

ACHIEVING BUSINESS COMPLIANCE PROGRAMME

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1. Summary

1.1 This paper sets out the progress made to date, how Achieving Business Compliance (ABC) is building on the achievements of Regulating our Future (ROF) and how the reform programme links to and supports the ongoing local authority (LA) recovery plan.

1.2 The Board is invited to:

- **Consider** the progress made.
- **Agree** to the direction of travel.
- **Agree** the workstreams.
- **Note** the 2021 delivery plan (**Annex A**).

2. Introduction

2.1 ABC is the refreshed second phase of the work started by the ROF programme and seeks to deliver a vision for a future regulatory system with clearly defined roles and responsibilities, that is fit for purpose and capable of managing future risks. In March 2020, the Board agreed the forward work plan (**Annex B**) for the ABC programme, which contained three streams of activity. Work has evolved since then, and this paper seeks to provide more detail on what we have learned in the last year, where we are now, and the direction of travel.

2.2 Progress on the plan set out last year was slowed by the impact of COVID-19, although good progress was achieved in analysing evidence which underpins the case for change and future ambition. The ABC programme is now refreshed and beginning to make progress, with revised and clearly defined workstreams, supporting activities to deliver the workstreams, and a new timetable for delivery.

3. Evidence and Discussion

3.1 The ABC programme was established in January 2020 following a review of the ROF programme. ROF had a strong focus on reforming LA activity and has laid robust foundations on which to build the ABC programme, which will

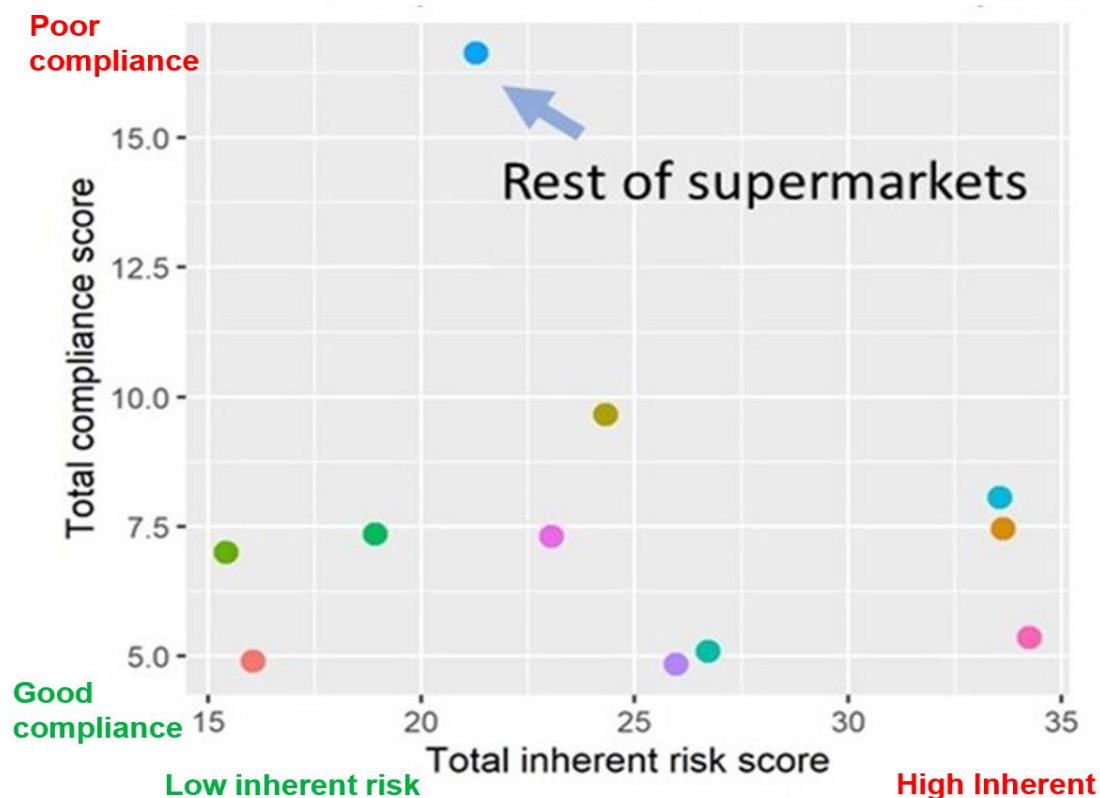
continue with this reform, but also drive further changes in response to the changing food landscape.

- 3.2 Ongoing activity continues to span the two programmes and demonstrates the natural progression being made on the pathway to reform:
- Register a Food Business
 - This service has been rolled out to 208 out of 343 LAs (60%), enabling them to register businesses into a single system. Onboarding to this service is managed by our Regulatory Compliance Division (RCD), but ABC will continue to pursue activity linked to the wider business benefits of registration.
 - Competency Framework
 - A new competency framework has been developed to provide a single and consistent approach to defining competency by activity across all feed and food controls. This will help ensure the right resource is allocated to work. Phase one for LA officials was introduced in England and Northern Ireland (NI) in February 2021. Consultation in Wales closed on 25 March and responses are under consideration.
 - Food Standards Model
 - LA pilots of the new intelligence-led model began in January 2021, with seven LAs implementing the approach and a further five LAs acting as controls. So far there has been a positive response to the flexibility provided by the new risk assessment model – this work currently sits in ABC but will move to business as usual (BAU) activity after pilot evaluation is complete.
- 3.3 ABC is now in a position to outline its vision (**included at Annex C**), direction of travel, and ambition for delivery in 2021.
- 3.4 The key drivers for the former ROF programme were the need to move away from a “one-size fits all” approach to regulating food businesses; that the regulatory system lacked agility and was not keeping pace with technological changes in the food industry; continued pressure on LA resources; and the need for a financially sustainable model of regulation.
- 3.5 Over the last few years, the food landscape has changed dramatically, both in terms of consumer behaviour and advances in technology which are shaping and accelerating industry innovation. The FSA must acknowledge, adapt, and respond to these changes if it is to maintain effective regulatory control in the future. In essence, we cannot return to how we operated in the past – we must change our regulatory approach. To do this effectively ABC will look at our role as a regulator across the whole food system and consider the range of levers and interventions at our disposal, in addition to what services we could introduce, to ensure that no matter where food is sourced, consumers can be assured of its safety and authenticity. The need for this new approach is underpinned by evidence of:

- **Rapid increase in online food sales.** Users of UK apps for online food sales have almost doubled in the last five years, from 13.6M in 2015 to 24.8M in 2020. Online food sales are not just confined to established apps. Food sales are taking place on social media sites, marketplaces, and other online platforms. This is a growing risk for the FSA, as the limitations of the existing regulatory interventions and controls, and our ability to enforce them, are being exposed in this online environment. Established businesses (such as retailers and restaurants) who also sell online are regulated via LAs, but our regulatory approach to ‘online only’ businesses (including sellers who may not view themselves as a ‘business’) requires further exploration. It should be noted that this is a challenge facing regulators on an international scale, and ABC will work with domestic and international partners to develop and share best practice. The approaches developed to e-commerce regulation will be of interest to the FSA Board and regular updates will be provided.
- **Reducing LA resources to undertake inspections.** It is evident that since the ROF Programme was established, LA resources have continued to come under increasing pressure, with COVID-19 exacerbating this to unsustainable levels, where the outstanding level of businesses awaiting inspection is at an all-time high. The LA Recovery Plan has been established to address the impact of this in the short-medium term, with ABC exploring medium-longer term opportunities that will help move from recovery to reform.
- **Influential actors – industry.** Our analysis of the food industry shows that a small number of actors have a huge influence across the entire food system, which is not acknowledged by the current regulatory system. In our exploration of opportunities for risk-based segmentation, we identified a small number of retail businesses with a significant market share (c95%), and consequential influence across the food system. ABC intends to engage with these actors to explore new opportunities for regulatory approaches.
- **Influential actors – consumers.** The consumer voice continues to impact the food system, with demand leading future supply. Consumer expectations are changing, and their influence could be increasing. PwC’s Global Consumer Insights Survey in March 2021 identified that 19% of respondents shopped daily through an online channel. This behaviour will shape future industry behaviours, and ABC will need to continue to understand the impact of this during the development of new approaches.

3.6 In the last few years, the FSA has commissioned various research and discoveries into specific aspects of the food system. The outcomes have been analysed, and provide robust evidence, insight, and rationale to develop a direction of travel for ABC that will address the challenges acknowledged in the case for change. Specific areas to note include:

- **Industry segmentation:**
 - The FSA commissioned a discovery into how the food industry can be segmented, identifying multiple specific segments of activity (retail, manufacture, hospitality etc.) This has enabled us to explore one of these segments (retail) in more detail (the others will follow) and has identified that the ten retailers with the highest market share (plotted on the graph below) are more compliant than the rest of the retail sector, even though the inherent risk for them is higher:



ABC will use this evidence in the design of future regulatory approaches and pursue the remaining segments to understand any similar opportunities to explore.

- **Online aggregators:**
 - In the last year, the FSA has developed relationships with the larger online platforms for food sales (JustEat, Deliveroo and Uber Eats), referred to as aggregators. These large aggregators have demonstrated an appetite to work with the FSA to help protect consumer safety and have put mechanisms in place in response to this:

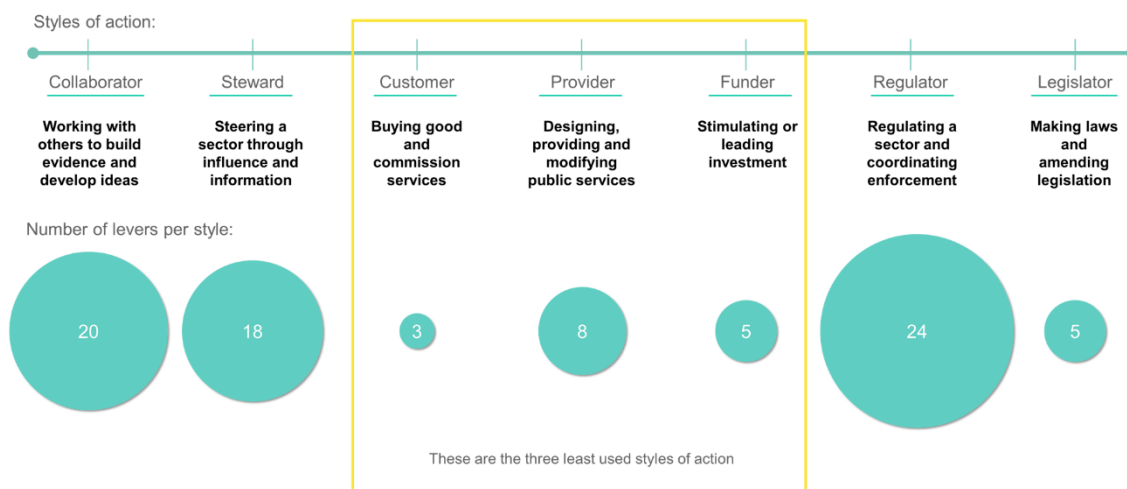
Just Eat	Deliveroo	Uber Eats
<ul style="list-style-type: none"> • Proof of ownership • Food business registration • Minimum 3 FHRS 	<ul style="list-style-type: none"> • Proof of food business registration • Minimum 2 FHRS 	<ul style="list-style-type: none"> • Proof of food business registration • Minimum 2 FHRS

ABC will build on these relationships and early achievements and continue to pursue similar links with online ‘marketplace’ platforms (like Amazon and Facebook). In doing so, we will explore what type of regulatory approaches will be most suitable in this online environment, and how we can work with aggregators to positively influence compliance. Our objective is to make the regulatory requirement as frictionless as possible, with low-cost/high-value possibilities for us to explore such as linked guidance for new business start-ups, encoded FHS ratings and search engine optimisation.

- **Levers and Interventions:**

- The Cabinet Office’s Policy Lab has developed a framework to help policy makers when developing new ideas for policy. This framework identifies a range of styles of action that can be used with industry. We have used this framework to:
 - Map levers and interventions to the different styles of government action; and
 - Identify which styles the FSA currently uses and those it could make more use of in future.

This identified that the FSA currently utilises three of the seven styles most regularly:



ABC will use this evidence to consider how we can utilise a balance of all the styles to help design regulatory approaches that make it easier for businesses to comply, but also ensure that non-compliance is tackled swiftly and robustly.

- **Services:**

- FSA developed Register a Food Business as a service to support LAs and food businesses in having a single, consistent, and easy to use system for registering new businesses. ABC is pursuing opportunities for other services that could assist businesses, LAs and consumers, and will feed these into the work programme.

3.7 The ABC work programme has been developed utilising the evidence and insight outlined above. This has identified three key outcomes, in effect the programme workstreams:

- **Enterprise-level regulatory approach**
 - Based on the evidence from our segmentation analysis, and industry insight, we recognise that some large, influential, and highly compliant businesses require a different regulatory approach. We aim to explore opportunities to regulate these businesses at an enterprise (whole-business) level, as opposed to at a premises level, which is the current approach. We will work with these businesses, together with LAs and Primary Authorities, to design and develop new ways of working, reducing the duplication of inspections whilst maintaining assurance.
- **Assurance of online food sales**
 - Online food sales have increased by over 20% since the start of 2020 with 19.9million users of food delivery apps in 2019 growing to 24.8million in 2020. We need to identify the risks in this emerging market and implement appropriate methods to assure consumers of food safety and authenticity.
- Proportionate and targeted regulation for food businesses
 - Working with LAs, we need to ensure that their resources are more effectively targeted at the highest risk premises, with a transparent and clear framework to achieve this.

3.8 To support these, there are several cross-cutting underpinning activities which will enable development of individual projects and delivery of the overall ambition. **This is set out in Annex D.** It should be noted that the introduction of any new regulatory approaches will not undermine the FHS scheme. However, ABC will review opportunities for flexibilities in the operation of the scheme, which is recognised to be of huge value to consumers and food businesses alike.

3.9 Additionally, whilst ABC is a regulatory reform programme, there is no current intention to seek divergence from the existing legislative framework. It is clear that there is scope within the existing framework to develop new approaches, and these will be pursued in the first instance.

4. Next Steps

4.1 During 2021, ABC will continue to scope and design individual elements of the programme. This will be an ongoing process to build a comprehensive work programme, concurrent with progression and development of some specific changes that have already been identified:

- **Enterprise level regulatory approaches – large influential retailers**
We know that a small number of large, influential retailers (LIRs) have high levels of compliance, and their own mechanisms in place to track, predict and ensure compliance. Despite being small in number, these retailers cover c95% of the GB grocery market share. ABC proposes to work with LA/Primary Authority partners and these retailers, to explore the possibility of reforming the regulatory approaches in a way that acknowledges their own assurance mechanisms. Insight and engagement undertaken with retailers in early 2021 indicates these businesses are keen to work with us on this.

Exploration of enterprise level regulatory approach is a new concept for the FSA and signals our bold ambition for regulatory reform. It also aligns with the principles laid out in the Regulators' Code, supporting those we regulate to comply and grow, and basing our regulatory activity on risk. The current system of regulation does not serve large businesses well, and they have made this evident to us. However, the ABC programme is clear that the drive to deliver better regulation will be done in a way that does not compromise consumer safety and public health.

If achievable, this could potentially result in a reduction in the required number of LA inspections that will enable the redirection of LA resource to the highest risk businesses. The intention is to explore and develop this further, to provide a "proof of concept" which can be applied to large, influential businesses in other parts of the system thereby further reducing the burden on LA capacity but without increasing the risk to consumers. This approach is not without risks and challenges – not least the practical impact of this across the three countries – and this will all be explored as part of the discovery activity during 2021. LA input to this discovery will be critical.

A series of bilateral discussions and programme of engagement with these businesses is planned over the coming months culminating in an industry round table session planned for September 2021. Any recommendations that are made could potentially be piloted in 2022.

- **Assurance of online food sales – aggregators and platforms**
We know that the large aggregators and platforms are willing to work with us to look at consumer protection. We intend to create formal forums to engage these businesses, with plans and timescales yet to be decided.

Future work will build on the good progress already made with the key actors (JustEat, Deliveroo, Uber Eats, Amazon, Facebook etc.) to explore further opportunities, and look at the practical application of these.

We will also continue to work across government, with other regulators, as well as with international partners, to ensure a consistent and transparent approach to e-commerce regulation.

Building on the discovery work we have already undertaken; we will prioritise platforms activity guided by the consumer interests and based on the impact on the food supply chain.

- **Proportionate and targeted regulation for food businesses – hygiene delivery model and levers & interventions**

A key activity to support LA recovery and reform is the review of the Hygiene Delivery Model. The review will be completed, and implementation is scheduled for 2023. It will ensure the Food Law Code of Practice supports LAs using their professional competence in ensuring food businesses are compliant and taking actions to bring them into compliance where they are not.

We want LAs to direct increased interventions in non-compliant establishments until compliance is achieved and to reduce the frequency and intensity of interventions with businesses that have demonstrated consistent compliance. LA interventions will take place where they will add value and contribute to food being safe.

Further activity will also take place to look at which levers and interventions we can utilise from our regulatory toolkit to help enable businesses to comply. This might include improved or additional advice and guidance, provision of services aimed at LAs, businesses or consumers, and changes to our data requirements – how we collect, store, and utilise data.

- 4.2 During 2021 the programme will also undertake an in-depth review of all existing research that has been commissioned through both ROF and ABC programmes to identify which recommendations have been implemented, which need additional action, and those that are no longer valid. These findings will be fed into the work programme.
- 4.3 The ABC programme has robust governance in place to oversee the design and development activity and ensure that delivery remains on track. An Independent Review (via Infrastructure and Projects Authority) has been commissioned for Autumn 2021 to increase this level of assurance, and the team will continue to work to cross-government Programme and Project Management principles, using a combination of PRINCE2 and Agile methodology.
- 4.4 Critical to success will be an effective communications and stakeholder engagement strategy, which is under development.

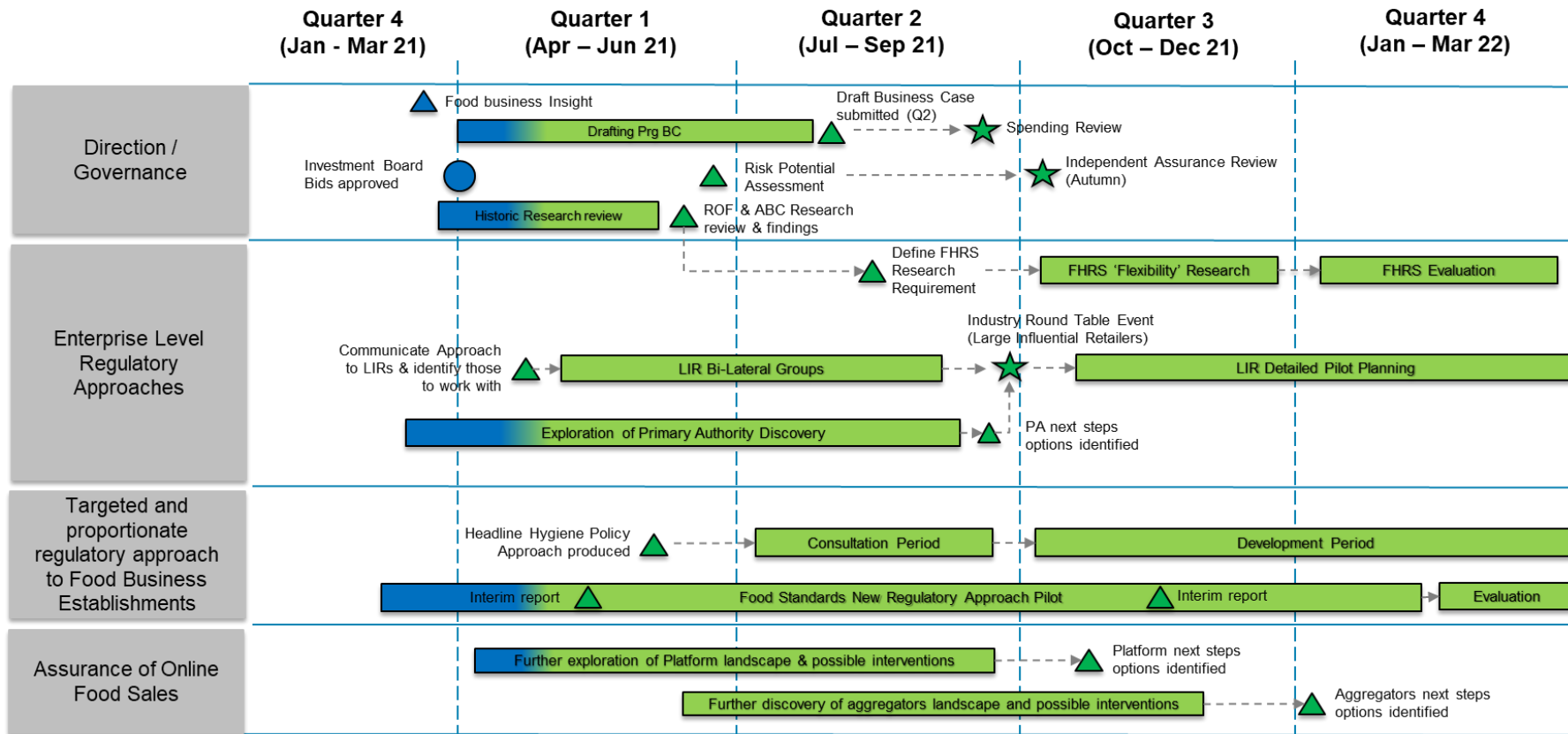
5. Review

5.1 The Board is invited to:

- **Consider** the progress made.
- **Agree** to the direction of travel.
- **Agree** the workstreams.
- **Note** the 2021 delivery plan (**Annex A**).

Annex A

High Level Programme Plan on a Page (May 2021)



Status Key

- On Target
- At Risk
- Missed
- Complete

Icon Key

- Product/deliverable
- Event
- Decision
- Linkage
- Ongoing activity

Annex B

Progression of former workstreams (from March 2020)

In March 2020 three workstreams were presented to the FSA Board - progress on each of these is below:

Former Workstream	Progress	Next Steps
<p>Target Operating Model:</p> <p>1) As Is modelling of the TOM completed and validated, including analysis of tension/ alignment and programme assumptions</p> <p>2) Future vision for the TOM, including responsibilities, risk tolerance and assurance of the FSA</p> <p>3) An agreed set of outcomes that the FSA / local authorities / food businesses need to achieve and a clear understanding of the roles and responsibilities of each party in delivering these</p> <p>4) An improved understanding of the drivers and levers that each party across the food system hold to help them to deliver their outcomes and the barriers that limit delivery</p> <p>5) Updated guidance to local authorities (via the FLCOP) incorporating immediate changes and improvements to strengthen the food regulatory system</p>	<p>1) As-is and to-be modelling will be completed for each segment as part of the discovery / design activity</p> <p>2) Not yet progressed. Future activity for ABC, once programme scope is finalised and business case developed</p> <p>3) Will form part of each workstream for ABC</p> <p>4) Completed – research undertaken in 2020, and used to inform next steps</p> <p>5) Delivery affected by Covid-19. FLCOP updates planned on an ongoing basis</p>	<p>1) ABC responsibility – to be included as standard in discovery / design activity</p> <p>2) To be developed as part of ABC programme governance</p> <p>3) ABC responsibility – to be included as standard design activity</p> <p>4) Completed – feeds into ABC planning</p> <p>5) Under continuous review – led by RCD</p>
<p>Data, Surveillance and Sophisticated Risk Assessment:</p>	<p>1) Initial discovery complete. Further discovery underway</p>	<p>1) Joint activity between ABC and RCD. Current discovery aims to support LA</p>

<p>1) Results of the AI project which attempts to predict a food business FHRS rating so the date of its inspection can be prioritised 2) Identification of other risk factors worth further analysis 3) Sprint Completed around proposed segmentation 4) Further deliverables as commissioned by other workstreams</p>	<p>2) Will feed into ongoing programme design 3) Initial segmentation sprint complete, with in-depth review complete for large retailers. Further sprints planned for remaining segments. 4) No longer required</p>	<p>recovery. Future activity will support ABC activity in the targeted and proportionate regulatory approach to food businesses workstream. 2) ABC responsibility – to be included as standard design activity 3) ABC responsibility under enterprise level regulatory approach workstream 4) N/A</p>
<p>Skills for the job: 1) Agreement of outline competency framework and detail of competencies for specific official controls 2) Review other regulator and private sector approaches to assessing competency and authorisation of competency 3) Agreement of appropriate mechanism for assessing and authorising competency for official food controls 4) Implement mechanism for assessing and authorising competency for official food controls</p>	<p>1) Completed - competency framework developed and implemented in England and Northern Ireland in relation to LA and PHA food controls (using existing method of LA lead food officers assessing and authorising competency) 2) Due to be completed by end May 2021 3) Due to be completed by end February 2022 4) Currently anticipate that implementation of the agreed mechanism will be April 2022</p>	<p>Competency framework will complement ABC activity in targeted and proportionate regulatory approach to food businesses workstream.</p>

Annex C

ABC Vision

Everyone should have food that is safe and what it says it is.

In a changing food landscape, we will design new, responsive, regulatory approaches which are innovative and make best use of technology, data, and relationships.

We will strengthen existing partnerships, and forge new relationships with industry to recognise and manage risks, so consumers can always trust their food wherever it is produced, supplied, or consumed.




This will be achieved through design, development, and implementation of changes in line with the guiding principles:

- **Being the trusted voice on food standards in the consumer interest:** That means that the FSA must always be shown to keep the consumer interest at heart, taking tough action where serious breaches occur.
- **Making it easier for businesses to comply with food law:** We want to have a system where businesses can easily provide safe and trusted food. Where possible, the FSA works to take away the hassle-factor and help businesses easily align their approach with regulatory requirements.
- **Joint endeavour:** We will work with Local Authorities, businesses, and other partners to build and maintain mutual trust, respect, and confidence, working together to test and embed new regulatory approaches. We will look to collaborate with big-scale, compliant businesses, who can promote food safety through their own systems and influence.
- **Making a difference:** By ensuring we have the widest and most up-to-date range of technology, data, information, innovative methods, and best practice available, to underpin the new approach.

A series of key performance indicators for the programme will be developed in line with these principles.

Annex D

Draft ABC Programme – Inputs to Outcomes

Desired Outcome	 Enterprise level Regulatory Approaches	 Assurance of online food sales	 Targeted and proportionate regulatory approach to Food Businesses
Workstream Activities	Regulatory model development (on a segment by segment basis)	Development of assurance model for aggregators	New intelligence based model for Food Standards regulatory approach
	New regulatory model(s) pilot(s)	Assurance model pilot(s) and implementation	Pilot new Food Standards Regulatory Approach
	Primary Authority Discovery		New risk based model for Hygiene approach
Cross Cutting Underpinning Activities			Pilot new Hygiene approach
	Evaluation of pilots to assess impact and value in full roll out		
	Amendments to FLCoP		
	FHRS Review		
	Review of Services & Data Requirements		
	Understand flex within current legislation & change impact		
	Data requirements to support the new regulatory approaches		
Foundation Governance	Engagement Strategy and Comms planning		
	ABC Vision, Statement of Intent, & Business Case		
	ABC Governance & PPD Methodology		

* Activities not displayed as priority order