example, one business noted that other business competitors paid significantly higher manager salaries and generally attracted more ambitious and skilled staff as a result. This respondent suggested that for businesses with high numbers of entry-level staff, it is particularly important to make compliance information easily accessible – via both training and printed materials.
English as a Second Language

Also confirming the findings of the Evidence Review (3.3.1), respondents generally believed that businesses with high numbers of employees for whom English is not their first language, may have more difficulty in communicating compliance needs to its workforce as well as implementing training. The large businesses in the sample recognised this as an issue and responded by providing translated or pictorial training materials and providing extra support as necessary. For example, there were examples of businesses with high numbers of immigrant staff offered free English language classes for employees.

“Inevitably with people on the shop floor, sometimes the language skills aren’t the best. So as well as trying to help your staff with language skills – so we’ll be taking a lot of people and putting them through basic English – also you’re trying to simplify the training. Often it’s pictorial for example, rather than lots of words... I think one of our sites has something like 27 nationalities in it. It then becomes not only just second nature, it becomes necessary that you’ve got to try and make sure that you’re getting your message across as best you possibly can.

[Business]

“For a company like ours, we produce multilingual things because we have, for example, Polish immigrant workers in our factory, so we will have local instructions in there. So you can see that’s where this resource issue comes in, in that we will do those sorts of things whereas if you’ve got the odd immigrant worker working in your building, what do you do?”

[Business]

However, despite the fact that some businesses do recognise and attempt to resolve language issues, communication difficulties were sometimes perceived to remain (see Section 4.1).

“It is manageable, but it is a significant barrier because if you don’t put the effort – the correct effort – into those areas, you kick yourself because you think you’re educating people and you’re training people and developing them and they will miss out on some very, very basic things and miss the key points.”

[Business]
“Combine [the general communication difficulties of big companies] with the fact that we have a number of foreign workers and people with language barriers as well, and communication becomes a real barrier.”

[Business]

It was occasionally suggested that ethnic minority businesses as having different or lower standards of cleanliness, which they perceived to be a potential barrier to food safety compliance. However, it is possible that this observation is in part due to overrepresentation of ethnic minority businesses in the small restaurant and catering sector. As discussed in the Evidence Review (3.2.2) compliance is more of a challenge in this sector.

“I suspect that the majority of prosecutions throughout the country are against ethnic premises, usually takeaway restaurants, and maybe small shops. Ethnic groups would be Chinese, Indian, Pakistani, etc. But if you checked in London, it might be interesting to see just where the greatest problem appears to be from prosecutions. Then we could decide how to tackle this. And it might not just be second language English that is the problem.”

[Consultant]
Summary

The culture of an organisation was perceived as important to secure and sustain compliance. Achieving compliance within a business was perceived to involve meeting some necessary conditions; businesses must be motivated to comply, understand how to comply and be able to comply. Effective management systems to filter compliance goals through an organisation were also perceived as necessary. The findings indicated that although large businesses may face their own challenges, they may be better placed to comply due to: greater motivation (corporate responsibility, maintaining brand reputation, retention of customer base, acceptance of regulation), greater knowledge and understanding of compliance obligations (through both internal and external experts including membership organisations), and greater ability due to more available resource. They were also felt more likely to have a formalised management structure, with a person in charge driving governance procedures, for example, internal audits, on an ongoing basis. It was noted however that committed small businesses may still be able to create a successful compliance culture and will have fewer challenges in relation to driving compliance through higher numbers. A number of other aspects considered to create effective compliance cultures included; on-going supervision and risk-monitoring (including sanctions and incentives), the provision of multiple channels of compliance information and worker involvement and engagement. Business sector and subsector were considered to be other factors which may impact on achieving compliance. Further, addressing the training needs of staff for whom English is not their first language was also considered important.
3. Approaches of Other Non-Food Regulators

3.1 Regulatory Approaches

Overall, two primary approaches to regulation were discussed in conversation with regulators, a representative from an Other Government Department (OGD), an internal regulator for a utility provider and an interviewee representing a professional awarding body working closely with enforcers and a health and safety regulator, these were a mixed enforcement approach and a more rigid approach. The mixed enforcement approach was considered to be beneficial in fostering positive relationships and generating greater compliance although they had no empirical support for this. One regulator however had recently shifted from this approach to a more rigid one due to a perceived culture of non-compliance within their industry.

3.1.1 Mixed Enforcement Approach

The Evidence Review (Section 5.2) notes that regulation approaches can vary significantly in terms of levels of flexibility or rigidity and advisory or penalising approaches. It also suggests that primarily preventative, conciliatory approaches may have some drawbacks in producing compliance, such as the creation of tension of conflicts of interest for enforcers working in the dual role of educators and enforcers (5.2.3).

A mixed enforcement approach, based primarily on an advisory, partnership approach but with recourse to more rigid sanctions as necessary, was used by two regulators who felt it worked well to achieve compliance and was considered beneficial by the OGD and utility representative. Risk-based enforcement was generally considered the ideal, both in terms of the management of regulatory resources and as in keeping with a foundational advisory approach. This mixed approach, neither solely preventative nor always relying on rigid sanction, was generally viewed by these respondents
as successful in promoting duty-holder compliance and in the development of good working relationships with dutyholders.

**Partnership and Education as Foundations for Enforcement**

It was suggested by these respondents that regulators should ground their approach to compliance in a largely advisory, education-based style of interaction with dutyholders – in short, a “partnership” model focused on helping businesses achieve compliance. Partnership approaches to regulation were viewed as a strong influence on dutyholders’ response to regulation and to compliance itself, potentially driving stronger compliance culture within organisations. The OGD representative also suggested that the ideal regulatory stance was as a ‘critical friend’ relationship:

“In my view, regulators are not just there to ensure that pieces of regulation are enforced to be compliant; they’re also there to provide some advice to companies on how best they could manage their regulatory obligations so that they’re seen as a critical friend in the process rather than just heavy-handed regulator.”

[OGD]

It was generally felt that regulatory-dutyholder relationships should build on the shared goal of preventing any harm to the public. For example, one regulator noted that they were working in partnership with dutyholders, providing support and advice to help them understand compliance requirements and achieving compliant behaviour. It was also considered helpful from the utility representative that the engagement is one of mutual respect.

“I think the way in which [a regulator] approaches its responsibilities in the dialogue and relationships they have with the dutyholder will influence their attitude and whether or not they develop a compliance culture within the business. If there’s a heavy-handed policing approach to this, then companies are less likely to want to embed the right attitude within the business. It’s better if it’s approached from a sort of partnership point of view: ‘We want to work with you to ensure that you meet the standards that are required, but where we’re not as intrusive... we want to work with you in a consultative way to reassure
ourselves that you’ve got the right culture in the business and that you will be willing to make sure you embed the right standards.”

[OGD]

“For us it’s about identifying where we can support businesses and where the problems are. For example, with SMEs we might need to give them the informational tools that they need to protect themselves. It’s about talking to them and finding out how they would like to be supported – how they’d like information, how they use information, and how we can support them in delivering the materials.”

[Regulator]

Whilst it was noted that perhaps the “the role of the regulator is not to be liked,” it was suggested that regulators should position themselves in a supportive, educatory role rather than as primarily or only an enforcement role. (The regulator who had made the recent shift to a more rigid approach still stated that they aimed to inform their dutyholders).

For example, it was perceived that one regulator had adopted a partnership approach that was considered beneficial.

“I think the [regulator] have done quite well. They used to come onto premises and just walk around with their charts, checking them and threatening legal action and I think they’ve now adopted a much more friendly approach to individual businesses, saying, ‘We will run courses in your neighbourhood on what we expect you to be compliant with. If you can tick an attendance sheet saying, ‘I’ve been through this training course and I understand what my obligations are, we won’t come and inspect you.’ Or they’ll turn up at a premises and say, ‘I’ve had a look around, these are the things you need to sort out. I’ll come back in three months; if you’ve sorted them out there won’t be a problem.’ It’s that kind of advisory facilitation process which I think is very helpful.”

[OGD]

In terms of liaising with businesses it was considered helpful that regulators take the point of view of the business, trying to frame the consequences of non-compliance in business terms, for example in terms of the loss of reputation or public faith. Similarly, it was suggested that dutyholders might
appreciate that regulators raise public awareness about the high standards that they must meet to operate.

“We communicate to the public in general our role around setting standards and then take action where people don’t meet those standards. [Dutyholders] particularly welcome that in terms of communicating about non-compliance because we are raising the profile of the organisation at the same time.”

[Regulator]

It was also suggested that in the case of minor infractions where dutyholders were judged to show good faith and efforts to remedy the problem, and where non-compliance was not judged as an immediate threat to public safety, compliance could be treated more leniently. For example, one regulator suggested that on occasion when an issue has been resolved by the dutyholder then they would take no action or make no record of the incident.

“I suppose you could summarise it by saying that we look at every issue of non-compliance individually, on a case-by-case basis. There are a number of factors that affect how we respond to non-compliance. This includes the nature of the issue, whether the dutyholders show an understanding of the situation, that they have rectified concerns and engage in the regulator’s processes. Every issue is looked at individually, so there is no guarantee of outcome. However, we may decide not to take any action to address non-compliance if the dutyholder can show insight and understanding and have themselves rectified the problem. By contrast, we might need to take action to address non-compliance if a dutyholder does not show insight and understanding because the non-compliance has not therefore been addressed.”

[Regulator]

The OGD in the sample perceived it was important to place more emphasis on whether dutyholders are attempting to adhere to best practice and achieve compliant outcomes – and assisting them to do so – rather than strictly penalising them for any and all mistakes. It was suggested that to do
this it required understanding the culture and processes of the business that have produced the non-compliant outcome.

Managing Tension in the Enforcement Relationship

The Evidence Review (5.2.3) suggests that there can be conflicts of interest or tension created if enforcers operate in the dual role of educator and enforcer. However, two regulators who used this approach suggested that if the enforcer is consistent and clear with dutyholders about when they are required to respond more punitively then it was felt that this could reduce any tension that may occur. It was suggested that transparency about overall regulator ethos, the handling of past offenses, and changing standards helped to mitigate any problems of tension. This approach was supported by others in the sample, including the public utilities representative responsible for compliance and a respondent from the professional awarding body.

“Sometimes you do get questions: ‘Well I saw X case and I saw Y case and there were different outcomes.’ A key part of managing that tension is being very clear about who we are and what we do – our remit – and what we are and aren’t there to do. It is about being clear about the rationale for action in a particular situation and applying that rationale consistently.

We want to be as open and transparent as we can be: for example, all the decisions from our [cases] are available on our website where the facts are found... And we’ve got lots of publications explaining how [accreditation processes] work and how we ensure compliance. And there is always a general message in those publications about our approach to regulation, which we talk about in face-to-face meetings as well.”

[Regulator]

“I disagree that there are tensions for inspectors, because we have well documented policies for enforcement. Those who are willing to learn or accept guidance, then fine – but obviously we would have no hesitation to follow the more formal approach if indeed we found that there was a lack of willingness to improve or accept the guidance”

[Professional Body]
Furthermore, one regulator affirmed that SMEs in particular, which may have fewer opportunities to access information about their compliance duties and how to comply, often highly value their relationships with enforcement officers.

“One of the things we’ve taken out of our research is the fact that officers are viewed as enforcement officers and that’s right, but they also do a massive amount of work in supporting business and increasing their understanding of what the laws are and you know, checking terms and conditions or talking to them about what their requirements are. And that’s really positive and the more that that can happen the better.”

[Regulator]

Risk-Based Enforcement

Regulators in the sample noted that ultimately their duty is to protect the public good, set standards of good practice, and enforce those standards in cases of non-compliance.

“I think we would say that our role as a statutory regulator is to protect the public. We protect the public by setting standards, improving education programmes and taking action where people don’t meet those standards... and public protection really comes at the very top because every decision that we make has to be based on that within the legislation that we set.”

[Regulator]

Therefore, it was considered that regulators should engage in a form of risk assessment of dutyholders when determining which approach to take. This was deemed necessary due to limited resources.

“I think most people would agree we want regulators to concentrate their efforts on businesses that are the greatest risk, so through some form of risk based assessment process, you focus your limited time. Most regulators now are having to accept the fact they haven’t got as much time, so you’re [ideally] focusing your limited time through some sort of process of risk analysis where you think businesses are likely to be the greatest risk.”

[OGD]
It was repeatedly suggested that additional regulatory attention should be given to industries or dutyholders with more complex practices and thus more potential for non-compliance. This was not necessarily seen to be a function of size – but instead a function of the complexity of the service provided and the number of risk points to public health. For example, there were examples of regulators applying more attention to these dutyholders via increased auditing or by additional gate keeping such as requiring add-on certification to engage in practices that are more complex (as discussed below).

“For a small number of areas of practice, we require additional training in order to practice, as an extension of our pre-registration requirements. For example, practice which is very serious, where you have greater risks to individual health or the more general public health.”

[Regulator]

On this model, one regulator took a very proactive approach to risk assessment, targeting additional auditing or regulatory resource on businesses perceived to be high-risk. The regulator grounded their risk-assessment in formal quantitative risk-frameworks, utilising an algorithmic assessment of risk that then dictated the volume of regulatory attention applied to the duty-holder. These calculated risk in terms of the potential for non-compliance on behalf of the dutyholder (for example, including the factor of the business model of the organisation) and the potential consequences of this non-compliance (for example, issues of non-compliance in larger businesses might affect more people).

“A large firm with a very complex structure is going to find it necessarily harder to comply than a one-man band with simple products. So it’s down to business risk and complexity... The bigger the firm and the higher the risk, the more closely they are regulated. For example, if it’s a small firm but it has a complicated structure and a lot of complicated practices, they’ll come under more scrutiny. So it’s a combination of size and the business model. We have a risk model that takes into account business environment risks, internal compliance, etc – it has many different categories that are fed in and
Another regulator suggested that dutyholders which are less likely to have well-developed internal best practice governance may pose higher risk, and that this determined to some extent whether these areas of practice came under regulatory authority. For example, dutyholders operating under this regulator operated in both the public and private sector. Government legislation judged that private sector dutyholders were viewed as less likely to be subject to formal internal governance or compliance schemes, and thus recommended that these dutyholders should be a priority for regulation. Although the regulator noted that under their current model, these individuals/areas of practice were not subject to additional or enhanced scrutiny, inherent risk levels did impact on decisions as to whether they ought to be included in the regulator’s remit.

Another respondent who worked closely with health and safety regulators suggested that a proactive risk-based approach combining these two risk factors – assessment of business complexity and existing governance structures to manage potential non-compliance – has been implemented successfully in this area of practice.

“The size of a business obviously dictates what resources they have behind them in regard to health and safety management, and that influences how they are risk-assessed by the regulator. So if they have more resources behind them, they have health and safety policies that are set by a key member of staff – if they have that in place than we reduce the number of inspections targeting the premises... It also depends on the nature of the premises – for example, the safety risk will be quite high depending on what type of machinery you use, what type of equipment is being used, and that also has an influence on how frequently we inspect the premises. So it’s the process and how well risk is managed.”
This respondent suggested that targeting high-risk businesses for inspection has lowered the overall amount of auditing the regulator must engage in, and has significantly reduced inspections specifically on low-risk businesses, without any corresponding increase in non-compliance.

_We’ve been encouraged over the last three years to use that guidance and that has reduced the number of inspections we do, and quite a few premises that are now on the lowest hazard category don’t get often get proactively inspected._

[Professional Body]

Two other regulators suggested that risk-analysis was used to guide responses to cases of non-compliance, dictating whether a more partnership or more rigorous approaches should be taken. Risk in these situations was assessed in a variety of ways on a case-by-case basis. However, conversations about approaches to risk assessment centred on a couple of key themes: motivation to comply and the severity of risks to public safety.

First, it was agreed that some dutyholders give signals that they are simply not motivated to comply or to engage with the regulator. In these cases, partnership methods of enforcement were not considered useful, and rigid enforcement was considered justified and necessary. This approach was also used by some consultants in the sample when acting as an auditor for businesses. Lack of engagement was considered to be signalled by such factors as repeated and ongoing offences, the absence of any attempt to make changes to achieve compliance, and lack of response to dutyholder communications.

_“If the [dutyholder] doesn’t attend the hearings, doesn’t give any evidence of the fact that they accept or acknowledge that there were concerns raised, they’ve shown no insight, they don’t do anything to address the situation, they don’t engage with the regulator so we can’t know what they’re doing, then it is likely that we would need to act to protect the public. ...For example, the outcome could be a caution on their record, it could result in demand for additional training, it could be suspension, or they could not allowed to practice... There is a different approach to non-compliance based on how much people actually want to engage.”_  

[Regulator]
“Generally the first instance for us is to contact the [dutyholder] and find out what the issues are and how we can help to support them. But if we find the [dutyholder] isn’t helpful and still doesn’t agree with our interpretation of the law, then we consider enforcement action.”

[Regulator]

Second, it was suggested that regardless of the perceived dutyholder orientation towards regulation, non-compliance which posed very strong risks to the public were considered to require more firm and immediate action. How this was measured varied by the regulator, but included judgment of risk in terms of the number of people that might be potentially affected as well as by the severity of the risk to the public presented.

“There are a very small number of allegations [such as criminal activity which would pose a public risk] where we would generally look at the case very seriously. Even then, it’s looked at on a case-by-case basis, so it’s not that “If X happens, you will definitely get struck off and not allowed to practice,” but what we will say is “We consider that very seriously, and our panel will look at that very seriously, and you may be struck off.”

[Regulator]

“We have to look at things like the detriment caused in the [industry] by the business practices. If it’s a clear attempt to deceive consumers, then that obviously puts us in a different ballgame – we will still try to engage with them, but it is much more engagement with a view to taking enforcement action rather than engagement just addressing the issue... For example recently there was a case in which [dutyholders] disagreed about the interpretation of the law and that’s why we decided to take the case. And the detriment involved was massive; whereas if you’re looking at a small [dutyholder] which doesn’t affect the whole of the [industry] or only affects a number or smaller players, you might take a more cooperative or consultative approach.”

[Regulator]

“Over the last few years we have taken a more intrusive approach, especially with riskier businesses, because the downside risk to non-compliance is significant... the implication is there that the costs to the public are large if we fail in our duty.”

[Regulator]
3.1.2 Rigid Enforcement Approach

As mentioned, one regulator had recently altered its approach to regulation due to a perceived culture of non-compliance across the industry. This body was in the process of switching from a largely partnership model to one of more rigid enforcement and auditing.

Specifically, this regulator was intentionally taking a more ‘proactive’ approach to compliance, intervening earlier and more strictly in cases of any non-compliance, increasing the level of fees and penalties, and increasing barriers to entry for the industry. However, as this was a recent change in approach they were unable to state whether it was more or less successful in encouraging compliance among dutyholders. There were indications however that it was met with some resistance in the first instance by dutyholders as a change of practice, although the rationale for the change was understood.

“Over the last couple of years we’ve been more pro-active in certain areas – with some issues there is the question of, ‘Should we have stepped in far earlier? We are consulting with the industry on new powers to go and intervene, if appropriate, earlier...”

[Regulator]

3.1.3 Other Considerations within Approaches

Self-Regulation

It was occasionally mentioned that some degree of autonomy in deciding how to achieve compliance was potentially useful for those being regulated. The suggestion was that businesses should achieve the compliant outcome themselves, with regulators reinforcing the message that all dutyholders are responsible for their own compliance. The one regulator which took this approach as a primary stance felt that it was useful and effective, focusing on the ultimate goal of the protection of public safety and public health whilst still allowing for autonomy and development within the field of practice. This
regulator noted that self-regulation was also an appropriate stance in an industry with very high overall levels of compliance. This approach was also discussed by the OGD.

“\textit{The way that we approach regulation is on the basis of professional self regulation, in that you as registrants take responsibility for your own practice, for ensuring that you meet the standards and do what is necessary to protect the public. And then our role is to kind of step in where necessary... One of the benefits is that we can have a model of regulation which allows massive diversity in practice for the professions and does allow a profession to innovate in a way that different models of regulation may not.}”

[Regulator]

“We’re moving into a new era where increasingly individuals in companies need to take responsibility for their own behaviour. So we would be encouraging regulators now to agree with companies on the kind of inspection regime that would apply to them and for companies to take responsibility and ownership of their own behaviour. And we would encourage regulators to take a less interventionist approach to the responsibilities of these companies...

\textit{I think there’s a cultural change required: ‘If the outcome is X, regardless of the process that we put in place, can we do it smarter, easier, better in order to achieve that outcome?’ So it allows some freedom within their companies/businesses to design systems which deliver the most efficient production line and the right outcome that’s required, rather than, ‘Well you must have an inspector at this point in the line and you must have a HACCP analysis at this stage in the process.’}”

[OGD]

However, it was noted by the regulator that a self regulation approach may result in some tension with dutyholders who disagree with regulators or enforcement officers about the best ways to reach agreed outcomes. As discussed previously, transparency and consistent messaging about the regulatory ethos and standards were considered the best ways to minimise this tension.
**High Entry Standards**

It was suggested that having high ‘entry’ standards to practice helped to ensure higher levels of compliance among dutyholders. It was considered that dutyholders who have to achieve fairly high levels of certified education in best practice in their field are more likely to be motivated to take their compliance responsibilities seriously. One regulator focused on setting high training standards and requirements as a condition of practice, including evidence of continued and ongoing re-training relevant to the dutyholders’ particular industry. Another regulator went so far as to make personal face-to-face contact with all registrants in an individual assessment of competency before allowing them to operate. Both of these respondents’ regulatory bodies instituted additional higher-standard certification involving further training or assessment for those providing more complex or risky service.

“We individually visit [dutyholders] to ensure that their practice is proper and appropriate. And there are different qualification levels for different levels of practice. We have senior advisors who have actual industry experience who interview dutyholders and have a thorough interview to make sure that they’ve got an understanding of wider issues. People can be trained to pass an exam, but testing actual judgments in real life is key.”

[Regulator]

This point was also raised by one of the consultants serving in an auditing role for large businesses. This consultant perceived that similar gatekeeping in the food industry could result in higher levels of overall knowledge and compliance rates. This was suggested as the consultant considered it would filter out individuals who were not motivated enough to invest in compliance at the outset.

“I think having a requirement that persons have to be competent to set up a food business would be helpful. OK, we’ve got registration, but anybody can be registered. I think there should be some prerequisites so that coming into the food business is seen from the outset as something that requires the right frame of mind and you’ve got to have certain criteria in place before you can manage a food
premises, so we only get competent managers – people who can demonstrate commitment to food safety. Additionally there are certain prerequisites premises must have in place. That is the appropriate policies, procedures, etc, including the person in charge.”

[Consultant]

3.2 Auditing and the Use of Sanctions and Incentives

Auditing
Auditing was a key element of compliance and the threat of sanction was considered important to ensure compliance in their respective industries by regulators.

“The penalties for non-compliance also need to be pretty serious and I know this is difficult territory, but in my view, the quid pro quo for less frequent inspections or you know, even the random based inspections perhaps, is you take ownership. If we find you’re non-compliant, the penalties will be high and you need to ensure that the behaviour of your colleagues is, is commensurate with the potential risk you’re exposing the business to.”

[OGD]

However, the type and extent of auditing varied. One regulatory representative, in an area of practice in which the vast majority of dutyholders were seen to pose low, if any, compliance risks, relied on a random yearly audit of less than 5% of registered dutyholders. This was viewed as supplementing an overall approach on self-regulation – providing some sense of regulatory oversight and reminder of the potential for sanctions in case of non-compliance. Peers within the area of practice were involved to assess whether dutyholders met the standards set by the regulatory body.

More frequent auditing was undertaken by another regulator, for example on a monthly or more frequent basis for large businesses or those judged as high risk. Internal auditing for the utility representative also took place frequently in line with the large food businesses in the sample.
Use of Sanctions and Penalties
The regulators in the sample felt that the use of sanctions and penalties also contributed to compliance, and discussed a range of penalties in cases of non-compliance including fines, additional monitoring and potential dismissal from practice. The latter was considered to be an important deterrent to non-compliance and key to the regulatory role; the ability to remove unsafe practitioners was understood as a key power of the regulatory body in protecting the public.

“In terms of our general approach, we obviously think that enforcement is really important and it sends a message out to the market in terms of deterents.”

[Regulator]

“We do have fines and penalties and we have increased these in recent years. Our hope is that will encourage more compliant behaviour but the evidence is... it’s too early to know.”

[Regulator]

One regulator suggested that enforcement and sanctions might be most effective if targeted at common or wider structural issues in the industry. This regulatory body conducted industry research to identify the kinds of non-compliance that might be most risky for the industry, market and public at large. The enforcement approach was then informed by this research, with the regulator taking a firm sanction role in cases which research indicated might be high-impact.

“For us, it’s not just about tackling the individual trader – although obviously that forms an element of it as well. It’s more – how will this impact across the [industry]? Our research teams look at the industry in general, and a lot of the enforcement activity – as well as our general activity in terms of compliance and working with businesses – will stem from recommendations that come out of that research... One of the outcomes of our research is that when teams are considering an action they should be considering the impact that action will have.”

[Regulator]
Two regulators mentioned compliance strategies revolving around increasing consumer awareness of business issues and non-compliance. One regulator felt this was potentially a very useful method, and was investigating ways to increase public attention to enforcement of non-compliance – ideally by having businesses communicate the results of enforcement directly to their customers. Another believed that any public reporting or ‘naming and shaming’ was not particularly effective in the industry in question, as it was not seen as reaching the public consciousness very often.

“We’re trying to use the drivers we find motivate compliance and how we can then use those drivers as tools. So if you’re talking about reputation as a key driver for businesses, how can we leverage that into our enforcement work and create impact? We’re starting to think more creatively about this, so that if a business has mislead the public they would have to issue a corrective statement – and there can be a potential financial impact as well. For example, if they initially took out a full-page advert, then they have to take out another full-page advert, which corrects the misleading text. Or we’ve had a business rewrite all customers on a mailing list to correct a statement they sent to everyone on their database. And I think that’s a really useful tool and one which is really worth exploring.”

[Regulator]

“Often in our industry the kinds of non-compliance can be very specific to the industry, and when they are reported they are in the [industry-specific] sections of the newspaper rather than the main body. So in the past, certain firms were named and fined – but the consumer isn’t likely to use our website, and if it’s in the newspaper they aren’t likely to stop and read [the industry news]. It’s only when it’s on a very big scale that naming and shaming does work, when it’s really picked up by the press. A food scare is almost always a far more high profile story than complex non-compliance in our industry.”

[Regulator]

Incentives
None of the regulators in the sample had access to any data regarding the success of incentive schemes in promoting compliance. However, one non-food regulator had some experience with a code scheme similar to the local existing Scores on the Doors schemes within the food industry; although this respondent felt the system had some success in promoting compliant
behaviour the scheme was too recent to have strong evidence of efficacy. It was reported however that some businesses felt the scheme was useful, provided a point of difference in the industry, and was successful in gaining public trust.

The OGD representative mentioned the use of ‘soft’ incentives, for example, a system in which dutyholders who had better compliance records were audited less frequently. This respondent suggested that a similar system should be used for food safety in the UK\(^\text{10}\), suggesting that (anecdotally) it seemed to have good results in other countries outside of Europe. Another regulator uses an industry-wide incentives system, in which all money received from fines are put into a communal monetary fund that is then put towards subsidies for other dutyholders in the industry. The utilities provider representative noted that league tables are used in the energy industry and these were considered to have some impact (although ultimately it was still considered that the motivation to comply was of more importance).

“We all wrestle with this, but we need to encourage businesses who have a good compliance record and tick all the boxes on an inspection regime a number of times. Depending on the business and the level of risk we should deliver a message which says, ‘If you can demonstrate you’ll comply, we will take a lighter touch approach to the frequency of the inspections you’ll be subjected to.’ ...I hear anecdotes of schemes in other countries where those models apply and seem to work well... In the States or in New Zealand or Australia, I hear very good examples where compliance standards are high and a regime along the lines that I’ve outlined is in place and it seems to work..”

[OGD]

3.3 Communication with Dutyholders

3.3.1 High-Impact Regulation via Increased Communication

\(^\text{10}\) The current UK food law enforcement system is risk based and therefore businesses with a better record of compliance would generally be subject to less frequent inspections.
One respondent suggested that increased effort at effective communication with dutyholders could help to ensure high-impact regulation even when enforcement resources are limited. This regulatory body had conducted research on how businesses respond to regulatory enforcement, how they used guidance and information from the regulator, and what kinds of tools were most useful in achieving impact with dutyholders.

This respondent considered that communication about any enforcement activity regarding non-compliance was critical; the regulatory body had recently invested significant effort into ensuring that the reasons for enforcement action and potential implications for other businesses’ practice were widely communicated throughout the industry.

“What we’ve been trying to do is work with the enforcement teams here and use the findings from the research to say that after enforcement you need to go out and deliver those messages back to the market and say, ‘OK, this was the case, this was the facts of that case, this is what the courts decided or this is where we think the barriers lie in terms of the case. The impact that has now on your business practices is X, Y and Z; therefore we’ll expect to see changes like that in the market in the future.’ It’s about re-educating them and taking those messages back out... it’s about getting teams to think about what they can do as part of that project, that the project doesn’t end when the case decision comes; there’s a whole re-education exercise within our organisation as well.”

[Regulator]

This was perceived to be working well, although it required some degree of introspection regarding the internal regulatory culture and some re-education regarding and organisational practices within the regulator.

3.3.2 Multi-channel

The regulators in the sample described a wide range of methods and channels for communication with duty-holders, from in-person contact such as face-to-face site visits or ‘travelling shows’ to written communications via
formal correspondence, regulator websites, best practice guides, newsletters and other compliance assistance materials.

A multi-channel approach was considered the best way to reach a wide variety of dutyholders and to ensure they received repeated, ongoing communication about compliance duties. It was frequently mentioned that a multi-channel approach was important as different individuals or organisations respond better to different channels. Two regulators considered it important that these varied channels communicate not only information about requirements, but also consistent messages about the ethos of the regulatory body.

“It’s hard to get information to people as some will tend only to find out about something when they need to know it; they don’t actively go out there and search for information. So it’s that constant kind of drip feed. We do meetings with [dutyholders], with professional bodies, we have publications, we have information on the website. And a key part of managing that tension in the relationship is being very clear in those meetings about who we are and what we do, and our remit – what we are and aren’t there to do.”

[Regulator]

“There’s a whole set of messages there to be given. Just sticking a press release on our website doesn’t work; businesses aren’t checking our website. So you need to go back out, you need to use the kind of methods of communication relevant to that sector – maybe it’s magazines which have a large profile in that sector, for example – to communicate some of these messages and raise awareness levels. It’s about finding out where businesses find areas of support and then tapping in to them as well. You can use that then as a tool for raising awareness of what the law is, awareness of where the problem breaches are and then what businesses can do to help protect themselves.”

[Regulator]

3.3.3 Face-to-Face Communication

Confirming the Evidence Review (Section 5.4.2), it was suggested that face-to-face communication is key to establishing strong working relationships
with dutyholders and to encouraging compliance. Face-to-face contact was seen as a good approach to lessen dutyholders’ defensiveness to external regulation; as one regulator mentioned, putting a ‘human face’ to compliance communications seemed to make them more palatable, and provided a good chance to focus on the regulatory ethos of maintaining industry standards.

“Face to face is always better. It doesn’t have to be one to one; it could be a group meeting, but a face-to-face opportunity to discuss and share concerns is helpful. It doesn’t have to be all the time, but I think it would really help in order to establish the right kind of relationship. You can then get, you know, written or you know, then, I mean you’d have to point to – you know – web based information or written information, but I’d, in an ideal world I’d see that as a follow-on from a face to face conversation, so subsequently you could communicate by the written word or by the website; but it’s useful to have that personal contact.”

[OGD]

“I think publications are important and having loads of information on the website is important; but nothing actually beats meeting somebody in person and actually having the opportunity to raise your issues... And more importantly, we can really explain our role in a way that will allow us to communicate it effectively with registrants because you are there to answer their questions... there is that immediacy and human contact with somebody, you can have that conversation and they can talk you through. I find generally that I get a far better response when I meet people in person because they have the opportunity to see that what you’re saying is genuine and they can ask follow up questions. I think that’s kind of missed sometimes when you’re looking at publications.

[Regulator]

“What we have found from stakeholder research is that people’s perception of the [regulator] when they haven’t met someone is less positive than those who have. If you haven’t actually seen someone the impression is lots of compliance and things to keep abreast of, which can be off-putting. Having a human face works. Clearly, we can’t meet everyone but we try to do visits every few years for very small firms, and with bigger firms it’s every month or more with a senior manager. Where there are face-to-face meetings, satisfaction is higher.”

[Regulator]
In addition to one-on-one meetings with dutyholders, regulators often also offered supplementary ‘travelling shows’, holding group drop-in sessions in a range of areas across the country. These were considered useful in providing additional face-to-face contact with relatively less resource, allowing dutyholders an additional opportunity to ask questions and receive direct feedback about their concerns. These regulators also felt that this was often a good way of engaging with SME dutyholders.

“Every year we go out and have a number of meetings with registrants in different areas and we have very good take-up of those. We certainly get a lot of employers coming on behalf of an organisation, but actually we also get sole practitioners and private sector individuals coming along to those meetings as well. It’s an opportunity for them to talk to us and to raise their issues, get their point across, and people generally welcome that and will take time to do it, especially when they have a particular issue.”

[Regulator]

“Especially for small and medium businesses, we’ve done road shows in the past to encourage communication.... we do encourage multiple channels of communication... if we have a major policy initiative coming out we do try to hit the road.”

[Regulator]

One regulator suggested that video material, potentially available via the regulator website, could potentially be effective to put a human face to the organisation in the absence of face-to-face meetings.

“Another thing that we are doing, which I think has actually proved to be quite successful, is putting audio-visual presentations on our website. Again, you’ve got that almost human contact, because there’s a person talking to you, giving very simple, key messages about who we are, what we do, about [dutyholder responsibilities]; but you’ve also got that human contact. I think it helps people to take on board the message and drive it home.”

[Regulator]
3.3.4 Written Communications

Although it was discussed that face-to-face communication is very effective in communicating with dutyholders, it was generally understood that resource constraints mean this is often an ideal and not feasible with all dutyholders. Other communication methods were also required to support this, for example, written communications. This was also found in the Evidence Review (5.4.2).

Although obviously the use of technical language is at times unavoidable, regulators mentioned that they attempted to make information as simple and clear as possible including in both paper communications and digital channels such as email newsletters or regulator websites. The heavy use of industry jargon or acronyms was considered to be counterproductive to successful communication with dutyholders.

“How regulators communicate does have impact. I think the regulators have a responsibility for interpreting what can be quite complex rules sometimes into a language which is understood by the operatives: clear English.”

[OGD]

“We really strive to make information as accessible as possible... We ‘plain English’ practically everything that goes to our registrants – apart from a few things which have to include really technical terms. Because (a) that means it’s easy for our registrants to understand, and (b) the materials can be picked up by members of the public and that means anyone can make a complaint.”

[Regulator]

Furthermore, one regulator commented that his organisation made strong efforts to produce guidance that is ‘fit for purpose’ to the business community. The respondent noted that this business-focused communication style was part of an overall attempt to produce high-impact regulation, which was viewed as particularly important in an era of limited regulatory resource.
The regulator had conducted research with businesses in the industry regarding how regulatory advice was currently used and ideal formats for information, and had recently produced a package of compliance materials with different formats, levels of detail, and language used across a range of employee levels within businesses.

“We’ve always said that we will work with businesses and develop guidance, but it may have been in the past that our guidance wasn’t always designed with business in mind. So now our approach is to analyse legislation, analyse the market and then produce guidance which addresses these problems and sets out exactly what the business needs to do. The more we can set out guidance which is business friendly and then target it, the more I think we get to businesses...

[Regulator]

This regulator deemed business-tailored written materials and guidance to be particularly important when communicating with SMEs.

“We recognise that it’s much harder to get into SMEs and you need to tailor the information for them. Speaking generally, smaller business need shorter, clearer information and more interpretation rather than just presenting a legal, focused document.”

[Regulator]

3.3.5 Communication via Third-Party Memberships and Trade Associations

Communication via industry and professional membership groups was also considered useful in terms of providing information about compliance standards and new legislation. Interaction with these groups was viewed as a good way to communicate with a wide range of dutyholders about new or potential changes in legislation and ways to meet compliance standards – and also to hear feedback about how the regulatory body is being perceived by dutyholders.

“I think the trade associations and business community are a good conduit in terms of understanding or getting messages about whether the regulators are being heavy handed. So I think the business community is pretty well able to provide information back to

[Regulator]
government if they felt a regulator was stepping outside of their remit because larger companies particularly have got their own legal expertise in-house and they’d be able to express an informed view.”

[OGD]

“We’ve always worked with trade associations and I think recently there’s been even greater recognition of the value that they play, which came up in recent research we conducted. Trade associations are very good at giving us a point of call to come and get into the market, to disseminate information to their members and address information that may be specific to a market.”

[Regulator]

One respondent noted that experience with ethnic minority businesses suggested that linking in with local and regional community structures or groups may also be beneficial.

3.4 Reducing the Financial Burden of Compliance for Small Business

Finally, one respondent suggested that the regulatory body they represented recognised that compliance-related costs (particularly yearly fees) were potentially a greater financial burden for small businesses. To help support small businesses they had introduced a sliding scale of fees depending on business size. This was a deliberate policy to attempt to reduce the relative costs of compliance for small businesses as this regulator felt that compliance-related costs (particularly yearly fees) might pose a greater burden for small businesses than very large organisations.

“Regarding the question “If the cost of compliance in larger businesses are proportionally smaller than for SMEs”, that’s probably true to a certain extent, although we levy different fees for different levels of business. You could argue that a one or two man business even trying to meet the bare minimum [to comply with us], that’s still going to be proportionately a bigger impact on them than it would be for a large organisation, but we try to mitigate that.”

[Regulator]
Summary

Two main approaches to regulation were discussed. Primarily, a mixed enforcement approach based on an advisory partnership model of enforcement with recourse to more rigid approaches as necessary. Provision of information and transparency about regulator ethos and enforcement - particularly regarding past or current sanction activities - was considered a useful way to manage the relationship. The second approach was a more rigid enforcement style currently used to help address a culture of non-compliance within a particular industry. Risk-assessment of dutyholders was considered important in informing the regulator's approach and managing limited regulator resource, with the suggestion that additional auditing, enforcement attention or gate keeping practices ought to be directed towards dutyholders judged to present higher levels of overall risk. It was also suggested that risk-assessment should inform response to non-compliance. Other methods within these regulatory approaches included the use of self-regulation models and having high standards of entry to operate by the regulator (which was considered potentially useful in the food industry as well). Auditing was used by all regulators in the sample to ensure compliance obligations were being met, with the use of sanctions and penalties being common practice to help drive compliance. Although incentives were discussed, respondents did not have evidence to prove their efficacy. A wide range of communication channels were used by regulators to communicate and engage with dutyholders. Face-to-face contact was generally considered key to establishing strong working relationships with dutyholders; however, a range of written, digital and in-person communication methods including communication via third-party membership groups were also used to engage dutyholders. Clarity of communications with minimal technical language was considered important within written communication, and making compliance objectives as applicable to business as possible was also considered beneficial.
4. Perceptions of Current Regulatory Approach

4.1 Overview

A consistent view emerged from academics, food business and association representatives and consultants (including those who audited food organisations) regarding the ideal enforcer approach. The broader sample perceived strongly that the ideal enforcement approach involves a partnership model – working with the dutyholder to achieve compliance, for example, by educating and providing advice but with more rigid styles of enforcement as required. A partnership approach to compliance was perceived as preferable and more effective, with risk-based rigid enforcement focused on serious food safety risks rather than cases of non-compliance that were less critical for food safety. The use of sanctions as part of more rigid enforcement was considered useful when applied appropriately.

However, as discussed previously, respondents suggested that in their experience, enforcers are not always perceived as taking a partnership approach due to a lack of resource and limited knowledge amongst UK enforcement officers. This suggestion was based on anecdotal evidence and personal experience with enforcers. Overall, the findings of this research broadly supported the key findings of the Evidence Review (Section 5) regarding issues of inconsistency of enforcement approach (for example, potential political interference), and the barriers of low local authority knowledge and resource.

Respondents also made some suggestions regarding preferred styles of written and face-to-face communication from enforcers. Broadly, respondents felt it was beneficial to frame compliance in business and food safety terms (for example, non-compliance is a potential danger to reputation, brand and profit), providing specific information and guidance about how to comply and why it is important.
4.2 Ideal Enforcement Approach

The Evidence Review (Section 5.2) notes that regulation approaches can vary significantly in terms of levels of flexibility or rigidity and advisory or penalising approaches. The sample was not able to offer additional empirical support for the strengths of particular types of regulatory approaches over others, and several commented that further funding to guide regulatory practice would be welcomed.

However, this research does indicate an overall preference within the sample regarding enforcer and regulator approach. The Evidence Review (5.2.3) suggests that purely rigid approaches may be unlikely to improve compliance among food sector SMEs\(^\text{11}\), but that some threat of enforcement is necessary. It then suggests that a more mixed approach might be ideal – although it also highlights the potential drawbacks of this approach, such as concerns that business might perceive enforcement as inconsistent.\(^\text{12}\) Based on personal experience and preference, this sample strongly believed that a mixed approach to enforcement, based on a partnership approach with recourse to rigid sanctions, was most successful in encouraging compliance. In particular, respondents focused on the issues of partnership-model regulation, and risk-based rigid enforcement in the case of food safety risks. The utility of sanctions in cases of non-compliance was also raised. Section 4.4 details styles of written and face-to-face communication that were considered to further promote compliance and good relationships between dutyholders and regulators.

4.2.1 Partnership Model – Enforcers as ‘Expert Friends’

Respondents broadly and strongly agreed that partnership models of regulation are the most effective in encouraging compliance in food

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businesses – although this must be tempered by recourse to more rigid approaches in cases of critical non-compliance (see following, Section 4.2.2).

The Evidence Review (5.2.3) suggests it may cause tensions if enforcers act in an advisory capacity and then also deliver sanctions for non-compliance. It was suggested by one respondent that a dutyholder may feel tensions due to not knowing what to expect on a given day and how the enforcer may act, however for others in the sample there was no perceived tension from the dutyholders’ perspective. The key area of frustration for these respondents was more towards a ‘tick box’ approach rather than the duality of the role. It was considered that if the enforcer is consistent and clear about the factors they use to decide whether to take action then this could reduce any tension that may occur.

As discussed above, respondents purported that compliance should be an ongoing discussion and collaboration, with enforcers acting as ‘expert friends’ that help them avoid or solve compliance problems. This view was based on their own experiences, which had fostered productive relationships and thus was considered preferable. It was suggested that if organisations perceive regulatory bodies and officials as fundamentally pro-business as well as pro-safety, businesses tend to be much more receptive to suggested changes and to view regulation as a potential resource and information source rather than an enemy or burden. Relationships of ‘mutual respect’ between dutyholders and regulators were considered beneficial.

“What we find is once organisations start to understand that this is not about policing them, it is actually about helping them make better, stable businesses, then they start to understand. They begin to say, ‘Ahh, the purpose of governance is not to catch me out; it’s actually just to help us achieve good sustainable businesses. Governance ought to be thought of as an expert friend whose advice we can take and apply so we do the right things, rather than being another burden over laid on what we do.’”

[Consultant]
“Ideally the regulator understands what the business is about and is not just there to make sure the regulatory bits are met, but also is keen to see the business do its stuff... if a regulator sees their job as regulating rather than working with the business to make it work better, that’s when the trouble starts.”

[Business Association]

“The conciliatory approach is better – where business is actually warned or you spot the problem and help them resolve that problem rather than slap a £4000 fine on them. Because all that will do is push business away.”

[Academic]

“If you can actually have a relationship where you discuss things that are wrong and make the person who’s made the mistake understand why it’s wrong, then you’ve got more chance of actually taking it on board and putting it right.”

[Business]

Interviewees suggested that if enforcers can build relationships of trust with businesses, they are more likely to alert enforcers or seek their feedback about potential issues before they arise.

“You have someone who builds up relationships within their patch, let’s say in restaurants, or you have someone who parachutes in once every two years and tells the business what’s going wrong and goes around with a clipboard. We’ve tended to have gone with the latter version. Now then, if they’re trying to help that firm introduce change, the problem is the die is cast and they’re the enemy. They’re going to ‘come in and tell them what to do.’

[Academic]

“It’s important to have someone that they can approach and speak to without feeling that it counts against them later on. So being able to say, ‘What do you think about labelling this product X instead of Y?’ and being able to ask the ‘stupid’ questions being able to feel that the door is wide open.”

[Business Association]

4.2.2 Risk-Based Flexible Enforcement

Although respondents felt that a partnership approach was the ideal starting point, they did not see this as prohibiting the use of more rigid enforcement
approaches as and when necessary. Respondents generally believed that
the flexibility or rigidity of the enforcement approach should be dictated by
the level of risk and type of non-compliance seen in a business.
Alternatively, it was suggested that it might need to flex according to size of
organisation, depending on their access to other information and guidance.

“I wonder for smaller businesses, in the absence of all the other
things that we have and we get, do they need a slightly different
approach? When we get the enforcers or my team of guys going
round our factories saying, ‘What are you doing?’ it can often be it’s a
yes/no: you’re either complying with it or you’re not and if you’re not,
what are you going to do about it? With a retailer, they’re not actually
going to do that; what they’re more interested in is what you’re going
to do to sort out the problem. And I wonder whether if the approach
with a small business is very informal whether that makes it easier for
people not to comply at a smaller level, because they’re missing
some of that other potential risk to their business.”

[Business]

“In my view the inspector’s role is to educate and discuss and so on,
and if the people aren’t behaving and are abusing, then they have to
enforce. Simple as that. You don’t need a separate enforcement
officer to come along; I think the role should be a single role.”

[Business]

Ideally, respondents suggested that enforcers should flexibly adjust their
approach according to the level of risk presented by the individual food
businesses, deviating from the more advisory partnership approach if
businesses presented strong risks to food safety. In these cases, or where
businesses showed no interest in achieving food safety despite regulators
attempts to advise and educate, strong penalties were considered
appropriate.

“As a good enforcer, the greater the risk the stricter you are... a
cracked floor tile is not going to cause a problem to anybody, so I can
be more relaxed about the way I enforce this. But if a business was
doing something that was likely to cause food poisoning, then I would
be a very ‘strict enforcer’: unequivocal – that’s wrong, do something
about it immediately... I was a very strict enforcer when it mattered
but generally my approach would be as an educator. Educate where
you can; if you can’t educate and there’s a serious risk, then enforce. It’s not one or the other.”

[Consultant]

There were also some suggestions that there should be a focus on the prevention of future errors from the enforcer rather than necessarily punishments based on current performance, that is, regulatory bodies and representatives should take a future-oriented approach towards compliance issues. Consultants in the sample sometimes raised taking the proactive approach in their own assessments to identify risk

These respondents suggested this was particularly important for businesses with good past compliance records but may have minor faults due to transient business problems. Businesses considered that if they were taking obvious steps to resolve any non-compliance it should ‘earn’ them some flexibility from their enforcer.

“Sometimes regulators will focus on a responsible business that may have slipped up on a relatively minor issue rather than focusing on the businesses who put in little or no effort into food safety and therefore have consistently low standards. Sometimes a disproportionate amount of time and resource is put into enforcement against a business which has already put things right or has a demonstrable intention to do so. Regulators should put a focus on preventing risk in the future over and above punishing relatively minor slip-ups from the past.”

[Business]

Additionally, it was raised that risk-based enforcement depended to some degree on the appropriate training and skill of the enforcer – that enforcers must understand what kinds of non-compliance are most risky, and have the confidence to switch from partnership approaches to more rigid enforcement when these occurred.

“I don’t think you can have one approach or the other approach. What people need to be able to do is to recognise when to move from that informal approach of helping and advising and cajoling into, ‘Hang on, these people are not listening to me. These people are just treating this with contempt.’ And then you change your attitude.”

[Business]
One respondent noted that having read reports from past outbreaks, past food scares might have been partly due to lack of this knowledge or confidence on the part of the enforcing officer.

“When you read some of the issues where we’ve had the food ‘poisoning’ outbreaks, you get the impression that people are not in a position where they’d recognise at what point should they move from the conciliatory and advisory and pat on the back and a letter to: ‘Hang on a second, if you don’t do something here I’m going to close you down in a week’s time.’”

[Business]

4.2.3 Use of Sanctions and Incentives

Sanctions were also seen to be a crucial part of this partnership-based but mixed model of enforcement. Business and consultant interviewees in particular confirmed that sanctions by external authorities can be a driver of compliance in food businesses, particularly as last-resort measures with businesses that do not seem motivated to comply.

“You’ll hear [members] say if they feel the regulators aren’t sufficiently coming down on businesses that don’t have high standards – ‘If they’re not good enough, shut them down. These people compromise the whole industry.’ Partly it’s because they want them out of business, but partly it’s a reputational thing for them. If the chief executive of the FSA says, ‘And meat plants need to improve,’ he’s not talking about them, he’s talking about somebody else, but they’re tarred with the same brush.”

[Business Association]

It was raised by business representatives and consultants in the sample that ‘good’ businesses who are trying to produce safe food need to know that businesses that do not comply are penalised. This action was considered to be important to maintain customer trust in the food industry and to ensure parity and fairness between different food organisations. For example, a business may be able to charge less by not adhering to compliance and it was considered that this should be prevented where possible.
“[Non-compliance] gives the industry a bad name, you know, it affects everyone. And people in the industry don’t like fast and loose practices with the requirements.”

[Business]

“When tolerating poor standards distorts the competitive environment, then businesses want the regulator to be stronger. So for example if there were new entrants to the industry sector who were cutting corners and running on lower costs, then that would be anticompetitive and a company would say, “Well step in and sort this out because we’re having to deliver minimum standards and they’re getting away with it!”

[Consultant]

The current size of financial penalties, were not necessarily considered to drive compliance, especially for larger organisations, however the ‘threat’ of a sanction was crucial to the psychology of compliance.

For larger businesses, financial penalties were considered less of a driver to compliance, rather public sanctions such as ‘naming and shaming’ was more likely to have an impact, particularly if the business has a strong brand identity to protect.

“Naming and shaming is probably more of an issue to us when it’s about reputation and credibility. Like I say, we don’t want to do the wrong thing and get fined – and I’m sure my bosses and I do not want to go to jail over things - but for us, the biggest day to day thing is about thinking about the credibility of our brand.”

[Business]

However, interviewees in the sample cautioned that sanctions, particularly those seen as excessive or overbearing, may potentially impact on the possibility of effective partnership approaches to enforcement; as discussed, fear of regulators may reduce the degree to which businesses see them as a source of information and support.

“A lot of people have been prosecuted for things that should never get to the court. The FSA would say it’s not their business what gets prosecuted, it’s the actual prosecution authority’s – and that, formally, is correct. But I could give you contentious examples [where there are
extenuating circumstances and businesses get prosecuted]... that kind of thing creates bad feeling and it’s unnecessary. A bit of understanding wouldn’t hurt. Don’t get me wrong: if somebody does it regularly, they deserve to get everything thrown at them. But the regulator’s approach is that if it happens once, that’s it – you are reported?”

[Business]

“You may want to have a few sort of core ‘celebrities’ where case studies are held up as an example of being prosecuted, but that doesn’t help for future engagements from government.”

[Academic]

“If you don’t get the first bits right, I think naming and shaming is wrong. You’ve got to ensure that you’re naming and shaming the right people. The last thing you want to be doing is naming and shaming on your somebody that’s made a technical error as opposed to somebody that is not complying with the standards you’ve told them to comply with... You’ve got to know when you move from of principle of coaxing and cajoling and this is when you now start naming and shaming. And you’ve got to get that right, otherwise you will create hostility.”

[Business]

In terms of incentives, there was some mention of schemes such as the FSA Food Hygiene Rating Scheme and local existing Scores on the Doors schemes but there was mixed response regarding their potential impact. There was an indication that consultants and businesses felt that these kinds of programs provided some reward for businesses that performed well – as well as a sanction for businesses with poor records, although there was no spontaneous responses as to which incentive scheme was more effective. For example, one respondent working closely with Health and Safety regulators felt that incentives schemes had been successful, although this was based largely on anecdotal evidence. Although this was not suggested to be a very strong driver to compliance, it was generally felt that this linked in well with concerns about maintaining good customer reputation.

“From an outsider point of view with limited involvement with food, it seems that people have seen the system as a good driver over and above inspections. It’s market forces: if the members of the public
can get that information and there’s improvements required, obviously that raises question marks in public perception. And if a premises can get a pass and can publicise that with a certificate at the front of their premises or on the website, then that goes some way to improving their reputation and public perception."

[Professional Body]

However, others perceived that such programmes had limited impact. For example, one consultant perceived significant variation in ratings/scores across regions of the country and felt that this was an issue of inspector variation rather than business variation. Another respondent, a representative of a business association, perceived that the schemes had not made much difference on business compliance.

### 4.3 Respondent Perceptions of Current Approaches

Whilst the ideal was noted as a partnership model, outlined below are a number of additional factors that were currently felt to impact on this type of approach.

#### 4.3.1 Perceptions of Inconsistency in Enforcement Approach

Respondents broadly agreed that regardless of enforcement bodies’ overall culture or stated approach to supporting business compliance, significant “on the ground” variation exists. Respondents also indicated that individual personality differences could appear to drive overall attitude and enforcement approach. As noted in the Evidence Review (Section 5.3.1), respondents also mentioned that inspectors at times appear to be guided by their own subjective perceptions of risk.

“Inspectors are people like anybody else and some will be zealots with a mission; some will be a bit laxer about their approaches. Some will take a kind of view of, you know, points of negotiation; others will put their jobsworth hat on.”

[Academic]
Developing partnerships with regulators is a very sort of unexact science because it depends on the attitude of the regulator. If they’re developing themes which encourage good practice and are seen to encourage good practice, then you can have a partnership approach; but if in a sense they’re developing a system which is founded on inconsistent audits and the operators can see that it’s inconsistent and can see that it’s not making sense, then developing a partnership’s very difficult.

[Business Association]

Regional variations in enforcement approach were also noted, for example, in one location the enforcement policy may be more rigid, whereas in another location it may be more conciliatory. Lack of consistency across regions was reported as frustrating for some businesses who struggled to implement differing compliance suggestions across different regions.

“[Within one regulator] I can see that a different approach has been taken by business managers in different parts of the country, in some cases, more collaborative working, more joint cooperation, more actually working towards a common goal; and in other areas... less flexible, less understanding. I think what I’m trying to say here is often it depends on the actual people on the ground!”

[Business]

“Consistency is getting significantly better, but it still varies more than it should. I can prove that – We provide a service to some companies which involves sight of all of their local authority inspections and we can see the different styles of inspection, the different emphasis they place on things, the recommendations are different. One environmental health officer will recommend one thing and another will recommend a different approach in the same circumstances. Their enforcement policies vary locally, so some will take a very hard line, some will take a very conciliatory line.”

[Consultant]

It was suggested that possible variations in approach might be explained partly by local history and the type of industries that have operated in a certain area, which may have had an impact on the relationship with the enforcing body and thus the influenced approach taken.
Consistent with the findings of the Evidence Review (Section 5.3.1), it was also raised that political forces may play a role in the rigour of Local Authority enforcement across regions.

“Inevitably, with regards to closing down a poor establishment, there’s a lot of politics involved and people end up tending to back off. What you find is – certainly in the cases that I’ve read – where there has been a major issue, when you read the reports of the previous visits to those establishments, it’s quite horrifying that somebody hasn’t closed them down. And you ask why and there’s all the politics: they might have lost 10 jobs or 20 jobs or whatever and then they get into trouble and then they get told off by the politicians, so they have quite a dilemma.”

[Business]

“You could say there’s a certain political flavour, so a Local Authority may [change its approach because] the food industry is particularly strong in its area. I have sensed a hands off approach on occasion. More significant these days is the impact of resource availability. Financial constraints will inevitably lead to more local variation.”

[Consultant]

4.3.2 Lack of Local Authority Resource

Respondents highlighted limited LA resources as a potential issue for the adoption of a mixed enforcement model. In line with the findings of the Evidence Review time resource was highlighted as a particular issue for regulatory inspectors. It was sometimes acknowledged however that a partnership model of enforcement can take more time than more rigid inspection models, particularly if inspectors are to invest time and energy adapting their approach and communication style with each business under their authority.

“If you’ve got a trading standards office in your area they could be doing any number of things and any number of other inspections, so there’s not really the time to become an expert in the business you’re investigating...”

[Business Association]
In the context of a discussion on interactions with often-challenging ethnic minority businesses, it was at times suggested that current quantitative evaluations of inspector performance are a strong disincentive to attempts to foster collaborative working relationships with businesses. That is to say, instead of being judged on outcomes and improvements, which are likely to improve compliance, inspectors are judged on the number of inspections achieved.

“Some authorities are playing a numbers game with inspections, just to get satisfactory statistics and that’s dangerous. If the FSA turn a blind eye to the fact that some consultants working for local authorities are doing seven inspections in a day that is wrong. It boils down to lack of resources. The FSA need to do look at the quality of inspections, not just the quantity of inspections.”

[Consultant]

“The Environmental Health Officers we have studied feel very strongly about the processes that we employ to deliver our job and how they feel that they are very quantitative in their approach, take virtually no, if any, value for a qualitative aspect... We use measurement systems to judge Environmental Health Officers’ performance that count the quantity of inspections they do in a month and give very little value or recognition to outcomes. So that is an area that absolutely underpins this business of compliance... processes that we employ are often a disincentive to Environmental Health Officers.”

[EHO & Ethnic Minority Business Expert]

There was also some indication from business and consultant respondents that enforcers should potentially be given more guidance about where to focus Local Authority resource.

“At the moment a lot of enforcement policies are worded so generally that it would empower the enforcing body to take formal action in virtually any case where things go wrong. Some enforcement cases for relatively minor issues consume too much enforcer and business resource. The FSA should be really clear on how enforcing bodies should focus their enforcement resources.”

[Business]
4.3.3 Limited Local Authority Knowledge

Respondents also appreciated that partnership working often requires a level of understanding and knowledge about food safety that Local Authority regulators simply may not have, as discussed in the Evidence Review (5.3.1). It was acknowledged that it might simply be difficult to acquire a sufficient degree of mastery about food safety principles while also asked to regulate other environmental health issues.

“So I think the way we’re organised as a nation doesn’t help the process as you haven’t got a direct link between the regulator and the enforcer. And also, you haven’t really got the level of resources you need to be able to do it. I can empathise with an EHO because one minute you’re looking at sanitary conditions in next door’s house for somebody who’s complained or investigating noise versus visiting a large business or going to the local takeaway.”

[Business]

Among consultants in the sample, it was raised that Local Authority inspectors’ lack of specialist training can impact on working relationships. It was noted that this might vary sector by sector.

“I have examples of regulators really focusing heavily on the wrong end of the issue because they didn’t understand the process. [One of my clients] was a butcher who could see that and was losing, by the minute, respect for this regulator who was coming down pretty hard on him...Your best regulators, whether they be environmental health officers or veterinary officers in meat plants, are very often people who have come from the shop floor. Whether they know it or not, they’ve got an understanding of how the right brain [businessman] thinks and how right brain works. When you can understand that, you’re going to get a more comfortable working environment between regulator and operator.”

[Consultant]

“I can tell you that Local Authority officers are respected by and large in catering sector but have less influence in manufacturing. The factory environment is highly technical and specialised. We don’t use environmental health officers for that – we use food technologists. They’re highly skilled people, a lot of experience, minimum five years in the industry, and are graduate level... I do recall a cartoon on a
factory manager’s wall with the EHO shown as a blind man. It said it all really.”

[Consultant]

Given this limited knowledge, it was suggested by a non-meat business in the sample that enforcers could have closer links with the regulator and that potentially ‘food’ businesses could have specific ‘food’ enforcers rather than broader LA or EHO inspectors.

“I don’t work in meat, but from what I hear from people I know who do, the [meat inspection service] has worked quite well. You wonder, ‘Why not go across the board?’ And local councils can still look after the local environmental noise or sanitary condition matters, but the food safety element should be coming under the FSA because who else’s remit is it? There is a national meat inspection service, so why not have a national food inspection service, because then you could have an enforcement team versus an education team helping with the compliance team.

[Business]

It was also noted by a respondent working closely with Health and Safety Regulators and enforcers that in their area of practice any knowledge or education differences between HSE and local authority inspectors were identified via a formalised self-assessment program, which directed any training or education needs for individual inspectors. Completed on a yearly basis, this self-assessment process was thought to identify and address any potential differences in knowledge bases between individual inspectors or inspector bodies.

“The officers go through a self-assessment that identifies training needs and is used for any structured training over the next year. This can take various forms including self-read or formalised presentations and training courses; it’s up to the manager to coordinate this. It’s been indicated that there are sometimes differences between HSE officers and local authority officers but the process identifies that... What it’s designed to do is maintain competence at a relevant level, so that as core regulators we’ve each got the same competence.”

[Professional Body]
4.4 Communications between Enforcer and Dutyholder

This section provides findings on interactions between the Enforcement Body and Dutyholder highlighting what was considered as useful to support compliance. The findings in this section are broadly in line with those reported by regulators; multi-channel communication was considered important, with face-to-face communication believed to be ideal but necessarily supported by written communications due to resource constraints. It was also felt that written communications should be as clear and jargon-free as possible, and that if possible regulators should provide businesses with support regarding how to comply rather than simply detail compliance requirements.

Some additional points were also raised, regarding the need for clarity in communications between requirements and recommendations, considerations of gender and culture issues, the utility of framing compliance objectives in business terms (such as impact on profit) and issues of gender and culture differences between enforcers and dutyholders.

4.4.1 Areas of Agreement with Regulators

Face to Face Contact

Face-to-face contact was considered key to establishing a partnership relationship between businesses and enforcers, at least initially:

“The best enforcers I see are when they’ve created a rapport. If you can create a dialogue and a rapport, if you can say, ‘I understand your problem here, but the legislation does say this.’ And then throw it back, say to him, ‘What could you see here that would solve that problem? How could you do that?’”

[Consultant]

“I agree that personal, face to face contact is much preferred. Written communication is a problem because a lot of it isn’t clear and it’s in civil service-ese, which can be impenetrable. And certainly, when you get a consultation from FSA, there’s seldom less than about 30 or 40 pages and you know, you just get switched off after about page 5. So
I think there’s a lot can be done on that and it’s a turn-off, frankly.”

[Business]

It was suggested that limiting the number of individuals that a business needs to work with might also help to build relationships. For example, a large business noted their appreciation of attempts to limit the number of individual regulatory officials they needed to work with, for example having a dedicated officer for a particular geographical area.

“We have one enforcement officer for around 80 stores and that works really well for us because I know that there’s one person that I need to build a relationship with rather than about 10 or 15!”

[Business]

Avoidance of Jargon

Non-regulator respondents supported the idea that language and culture differences between businesses and enforcers may be problematic, and that problems may be exacerbated by the use of unnecessary jargon:

“Now another thing that is causing a barrier here is language between the two. HACCP is an academic, left brained, documented, written system. Nobody joined the meat industry to write things down. Now if EHO goes into a butchers shop and very often says to, particularly, the older type butcher, and says: ‘What have you got on your critical limits then, for your cooking? What’s your critical limit?’ And they go into a big sweat mode, shut-down mode, they get panicky because they don’t understand the word ‘critical limit’. ..

[Consultant]

4.4.2 Providing Specific Information and Guidance about How to Comply

Interviewees broadly suggested that it would be helpful if enforcers provided information about how to comply as a matter of course; this was considered helpful as although businesses felt that regulators could guide them on compliance objectives, they can sometimes lack information on how to achieve compliance within the context of their particular business.
As discussed previously, one regulator in the sample provided ready-made ‘how to comply’ packets for businesses based on similar feedback from businesses in their industry. As SMEs in the food industry might be less likely to have a dedicated PIC they therefore could potentially benefit from additional information of this type from the enforcer.

“The danger in enforcers providing ‘how to’ advice is that businesses blindly follow the advice without understanding why they are doing so this moves responsibility and ownership to the enforcer. They should be giving based on principles that businesses can apply themselves based on their own unique situation. This may require different tools than currently available.”

[Consultant]

4.4.3 Further Aspects of Successful Communication

*Clarity between Recommendations and Requirements*
Respondents confirmed that the Evidence Review (5.4.3) finding that lack of clarity in enforcer communications between general recommendations and strict requirements could be frustrating. There was some suggestion that this distinction may be improving, however clarity in communications between what is required and what is a recommendation was considered critical for business to set compliance priorities.

“I get enforcement officers that come into our stores and will write us this big list of things – and I’m looking at it and a lot of them are just recommendations or somebody’s viewpoint; they aren’t necessarily legal compliance... they have an aspiration. But if they have that same vision for some of these smaller businesses I’m not sure they’ll ever achieve it.”

[Business]

As discussed, SMEs in particular may have less access to information about their compliance duties. It may be inferred therefore that clarity in communications from regulators or enforcers, one of their primary sources of compliance information, may be particularly important for this group.
“Some legislation is fairly ambiguous and needs interpretation. And when regulators come in they may say something to my client and he says, ‘Well this regulator said he wanted a and b done and then someone else came in and said, ‘No, no, we want c and d done.’ To be fair, regulators are getting better now, particularly in their written follow-up letter, but you’ve got to separate legal requirements from recommendations. And [dutyholders] need to ask that. If EHO says something to you, ask them: is that a legal requirement or is it your recommendation?”

[Consultant]

It is perhaps therefore particularly important for enforcers taking a more advisory, partnership style to bear this in mind, so that businesses can separate helpful advice from formal orders.

**Framing Compliance in Business and Food Safety Terms**
Across the sample, respondents supported the idea that regulators will be most successful if they can frame compliance objectives in terms that businesses can understand and relate to, for example, in terms of business ethos and values, food safety and customer reputation, and business reputation and profit.

In other words, respondents suggested regulators and enforcers would be most successful if they explain the benefits of compliance from a business perspective. One interviewee suggested this might be particularly important for overcoming any potential defensiveness on the part of small businesses, although it was seen as best practice regardless of business size.

“As an enforcer I would suggest that food safety is about ‘Protecting brand, protecting profit, and protecting customers,’ and then you’re targeting what’s important to the organisation – profitability. If you can raise their awareness of the importance of food safety to profitability then there is more likelihood of them actually complying with your requests.”

[Consultant]

“I learnt very early on in my career that when legislation wasn’t related to risk, some manufacturers weren’t interested in what the law said because quite often they didn’t believe it applied to safety... they’d say, “Can you explain in food safety terms why we should do
that? And they would lose respect for you if you said, ‘Because the law requires you to do it.’ You had to explain why – if you don’t do this it’s going to cause bacteria to multiply and that’s going to cause a food poisoning problem and that’s going to affect your business. If you couldn’t explain why the law required a specific action they were very reluctant to comply.”

[Consultant]

“The bulk of SMEs are honest and hardworking with business goals, but if some government regulation comes in... and brings down a veil between them and achieving those goals, there’s going to be some resistance. The way you break through that is to actually really demonstrate the benefits and give them solutions to achieving compliance. Often, regulations are brought in and owner/managers are left on their own to think hard about how on earth they’re going to implement this.”

[Academic]

Gender and Culture Issues

Gender and culture barriers in effective compliance were raised occasionally as a potential issue, a point not covered in the Evidence Review. For example, in male dominated industries such as butchery, young and inexperienced female Environmental Health Officers (EHOs), possibly with English as a second language, can quickly revert to defensive, comfort zones when confronted with poorly articulated and perhaps aggressively argued positions from a male dominated audience. In such situations, both parties potentially revert to behaviour that leads to a more formal mode of communication and less effective understanding of either party in meeting compliance.

“I want you take sexism out of it, ageism, racism, any other ism you’ve got, but whoever thought, whoever had the idea that you could take a young, female, recently qualified, OVS for whom English wasn’t her first language and put them into the autocratic, austere, male dominated environment of a slaughterhouse, whoever thought that would work? It won’t work, it isn’t working, it’ll never work...”

[Consultant]

“When you get scared, when you get concerned, you fall back into your own comfort zone. A butcher falls back into his comfort zone and that very often manifests itself with increased volume, getting uptight, even shouting. The regulator then can’t cope with this and thinks, ‘Right, I’m going to step back into my comfort zone,’ and they take a
step backwards and their language changes then and their words are should, must, will. And these inflame the butchers then: ‘Now they’re dictating the law to me,’ so then you get a breakdown and you get conflict.

[Consultant]

Ethnic Minority Businesses

As noted in the Evidence Review (3.3.1), ethnic minority businesses can represent unique challenges for regulatory bodies and their representatives, as language and ethnic culture issues can present strong barriers to compliance for this group and endanger their relationship with regulators. Although some examples were raised of regulatory bodies or businesses going ‘above and beyond the call of duty’ to communicate successfully, it was mentioned that ethnic minority businesses can be a source of potential communication and, ultimately, compliance issues.

A respondent working with a council which had expertise in the challenges of enforcement with ethnic minority businesses suggested that face-to-face interactions could be particularly problematic due to twinned issues of verbal and non-verbal communication. Problems in verbal communication pose the more obvious potential barrier of the two, as language barriers can result in regulators’ communications being misunderstood or missed completely. Local Authority enforcers may not be aware of support services available to overcome language barriers.

“Environmental Health Officers are generally very aware of policies around enforcement and policies that relate to how they deliver their job... but they had a striking lack of knowledge around their own organisations’ policies and procedures around equality, good relations, and support services that are there for them.”

[EHO & Ethnic Minority Business Expert]

In addition, it was raised that nonverbal communications issues (between different cultures) could also pose significant challenges in achieving compliance.
“...Environmental Health Officers to do their job have to be on the ground, we have to have face to face contact, but the parties that are sharing this face to face contact are judging the communication norms in often very different ways, so it’s an absolute recipe for miscommunication...

For example, if the Environmental Health Officer was looking very deep in thought, considering stuff – and from the EHO’s view they may just be thinking about the issues that they’re presented with during the inspection, but the Chinese community has told us that this is troublesome to them... they often view that type of non-verbal communication as essentially trouble – ‘Here comes trouble for my business.’…”

[EHO & Ethnic Minority Business Expert]

It was also considered important to note that written materials, even when translated, may prove difficult for the business owner to understand.

“The assumption is that if you spend money to have something translated then automatically this should lead to successful communications... you may fall into the trap of believing that this can automatically be read in the native language of the person...

[EHO & Ethnic Minority Business Expert]

This respondent suggested that ideally regulators should assess the idea of communication medium on a case-by-case basis – keeping in mind that for some businesses, face-to-face communications with interpretive support will lead to the best compliance outcomes. This respondent also suggested that the use of intermediaries as sources of information about compliance, as discussed in the Evidence Review (Section 5.4.2) might be particularly useful in this group to overcome language and ethnic culture issues.

EHOs need to determine on a business by business basis how communications in written form for example, should be conducted... and seek direction from the business because some businesses will be happy to have it in English, others will want it translated and some people will prefer a more face on interpretive approach. ...We have to be aware that literacy levels in ethnic communities in their own
Summary

It was perceived that the ideal enforcement approach involves a partnership model – working with the dutyholder to achieve compliance and prevention of risks but with more rigid styles of enforcement as required, for example, where a business may demonstrate low motivation to comply or whose non-compliance is judged to present strong risks to food safety. The use of audits and sanctions as part of more rigid enforcement was considered useful when applied appropriately, with the rigidity and severity being decided on a case by case basis. Both the FSA Food Hygiene Rating Scheme and local existing Scores on the Doors schemes were raised as potential ways of increasing compliance however there was a mixed perception as to the impact of these types of schemes.

The current regulatory approach was perceived as variable and inconsistent (for example, potential political interference, regional variation or variations by inspector personality and subjective risk perceptions). A lack of local authority resource and limited knowledge was suggested as potential issues which may inhibit the use of the partnership model amongst UK enforcement officers.

Multi-channel communication between dutyholder and regulator was considered important with face to face communication seen as ideal to build relationships but necessarily supported by written communications which are clear and jargon free. It was also considered beneficial to; provide clarity between general recommendations and requirements, frame compliance in business and food safety terms (for example, noncompliance is a potential danger to reputation, brand and profit), and providing specific information and guidance about how to comply and why it was important. Consideration should also be given to language and cultural issues which may impact on understanding.
V Conclusions

5.1 Overview of findings

- Overall, there was broad agreement with the key findings of the Evidence Review, with the findings generally considered to reflect the respondents’ own experiences and knowledge. However, other points of consideration were also highlighted and emphasised.

- Larger businesses may be better placed to comply due to greater motivation, greater know how and greater capability, and may also be more likely to have systems in place to ensure ongoing adherence to regulations.

- A mixed enforcement approach, in which the regulator acts as a partner to encourage compliance with recourse to more rigid enforcement as required was considered potentially most successful in encouraging compliance and strong working relationships between regulators and dutyholders. Although one non-food regulator had recently switched to a more rigid style of regulation, a mixed approach was also discussed by non-food regulators as an effective way of achieving compliance.

5.2 Response towards the Evidence Review

- Overall, there was broad agreement with the key findings of the Evidence Review, with the findings generally considered to reflect the respondents’ own experiences and knowledge.

- However, three areas were not necessarily reflective of respondents own experience:
  - the suggestion that the cost of compliance is proportionally lower for larger businesses
- the assertion that UK regulators overall tend to take advisory and conciliatory approaches with dutyholders
- the suggested tensions for enforcers engaged in both partnership and more rigid style enforcement.

- Beyond this, additional factors were raised and emphasised which are worthy of consideration, linked to achieving and sustaining compliance:
  - how businesses define compliance
  - the importance of profit margins and the impact that this may have on a business’s ability and willingness to comply
  - the challenges that larger organisations may face in terms of the dissemination of information, training and procedures throughout an organisation

- The areas that were considered to be of greater importance than highlighted in the Review include:
  - the importance of high-level management commitment and in particular the existence of a motivated and knowledgeable Person in Charge driving compliance cultures.
  - the importance of business forces such as customer expectation and concerns about brand or reputation as a motivation for compliance.
  - the importance of consistent and multi-channel communication about compliance objectives and practices between top-level management and employees to achieve sustained compliance. This included two minor additional points which were considered important to help compliance within an organisation, namely:
    - the importance of making compliance tools and instructions widely and easily available to all employees
    - tailoring of training to employees and specific business requirements

- There was however a strong perception that the culture of an organisation is important in achieving and sustaining compliance.
5.3 Role of Business Size in Achieving Compliance

- Achieving compliance was considered to involve meeting some necessary conditions: businesses must be motivated to comply, understand how to comply and be able to comply. Although large businesses may face their own challenges in terms of increased size, it was considered that they may be overall better placed to comply due to the following factors:

  o They may be more motivated to comply in order to protect their ‘brand’, reputation and shareholder interests. Further additional checks and audits from customers can also drive compliance.

  o Large businesses and their employees may generally have more information about how to comply and are more likely to have greater access to information and support including membership organisations.

  o They may also be more able to comply with greater resource to devote to training and compliance tools.

  o Large businesses may also be more likely to be able to communicate top-level compliance objectives throughout the organisation, and to monitor behaviour to achieve sustained compliance. In particular, they may be more likely to:

    - have a dedicated Person In Charge and supporting team(s) responsible for compliance, with appropriate technical knowledge or education, and who is responsible for driving compliance messages across other staff layers
    - have formalised governance procedures and documentation and
    - have on-going internal audits and supervision
However, it was also suggested that a small business with the appropriate commitment may still be able to create a successful compliance culture. It was also noted that small businesses do not face large business challenges such as communicating compliance objectives throughout large staff numbers and multiple management layers.

Ongoing supervision and risk monitoring (including sanctions and incentives) the provision of multiple channels of compliance information, and worker involvement and investment were also considered important aspects of sustained food safety and compliance cultures regardless of size.

It was suggested that business sector and subsector may also play a role in achieving compliance. In particular, business complexity may make it more difficult to achieve and sustain complexity.

Addressing the needs of staff for whom English is not their first language was also considered important.

5.4 Approaches of other Non-food Regulators

Two regulatory approaches were used by non-food regulators in the sample. The first was an advisory, partnership approach with recourse to enforcement and formal sanctions as required. This was considered potentially successful in promoting positive attitudes towards enforcement and regulation, increasing the likelihood of compliance, and potentially driving stronger compliance cultures.

- Additionally, the use of transparency and clear guidelines was considered to help ensure that the dutyholder is clear of the role of the enforcer in this type of approach.

The second approach was a more rigid enforcement style, which had recently been introduced by one regulator in response to non-compliance
in the regulatory sector. However, it was considered too soon to assess whether this change of approach had helped to increase compliance.

- Risk assessment of dutyholders was common practice amongst regulators in the sample. This was used to help determine which approach to take with dutyholders and to manage limited resource – with greater attention (for example via increased auditing or gate-keeping practices) aimed at those dutyholders perceived to present higher levels of risk.

- Risk assessment was also considered helpful in informing the regulator’s response to non-compliance – with more rigid approaches indicated for dutyholders who do not seem motivated to engage with the enforcer or resolve compliance problems, or in response to instances of greater risk to public health.

- In terms of achieving and sustaining compliance from dutyholders, regulators also discussed:
  - high entry standards to practice. (it was suggested that this might help within the food industry as in the respondents' own industries.)
  - auditing to ensure compliance obligations are being met.
  - the use of sanctions and penalties. These ranged from fines to additional monitoring and ultimately the removal of unsafe business practices.
  - there were some reports of incentives being used, but respondents perceived a lack of evidence to prove their efficacy.

- It was considered important to achieve engagement and communication with dutyholders through a range of different channels:
  - Face-to-Face communication was seen as the ideal, allowing the opportunity for the dutyholder to ‘engage with’ the regulator and representative enforcers. Opportunities for one-to-one conversations as well as broader engagement channels, e.g. road shows, were considered useful.
Clarity in written communication from the regulator was also seen as vital to help reduce confusion and help increase compliance. Regulators aimed to ensure that their written materials, either electronic or paper, avoided industry jargon and were easily accessible to practitioners. Business targeted materials were also considered potentially effective.

Communication with dutyholders via third-party membership groups and trade groups was also considered useful in terms of providing information about compliance standards and new legislation.

5.5 Ideal Enforcement Approach

The broader sample also suggested that a mixed enforcement approach might be most successful in encouraging compliance. The ideal enforcement approach was suggested to be grounded in a ‘partnership’ model – with enforcers acting as ‘expert friends’ – with recourse to risk-based rigid enforcement in the case of risks to food safety or for businesses who do not display motivation to comply.

It was suggested that the balance of approach of the enforcer between partnership and rigid approaches should be dictated by the level of risk, the type of non-compliance seen in the business, and the reasons for non-compliance (for example, lack of motivation, information, or resource).

It was considered by respondents that there is a role for sanctions and penalties in a mixed approach and these should focus on businesses who seem unmotivated to comply, or whose non-compliance is judged to pose strong risks to food safety.

− However, sanctions that are perceived as excessive or inappropriate were considered to impact negatively on perceptions of regulation and enforcement officers.
Face-to-face communication was considered key to developing partnerships, allowing for issues and questions to be addressed directly. Consideration should also be given to language and culture issues that may impact on understanding.

Written communications were also seen as necessary, and building on the findings of the Evidence Review, it was suggested that written communications need to be as clear as possible, with regard to:

- Clarity between general recommendations and strict regulatory requirements reduce risk of misinterpretation
- Ensuring that the language used is understood by the business and the avoidance of jargon
- Both language and written capabilities for ethnic minority businesses

Further suggestions as to the ideal interactions between the regulator or enforcer and the dutyholder included:

- Ongoing discussion and collaboration between dutyholders and regulators, ideally with a limited number of individual enforcers so that relationships can develop
- Relationships of trust and mutual respect, for example the opportunity to ask ‘questions’ or discuss issues as or before they arise without fear of reprisal
- A flexible approach based on the prevention of future errors rather than punishment of present errors, for example forgiveness of very minor faults due to misunderstandings
- Provision of specific information and guidance about how to comply – that is, how to put regulatory compliance objectives into practice in the business
- Information to help businesses understand why to comply – ideally by translating regulatory compliance objectives into business terms (for example, profit, customer safety and reputation/brand issues) and food safety terms
- For ethnic businesses in particular, a recognition of the need for enforcers to share the responsibility for successful communication
with dutyholders, for example by attention to nonverbal aspects of communication which may impact relationship building.
Appendices

Appendix 1  Detailed Sample and Methodology
Appendix 2  Introduction Letter to Respondents
Appendix 3  Pre-information Document: Key Findings Review
Appendix 4  Discussion Guide for Businesses
Appendix 5  Discussion Guide for Academics
Appendix 6  Discussion Guide for Regulators
Appendix 1 — Sample Detail

- Twenty six in-depth interviews (1 hour) as follows:

<table>
<thead>
<tr>
<th>Respondent Type</th>
<th>Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meat Organisation/Association</td>
<td>4</td>
</tr>
<tr>
<td>Large Business (meat only)</td>
<td>2</td>
</tr>
<tr>
<td>Large Business (other)*</td>
<td>5</td>
</tr>
<tr>
<td>Academics**</td>
<td>4</td>
</tr>
<tr>
<td>Public Utility</td>
<td>1</td>
</tr>
<tr>
<td>Other Government Department</td>
<td>1</td>
</tr>
<tr>
<td>Non-Food Regulators***</td>
<td>3</td>
</tr>
<tr>
<td>Consultants to food industry****</td>
<td>4</td>
</tr>
<tr>
<td>Professional awarding body</td>
<td>1</td>
</tr>
<tr>
<td>EHO (and Ethnic Minority Business Expert)</td>
<td>1</td>
</tr>
</tbody>
</table>

- *This group included non-meat businesses (2) and businesses providing mixed provision of meat and non-meat food items (3)
- **The academics in the sample represented a range of areas of expertise including from the microbiological and social sciences.
- ***The non-food regulators included a spread across different industry types.
- ****This group provided a mix of advice and support to businesses,
EXPLORING REGULATION CULTURES AND BEHAVIOURS

The Food Standards Agency is currently conducting research to respond to the Public Inquiry Report (March 2009) investigating the outbreak of E. coli O157 in South Wales in 2005. Our particular focus is on cultures and behaviours in businesses and enforcement bodies, and compliance with food hygiene legislation.

We recently conducted a review of evidence to summarise what is known about culture and behaviours in relation to compliance to food safety regulations. Our review focuses on businesses and enforcement bodies’ cultures and behaviours and communication between the two groups.

As a next stage, we wish to conduct interviews with a range of professionals who have knowledge and experience with compliance issues, either in the food sector or elsewhere. Your name was passed on by [Referee] as someone who may be able to help. We are keen to understand your response to the review’s main conclusions as well as to understand if you have any additional insights you can offer about ensuring compliance.

These interviews are being carried out by Define Research and Insight Ltd, an independent market research company. Define is a member of the Market Research Society and are bound by their code of conduct (for further details please visit www.mrs.org.uk). Any personal details (for example, names, address) will be kept confidential, held securely and will not used for any purpose beyond this specific project unless you give permission to do so. All these details will be removed from Define’s records on completion of the project.

One of Define’s researchers would like to speak with you face to face at a time and venue of your choice for approximately one hour. Prior to the interview Define will send you some information which will cover the main findings of the report. You do not need to prepare any response in advance but it will give you a sense of the
findings under discussion. You also of course have the option to opt out of the research at any stage.

With your permission, the interview will be recorded and transcribed. Your comments will form part of a research report but will not be attributed personally to you and will be kept anonymous. You will also have the option to verify the transcripts. The main way the report will be disseminated/published will be on the FSA website (food.gov.uk).

[Researcher] from Define will contact you over the next few days to ask if you are able to help with this project. If you have any questions in the meantime please contact Victoria Page, Project Manager, Define on 020 8346 7171. I do hope you can help us with this project.

Yours sincerely

Helen Atkinson
Research Officer
Social Science Research Unit
Food Standards Agency
020 7276 8743
EXPLORING REGULATION CULTURES AND BEHAVIOURS

Dear

Thank you for agreeing to take part in this research. The findings will contribute to the Food Standards Agency’s Evidence Review on Regulation Cultures and Behaviours.

To confirm the interview will be on………………at ……………..

Prior to the interview, please can you look through the information below. We are interested to understand if these findings fit/ do not fit with your knowledge and experience, if you have any examples or evidence that supports/ does not support the findings and if there is anything in relation to them that you feel is important to consider.

__________________________________________________________

Background information

The Food Standards Agency is currently conducting research to respond to the Public Inquiry Report (March 2009) investigating the outbreak of E. coli O157 in South Wales in 2005. A key focus is on cultures and behaviours in businesses and enforcement bodies, and compliance with food hygiene legislation. They recently conducted a review of evidence to summarise what is known about culture and behaviours in relation to compliance to food safety regulations.

**Key Headline Findings from the Review**

**Organisational characteristics of businesses**

Organisational characteristics can be linked, directly or indirectly, with a business’ willingness, or ability, to exhibit compliant behaviours. The evidence suggests:

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13 If you would like more information about the evidence review, the full report can be found at: http://www.food.gov.uk/science/socsci/ssres/crosscutss/ssculturerew
a) Size is a key determinant of many aspects of organisational culture, but it is not the only important factor influencing who does/does not comply.

b) Resource constraints can limit staff training and monitoring and time pressures can negatively impact on uptake of training. This can lead to short cuts, which can compromise levels of risk control.

c) Large businesses tend to have better access to information and more effective management, which means they are more likely to understand and be aware of compliance issues. The costs of compliance in larger business are proportionally smaller than in SMEs (small or medium-size enterprises).

d) Small businesses may lack the technical expertise that is necessary to understand regulation and safety requirements.

e) Compliance can be compromised in food businesses who employ inexperienced staff according to low or non-existent entry criteria particularly where English is not first language.

f) Compliant worker behaviour appears best reinforced via the use of multiple channels of feedback.

1. **Organisational culture in businesses**

Organisations that demonstrate features of an effective culture are likely to be more compliant. Specifically, the evidence shows that:

a) Management approach and involvement is a key driver of compliant behaviour. Training alone does not necessarily result in compliance, instead it must be seen as important to management, adopted on an ongoing basis and be supported by multiple levels of communication.
b) SMEs often lack the management structures needed to drive through compliant behaviours and may have poor documentation and policies.

c) Peer group support and supervision serves to encourage best practice amongst staff. Internal sanctions (such as dismissal) can also be effective.

d) Worker involvement can promote shared responsibility and is important in creating an effective health and safety culture which results in compliance.

e) Risk perceptions are often driven by knowledge of specific risks.

f) Attitude towards and perception of regulatory bodies/ regulations are an aspect of food safety culture.

g) Food businesses tend to understand compliance as a passive process and often rely on inspectors to assess them rather than undertaking self assessment. Furthermore, self regulation can be difficult for Food Business Operators if they lack understanding of specific legislation and how to comply with it.

h) Organisations are more likely to comply when they perceive the regulatory regime as fair, trusted and co-operative, but fear of prosecution is a key driver of behaviour too.

i) The motivations driving compliance is likely to be different in SMEs to larger businesses.

2. **Culture within the regulator**

There is limited evidence assessing culture and behaviour within enforcing bodies. What is available suggests that:

a) UK regulators tend to adopt a preventative, conciliatory, approach to enforcement.
b) Sanctions, irrespective of size, can impact on dutyholder behaviour as can ‘naming and shaming’, but rigid enforcement offers only limited results in the food sector.

c) Less formal approaches should be characterised by clarity and consistency.

d) In comparison to Health and Safety (HSE) inspectors, local authority (LA) enforcement is viewed as more advisory and less formal. The LA approach can be viewed as less consistent, less informed and potentially susceptible to local political interference.

e) Resources can be an issue for LA inspectors.

3. **Interactions between the regulator and business organisation**

   A wide range of intervention strategies can be used with organisations. The evidence shows:

   a) Inspections offer the opportunity to both *share and disseminate information on how to comply* as well as *issue penalties* but there can be tensions for inspectors in operating a dual role of educator and enforcer.

   b) Many businesses interact with a number of regulators, and multiple inspections can be seen as a business burden.

   c) Personal, face-to-face contact is regarded as the single most effective form of communication but works best when reinforced by other methods.

   d) Written communications need to be clear and ‘user-friendly.’ Regulators need to be aware of some confusion in SMEs between formal notices and routine correspondence.

   e) Enforcement bodies are seen to have a key role in training provision, particularly where resources constraint training uptake from other sources.
There is limited evidence that assesses the effect of formal incentives on compliance however some studies indicate that food hygiene ratings schemes can motivate businesses to comply.
Appendix 4 – Discussion Guide for Businesses

1838 FSA – Exploring Regulation Cultures

DRAFT DISCUSSION GUIDE - Large Organisations

1 hour face to face In-depth interviews

N.B. This Guide indicates the areas to be explored in the discussion, the likely order in which topics will be covered and the kinds of questions and techniques which may be used. There will be some flexibility of discussion, however, to account for each individual being interviewed. The intention of the questions is to show the areas that are due to be covered. Every question will not be asked of the respondent and the respondent will be allowed time to discuss and reflect on their own thoughts and views.

Not all respondents will respond to the same level of language or explanation. While the questions below details how we intend to cover topics in our own ‘language’, efforts will be made to meet the communication needs of the individuals interviewed.

Across the different types of interviews the language used will be adapted as required to make relevant to the background and experience of the interviewee.

Timings on the guide are approximate and give an indication of where the emphasis in the conversation will be.

N.B. This guide is intended to cover large businesses and those that might have franchisees also – for those with franchisees please ensure additional questions are covered.

Objectives:
- Sense check findings from the evidence review on regulatory cultures and behaviours recently commissioned by the Agency
- Confirm that there are no major omissions in the review from the existing evidence base
- Fill some of the gaps identified in the literature namely: why are large businesses more likely to comply; how do other regulators achieve compliance

MODERATOR TO NOTE: Throughout the interview, we will ask the respondent for their opinions and also examples to bring to life their thoughts and views. Please establish/explore, as far as is possible, where interviewee responses are coming from – are they based on experiences in their own business or general expertise from elsewhere

Stimulus material to be used in interviews:
- Pre-information document
- Stimulus cards

1 Introductions & Warm Up (2 mins)

Moderator:
- Moderator to introduce self, explain the process of market research to respondents and the format of the interview/discussion. Explain to the respondent that they can withdraw from the interview at any time and also they...
Inform:
- Outline the topic of discussion is to understand their response to the key findings of the review and to understand if they know of or have any further insights that can build on these findings. Reiterate that Define are an independent market research company, and are bound by the Market Research Society code of conduct and the data protection act 1998. Explain the need for honesty to help with research. Ask if they are happy for the interview to be recorded and that any comments will not be attributed to them specifically. Also mention that we will transcribe the sessions but ask for their permission before they are passed onto the FSA. Explain that they will have the option to verify the transcripts. Personal details and recordings are treated as strictly confidential, held securely and will not used for any purpose beyond this specific project unless you give permission to do so. All these details will be removed from Define’s records on completion of the project and are destroyed at the end of the research study. Their details will not be passed on to any third party. Inform them that their comments will form part of a research report but will not be attributed personally to them and will be kept anonymous. The main way the report will be disseminated/published will be on the FSA website (food.gov.uk).

- Explain that it is possible to request the interview is not recorded. In this case, the interviewer will take notes instead. Check if respondents have any further questions in relation to above, and explain/clarify as needed.

2 Brief Background (5 mins)

This section is to establish respondent context and warm up.

- Tell me a little about your current role
- How is the work that you do related to food safety compliance or compliance more generally? [moderator to refer to previous work/publications as appropriate]

3 Initial comments re. key findings of the review (5 mins)

This section is to gain initial response to the key findings of the evidence review. This allows the opportunity for the respondent to ‘download’ any immediate thoughts they have in relation to the review before asking them in more detail about their current role.

Ask respondent if they have had a chance to read the review. If they have not had chance to read the review, please ask them section 4 questions (about their role and how compliance works in their organisation) and then allow them to read through the key headline findings before proceeding with the questions in this section.
Before we ask some more about your experience in compliance, we would now to briefly discuss your initial thoughts on the findings of the review. We will come onto these in more detail later in the discussion.

- Thinking about the key findings of the evidence review that you were sent prior to this interview:
  - **What were your initial thoughts on these?**
  - What stood out for you? What was this and why? [note for anything that is considered either ‘new’ or contradictory to other evidence/knowledge they may have]
  - **Did you feel that there were any obvious gaps in the information? What were these?**

<table>
<thead>
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<th>4 Large businesses and franchises (20 mins)</th>
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This section is to understand how compliance works in their large organisation in order to find examples or evidence that explores the statement ‘large businesses are more likely to comply’.

**NOTE TO INTERVIEWER:** This section to be asked of large businesses and franchises (if so adjust questions accordingly). **Respondents to reflect on their current and previous experiences and any other evidence/case studies they know or are aware of.** Please also be sensitive if talking to a small business/franchise and perhaps not raise the hypothesis ‘large businesses are more likely to comply’.

- How is compliance defined in your business/your industry? What is your definition of compliance based on? [e.g. body of evidence/ practical experience/ policy guidance etc]

**Approach to compliance/compliance schemes**

**SHOW CARD**

<table>
<thead>
<tr>
<th>Approach to compliance</th>
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<tr>
<td>Different organisations may have different attitudes and approaches to compliance</td>
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- How would you describe your business's/industry's approach to compliance?
- **Can you describe how it works in your organisation/industry?**
  - [Encourage respondent to explain the process by which compliance is achieved in their organisation: who is responsible, how sustained compliance is ensured, how staff are trained, how management structures for compliance work, etc]
- How effective are these approaches? And why do you say that?
- What impacts most/least successfully on compliance
- **Specific prompts (if not mentioned):**
o Incentives – is there any evidence that formal incentives work in your sector? Why or why not? Is there any evidence that you can cite or signpost that may support this?
  o Self regulation
  o Proactivity – how proactive would you say your business is in terms of compliance?
  o Mission statements – does your company have ‘mission statements’ in relation to this? What does it have? What impact do these have?
  o Integral to working practices?
  o Use of internal specialist
  o Accreditation schemes
  o Does your organisation/field prefer generalised or specific guidance from regulators?
  o Interaction with the regulator/ the regulator themselves

- Has that always been your experience? [Note: probe around this if suggest current approach is consistently effective/successful, eg...]
  o How does your current approach take into account any compliance problems/issues faced in the past?
  o Can you describe the learning curve for reaching effective compliance?
    What particular challenges /problems influenced the current approach?

- Would you say it might be different in other organisations/industries?
  What makes you say that? Do you think there are any differences between size of businesses? [Moderator to listen out for how a large business may operate differently than a small business, reasons small/large businesses might be more strict/informal, rewarding/punishing, etc and probe where view is coming from – e.g. evidence/ experience/ views of others etc]

- Is there anything about the current business/industry that you work in that makes it more or less likely to comply? What makes you say that? [probe on how this compares to the other organisations/industries mentioned in the previous question- in particular smaller businesses]

- Can you think of ways that compliance could be improved? What resources/needs would be required to help here?

Drivers and barriers of compliance
(Some of these areas may have been covered in the previous discussion, if so move on)

- Can you explain what drives compliance in your organisation/your industry? [gain spontaneous comments]
  Any others?

- How would you prioritise these? What would you consider is the most/least important when considering your organisation’s/industry’s attitude to compliance?

- Have the challenges to compliance changed over your experience?

- Are there any factors that have made compliance easier to achieve over the course of your experience?

- Would you say it’s different in other organisations/industries? What makes you say that? [Moderator to listen out for how a large business may operate differently than a small business]

- Are there any barriers to compliance in your organisation/industry? What can stop/work against compliance? Could you prioritise these?
● For franchisee operators:
  o Are there any additional factors/ contrasts/ similarities in consideration of franchisees?
  o What can make franchisees more or less likely to comply?
  o As a franchise holder how do you encourage your franchisees to comply?

### 5 Large businesses and compliance (20 mins)

This section explores the findings in the review on large businesses and compliance. Please explore differences between business types but please ensure that there is a focus on size of business to fill gaps on large businesses insights.

Thinking in a little more about how different business types might manage compliance what do you think about the following? [SHOW CARD - Moderator to discuss the following areas in turn (if not already mentioned) to understand what evidence/experience there is/they have in these areas)]

For each card ask:
- What is your initial reaction to this statement?
- Do you know of any examples/evidence that supports/negates this?
- Does the ‘size’ of an organisation have an impact here? In what ways? listen out for references to large vs. small businesses
- Does this have a bearing on compliance in your organisation/industry or from your broader experience?

#### Organisational Characteristics

**Knowledge and Understanding**

The characteristics of an organisation might mean that it is more or less likely to have greater understanding and be aware of compliance issues.

- What characteristics do you think these might be? And why?
- What types of organisations are more likely have greater understanding?
  o If not mentioned prompt with: Size, specialist internal resources, greater external support, relationships with regulators, any others?

**Costs of compliance**

The costs of compliance are proportionally higher among small or medium sized enterprises than in large businesses.

**Staff training**

Different types of organisations may have different amount of resource they can allocate to staff training and supervision

- What types of organisations are more likely to have greater resource for staff training?
Organisational Culture

Leadership and Management Systems

In some types of businesses ensuring compliance may be someone’s key role and responsibility.

- What types of organisations are more likely to have compliance as someone’s key role and responsibility? Why do you say this?
- What are the types of things that they might do to ensure compliance? Prompt as necessary:
  - They may set up suitable systems or have structures in place to ensure compliance with the correct documentation and policies.
  - They may be more likely to lead by example and may be more likely to be involved with staff members indicating it is more important to management.
- What impact do you think this may have (positive or negative) if any?

More internal staff interaction

In some types of businesses there may be greater opportunities for staff communication. For example, knowledge sharing, different channels staff interaction, behaviour check-ups, and so on.

- What types of organisations/businesses are more likely to have greater staff interaction? Why do you say this?
- What else might encourage greater staff interaction or buy in to regulations?
- If not mentioned:
  - Greater worker involvement? – what difference can this make?
  - Safety being integral to working practices – how much is ‘safety’ part of the working culture? How can this be achieved? [e.g. sanctions, buy in, good communication, incentives, etc.]
- What impact do you think this may have (positive or negative) if any?

Stronger external interactions and relationships

In some types of businesses there may more likely to be a single point of contact internally that can build relationships with those who are involved externally with compliance, e.g. regulators, supply chains, trade unions, enforcers.

- What types of organisations/businesses are more likely to have a single point of contact?
- What difference does this make?

Drivers for compliance

The motivations for businesses to comply are complex. Different organisations will have different reasons for complying.
Specific prompts (if already discussed recap):
- What would you say are the drivers for compliance in your business? If not mentioned prompt with:
  - Risk perception and knowledge of risks in organisation
  - Decline in productivity
  - Civic duty
  - Industry expectations
  - Customer expectations
  - Fear of negative consequences
  - Prosecution fear
  - Reputational damage/public trust
- Penalties – are there any differences with the use of penalties? Does size or circumstances of penalties make any difference?
- Award schemes and incentives – what difference do you think these make? Why or why not? Is there any evidence that you can cite or signpost that may support this?

Considering the above -
One of the potential hypotheses leading from the review is that ‘large businesses might be more likely to comply’, we would be interested to know your thoughts on this...

- From what we have discussed do you think that this might be the case? [prompt with previous examples that might support this and discuss]
- Do you have any evidence or own knowledge from your business to support your view and/or this finding? [Moderator ask for personal experience or potentially references to other materials that may support this finding]
- Why do you think that this is the case?
- What do you think are the factors that we have discussed mean large businesses might be more likely to be compliant?

Recap: Is there anything else you would like to add regarding what we have discussed so far on compliance? Any factors we have missed? Are there any gaps in terms of factors/research literatures/etc that you think we should pay attention to?
- Which of these, or any others that you have mentioned do you think are most/least important drivers to compliance? Why? And barriers

- Overall are there any other reasons (from your current, previous experience or other evidence) why a large business may be more compliant than a small business? What makes you say this?
- If not previously mentioned, do you have any examples or evidence that might support this?

Securing sustained compliance
- How do you ‘secure sustained compliance’? Do you have any evidence to support this?
How do you think that this can be achieved? In your organisation/industry? In other organisations?

What do you think are the drivers to this are vs. short term/ad hoc compliance (i.e. prior to an inspection)? [If not mentioned discuss effectiveness or otherwise of penalties/incentives/award schemes]

Prompt if not mentioned: What role do you think internal sanctions, e.g. dismissal can have in this area? How effective can the threat of these be?

What do you consider to be the barriers to this? Are there ways in which these can be overcome?

Which do you think is more likely to secure sustained compliance – company culture and behaviours or external enforcement?

6 Response to information in detail (15 mins)

This section is to gain detailed response to the key findings of the evidence review. Throughout the conversation we would encourage the respondent to provide examples or direct us to evidence available to either support or build on the findings in the research. Some of this may have been covered above. If so ask questions as appropriate. Also there may be some areas the respondent is less able to comment upon, so questions should be asked as appropriate.

It may be that this section is asked more succinctly depending on the responses interviewees give – it may only be necessary to ask the set of questions once, and the interviewee will respond in relation to each of the separate parts

We’d now like to go into more detail about the key findings of the review. Take each ‘section’ of the review in turn and discuss as below:

Organisational Characteristics

What were your overall thoughts on this section? [Gain spontaneous comments]

Do you know of any evidence that supports this or is to the contrary? [Note any references to other materials that could be used to feed into the review]

Was there anything that you specifically agreed/ disagreed with? Why?

Do they reflect your knowledge and understanding in your business/your experience?

If not mentioned prompt:

- The findings suggest that management approach is a key driver of compliant behaviour. Do you agree/disagree with this? Can you give examples on what impact this might have if in place?
- The findings also suggest that ‘worker involvement’ is important. Do you agree/disagree with this?
- SMEs might have less access to technical expertise necessary to understand regulation and safety requirements – do you agree?
- Does the burden of inexperienced staff and low or nonexistent entry criteria play a role?
• Is it important to reinforce worker behaviour via multiple channels of communication?

• Did you feel there were any ‘gaps’ in this area of the findings? Is there anything that you feel may have been overlooked here? What else may be useful to consider?

Organisational Culture

• What were your overall thoughts on this section? [Gain spontaneous comments]
• Do you know of any evidence that supports this or is to the contrary? [Note any references to other materials that could be used to feed into the review]
• Was there anything that you specifically agreed/disagreed with?
• Do they reflect your knowledge and understanding in your business/your experience?
• Did you feel there were any ‘gaps’ in this area of the findings? Is there anything that you feel may have been overlooked here? What else may be useful to consider?

Enforcement approaches and culture – N.B. businesses may have limited response to this section depending on understanding and awareness.

• What were your overall thoughts on this section? [Gain spontaneous comments]
• Do you know of any evidence that supports this or is to the contrary? [Note any references to other materials that could be used to feed into the review]
• Do they reflect your knowledge and understanding in your business/your experience?
• Was there anything that you specifically agreed/disagreed with?
• If not mentioned: The report also suggests that ‘enforcers must still be seen as taking action in non compliant cases’ (even though rigid enforcement offers only limited results). What do you think about that? Is this important?
• Did you feel there were any ‘gaps’ in this area of the findings? Is there anything that you feel may have been overlooked here? What else may be useful to consider?

Interaction between the organisation and regulator

• What were your overall thoughts on this section? [Gain spontaneous comments]
• Do you know of any evidence that supports this or is to the contrary? [Note any references to other materials that could be used to feed into the review]
• Do they reflect your knowledge and understanding in your business/your experience?
• Was there anything that you specifically disagreed with?
• If not mentioned: The headline findings suggest ‘resources can be an issue for LA inspectors’. What impact do you think this may have? [gain spontaneous views]. Prompt with: comprehensiveness of record keeping and quality of inspections? Do you think that this is the case? What is your experience here?
• Did you feel there were any ‘gaps’ in this area of the findings? Is there anything that you feel may have been overlooked here? What else may be useful to consider?
• Do you know of any further studies that may support or add to these findings?

Overall - Do you feel that there are any other areas or gaps missing from the review that you have not mentioned? What are these and how important are these in the area of compliance? Have you any examples to illustrate?

7 Last comment (2 mins)

• Overall given everything that has been discussed is there anything else that you would like to add?
• Is there any other evidence available that you consider may be worth reviewing/considering?
• Any questions?

The findings from this research will be fed into the FSA’s evidence review. As part of this, FSA would potentially like to use anonymised quotes from those that participated. You will be offered the opportunity to review the quote prior to it being used. Would you be willing to have quotes used? These quotes would only be used in the context of this research and would not be used elsewhere without express permission.

Thank & close
Appendix 5 – Discussion Guide for Academics

1838 FSA – Exploring Regulation Cultures

DRAFT DISCUSSION GUIDE - Academics

1 hour face to face in-depth interviews

N.B. This Guide indicates the areas to be explored in the discussion, the likely order in which topics will be covered and the kinds of questions and techniques which may be used. There will be some flexibility of discussion, however, to account for each individual being interviewed. The intention of the questions is to show the areas that are due to be covered. Every question will not be asked of the respondent and the respondent will be allowed time to discuss and reflect on their own thoughts and views.

Not all respondents will respond to the same level of language or explanation. While the questions below details how we intend to cover topics in our own ‘language’, efforts will be made to meet the communication needs of the individuals interviewed.

Across the different types of interviews the language used will be adapted as required to make relevant to the background and experience of the interviewee.

Timings on the guide are approximate and give an indication of where the emphasis in the conversation will be.

N.B. This guide is intended to cover academics. Academics will have their own area of expertise, therefore the questions may be adjusted, as appropriate, to reflect this. E.g. If they have little expertise on large business or other regulators just check review findings only. If they are specialists on large business, the guide as is may work well. If they are a specialist in regulators, the ‘academic understanding’ and large business section could be ‘replaced’ with a general discussion more tailored to a view on regulators.

Objectives:

- Sense check findings from the evidence review on regulatory cultures and behaviours recently commissioned by the Agency
- Confirm that there are no major omissions in the review from the existing evidence base
- Fill some of the gaps identified in the literature namely: why are large businesses more likely to comply; how do other regulators achieve compliance

MODERATOR TO NOTE: Throughout the interview, we will ask the respondent for their opinions and also examples/evidence to support their thoughts and views where possible. Please establish/explore, as far as is possible, where interviewee responses are coming from – are they based on experiences in their own business or general expertise from elsewhere.
Stimulus material to be used in interviews:
- Pre-information document

<table>
<thead>
<tr>
<th>1</th>
<th>Introductions &amp; Warm Up (2 mins)</th>
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<tbody>
<tr>
<td><strong>Moderator:</strong></td>
<td><strong>Inform:</strong></td>
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<tr>
<td>• Moderator to introduce self, explain the process of social research to respondents and the format of the interview/discussion. Explain to the respondent that they can withdraw from the interview at any time and also they can refuse to answer any questions they feel they don’t want to answer.</td>
<td>• Outline the topic of discussion is to understand their response to the key findings of the evidence review and to understand if they know of or have any further insights that can build on these findings. Reiterate that Define are an independent market research company, and are bound by the Market Research Society code of conduct and the data protection act 1998. Explain the need for honesty to help with research. Ask if they are happy for the interview to be recorded and that any comments will not be attributed to them specifically. Also mention that we will transcribe the sessions but ask for their permission before they are passed onto the FSA. Explain that they will have the option to verify the transcripts. Personal details and recordings are treated as strictly confidential, held securely and will not used for any purpose beyond this specific project unless they give permission to do so. All these details will be removed from Define’s records on completion of the project and are destroyed at the end of the research study. Their details will not be passed on to any third party. Inform them that their comments will form part of a research report but will not be attributed personally to them and will be kept anonymous. The main way the report will be disseminated/published will be on the FSA website (food.gov.uk).</td>
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<tr>
<td>• Explain that it is possible to request the interview is not recorded. In this case, the interviewer will take notes instead. Check if respondents have any further questions in relation to above, and explain/clarify as needed.</td>
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<thead>
<tr>
<th>2</th>
<th>Brief Background (5 mins)</th>
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<tr>
<td>This section is to establish respondent context and warm up. We would just like to talk a little about your current position...</td>
<td></td>
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<tr>
<td>• Tell me a little about your current position?</td>
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<tr>
<td>• Can you tell me a little about your interest in compliance and the work that you have done in this area? [Moderator to use background information as relevant]</td>
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<tr>
<th>3</th>
<th>Initial comments re. key findings of the review (5 mins)</th>
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<tbody>
<tr>
<td>This section is to gain initial response to the key findings of the evidence review. This allows the opportunity for the respondent to 'download' any immediate thoughts they have in relation to the review before asking them in more detail about their current role.</td>
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</tr>
</tbody>
</table>
Ask respondent if they have had a chance to read the review. If they have not had chance to read the review, please ask them questions from appropriate sections below and then allow them to read through the key headline findings before proceeding with the questions in this section.

Before we ask some more about your knowledge and experience in compliance, we would now to briefly discuss your initial thoughts on the findings of the review. We will come onto these in more detail later in the discussion.

- Thinking about the key findings of the evidence review that you were sent prior to this interview:
  - What were your initial thoughts on these?
  - What stood out for you? What was this and why? [note for anything that is considered either ‘new’ or contradictory to other evidence/knowledge they may have]
  - Did you feel that there were any obvious gaps in the information? What are these?

AS PER COMMENT ABOVE PLEASE DISCUSS SECTIONS 4, 5, 6 AND 7 AS APPROPRIATE TO RESPONDENT’S AREA OF EXPERTISE.

4 Academic Understanding on large businesses (15 mins)

This section is to understand from an academic’s perspective views and evidence on regulation cultures – in particular, evidence that explores the statement ‘large businesses are more likely to comply’. The discussion will be on food safety or other industries/sectors depending on experience. Respondents will be asked to provide, where possible, examples of literature/evidence, which they feel may be relevant to the review.

- How does the current literature define compliance? Which literature?

Approach to compliance/compliance schemes
From the literature base...

- Would you say that different organisations have different attitudes and approaches to compliance? How/why? How much do you think size of an organisation makes a difference?
- What factors works for or against compliance in different organisations? [encourage respondent to consider across different organisation types/approach types] How much do you think the size of an organisation makes a difference?
- From the evidence available... In terms of an organisation's culture, what works to encourage compliance? How? [gain spontaneous comments then prompt as appropriate on internal processes, management, resources, training, on staff interactions, etc]
- Can an organisation’s working culture encourage/discourage compliance?
- What are the potential barriers/challenges in creating a compliant organisational culture? What might prevent it becoming compliant?
Do you know if this is true across all industry types or does it vary at all and how?

From the work/research you are involved in, is there any evidence/literature/research on building successfully compliant cultures?

Drivers and barriers of compliance
(Several of these areas may have been covered in the previous discussion, if so move on)

- From the evidence available... what drives compliance within organisations? What motivates organisations to comply? [generate list of spontaneous factors] what evidence points to this? [get examples] What difference does the size of an organisation make?
- How would you prioritise these factors? What would you consider is the most/least important when considering organisations motivation to comply with regulations?
- Do you know if/think this varies across different types of sectors/organisations? In what ways? [Moderator to listen out for how a large business may operate differently than a small business]
- From the evidence available... what are the barriers to compliance in an organisation? What can stop/work against compliance? What difference does the size of an organisation make? How much of an issue is this? What evidence supports this? [gain examples]
- Do you know of any evidence to suggest that these barriers can be addressed in anyway?
- Do you know of any evidence to suggest compliance in food businesses is similar/different to other sector types? Do you know of/think that there is anything important to consider in food safety in particular?

Any further information
- Do you know of any recent evidence/literature/research that looks at creating compliant organisational culture?
- What are the main findings/content in relation to organisational culture and compliance? How relevant do you think this might be? What makes you say that?
- Are there any new ideas/theories/hypotheses that are currently being discussed in this area? What are these? How relevant do you think these are?
- Considering the area [moderator to adapt as appropriate] that you work in, do you see this having a link with creating compliant organisational culture? In what ways?

5 Large businesses and compliance (15 mins)

This section explores the findings in the review on large businesses and compliance. Please explore differences between business types but please ensure that there is a focus on size of business to fill gaps on large businesses insights.
**Response Cards re: Large Businesses**
Thinking in a little more about how different business types might manage compliance what do you think about the following? [SHOW CARD - Moderator to discuss the following areas in turn (if not already mentioned) to understand what evidence/experience there is/they have in these areas)]

For each card ask:
- **What is your initial reaction to this statement?**
- **Do you know of any examples or evidence that supports or negates this?**
- **Does the ‘size’ of an organisation have an impact here? In what ways?**
  - listen out for references to large vs. small businesses
- **Do you think this has a bearing on compliance?**

**Organisational Characteristics**

<table>
<thead>
<tr>
<th>Knowledge and Understanding</th>
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<tr>
<td>The characteristics of an organisation might mean that it is more or less likely to have greater understanding and be aware of compliance issues.</td>
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Prompt as required:
- **What characteristics do you think these might be?** And why? What types of organisations are more likely have greater understanding?
  - If not mentioned prompt with: Size, specialist internal resources, greater external support, relationships with regulators, any others?

<table>
<thead>
<tr>
<th>Costs of compliance</th>
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<tbody>
<tr>
<td>The costs of compliance are proportionally higher among small or medium sized enterprises than in large businesses.</td>
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<tr>
<th>Staff training</th>
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<tbody>
<tr>
<td>Different types of organisations may have different amount of resource they can allocate to staff training and supervision</td>
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</table>

Prompt as required
- What types of organisations are more likely to have greater resource for staff training?

**Organisational Culture**

<table>
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<th>Leadership and Management Systems</th>
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<tr>
<td>In some types of businesses ensuring compliance may be someone's key role and responsibility.</td>
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</table>

Prompt as required
- **What types of organisations are more likely to have compliance as someone’s key role and responsibility?** Why do you say this?
- What are the types of things that they might do to ensure compliance? Prompt as necessary:
They may set up suitable systems or have structures in place to ensure compliance with the correct documentation and policies.

They may be more likely to lead by example and may be more likely to be involved with staff members indicating it is more important to management.

- **What impact do you think this may have (positive or negative) if any?**

**More internal staff interaction**

_In some types of businesses there may be greater opportunities for staff communication. For example, knowledge sharing, different channels staff interaction, behaviour check-ups, and so on._

Prompt as required
- **What types of organisations/businesses are more likely to have greater staff interaction? Why do you say this?**
- **What else might encourage greater staff interaction or buy in to regulations?**
- **If not mentioned:**
  - Greater worker involvement? – what difference can this make?
  - Safety being integral to working practices – how much is ‘safety’ part of the working culture? How can this be achieved? [e.g. sanctions, buy in, good communication, incentives, etc?]

- **What impact do you think this may have (positive or negative) if any?**

**Stronger external interactions and relationships**

_In some types of businesses there may more likely to be a single point of contact internally that can build relationships with those who are involved externally with compliance, e.g. regulators, supply chains, trade unions, enforcers._

Prompt as required
- **What types of organisations/businesses are more likely to have a single point of contact?**
- **What difference does this make?**

**Drivers for compliance**

_The motivations for businesses to comply are complex. Different organisations will have different reasons for complying._

**Specific prompts (if already discussed recap):**
- What would you say are the drivers for compliance in an organisation/business? If not mentioned prompt with:
- Risk perception and knowledge of risks in organisation
- Decline in productivity
- Civic duty
- Industry expectations
- Customer expectations
- Fear of negative consequences
- Prosecution fear
Throughout the discussion, several key points have been raised:

- **Reputational damage/public trust**
- **Penalties** – are there any differences with the use of penalties? Does size or circumstances of penalties make any difference?
- **Award schemes and incentives** – what difference do you think these make? Why or why not? Is there any evidence that you can cite or signpost that may support this?

**Considering the above** -

One of the potential hypotheses leading from the review is that 'large businesses might be more likely to comply', we would be interested to know your thoughts on this...

- **From what we have discussed do you think that this might be the case?** [prompt with previous examples that might support this and discuss]
- **Why do you think that this is the case?**
- **Do you know of any evidence to support this finding?** [Moderator ask for references to other materials/case studies/research that may support this finding]
- **What do you think are the factors that we have discussed mean large businesses might be more likely to be compliant?**

**Recap**: Is there anything else you would like to add regarding what we have discussed so far on compliance? Any factors we have missed? Are there any gaps in terms of factors/research literatures/etc that you think we should pay attention to?

- Which of these, or any others that you have mentioned do you think are most/least important drivers to compliance? Why? And barriers

**Securing sustained compliance**

- **Do you know of any evidence which discusses ‘securing sustained compliance’?**
- **What does the evidence suggest about this?** (Which evidence?)
- **Is there any evidence available about how this can be achieved?**
- What do you think are the drivers to this are vs. short term/ad hoc compliance (i.e. prior to an inspection)? [If not mentioned discuss effectiveness or otherwise of penalties/incentives/award schemes]

**Prompt if not mentioned**: What role do you think internal sanctions, e.g. dismissal can have in this area? How effective can the threat of these be?

- What do you consider to be the barriers to this? Are there ways in which these can be overcome?
- Which do you think is more likely to secure sustained compliance – company culture and behaviours or external enforcement?
This section is to understand from an academic’s perspective views and evidence on regulation cultures – in particular on regulators and compliance which may inform compliance in the food safety area.

Drivers and barriers of securing compliance in organisations (this is a similar line of questioning to the drivers and barriers in section 4 – therefore use as required)

- From the evidence available... what drives compliance within organisations? What motivates organisations to comply? [generate list of spontaneous factors] what evidence points to this? [get examples] What difference does the size of an organisation make?
- How would you prioritise these factors? What would you consider is the most/least important when considering organisations motivation to comply with regulations?
- Do you know if/think this varies across different types of sectors/organisations? In what ways? [Moderator to listen out for how a large business may operate differently than a small business]
- From the evidence available... what are the barriers to compliance in an organisation? What can stop/work against compliance? What difference does the size of an organisation make? How much of an issue is this? What evidence supports this? [gain examples]
- Do you know of any evidence to suggest that these barriers can be addressed in anyway?
- Do you know of any evidence to suggest compliance in food businesses is similar/different to other sector types? Do you know of/think that there is anything important to consider in food safety in particular?

Behaviours, cultures and organisational characteristics in regulators

- Again is there evidence to suggest what factors within a regulatory organisation may impact on achieving compliance. If not mentioned encourage respondent to consider:
  - How a regulator behaves internally? E.g. communication between employees, record keeping, etc
  - How the characteristics of a regulatory body impact, e.g. size, structure, systems in place, etc
  - How the culture of a regulatory organisation may impact, e.g. management involvement and involvement, targets, requirements, etc
  - Does the way a regulator behaves impact on compliance? Positive/negative?
  - Are there different models of/ studies exploring behaviour within regulators that you are aware of? If models - do you have any knowledge on which model is more/less effective
  - Are there examples of more or less effective regulators/regulatory bodies? Can you provide examples?

Interactions between regulator and dutyholder

- Does the way the regulator behaves/communicates with dutyholders impact on compliance? Positive/negative? Why do you say this?
- What actions/communications from the regulator drive a more positive/negative response from the dutyholder?
- Are there different models of/studies exploring interaction between regulators and dutyholders that you are aware of? What do you know about? If models-do you have any knowledge on which model is more/less effective?
- **Are there examples of more or less effective interactions? Can you provide examples?**
- Is there one ‘ideal’ approach or does it vary? In what ways does it vary? What does that depend on?

**Role of regulator (if not discussed above)**
- What does the evidence suggest about what role should the regulator play?
  - *e.g. advisory, supportive, educator, enforcer*
- Can it play more than one role and are there any potential issues with that? [listen for mention of tension between being both educator and enforcer]

**Response Cards - This section explores some of the findings in the review on how regulators secure compliance**

Thinking in a little more detail about this what do you think about the following?

[SHOW CARD - Moderator to discuss the following areas in turn (if not already mentioned) to understand what evidence/experience there is/they have in these areas)]

For each card ask:
- **What is your initial reaction to this statement?**
- Do you know of any examples or evidence of how this makes a difference?
- How much of an impact does this have?

**Enforcement approaches**

*A range of enforcement approaches can be effective depending on the circumstances*

**Additional probes as necessary**

- **What are the different types of enforcement approach that might be used?**
  And in what circumstances?
- **What difference does the enforcement approach make to compliance?**
  **What does the evidence suggest?**
- What makes an approach more or less successful?
- What determines the approach towards enforcement taken?
- Are different approaches taken with different organisations? Why?
- If not mentioned: What impact do the following make towards securing compliance?
  - Incentives – is there any evidence that formal incentives work in your sector? Why/why not?
  - Penalties – are there any differences with the use of penalties? Does size or circumstances of penalties make any difference?
  - Sanctions – *e.g.* naming and shaming
  - Award schemes – what difference do you think this makes?
**Culture within enforcement bodies**

The culture within an enforcement body may make a difference to achieving compliance

*Additional probes as necessary*

- Does an enforcement body's approach and ethos have an impact on achieving compliance? In what way?
- When is it more/less effective?
- What attitudes/behaviours from an enforcement body encourage more effective compliance?

---

**Interactions with dutyholders**

A wide range of different strategies/interventions are used with dutyholders to achieve compliance.

*Additional probes as necessary*

- **Which types of interventions are more/less successful in achieving compliance?** Which? – evidence?
- **If not mentioned:** In terms of achieving compliance what impact does the following have:
  - Purpose of inspection, e.g. to inform, to highlight areas of non-compliance, to report areas of non-compliance
  - Channels/types of communication, e.g. face to face, written
  - Content of communication
  - Training from the enforcement body - explore if not raised, what is the balance of your role between educator and enforcer? How does this work? Does this create any issues at all? (note for any tensions between the 2 roles) What are these? How is this best overcome?

---

**Securing sustained compliance** (to be asked if appropriate and if not discussed previously)

- Do you know of any evidence which discusses ‘securing sustained compliance’?
- What does the evidence suggest about this? (which evidence?)
- Is there any evidence available about how this can be achieved?
- What do you think are the *drivers* to this area vs. short term/ad hoc compliance (i.e. prior to an inspection)? [If not mentioned discuss effectiveness or otherwise of penalties/incentives/award schemes]
- **Prompt if not mentioned:** What role do you think internal sanctions, e.g. dismissal can have in this area? How effective can the threat of these be?
- What do you consider to be the barriers to this? Are there ways in which these can be overcome?
- Which do you think is more likely to secure sustained compliance – company culture and behaviours or external enforcement?

---

7 Response to information in detail (15-20 mins)
This section is to gain further response to the key findings of the evidence review. Throughout the conversation we would encourage the respondent to provide examples or direct us to evidence available to either support or build on the findings in the research. N.B. The content of the following may have already been covered through the previous section. If so, cover briefly and ask questions as required. Also there may be some areas the respondent is less able to comment upon, so questions should be asked as appropriate.

It may be that this section is asked more succinctly depending on the responses interviewees give – it may only be necessary to ask the set of questions once, and the interviewee will respond in relation to each of the separate parts.

We’d now like to go into more detail about the key findings of the review...

Organisational Characteristics
- What were your overall thoughts on this section? [Gain spontaneous comments]
- Do you know of any evidence that supports this or is to the contrary?/ Why do you say this? [Note any references to other materials that could be used to feed into the review]
- Was there anything that you specifically agreed/ disagreed with? Why?
- If not mentioned prompt:
  - The findings suggest that management approach is a key driver of compliant behaviour. Do you agree/disagree with this? Can you give examples on what impact this might have if in place?
  - The findings also suggest that ‘worker involvement’ is important. Do you agree/disagree with this?
  - SMEs might have less access to technical expertise necessary to understand regulation and safety requirements – do you agree?
  - Does the burden of inexperienced staff and low or nonexistent entry criteria play a role?
  - Is it important to reinforce worker behaviour via multiple channels of communication?
- Did you feel there were any ‘gaps’ in this area of the findings? Is there anything that you feel may have been overlooked here? What else may be useful to consider?

Organisational Culture
- What were your overall thoughts on this section? [Gain spontaneous comments]
- Do you know of any evidence that supports this or is to the contrary? [Note any references to other materials that could be used to feed into the review]
- Was there anything that you specifically agreed/disagreed with?
- Did you feel there were any ‘gaps’ in this area of the findings? Is there anything that you feel may have been overlooked here? What else may be useful to consider? Are there any major areas of research/literature that should be explored? (organisational management, etc)
Enforcement approaches and culture – N.B. academics may have limited response to this section depending on understanding and awareness

- What were your overall thoughts on this section? [Gain spontaneous comments]
- Do you know of any evidence that supports this or is to the contrary? [Note any references to other materials that could be used to feed into the review]
- Was there anything that you specifically disagreed with?
- If not mentioned: The report also suggests that ‘enforcers must still be seen as taking action in non compliant cases’ (even though rigid enforcement offers only limited results). What do you think about that? Is this important?
- Did you feel there were any ‘gaps’ in this area of the findings? Is there anything that you feel may have been overlooked here? What else may be useful to consider?

Interaction between the organisation and regulator

- What were your overall thoughts on this section? [Gain spontaneous comments]
- Do you know of any evidence that supports this or is to the contrary? [Note any references to other materials that could be used to feed into the review]
- Was there anything that you specifically disagreed with?
- If not mentioned: The headline findings suggest ‘resources can be an issue for LA inspectors’. What impact do you think this may have? [gain spontaneous views]. Prompt with: comprehensiveness of record keeping and quality of inspections? Do you think that this is the case? What is your experience here?
- Did you feel there were any ‘gaps’ in this area of the findings? Is there anything that you feel may have been overlooked here? What else may be useful to consider?
- Do you know of any further studies that may support or add to these findings?

Overall - Do you feel that there are any other areas or gaps missing from the review that you have not mentioned? What are these and how important are these in the area of compliance? Have you any examples to illustrate?

8 Last comment (2 mins)

- Overall given everything that has been discussed is there anything else that you would like to add?
- Is there any other evidence available that you consider may be worth the FSA reviewing/considering?
- Any questions?

The findings from this research will be fed into the FSA’s evidence review. As part of this, FSA would potentially like to use anonymised quotes from those that participated. You will be offered the opportunity to review the quote prior to it being used. Would you be willing to have quotes used? These quotes would only be
used in the context of this research and would not be used elsewhere without express permission.

Thank & close
Appendix 6 – Discussion Guide for Regulators

1838 FSA – Exploring Regulation Cultures

DRAFT DISCUSSION GUIDE – OGD and other regulators

1 hour face to face in-depth interviews

N.B. This Guide indicates the areas to be explored in the discussion, the likely order in which topics will be covered and the kinds of questions and techniques which may be used. There will be some flexibility of discussion, however, to account for each individual being interviewed. The intention of the questions is to show the areas that are due to be covered. Every question will not be asked of the respondent and the respondent will be allowed time to discuss and reflect on their own thoughts and views.

Not all respondents will respond to the same level of language or explanation. While the questions below details how we intend to cover topics in our own 'language', efforts will be made to meet the communication needs of the individuals interviewed.

Across the different types of interviews the language used will be adapted as required to make relevant to the background and experience of the interviewee.

Timings on the guide are approximate and give an indication of where the emphasis in the conversation will be.

N.B. This guide is intended to cover other regulators and other Government departments.

Objectives:
- Sense check findings from the evidence review on regulatory cultures and behaviours recently commissioned by the Agency
- Confirm that there are no major omissions in the review from the existing evidence base
- Fill some of the gaps identified in the literature namely: why are large businesses more likely to comply; how do other regulators achieve compliance

MODERATOR TO NOTE: Throughout the interview, we will ask the respondent for their opinions and also examples/evidence to support their thoughts and views where possible. Please establish/explore, as far as is possible, where interviewee responses are coming from – are they based on experiences in their own business or general expertise from elsewhere.

Stimulus material to be used in interviews:
- Pre-information document
- Stimulus cards

1 Introductions & Warm Up (2 mins)

Moderator:
- Moderator to introduce self, explain the process of social research to
Inform:
- Outline the topic of discussion is to understand their response to the key findings of the review and to understand if they know of or have any further insights that can build on these findings. Reiterate that Define are an independent market research company, and are bound by the Market Research Society code of conduct and the data protection act 1998. Explain the need for honesty to help with research. Ask if they are happy for the interview to be recorded and that any comments will not be attributed to them specifically. Also mention that we will transcribe the sessions but ask for their permission before they are passed onto the FSA. Explain that they will have the option to verify the transcripts. Personal details and recordings are treated as strictly confidential, held securely and will not used for any purpose beyond this specific project unless they give permission to do so. All these details will be removed from Define’s records on completion of the project and are destroyed at the end of the research study. Their details will not be passed on to any third party. Inform them that their comments will form part of a research report but will not be attributed personally to them and will be kept anonymous. The main way the report will be disseminated/published will be on the FSA website (food.gov.uk).
- Explain that it is possible to request the interview is not recorded. In this case, the interviewer will take notes instead. Check if respondents have any further questions in relation to above, and explain/clarify as needed.

2 Brief Background (5 mins)

This section is to establish respondent context and warm up. We would just like to talk a little about your current role...
- Tell me a little about your current role and the business/industry that you work in?
- Can you tell me a little about other similar roles you have had in the past?
- Can you tell me a little about who you regulate, i.e. the types of organisations and businesses (large vs. small etc)

3 Initial comments re. key findings of the review (5 mins)

This section is to gain initial response to the key findings of the evidence review. This allows the opportunity for the respondent to ‘download’ any immediate thoughts they have in relation to the review before asking them in more detail about their current role.

Ask respondent if they have had a chance to read the review. If they have not had chance to read the review, please ask them section 4 questions (about their role and securing compliance) and then allow them to read through the key headline findings before proceeding with the questions in this section.
Before we ask some more about your experience in securing compliance, we would now to briefly discuss your initial thoughts on the findings of the review. We will come onto these in more detail later in the discussion.

- Thinking about the key findings of the evidence review that you were sent prior to this interview:
  - **What were your initial thoughts on these?**
  - What stood out for you? What was this and why? [note for anything that is considered either ‘new’ or contradictory to other evidence/knowledge they may have]
  - **Did you feel that there were any obvious gaps in the information?** What were these?

### 4 General Questions on securing compliance (25-30 mins)

*This conversation with other regulators and other Government Departments (and potentially business school contact) is to understand if they have any knowledge from their sectors which may inform compliance in the food safety area. Moderator to gain examples or evidence to support comments throughout the discussion where possible.*

- **How would you define compliance from a regulator’s perspective? What is your definition of compliance based on?** [e.g. body of evidence/ practical experience/ policy guidance etc]

#### Drivers and barriers of securing compliance in organisations

- **What are the drivers to compliance in your sector?** What are the key reasons why organisations that you regulate comply? [generate spontaneous list of drivers]
- Are there any differences between different types of organisations, e.g. type, size, etc
- **As a regulator, what do you perceive are the most/least important reasons as to why organisations comply?**
- How interested are organisations in complying? Why?
- Are there any differences between different organisations? In terms of:
  - What drives compliance
  - Interest in complying
  - Ability to comply
- **If not mentioned (and if relevant):** Are there any differences between large or small organisations?
  - What are the differences in terms of ability to comply?
- **What are the barriers to compliance?** What do you consider are the key reasons why organisations may not comply? What are the reasons organisations give as to why they have not complied?
- Are there ways these barriers can be overcome?

#### Behaviours, cultures and organisational characteristics in regulators

- **As a regulator, how do you encourage compliance?**
- Thinking about your own organisation what factors within your regulatory organisation may impact on achieving compliance. If not mentioned encourage respondent to consider:
  - How you as a regulator behave internally? E.g. communication between employees, record keeping, etc
  - How the characteristics of you as a regulatory body impact, e.g. size, structure, systems in place, etc
  - How the culture of your regulatory organisation may impact, e.g. management involvement, targets, requirements, etc
- Does the way you as the regulator behave impact on compliance? Positive/negative?

Interactions between regulator and dutyholder
- As a regulator, how do you encourage compliance, e.g. through communication/interaction with the dutyholder?
  - In terms of approach/different approaches?
  - In terms of communication/interaction with the dutyholder?
- Does the way you as the regulator behave/communicate with dutyholders impact on compliance? Positive/negative? What works well to encourage compliance in these interactions? What works less well?
- What is important to consider or to do in terms of driving compliance with organisations?
- In what ways, if at all, does this vary across different types of organisations?
- Is there one 'ideal' approach or does it vary? In what ways does it vary? What does that depend on?

Role of regulator (if not discussed above)
- What role should the regulator play? e.g. advisory, supportive, educator, enforcer
- Can it play more than one role and are there any potential issues with that? [listen for mention of tension between being both educator and enforcer]

Response Cards - This section explores some for the findings in the review on how other regulators secure compliance

Thinking in a little more detail about this what do you think about the following? [SHOW CARD - Moderator to discuss the following areas in turn (if not already mentioned) to understand what evidence/experience there is/they have in these areas]

For each card ask:
- What is your initial reaction to this statement?
- Do you know of any examples or evidence that supports or negates this? (in your organisation/industry or others)?
- How much of an impact does this have?

Enforcement approaches
A range of enforcement approaches can be effective depending on the circumstances

Additional probes as necessary
- What are the different types of enforcement approach that might be used? And in what circumstances?
- What difference does the enforcement approach make to compliance?
- What makes an approach more or less successful?
- What determines the approach towards enforcement taken?
- Are different approaches taken with different organisations? Why?
- If not mentioned: What impact do the following make towards securing compliance?
  - Incentives – is there any evidence that formal incentives work in your sector? Why/ why not?
  - Penalties – are there any differences with the use of penalties? Does size or circumstances of penalties make any difference?
  - Sanctions – e.g. naming and shaming
  - Award schemes – what difference do you think this makes?

Culture within enforcement bodies
The culture within an enforcement body may make a difference to achieving compliance

Additional probes as necessary
- Does an enforcement body's approach and ethos have an impact on achieving compliance? In what way?
- When is it more/less effective?
- What attitudes/behaviours from an enforcement body encourage more effective compliance?

Interactions with dutyholders
A wide range of different strategies/interventions are used with dutyholders to achieve compliance.

Additional probes as necessary
- Do you think that particular types of interventions are more/less successful in achieving compliance? Which?
- If not mentioned: In terms of achieving compliance what impact does the following have:
  - Purpose of inspection, e.g. to inform, to highlight areas of non-compliance, to report areas of non-compliance
  - Channels/types of communication, e.g. face to face, written
  - Content of communication
  - Training from the enforcement body - explore if not raised, what is the balance of your role between educator and enforcer? How does this work? Does this create any issues at all? (note for any tensions between the 2 roles) What are these? How is this best overcome?
### Knowledge and Understanding

The characteristics of an organisation might mean that it is more or less likely to have greater understanding and be aware of compliance issues.

#### Additional probes as necessary

- **What characteristics do you think these might be? What types of organisations are more likely have greater understanding?**
  - If not mentioned prompt with: Size, specialist internal resources, greater external support, relationships with regulators, any others?
- **What impact does this have on enforcement approach? Note if there are any differences re. large and small businesses**

### Organisational culture

The culture of an organisation may make an organisation more or less likely to comply.

#### Additional probes as necessary

- **Do you think culture impacts on compliance? How/why?**
- **In terms of organisational cultures, do you know of any particular ‘cultures’ within organisations that tend to make them more/less compliant? What do organisations that are compliant tend to be like in terms of working practices/culture? [example prompts - management approach, staff training and support, staff interaction]**
- **What impact does this have on enforcement approach?**

### Sustained compliance

- **Considering your previous comments, what do you think encourages sustained compliance within organisations?**
- **Considering your previous comments, is there anything else that encourages ‘sustained compliance’ within organisations?**
- **What role do you think the regulator/enforcer can have in creating sustained compliance?**
- **What do you think are the drivers to this are vs. short term/ad hoc compliance (i.e. prior to an inspection)?**
- **What do you consider to be the barriers to this? Are there ways in which these can be overcome?**
- **Which do you think is more likely to secure sustained compliance – company culture and behaviours or external enforcement?**

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5 **Response to information in detail (15-20 mins)**

This section is to gain further response to the key findings of the evidence review. Throughout the conversation we would encourage the respondent to provide examples or direct us to evidence available to either support or build on the findings in the research. N.B. The information under
Enforcement approaches and Interaction between the dutyholder and regulator may have already been covered through the previous section. If so, cover briefly and ask questions as required.

It may be that this section is asked more succinctly depending on the responses interviewees give – it may only be necessary to ask the set of questions once, and the interviewee will respond in relation to each of the separate parts.

We’d now like to go into more detail about the key findings of the review...

Organisational Characteristics
- What were your overall thoughts on this section? [Gain spontaneous comments]
- Do you have/ are you aware of any evidence that supports the findings in this section or is to the contrary? [Note any references to other materials that could be used to feed into the review]
- Was there anything that you specifically agreed/ disagreed with? Why?
- If not mentioned prompt:
  o The findings suggest that management approach is a key driver of compliant behaviour. Do you agree/disagree with this? Can you give examples on what impact this might have if in place?
  o The findings also suggest that ‘worker involvement’ is important. Do you agree/disagree with this?
  o SMEs might have less access to technical expertise necessary to understand regulation and safety requirements – do you agree?
  o Does the burden of inexperienced staff and low or nonexistent entry criteria play a role?
  o Is it important to reinforce worker behaviour via multiple channels of communication?
- Did you feel there were any ‘gaps’ in this area of the findings? Is there anything that you feel may have been overlooked here? What else may be useful to consider?

Organisational Culture
- What were your overall thoughts on this section? [Gain spontaneous comments]
- Do you have/ are you aware of any evidence that supports the findings in this section or is to the contrary? [Note any references to other materials that could be used to feed into the review]
- Was there anything that you specifically agreed/ disagreed with?
- Do they reflect your knowledge and understanding in your business/your experience?
- Did you feel there were any ‘gaps’ in this area of the findings? Is there anything that you feel may have been overlooked here? What else may be useful to consider? Are there any major areas of research/literature that should be explored? (organisational management, etc)

Enforcement approaches and culture – N.B. academics may have limited response to this section depending on understanding and awareness.
- What were your overall thoughts on this section? [Gain spontaneous comments]
- Do you have/ are you aware of any evidence that supports the findings in this section or is to the contrary? [Note any references to other materials that could be used to feed into the review]
- Do they reflect your knowledge and understanding in your business/your experience?
- Was there anything that you specifically disagreed with?
- If not mentioned: The report also suggests that ‘enforcers must still be seen as taking action in non compliant cases’ (even though rigid enforcement offers only limited results). What do you think about that? Is this important?
- Did you feel there were any ‘gaps’ in this area of the findings? Is there anything that you feel may have been overlooked here? What else may be useful to consider?

Interaction between the organisation and regulator
- What were your overall thoughts on this section? [Gain spontaneous comments]
- Do you know of any evidence that supports the findings in this section or is to the contrary? [Note any references to other materials that could be used to feed into the review]
- Do they reflect your knowledge and understanding in your business/your experience?
- Was there anything that you specifically disagreed with?
- If not mentioned: The headline findings suggest ‘resources can be an issue for LA inspectors’. What impact do you think this may have? [gain spontaneous views]. Prompt with: comprehensiveness of record keeping and quality of inspections? Do you think that this is the case? What is your experience here?
- Did you feel there were any ‘gaps’ in this area of the findings? Is there anything that you feel may have been overlooked here? What else may be useful to consider?
- Do you know of any further studies that may support or add to these findings?

Overall - Do you feel that there are any other areas or gaps missing from the review that you have not mentioned? What are these and how important are these in the area of compliance? Have you any examples to illustrate?

6 Last comment (2 mins)

- Overall given everything that has been discussed is there anything else that you would like to add?
- Is there any other evidence available that you consider may be worth reviewing/considering?
- Any questions?

The findings from this research will be fed into the FSA’s evidence review. As part of this, FSA would potentially like to use anonymised quotes from those that
participated. You will be offered the opportunity to review the quote prior to it being used. Would you be willing to have quotes used? These quotes would only be used in the context of this research and would not be used elsewhere without express permission.

*Thank & close*