Food Sampling in Local Authorities

Report on research into food sampling policies and approach

August 2020

Contents

1. Executive Summary

- Local authorities (LAs) have a duty to establish and implement a sampling policy and programme. The Food Standards Agency (FSA) currently offers limited guidance to LAs on how to approach sampling as the scope of sampling varies considerably across different LAs. To help support LAs the FSA is developing a new FSA sampling policy which, as part of the suite of official controls, will help protect public health from risks that may arise in connection with the consumption of food, and retain consumer confidence.
- This report documents the findings from a small-scale exploratory qualitative study of 17 interviews with food leads in LAs across England, Wales and NI and 4 interviews with scientific leads in laboratories. The focus of the research was to explore how LAs develop and implement sampling policies and programmes, the influences on their sampling programmes, and how these work in practice.
- The research findings reflect anecdotal evidence of a large degree of variation in sampling practice. Even amongst a narrow sample (i.e. mostly LAs who did a higher volume of sampling than others), there were many differences in budget, structure and approaches to sampling.
- However, sampling was seen as a valuable tool in the compliance toolbox. Participants recognised there was a growing need for sampling, particularly given the growth in novel and imported foods and increased focus on allergens.
- Participants reported that sampling has decreased over the years due to budget and resource pressures, and that some LAs undertake little or no sampling. Many reported a shift towards more proactive sampling in recent years, whereas previously sampling may have been more random.
- A minority of LAs did not have sampling policies in place, even though they knew this meant they were not compliant with the FSA Food Law Code of Practice (FLCoP).
- All participants bar one had a planned programme of proactive and reactive sampling. Participants said that planned sampling work would be stopped or side-lined if other priorities (such as outbreaks or incidents, following up failed samples, and prioritising inspections to meet FSA targets) took over, and therefore flexibility is needed.
- Participants said they always followed up on sampling results, and, where corrective action was needed they would seek to work with the business in the first instance to understand and address the issue.
- In terms of improvements, participants would welcome a more co-ordinated approach to sampling nationally, based on greater aggregation and analysis of results, paired with more input (including from the FSA) on priority issues based on their intelligence. Participants also stressed the need for better support on funding, e.g. to fund staffing, as well as testing/ analysis of samples.

2. Background & Objectives

2.1. Background

LAs are legally required to inspect food and feed businesses appropriately and consistently, ensuring they meet hygiene (microbiological) and legally prescribed food standards and compositional requirements.

In addition, the FLCoP requires LAs to set up, maintain and implement a sampling policy and programme.

In light of a number of issues as a result of recent reviews (see below), the FSA wanted to conduct some further research to provide evidence of how LAs consider and develop their sampling policies, the factors that influence the scope of their sampling framework, how they use and respond to sampling results, and to create methodologies for assessing the effectiveness of a sampling programme.

The Food Standards Delivery Review undertaken by the FSA was carried out between 12th March and 16th May 2017. The survey sought to establish a baseline in respect of the current delivery of food standards official controls across England, Wales and Northern Ireland. The review indicated that, whilst sampling is seen as an essential tool in monitoring compliance and identifying non-compliance, sample numbers overall are reducing, with significant variation in terms of available capacity, resource and funding for sampling activity across LAs, and also differences in how sampling activity is planned and how sampling outcomes are used. A summary of the findings of the Review can be found at: Food Standards Delivery Review Report.

A comprehensive review on official laboratories was conducted between September 2018 and March 2019. The first phase assessed the readiness of UK official control laboratories for EU exit and looked at the capability and capacity of laboratories providing services to the LAs and UK Government departments. The work, undertaken by Fera Science Ltd, was used to inform the next phase of the review. Further details can be found at: Review on Official Control Laboratory system.

2.2. Objectives

Research was required to understand:

- How LAs consider and develop their sampling policies, the factors that influence the scope of their sampling framework and how they use the sampling results;
- To identify key factors that influence the development, implementation and evaluation of sampling policies; and
- To understand what corrective action LAs take in response to unsatisfactory samples and whether these actions effectively correct the issues identified.

3. Methodology

The research used a qualitative methodology with 22 x 45 minute telephone interviews[1] to meet the exploratory nature of the objectives. Interviews were conducted by senior researchers and followed a topic guide that allowed views to be explored in a flexible manner.

Further detail on the methodology, sample, and discussion guides can be found in Annex A.

The research was interrupted by the COVID-19 lockdown, which meant that we did not complete the original 30 interviews as planned. Specifically, the plan was to include more participants from Other Government Departments (OGDs) that conduct or oversee sampling, but these could not be completed due to lockdown and the COVID-19 response.

As a result, this report only covers the interviews held with the LAs and Public Analysts (PAs) and Scientific Leads in Public Health laboratories. The 1 interview held with the OGD has been included separately as a case study in Annex B.

Text in quotation marks indicates anonymised verbatim quotes directly from participants, which are included to illustrate the findings.

[1] Qualitative interviews use a semi-structured approach, which means that researchers use a pre-agreed interview guide covering off the key topics and questions of interest, but this is not used as a set script. This means that interviews allow for interviewees to lead some of the conversation, and for interviewers to follow-up specific areas of interest, covering off key topics and questions as they go.

4. Main findings

Research interviews included discussion on the context of sampling in LAs, drivers and barriers to sampling and to the development of sampling policies. The themes echo findings from a review the FSA conducted into food standards delivery and of the food and feed laboratory system. The findings from this research can be found in full in Annex B to the report, but are summarised here:

- There was a large degree of variation in sampling practice. Even amongst a narrow sample (i.e. mostly LAs who conduct higher volumes of sampling), there were many differences in budget, structure and approaches to sampling.
- However, sampling was seen as a valuable tool in the compliance toolbox. Participants recognised that there was a growing need for sampling, particularly given the growth in novel and imported foods, and the increased focus on allergens.
- Participants reported that sampling has decreased over the years due to budget and resource pressures, and it is recognised that some LAs undertake little or no sampling.
- Most LA participants had sampling policies in place. However, a minority did not have policies, even though they knew this meant they were not compliant with the FSA FLCoP.

4.1. Developing sampling programmes and plans

All the participants who carried out sampling had a planned **mix of proactive and reactive sampling**, both with regards to hygiene and standards. All were doing substantially more proactive than reactive sampling – usually around 75% proactive, but for some, proactive sampling was up to 90% of their sampling activity.

The **proactive** sampling included:

- National and regional surveys designed by Public Health England (PHE)/ Wales/ Northern Ireland and by regional groups;
- Routine sampling of approved businesses/ premises and high-risk businesses;
- Local surveys decided by individual LAs. These are planned programmes of sampling prompted, for example, by a previous year's results, officer knowledge/ intelligence or intelligence shared by neighbouring authorities.

Many said there had been a shift towards more proactive sampling in recent years, whereas previously sampling may have been more random. Participants said that, given the pressures on budget and resources, a targeted approach was better. They also felt that it fitted with a risk-based, intelligence-led approach to ensuring compliance. Even so, participants said reactive sampling was still a necessary and

important part of their sampling programmes, and most made sure there was budget available for this.

The **reactive** sampling included:

- Response to complaints (more common with hygiene sampling than standards sampling) or a food poisoning outbreak (hygiene);
- Response to Rapid Alerts;
- Response to local intelligence/ officer suspicions and regional intelligence (for example, an Environmental Health Officer (EHOs) noticing a greasy film on school dinner trays, prompting sampling of the trays).

Participants talked about how resource and budget limited the amount of reactive sampling they were doing, for example:

- Unable to follow up on every person's complaint;
- FSA targets often mean LAs have to prioritise low risk Food Business Operators (FBOs) inspections instead of following up on complaints;
- Some known issues or concerns (e.g. Cannabidiol (CBD) oil in foodstuffs; watered down spirits) do not get followed up.

> "The challenges are meeting inspection targets. And you also get your complaints coming in which you have to deal with. Sampling can suddenly go further down the line and then it becomes passed down, because your priority is your inspections and your compliance." (Hygiene)

The order of prioritisation of components in sampling programmes was broadly similar amongst participants who had established programmes. **Figures 1 & 2** below describe the rough order of prioritisation (higher priority drivers at the top), including any differences in priority of the elements between hygiene and standards. Please note, there were some variations in how LAs prioritised these elements (as explained below), and this shows the most common order of priorities in hygiene and standards sampling programmes.

Figure 1: priority of hygiene components in sampling programmes

Hygiene
• Regional and national surveys • Routine sampling of approved and high-risk FBOs • Local surveys/ investigations • Response to complaints/ evidence during inspections

Figure 2: priority of standards components in sampling programmes

Standards
• Routine sampling of priority premises, approved premises and high-risk manufacturers • Local intelligence based on officers' knowledge of local manufacturers, retailers, importers and distributors • Regional surveys • Response to Rapid Alerts, complaints, regional group intel

However, several factors influence how LAs prioritise this mix of elements in their sampling frameworks, including budget, resource and the number and type of businesses within a LA area. For example:

- Those with larger teams and dedicated sampling resource (such as technical officers) found themselves able to do more proactive sampling and look at wider factors (such as alerts, academic papers, guidance on specific pathogens and media coverage) to decide their sampling programmes;
- Others were almost entirely focusing on regional and national surveys, and do not look more broadly than this;
- Some with responsibility for food hygiene find they have to focus on routine sampling of higher risk businesses over surveys, especially when they have a large number of premises relative to their size, or where they have national manufacturers or newer businesses.

Participants talked about the **value and influence of regional groups, laboratories and PAs** in shaping and influencing their annual sampling plans. Most participants were active in their regional groups (including several who chaired groups or were secretaries) and had good working relationships with their PAs and/or Public Health laboratories. This enabled participants to seek guidance about what to focus on in

local sampling plans, but also to influence regional and national surveys. Examples included laboratories polling LAs about what to focus on in surveys, and voting within regional groups to choose priorities.

> "They [the laboratory] will give us a number of potential options for regional and national surveys and we rank them, and feed that information back to them. They are pretty good at taking our views on board with regards to what will be a regional and national strategy." (Hygiene)

Interviews with PAs and scientific leads Public Health laboratory suggest some differences in their role in influencing sampling programmes:

- **Hygiene/ Public Health laboratories**: while they attended regional groups, they said they had more of a role in providing technical guidance, for example regarding feasibility and protocols. They both suggested they now have less time than in the past to do a wider review of evidence and scientific papers that might inform surveys. They also suggested it would be the LAs that decided on surveys.

  "[We have] a fair bit of influence [in regional groups], it depends on what the exact issue is, and the more technical issues actually sending samples to the laboratory – we would have a lot. The other ones, the FSA members and LA members are more appropriate at setting the standards." (Public Health Laboratory)

- **Standards/ PAs** talked about a more proactive role in gathering and reviewing evidence and developing programmes for LAs. One of the PAs talked about reviewing evidence based on past results, looking for trends. They also reviewed wider influences like media reports, Rapid Alerts, product recalls/ withdrawals, and global issues that might affect the markets (e.g. crop failures or flooding affecting availability of certain products, potentially leaving open to potential for fraud and substitution). However, their analysis of this was more intuitive than formal and structured.

  "There's no great rocket science to it. We literally trawl through media trying to think well, okay, what's going to be the next, try and second guess what's going on. And just think what would we want to do? What would we come up with?" (PA)

The research suggests there are **variations between the devolved nations** in the role and influence of laboratories and regional groups, with greater co-ordination and stronger influence in Wales and Northern Ireland. For example:

- **In Wales**: some participants said that their local food groups (involving LAs and PAs) drive standards sampling programmes, coming up with strategies for each LA in the area. The Welsh Food Microbiological Forum influences hygiene

sampling plans, and participants said that they and most other Welsh LAs adopted its 'shopping basket' survey.

- **In Northern Ireland**: regional groups and laboratories appeared to play a stronger role in determining LAs' sampling programmes, including by specifying surveys and how many hygiene and standards samples LAs were to submit each month.

In contrast, most participants **in England** appeared to see the laboratories, PAs and regional groups as having more of an advisory role than a coordinating or directing role. They felt it was up to them to decide which surveys to do. They decided based its relevance to them (for example, whether they have businesses producing those food products in their area, whether they have found issues in the past). They also considered how easy/ practicable it is to do and whether they have resource to do the survey.

> "We look at how relevant [surveys] are in [our area] because some of them are not relevant to [our area]. Sometimes the surveys are research rather than actually looking at enforcement matters and so forth. We look at the difficulties of getting the samples, and how many samples we might take… We basically prioritise on all those sorts of levels and then decide… which ones we're going to do, and which ones are not worth us doing." (Joint Hygiene & Standards)

Many of the interviewees said that it was important that their sampling programmes were **adaptable and flexible**, for a number of reasons:

- To be able to **respond to changes in circumstances** on the ground, especially if it relates to enforcement, for example, an outbreak or allergen issue. Sometimes this meant withdrawing from surveys and routine work to focus on responding to the immediate issue.
- Because **annual surveys are not always agreed in time** for the published Food Safety Service Plan. Some participants said that they left flexibility in their plans to accommodate future surveys.
- To **respond to business needs**, for example if a local business wants to develop a new product, but needs input.
- To **follow up on an unsatisfactory sample result**. Some said they had had to stop a proactive programme of work, for example because samples had failed allergen testing, and therefore officers were diverted to work with the business to find the source of the problem and put it right.
- Where they are **not finding any issues** during a survey. Some participants said this was a reason to end their involvement in a survey early.

  > "There's some projects that carry on and some projects where you'll get part way through the year and think, actually there really isn't a problem here. We'll just not do any more work on it. Although we had planned it for the year, it is

not really going anywhere. So, let's just knock it on the head. And possibly look at something else." (Standards)

Most participants **did not specify target numbers** of samples in their sampling programmes. This was for a number of reasons:

- There were too many variables that might affect sampling levels, such as unforeseen priorities, needing to order more expensive tests, or other budget and resource pressures reducing sampling capacity.
- For some, budget was the main determinant of how much sampling was done.
- Some felt that quality of sampling was more important than quantity. They worried that, if they specified targets, this would drive activity and move them away from a targeted, intelligence-led approach, focusing on businesses where they believe there might be problems.

  "If you're not careful you could be driving the wrong behaviour. So, if it says the key performance indicator is, 'How many samples have we taken?' and the more the better, well then you end up in a situation where people are just going to take samples just for the sake of it. And not really thinking about it." (Standards)

However, a few participants were more focused on the numbers of samples they took over a year, and this was driven by the request from laboratories to submit survey samples. For example, some participants in Northern Ireland knew exactly how many samples they needed to submit to the laboratory for each month. In addition, although numbers were not specified in their annual sampling plans, several participants were setting sampling targets for officers over the year.

4.2. Sampling budgets

There was much **variation** in the size, source and structure of sampling budgets amongst participants. Most participants we spoke with did have a dedicated sampling budget for sampling, but all knew of LAs where this was not the case. A few participants had no dedicated sampling budget, and so any sampling activity needed to be covered from wider service budgets.

Echoing the FSA's previous review of LAs food standards delivery, this research found wide variation in sampling budgets. Where participants had dedicated sampling budgets, these ranged in size from £10,000 to £75,000 per annum. These figures should be treated with caution – this was a small qualitative study, and different LAs calculated budgets very differently.

In addition, the study focused mostly on LAs who conduct higher levels of sampling, whose budgets are potentially higher than the norm. We are therefore unable to determine patterns and influences on budget sizes. However, it did not seem to be the case that budgets were greater amongst those covering both hygiene and standards sampling than those just covering standards. For example:

- Joint functions – sampling budgets mentioned included: £10,000, £14,500, £20,000, and £75,000
- Standards only – sampling budgets mentioned included: £10,000, £25-30,000 and £45-50,000

The participants who did not have a dedicated sampling budget were in LAs with responsibility for hygiene sampling only. The costs of their sampling activity were met through PHE credit system (to cover costs of food examination), their wider food service staffing budgets and equipment budgets. However, because they did not have a dedicated sampling budget to cover other costs associated with sampling, they did less (in some cases, almost no) sampling.

All participants were keen to stress that sampling costs were far wider than just the costs of testing/ examination:

- **Staffing resource** was the key cost to be covered, and this affected the level of sampling they did, even if they had a healthy sampling budget. Staff time included:
  - The sampling visit itself;
  - Travel time (which can be substantial in a larger rural council);
  - Time boxing up, labelling and entering data;
  - Time liaising with couriers and the laboratory; and

  - Time following up with the business about the results, which for some was a potential barrier to carrying out sampling itself, especially (as a PA said) if this could lead to costly and time-consuming court proceedings.
- **Direct costs**, including petrol costs, cost of purchasing samples, cost of sampling equipment, packaging (jars, bags, bottles), and storage; and courier costs.

PAs and Scientific Leads in Public Health laboratories also spoke of the **budget and resource pressures facing laboratories**. One PA commented that a combination of cuts and increased bureaucracy had put laboratories under huge pressure and meant that they were not always able to do the tests LAs asked them for.

Participants responsible for **hygiene sampling** greatly appreciated the PHE credit system for covering the costs of food examination. To an extent, they felt that this facilitated sampling activity.

Many participants were not using up their full credit allocation, primarily due to limited staff resourcing to take and follow up samples. Some also suggested that this was also the case for neighbouring LAs. However, some were using up their full allocation, or even going over it. They reported that laboratories were happy to re-allocate unused credits from other LAs in their patch, so this was not seen as a problem.

Those with responsibility for **standards sampling** said it was often harder to find budget for this, especially as they also had to cover the costs for chemical sample testing/ PA costs. Many talked about the decline or loss of funding for standards sampling (except in Wales, where participants said there are projects funded by FSA Wales on e.g. speciation and allergens), leaving some with no sampling budget at all. Nonetheless, they said that they would try to find funds to cover sampling if there was a real issue.

Some participants felt that funding can be a prompt for them to sample, even if LAs then have to fund the other resources related to sampling. They mentioned that they (and other LAs) had done more standards sampling when there was FSA funding available, but that that had stopped when the funding ceased to exist. In Wales, participants mentioned the dedicated FSA funding for some projects, and said that this sampling would not happen without the funding, especially as standards/ chemical sample analysis was more expensive than hygiene/ microbiological analysis.

> "I am lucky I have a small budget for food standard sampling, I'm probably one of the few left. Many don't have anything at all. If you don't have the money and there is no requirement as such to do something, then it won't get done; there will be other things which will take priority." (Standards)

Overall, however, most participants recognised that their **sampling budget is vulnerable** and is the most likely part of their budgets to be cut, because:

- Sampling often had a low priority in their LAs;
- The FSA was perceived to prioritise inspection targets, meaning budget is diverted to complete inspections;
- A sampling budget is easier to cut than a staffing budget. Many mentioned that they would prefer to fund staff so they could go out and do the wider inspection/ compliance work.

> "I had my plans last year and I was down to half the amount of officers that I'm used to, then my priority area is not sampling anymore, my priority is looking at keeping up with my official control intervention and primary routine inspections and primary Food Standards inspections, high risk inspections. I would target the resource towards that." (Joint Hygiene & Standards)

4.3. Sampling in practice

There was a large amount of variation in how sampling was done in practice across the LAs we spoke with. This included differences in *who* carries out the sampling, *when* they sample, and choosing *which* businesses/ premises to sample.

In terms of **who carries out the sampling**, some LAs had dedicated sampling leads and/or a sampling officer (either focusing just on hygiene, or with responsibilities across both hygiene and standards sampling). It was suggested that in Wales, all LAs have a sampling officer for hygiene sampling. One participant had made sampling the responsibility of their industrial placement student, whom they trained up to take samples.

However, in other LAs, there was not the budget for a dedicated sampling officer, and so sampling was the responsibility of all officers.

Some of these authorities set sampling targets for each of their officers, or set up a rota system determining whose responsibility sampling was in a given month. Some were reviewing numbers of samples they had completed each month to retain a focus on sampling, although not necessarily with fixed targets.

Participants described a fairly structured routine of **when** sampling was carried out. For some, this changed through the year, depending on when surveys where happening (often during a specified month), and to tie in with annual processes such as Local Authority Enforcement Monitoring System (LAEMS) submissions, and planning and budgeting. For example, one participant said that sampling ran 10 months of the year – May to February – to leave time for reporting and planning.

Laboratory timetables also affected when sampling took place. Participants explained that laboratories would draw up a schedule specifying what days different LAs could submit samples, cut-off times for submission, and maximum numbers of samples in each submission. This was their way of managing their workload. The schedule was usually agreed in discussion with each LA at the start of the financial year.

Many participants used the laboratory's schedule to draft their own sampling schedule and allocate sampling activity to their officer/s. The laboratory timetable would also dictate what time of day samples were taken – usually in the morning to enable officers to collect, pack up and courier samples to the laboratory in time. However, one of the participants said that out-of-hours sampling was a priority for them, as this was a high-risk time.

Some LAs would make dedicated sampling visits. However, others would double sampling up with inspections to save costs.

"[Officers] do the samples with their inspection visit. One visit does the lot. We don't want to be running around the country looking for samples." (Both Hygiene & Standards)

There were a range of factors and approaches to determining **which businesses or premises** to sample from, including:

- **Priority businesses/ premises** including approved premises, high-risk manufacturers and scheduled routine sampling;
- **Logistics and practicalities** – picking premises that can reach in time to get samples back to the laboratory. This might affect the geographic range from which samples are taken;
- **Risk analysis/ officer intelligence**: many participants said they cannot do all the sampling they want to do, so they have to choose the businesses they sample from based on their risk profile.

"So, are we still actually carrying out sampling at high risk premises, at high risk foods at high risk times. They are the three kind of watch words we have. High risk food, high risk premises, high risk times of catering operations." (Hygiene)

4.4. Using sampling results

All participants said they followed up sampling results, whether satisfactory, borderline or unsatisfactory. The type of follow-up would depend on the result, the business and its implications for compliance and public safety. Officers might:

- Call the business and advise them, and write to them with details of the results;
- Visit the business to advise them of the result, and any action they need to take as a result;
- Launch a full investigation and/ or a series of re-sampling until they got a satisfactory result;
- Advise neighbouring or primary/ home authorities of any issues, either for them to follow up with that business, or with similar businesses in their patch.

Participants said it was rare for sampling activity to lead to prosecutions for a number of reasons, and only one LA had taken a prosecution prompted by sampling in the past 12 months (for substitution). For most, the focus (and preference) was to work with the business and educate and support them to make improvements, using re-sampling to check whether the cause of the issue has been identified and the business has achieved compliance.

> "We haven't had any food prosecutions for a few years actually. But that's because with the allergen stuff, we've had adverse ones but then when we've gone back and visited the business, they've shown willingness to put it right and then it's ended… But do you know what, there is a school of thought that says, if you end up prosecuting you've actually failed. Because you've not persuaded the business to comply." (Standards)

The research suggests that LAs are mostly using sampling results in a tactical way (i.e. to identify and fix issues) rather than in a strategic way (to identify patterns and inform future activity). A number of participants felt there was a gap in how results are used – that data was collected (e.g. via laboratories, the UK Food Surveillance System (UKFSS), Public Health agencies and the FSA), but that results were rarely formally analysed and interpreted to identify patterns and come up with strategic approaches. In part they said this was down to resource, particularly amongst PAs and Public Health agencies.

For their part, PAs and scientific leads in Public Health laboratories all felt they had an important role to play in helping officers understand and interpret results. They all provided LAs with individual test results, but some (particularly the PAs) also collated survey results from across LAs and shared them with those who had taken part.

Echoing feedback from participants in LAs, those in laboratories also said that there was little 'big picture' analysis of results and identification of trends. They pointed to a number of reasons for this:

- There was often too little data, either because of a low number of samples submitted, or because of the low number of failed/ unsatisfactory samples;
- Time and resource constraints – some said that their lack of resources and focus on day-to-day processes and bureaucracy meant they did not have time for wider research;
- Better done at a national level – because of the low numbers and limited resource in laboratories, some felt it was better for the national agencies (e.g. PHE, FSA) to aggregate the data and analyse it.

Some participants – including those based in laboratories – also said that it was hard to produce significant findings from surveys if too few LAs took part, as the data would be too limited.

However, some felt that regional groups performed this role in part – the groups discussed sampling results from their LAs, and used this discussion to agree future activity. Additionally, some LAs asked their officers to write up and report on local survey results, although they say this is usually relatively short or basic. Some also said that last year's results would affect the next year's local sampling programme.

A minority of participants were publicising their results to senior managers and elected members to demonstrate the value of their sampling activity. However, most were not publicising results, in part so as not to 'name and shame' businesses, but mainly because lack of time was a barrier to doing anything more with their results.

4.5. Sampling from online businesses

Some participants said they did sample from online businesses, albeit occasionally. They recognised the increasing importance of online sampling, but flagged that there were difficulties in sampling from online businesses. As a result, online sampling was only carried out rarely.

Some of the challenges mentioned include:

- The **volume and diversity** of online businesses selling food, especially businesses run through social media sites like Facebook and Instagram;
- Knowing where the business is **based**, and what online businesses are based in the LA's area;
- Obtaining samples **anonymously**, either because officers would have to reveal their own or the LA's address for delivery, or because businesses looking to avoid compliance could identify the LA via its online IP address;
- There can be a **long chain** to investigate regarding online food delivery – it is a lot of work to identify the source and responsibility for any issues;
- Some online food businesses just act as **intermediaries** for (foreign) food producers – they do not even handle the food, but suppliers send it direct to customer;
- Issues around **privacy** and the Regulation of Investigatory Powers Act (RIPA).

> "We have issues… with online food businesses. Mainly about RIPA to do with protecting people's privacy. We don't routinely sample online, partly because we'd have issues in doing any enforcement work, because often online businesses don't have any simple contact details. And the only way we could ask for samples would be to send them through to the office really, which is a bit obvious." (Joint Hygiene & Standards)

There was no clear indication of whether LAs had a process for deciding whether to sample from online businesses or not. However, given the challenges set out above, this appeared to be dependent on having sufficient time and resource in their teams to dedicate to researching online businesses in their area and to following up any issues they uncovered.

4.6. Use of the UK Food Surveillance System (UKFSS)

Amongst participants there was a mix of those who were using UKFSS (a national database for the central storage of analytical results from food and feed samples) and those who were not (though some had used it in the past).

Those who used the system shared data directly with the laboratories and were able to extract test results. Many of those who used it really valued these aspects, and were disappointed that the FSA had stopped supporting the platform. They particularly liked the idea of a single national database, avoiding double data entry (e.g. in their systems, laboratory paperwork and FSA returns), and an easy route for sharing data and results with laboratories.

> "We think it's wonderful and it's a great shame the FSA are dropping it. I know a lot of authorities would disagree with me, but we actually really like it." (Joint Hygiene & Standards)

One of the scientific leads in a Public Health laboratory was also a firm advocate of UKFSS as a means of information sharing. Their loss of clerical staff meant staff were required to enter data from paper forms. This took considerable time, especially as it had to be done for multiple samples from many LAs.

However, supporters of UKFSS also acknowledged some issues with the system, especially the difficulty of getting data back out of the system (for analysis and returns). Some also said it was glitchy. These issues were some of the reasons given by participants who do not use UKFSS. They also had their own databases, and so using UKFSS would amount to double entry of sample data for them.

> "I think over the last number of years it's harder to get information out of it. But, at least it's good to get information transferred from ourselves to the labs." (Joint Hygiene & Standards)

4.7. Evaluation of sampling

Few interviewees were actively measuring, monitoring or evaluating whether their sampling programme is effective. For most, it was more of an informal, intuitive process as part of their annual review and planning.

> "I probably don't sit down and actually do an evaluation. I do a service plan every year and in that there would be a section in that on food sampling. And it would show anything that had happen during the year that was different… I suppose they just evaluate it as they go along." (Joint Hygiene & Standards)

However, most were convinced that sampling made a difference to public protection outcomes, for a number of reasons:

- It provides **evidence** to support enforcement: although it is a snapshot and does not provide the full picture, it can provide evidence whether food management processes are working or not;
- It **reminds businesses** that LAs are testing for non-compliant practice;
- It helps pick up issues **early**;
- Some had local evidence about **drop in amount of substitution** in products.

Most participants did not have Key Performance Indicators (KPIs) either. A minority did measure their sampling performance for the year based on numbers of samples taken and number of 'failed' samples. Some included this data in their annual Food Safety Service Plans, or used this information to convince managers that sampling had value. However, many said it was hard to come up with suitable KPIs for sampling – there was a danger that you drove the wrong behaviour, encouraging people to sample at random to hit targets, rather than in an intelligence-led way.

> "I'm not convinced KPIs are that helpful around driving that kind of work forward. You could argue that if you find a lot of incorrect samples that's a good thing, or you could argue it's a bad thing." (Standards)

Many participants said that they measured the success of sampling by whether it had helped them identify issues and fix them.

> "At the end of the day what we're trying to measure is compliance aren't we, or measuring bringing us back into compliance. An incorrect sample, if that leads to support and advice for business, it gets it back into compliance. I guess that's the performance indicator… But I don't think it's sophisticated to be honest." (Standards)

4.8. Improvements and innovations in sampling

When asked, most participants struggled to think of examples of best practice or innovations in sampling. However, they had several suggestions for improvements. The main improvements suggested related to funding and greater co-ordination of intelligence to guide sampling activity.

Sufficient funding for sampling was a priority for many participants, particularly given the squeeze on sampling budgets and LAs' funding more widely. Many participants stressed the importance of providing adequate funding for staffing, and not just for the food examination and analysis (although the latter was also important for standards sampling). Some participants gave examples of innovations other areas (such as feed hygiene sampling) where there was funding to bring contractors in as extra resource, or where specialists were seconded between LAs.

Some participants said that it was important to address the 'postcode' lottery in funding, which determined the extent to which sampling happened in LAs.

As discussed in Section 4.7, participants said that there is relatively little **strategic co-ordination** of sampling analysis – and subsequent sampling activity – on a regional or national level. Several participants expressed frustration that there is not a more co-ordinated approach to review sampling results across all LAs and using this to direct a particular focus across the country. They also felt this would have the benefit of creating a larger data source for subsequent analysis, and would therefore lead to more robust risk identification.

> "National coordination of standard sampling, I guess. And some mechanism for capturing results intel, and using that to develop a risk model." (Joint Hygiene & Standards)

This was seen as a potential role for the FSA, and so is discussed in greater detail in the next section.

Some also called for a more 'savvy' or **strategic approach to sampling more locally**, for example by LAs taking a sector-wide approach to an issue and using sampling to educate and encourage better practice amongst businesses. One example of this was a LA focusing on egg contamination in rice in takeaways. By sampling across a range of similar takeaways, they identified those who were doing best and shared their approaches to improve the practice of others in the sector.

Some participants were also keen to stress the **importance of supporting the PAs and laboratories** into the future. Many talked about the reduction in numbers of PAs and laboratory facilities, and the pressure on funding for them. They worried that PAs in particular might cease to exist, or that the range of analysis they could offer would be dramatically reduced.

A minority of participants suggested **innovations in technology**, for example with virology and mobile testing technology (e.g. through Aspartate Aminotransferase (AST) testing kits). Some also called for investment in a national database that would avoid double entry, enable easy sharing of sample data between LAs and laboratories, and facilitate reporting.

4.9. Role for the FSA

Few participants spontaneously called for the FSA to play more of a role in helping them with sampling, but they made several suggestions when asked, particularly around co-ordination and funding of sampling as discussed in the previous section.

Participants felt that the FSA should be doing more to **provide strategic direction and national co-ordination**, as they had done in the past. They said this was of growing importance because of the changing context (especially regarding imported foods, novel foods, food crime, allergens, and EU Exit). They felt that the FSA is ideally placed to provide this direction, given its expertise and intelligence in these areas. Some also suggested that the FSA should be liaising more with PAs and PHE to coordinate data, intelligence, and guidance to LAs regarding sampling.

> "I think there is a place for that national steer around bigger issues. There is something about the FSA identifying more strategic issues… I think at the moment what's missing is that national pulling together." (Standards)

Some said that the FSA used to provide them with a list of priorities, and guidance on what, when and where to sample. Now it was up to LAs themselves to identify key issues to focus on, working with their PAs and PHE advisors where possible. This took more time, and they felt they did not necessarily have the 'big picture' to judge the priorities. Participants felt that a more co-ordinated, intelligence-led approach would avoid duplication, provide focus and therefore make the best use of limited resource.

Both PAs said that they wanted to work with the FSA more to enable them to identify trends and co-ordinate work, particularly in new areas. However, they also felt a closer working relationship would help the FSA understand the pressures the laboratories are under.

> "I think we've actually been quite proactive in providing FSA with guidance on best practice… They've not followed it through because they don't feel it's a priority. Where we are trying to be proactive in trying to look at products where very little data exists and to feed that back to the FSA. But they've not always been forthcoming." (PA)

There were some calls for the FSA to **fund sampling projects**. Many participants talked about the FSA funding sampling activity in the past, particularly in relation to standards sampling (although there was still funding for specific projects from FSA Wales).

Some participants also called on the FSA to review funding needs across the country – in relation to both standards and hygiene – and make it a level playing field. They talked about disparity between LAs due to their size, responsibilities (e.g. number or type of high-risk businesses) and budgets. One participant gave an example of a small LA with a small budget being responsible for a large high-risk importer with

national impact, but not having resource to sample for contaminants and substitution. Participants felt that the FSA could play a role in identifying and funding the gaps. Importantly, any funding needs to cover staffing resource as well as the cost of examination/ analysis, a point echoed by a PA.

> "Make it a level playing field all over the country really. Because I think all authorities should be doing some level of sampling, dependant obviously on the size of the authority and the number of businesses etc… If [the FSA] standardised a pro rata amount of sampling that people should be doing, and gave them the funding to do that, then think that would help to level out the postcode lottery that currently exists." (Standards)

The PAs also spoke about the FSA funding sampling projects. One mentioned a recent funding programme in relation to imported foods as an example of a successful programme. However, this was not mentioned by any of the other LA participants, and perhaps reflects a lack of funding for staff to carry out the sampling.

Another suggestion participants made was for the FSA to do more to **raise the profile of sampling** at more senior levels in their organisations. A number of participants said that the FSA had not done much recently to champion sampling, and that this was part of the reason it had slipped down the agenda. They felt this would help them making the case for sufficient budget and resource for sampling.

> "The FSA could maybe stress the importance of sampling. And that message would be feeding through to people who are higher up and who are making difficult decisions about budgets and deciding where it needs to go in the environmental health or something completely different." (Joint Hygiene and Standards)

Participants also said the FSA could **review the focus on (lower risk) inspection targets**. Many expressed frustrations that this requirement takes them away from intelligence-led sampling amongst higher-risk businesses. They felt that prioritising targeted sampling in higher-risk businesses offers more benefit than hitting all inspections targets in low-risk businesses.

> "When you've got FSA saying, 'Why aren't you hitting your target on inspections?' Then aren't you going to put all your energies and your staff into hitting your targets…? Something's going to slide." (Hygiene)

A few participants followed up their suggestions for a **single national sampling database** by saying that this is something the FSA should be developing.

There were also single suggestions of other ideas for the FSA's role in sampling. Only one participant suggested that the FSA could **produce a template** sampling policy

for those who did not have one. However, most of our participants did have a policy, and it was not something that required much active review (unlike the programme).

5. Conclusions

This was a small piece of exploratory research, principally amongst LAs, but with some input from specialists working in laboratories too. While there were many differences in approaches to sampling, there were also some clear findings:

- Even in this small sample of LAs who mostly do a higher volume of sampling, there was major variation in staffing, budget and practice;
- All participants valued sampling, particularly as part of a planned, intelligence-led programme. It brings value in the form of evidence that inspections cannot reveal, and as a tool to educate and inform businesses to help them comply with food hygiene and standards requirements;
- However, participants' feedback suggests sampling is often a 'Cinderella' activity, vulnerable to budget cuts and under-staffing. There is evidence from participants that many of their neighbouring LAs are doing little or no sampling as a result of these limitations;
- Many see a growing need for sampling, especially in the context of a rise in the amounts of imported and novel foods, with the current focus on allergens, and with potential changes to UK food standards and trade arrangements post-EU Exit;
- Not all of the participants had a sampling policy, even though the FLCoP requires LAs to have, maintain, and implement a policy. Those who did have a policy in place said that their policies were mostly generic documents that they did not use in day-to-day sampling work. Instead, they referred to their annual sampling plans to direct this work;
- Most participants aimed for a largely proactive sampling plan, although they also budgeted for reactive sampling;
- Budget and resource were the greatest influences on the scope of LAs' sampling frameworks, particularly regarding their uptake of national, regional and local surveys. Other influences included: relevance of surveys to their local area and the number and type of businesses (which affected the number of routine inspections and number of high-risk inspections they needed to do);
- All LAs in this study acted on sampling results, sharing them with the business. Further action would depend on the results themselves, but participants felt it was more effective to work with businesses to identify and fix issues, rather than going straight to sanctions. It was rare for sampling results to lead to prosecutions for this reason;
- A minority of participants did more than this with their sampling results. Some LAs shared results with interested senior managers and Council managers, and some used results in a programme of wider education amongst food businesses to promote good practice;

- None of the LAs we spoke with had a formal approach to evaluating their sampling programmes. This was due to a number of factors, including lack of time, lack of appropriate measures for success for sampling, and lack of pressure from senior managers or others to demonstrate the success of sampling programmes;
- All said they would do more (proactive) sampling with more budget, but felt that this needed to be accompanied with funding for staffing too. Additional funding would benefit standards sampling in particular, given that testing has to be funded from LA budgets at the moment. The trends in imported foods, novel foods, and allergens also primarily fall within the Trading Standards remit;
- Participants saw a role for FSA in levelling up funding and providing more strategic direction in sampling programmes. There was also a call for a single national database to improve efficiency and enable strategic analysis of results.

6. Annex A: Methodology in detail

6.1. Approach

The original plan was to conduct:

- 20 interviews with food leads in LAs in England, Wales and Northern Ireland covering LAs with responsibility for food hygiene, food standards, and both hygiene and standards. The aim was to draw participants from a range of larger, or more active (in terms of sampling), LAs across England, Wales and Northern Ireland. The sampling data was to be drawn from the LAEMS data (further details can be found at: LAEMS data)
- 10 interviews with wider stakeholders, including PAs, food examiners and others responsible for sampling policies in OGDs.

However, the COVID-19 crisis impacted on the fieldwork which commenced in February and early March 2020, meaning it was not possible to complete the intended number and breadth of interviews. In total we conducted 17 telephone interviews with food leads in LAs, split as follows:

Sampling Remit	England	Northern Ireland	Wales	Total
Both hygiene and standards	2	4	2	**8**
Hygiene	4	N/A	N/A	**4**
Standards	4	N/A	1	**5**
Grand Total	**10**	**4**	**3**	**17**

14 of the LA interviewees were recruited via contacts supplied by the FSA based on the LAs conducting the highest volumes of sampling for both hygiene and for standards. The remaining three LA interviews were recruited via a post placed by the FSA on the Knowledge Hub portal[2].

In addition, we completed 5 x 45-minute telephone interviews with wider stakeholders, including:

- 2 x Food Examiners (Scientific Leads in Public Health laboratories);
- 2 x Public Analysts;
- 1 x Other Government Department.

2 The Knowledge Hub is an online portal for Government officials to share knowledge and ask questions in a secure, confidential environment. The FSA posted a link in the Food Standards and Labelling group for food leads to register interest in taking part in the research.

6.2. Research materials

Discussion guide used in interviews with LA food leads can be found at Appendix A and Discussion guide used in interviews with wider stakeholders can be found at Appendix B. These are separate attachments.

6.3. Analysis method

Framework analysis was used to interpret and analyse the data. Interviewer notes from each interview were entered into an analysis grid structured to mirror the discussion guide flow. This allowed identification of key themes, and filtering of interviews by interview type in order to identify indicative differences based on location and whether the LA had responsibility for just hygiene, standards or both. Upon completion of fieldwork, the researchers held a collaborative session to analyse and interpret the themes. All interviews were transcribed in full, allowing for some of the verbatim quotes to be used in this report to illustrate particular viewpoints.

6.4. Notes on reporting

This was a small-scale qualitative study. As a result, it is important when reading this report to bear in mind the following points:

- This approach is useful in building in-depth understanding of processes and attitudes towards sampling. However, it does not seek to produce findings that are representative of the views and practices of all LAs.
- The sample for this study was primarily LAs conducting higher levels of sampling so that the FSA could understand best practice with regards to sampling. We cannot say that the findings will be true of LAs who do not conduct much sampling.
- Even within this narrow and relatively small sample, there was a large degree of variation in interviewees' circumstances and their approach. There were some common themes and views, but too much variation in some of the detail to be able to draw concrete conclusions.
- As far as possible, we have tried to provide specific detail regarding sampling budgets and practice. However, because we only have a small number of interviews (and there was a large degree of variation between these), figures quoted in this report should be treated as indicative. Further (quantitative) research would be needed to produce more robust findings on sampling budgets and numbers.

The LA interviews conducted were mainly with food leads. Unless explicitly stated as coming from a PA or Scientific Lead in a Public Health laboratory, reported findings are from LA participants. Findings from the four non-LA interviews (laboratory-based

participants) mostly echoed and enriched those from LA interviews. As a result, they have been included in the main findings rather than as a separate section.

With regards to terminology, this report considers both hygiene and standards sampling. In quotes, participants sometimes refer to 'micro' or 'microbiological' sampling when talking about sampling for food hygiene. When they refer to 'chemical' or 'compositional' sampling, they are talking about sampling for food standards.

The anonymised quotes from interviews included in the report indicate whether these have come from participants in LAs responsible for standards, hygiene or those with responsibility for both hygiene and standards.

6.5. Glossary of Terms

The following abbreviations are used in this report:

Abbreviation	Meaning
EHOs	Environmental Health Officers
FLCoP	Food Law Code of Practice
FSA	Food Standards Agency
LA	Local Authority
LAEMS	Local Authority Enforcement Monitoring System
OGD	Other Government Department
PAs	Public Analysts
PHE	Public Health England
RIPA	Regulation of Investigatory Powers Act
TSOs	Trading Standards Officers
UKFSS	United Kingdom Food Surveillance System

7. Annex B: Supplementary findings

The research interviews included discussion on the context of sampling within the LA, approaches to developing policies, and attitudes towards sampling. The analysis of these findings is provided here in detail.

7.1. Context

All of the LA participants were **passionate advocates of sampling** and saw it as an essential tool in their role of ensuring compliance with food standards. Many of them had been in role for a long time, and they were experienced and knowledgeable about sampling.

Even so, they did less sampling now than in the past (for example, one LA used to take around 400 samples per year, but down to 120). Most were struggling to do as much sampling as they would have liked. They felt that financial pressures had affected both sampling budget and staffing resource, and this meant that sampling had dropped in priority.

> "I think sampling has taken rather a back seat in LAs for a number of reasons. I think the value of what we can find out through sampling is somewhat diminished and something that's been quite pushed aside in all the cutbacks in everything else, but I think we should do more of it." (Hygiene).

In spite of this, most saw a **growing and greater need for sampling**, especially as trends in food raised food safety issues that could only be detected via sampling. They cited developments in food technology, rapidly changing food trends (including for novel foods such as supplements and CBD oil in food) and growth in the amounts of imported foods. Some also anticipated changes to food standards and controls following EU Exit, especially for LAs that have border control responsibilities, and felt this could mean a greater need for sampling.

> "In terms of the EU Exit and in terms of import, if you govern a border control post, then that's a completely different ball game. We'd need a far bigger sampling budget there to be able to cope with having to do analysis and send off samples there if there's any issues." (Joint Hygiene & Standards).

One of the PAs echoed this view, saying that changes in eating habits and the range of foods available meant a greater need for sampling

Even within this small group of LAs (most of whom were conducting a higher volume of sampling than most LAs), there was **substantial variation** in sampling. Budget was a key factor in variation in sampling between LAs. Many participants acknowledged that they were unusual if they had relative stability in their team and sufficient resource. They were aware they had better budgets for sampling than other LAs, and this meant they had resource to develop a sampling policy and annual plan, and that they could be more proactive in their sampling. In contrast, some

participants said that they did not have much budget, and consequently were struggling to do the basics.

However, other factors also created variation in sampling between LAs, such as:

- **Type of LA**: in those with responsibility for adult and child social care, food safety might have less of a focus. More urban LAs might have more consumer-facing premises, and food safety might therefore be more salient and prominent in the minds of senior decision-makers.
- **Types of business**: some LAs had more high-risk businesses, e.g. approved businesses, or a higher number of premises. As a result, there was a greater need for sampling.
- Some have **port responsibilities**, which raised the profile of food standards compliance within the LA.
- **Team size and structure**: there was considerable variation in the size and structure of food safety teams, in part due to variation in size of LA. Some LAs had dedicated sampling or technical officers.

Participants also discussed the **difference between hygiene and standards** sampling. In LAs with joint hygiene and standards responsibility, participants felt that hygiene was often perceived as a higher priority. This was primarily due the (historically) closer link between hygiene and public health.

> "We would consider [micro sampling] to be fairly highly important and we would always try to ensure that we complete the numbers for it. With regard to the standards sampling, if there's strain elsewhere within the unit, so for example we had a major food poisoning outbreak or maybe we were behind with our inspection programme, it is one thing that would possibly take a hit and the numbers would drop." (Joint Hygiene and Standards).

However, some participants thought that there was (or should be) a growing focus on standards sampling, particularly due to the increased focus on allergens, but also because of the rise in imported foods and potential for food crime. All these issues could only be checked via sampling for cross-contamination, composition and substitution.

Even amongst LAs with responsibility for both hygiene and standards, there was variation in how the function is managed. For example, in some LAs, hygiene and standards still ran very separately (separate teams, separate offices, separate budgets), in others, there was much more of a joined-up approach. This ranged from oversight by a manager with responsibility for both hygiene and standards (but overseeing separate teams), to a joint team (of EHOs and Trading Standards Officers (TSOs)), to joint roles (e.g. EHOs with food standards qualifications and responsibilities; sampling officers with responsibility across both). This affected

capacity and capability to carry out sampling, and some participants believe that a joined-up team provides more opportunities for sampling.

7.2. Drivers and barriers to sampling

Participants talked about a range of **drivers to do sampling**, which were similar for both hygiene and standards sampling. These included:

- **Evidence**: sampling reveals what inspection cannot. As such, it is an essential part of the toolkit and a way of verifying and validating a business's procedures and making sure they are compliant with standards. For example, with regards to hygiene, sampling helps check that food management processes are working, and with regards to standards, sampling helps verify the food is what it says it is.

  "Nobody can see pathogens and EHOs aren't psychic and we don't have x-ray vision. But we do have microbiology. And we can use that science to inform our inspections much more than just visual inspection." (Joint Hygiene & Safety)

  Some participants used sampling as verification and validation of businesses' own sampling results (for example, in large manufacturers and approved businesses).

- **Education**: participants felt sampling helps officers educate businesses they work with, but also officers themselves get a better understanding of what they should be looking for (and where) when they sample. Most participants found that businesses were eager to learn from what sampling can tell them: it improves their practice, and therefore their business.

  "That's how we've always used sampling. We don't just use it as an information tool for us, we use it as an education tool in the business." (Joint Hygiene & Safety)

- **FSA scrutiny**: some participants said that sampling had risen up the agenda in their LA as a result of the FSA focusing on lack of sampling in the LA (for example, during an audit or via LAEMS) reporting.

- However, others felt that the FSA has too little focus on sampling, and is not following up or putting pressure on LAs who aren't sampling. They felt that this meant sampling had a lower priority in their LA.

- **Political will**: for a small minority, senior managers and/ or elected officials have a particular interest in food safety, and this means they have more support to do sampling. For others, this might be the case only temporarily, for example when a high-profile scandal can increase attention.

In spite of the support for sampling, some participants (including a PA) said it had limitations – it is only part of the overall picture, and it can be a very inefficient 'scattergun' approach to finding pathogens and other issues.

Participants also discussed many **barriers to sampling**, including:

- **Budget and resource**: all participants said that this was the main barrier to doing (more) sampling, particularly standards sampling (as echoed by a Public Analyst), but also to hygiene sampling. Some participants talked about sampling being 'an easier cut' to make than staffing, and so it was often the first thing to be affected by budget cuts. Equally, LAs might have to redeploy staff to focus on specific issues that arise from sampling (for example, unsatisfactory results from allergens sampling), effectively halting further sampling work.

  "Every LA is having to cut back. Sampling is an easy one to cut back. Are you going to go out and get samples, or are you going to protect the children or the old people in their homes? It's a no brainer really. So, when there's horrible decisions like that that have to be made, then that's what's going to get cut." (PA)

- **Focus on inspections targets**: a number of participants said that the FSA's focus on inspections targets meant that they used resource to focus on this, at the expense of sampling.
- **Logistical issues**: Many participants said that sampling was affected by issues such as distances to laboratories, specific time/ day slots for delivering samples to laboratories, and difficulty with couriers.
- **Individual confidence and preference**: where LAs rely on standards or EHOs to do sampling (rather than having dedicated sampling officers), sampling might not get done because an officer is less or confident in (or keen on) sampling. It was acknowledged that sampling can be complex and technical.

7.3. Developing sampling policies

None of the PAs or Scientific Leads in Public Health laboratories interviewed as part of this piece of work had their own sampling policies.
However, most LA participants had a sampling policy. The minority that did not have a policy were aware of the requirements of the FLCoP, but felt time and resource pressures meant developing a policy was a low priority.

> "There's not really an appetite to do a published policy because we haven't got the time. We're trying to keep our head above water with all the work. We aren't in compliance with the Code of Practice... Because it's not considered a priority to bother... to sit down and write the paperwork that we need to do the job. We just get on with the job." (Joint Standards & Hygiene)

Amongst LAs responsible for both standards and hygiene, some had a joint sampling policy, and others had separate policies, mostly depending on the structure of their team/s.

Participants with a policy said it was not a 'living' document that they referred to in day-to-day work. For most, it was a question of complying with the requirement to have a policy, and it was the sampling programme or plan that drove their day-to-day work.

> "We have got a sampling policy and a programme which came out complying with the Food Standards Agency framework agreement. But actually, in practice we tend to ignore the sampling policy and link in with either local or national sampling programmes." (Joint Hygiene & Standards)

Most participants said their policies are generalised and do not contain specific KPIs regarding sampling.

There was much variation in how frequently these LAs reviewed or refreshed their policies, from some who reviewed their policy annually to those who said they hadn't looked at their policy in years and struggled to find a copy during telephone interviews.

Where participants had reviewed their policies more recently, prompts to refresh included:

- Change in PAs(where they are named in the policy);
- Updates in legislation or guidance;
- Check for relevance;
- To make sure their policy is consistent with their annual plan;
- FSA audit (for example, one participant said they had had a 'slap on the wrist' from the FSA in a recent audit for not refreshing their sampling policy).

Many participants said that their policies were published on the websites. However, these were not always apparent when the research team searched for them.

7.4. Case Study: Eco-design and energy labelling testing and market surveillance (Office for Product Safety and Standards)

The research included one interview (out of 6 planned) with a participant who oversees sampling in an OGD. As findings from one interview cannot be extrapolated to the wider sample, we have reported these findings below as a case study, instead of including them in the main report.

Context

The team manages market surveillance testing of a range of products and appliances to make sure they are compliant with EU regulations in relation to eco-design and energy labelling. They test around 200 products a year.

Policy

They have recently developed a Testing & Oversight Policy (for product testing generally, not specifically for energy labelling or eco-design). It specifies the process to go through if the team wants to test a product/ appliance. The process involves taking a case to the Testing & Oversight panel, and for the panel to make recommendations about how the testing is managed.

Budget

Overall budget for the Eco-design and Energy Labelling testing is around £500K. This will cover product purchase and testing. Testing is the greatest single cost they have within this budget. Other costs (covered from the wider budget) include staff costs (team of 8), and they need to account for UK-wide travel, particularly as visiting and working with manufacturers is a core part of the job.

They decide allocation of their budget by sitting down as a team and agreeing what projects they want to do, then roughly apportioning budget to each project.

Programme – process and influences

The testing programme is developed by choosing workstreams using a specific tool to allocate points based on risk of products. They will look to do around 5 projects per year.

Horizon scanning is also a very important part of the process, and influences they will consider in developing their programme include:

- New tiers of legislation that come into force over time;
- Developments in energy use and products that use greater amounts of energy – what are the most polluting products? What products are causing issues?
- Reports (e.g. from trade bodies) of non-compliance in certain sectors;
- (Previously) Themes in market surveillance from AdCos at EU level.

Practice and approach
To test a particular product / appliance, they will usually pick around 20 products. A central team will purchase the products to be tested. They will then go through a procurement process to appoint a test house. The winning contractor builds the test house, takes the delivery of the products and begins testing.

One team member will usually work on one specific project, which could take around 6 months. This is for the testing itself, but also the liaising with the manufacturer. Timescales can be affected by the results: one failure means you have to test a further 3 products, and then take an average of all 4.

Use of results
Their preference is to work with businesses, rather than go down an official route:

> "Civil Sanctions and Prosecutions are seen as a last resort.. we want to work with businesses and manufacturers to ensure compliance and facilitate good practice in the first instance."

Interpreting results and deciding on appropriate action is both a science and an art. Sometimes, even the science is not so clear-cut, and two test-houses could come up with different results.

Evaluation of approach
They find evaluation of the effectiveness of market surveillance very difficult. Their ultimate goal is to reduce CO2 by taking inefficient products off the market.

> "You're literally having to work out when you've taken non-compliance products off the market, how that is reflected and how much CO2 you may have saved. So, it is complex and it's difficult. But ultimately our goal, if you're looking at eco design, is saving CO2 emissions."

It is also hard for them to judge the extent to which they are identifying non-compliance. It is impossible to judge whether what you find is a one-off or the tip of an iceberg, so level of non-compliance is not an effective measure of success.

Innovation and the role of the regulator
Funding is seen as essential – they have certain projects where LAs can get involved and apply for funding. They find that having specific central projects help too. They have some projects where they will fund LAs to get involved (see their protocol to support TSOs in their role in managing and overseeing white goods manufacture in the UK).

They find engagement with LAs is essential to support them in their role. They suggest this is a valuable role for the FSA:

"As a regulator you can get too hung up with enforcing the law, or working in separate ways, but really the best thing to do is for the FSA to reach out… Understanding that Trading Standards are our partners and our friends and our colleagues… it's about forging that relationship and doing everything you can and making sure it will work. I think it will help."