

DRAFT
Primary Authority
National Inspection Strategy Assurance Standard
September 2018

Introduction

When a national inspection strategy has been recognised by the FSA there will be a need for FSA assurance that it's working as intended, public health is protected and also to instil confidence and trust in consumers, regulators and business.

This draft standard sets out the FSA's framework for how we intend to provide central competent authority assurance that a food national inspection strategy recognised by the FSA continues to meet the National Inspection Strategy Primary Authorities' Standard.

The FSA's work on assurance of national inspection strategies is focused on the delivery of food controls. We will continue to work with the Department for Business, Energy and Industrial Strategy Office for Product Safety and Standards to ensure alignment between this standard and their work on ensuring the requirements of the Primary Authority Statutory Guidance¹ are met.

As part of the FSA's open policy making approach and in recognition of stakeholder comments, additional elements of this policy are yet to have their feasibility explored. These include consideration as to how and when the FSA should review its decisions and routes for stakeholders to raise concerns about a national inspection strategy recognised by the FSA.

Because of differences in the Food Law Codes of Practice, this draft standard currently applies in England only. However, the 2018 proposed changes to the Codes in England and Wales being consulted on during summer / autumn 2018 include provision to better align the Codes with Primary Authority. Subject to the outcome of those consultations the coverage of this draft standard will be reviewed.

This draft standard will be tested and further developed when the first national inspection strategy proposals are recognised by the FSA, to ensure that it is fit for purpose. The opportunity to provide feedback on this document remains open to all stakeholders, and constructive feedback is welcomed by the FSA. The email address for providing feedback is primaryauthoritiesupport@food.gov.uk

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/707382/primary-authority-statutory-guidance-2017.pdf

National Inspection Strategy Assurance Standard

Summary

1. This draft standard is based on a transparent risk-based system operated by the FSA and incorporating the following:
 - quarterly / annual performance reporting (by the primary authority to the FSA), monitoring and analysis;
 - primary authority proactively reporting instances where the National Inspection Strategy Primary Authorities' Standard is not being met;
 - follow-up with the primary authority, including consideration of root cause analysis and risk assessment when things go wrong at the business;
 - periodic, transparent focused audits of all primary authorities operating national inspection strategies (risk-based frequency);
 - a clear, proportionate and transparent intervention policy to be applied consistently and robustly where there is evidence that the National Inspection Strategy Primary Authorities' Standard is not being met; and
 - ultimately, where necessary, the suspension or removal of FSA recognition for the national inspection strategy and the return of individual outlets to controls at the frequency laid down in the Code.

2. The assurance framework for FSA recognised national inspection strategies is outlined below:

Assurance mechanism	Description	Frequency
Performance reporting	Primary authority reports key national inspection strategy performance indicators to the FSA	Quarterly
	Primary authority proactively communicates any non-compliance with the National Inspection Strategy Primary Authorities' Standard together with an action plan to the FSA	As necessary
Performance analysis	FSA staff carry out quarterly analysis and where necessary, in response to analysis or communication from the primary authority, will investigate issues with the primary authority	Quarterly and as necessary
On-site audits of primary authorities	The FSA carries out periodic audits of primary authorities operating national inspection strategies	Risk based frequency

3. The proactive communication of non-compliances with the National Inspection Strategy Primary Authorities' Standard to the FSA and the performance monitoring (reporting and analysis) framework are intended to allow the FSA to independently monitor PA performance against the National Inspection Strategy Primary Authorities' Standard. This allows early oversight where a potentially increased food safety risk profile is identified and early support for the partnership, reducing the risk of FSA suspending recognition of the national inspection strategy.
4. Audits of primary authorities operating national inspection strategies will be carried out in accordance with existing local authority audit policy and procedures and the Agency's powers to monitor standards as prescribed by the Food Standards Act 1999.

Performance reporting and analysis

5. Where a national inspection strategy has been recognised by the FSA, the primary authority shall begin making manual returns to the FSA at the end of each financial quarter in electronic form (sample forms in appendices 1 and 2). Returns should be sent to primaryauthoritysupport@food.gov.uk. It is anticipated that initial testing, including trialling performance management review meetings, will move more towards outcome focused measures and the number of performance indicators will reduce.
6. Where the primary authority becomes aware of a non-compliance with the National Inspection Strategy Primary Authorities' Standard it is their responsibility to establish the root cause and, in working with their partner business and local authorities where relevant, ensure that the non-compliance is rectified within a reasonable time-frame.
7. Primary authorities should proactively communicate any non-compliance with the National Inspection Strategy Primary Authorities' Standard to the FSA in writing when it first becomes aware of it, to the e-mail address above, together with an outline of the action they / the business are taking to address the non-compliance and the planned completion target. The primary authority must notify the FSA of any significant non-compliances (defined under paragraph 10 of this document) without delay.
8. In the event of primary authority non-compliance with the National Inspection Strategy Primary Authorities' Standard being verified by the FSA, the response and, where necessary, action taken by the FSA will be proportionate, risk-based, consistent and transparent.
9. In most instances, the FSA response to a temporary non-compliance with the National Inspection Strategy Primary Authorities' Standard will be to support the primary authority's restoration of compliance within an agreed timeframe (applying the principles of the FSA's local authority performance management processes where necessary).
10. There are some circumstances under which the FSA will immediately consider suspending or removing its recognition of an NIS (either in relation to the entire

business or limited to one or more establishments). Such decisions will always be taken in consultation with the primary authority. The final decision will be made by a FSA Head of Division (or other FSA Senior Civil Servant) based on recommendation from the FSA national inspection strategy assessment team. These circumstances are:

- a. **Risk of injury to health.** Where a court has issued a prohibition order on a food business or a local authority has established an imminent risk to health within the meaning of the Food Safety Act 1990, the FSA may, for a defined period of time, suspend its recognition of the national inspection strategy or instruct the primary authority to remove one or more establishments from the national inspection strategy (thereby restoring non-national inspection strategy intervention frequencies, for example).
- b. **Non-localised food hazard / serious food fraud.** (As defined by the Food Law Code of Practice). The FSA may consider suspending its recognition of a national inspection strategy where it has reason to believe a partnership business is implicated in serious food fraud. The FSA may also consider suspension appropriate in the event of a non-localised food hazard implicating a scheme partnership business.

11. It is important to reiterate that decisions to suspend a national inspection strategy (either wholly or in part) will be proportionate, risk-based, consistent and transparent and will be made in consultation with the primary authority.

12. The FSA will advise local authorities of any NIS suspensions.

Appendix 1

Performance reporting format – food hygiene

PERFORMANCE INDICATOR	YEAR			
	Q1	Q2	Q3	Q4
No. competent PA officer FTE				
Change of PA officer/s?				
Date of last NIS review by PA against full scope of criteria (several)				
Last NIS review – all actions resolved? (y/n)				
No. of proactive NIS compliance checks by PA				
No. of unique instances of feedback and referral by LAs				
No. of PA assessments / investigations of LA feedback & referrals				
No. proactive interventions by LA				
No. LA proposed non-urgent enforcement actions				
No. LA proposed non-urgent enforcement actions rejected by PA				
No. of Voluntary closures, voluntary surrenders, HPO & HEPN issued/served				
No. of non-localised food hazard / serious food fraud incidents implicating business				
No. 1 st / 2 nd / 3 rd party audits carried out by the business				

Key: PA: Primary Authority FTE: Full time equivalent NIS: National inspection strategy HPO: Hygiene Prohibition Order HEPN: Hygiene Emergency Prohibition Notice
 Non-urgent enforcement actions: as defined by the Primary Authority Statutory Guidance

Appendix 2

Performance reporting format – food standards

PERFORMANCE CRITERION	YEAR			
	Q1	Q2	Q3	Q4
No. competent PA FTE				
Change of PA officer/s? (y/n)				
Date of last NIS review by PA against full scope of criteria				
Last NIS review – all actions resolved? (y/n)				
No. of proactive NIS compliance checks by PA				
No. of unique instances of feedback and referral by LAs				
No. of PA assessments / investigations of LA feedback & referrals				
No. LA proposed non-urgent enforcement actions				
No. LA proposed non-urgent enforcement actions rejected by PA				
No. of Voluntary closures, voluntary surrenders				
No. of non-localised food hazard / serious food fraud incidents implicating business				
No. 1 st / 2 nd / 3 rd party audits carried out by the business				

Key: PA: Primary Authority FTE: Full time equivalent NIS: National inspection strategy
 Non-urgent enforcement actions: as defined by the Primary Authority Statutory Guidance