



# **Full List of Questions Received from the Public Ahead of 18 September 2024 Board Meeting, with Answers.**

Please note questions are listed below in the order in which they were received.

# Question 1: Annual FSA Science

## Update

From: Policy Director, The International Meat Trade Organization

1. BTOM: What is the FSA/FSA board's evaluation on how the BTOM import controls have gone since implementation? Is there any action the FSA thinks still needs to be taken?

Answer:

The FSA is pleased that the implementation of the Border Target Operating Model (BTOM) commenced at the beginning of the year. This is a significant step forwards in the UK's ability to control food and feed entering the UK. The Government decided that the BTOM would be delivered in a graduated way.

The FSA, working with other government departments and our colleagues at the border, has been monitoring the implementation of the BTOM. This includes close contact with Port Health Authorities to understand what they are seeing at Border Control Posts, local authorities, port operators, and the FSA's incidents team.

The level of incidents currently shows no indications of varying from the expected volume in terms of food safety incidents, though it should be noted that additional controls could themselves lead to an increase in non-compliances identified and handled.

As controls only began to be delivered in April this year and rollout is continuing, data availability is currently limited. This means that there is no one single way at present to review the impacts of implementation. We know that Defra, as the lead department for delivering BTOM controls, is working on an overview of the data at present. In the meantime, the FSA will continue to monitor BTOM implementation as best as it can until more data on implementation is available. We have committed to providing a detailed report to the Board next Spring to support the Board in forming their conclusions about the impact of the new approach.

2. Back in September 2022 IMTA asked a question regarding lab capacity. We see there has been an update in the board papers on this. In the response the FSA referred to being 'keen to engage with industry to ascertain where further

capabilities gaps exist and to identify the key challenges faced by industry in relation to sampling and testing'. We wanted to ask whether there are any plans for that, in particular with regard to industry challenges in relation to sampling and testing?

The IMTA question and FSA response referred to can be found below:

"Lab capacity in the UK has been something we have highlighted as an area needing review for quite some time so we welcome the review of the UK Official Laboratory system. How will industry needs be included in the review – e.g. efficient sample turnarounds, choice of labs for different tests and transparency about the progress of processing of samples? "

[The question related to this FSA board paper.](#)

Response of the FSA Board:

"Please find the answer to your question below. We will also publish this on our website. The FSA's review of the official laboratories system has focused on the resilience of our Public Analyst Official Laboratories and their statutory capabilities (e.g., testing that is most needed from an enforcement and imports perspective). By identifying gaps within the UK's national capability and investing in those, we will bolster the capacity and capability of the overall lab system, resulting in additional expertise and testing infrastructure. This will in turn benefit industry, as improvements in government testing creates new capabilities and extra capacity that laboratories can also use for commercial testing. The FSA has invested in supporting UK testing in numerous ways, including via the PATH-SAFE programme, National Reference Laboratories, surveillance sampling and Food Safety Research Network. All of these activities support the national capability. Finally, we are keen to engage industry to ascertain where further capabilities gaps exist and to identify the key challenges faced by industry in relation to sampling and testing."

Answer:

The FSA's focus remains on maintaining capacity and building capability within the UK's official and national reference laboratories, in order to deliver our statutory testing requirements and to support the national response to food incidents. We do not routinely intervene in the commercial testing market. However, we do engage with industry on matters relating to testing, especially where they impact food safety and/or standards, and where there is a perceived market failure. As an example of this, we are working with industry to understand the challenges associated with STEC testing, following issues flagged as part of response to the recent UK outbreak, that started in May 2024. Other channels for interaction with industry, where testing issues can be raised, include the Food Industry Liaison Group (FILG) and the Food Safety Research Network (FSRN).

## **Question 2: Report from the Director for FSA in Wales**

From: Private individual

Having also previously read the report for the prior year from the Director of Wales, I have noticed there is a focus on administrative task and activities, such as attendance or facilitation of meetings. Please could I pose the following two questions: Could the Director for Wales outline the outputs and outcomes achieved from the activities set out in their report? The Director for Wales acknowledges in their report the importance of engagement with stakeholders. I would expect the Director for Wales to have significant engagement with local

authorities, so please could they provide details of the meetings that they have personally had with local authority officials in the last 6 months?

Answer:

The purpose of the annual Director for Wales report to the FSA Board is to provide an update on the specific priorities in Wales, the Wales team's contribution to the FSA's corporate priorities, and a forward look at the FSA in Wales priorities for the coming months. Due to the volume of papers, programmes and issues considered by the Board, the detail contained in the paper is kept to a high level and Board members wishing to learn more can ask for this additional insight during and after the Board meeting. Board meetings are held in open session and all interested parties can register to attend in person or watch via a livestream. There is also the function for submitting questions beforehand.

The Director for Wales provides an update to the Welsh Food Advisory Committee setting out the senior level engagement happening in Wales. These are published and available on the FSA's website.

In relation to the Director for Wales' engagement with local authorities and local authority officials in the last 6 months, please see the list below. This list does not include those times when the Director for the FSA in Wales is not available to attend a meeting, or when it is more appropriate to delegate attendance, in which case a senior FSA official will attend.

- 7 March – Regulators Network Wales
- 25 March – Meeting to discuss enhanced system of registration or licencing of food businesses with LAs and Welsh Government
- 16 April – Environmental Health Wales AGM – FSA update

- 24 April – WFAC at Zero2Five, meeting themed around the food business landscape in Wales and challenges for growth and innovation including LA representatives
- 8 May – FSA/WLGA meeting
- 23 May – Meeting with the PPW food lead, Dan Morelli

## Question 3: Achieving Business

### Compliance

From: Private Individual (same person who asked question 2 and wishes to remain anonymous)

The proposals for the FSA to become the competent authority for large retailers is reliant on the businesses being audited by third party assurance providers.

Has the FSA temporarily employed / seconded any staff from third party assurance companies to develop these proposals? How was any such employment / secondment advertised? How is the FSA managing conflicts of interest when working with such private companies? Would the FSA have concerns if its director with prior responsibility for Achieving Business Compliance were now to be personally engaged with such a company?

Answer:

The proposals outlined in the paper do not rely on businesses being audited by third party assurance providers. The Board asked officials to continue to explore the immediate next steps on the trialled data-led approach, as it offers the potential to provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers.

During the lifecycle of the ABC programme, officials worked with a number of external consultancies, and utilised expertise available through short-term

contractual arrangements for specific advice or scrutiny. The proposals submitted to FSA Board were developed by the FSA team.

The FSA team worked with individuals from across food advisory roles and a secondee from Shield Safety, who were recruited through correct employment processes. The individuals had a very clear remit, and care was taken to ensure that conflicts of interest were avoided. The individuals' employment ended prior to the Enterprise Level Regulation trial.

Regarding your final question based around a concern over conflict of interest; the Chair of the FSA, Professor Susan Jebb confirmed verbally and entered into record at the FSA Board that this is categorically not the case for any FSA Directors or Board members. For the avoidance of any doubt, the FSA Executive Director responsible for the ABC programme since July 2021 has been Katie Pettifer. She is currently the interim Chief Executive of the FSA. Katie does not have, and has never had, any links to third party assurance companies.

## **Question 4: Asked in relation to: Achieving Business Compliance**

From: Private Individual (who wishes to remain anonymous)

Reason for doing so: Professional concerns for public food safety put at risk, questioning rationale and integrity of decision making process behind the ABC National reg. programme- based on hands on front line lived experience- from retail and as food safety EHP

How FSA intend to justify claims that increased safety and more efficient resource allocation can be achieved through self-regulation and the publication of self-conducted audits, particularly when evidence from the past five years suggests otherwise? It has been repeatedly proven that major non-compliance incidents, especially involving large supermarket brands, have led to successful prosecutions. These incidents were not flagged by internal audits, but rather by

external investigations. How can the FSA assume that a system reliant on self-regulated, self-published audits would be safer for consumers, given the inherent conflict of interest? No company, especially one managing a major brand, would willingly publish compromising information that could damage its reputation. Local authorities, unlike commercial entities, are subject to Freedom of Information (FOI) requests, ensuring transparency and public accountability. How can the FSA ensure similar levels of transparency and accuracy under a system of self-regulation? Additionally, if major non-compliance were to escalate into a public health crisis, it would again be the taxpayer who bears the cost of managing an outbreak or health emergency. What safeguards will the FSA put in place to ensure that internal audits are transparent, accurate, and not skewed by conflicts of interest. Especially in times of labour shortage and productivity pressures, chances are that safety would step backwards behind productivity goals- if is likely, that unless major incident investigation - no EHO will be seen. From own experience (food safety EHO, former retail staff- I was reassured of full compliance by Risk manager- while holding in hands /looking at evidence of otherwise. Why did FSA choose to abandon safety measure by independent impartial regulator- giving high footfall/high impact of these breaches. on consumer food safety (which branch manager would voluntarily report themselves to risk manager/compliance department)?? Could FSA clarify how they intent to mitigate this very logical barriers to flow of relevant information?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.

The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).



You have asked specifically about the risks of self-regulation and the impact a new system may have on safety measures.

The FSA is not proposing that businesses self-regulate. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.

In the FSA, public health is paramount, and we agree that any changes to the regulatory system affects us all and must be considered with extreme care.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. The trial ran in parallel to the current system.

Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections conducted. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The Independent trial evaluation which has been posted on the FSA website has concluded that this alternative approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on

the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## Question 5: Local Authority Performance Update

From: Diana Tumova, Food safety EHP

Reason for submitting question as private individual: professional concern mismanaged risk to public health -illicit imports and lack of effective controls

Given the known risks of illicit and unsafe food products, such as unregulated meat entering the UK through major ports like Dover, how does the FSA justify the lack of robust technological, engineering, or enforcement measures in place to effectively mitigate the risk of a major food safety or biosecurity incident? Considering the scale of potential harm—ranging from public health crises to threats to animal health and national biosecurity—what concrete steps is the FSA taking to ensure comprehensive monitoring, inspection, and enforcement at key entry points? In the absence of adequate technological solutions or enforcement measures, there appears to be a significant vulnerability that could lead to serious incidents. How does the FSA plan to address this gap in safeguarding the UK food supply?

Answer:

The entry of food products into the UK by illegal means pose a risk to both animal and public health. Enforcement at the border, outside Border Control

Posts, is the responsibility of Border Force, in some cases supported by local authority port health inspectors. Border Force performs intelligence-led checks in line with its strategic priorities. The enforcement for illegally imported food inland is led by Local Authority partners.

Since introducing safeguard measures on non-commercial imports of pork and pork products from the EU in 2022, intended to mitigate the risk of African swine fever, Port Health Authorities have reported seizures of meat imported illegally, mostly via Dover. Safeguard measures are now in effect for non-commercial imports of sheep and goat products too in response to Peste Des Petits Ruminants within the EU. This is a policy area that is the responsibility of Defra who are dependent upon Border Force to minimise abuse in this space.

In addition, the FSA's National Food Crime Unit (NFCU) works with partners using an intelligence led approach to enforcement and dealing with serious food fraud. To date we have yet to identify any involvement of organised groups committing food fraud linked to food illegally imported under the guise of personal imports.

The Border Target Operating Model (BTOM) was put in place to support checks and controls on commodities imported to the UK through legitimate commercial means. This means that the BTOM was not designed to directly tackle the issue of illegal importation of food or smuggling of any other commodity. Instead, agencies at the border rely upon their own intelligence and other techniques to identify such loads and interdict where appropriate to do so. It would not be appropriate to detail these techniques in this response. However, the introduction of the BTOM during 2024 and the phasing in of export health certificates, prenotification, and physical checks means that Port Health Authorities have the ability to control EU goods at the border – making it

possible to identify and take action against non-compliant goods which pose a food safety and/or biosecurity risk.

## **Question 6: Achieving Business Compliance**

From: Claudia Gration, Ashfield District Council

Since becoming aware of the proposed self-regulation of supermarkets as part of the Achieving Business Compliance Document, it is alarming to here that this will become outside of the Local Authority's regulation. Moving away from LA is seeming to take away that control and ultimately not protect the public's health. Will the FSA be able to control and audit the auditors who are examining the data? How do we know that the supermarkets are providing data of a true picture? There have been many instances where routine food hygiene inspections have allowed deficiencies and contraventions to be identified early, before escalating into a major food hygiene contravention, will the data provided be able to identify these underlying issues? Will LA EHOs still be required to intervene if the FSA do not have the capacity or resource to tackle major contraventions? I understand the need to try and release the burden on LA EHOs, but this does not feel an appropriate step in doing so.

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.

The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about the risks of self-regulation and moving away from LA regulation.

The FSA is not proposing that businesses self-regulate. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.

In the FSA, public health is paramount, and we agree that any changes to the regulatory system affects us all and must be considered with extreme care.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores.

Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

In response to your specific question, about the role of LA EHOs in the future, the details of how this would work in practice have yet to be developed. The Board asked that FSA officials pause the longer-term thinking and focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland. Your questions will be relevant to that work, and your continued engagement in it would be very welcome.

The Independent trial evaluation which has been posted on the FSA website has concluded that this alternative approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 7: Achieving Business Compliance**

From: Peter Brett, Commercial Environmental Health Team Manager in London

I am making this submission in my capacity as Chair of London Food Coordinating Group (LFCG)

We are writing to share our concerns about the national level regulation approach advocated in the Paper; to urge a rethink and refocus on the opportunities that already exist within primary authority regulations; principally the role FSA could play as a specified supporting regulator. We were surprised that this Paper confirmed simultaneously that the ABC delivery programme was being concluded whilst identifying such a fundamental policy shift as national level regulation. There has been little or no discussion in the PA community, with LAs directly, at fora such as LFCG or indeed this year's LA Engagement Events. Whilst we were aware of the trials and discussion surrounding enterprise level regulation it came as a complete surprise that FSA should be recommending national level regulation (by FSA) at the immediate conclusion, with no real discussion or supporting evidence provided in the Paper. We are aware that there has been independent scrutiny of the trial, but the report for that has not been made public. We do however question from where the evidence for separate FSA led national regulation would come, the recent trials were firmly rooted in the Primary Authority approach for which the FSA is able to operate as a supporting regulator. Whilst there is little substantive evidence the suggested direction of travel appears clear (in the Annex to the Paper). Yet national level regulation by FSA is not something that the FSA has ever previously signposted in its visions for modernised regulation. Surely such substantive and fundamentally different proposals merit specific discussion and publicly available evidence, support and evaluation before they pass into Policy. It's vital that stakeholders, including the public, businesses and environmental health professionals, are given the opportunity to review and contribute to proposals that impact food safety and public health before decisions are made. We would urge the FSA to reconsider how this paper's conclusions are framed and that you come back to stakeholders for further discussion before this becomes policy. We

would therefore urge the Board to reject the proposal for national level regulation unless and until there is the necessary supporting evidence.

Answer:

The FSA Board has read and considered your comments and concerns about evidence for change, stakeholder consultation and public health; thank you for raising these concerns.

Hopefully you have been able to watch the Board discussion on this matter, which is available here: [FSA Board Meetings | Food Standards Agency](#).

The FSA Board was clear that there needs to be further engagement with a range of stakeholders to explore the opportunities and challenges. Input will be sought from senior stakeholders, trial participants, experts and professionals and wider interested parties.

The Board does acknowledge that earlier publication of the final independent evaluation report carried out by ICF Consulting Services Limited would have been useful for external stakeholders. The Board have asked the FSA Executive team to take on that learning going forward. The full evaluation report is available here for download:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board also clearly signalled that whilst the FSA can continue working on next steps with the trial participants, which includes a number of Primary Authorities, it is not endorsing any longer-term proposals at this stage. The Board asked for extensive engagement on the immediate next steps, and for an update to be tabled in December 2024.

## **Question 8: Achieving Business Compliance**

From: Private Individual (who wishes to remain anonymous), EHO, Reigate and Banstead Borough Council



Reason for submitting question: Concerns over self-regulation of supermarkets and manufacturers being proposed

By using internal, monthly self-inputted data, large scale supermarkets could hide deficiencies and mistakes despite having set HACCP procedures and guidance from their Primary Authority. We have already seen where this has gone wrong in incidents such as the Horse Meat Scandal, knowingly placing unsafe products into the food chain, tragic and deathly allergic reactions, and major contraventions to food safety and hygiene practices. The new model emphasises the use of data and intelligence, rather than external inspections, which leads questions as to whether the FSA have the capacity and resources to act if major problems arise? As stated by the FSA, 95% of the population's food is sourced from large supermarkets, so how do EHOs within the local authority continue to ensure protection of the public's health, if they have limited control of the supply chain? This proposal will result in oversight of underlying deficiencies and contraventions that would have been addressed by local authority EHO visits? How do the FSA think this is going to protect Public Health?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.

The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about the risks of increasing the use of data and intelligence, instead of inspections.

In the FSA, public health is paramount, and we agree that any changes to the regulatory system affects us all and must be considered with extreme care.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores.

Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises. During the Enterprise Level Regulation trial, a series of independent validation visits were conducted. Two independent environmental health professionals were contracted to inspect a selection of premises to assess whether the data collected was valid.

The Independent trial evaluation which has been posted on the FSA website has concluded that this alternative approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers while recognising there were many questions to answer. The Board asked that the idea be explored further with extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

# Question 9: Achieving Business Compliance

From: Nilesh Lad, Regulatory Services Manager, LB Hackney

Reason for submitting question: I am a EHO with 30 years experience who wants to express my view

Why is the FSA advocating self regulation? Without independent and unbiased inspection/audit how can the public be assured that the Supermarkets are submitting true and accurate data? Who will oversee this? If this goes through, what next for LA EHOs?

Answer:

Good afternoon

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.

The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about the risks of self-regulation, veracity of data and the role of the Local Authority Environmental Health Officers going forward.

The FSA is not proposing that businesses self-regulate. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores.

During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises. As part of the trial, Independent Environmental Health Officers engaged by the FSA carried out local, unannounced premises inspections to verify the data.

The data the FSA had access to meant that the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The Independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The FSA value Local Authority Environmental Health Officers and will continue to work with Local Authorities to get the best outcomes for consumers across the system as a whole. In response to your specific question about the role of EHOs going forward, the details of how this will work has yet to be developed and the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland. Your question will be relevant to that work, and your participation in it would be very welcome.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 10: Achieving Business Compliance**

From: SEHO (who wishes to remain anonymous), Torbay Council

It relates to the issue of delivery platforms - It states that various platforms ask for a rating of 3 or above in the case of JustEat, this is not the case. Businesses in Torbay with ratings of 2 appear on JustEat.

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.

The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about delivery platforms with ratings below 3.

For information, Uber Eats and Deliveroo only allow new food businesses to trade on their site if they have a FHRs rating of at least 2.

In relation to Just Eat, they only allow new food businesses to trade on their site if they have a FHRs rating of 3. There are processes if a business falls below their standards, as follows:

- 0 rated premises - Removed from the platform immediately. This is checked on a daily basis.
- 1&2 rated premises which were previously 'registration submitted' - removed from the platform. This is checked on a monthly basis.
- 1&2 rated premises which were previously 'awaiting inspection' or had a rating of 3\* or above - not removed from the platform but food safety support offered.

There are caveats to the aggregator's onboarding criteria as described above which we published in an FHRs supplementary information sheet to local authorities, via SmarterComms (now FSALink) last year, on 5 October 2023.

# Question 11: Achieving Business Compliance

From: Samuel Palmer, Food, Health and Housing Manager, Gedling Borough Council

I note from Annex A of the Achieving Business Compliance report shows phase 3 of the project to include "National Regulation across all Sectors". What does this mean in practice? What sectors will be considered - is the Food Standards Agency seeking to take further food hygiene regulatory activities/sectors away from local authorities?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.

The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked about including all sectors in National Regulation going forward and which sectors will be included.

In response to your specific question, the details of how this work may develop longer term has yet to be developed and the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local

authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 12: Achieving Business Compliance**

From: Christopher Davis, Principal Regulatory Enforcement Officer, London Borough of Southwark

Reason for submitting question: Major concerns that the FSA are proposing to use self-regulation for large supermarkets and manufactures to determine their own Food Hygiene Rating score and compliance with Food legislation.

I have major concerns over the proposed deregulation of large supermarkets and manufacturers from Local Authority EHO's. Have the FSA not learned the lessons from the past with such large cases as the outbreak of the Escherichia coli O157 bacterium in South Wales in 2005 where poor Mason Jones (5yr old) tragically died, or the horsemeat scandal the swept across Europe and Tesco dropping Silvercrest (a regulated manufacturer) for traces of Porcine in products. I wish to formally object to your plans to deregulate these food businesses / sites.

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.



The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about self-regulation / deregulation.

The FSA is not proposing that businesses self-regulate. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.

Past events have highlighted that the current system has flaws, and the trial of these new proposals has identified that there is much more information available for us to access than the current system can provide.

In the FSA, public health is paramount, and we agree that any changes to the regulatory system affects us all and must be considered with extreme care.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The FSA value Local Authority Environmental Health Officers and will continue to work with Local Authorities to get the best outcomes for consumers across the system as a whole.

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 13: Achieving Business Compliance**

From: Marios Petrou, EHO - field officer, London Borough of Islington

Reason for submitting question: I am a working EHO and am concerned about food safety

How many inspections of large chain supermarkets each year result in a letter or notice which requires action by the company? Unless the answer is none, on what basis does the FSA consider it appropriate for such chains to self-regulate?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.

The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

It is important to note that the FSA is not proposing that businesses self-regulate. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.

Under the current system, supermarkets get a planned inspection every 2-4 years from their Local Authority. The information you specifically asked for is not readily available, since it will be held by many different local authorities. By comparison, during the trial, the FSA had access to a larger volume of data, across the whole business/all stores, every month. This allowed for a greater level of additional scrutiny and access to a named senior accountable person for us to work with.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The FSA value Local Authority Environmental Health Officers' expertise and will continue to work with Local Authorities to get the best outcomes for consumers across the system as a whole.

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 14: Achieving Business Compliance**

From: Chartered Environmental Health Practitioner, (who wishes to remain anonymous)

Reason for submitting question: Because I work in Environmental Health and specifically in food safety.

Why has the FSA not presented the contents of this report to LAs and consumers for consultation prior to coming to the Board? There have been a number of LA engagement events held over the last 5 years but my recollection is not of national level regulation in the format it is now presented. There is evidence that national regulation in the area of meat has not worked, it's been a national scandal and immensely damaging to trade. Whilst investment has been made in food crime detection we are still informed by those working for the FSA that they see poor practice continuing. Resource will always be a problem both at FSA and LA levels but LAs already have the local relationships, experience and knowledge of these businesses. Joint collaborative working with the FSA to support the work undertaken by LAs would in my opinion be welcomed but why start a new model from scratch when there is already a lot of good work being undertaken. Build on what is existing, retain consumer confidence, support primary authorities to develop that strategic overview.

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.

The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about the extent and nature of engagement and consultation.

The enterprise level regulation trial has been discussed at engagement events, conferences and other public fora (including previous Board papers), but this is the first time FSA officials have set out early thinking on how national level regulation might develop in the long term. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at

this stage was that officials should move ahead with the next stage set out in the paper, working with primary authorities and retailers towards business-level assessment of their data. The Board paper made clear that any move to national level regulation in the long term would be a matter for ministers, would take years to develop and would involve extensive consultation.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores.

During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises. As part of the trial, independent Environmental Health Officers engaged by the FSA carried out local, unannounced premises inspections to verify the data.

The Board acknowledged that earlier publication of the final independent evaluation report carried out by ICF Consulting Services Limited would have been useful for external stakeholders, and we have asked FSA officials to take that learning forward.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

Alongside this work, the FSA remains committed to supporting the work done by local authorities. The Board was also asked, in the same paper, to note that critical projects undertaken within the programme including targeted changes to the food hygiene model and action to help with ongoing resource challenges, such as a review of the FSA competency framework and the development of new routes to qualification, would continue.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## Question 15: Achieving Business Compliance

From: Principal Environmental Health Officer, London Borough of Bexley (who wishes to remain anonymous)

Reason for submitting question: My opinion does not engage my organisation

Most food business operators comply the food law because of the strict current enforcing regime, what evidence the FSA has to show that self-regulation will achieve similar outcomes? Will this decision not challenge by the associations representing the operators not concerned by the the proposed scheme? Is the FSA`s reputation not at risk as they could be accused of bias towards large businesses (supermarkets)?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.

The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about self-regulation and the reputational risk for the FSA.

The FSA is not proposing that businesses self-regulate. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.

In response to your concerns about FSA showing bias towards large supermarkets, this data led approach to regulation would have large businesses receiving more scrutiny, continuously, than in the current system, as they'll be obligated to share their data on a monthly basis and meet with the FSA routinely to discuss their compliance activity. The concept is about increasing scrutiny across a small number of businesses and creating central oversight within the FSA. During the Enterprise Level Regulation trial, routine meetings enable the FSA to hold a named, senior individual, at each large retailer, to account for the overall business compliance.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.



# Question 16: Achieving Business Compliance

From: Julia Cope, Environmental Health Manager, Amber Valley Borough Council

Regarding National Level Regulation - how are food complaints to be dealt with at a local level by the FSA? The report states that c 2500 visits - both proactive and reactive - will pass to the FSA.

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.

The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about food complaints.

In response to your specific question, the details of how this would work in practice have yet to be developed. You have rightly picked up that complaints will be relevant to that work and will form part of the discussions with stakeholders. Your participation in this would be very welcome. The Board asked that FSA officials pause the longer-term thinking and focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

# Question 17: Achieving Business Compliance

From: Julia Cope, Environmental Health Manager, Amber Valley Borough Council

Are the officers that are to enter into the supermarkets to undertake physical inspections when deemed necessary to be trained in identifying Health and Safety issues and matters of evident concern and be forwarding them on to local authorities. Currently officers of Local authorities identify issues at food visits and deal with them immediately if necessary.

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.

The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about training and the ability to identify issues.

In response to your question, the details of how this would work in practice have yet to be developed. The Board asked that FSA officials pause the longer-term thinking and focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland. Your question will be relevant to that work, and your participation in it would be very welcome.

The FSA value Local Authority Environmental Health Officers and recognise the value of physical inspections. We want to work with Local Authorities to get the best outcomes for consumers across the system as a whole.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## Question 18: Achieving Business Compliance

From: IAN HELMRICH, EHO, City of York

Reason for submitting question: I am of the opinion that your proposals for hygiene self-regulation will diminish food safety within the UK

My comment is in answer to the proposal to promote self-regulation for large supermarkets and manufactures. - I have several decades of experience as an EHO and have worked in both local government enforcement and food industry hygiene management. I am aware of the high standards of many large food businesses and acknowledge their often progressive approach to food safety. BUT, I am also aware of the human nature of some in management and the pressures of profit, staffing levels, errors of judgement and time management that compete with the need to maintain effective food safety. I believe that removing the stimulus of EHO inspections will diminish the importance of good food safety management in a proportion of these businesses. I believe that the removal of the independent EHO inspection will reduce the vigour of in-house food safety management, that is surely not a worthwhile goal. Light touch enforcement has its place but is not without risks; perhaps Grenfell Tower is an extreme but pertinent example of how it can go wrong.

Answer:

Thank you for your comments which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website. The Board

discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have commented specifically about self-regulation, the role of the EHO inspection and wider enforcement.

The FSA is not proposing that businesses self-regulate. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.

In the FSA, public health is paramount, and we agree that any changes to the regulatory system affects us all and must be considered with extreme care.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by

the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The FSA value work carried out by Local Authority Environmental Health Officers and will continue to work with Local Authorities to get the best outcomes for consumers across the system as a whole.

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 19: Achieving Business Compliance**

From: James Johnson BSc (Hons) MSc CEnvH FCIEH, Head of Environmental Health, Lichfield District Council

1. Has the board considered the findings of the Grenfell Inquiry around deregulation, self-regulation, under enforcement, and the involvement of the private sector in regulation in relation to the proposal for NLR?
2. What is the boards view on the concept that businesses should be subject to equal and fair regulation based on risk, and not based on the size of the business or their ability to pay for a centralised or external food safety capability?
3. The report notes the difficulties local authorities have in recruiting EHOs and presents this as one of the reasons for NLR. Does the board accept that one of the reasons for this shortage is the existence of private companies offering a range of food safety support to large supermarkets, sometimes in an attempt to counter enforcement action, that are attracting EHOs from local authorities due to considerably better terms and conditions, and that this will only increase as a result of NLR? Furthermore, if the FSA intends to deliver NLR, has the board considered that this will require EHOs if it is to be done competently?
4. Has the board seen the results of any consultation the FSA has undertaken on these proposals with the people who regulate large supermarkets, EHOs, and their local authority employers and representative bodies such as the Chartered Institute of Environmental Health and the Association of Chief EHOs in England?
5. Does the board accept that whilst the head office of a business may produce effective policy and procedures, the picture at a local level can be very different based on factors such as the premises and personalities?
6. Is the board aware of which private companies have been involved in the audits of the five large supermarkets involved in the trial, and will the board release the names of those companies?

7. Has the board considered how this proposal fits with the current government's devolution agenda?
8. With regard to the claim that large supermarket chains 'tend to be very highly compliant', what evidence has the board seen in relation to prosecutions of large supermarkets?
9. The report states that '95% of the food people buy in grocery shopping comes from just ten large supermarket chains'. Does the board accept that this significantly increases risk, and indicates that changes to regulation must be considered with extreme care?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website. The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about self-regulation, shortage of EHOs, consultation, devolution and increased risk to public health.

The FSA is not proposing that businesses self-regulate. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.

In the FSA, public health is paramount, and we agree that any changes to the regulatory system affects us all and must be considered with extreme care.

FSA officials are clear that they did not see resourcing or funding issues as a key driver for this work. The principles all the way through have been to ensure the FSA protects consumers and looks at ways to ensure regulation of an evolving food system is fit for the future. The trial was solely to test if this alternative approach was viable. Officials are very aware of the significant challenges local authorities are facing in recruiting and retaining competent officers, and the proposals outlined in the paper do not rely on businesses being audited by third party assurance providers so this should not impact further on current resource pressures. Following FSA research into local authority capacity and capability, the FSA set up a project looking at local authority resourcing, which is working with other interested parties to identify solutions to this issue. This is not a problem that that the FSA can solve in isolation, but we are committed to doing what we can. The FSA value the work done by Local Authority Environmental Health Officers and will continue to work with Local Authorities to get the best outcomes for consumers across the system as a whole.

Under the current system, supermarket premises get a planned inspection every few years by their local authority, based on the level of risk and current compliance. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores.

Environmental Health Officers engaged by the FSA ,and not through private companies, carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able observe trends in performance across all participating retailers' stores and could identify new



opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board acknowledged that although the compliance record for large supermarkets is good, the size of the presence in the market means that any adverse events could have a large impact. This is why we want to find a way to get the best possible outcomes for the public, which is proportionate to risk. The Board considered that national level regulation could provide additional scrutiny of the food safety controls in these businesses, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers. Accordingly, FSA officials will engage thoroughly with the devolved nations in line with the FSA commitment to three-country working.

In the FSA public health protection is paramount, and we agree that any changes to the regulation system affect us all and must be considered with extreme care.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

# Question 20: Achieving Business Compliance

From: Environmental Health Manager, London Borough of Islington (wishes to remain anonymous)

Can the board show that the data used was sufficient to provide an evidence-based decision for these proposals? The impact on Local Authorities needs to be quantified and there appeared to be little evidence to support this policy change cited in the paper. Why were stakeholders not consulted at the paper stage? Are stakeholders now going to be given the opportunity to review and contribute to proposals before any decisions are made? How soon is this proposal planned to be implemented? How will the FSA have oversight of underlying deficiencies and contraventions when the regulation is proposed to sit at a national level? How will enforcement be managed or delegated? Has this proposal been risk assessed and mitigating actions identified, should this see a significant lapse in standards/compliance by LRs? Can the Board be confident that the FSA's national regulation model for LRs will achieve the level of (independent) scrutiny required / expected by consumers at a local level?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.

The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about the trial data, lack of consultation, timelines, enforcement, and level of scrutiny.

On consultation, this was the first time that long-term thoughts about reforming the regulatory system were publicly presented. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the paper, working with primary authorities and retailers towards business-level assessment of their data.

It is part of the FSA's commitment to doing policy development in public that ideas are shared publicly at a very early stage. The Board were clear that consultation with stakeholders is needed.

In response to your questions regarding timelines and enforcement, the details of how this would work in practice have yet to be developed. The Board asked that FSA officials pause the longer-term thinking and focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland. Your question will be relevant to that work, and your participation in it would be very welcome.

Under the current system, supermarket premises get a planned inspection every few years by their local authority, based on the level of risk and current compliance. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data.

During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that it was not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## Question 21: Achieving Business Compliance

From: Margaret Murrayfield

Dear Ministers & Food Standards Agency Chair

The professional body for environmental health officers in England and Wales has issued [the attached press release expressing serious concerns about food standards agency proposals published last week](#).

It worries me the food standards agency has for some time been pursuing a Conservative agenda of deregulation and privatisation as an objective of its regulatory policy. The latest proposals have no basis in science and evidence, and there is a very real risk that public health will be compromised.

Please stop these proposals in their tracks, before it's too late!

Thank you for giving this your attention.

Best,

MM

Answer:

The FSA Board has clearly signalled that whilst FSA officials can continue working on next steps with the trial participants, which includes a number of Primary Authorities, it is not endorsing any longer-term proposals at this stage. The Board asked for extensive engagement on the immediate next steps, and for an update to be tabled in December 2024.

Hopefully you were able to watch the Board discussion on this matter, which is available here: [FSA Board Meetings | Food Standards Agency](#)

In response to your questions and concerns about deregulation and public health, please be assured that the FSA is not proposing deregulation of businesses. The proposals would result in additional scrutiny of businesses' compliance with food law. The law is clear that all food businesses must be subject to independent regulation/controls.

The concept of a data led approach to regulation is about increasing scrutiny across a small number of businesses, creating central oversight within the FSA. The FSA recognises that these longer-term proposals are a different form of regulation from the current model. National Level Regulation would include the use of data that might not have been available within the food system when the current regulatory system was developed, to help verify the effectiveness of those food safety management systems across entire businesses, as an alternative proposal to the current regulatory system.

During the trial, the retailers' data was scrutinised monthly. Accessing system wide data in the trial enabled the FSA to observe holistic trends in performance

that cannot be identified on a premises-by-premises approach, and to proactively seek assurance that businesses are tackling dips in performance before they become a problem.

You raise a concern that the proposals made to the Board were not based on science and evidence. The proposal made to the Board was that the FSA move to implement the next phase of national level regulation, which was based on the independent evaluation of the pilots. This evaluation can be found here: <https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

An update on the next steps will be brought to the Board in December 2024 for further discussion.

The Board welcomes any further questions you may have and encourages your continued engagement with the FSA.

## **Question 22: Report from the Director for FSA in Wales**

From: Dr J Williams

Reason for submitting question: Interested in the coordination and safeguarding of public health and consumer protection

I would like to know how many times over the past 6 months the Director has met and engaged with environmental health officers from Welsh local authorities. My question is specific to the Director himself and does not include his staff.

Answer:

The purpose of the annual Director for Wales report to the FSA Board is to provide an update on the specific priorities in Wales, the Wales team's contribution to the FSA's corporate priorities, and a forward look at the FSA in Wales priorities for the coming months. Due to the volume of papers, programmes and issues considered by the Board, the detail contained in the paper is kept to a high level and Board members wishing to learn more can ask for this additional insight during and after the Board meeting. Board meetings are held in open session and all interested parties can register to attend in person or watch via a livestream. There is also the function for submitting questions beforehand.

The Director for Wales provides an update to the Welsh Food Advisory Committee setting out the senior level engagement happening in Wales. These are published and available on the FSA's website.

In relation to the Director for Wales' engagement with local authorities and local authority officials in the last 6 months, please see the list below. This list does not include those times when the Director for the FSA in Wales is not available to attend a meeting, or when it is more appropriate to delegate attendance, in which case a senior FSA official will attend.

- 7 March – Regulators Network Wales
- 25 March – Meeting to discuss enhanced system of registration or licencing of food businesses with LAs and Welsh Government
- 16 April – Environmental Health Wales AGM – FSA update
- 24 April – WFAC at Zero2Five, meeting themed around the food business landscape in Wales and challenges for growth and innovation including LA representatives
- 8 May – FSA/WLGA meeting

- 23 May – Meeting with the PPW food lead, Dan Morelli

## Question 23: Achieving Business Compliance

From: Matthew Pawson, Environmental Health & Trading Standards Manager, City of York Council

Reason for submitting question: I am a Chartered Environmental Health Practitioner working as lead officer for food safety and food standards.

I am concerned by the lack of meaningful consultation over the proposed national level of regulation, no evidence of the independent scrutiny of the trial has been provided to stakeholders. What evidence is there or consideration of alternatives such as a licensing scheme or alternative enforcement strategies. It is clear that 'broadly compliant' businesses remain so due to independent regulation. Third part auditors paid by the business are never truly independent and may not have the power to effect necessary change. There is also a lack of detail on how the proposed scheme would work, including food complaints etc, how it would be communicated to the public and the public perception of the model.

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.

The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).



You have asked specifically about the lack of consultation, the evidence and the lack of detail.

This was the first time that long-term thoughts about reforming the regulatory system were publicly presented. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the paper, working with primary authorities and retailers towards business-level assessment of their data.

Under the current system, supermarket premises get a planned inspection every few years by their local authority, based on the level of risk and current compliance. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

In response to your specific questions, the details of how this would work in practice have yet to be developed. You have rightly picked up that complaints will be relevant to that work, and will form part of the discussions with stakeholders. Your participation in this would be very welcome.

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 24: Achieving Business Compliance**

From: Abigail Farr, Senior EHO

Reason for submitting question: I am submitting my question as I am a Chartered Member of the CIEH and part of my role is a food inspector

I sat on the updates given by the FSA and this pilot project was not mentioned. Why has this been done in apparent secrecy, without any consultation with the food inspector community/Local Authorities? Whilst the availability of information from the supermarkets is great, there appears to be little independent validation of the information. Taking away the local response, could lead to longer times to respond to complaints particularly around pests Tesco's at Brooklands voluntarily closed for a prolonged period due to a rat infestation. There are continued prosecutions due to out of date food, what effort has been made to identify local action against supermarkets to get the bigger picture? Consistency (if it is an issue) could be sorted out, cheaper and more effectively by the FSA or the Primary Authority Scheme than any 'National inspection' creating a 2 tier inspection regime that takes further resources and overarching skills from Local Authorities.

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.

The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about the lack of consultation, the evidence and the independent validation of supermarket data.

The enterprise level regulation trial has been discussed at engagement events, conferences and other public fora (including previous Board papers), but this is the first time FSA officials have set out early thinking on how national level regulation might develop in the long term. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the

paper, working with primary authorities and retailers towards business-level assessment of their data.

Under the current system, supermarket premises get a planned inspection every few years by their local authority, based on the level of risk and current compliance. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

By accessing data on a monthly basis, with routine meetings the FSA will be able to take a more frequent look at issues emerging than the current system can allow.

The FSA value by work carried out by Local Authority Environmental Health Officers, and the local knowledge they have, and will continue to work with Local Authorities to get the best outcomes for consumers across the system as a whole.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive

engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## Question 25: Achieving Business Compliance

From: EH contracting, Sole Trader (wishes to remain anonymous)

13 inspections from LA's resulted in a score of 3 or less. 4 of the 13 passed their internal/3rd party audit. That is 31% of audits passing that shouldn't have and suggests evidence that inspections should remain with LA's. Does the FSA agree that 31% is poor?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website. The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

Thank you for the data you provided. However, officials do not think that they can comment without a more robust understanding of the full data set that is put forward in this question. It is, however, worth noting that a rating of 3 on the Food Hygiene Rating Scheme (FHRS) indicates that the hygiene standards at the establishment are generally satisfactory. This means that the business meets the basic requirements for food hygiene, but there may be some areas that could be improved to enhance overall safety.

Under the current system, supermarket premises get a planned inspection every few years by their local authority, based on the level of risk and current compliance. During the trial, the FSA scrutinised the businesses' internal food

hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 26: Achieving Business Compliance**

From: EH contracting, Sole Trader (wishes to remain anonymous)

There is a regional difference in the compliance of National Level Retailers, this hasn't been taken into account as comparison visits were restricted to 2 regions. Could the FSA provide funding to LA's to inspect due/overdue National Retailers to provide an accurate and reliable data source?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website. The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about the regional differences and funding.

The FSA trialed an alternative, data-led regulatory approach that could help ensure our food system is fit for the future, in the face of an ever-changing set of demands. Resourcing or funding issues were not a key driver for this work. The principles all through our work are to ensure the FSA protects consumers and look at ways to future proof the regulatory approach.

During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Two independent environmental health professionals were contracted to carry out validation visits on a selection of premises. The premises were selected based on various reasons, such as identifying potential issues from data that FSA officials wanted to check could be seen in reality, observing positive practices that officials wanted to replicate, or other reasons. However, the contractors

were not informed of these reasons to ensure their inspections were unbiased and without preconceived outcomes. Their findings confirmed officials' data anticipations through physical checks at the premises. These results contributed to the audit outcomes, with additional analysis from our analytical unit colleagues within the FSA. Geographical location was not one of the criteria for selection. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.



An update on the next steps will be brought to the Board in December 2024 for further discussion.

## Question 27: Achieving Business Compliance

From: EH contracting, Sole Trader (wishes to remain anonymous)

The FSA will need significant resource, with equal suitable qualifications to LA officers. Can the FSA explain how attracting LA officers to the FSA relieves the resource burden on LA's?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website.

The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about resourcing and qualifications.

The FSA trialed an alternative, data-led regulatory approach that could help ensure our food system is fit for the future, in the face of an ever-changing set of demands. Resourcing or funding issues were not a key driver for this work. The principles all through our work are to ensure the FSA protects consumers and look at ways to future proof the regulatory approach.

The trial was solely to test if this alternative approach was viable. Officials now look forward to engaging on next steps and working with others to help understand more about the concerns you raise.

Officials are very aware of the significant challenges local authorities are facing in recruiting and retaining competent officers. Following FSA research into local authority capacity and capability, the FSA set up a project looking at local authority resourcing, which is working with other interested parties to identify solutions to the issue. This is not a problem that the FSA can solve in isolation, but we are committed to doing what we can. The FSA value Local Authority Environmental Health Officers and will continue to work with Local Authorities to get the best outcomes for consumers across the system as a whole.

During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

# Question 28: Achieving Business Compliance

From: EH contracting, Sole Trader (wishes to remain anonymous)

I remind the FSA that one of the National Level Retailers were fined £7.5million for food hygiene offences (repeatedly placing food unfit for human consumption on the market). Will the FSA retract their view that National Level Retailers are 'trustworthy'?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website. The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

Past events have highlighted that the current system has flaws, and the trial of these new proposals has identified that there is much more information available for us to access than the current system can provide. Our intention is to develop a system which has better outcomes.

Under the current system, supermarket premises get a planned inspection every few years by their local authority, based on the level of risk and current compliance. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## Question 29: Achieving Business Compliance

From: EH contracting, Sole Trader (wishes to remain anonymous)

The FSA appear to be concerned with the lack of consistency in the format of data collection from LA's but the FSA refuse to implement a standardised aide-memoir for LA's to use at food hygiene inspections. Would the FSA consider providing an aide-memoir to LA's, it would, in part, reduce inconsistency, and reduce some motivation for the proposed change?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our

website. The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

Thank you for raising the aide-memoire suggestion. This has been passed on to the relevant policy area for consideration.

This paper was not primarily about consistency, though this is an important consideration. Rather we were seeking to trial a new data-led approach to food hygiene regulation.

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 30: Achieving Business Compliance**

From: EH contracting, Sole Trader (wishes to remain anonymous)

Should the proposals proceed it is anticipated that 3rd party audit businesses and supermarkets audit teams will expand, individuals will hold a suitable qualification and the FSA recognise the shortage of new people holding such qualifications in the system. The effect this will have is that more of these individuals will leave LA roles for such positions, leaving LA resources even shorter. The knock-on effect is National Retailers receiving enhanced audits while higher risk businesses regulated by LA's will be inspected less frequently

due to fewer personnel. Can the FSA explain how more audits done by the same number of people in the pool will maintain or enhance inspection numbers at high risk food premises, and how this fits into the risk based approach ABC strives for?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website. The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about resourcing.

The proposals outlined in the paper do not rely on businesses being audited by third party assurance providers. Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The FSA trialed an alternative, data-led regulatory approach that could help future proof against the ever-changing demands of the food system. Resourcing or funding issues were not a key driver for this work. The principles all through our work are to ensure the FSA protects consumers and look at ways to future proof the regulatory approach.

Officials are very aware of the significant challenges local authorities are facing in recruiting and retaining competent officers. Following FSA research into local authority Capacity and Capability, the FSA set up a project looking at local authority resourcing, which is working with other interested parties to identify solutions to this issue. This is not a problem that that the FSA can solve in isolation, but we are committed to doing what we can. The FSA value Local Authority Environmental Health Officers and will continue to work with Local Authorities to get the best outcomes for consumers across the system as a whole.

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

# Question 31: Achieving Business Compliance

From: Assistant Team Manager Environmental Health and Licensing, South Staffordshire District Council (wishes to remain anonymous)

The following questions are in relation to the potential national regulators proposal to rely on internal assurance and 3rd party audits.

Will LA's still be acting on reactive complaints from the general public?

Will enforcements powers be limited in these types of premises, what will be the role of primary authority?

In our experience even though these premises have a good reputation on paper a lot of local procedures aren't followed in store.

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website. The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about reliance on third party audits, complaints and enforcement.

The FSA is not proposing that businesses can rely on internal assurance and third-party audits. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.



It is also important to note that the FSA value Local Authority Environmental Health Officers and will continue to work with Local Authorities to get the best outcomes for consumers across the system as a whole.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

In response to your specific question, the details of how this would work in practice have yet to be developed. You have rightly picked up that complaints

will be relevant to that work and will form part of the discussions with stakeholders. Your participation in this would be very welcome.

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the details of how this work may develop longer term has yet to be developed and the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 32: Achieving Business Compliance**

From: David, EHO, Local Council

If you do let supermarkets have their own cosy EH consultancies completing audits on their behalf will this information be shared to local authority EHOs? Many EHOs in the council have had to go through years of training to get to their position - completion of the logbook, practical exam, EHORB, degree etc. Most EH consultancies are employing very newly qualified auditors to complete tick box exercises. Remember the consultancies will not want to share the audit

results with councils as they are a business. Will you be making all supermarkets have the same audit template that consultancies audit against?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website. The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about the use of EH consultancies.

The proposals outlined in the paper do not rely on businesses being audited by third party assurance providers, or EH consultancies. Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation has concluded that there is potential to add value by utilising and sharing data generated by large businesses to help assess compliance with food hygiene law, but we know that there are a lot of specific details to be worked through for the longer-term proposals.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

It is also important to note that the FSA value Local Authority Environmental Health Officers and will continue to work with Local Authorities to get the best outcomes for consumers across the system as a whole.

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the details of how this work may develop longer term has yet to be developed and the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 33: Achieving Business Compliance**

From: Principal EHO – Chair, Environmental Health Cheshire and Merseyside - Food Subgroup

1. What comparisons were undertaken between the findings of assurance systems/third party audits and findings of the LA regulator at individual store level? Were these consistent?
2. What consideration has been given to formal action/prosecutions? LAs take formal action, not as a result of insufficient centralised systems but the implementation of them at local level.
3. What research was carried out to assess if the FHRS ratings awarded to the 10 LRs were as a result of an initial inspection or after a requested FHRS re-visit following improvements in compliance.

4. LAs may not be able to see the picture across the business, but is this not the role of Primary Authorities ? Has consideration been given to developing the existing PA scheme, assisting access to the levers to influence proactively at national level ?

5. What quantitative research has been undertaken to support how much this approach will assist LAs? Such businesses tend to have PA inspection plans, so inspection time at sites is focused and reduced. It is not thought that NR will have a significant impact on our workloads. Other areas of work can be done in this regard e.g. businesses that constantly change their Ltd company names and re-register; low risk business registrations.

6. Has a cost benefit analysis been completed demonstrating the need for this change?

7. As noted the 10 LR “wield huge influence” does this not highlight the need for local intervention compliance checks by regulators? Could the same be said for reliance on 3rd party auditor approach?

8. Verification of the accuracy of the data received from the 10 LR consisted of visits to sites. How many premises were visited and where? Who carried out the visits?

9. How will the change in regulator be relayed to consumers that they must contact FSA and not the LA with local complaints ? How will reactive work be dealt with ?

10. Many LRs have other businesses nearby/trading within their curtilage. Issues may arise with different regulators visiting sites.

11. National sampling surveys at supermarkets will FSA be responsible? What of consistency with other businesses?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website. The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about what prior research was done and how this will work in practice.

The FSA's statutory objective is to safeguard public health and protect the interests of consumers in relation to food. With that objective in mind, the FSA has had a programme of work underway to ensure the regulatory approach is fit for the future.

The FSA trial was specifically about being data led, and whether this approach could be used to assess compliance and was not in place to measure when an FHRS rating was awarded to large retailers. The FSA did not carry out specific research to assess if the FHRS ratings were as a result of an initial inspection or after a requested FHRS re-visit.

The proposals outlined in the paper do not rely on businesses being audited by third party assurance providers.

As set out in section 4.2 of ICF's evaluation report, the FSA took a dual approach to validating Large Retailer (LR) data to ensure its accuracy, carrying out independent physical (in-person) visits to LR premises, to compare the results of these visits with LR data, and comparing the results of LR audits with the results

of routine inspections carried out by local authorities as part of a data analysis exercise. Both LRs and Primary Authorities participating in the Proof of Concept were supportive of the FSA's approach to validate the data, an important component of the trial. Premises of all five LRs were visited. Some premises were selected because a specific issue or item of interest was present in the data, while others were selected at random. Visits were unannounced, limiting any ability for LRs to prime their premises for the visit, had the data they provided to the FSA been inaccurate.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The FSA trialed an alternative, data-led regulatory approach that could help address the ever-changing demands on the food system. Resourcing or funding issues were not a key driver when sharing the paper. The principles all through our work are to ensure the FSA protects consumers.

Officials are very aware of the significant challenges local authorities are facing in recruiting and retaining competent officers. Following FSA research into local authority Capacity and Capability, the FSA set up a project looking at local authority resourcing, which is working with other interested parties to identify solutions to this issue. This is not a problem that that the FSA can solve in isolation, but we are committed to doing what we can. The FSA value Local Authority Environmental Health Officers and will continue to work with Local Authorities to get the best outcomes for consumers across the system as a whole.

In response to some of your specific questions about complaints, FHRS and enforcement, the details of how this would work in practice have yet to be developed. The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, however, they asked that FSA officials pause the longer-term thinking and focus on the immediate next steps. They made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland. Your question will be relevant to that work, and your participation in it would be very welcome.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 34: Achieving Business Compliance**

From: Una Kane, Association of Chief Environmental Health Officers

Why are our comments to be limited to 350 words for this major change to food safety regulation in England? National Regulation means Deregulation for “the ten” supermarkets The effect of this proposal would be to fracture the system of food safety regulation, allowing “the ten” supermarkets to be removed from local authority inspection, while all other food businesses remain inside the system. This fundamental change would create an unfair advantage for “the ten” supermarkets, removing them from the obligation of inspections and investigations, against the rest of the food industry which would still be within local authority enforcement. National regulation would be blind to local



premises Over time without local inspections, supermarkets would become complacent, knowing they were not accountable to the local authority and knowing the national regulator would not inspect premises, just rely on information from companies paid by the supermarkets themselves. Such companies cannot be deemed to be “independent.” This is illustrated by the failure of financial audits e.g. Carillion. Have you considered the lessons from the Carillion scandal? Resources are not a justification The proposal states that this change would reduce local authority planned and reactive visits to supermarkets by about 2500 – which is a reduction of 7.8 inspections per local authority in England. How can you use this insignificant figure as a justification for changing a whole system of enforcement? The lessons of Grenfell This proposal is made within days of the published inquiry of the Grenfell disaster, which heavily criticised the regulatory policy to “cut red tape,” the privatisation of the expert body (BRE) and a “merry go round of buck passing”. Have you considered these lessons? Truth must speak to power The proposal mentions that the enforcement decisions of local authorities may be checked by the Secretary of State, when primary authorities disagree (paragraph 3.6). Local authorities have been supported in their decisions by the Secretary of State, allowing food safety prosecutions to be taken. Why remove the ability of local authorities to prosecute supermarkets when the evidence shows that larger businesses are reasonably and proportionately held to account by local authorities?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website. The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board

discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about self-regulation.

The FSA is not proposing that businesses self-regulate. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.

This was the first time that long-term thoughts about reforming the regulatory system were publicly presented. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the paper, working with primary authorities and retailers towards business-level assessment of their data.

The proposals outlined in the paper do not rely on businesses being audited by third party assurance providers. Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The data led approach proposed places additional, more frequent, scrutiny on the large retailers. The work being explored is about regulation and absolutely not about looking to create unfair advantages for any businesses; indeed, during the trial the retailers were placed under additional scrutiny. However, we recognise this is a very different approach to regulation from the current model for a small number of large national businesses.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

# Question 35: Achieving Business Compliance

From: Sarah Newman, Head of Service - Environmental Health & Licensing, LB Bromley

Given that the proposal will reduce LB Bromley by less than 10 and involve approx. 1% of currently regulated businesses do you consider that it is worth the resource involved in de-regulating the Food Safety system, making it less efficient and less safe for consumers?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website. The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about deregulation.

The FSA recognises that LA resources are stretched but this proposal was not designed to directly address this. The focus is on improving outcomes and enabling LA resources to be deployed most effectively. It is not proposing that businesses self-regulate. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 36: Report from the Director for FSA in Wales**

From: Private Individual who wishes to remain anonymous

Reason for submitting question: Concerns about FSA not fulfilling its role

FSA acknowledges that local authorities are key delivery partners. In view of the significant importance of local authorities in the work of the FSA, what direct engagement has the FSA Corporate Director with responsibility for FSA Wales had with Welsh local authorities? It is understood that since taking up post, she has never engaged with Welsh local authorities, with the possible exception of chance encounters with officers. I also understand the FSA Wales Director and Chair of WFAC do not routinely engage with Welsh local authorities. Why is this the case?

Answer:

The WFAC Chair and Board member for Wales will engage with local authorities through the course of her duties and when executing WFAC themed meetings. Since her appointment in September 2023, this has included Rhondda Cynon Taf, Carmarthenshire, Torfaen, Caerphilly, Merthyr Tydfil, Ynys Môn, Vale of Glamorgan, Newport and Conwy.

The Director of UK and International Affairs has met with LA representatives during her attendance at WFAC meetings and is always ready to meet with LAs as and when appropriate. She is kept abreast on all LA matters via regular

updates by the team in Wales, and closely monitors our work in this space through regular discussions with the team.

The Directors for Wales provide an update to the Welsh Food Advisory Committee setting out the senior level engagement happening in Wales. These updates are published and available on the FSA's website.

## Question 37: Achieving Business Compliance

From: David Natolie, Retired food safety consultant

Reason for submitting question: Professional concerns

Does the FSA intend to allow larger food retailers to self-regulate under current food safety regulations? If so, does it propose to regulate the retailers, their operatives, the frequency of internal audits and a given frequency of external regulatory oversight?

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website. The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about self-regulation.

The FSA is not proposing that businesses self-regulate. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities,



businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 38: Local Authority Performance Update**

From: Private Individual who wishes to remain anonymous

Reason for submitting question: FSA incompetence

It's worrying the FSA fails to understand its own data, with a reliance on FHRS data in isolation to assess trends in business compliance. This does not account for changes in compliance brought about by FHRS re-rating requests. Please can the author of the paper explain the FSAs reliance on limited datasets to carry out trend analysis?

Answer:

The data we collect includes intervention data, enforcement data etc. but we do not currently collect broad compliance data or premises level data from local authorities. The FHRS data used within the LA Performance monitoring report is part of this broader set of data used to monitor local authority performance and is not considered in isolation.

Since the start of the COVID-19 pandemic, bespoke online surveys or returns have been used to collect local authority performance data, in place of using the local authority enforcement monitoring system (LAEMS) which became obsolete. We are working to develop a new data collection approach which will provide more relevant and timely performance data on the delivery of official controls

undertaken by local authorities, but this will take time to implement. There is a working group with local authority representation from, England, Wales and Northern Ireland who are feeding into this project.

While we develop the new data solution, the FSA Board have agreed that FHRS data will be used as a proxy for hygiene business compliance. The Board is aware of the caveats around this data however, we need to balance this with the burden on local authorities to collect other data without an appropriate data collection solution.

## **Question 39: Report from the Director for FSA in Wales**

From: Keiron Williams

The report describes a range of activities carried out by FSA Wales, but fails to provide information on outputs and outcomes achieved. Does the Board agree the report lacks a strategic perspective? Does the Board agree there is a need for a greater focus on outcomes and achievements? Does the Board agree there needs to be a more thorough consideration of the work by FSA Wales?

Answer:

The purpose of the annual Director for Wales report to the FSA Board is to provide an update on the specific priorities in Wales, the Wales team's contribution to the FSA's corporate priorities, and a forward look at the FSA in Wales priorities for the coming months. Due to the volume of papers, programmes and issues considered by the Board, the detail contained in the paper is kept to a high level and Board members wishing to learn more can ask for this additional insight during and after the Board meeting. Board meetings are held in open session and all interested parties can register to attend in

person or watch via a livestream. There is also the function for submitting questions beforehand.

## Question 40: Achieving Business Compliance

From: David, EHO

Reason for submitting question: Interest

Who will pick up complaints about supermarkets relating to hygiene? I take it these will be passed to the private sector consultancies and not to the local authority EH department. I am thinking of store hygiene, pest infestations, food complaints, alleged food poisoning, dating etc. This will lead to further confusion from members of the public and create more work for local authority EHOs passing customer complaints to the consultancies.

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website. The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#)

You have asked specifically about the process for dealing with complaints.

In response to your specific question, the details of how this would work in practice have yet to be developed. You have rightly picked up that if this proposal is taken forward, it will be important to understand how complaints will be handled. This will form part of the discussions with stakeholders. Your participation in this would be very welcome.

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, however, they asked that FSA officials pause the longer-term thinking and focus on the immediate next steps. They made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland. Your question will be relevant to that work, and your participation in it would be very welcome.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 41: Achieving Business Compliance**

From: David Mellors, Chair, The Central England Environmental Health Officers Group

The Central England CEHO Group would like to express deep concern regarding the proposed scheme which seeks to introduce the self-regulation of supermarkets/larger businesses for their FHRS score. The outcome of this ABC Working Group would not appear to have been widely shared with local enforcement authorities, nor their regional and national groups. . There seems to have been a step change directly from a sandbox trail to see if the data that is collected by national retailers could be used to provide a risk rating to a proposed major change in the way that Food regulation is delivered in England without appropriate consideration or consultation on the implications for the

food industry as a whole and consumers. The paper recognises that many larger businesses tend to have a centralised risk oversight function, with their own internal expertise and assurance systems, as well as drawing on third party assurance. Our experience of working with the sector suggests good compliance. Most of the supermarkets will have Primary Authority Partnerships but these do not guarantee compliance across all outlets. Local management has been found to be a key compliance factor within national retailers, not only in food safety but also the health and safety at work and nuisance work local authorities enforce. The public and elected members overseeing the food safety function in local authorities rely on their local arrangements and reporting independent of the businesses for confidence in the food safety system in their communities. This paper fails to acknowledge the key role that local authority intelligence-led, risk-based interventions have in this third-party assurance. Food is a community asset, and we would therefore suggest that local oversight is an important factor in providing customer confidence in the system. Although the FSA has managed to have access to 10,000 store audits, these are not the same as an EHO interventions. Audits tend to have the same questions asked each time to the point where the answers can become meaningless, unlike an EHO inspection where EHO's dig further and are not confined to a certain time period for being on site. Also, it is disingenuous to suggest that the plan would allow Local Authorities greater resource to focus on smaller businesses, as the report already states that large retailers are in the main only inspected every 2 years. The report also states that the FSA would need to ensure that it has "the expertise and resources to do the job well", presumably anyone engaged in this work would need to meet the qualification and competency requirements that officers engaged in food hygiene already must have. This resource will most likely come from Local Authorities further exacerbating LA resource issues. Many EHOs are multi disciplined and this precious resource available to LAs

would be further undermined at a time where the national shortage of EHOs is widely acknowledged. We would also note that the holistic role and knowledge that environmental health teams play in local communities across all aspects of public health of which food safety is a key part is being overlooked, such as the joined up working and thinking in the pandemic and flooding incidents involving all levels of food business. We would suggest that to propose such a major change in approach within such a short timeline without the usual consultation and robust challenge against a background where public confidence in deregulation and a light touch has been undermined with numerous failures leading to several high profile and scathing public enquires seems anathema to the FSA's stated mission of consumer protection.

We would suggest that to propose such a major change in approach within such a short timeline without the usual consultation and robust challenge against a background where public confidence in deregulation and a light touch has been undermined with numerous failures leading to several high profile and scathing public enquires seems anathema to the FSA's stated mission of consumer protection which is currently supported by the objective and independent LA sector. If this arrangement is to be introduced for the supermarket sector, being the main providers of food to consumers, it is to be expected that other food delivery sectors will demand similar arrangements in the interests of fairness and consistency. This may present a further risk to consumers and ultimately devalue the FHRS scheme which is currently operated without fear or favour. Whilst acknowledging that such an approach may be acceptable with the right checks and balances in place, aligned to Primary Authority arrangements with robust challenge, we would be extremely concerned that it be approved in a short timeline which would disallow rigorous testing and challenge as to its practicalities and outcomes. The CECEHO Group as employer and custodian of environmental health services within our region remains committed to an

intelligence-led, risk-based local intervention programme to both support our businesses, large and small, and provide public confidence in food safety to our local communities. We should be pleased to be actively involved in any consultation process and discuss these concerns further at your convenience.

David Mellors, Chair For and on behalf of the Central England Chief

Environmental Health Officers Group Note: The Central England Environmental Health Officers' Group comprises the Chief Environmental Health Officers or their equivalent/representative of the West Midlands, Herefordshire, Worcestershire, Staffordshire, Shropshire, and Warwickshire local authorities who meet for the purpose of facilitating better partnership, collaborative working, and the promotion of the Environmental Health profession. This represents the regulatory services within the 7 metropolitan, 18 borough and district, 4 unitary and 3 county local authorities. The purpose of the group is to create the foundation and pillars of a successful future for Environmental Health in the participating Councils, to provide a forum for informed discussion, liaison and decision making between in Central England to deliver more effective and efficient services.

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website. The Board discussed a paper regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have specifically referred to self-regulation, lack of consultation and resource concerns.

The FSA is not proposing de-regulation or that businesses self-regulate. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.

In the FSA, public health is paramount, and we agree that any changes to the regulatory system affects us all and must be considered with extreme care.

It is part of the FSA's commitment to doing policy development in public that ideas are shared publicly at a very early stage. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the paper, working with primary authorities and retailers towards business-level assessment of their data.

The proposals outlined in the paper do not rely on businesses inputting their own data. Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.



Resourcing or funding issues were not a key driver for this work. The principles all through our work are to ensure the FSA protects consumers and look at ways to future proof the regulatory approach.

Officials are very aware of the significant challenges local authorities are facing in recruiting and retaining competent officers. Following FSA research into local authority Capacity and Capability, the FSA set up a project looking at local authority resourcing, which is working with other interested parties to identify solutions to this issue. This is not a problem that that the FSA can solve in isolation, but we are committed to doing what we can. The FSA value Local Authority Environmental Health Officers and will continue to work with Local Authorities to get the best outcomes for consumers across the system as a whole.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 42: Achieving Business Compliance**

From: Private Individual who wishes to remain anonymous, PA Lead/Chartered Environmental Health Officer, Cherwell District Council

Reason for submitting question: Personal views as an experienced PA Lead, Enforcement Officer and advocate of regulatory change

As an experienced enforcement officer working within Primary Authority and actively involved in the Enterprise Level Regulation sandbox trial, I feel it is important to respond to the recent board papers. Our profession takes pride in leading efforts to modernise and test new regulatory approaches. Our participation in previous Food Standards Agency (FSA) trials, such as the National Inspection Strategy, reflects this commitment. In collaboration with our Primary Authority business partners, we were eager to contribute to the Achieving Business Compliance (ABC) trial, focusing on shaping the future of food regulation at the enterprise level. However, following the publication of the FSA Board papers, it became apparent that national-level regulation is now being considered—a development we were not informed of prior to the paper's release. The timing of the board paper, ahead of the ICF Final Evaluation Report, has led to national speculation within the enforcement community and raised concerns from key bodies such as CIEH and OPSS, with whom we work closely. As a strong advocate of the Primary Authority scheme, I am concerned about the potential impact national regulation may have on the role of Primary Authority, especially given our significant involvement in the trial over the years. I am committed to continuing work on Phase 1 of the enterprise-level approach and further developing its concept and design. I recognise that the FSA is in the early stages of these proposals, and that further detailed exploration will be necessary in areas such as stakeholder engagement, handling food complaints, FHRS scoring, legislative changes, management of enforcement visits, benefits to businesses, the role of Primary Authority, FSA team competencies, audit functions, data transparency, and public accountability. I respectfully request that the focus remain on the enterprise-level approach and that Primary Authorities, alongside other key stakeholders, be actively engaged in discussions regarding potential national regulation before any policy decisions are made.

Answer:

Thank you for your comments which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website, regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have specifically referred to lack of consultation and the shift from Enterprise to National Level Regulation.

This was the first time that the FSA's long-term thoughts about how reforming the regulatory system were publicly presented. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the paper, working with primary authorities and retailers towards business-level assessment of their data. The trial did test the concept of Enterprise Level Regulation. The idea of national level regulation was first mooted as one of the building blocks for the future regulatory system in an FSA Board paper last December, which can be found here:

<https://www.food.gov.uk/board-papers/achieving-business-compliance-programme-0>.

The terminology in the trial was Enterprise Level Regulation, but – given the only businesses being considered for such regulation were large national businesses – the terms have been used rather interchangeably since then. The Board understands that the FSA team were concerned that 'enterprise-level' wasn't not clear enough for the layperson, which prompted them to adopt the term 'national level'. Apologies if this change of terminology has created fears that the proposed model has changed.

The Board acknowledged that earlier publication of the final independent evaluation report carried out by ICF Consulting Services Limited would have been useful for external stakeholders and has asked FSA officials to take that learning forward.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board fully understands the concerns raised regarding the role of Primary Authorities as depicted in the paper. We value your feedback and assure you that any subsequent steps will be developed transparently and in collaboration with all stakeholders.

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

# Question 43: Achieving Business Compliance

From: Laura-Jean Taylor, Food Lead Officer, Chorley Council

As stated by the FSA, 95% of the population's food is sourced from large supermarkets. By using internal, monthly self-inputted data, large scale supermarkets could hide deficiencies and mistakes despite having set HACCP procedures and guidance from their Primary Authority. We have already seen various major national incidents and more localised serious incident involving supermarkets and manufactures, which has resulted in preventable health risks including fatal allergic reactions, and major contraventions to food safety and hygiene practices. The new model emphasises the use of data and intelligence, rather than external inspections, by professionals with the correct skills and knowledge to understand associated risks to non-compliance. It is assumed the proposal may relate to lack of capacity and resources, the regulation of food law should not be reduced or undermined to account for the reduction in resources. Lobbying for more resources and to improve career pathway opportunities and affordable professional development should have a united support nationally.

Answer:

Thank you for your comments and questions which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website, regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have commented specifically about use of data from supermarkets and resources.

The FSA is not proposing that businesses self-regulate. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

Resourcing or funding issues were not a key driver for this work. The principles all through our work are to ensure the FSA protects consumers and look at ways to future proof the regulatory approach.

Officials are very aware of the significant challenges local authorities are facing in recruiting and retaining competent officers. Following FSA research into local authority Capacity and Capability, the FSA set up a project looking at local authority resourcing, which is working with other interested parties to identify solutions to this issue. This is not a problem that the FSA can solve in isolation, but we are committed to doing what we can. The FSA value Local Authority Environmental Health Officers and will continue to work with Local Authorities to get the best outcomes for consumers across the system as a whole.

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer

term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## Question 44: Achieving Business Compliance

From: Professor Kevin Fenton, President, UK Faculty of Public Health

### 1. Impact on Local Authorities and Decades of Established Practices:

- Local authorities have been integral to the success of the UK's food regulatory system, offering invaluable local knowledge and tailored interventions for community safety.
- The current local authority-based workforce plays a vital role in ensuring holistic assessments that protect public safety across various technical areas
- Clarity is needed on what constitutes a 'national' business under the NLR framework to assess the full scope and impact of the proposal.

### 2. FSA's Role as a Direct Regulator:

- The proposed shift towards the FSA assuming direct regulatory control for large national food businesses raises concerns about the potential loss of local expertise.

3. Transparency, Consultation, and Evidence: o Any transition to NLR should undergo a thorough impact assessment to evaluate the risks and benefits of altering the existing system.



- Meaningful levels of transparency and consultation with key stakeholders are essential to ensure that any regulatory changes align with public health objectives.
- The current lack of transparency, consultation, and evidence in the NLR proposals does not meet expectations or best practices regarding levels of stakeholder engagement.

In conclusion, the FPH urges the FSA Board to reconsider the implementation of phase one of NLR and take the following steps:

- Assess the ELR evaluation report thoroughly.
- Make detailed NLR proposals available for review, including an impact assessment and clarity on the FSA's direct regulatory role.
- Share all appraised options for delivery models.
- Engage stakeholders across the three nations in consultations on any proposed changes.

These actions are crucial to safeguarding public health, maintaining consumer confidence, and upholding the integrity of our food regulatory system.

Answer:

Thank you for your comments which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website, regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have commented specifically about the impact on LAs, the FSA's role as a regulator and the lack of transparency.

Firstly, the Board would like to make it clear that the FSA value the work of Local Authority Environmental Health Officers and will continue to work with Local Authorities to get the best outcomes for consumers across the system as a whole.

In the FSA, public health is paramount, and we agree that any changes to the regulatory system affects us all and must be considered with extreme care.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

This was the first time that the FSA's long-term thoughts about reforming the regulatory system were publicly presented. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the paper.

As you have identified, the details of how this would work in practice have yet to be developed. The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 45: Achieving Business Compliance**

From: Robin Ramen, Spokesperson, SW Sector Food Group (London)

Where does it sit with FHRS? Where has the transparency been on the consultation with LA partners? What will happen to inspection of concessions trading inside supermarkets? Who will be responsible for the enforcement of complaints and health and safety? What happens if there is no PA inspection plan? We agree with the LFCG submission.

Answer:

Thank you for your questions and comments which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website, regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about FHRS, lack of transparency, inspections, enforcements and complaints.

The FSA is proud of the Food Hygiene Rating Scheme (FHRS) and recognises the very important role it plays to help consumers make informed choices about where to buy and consume food. No changes have been proposed to the scheme and the Board is clear that the FSA does not want to do anything that will destabilise the scheme. Any changes that officials may propose to develop FHRS in future would be done in collaboration with stakeholders and would be subject to a statutory consultation.

This was the first time that the FSA's long-term thoughts about reforming the regulatory system were publicly presented. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the paper.

In response to your specific questions, the details of how this would work in practice have yet to be developed. You have rightly picked up that complaints and health and safety will be relevant to that work and will form part of the discussions with stakeholders. Your participation in this would be very welcome.

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 46: Achieving Business Compliance**

From: Jan Southgate, Health Protection, Compliance and Licensing Manager, Cherwell District Council

With regard to the Nation Level Regulation proposals i have the following questions:

- 1: How does this link in with Primary Authority, as most of the large supermarkets have these. Or is it designed to replace or side line PA?
- 2: How will FHRS work within the proposed scheme?
- 3: Who will make up the team and how will their competency be assessed?
- 4: How will regulators feed into this, will they be able to challenge such a body and who will audit/check the National Body?

5: Is this going to be a 2 tier system of regulation?

6: I presume this would require changes to current regulations?

7: How will reactive enforcement visits for complaints etc be managed, will these still be done by LA's or the National Body?

Answer:

Thank you for your questions and comments which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website, regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about PAs, FHRS, resources, regulations, enforcements.

The Board recognises that any future changes may have implications for the role of Primary Authorities. This paper reflected early thinking and the start of a process of engagement and discussion. We value your feedback and assure you that any subsequent steps will be developed transparently and in collaboration with all stakeholders.

The FSA is proud of the Food Hygiene Rating Scheme (FHRS) and recognises the very important role it plays to help consumers make informed choices about where to buy and consume food. No changes have been proposed to the scheme and the Board is clear that the FSA does not want to do anything that will destabilise the scheme. Any changes that officials may propose to develop FHRS in future would be done in collaboration with stakeholders and would be subject to a statutory consultation.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

In response to your specific question, the details of how this would work in practice have yet to be developed. You have rightly picked up that complaints will be relevant to that work and will form part of the discussions with stakeholders. Your participation in this would be very welcome.

Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer

term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 47: Achieving Business Compliance**

From: Mr H James

Dear Board Member

I am horrified to read the proposals in the FSA's Achieving Business Compliance paper, dated 05/09/2024. The content is a complete whitewash in relation to the claimed successes of the programme and findings of a trial on National Level Regulation.

I do not intend to highlight all of the misleading and bias information presented, nor to outline the significant omissions in respect of known and potential risks to public safety, as there are far too many!

However, I will be viewing the meeting and expecting you to effectively perform your role by diligently scrutinising the proposals. I hope you will give due consideration to the following -

Have the proposals been informed by high quality evidence and data?



Have the proposals been developed, having regard to lessons learnt from relevant reviews and inquiries? The proposals should be considered against the recent findings of the Grenfell Tower Inquiry report!

Has an assessment been carried out of the anticipated costs and benefits of the proposals?

What assessment has been undertaken of the FSA's capabilities? There have previously been significant concerns about the organisation's ability to effectively regulate businesses (Horse Meat Incident and Russell Hulme). There is no information available to demonstrate previous systemic failings have been addressed!

How would the FSA be regulated?

These proposals are predicated on a de-regulatory and privatisation agenda. If they are implemented, there will inevitably be devastating consequences for which you should bear responsibility.

I eagerly await the deliberations at your forthcoming meeting to inform whether it is necessary for me to write to Government Ministers and the media.

Answer:

Hopefully you were able to watch the Board discussion on this matter, which is available here: [FSA Board Meetings | Food Standards Agency](#).

During the Board meeting you will have heard that the Board clearly signalled that whilst the FSA can continue working on next steps with the trial participants, which includes a number of Primary Authorities, it is not endorsing any longer-term proposals at this stage. The Board asked for extensive engagement on the immediate next steps, and for an update to be tabled in December 2024.

In response to your concern about de-regulation, the FSA is not proposing deregulation of businesses. National Level Regulation is not de-regulation. The

proposals would result in additional scrutiny of businesses' compliance with food law.

The concept of a data led approach to regulation is about increasing scrutiny across a small number of businesses, creating central oversight within the FSA. The FSA recognises that these longer-term proposals are a different form of regulation from the current model. National Level Regulation would include the use of data that might not have been available within the food system when the current regulatory system was developed, to help verify the effectiveness of those food safety management systems across entire businesses, as an alternative proposal to the current regulatory system. It is very much regulation.

In response to your questions and concerns about evidence and data, the [final independent evaluation report](#) carried out by ICF Consulting Services states that the Enterprise Level Regulation trial *"demonstrated that there is potential viability for ELR, given that FSA was able to access LR food safety data routinely, in a consistent manner; the data quantity and quality were sufficient for meaningful analysis, and the agreed validation process showed the data was accurate and it allowed FSA to carry out an assessment of compliance"*.

It is part of the FSA's commitment to doing policy development in public that ideas are shared at a very early stage. Although ideas for longer term reform were described in the [paper](#), the only proposal put to the Board at this stage was to move ahead with the next stage set out in the paper, working with primary authorities and retailers towards a business-level assessment of their data. The potential benefits and costs were described in the paper, and the intention is to work with stakeholders to develop this next step in detail.

If any further steps were taken, they would need to be based on appropriate evidence, including learnings from this next stage and extensive engagement with stakeholders. That evidence would need to include a thorough understanding of the costs and benefits of this concept. The FSA is committed to continuous evaluation and improvement and previous decisions form part of our evaluation process.

There are a lot of questions being asked by stakeholders about specific details, such as how FHRS would work alongside NLR, how intervention, enforcement or prosecution would be undertaken, and how this may apply in the different nations of the UK. Whilst this longer-term thinking has been paused in order to

focus on next steps, if it is returned to in future then these are among the questions that officials would want to explore with stakeholders in detail.

The FSA Board will continue to discuss thinking about the best regulatory framework at future Board meetings and welcomes your continued engagement.

## **Question 48: Achieving Business Compliance**

From: Angeline Wolfe, Director, My Compliance People

When I attune to the potential future of regulation by the FSA via data sharing for large organisations like supermarkets I feel contraction, nervousness and hesitation. When I read responses from enforcers, I feel disappointment because of a sense of them feeling powerless in the future food safety regulation and decision making on compliance that will affect 95% of the food purchased in the UK by consumers. What are the possibilities that exist right now for a pause on any decision to remove LA inspections for enterprise organisations to give space to explore and re-vision a strengthened future together? Recognising the interconnectedness of enforcers, business, the public and the regulator can this pause support a re-visioning and co-creation of a system where there is coherence in the field with a new model? This would open up a strengthened future reality to achieve business compliance and ensure the quality and foundational principle of the FSA 'Trust' is protected and ensure enforcers at local level are included in any future system in an empowered way.

Answer:

Thank you for your questions and comments which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our

website, regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about a pause on any decisions.

In the FSA, public health is paramount, and we agree that any changes to the regulatory system affects us all and must be considered with extreme care.

This was the first time that the FSA's long-term thoughts about reforming the regulatory system were publicly presented. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the paper.

The details of how this would work in practice have yet to be developed. The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

# Question 49: Achieving Business Compliance

From: Richard Parker-Harding, Secretary, Sussex Chief Environmental Health Officers

Sussex Chief Environmental Health Officer Group National regulation means deregulation or self-regulation by 10 Supermarkets. Who benefits? The 10 major supermarkets. This would fracture the current uniform system. Give unfair advantage to the 10 Supermarkets. No local inspections, no local redress-not acceptable to the public. Auditors appointed by supermarkets are not independent, they are paid. You cannot just rely on data, you need a reality check by an independent inspector. During the short trial there were still inspections being carried out. This proposal cannot be justified by reducing burdens on Councils, it means a reduction of just 7.8 inspections per authority. In the light of Grenfell and other national disasters-is this the right time to even consider deregulation? Major Supermarkets are frequently prosecuted. Local premises are all different, staffed by different people, failures occur because of local practices and special circumstances-pertaining to that store and its location. Following an appeal to the Secretary of State against the PA-Luton BC, Birmingham recently successfully prosecuted Tesco-who were fined £7.6 million: Tesco fined £7.56m for selling out-of-date food in Birmingham - BBC News This prosecution followed an earlier determination by the Secretary of State. Brentwood: Sainsbury's fined | Gazette ([gazette-news.co.uk](http://gazette-news.co.uk)) South London Iceland stores hit with huge fine after food gnawed by mice found on shelves - MyLondon Waitrose fined for selling out of date food at Sussex store ([sussexexpress.co.uk](http://sussexexpress.co.uk)) Asda fined over dead mice and flies at Enfield depot - BBC News Councils are independent, responsive to local issues and apply the law fairly and consistently. FSA have no enforcement powers. How frequently do the

FSA enforce? How would you prevent “regulation capture” or bias? What about franchises? Do FSA have resources to adequately check the overwhelming data it would receive? How will incorrect or inconsistent data be identified? Please publish the evaluation report. Safety controls rely on triangulation-checking policies by two other reliable sources of information. 95% of the public buy food from supermarkets, there must be independent local food safety enforcement, which the public can have confidence in. Please refer to our letter to the FSA Chief Executive

[Please note the following resource is not accessible. If you require an accessible alternative, please contact [board.sec@food.gov.uk](mailto:board.sec@food.gov.uk)]

Letter Accompanying Question: [Board Question 49 \(Sept 2024\) - Sussex CEHOs Response to FSA National regulation](#)

Answer:

Thank you for your questions and comments which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website, regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about deregulation and the potential impacts of this.

The FSA is not proposing that businesses self-regulate. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.

The data-led approach proposed places additional, more frequent, scrutiny on the large retailers. The work being explored is about regulation and absolutely

not about looking to create unfair advantages for any businesses; indeed, during the trial the businesses were placed under additional scrutiny. However, we recognise this is a very different approach to regulation from the current model for a small number of large national businesses.

The FSA provides public information on its enforcement activities and publishes reports on its website. This transparency helps ensure that the public is informed about food safety standards and the measures taken to enforce them.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The Board acknowledged that earlier publication of the final independent evaluation report carried out by ICF Consulting Services Limited would have been useful for external stakeholders, and we have asked FSA officials to take that learning forward.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The details of how this would work in practice have yet to be developed. The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 50: Local Authority Performance Update**

From: Private Individual who wishes to remain anonymous

The paper states that the FSA '....remain concerned about the availability of resources in local authorities and their ability to deal with the large volumes of interventions outstanding at lower risk establishments and the backlog of inspections at newly registered businesses.' Given these acknowledged pressures, why is the FSA Chair during media interviews calling for local authorities to take on additional responsibilities, namely the assessment of



nutritional standards in school meals? Is the FSA Chair aware the FSA does not have the policy remit for nutrition in England and Wales? Is the FSA Chair using the FSA to further her own personal and professional interests in relation to nutrition?

Answer:

The Food Standards Agency and the Department for Education (DfE), with support from the Office for Health Improvement and Disparities, launched a joint project to design and test a new approach for local authorities to ensure and support compliance with School Food Standards. These standards aim to help children develop healthy eating habits, but historically, compliance with these standards has not been assured. The FSA Chair, Professor Susan Jebb, took part in a BBC Radio 4 interview about the pilot where she called on everyone involved in the provision of school food to work together to ensure compliance. Recognising the importance of assurance, the project was initiated across multiple local authorities in May 2022. The pilot went live in September 2022 and ran throughout the school year until July 2023, helping to ensure that children received healthy meals while at school.

Policy remit for school food sits with DfE, and the FSA were involved in this work due to our role as a regulator. The School Food Standards Compliance Pilot is an example of our work to ensure food is healthier, but ultimately responsibility for school food sits with DfE. Compliance with the School Foods Standards is mandatory for all maintained schools, academies and free schools. Local authorities can play a significant role in supporting schools to meet these requirements.

The pilot was voluntary and tested whether Food Safety Officers carrying out routine food hygiene inspections could ask additional questions and make observations related to School Food Standards to identify possible non-

compliance. It also considered whether local authorities were able to support schools to make improvements in areas of potential non-compliance. The pilot's focus was to test feasibility, being mindful of the resources available to local authorities. The pilot has now ended and we are working with DfE to discuss next steps. We understand local authorities are facing many pressures and will be considering local authority resourcing concerns in any future work.

## Question 51: Chief Executive's Report

From: Private individual who wishes to remain anonymous, Senior Environmental Health Technician, Chichester District Council

Reason for submitting question: I have grave concerns about the proposal by the FSA to remove the ten major supermarkets from Local Authority Regulation. This will create an unfair and unjust 2 tier system for food businesses. I refer you the submission by the Local Food Liaison Group.

In relation to the proposal to remove the ten major supermarkets from Local Authority regulation I would ask the FSA to reconsider this proposal as it will create a two tier , unfair system of regulation for other food businesses. Why was such a short time scale given for this proposal to be considered by Local Authorities?

Answer:

Thank you for your questions and comments which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website, regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about timescales.

This was the first time that the FSA's long-term thoughts about reforming the regulatory system were publicly presented. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the paper.

This is not about creating a two-tier system, rather the data led approach proposed places additional, more frequent, scrutiny on the large retailers. The work being explored is about regulation and absolutely not about looking to create unfair advantages for any businesses; indeed, during the trial the retailers were placed under additional scrutiny. However, we recognise this is a very different approach to regulation from the current model for a small number of large national businesses.

The Board acknowledged that earlier publication of the final independent evaluation report carried out by ICF Consulting Services Limited would have been useful for external stakeholders, and we have asked FSA officials to take that learning forward.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer

term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 52: Achieving Business Compliance**

From: Janet Catley-Young, Service Manager- Environmental Health- Commercial and EP, Ashfield District Council

Does the Board accept that regulation should be independent with no body/company regulating being in a position to benefit financially? does the board accept that non independent regulation could, and often does offer a conflict of interest ?

My understanding is that SHIELD SAFETY has a vested interest in this area of work, which introduces a conflict of interest. Will the board disclose which and ALL private companies or consultants/enterprises/persons who were involved in this project/trial?

Are the board aware of the conflict of interest of the board director of ABC who is also a director of SHEILD SAFETY?

Since the evaluation papers/results have not been published, and have been embargoed until the 18th September 2024, how can the FSA board and Local authorities be confident in the proposals. Will the FSA board release the

evaluation papers so these can be subject to scrutiny before agreeing to the proposals and ensure that public health is protected.

Are the board aware that the proposal on the final paper differs greatly from the original proposal that the trial LA agreed to take part in and that the primary authority were not engaged honestly and in an open and honest way?

The proposals suggest that the work surrounding the large supermarkets is minimum for LA's. on that basis alone, why are the changes needed? If supermarkets do not need so much regulatory work and/or enforcement, they do not offer a burden on LA's. do the board accept then that LA's can perfectly regulate and enforce where necessary large supermarkets ?

The paper accepts that there is a shortage of qualified and certified EHO's in the UK. What qualifications will the staff competing these inspections be required to have? Does the board accept that the NLR will further reduce the pool of suitably trained and qualified EHO's available to the public sector at a time when private companies can offer better pay?

The trial has relied on the supermarkets submitting their own evidence to demonstrate compliance with food law. It goes without saying that they would only share positive data and not failings. I have had reason to arrange for an inspection of two large companies that would come under these proposals. One was for a mouse infestation and another for sewage entering underneath fridges. In both these cases, the head office had not acted pro-actively when Store managers had reported problems – Do the board accept that local intelligence and complaints ensure such concerns and complaints are acted upon? There have also been numerous cases where large supermarkets and chains have been prosecuted for out-of-date food and infestations, how can the board be sure that public health is protected when local evidence suggests otherwise?

Does the board accept and / or realise that policy and procedure set out at a head office is not always demonstrated in practical terms at local level and that independent enforcement and regulation should be the way forward and not self-regulation?

Will the board consider previous incidents /examples of deregulation and self-regulation and the actual risk to public health? Such as the findings of the Grenfell Tower Inquiry and the Horse meat scandal and Russel Hume investigation after central regulation?

Can the board explain why Local Authorities were not involved and informed of these proposals and only learned of the proposals from an article in The Grocer magazine on the 30th August 2024? Why wasn't there a consultation across all LA's before coming before the board?

Will the board advise this proposal is stopped and ensure that a FULL public consultation is carried out to ensure that all stakeholders, including environmental health professionals are given the opportunity to comment and contribute to any and all changes that will impact on public health and food safety.

Answer:

Thank you for your questions and comments which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website, regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about conflicts of interest, deregulation and the lack of consultation.

The FSA is not proposing that businesses self-regulate. There is no question of supermarkets, or any other food businesses, regulating themselves. The law is clear that all food businesses must be subject to independent regulation.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

This was the first time that the FSA's long-term thoughts about reforming the regulatory system were publicly presented. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the paper.

The Board acknowledged that earlier publication of the final independent evaluation report carried out by ICF Consulting Services Limited would have been useful for external stakeholders, and we have asked FSA officials to take that learning forward.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

During the lifecycle of the ABC programme officials have worked with a number of external consultancies, and utilised expertise available through short-term contractual arrangements for specific advice or scrutiny. The proposals submitted to the FSA Board were developed by the FSA team.

Regarding your question based around a concern over conflict of interest; the Chair of the FSA, Professor Susan Jebb, confirmed verbally and entered into record at the FSA Board that this is categorically not the case for any FSA Directors or Board members. For the avoidance of any doubt, the FSA Executive Director responsible for the ABC programme since July 2021 has been Katie Pettifer. She is currently the interim Chief Executive of the FSA. Katie does not have, and has never had, any links to third party assurance companies.

The details of how this would work in practice have yet to be developed. The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.



## Question 53: Chief Executive's Report

From: Private individual who wishes to remain anonymous,

Reason for submitting question: In the interests of transparency and the achievement of global food security ([noting this report](#))

1. At the March 2024 Board meeting an Action was agreed for Robin May to provide a Board paper to the June or September 2024 Board meeting on managing conflicts of interests among the FSA's expert advisers. Does the Board know when this will be presented?
2. What was the value of Robin May's trip to Israel in June 2023, and if any gifts or hospitality were received, what was the value of these? Who or which organisation/s paid for the visit or provided any gifts or hospitality?
3. What was the outcome of Robin May's trip to Israel in June 2023? Were any contracts entered into, or less formal agreements for ongoing collaboration made?
4. Did Robin May attend anything else in a professional or personal capacity other than the Food Sec & Tech Conference?
5. If the answers to question 2 are unknown, does the FSA plan to review its Conflict of Interest Policy and procedure such that it will collate the value of trips, hospitality and gifts received by officials and advisors in the future? If not, will it consider reviewing best practice in this area?

Answer:

The Chief Scientific Adviser (CSA) provided an update on management of conflicts of interest amongst Food Standards Agency (FSA) expert advisers in his [annual update to the Board](#) in June 2024.

The CSA's visit was organised and funded by the FSA and Foreign, Commonwealth and Development Office. Neither the CSA, nor any other attendees received any gifts or hospitality either pre or post visit.

In person visits for fact-finding purposes play a critical role in ensuring the FSA operates as a science and evidence-based organisation. The CSA's visit to Israel in June 2023 was entirely fact-finding, with a core objective of learning from Israel's approach to the alternative protein industry and wider food innovation, which is a key policy area for the FSA. During the visit, the CSA attended the Food Sec and Tech Conference and was a panellist for one of the discussion sessions. He also met with the British Embassy in Israel, the Israeli Ministry of Health, and relevant NGOs and industry bodies.

No contracts or agreements (either formal or informal) were made during the visit, nor have any been entered into since.

FSA policy requires that all staff declare conflicts of interest. The process is overseen by the HR department. In keeping with central government requirements, any outside employment, work, or appointment (paid or otherwise remunerated) held by a member of the Senior Civil Service that has been agreed through the process for the declaration and management of outside interests must be published. The [FSA Register of Senior Civil Servant secondary paid employment April 2023 to March 2024](#) was published in August 2024.

# Question 54: Achieving Business Compliance

From: The National Food Hygiene Focus Group

Response to Board Paper Achieving Business Compliance – National Level Regulation

The National Food Hygiene Focus Group became aware of the FSA Board Paper, FSA 24/09/05 following an article in 'The Grocer' Magazine. Following this the group had a discussion regarding the paper, and particularly the proposed National Level Regulation.

We are writing in advance of the FSA Board meeting to share our deep concerns regarding the approach to national level regulation as suggested in the paper, and include questions posed from the group.

The National Food Hygiene Focus Group provides a forum for regulators to take a strategic overview of national issues/developments concerning food hygiene legislation & policy. We were therefore surprised and disappointed in the lack of transparency and consultation with the group regarding the conclusion of the ABC delivery programme and the proposal for national level regulation. The FSA did not discuss this proposal with the group in any way.

The National Food Hygiene Focus Group has always worked closely with the FSA and has built a relationship of respect; therefore, we are disappointed that we were not informed, at our recent meeting in July, of these proposals. Whilst we have received information regarding the Enterprise Project from the FSA there has been no mention of national level regulation until this paper was published.

We are certainly not opposed to change and agree that the delivery of local authority regulation needs modernising, but the opinion of the group is that this is not the correct solution and certainly should not be treated as a priority. The

group has identified other areas that would be more beneficial for exploration, for example, licensing schemes and clearly defined alternative enforcement strategies. We believe that consulting stakeholders will allow feedback to the Agency on practical options to modernise regulation.

We would question if this proposal puts the consumer at the heart of the food hygiene delivery policy, and we seek to understand the pace at which the conclusion of the project has been put forward.

We are aware that there has been an independent scrutiny of the trial, but this evidence has not been provided for review by stakeholders. We would therefore ask that the FSA provides the full evidence to support proposed

national level regulation, supplemented by a consultation with all stakeholders on the future model before and decisions to change policy or legislation are made.

The group has collated several questions regarding the contents of the board paper as set out below:

- Has a cost benefit analysis been completed to demonstrate the need for this change?
- How will local complaints and reactive work be dealt with and reported to LA's? There is well documented evidence of some significant failings with some of the large retail sites.
- How will the change in regulator be relayed to consumers that they must contact FSA and not to take it to the LA or local elected members?
- We would highlight that similar model such as the HSE enforcement model has led to loss of local intelligence sharing. LA's will still be responsible for H&S at supermarkets.
- How will this align with FHRS in particular, confidence in management and being consistent in its application?

- Who will be completing local verification visits? Will it be third party auditors? How will their competency be validated? How will any contract for this work be awarded?
- Many large retailers have other businesses nearby/trading within their wider curtilage (sometimes with shared issues such as pest control). How is it proposed that intelligence will be shared, and enforcement action taken? There is a concern that different regulators in different premises may cause issues.
- Would the FSA be taking part in national sampling surveys at supermarkets? If not, is this fair and consistent with other businesses?
- Concerns have been raised about potential resource implications. Will the FSA have sufficient their capacity if a major issue arises? Many LA's have pest or other significant issues that they must deal with quickly and may result in closures. How will the FSA deal with these issues?
- How will this model align with the roles of Primary Authorities who are also responsible for other regulatory matters? Do PA's not already deliver what is proposed? It is not clear if PA's will remain or if it will be abolished for certain sectors/functions. Removing the PA scheme could create financial burdens for LA's.
- Could more explanation please be provided with regards to Phase 1.

In conclusion we would urge that the FSA pause this paper to reconsider the options and allow stakeholders within England, Wales and Northern Ireland to have a proper and inclusive consultation with the FSA before any decisions on policy are made.

Answer:

The FSA Board has clearly signalled that whilst the FSA can continue working on next steps with the trial participants, which includes a number of Primary Authorities, it is not endorsing any longer-term proposals at this stage. The

Board asked for extensive engagement on the immediate next steps, and for an update to be tabled in December 2024.

Hopefully you were able to watch the Board discussion on this matter, which is available here: [FSA Board Meetings | Food Standards Agency](#).

This was the first time that long-term thoughts about reforming the regulatory system were publicly presented. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the paper, working with primary authorities and retailers towards business-level assessment of their data.

It is part of the FSA's commitment to doing policy development in public that these ideas were shared at a very early stage, and this is the very beginning of looking at how the FSA can ensure the regulatory model remains fit for purpose long into the future.

The next step will be bringing stakeholders together for extensive consultation and dialogue and to consider the range of opportunities and challenges that these immediate next steps present. The FSA is at the very start of a change journey and values the input that this group has to offer.

It is encouraging to read your views on the need for regulatory modernisation. National level regulation is not the only idea being explored by the FSA. As the paper states (para 2.12), officials will also continue to work with local authorities to explore the case for an enhanced registration process (which might include discussion of areas such as licensing) and to identify areas in which the enforcement toolkit might be improved. In discussions with local authorities, the topic of charging is also raised frequently. Sustainable funding was discussed at the FSA Board in September 2024, in relation to the [Local Authority Performance Update](#). Further work is needed between the FSA and local authority representatives to understand the mechanisms, risks and opportunities associated. The Board supported further work in this area and further exploration of the opportunities and risks and for close engagement with local authorities on this matter.

There are a lot of questions being asked by stakeholders about specific details, such as how FHRS would work alongside NLR, how intervention, enforcement or

prosecution would be undertaken, and how this may apply in the different nations of the UK. Whilst this longer-term thinking has been paused, if it is returned to in future, any specific challenges such as these, would be explored with stakeholders in detail.

As officials continue with the immediate next steps of this data-led approach with the retailers that were involved in the original trial, work with Primary Authorities will continue to understand the added value that working in this way could deliver for all parties.

Of course, food safety will always be the number one priority. There will always need to be checks on businesses, large or small, to make sure their food is safe. But as the trial shows, there may be different ways of carrying out some checks which still keep standards high and consumers safe.

Please continue to send questions that directly relate to the Board papers. Officials are also happy to receive more general correspondence on their work at any time. The next Board meeting will be on 11 December 2024.

FSA officials are looking forward to discussing this further at the next meeting with the National Food Hygiene Focus Group on 25 November.

## **Question 55: Local Authority Performance Update**

From: Dr Duncan Campbell, Public Analyst, The Public Analyst Service Ltd

Food sampling and subsequent analysis and examination performs an essential function. Is the Board concerned that the number of samples taken for analysis or examination is less than two thirds of what it was a decade ago? Does the Board consider it acceptable that some competent authorities routinely take no samples for analysis?

Answer:

Sampling has decreased over the years due to budget and resource pressures, and it is recognised that some local authorities undertake little or no sampling. The Board paper notes that the latest local authority monitoring data suggests the volume of backlogs in the lower risk interventions is being prioritised over sampling.

The Board recognises the importance of sampling, which is one component of effective enforcement to protect public health. The [Food Law Code of Practice \(FLCoP\) and Practice Guide](#) requires local authorities to set up, maintain and implement a sampling policy and programme. We have drawn attention to the continued downward trend in sampling in the [Our Food Report 2023](#) and recognise that this is of concern. The FSA commissions its own targeted surveillance sampling to monitor food safety, standards and identify emerging risks. Linked to this, the FSA also supports a laboratory capabilities programme which builds testing capabilities in Official Laboratories and ensures local authorities have access to the latest methods. These results are shared with local authorities to enable them to target their own sampling. They are also used to target FSA grant funded local authority sampling at areas of risk to improve compliance.

While local authorities are working towards re-aligning with the FLCoP, the FSA is taking a pragmatic approach in performance management, concentrating on compliance with interventions initially. The latest data shows local authorities have made considerable progress with returning to the requirements of the FLCoP, particularly with the backlog of interventions in areas of highest risk and it is reassuring that some local authorities report they are now able to re-introduce sampling policies. Sampling is one of the key performance indicators that will be monitored the future.



# Question 56: Achieving Business Compliance

From: Mark Mitchell, Principal Environmental Health Officer & Chair of the NE Food Liaison Group, North East Public Protection Partnership

The board has been provided with one of the reasons for this change being the resourcing challenges for LA's, this maybe true in the context of the broader full inspection plan, but the reduction in visits within the supermarket chains would have limited impact on overall LA resource given the relative number of premises and frequency of inspection. It will however put a gap in the food chain where LA's will not have an enforcement role. Recent experience shows that where there is a reduction in the number of inspections an LA is required to undertake there follows a reduction in the numbers of inspectors and not a reallocation of resources to lower risk inspections. This program has been put forward, whilst the revision of the food hygiene risk rating scheme has been put on hold, which would arguably have been more effective in returning resources back to LA's and allow for a consistent approach across both the standards and hygiene risk rating models. The report advised that for larger national chains, individual store inspections by LA's may not be the most effective method. Given the use of the Primary Authority system, which have oversight and are aware of the national picture. The local inspection by LA's then provides the much needed local review that controls are implemented locally. Providing oversight from end to end. Has the board considered that the framework for these proposals appears to be FH based, what happens in relation to standards, LA's would still be expected to visit under the new FSDM. Has consideration been made that a lot of routine inspections are made in conjunction with complaints. As such the conclusion on the reduction in burden for LA's and the business may not be as straight forward There is no indication within the briefing regarding the

investigation of complaints, would deliver centrally rather than at a local level. How will the large retailers own assurance systems be monitored? Will these assurance systems cover other areas of Environmental Health enforcement?

Answer:

Thank you for your questions and comments which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website, regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about LA resource and the details of the new model in relation to visits and complaints.

Resourcing or funding issues were not a key driver for this work. The principles all through our work are to ensure the FSA protects consumers and look at ways to future proof the regulatory approach.

Officials are very aware of the significant challenges local authorities are facing in recruiting and retaining competent officers. Following FSA research into local authority Capacity and Capability, the FSA set up a project looking at local authority resourcing, which is working with other interested parties to identify solutions to this issue. This is not a problem that that the FSA can solve in isolation, but we are committed to doing what we can. The FSA value Local Authority Environmental Health Officers and will continue to work with Local Authorities to get the best outcomes for consumers across the system as a whole.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able observe trends in performance across all participating retailers' stores and could identify new

opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

In response to your specific question, the details of how this would work in practice have yet to be developed. You have rightly picked up that complaints will be relevant to that work and will form part of the discussions with stakeholders. Your participation in this would be very welcome.

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 57: Achieving Business Compliance**

From: TSEM Partnership Manager, Trading Standards East Midlands (TSEM)

which is a voluntary partnership made up of Trading Standards Services (TSS)

from local authorities across the East Midlands region

It appears that Local Authorities (LA's) (Environmental Health and Trading Standards) have not been made directly aware of or consulted with about this proposal despite existing and established channels of engagement with the Food Standards Agency (FSA). Is there any reason why this has not been undertaken? We would suggest that this proposal is a significant policy change. [This appears contrary to the FSA's own published guidance on how you consult](#) which states "For significant policy and legislative changes we will undertake a formal consultation. We publish all consultations on our website and alert stakeholders to this." LA's and possibly other stakeholders have not had appropriate time to effectively review and feedback on the outcomes of the trial and the proposal outlined within the Board paper and its Annex. Would the Board consider delaying any decision relating to implementation and opening up discussions with appropriate stakeholders to facilitate this? If not, how do the Board propose to effectively engage and consult with relevant stakeholders in relation to both Food Hygiene and Food Standards, to ensure their views are considered before any proposed implementation is commenced? We appreciate that the current Board paper mainly considers Food Hygiene, but mentions that Food Standards may be incorporated at a later date, further supported with Annex A clearly showing this in the roadmap proposed.

Answer:

Thank you for your questions and comments which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website, regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about lack of consultation.

This was the first time that the FSA's long-term thoughts about reforming the regulatory system were publicly presented. However, although ideas for longer

term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the paper.

The Board acknowledged that earlier publication of the final independent evaluation report carried out by ICF Consulting Services Limited would have been useful for external stakeholders, and we have asked FSA officials to take that learning forward.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The details of how this would work in practice have yet to be developed. The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 58: Local Authority Performance Update**

From: Kelly Snare, Secretary, Wales Food Safety Expert Panel

Local authorities are being expected to address the backlogs with the current level of resources. It is difficult to resource for a one-off period of peak demand. There needs to be some levelling out of due dates. Many businesses were closed during the pandemic which is not acknowledged within this update. There is no

mention of how the response to the Covid pandemic in Wales differed to the other nations with regard to the diversion of environmental health officers from food teams to the Covid response. Use of FHRS data masks trends in compliance due to re-rating requests. There is no reference to FSA support for local authorities. How does the LA performance reported fit in the context of delivering against backlogs rather than business as normal? This is not discussed. The paper states that food borne disease has not increased. This is not what is reported by public health organisations. There is a difference in the inspection frequencies between Wales and Eng premises are inspected at a greater frequency in Wales which has not been referenced in the report.

Answer:

The FSA recognises the unprecedented strain the COVID-19 pandemic put on local authority public protection services and we have reported on this in various Board papers (2020, 2021). The local authority recovery plan was put in place in direct recognition of the impact of the pandemic. Local authorities were expected to be working towards realigning with the Food Law Code of Practice from April 2023. [This paper](#) recognises that local authorities are applying a risk-based and intelligence led approach to their prioritisation of interventions as they work towards re-aligning with Code and whilst it is reasonable to expect checks to be back on track, huge progress has been made but there is still a lot to be done.

The data we collect includes intervention data, enforcement data etc. but we do not collect broad compliance data or premises level data. The FHRS data used within the local authority performance monitoring report is part of this broader set of data used to monitor local authority performance and is not considered in isolation. The Board is aware of the caveats around this data, however, we need

to balance this with the burden on local authorities to collect other data without an appropriate data collection solution.

Since the start of the COVID-19 pandemic, bespoke online surveys or returns have been used to collect local authority performance data, in place of using the local authority enforcement monitoring system (LAEMS) which became obsolete. We are working to develop a new data collection approach which will provide more relevant and timely performance data on the delivery of official controls undertaken by local authorities, but this will take time to implement. There is a working group with local authority representation from England, Wales and Northern Ireland who are feeding into this project.

While we develop the new data solution, the FSA Board has agreed that FHRS data will be used as a proxy for hygiene business compliance.

The FSA uses a risk-based and data-driven approach to performance management, to engage with and support local authorities responding to issues of concern in a proportionate and graduated manner utilising discretion where appropriate. Where the data indicates an issue, we work specifically with the local authority in question to develop an action plan that addresses resource constraints to deal with backlogs in that particular local authority.

We are unsure what figures you are referring to in your statement about foodborne disease reported by public health organisations. However, the FSA tracks and reports on confirmed laboratory reports of foodborne disease using data provided by the four UK Public Health Agencies. These trends are published in the [Annual Report and Accounts](#). While we saw an increase in confirmed laboratory reports for three of the four pathogens reported on in 2023 compared to 2022, some year-to-year variation would be expected and none of the thresholds for action, as set out by the [Business Committee in 2018](#) were exceeded.

Whilst the paper does not directly acknowledge the difference in inspection frequencies between England and Wales, the FSA is aware that there is variation in scoring parameters applied to category C and D premises which results in differences in inspection frequency. This is taken into consideration when we undertake performance monitoring of local authorities and agree on individual action plans.

## Question 59: Local Authority Performance Update

From: Simon Wilkinson, Temporary Head of Regulatory Services, Welsh Local Government Association

[Please note the following resource is not accessible. If you require an accessible alternative, please contact [board.sec@food.gov.uk](mailto:board.sec@food.gov.uk)]

Letter Accompanying Question: [Board Question 59 \(Sept 2024\) - 240916 WLGA response to FSA National Level Regulation final](#)

Answer:

The FSA Board has clearly signalled that whilst the FSA can continue working on next steps with the trial participants, which includes a number of Primary Authorities, it is not endorsing any longer-term proposals at this stage. The Board asked for extensive engagement on the immediate next steps, and for an update to be tabled in December 2024.

Hopefully, you were able to watch the Board discussion on this matter, which is available here: [FSA Board Meetings | Food Standards Agency](#).

The Board notes the concerns you raise about de-regulation, risk to public health, accountability, and local expertise. The Board wants to assure you and the Welsh Local Government Association that the FSA is taking these concerns very seriously and is listening. The FSA's overriding objective, set out in law, is to



protect public health and otherwise to protect the interests of consumers in relation to food. Any reforms will be considered with this objective firmly in mind. But, as the food system evolves, it is right to consider whether there are opportunities for protecting consumers more effectively in future, and making sure the regulatory model remains fit for purpose long into the future.

It is part of the FSA's commitment to doing policy development in public that these ideas were shared at a very early stage. At this stage, the Board was only being asked to agree the next steps with the trial participants in England. Any proposals for longer term, legislative changes would be for ministers to consider, and the Board was clear that it is not endorsing that at this stage. However, it was made very clear during the Board discussion that national level regulation is not about deregulation of businesses. It is clear that the trial has in fact resulted in additional scrutiny of businesses' compliance with food law. The concept of a data led approach to regulation is about increasing scrutiny across a small number of businesses, creating central oversight within the FSA.

The longer-term ideas discussed in the paper are a different form of regulation from the current model. They involve the use of data that might not have been available within the food system when the current regulatory system was developed, to help verify the effectiveness of those food safety management systems across entire businesses. But this would still very much be regulation.

The Board does acknowledge that earlier publication of the [final independent evaluation report](#) carried out by ICF Consulting Services Limited would have been useful for external stakeholders. The Board has asked the FSA Executive team to take on that learning going forward.

FSA officials are now bringing stakeholders together for extensive consultation and dialogue and to consider the range of opportunities and challenges that the immediate next steps present. Officials are aware of and remain committed to the collaborative agreement between the FSA, Welsh Government and Local Authorities, and it is fully the intention that any proposals for changes to local authority regulation to be explored in Wales should be developed in accordance with that agreement. Hopefully you will contribute your views as any proposals for Wales are developed.

There are a lot of questions being asked by stakeholders about specific details, such as how FHRS would work alongside NLR, how intervention, enforcement or

prosecution would be undertaken, and how this may apply in the different nations of the UK. Whilst longer-term work on reform has been paused in order to focus on next steps, if it is returned to in future, these are all questions officials would explore with stakeholders in detail.

In particular, the FSA is proud of the Food Hygiene Rating Scheme and recognises the very important role it plays to help consumers make informed choices about where to buy and consume food. No changes to the scheme have been proposed during the proposed next steps, and the FSA will not do anything that will destabilise the scheme. If any changes were proposed in future to develop FHRS, these would be done in collaboration with stakeholders and would be subject to a statutory consultation.

It is worth pointing out that national level regulation is not the only idea being explored by the FSA. As the [paper states](#) (para 2.12), FSA officials will also continue to work with local authorities to explore the case for an enhanced registration process (which might include discussion of areas such as licensing) and to identify areas in which the enforcement toolkit might be improved. The Board look forward to hearing your views on these areas in the future too.

Further to an evidence-gathering exercise during 2023, in the December 2023 FSA Board paper on designing the Future Regulatory Assurance System, research findings were outlined which supported the idea of an enhanced registration process including an appropriate fee. At the September 2024 meeting, the FSA Board showed their support for officials to explore the idea of charging by local authorities.

Finally, it may be helpful to clarify the next steps on this work. The Board asked officials to continue to explore the immediate next steps on the trialled data-led approach, as it offers the potential to provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers. However, the Board were also explicit that the development needs to be done in close collaboration with local authorities and other interested parties to address some misconceptions and to work on some practical details about how this might operate. The Board asked for extensive engagement with a range of stakeholders including local authorities, primary authorities, and businesses, as well as discussions with governments across England, Wales and Northern Ireland.

Representatives from WLGA recently attended the round-table event with the FSA interim Chief Executive – which it is hoped demonstrates the FSA's commitment to working with your organisation, and that the FSA welcomes your continued engagement on these proposals.

## Question 60: Achieving Business Compliance

From: Christine Walker, Food and Safety Manager, East Suffolk Council

Regarding the trial in England to test a new approach for regulating large retailers

1. Would the FSA take on all supermarket customer complaints: hygiene, foreign body, suspected food poisoning, vermin, storage of waste etc. and, if so, how would they investigate them to ensure with consistency with other neighbouring food businesses?
2. How will this be relayed to consumers that they must contact FSA to complain and not to take it to the LA or local elected members? Would this be consisted with the local authority food complaint investigations at neighbouring food businesses?
3. Would the FSA they be taking part in national sampling surveys at supermarkets? If not, is this fair and consistent with other businesses?
4. Would the FSA be taking appropriate enforcement action for non-compliance? Improvement notices, prosecutions Tesco fined £7.5m for selling out of date food at three city stores | Birmingham City Council or Sainsbury's fined for old food | News Shopper

5. Food safety issues in supermarkets tend to be local level non-compliance, not issues with the requirements from head office. How will the FSA pick that up from looking at paperwork?

6. Why has the FSA not put this proposal out for consultation?

7. It feels that major supermarkets who supply most of the food, will get a very light touch enforcement and small businesses who supply less food will still be inspected to the Food Law CoP standard. Will the FSA be employing enforcement officers who meet with the FSA competency framework as all LA enforcement officers need to be?

Answer:

Thank you for your questions and comments which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website, regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about complaints, enforcement and lack of consultation.

This was the first time that the FSA's long-term thoughts about reforming the regulatory system were publicly presented. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the paper.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the

businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

In response to your specific question, the details of how this would work in practice have yet to be developed. You have rightly picked up that complaints will be relevant to that work and will form part of the discussions with stakeholders. Your participation in this would be very welcome.

The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive

engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## **Question 61: Achieving Business Compliance**

From: Mike Greenwood, Chair of the Hampshire FLG and Environmental Health Manager for Winchester City Council's Health Protection team, The Hampshire Food Liaison Group

Having read the recent Achieving Business Compliance paper included in the FSA Board papers for the meeting on 18 September 2024, I write with concern and a question on behalf of the Hampshire Food Safety Liaison Group. Very little information has been shared with Local Authorities about this move towards national regulation. We have concern that removing the role for regulation from Local Authorities will increase the risk to the public as more generic methods of assessing compliance are favoured instead of a premises focussed approach. What consultation and opportunity for feedback will there be with Local Authorities, as we have local knowledge of the premises in our areas?

Answer:

Thank you for your questions and comments which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website, regarding proposals for future national regulation of large food

businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#).

You have asked specifically about a lack of information.

In the FSA, public health protection is paramount, and we agree that any changes to the regulatory system affects us all and must be considered with extreme care.

This was the first time that the FSA's long-term thoughts about reforming the regulatory system were publicly presented. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the paper.

The Board acknowledged that earlier publication of the final independent evaluation report carried out by ICF Consulting Services Limited would have been useful for external stakeholders, and we have asked FSA officials to take that learning forward.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The details of how this would work in practice have yet to be developed. The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer

term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.

## Question 62: Achieving Business Compliance

From: Fran McCloskey, Chief Executive, Chartered Institute of Environmental Health

The Chartered Institute for Environmental Health submitted an open letter, available in this link, to the FSA Board. It outlined our significant concerns regarding transparency, stakeholder consultation and impact of the proposed phase on consumer confidence, business and local authorities. Will the FSA Board confirm that it does not agree to this phase, and instead ask the FSA Executive to engage with us and other key stakeholders so that the concerns can be addressed?

Letter Accompanying Question: [CIEH open letter in response to FSA National Level Regulation proposals](#)

Answer:

The FSA Board agrees with CIEH that consumer confidence in the food regulatory system is extremely important. Our statutory objectives are to safeguard public health and otherwise to protect the interests of consumers in



relation to food, and we are guided by those objectives in everything that we do. The food sector is evolving rapidly, and we want to ensure that consumers continue to have food they can trust in the future. That is why the FSA has been exploring new approaches to regulation through its Achieving Business Compliance Programme, including the new model for food standards regulation currently being rolled out, the changes to the Food Law Code of Practice currently being explored with local authorities on food hygiene regulation, and our voluntary food safety charter with the online aggregators.

We hope that you have had the opportunity to watch the Board meeting, which can be viewed [here](#), and to see the amount of careful scrutiny that is being given to the proposals being explored through the Achieving Business Compliance programme, and indeed the wider work underway to support local authority regulation of food businesses.

Given the concerns you have raised about national level regulation, it might be helpful to begin with a description of what the FSA has done. Over the past year, the FSA has been exploring whether it is possible to make a business level assessment of overall food safety controls, across the whole enterprise. To test the feasibility of this approach, the FSA undertook a trial with five large retailers and their corresponding Primary Authorities. The current regulatory system remained unchanged and in operation while the trial was taking place. The ten large retailers occupying the largest share of the grocery market were invited to take part in the trial, and five chose to participate.

We note your concerns about lack of transparency. The findings from the trial, summarised in the [Board paper](#) can be found in the independent evaluation report here: [Evaluation of the Enterprise Level Regulation \(ELR\) Proof of Concept \(PoC\): Final report \(food.gov.uk\)](#). The Board does acknowledge that earlier publication of the final independent evaluation report carried out by ICF

Consulting Services Limited would have been useful for external stakeholders. We have asked the FSA Executive team to take on that learning going forward.

While the FSA Executive team described in the paper some ideas about where national level regulation might go in the long term, the proposal put to the Board was that the FSA should move into what the paper described as Phase 1 of national level regulation. This would involve utilising provisions in existing legislation (e.g., those allowing for primary authority inspection plans) to continue a data-led approach like the one trialled.

The Board asked officials to continue to explore the trialled data-led approach, as we consider it offers the potential to provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers. However, the Board were also explicit that the development needs to be done in close collaboration with local authorities and other interested parties to address some misconceptions and to work on some practical details about how such a scheme might operate. The Board asked for extensive engagement with a range of stakeholders including local authorities, primary authorities, and businesses, as well as discussions with governments across England, Wales and Northern Ireland.

The FSA is now bringing stakeholders together for extensive consultation and dialogue and to consider the range of opportunities and challenges that the immediate next steps present. Any proposals that are developed will focus on maintaining the current high standards that we all value so much. We have asked the FSA team to focus on getting input from stakeholders, and to bring a detailed proposal for the immediate next steps to the December Board. We would welcome CIEH's help in making this engagement as far-reaching and constructive as possible.

The Board also made clear that it is not, at this stage, endorsing any longer-term proposals on national level regulation. The FSA has paused longer term policy work to focus on next steps. There are a lot of questions being asked by stakeholders about specific details, such as how FHRS would work alongside NLR, how intervention, enforcement or prosecution etc would be undertaken, and how this may apply in the different nations of the UK. At the point when any longer-term work is resumed, these are most certainly among the questions that FSA officials would want to explore with stakeholders in detail.

The Board is clear that any changes to the way regulation is delivered need to be based on appropriate evidence, including learnings from this next stage and extensive engagement with stakeholders. There would need to be public consultation on any proposed changes to the Food Law Code of Practice or legislation, and thorough consideration of the costs and benefits. As the Board paper acknowledges, direct regulation would change the FSA's risk profile, and we would have to ensure that we have sufficient oversight and resources to deliver effectively.

An update on the immediate next steps will be brought to the Board in December 2024 for further discussion.

In the meantime, we thank you for attending the CEO roundtable hosted by the FSA after our September Board, and for your continuing engagement with us on these proposals.

## **Question 63: Achieving Business Compliance**

From: Mark S. Williams, Cyfarwyddwr Corfforaethol â Economi a'r Amgylchedd  
Corporate Director for Economy and Environment

[Please note the following resource is not accessible. If you require an accessible alternative, please contact [board.sec@food.gov.uk](mailto:board.sec@food.gov.uk)]

Letter Accompanying Question: [Board Question 63 \(Sept 2024\) - Letter - Mark - FSA Board regarding paper Achieving Business Compliance 16.09.24](#)

Answer:

The FSA Board has clearly signalled that whilst FSA officials can continue working on next steps with the trial participants, which includes a number of Primary Authorities, it is not endorsing any longer-term proposals at this stage. The Board asked for extensive engagement on the immediate next steps, and for an update to be tabled in December 2024.

Hopefully you were able to watch the Board discussion on this matter, which is available here: [FSA Board Meetings | Food Standards Agency](#).

The Board notes the concerns that you raise about de-regulation, risk to public health, accountability, and local expertise. The Board wants to assure you that the FSA is taking these concerns very seriously and is listening. The FSA's overriding objective, set out in law, is to protect public health and otherwise to protect the interests of consumers in relation to food. Any reforms will be considered with this objective firmly in mind. But, as the food system evolves, it is right to consider whether there are opportunities for protecting consumers more effectively in future, and to make sure the regulatory model remains fit for purpose long into the future.

It is part of the FSA's commitment to doing policy development in public that these ideas were shared at a very early stage. At this stage, the Board was only being asked to agree the next steps with the trial participants in England. Any proposals for longer term, legislative changes would be for ministers to consider, and the Board was clear that it is not endorsing that at this stage. However, it was made very clear during the Board discussion that national level regulation is not about deregulation of businesses. It is clear that the trial has in fact resulted in additional scrutiny of businesses' compliance with food law. The concept of a data led approach to regulation is about increasing scrutiny across a small number of businesses, creating central oversight within the FSA.

The longer-term ideas discussed in the paper are a different form of regulation from the current model. They involve the use of data that might not have been available within the food system when the current regulatory system was developed, to help verify the effectiveness of those food safety management systems across entire businesses. But this would still very much be regulation.

The Board does acknowledge that earlier publication of the [final independent evaluation report](#) carried out by ICF Consulting Services Limited would have been useful for external stakeholders. The Board has asked the FSA Executive team to take on that learning going forward.

FSA officials are now bringing stakeholders together for extensive consultation and dialogue and to consider the range of opportunities and challenges that the immediate next steps present. FSA officials are aware of and remain committed to the collaborative agreement between the FSA, Welsh Government and Local Authorities, and it is the intention that any proposals for changes to local authority regulation to be explored in Wales should be developed in accordance with that agreement. Hopefully you will contribute your views as any proposals for Wales are developed.

There are a lot of questions being asked by stakeholders about specific details, such as how FHRS would work alongside NLR, how intervention, enforcement or prosecution would be undertaken, and how this may apply in the different nations of the UK. Whilst longer-term reform has been paused to focus on next steps, if it is returned to in future, these are all questions officials would explore with stakeholders in detail.

In particular, the FSA is proud of the Food Hygiene Rating Scheme and recognises the very important role it plays to help consumers make informed choices about where to buy and consume food. No changes to the scheme have been proposed during the proposed next steps, and the FSA will not do anything that will destabilise the scheme. If any changes were proposed in future to develop FHRS, these would be done in collaboration with stakeholders and would be subject to a statutory consultation.

It is worth pointing out that national level regulation is not the only idea being explored by the FSA. As the [paper states](#) (para 2.12), officials will also continue to work with local authorities to explore the case for an enhanced registration process (which might include discussion of areas such as licensing) and to

identify areas in which the enforcement toolkit might be improved. The Board look forward to hearing your views on these areas in the future too.

Further to an evidence-gathering exercise during 2023, in our December 2023 FSA Board paper on designing the Future Regulatory Assurance System, officials outlined research findings which supported the idea of an enhanced registration process including an appropriate fee. In the September 2024 meeting, the FSA Board showed their support for officials to explore the idea of charging by local authorities.

Finally, it may be helpful to clarify the next steps on this work. The Board asked officials to continue to explore the immediate next steps on the trialled data-led approach, as it offers the potential to provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers. However, the Board were also explicit that the development needs to be done in close collaboration with local authorities and other interested parties to address some misconceptions and to work on some practical details about how this might operate. The Board asked for extensive engagement with a range of stakeholders including local authorities, primary authorities, and businesses, as well as discussions with governments across England, Wales and Northern Ireland.

The Board appreciates the time and care that you put into your letter and welcomes your continued engagement on this matter. The next Board meeting will be on 11 December 2024.

## Question 64: Achieving Business Compliance

From: Helen Atkinson, Senior Environmental Health Officer, Chartered Health and Safety Practitioner, Wakefield Council

[Please note the following resource is not accessible. If you require an accessible alternative, please contact [board.sec@food.gov.uk](mailto:board.sec@food.gov.uk)]

Letter Accompanying Question: [Board Question 64 \(Sept 2024\) - PRIMARY AUTHORITY SUPERMARKET GROUP SUBMISSION TO FSA BOARD](#)

Answer:

The FSA Board has clearly signalled that whilst FSA officials can continue working on next steps with the trial participants, which includes a number of Primary Authorities, it is not endorsing any longer-term proposals at this stage. The Board asked for extensive engagement on the immediate next steps, and for an update to be tabled in December 2024.

Hopefully you were able to watch the Board discussion on this matter, which is available here: [FSA Board Meetings | Food Standards Agency](#).

In the letter from the group, you clearly laid out your questions and concerns for consideration, and the Board welcomes your feedback. Like you, the FSA takes pride in exploring modernisation and testing new ways of working, and it has been encouraging to work with you during the Enterprise Level Regulation Trial. The Board thank you for your input and participation throughout. As you have acknowledged, officials are still in the early stages of thinking and hope to be able to continue to work with you as they explore the next steps, including how to maintain the benefits identified during the trial and place these arrangements for enhanced scrutiny on a more sustainable footing.

In terms of next steps, the Board were clear that there must be extensive engagement and consultation with a range of stakeholders, including local authorities, primary authorities, and businesses, as well as discussions with governments across England, Wales and Northern Ireland. To date, the ABC Programme has utilised the Local Authority Advisory Forum with representatives from across the three nations to update LAs on work, as well as to seek input. However, officials understand they must do more, and the FSA team have already started to engage more actively with a number of organisations, including CIEH in order to improve on previous engagement. They will also continue to engage with OPSS on the role of primary authorities in the next steps and in the future.

The Board acknowledged that earlier publication of the [final independent evaluation report](#) carried out by ICF Consulting Services Limited would have been useful for external stakeholders and have asked FSA officials to take that learning forward.

It is part of the FSA's commitment to doing policy development in public that ideas are shared publicly at a very early stage. The idea of national level regulation was first mooted as one of the building blocks for the future regulatory system in an FSA Board paper last December; [Achieving Business](#)

[Compliance Programme | Food Standards Agency](#) which the trial participants had access to. The terminology was Enterprise Level Regulation, but – given the only businesses being considered for such regulation were large national businesses – the terms have been used rather interchangeably since then. The Board understands that the FSA team were concerned that 'enterprise-level' was not clear enough for the layperson, which prompted them to adopt the term “national level” fully. Apologies if this change of terminology has created fears that the proposed model has changed.

There are a lot of questions being asked by stakeholders about specific details. You asked a set of extremely helpful and insightful questions, covering areas like how FHRS would work alongside NLR, how a complaints process and reactive interventions would look, how an inspection plan and relevant legislation would allow for this, how future enforcement or prosecution would be undertaken, and how roles across the system might change. Whilst longer-term reform thinking has been paused, if it is returned to in future these are all questions officials would explore with you in detail. In the meantime, the Board has asked the FSA team to focus on working with stakeholders, including primary authorities, on a detailed proposal for the immediate next steps. Many of your questions will be relevant to that work, and your participation in it would be very welcome.

The FSA team are absolutely committed to engaging with you as this thinking develops. The Board has given a clear directive on this matter, but FSA officials need your help to get it right.

## Question 65: Achieving Business Compliance

From: Denise Rion, Head of Technical, British Frozen Food Federation (BFFF)

The British Frozen Food Federation (BFFF) wishes it to be noted that we align with the concerns raised by the Chartered Institute of Environmental Health (CIEH) to the NLR proposals, as outlined in their open letter to Susan Jebb and Katie Pettifer, dated 13th September 2024, namely:

- Risk of consumer loss of confidence and local point of reference
- Potential to add to public health risks



- Potential to overturn decades of local authorities-based food inspection and monitoring
- FSA's imagined role as a direct regulator
- Lack of transparency, consultation and evidence.

We are particularly concerned at the potential risk to public health, loss of consumer confidence and confusion such a move could cause and from the information provided to date, fail to see how such a system could ever replace the expertise and knowledge held by our local authorities.

We would particularly like to ask the following questions:

1) Has any work been done to understand the true nature of the work the local authorities carry out? – i.e. the different challenges they encounter from business to business (sometimes non-food related) and the tailored interventions they subsequently have to make.

2) How will such a system ensure that such challenges are not overlooked? In the interests of public safety, we would strongly urge the FSA to allow time for a full consultation and further evidence-gathering to take place before any final decisions are made.

Answer:

Thank you for your questions and comments which we received ahead of the September Food Standards Agency (FSA) Board meeting and published on our website, regarding proposals for future national regulation of large food businesses. If you were not able to watch the Board discussion on this matter, the recording is available here: [FSA Board Meetings | Food Standards Agency](#). You have asked specifically about information gathered from local authorities and lack of consultation.

In the FSA, public health protection is paramount, and we agree that any changes to the regulatory system affects us all and must be considered with extreme care.

This was the first time that the FSA's long-term thoughts about reforming the regulatory system were publicly presented. However, although ideas for longer term reform were described in the paper, the only proposal put to the Board at this stage was that officials should move ahead with the next stage set out in the paper.

The FSA is focused on maintaining the current high standards that we all value so much and ensuring that regulation is as effective as possible in the future. The FSA has numerous experienced staff across the Agency who understand the true nature of the valuable work the local authorities carry out, the challenges they encounter, and the pressure they are under.

Under the current system, supermarket premises get a planned inspection every few years by their local authority. During the trial, the FSA scrutinised the businesses' internal food hygiene control systems and saw monthly data from internal and third-party audits on many areas including chilling processes, pest control and cleaning across all stores. Environmental Health Officers engaged by the FSA carried out some local checks to verify the data. During the trial, the FSA had access to data from over 10,000 audits, compared with the 1,500 local authority inspections carried out. This meant the FSA was able to observe trends in performance across all participating retailers' stores and could identify new opportunities for improvements to food safety systems, alongside the existing inspections of individual premises.

The independent trial evaluation which has been posted on the FSA website has concluded that this data-led approach is potentially better as a way of assessing compliance with food hygiene law and therefore protecting consumers.

This evaluation can be found here:

<https://www.food.gov.uk/sites/default/files/media/document/Evaluation-of-the-Enterprise-Level-Regulation-Proof-of-Concept-Final-report.pdf>

The details of how this would work in practice have yet to be developed. The Board agreed that national level regulation could provide additional scrutiny of the food safety controls in some businesses serving a very large number of customers, while recognising there were many questions to answer. However, the Board made clear that they were not endorsing any proposals for longer term legislative change at this stage. The Board asked that FSA officials focus on the immediate next steps and made clear that there would need to be extensive

engagement and consultation with local authorities, primary authorities, businesses and consumers, as well as discussions with governments across England, Wales and Northern Ireland.

An update on the next steps will be brought to the Board in December 2024 for further discussion.