

## Teitl: Rheoleiddio Ein Dyfodol – Diwygiadau i God Ymarfer Cyfraith Bwyd (Cymru)

### Tudalen grynodeb yr ymgynghoriad

|                 |              |              |                  |
|-----------------|--------------|--------------|------------------|
| Dyddiad lansio: | 31 Awst 2018 | Dyddiad cau: | 23 Tachwedd 2018 |
|-----------------|--------------|--------------|------------------|

#### Pwy fydd â diddordeb yn yr ymgynghoriad hwn?

Defnyddwyr

Awdurdodau lleol

Gweithredwyr Busnesau Bwyd

#### Beth yw testun yr ymgynghoriad hwn?

Nod rhaglen Rheoleiddio Ein Dyfodol (ROF) yr Asiantaeth Safonau Bwyd (ASB) yw moderneiddio sut mae busnesau bwyd yng Nghymru, Lloegr a Gogledd Iwerddon yn cael eu rheoleiddio i wirio bod ein bwyd yn ddiogel ac yn cyd-fynd â'r hyn sydd ar y label. Mae'r ASB yn bwriadu diweddar Cad Ymarfer Cyfraith Bwyd Cymru (y Cad) i wneud newidiadau i'r broses gofrestru, y ffordd y caiff y cynllun sgorio ymyriadau hylendid bwyd ei weithredu i sicrhau bod ymyriadau wedi'u targedu'n briodol i sicrhau'r effaith orau bosibl ar fusnesau bwyd nad ydynt yn cydymffurfio ac i gydnabod Strategaethau Arolygu Cenedlaethol. Nod yr ymgynghoriad hefyd yw ceisio barn cynnar rhanddeiliaid ar agweddau cyd-ddibynnol eraill rhaglen ROF sy'n dal i gael eu datblygu.

#### Beth yw diben yr ymgynghoriad hwn?

Mae'r ASB yn croesawu safbwytiau ar ei chynigion i ddiwygio'r Cad i gynorthwyo'r broses o weithredu cam cyntaf newidiadau sy'n gysylltiedig â ROF. Bydd y newidiadau yn galluogi'r dull digidol newydd ar gyfer cofrestru busnesau newydd, gwneud newidiadau i'r cynllun sgorio ymyriadau hylendid bwyd er mwyn targedu adnoddau i sicrhau'r effaith orau bosibl ar fusnesau bwyd nad ydynt yn cydymffurfio ac i gydnabod Strategaethau Arolygu Cenedlaethol, gan sicrhau gwell aliniad rhwng y Cad a'r Prif Awdurdod. Mae'r ASB hefyd yn gwahodd safbwytiau i lywio datblygiadau'r dyfodol ar gyfer mesurau perfformiad awdurdodau lleol er mwyn sicrhau bod asesiadau gwasanaethau cyflenwi gorfodi cyfraith bwyd awdurdodau lleol yn cael eu gwneud mewn modd ystyrlon ac amser real.

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## Rheoleiddio Ein Dyfodol – Newidiadau i God Ymarfer Cyfraith Bwyd (Cymru)

### Manylion yr ymgynghoriad

1. Nod rhaglen ROF yr ASB yw moderneiddio sut mae busnesau bwyd yng Nghymru, Lloegr a Gogledd Iwerddon yn cael eu rheoleiddio i wirio bod ein bwyd yn ddiogel ac yn cyd-fynd â'r hyn sydd ar y label. Mae'r ASB yn creu system sy'n ddeinamig, hyblyg, y mae modd ei haddasu wrth i'r economi bwyd byd-eang newid ac wrth i dechnoleg barhau i ddatblygu yn y dyfodol. Bydd y system newydd yn ddigon soffistigedig i reoleiddio diwydiant bwyd sy'n parhau i amrywio ac i addasu'n gyflym i newid mewn risgau. Bydd y system felly yn gallu ymateb i amrywiadau mewn patrymau cynhyrchu, masnachu a bwyt a neu yfed pan fo'r Deyrnas Unedig (DU) yn ymadael â'r Undeb Ewropeaidd (UE).
2. Mae'r ymgynghoriad hwn yn canolbwytio ar newidiadau arfaethedig a fydd yn dod i rym ar ôl Mawrth 2019. Er mwyn sicrhau nad oes unrhyw rwystrau i weithredu'r system newydd, mae'r ASB yn bwriadu diweddar Cad Ymarfer Cyfraith Bwyd Cymru (y Cad) i ddiwygio'r broses gofrestru, y ffordd y caiff y cynllun sgorio ymyriadau hylendid bwyd ei weithredu i sicrhau bod ymyriadau wedi'u targedu'n briodol i sicrhau'r effaith orau bosibl ar fusnesau nad ydynt yn cydymffurfio ac i gydnabod strategaethau arolygu cenedlaethol. Mae'r ymgynghoriad hefyd yn bwriadu ceisio barn cynnar rhanddeiliaid ar agweddau cyd-ddibynnol eraill rhaglen ROF sy'n dal i gael eu datblygu.

Mae ymgynghoriadau hefyd ar y gweill yn Lloegr a Gogledd Iwerddon.

3. Dyma'r cyntaf mewn cyfres o ymgynghoriadau cyhoeddus ar wahanol agweddau rhaglen ROF. O ystyried cwmpas eang y rhaglen a'r amserlen arfaethedig ar gyfer gweithredu, mae'r ASB yn bwriadu rhannu newidiadau yn ôl cyfnodau sy'n hawdd eu rheoli. Mae'r set gyntaf o newidiadau sy'n ymwneud â gweithredu rhai o egwyddorion rhaglen ROF yn cynnwys gwella'r broses gofrestru a thargedu adnodd ymyrraeth awdurdodau lleol yn seiliedig ar risg. Mae'r ASB yn ceisio barn ar ba fframweithiau a dulliau perfformiad sydd yn angenrheidiol er mwyn sicrhau bod adnoddau gorfodi cyfraith bwyd presennol awdurdodau lleol yn cael eu cynnal yn y dyfodol.
4. Mae'r ASB yn ceisio barn ar y newidiadau arfaethedig canlynol er mwyn:
  - Adlewyrchu y bydd mwy o opsiynau digidol ar gyfer busnesau bwyd newydd sy'n cofrestru gan ddefnyddio platform yr ASB ar y we ym mis Mawrth 2019.
  - Cydnabod strategaethau arolygu cenedlaethol ar gyfer busnesau bwyd trwy'r Prif Awdurdod.

- Gwneud amryw o newidiadau i'r broses asesu risg hylendid bwyd ar gyfer targedu adnoddau i sicrhau'r effaith orau bosibl ar fusnesau bwyd nad ydynt yn cydymffurfio.
  - Ystyried, wrth asesu Hyder mewn Rheolwyr, a yw'r gweithredwr busnes bwyd wedi cofrestru'r sefydliad newydd cyn i'r busnes ddechrau masnachu neu ddechrau gweithrediadau bwyd.
5. Mae'r ASB yn bwriadu cynnal ymgynghoriadau pellach a fydd yn mesur effaith y broses gofrestru ar y we a gosod safonau data. Bydd yr ymgynghoriadau hyn yn cael eu llywio gan fusnesau bwyd ac awdurdodau lleol wrth iddynt brofi'r system yn ystod camau cychwynnol ei datblygiad.

## Cefndir

6. Y Cod yw'r mecanwaith lle gall yr ASB weithredu newidiadau a nodwyd trwy raglen ROF. Mae'r ymgynghoriad hwn yn gam cyntaf wrth gyflawni hynny. Rydym ni'n gwahodd ymatebion gan randdeiliaid ar y cynigion penodol ar gyfer newid yn ogystal â barn i lywio datblygiad polisi a fydd yn cefnogi'r broses o weithredu.
7. Mae'n bwysig cydnabod mai camau cyntaf gweithredu'r rhaglen yw'r cynigion hyn a dylent arwain at ddatblygu cynigion pellach, fel model risg rhagfynegol a fydd yn cael ei ddefnyddio i bennu'r dull o reoleiddio sefydliadau bwyd yn y dyfodol. Prosiect hirdymor yw'r broses adolygu gyda newidiadau pellach wedi'u cynllunio yn 2019/20. Mae'r asesiadau effaith sy'n cyd-fynd â'r ymgynghoriad hwn ond yn ystyried y cam cyntaf sy'n ymwneud â newidiadau i'r cynllun sgorio ymyriadau hylendid bwyd a'r broses gofrestru.
8. Er bod yr ASB yn ymgynghori ar hyn o bryd, bydd unrhyw newidiadau i'r Cod sy'n effeithio ar sut y bydd awdurdodau lleol yn cynllunio a gweithredu eu cyfrifoldebau gorfodi cyfraith bwyd yn cael eu cyflwyno ar yr un pryd â gweithredu'r system cofrestru manylach a'r peiriant risg. Mae'r dull hwn yn cael ei ddefnyddio er mwyn lleihau'r effaith ar gynllunio a chyflwyno gwasanaethau'r awdurdodau lleol. Bydd y dyddiad ar gyfer gweithredu'r newidiadau hyn yn dibynnu ar awdurdodau lleol yn mabwysiadu'r system ac mae'n debygol y bydd heriau yn ystod y cyfnod trosiannol y bydd angen mynd i'r afael â nhw.
9. Dylai'r newidiadau arfaethedig hyn wella proses reoleiddio pob sefydliad bwyd sydd wedi cofrestru ag awdurdodau lleol yng Nghymru, nodwyd mai 34,665<sup>1</sup> o sefydliadau oedd ar 31 Mawrth 2017. Mae'r busnesau bwyd hyn yn cynnwys manwerthwyr, bwytau, arlwywyr, gweithgynhyrchwyr, proseswyr, pecynnwyr, mewnforwyr, dosbarthwyr a chyfanwerthwyr. Mae'r sefydliadau hyn oll yn ddarostyngedig i ofynion cyfraith bwyd sy'n berthnasol yng Nghymru ac ar lefel yr UE, sy'n cynnwys rheolau hylendid bwyd a safonau bwyd.
10. Y 22 awdurdod lleol yng Nghymru sy'n gyfrifol am wirio bod y sefydliadau bwyd hyn yn cydymffurfio â chyfraith bwyd. Wrth gyflawni'r cyfrifoldebau hyn, mae'n rhaid i awdurdodau lleol fel awdurdodau cymwys gydymffurfio â gofynion

<sup>1</sup> <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:165:0001:0141:EN:PDF>

Rheoliad (CE) Rhif 882/2004<sup>2</sup> ar Reolaethau Bwyd a Bwyd Anifeiliaid Swyddogol. Mae'r Rheoliad hwn yn nodi'r dull a'r egwyddorion cyffredinol sy'n seiliedig ar risg y mae'n rhaid eu mabwysiadu wrth gyflawni rheolaethau swyddogol (gwiriadau i wirio cydymffurfiaeth â chyfraith bwyd).

11. Wrth gyflawni eu dyletswyddau, mae'n rhaid i awdurdodau lleol roi sylw i gyfarwyddyd yr ASB yn y Cod. Mae'r Codau yng Nghymru, Lloegr a Gogledd Iwerddon yn cael eu hadolygu a'u diweddu i adlewyrchu datblygiadau yn y dull gweithredu.

### Rheoleiddio Ein Dyfodol

12. Nod y diweddariad hwn i'r Cod yw dechrau cyflwyno egwyddorion rhaglen ROF. Dyma'r pum egwyddor:

1. Busnesau sy'n gyfrifol am gynhyrchu bwyd diogel a bwyd sy'n cyd-fynd â'r hyn sydd ar y label, a dylent allu dangos eu bod yn gwneud hynny. Mae gan ddefnyddwyr yr hawl i gael gwybodaeth sy'n eu helpu i wneud dewisiadau gwybodus am y bwyd y maent yn ei brynu. Mae gan fusnesau gyfrifoldeb i fod yn dryloyw ac yn onest wrth ddarparu'r wybodaeth honno.
2. Dylai penderfyniadau'r ASB a phartneriaid rheoleiddio fod wedi'u teilwra, yn gymesur ac yn seiliedig ar ddarlun clir o fusnesau bwyd y Deyrnas Unedig.
3. Dylai'r rheoleiddiwr ystyried yr holl ffynonellau gwybodaeth sydd ar gael.
4. Dylid cydnabod busnesau sy'n gwneud y peth iawn i ddefnyddwyr; caiff camau eu cymryd yn erbyn y rheiny nad ydynt.
5. Dylai busnesau dalu costau rheoleiddio, ac ni ddylai'r costau hyn fod yn fwy na sydd gofyn iddynt fod.

Mae'r newidiadau a gynigir yn yr ymgynghoriad hwn yn canolbwntio ar egwyddorion 2, 3, 4 a 5.

### Dechrau busnes a chofrestru manylach

13. Mae'r ASB yn bwriadu cyflwyno gwasanaeth newydd digidol i'w gwneud hi'n haws i fusnesau bwyd gofrestru a chael gafael ar wybodaeth a chanllawiau wedi'u teilwra er mwyn gallu llwyddo o'r cychwyn cyntaf. I wneud hyn, mae'r ASB yn creu gwasanaeth cofrestru ar-lein a fydd yn rhoi mwy o wybodaeth am fusnesau bwyd ar yr adeg y maent yn cofrestru ac yn rhoi mynediad amser real i fanylion cofrestru.
14. Cwblhawyd cyfnod datblygu'r gwasanaeth ar-lein ym mis Ebrill ac mae'r gwaith o brofi fersiwn waith gyda nifer cyfyngedig o awdurdodau lleol a busnesau bwyd

<sup>2</sup> <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:165:0001:0141:EN:PDF>

ledled Cymru, Lloegr a Gogledd Iwerddon ar y gweill. Bydd y canfyddiadau'n cael eu defnyddio i wella'r gwasanaeth cyn iddo fynd yn fyw fis Mawrth 2019.

15. Fel rhan o ail-ddylunio gwefan yr ASB, mae cyngor ar gyfer busnesau bwyd yn cael ei ddiwygio er mwyn ei wneud yn haws ei ddeall. Bydd y cynnwys wedi'i ddiweddu yn cael ei brofi trwy weithdai yn yr hydref a bydd yn cael ei gwblhau erbyn mis Rhagfyr 2018. Yn dilyn hynny, bydd cyngor penodol yn cael ei roi mewn categoriâu yn ôl mathau o fusnesau ac yn cael ei ymgorffori yn y gwasanaeth ar-lein sy'n rhoi cyngor wedi'i deilwra ar gyfer busnesau ar yr adeg y maent yn cofrestru.

### **Segmentu busnesau bwyd**

16. Ar hyn o bryd, caiff pob busnes bwyd newydd ei arolygu pan fyddant yn dechrau masnachu, waeth beth fo risg diogelwch bwyd y busnes. Nid yw'r dull 'un system i bawb' yn gynaliadwy, yn gymesur na'n seiliedig ar risg, felly mae'r ASB yn datblygu dull mwy soffistigedig ar gyfer segmentu busnesau newydd sy'n cael ei lywio gan ddata.
17. Y ffocws hyd yn hyn yw creu 'peiriant risg' yn defnyddio set o reolau busnes i gynhyrchu 'sgôr risg', sy'n segmentu busnesau yn gategorïau. Bydd y categoreiddio hwn yn cael ei ddefnyddio i bennu natur, amlder a dwyster gweithgareddau gorfodi cyfraith bwyd ar gyfer pob busnes newydd sy'n defnyddio'r gwasanaeth ar-lein i gofrestru. Y cynnig ar gyfer y dyfodol, yr ymgynghorir arno maes o law, yw na fydd rhai busnesau bellach yn cael arolygiad hylendid bwyd cychwynnol. Er enghraifft, bydd busnesau sy'n cyflenwi bwyd risg isel yn unig, neu'r rhai sydd ar raddfa a chymhlethdod cyfyngedig, yn cael eu harolygu pan fo gwybodaeth ychwanegol, neu gŵyn yn nodi bod angen arolygu'r busnes hwnnw.
18. Mae'r ASB hefyd wedi bod yn ystyried a oes opsiynau ar gyfer gwella'r cynllun sgorio ymyriadau hylendid bwyd presennol ar gyfer pennu amlder arolygu neu ymyrryd mewn busnesau sy'n bodoli eisoes. Mae'r opsiynau hyn wedi'u seilio ar ddadansoddiad o ddata ymyrryd hanesyddol yr awdurdodau lleol a chanfyddiadau ymchwil wedi'u cyhoeddi. Y nod yw ailddyrannu adnoddau ymyrryd presennol o sefydliadau bwyd sydd wedi dangos eu bod yn gallu cynnal lefelau cydymffurfio uchel â gofynion diogelwch bwyd i'r rheiny sydd angen rhagor o ymyrraeth gan yr awdurdod lleol i sicrhau bod iechyd y cyhoedd yn cael ei ddiogelu.

### **Strategaethau Arolygu Cenedlaethol y Prif Awdurdod**

19. Efallai bydd busnesau bwyd (neu grwpiau o fusnesau) sydd â Phartneriaeth Prif Awdurdod sydd wedi dangos bod diogelwch bwyd yn cael ei reoli'n dda ar draws y gweithrediadau, yn cael eu hystyried yn addas i gael llai o ymyriadau wedi'u rhaglennu gan y Prif Awdurdod. Efallai bydd y Partneriaeth Prif Awdurdod yn dymuno datblygu Strategaeth Arolygu Genedlaethol, a fyddai'n cael ei chynnwys o fewn cynllun arolygu.

20. Nid yw cysyniad Strategaeth Arolygu Genedlaethol yn un newydd, fe'i cyflwynwyd pan sefydlwyd Prif Awdurdodau, ac ar hyn o bryd gallai unrhyw brif awdurdod, yn ddamcaniaethol, ddatblygu Strategaeth Arolygu Genedlaethol diogelwch bwyd.
21. Nid yw hyn wedi digwydd o'r blaen ac nid yw'r ASB erioed wedi rhoi unrhyw ganllawiau rheoleiddiwr cenedlaethol i Brif Awdurdodau sy'n dymuno defnyddio'r opsiwn hwn. At hynny, nid yw'r Cod cyfredol yn cydnabod y gallai Strategaethau Arolygu Cenedlaethol fodoli, na beth ddylai awdurdodau lleol wneud pe bai Prif Awdurdod yn cyhoeddi un.
22. Diwedd 2017 a dechrau 2018, cynhaliodd yr ASB ymarfer 'braenaru' (*pathfinding*), gan weithio gyda chwe Phartneriaeth Prif Awdurdod i brofi a allai Prif Awdurdodau ddefnyddio a chydymffurfio â data cydymffurfio busnesau eu hunain i ragfynegi cydymffurfiaeth hylendid bwyd ar lefel leol. Nod yr ymarfer oedd archwilio cysyniad Strategaethau Arolygu Cenedlaethol a nodi'r gwaith sydd angen ei wneud i sicrhau bod y Strategaethau yn bosibl ar gyfer Partneriaethau Prif Awdurdodau sy'n cwmpasu diogelwch bwyd. Mae'r ymarferion braenaru hyn bron â dod i ben. Bydd adroddiad annibynnol o werthusiad y canfyddiadau yn cael ei gyhoeddi yn ystod haf 2018.
23. Ar hyn o bryd, mae'r ASB yn deall bod nifer bach o Bartneriaethau Prif Awdurdodau sy'n cwmpasu diogelwch bwyd yn Lloegr wrthi'n ystyried datblygu Strategaeth Arolygu Genedlaethol gyda'r bwriad o dreialu'r cysyniad yn Lloegr yn ystod 2019. Mae'r cynigion cynnar yn awgrymu y bydd y prif awdurdodau yn defnyddio data a gwybodaeth busnes, ynghyd â gwybodaeth (*intelligence*) yr awdurdodau gorfodi lleol perthnasol, i roi gwybod am amlter arolygiadau hylendid bwyd lleol yn well. Dylid nodi, pan fo busnes sydd wedi'i reoleiddio yng Nghymru a Lloegr, mewn perthynas â materion yn Lloegr a materion datganoledig yn unig, yn dewis partner gyda dim ond un awdurdod lleol, boed yng Nghymru neu'n Lloegr, ni fyddai gan Strategaeth Arolygu Genedlaethol effaith statudol yn y wlad arall. Dim ond awdurdod lleol yng Nghymru y dylid ei enwebu mewn perthynas â materion datganoledig.

## Cynigion

24. Mae'r cynigion allweddol wedi'u nodi isod. Mae'n bwysig nodi bod y newidiadau hyn ond yn cynrychioli rhan o raglen newidiadau ROF yn gyffredinol a bydd yn cefnogi gweithredu agweddau eraill yn ddiweddarach yn y rhaglen.
25. Mae'r ASB yn gwahodd barn rhanddeiliaid i lywio datblygiad y polisi cysylltiedig a mesurau perfformiad awdurdodau lleol y mae angen eu sefydlu i weithredu'r newidiadau hyn yn effeithiol.

## Prif gynigion:

Mae'r ASB yn ymgynghori ar ei chynigion i ddiwygio'r Cod i ddarparu ar gyfer gweithredu cam cyntaf ROF trwy wneud y newidiadau canlynol er mwyn:

- Adlewyrchu bod gwasanaeth ar-lein newydd ar gyfer cofrestru busnesau bwyd newydd yn cael ei ddatblygu i'w weithredu ddiweddu mis Mawrth 2019.
- Cydnabod Strategaeth Arolygu Genedlaethol ar gyfer busnesau bwyd trwy'r Prif Awdurdod, gan sicrhau gwell aliniad rhwng y Prif Awdurdod a'r Cod.
- Cyflwyno diffiniadau ar gyfer y termau "cydymffurfiaeth lawn" a "chydymffurfiaeth barhaus" mewn perthynas â busnesau bwyd.
- Gwneud newidiadau i'r broses asesu risg hylendid bwyd ar gyfer targedu adnoddau er mwyn sicrhau'r effaith orau bosibl ar fusnesau nad ydynt yn cydymffurfio trwy:
  - Gydnabod y gostyngiad o ran risg gan sefydliad bwyd sydd wedi dangos ei fod yn gallu cynnal lefelau cydymffurfio uchel dros gyfnod o amser;
  - Cysylltu cymhwysyo'r sgôr ychwanegol ar gyfer y grŵp risg agored i niwed ag asesu Hyder mewn Rheolwyr mewn busnesau bwyd.
  - Cael gwared ar y sgôr ychwanegol ar gyfer risg sylweddol a chynnwys yr elfen risg sylweddol yn yr asesiad Hyder mewn Rheolwyr.
  - Diwygio'r dull o brosesu'r cynllun sgorio ymyriadau hylendid bwyd i ystyried amgylchiadau lle nad yw sefydliad yn dilyn proses, sy'n arwain at y posibilrwydd o gynyddu'r risg i iechyd y cyhoedd.
- Ystyried, wrth asesu Hyder mewn Rheolwyr, a yw'r gweithredwr busnes bwyd wedi mynd ati i gofrestru'r sefydliad o dan ei reolaeth cyn i'r busnes ddechrau masnachu neu pan ddechreuwyd gweithrediadau bwyd.
- Pennu safonau data ar gyfer cadw a throsglwyddo data gan awdurdodau lleol.

## Cynnig 1: Cofrestru Manylach

26. Mae cofrestru yn ofyniad cyfreithiol o dan Erthygl 6(2) Rheoliad (CE) Rhif 852/2004, sy'n datgan bod yn rhaid i weithredwyr busnesau bwyd gofrestru'r sefydliad(au) dan eu rheolaeth gyda'r awdurdod cymwys priodol yn y modd y mae'r awdurdod cymwys yn nodi. Mae'r diweddarriad hwn i'r Cod yn cynnwys y gwaith cyntaf o dan ffrwd waith Cofrestru Manylach rhaglen ROF sy'n nodi newidiadau i'r broses o sut y dylai gweithredwyr busnesau bwyd gofrestru eu sefydliad(au).
27. Nod y newid hwn yw gwella effeithiolrwydd, effeithlonrwydd a chysondeb cyffredinol y broses gofrestru ledled Cymru, Lloegr a Gogledd Iwerddon. Bydd yr wybodaeth a geir trwy'r gwasanaeth cofrestru ar-lein sydd newydd ei ddatblygu yn allweddol i lwyddiant rhaglen ROF yn gyffredinol, gan gasglu data mwy manwl ar weithgareddau'r busnesau. Dylai'r system newydd arwain at asesiad risg mwy cywir gan ddefnyddio "peiriant risg", er mwyn gallu nodi strategaeth ymyrryd briodol.
28. Mae'n rhaid i weithredwyr busnesau bwyd gofrestru o leiaf 28 diwrnod cyn i'r busnes ddechrau masnachu neu ddechrau gweithrediadau bwyd. Fodd bynnag, o dan y system gofrestru bresennol, dim ond ychydig o wybodaeth sy'n rhaid i weithredwyr busnesau bwyd ei rhoi i'r awdurdod lleol am eu sefydliad bwyd.
29. Ar hyn o bryd, mae cofrestriadau yn cael eu cyflwyno i awdurdodau lleol mewn sawl ffurf gan ddefnyddio nifer o lwybrau. Mae'r adborth yn awgrymu, mewn rhai achosion, bod gweithredwyr busnesau bwyd naill ai'n dechrau masnachu cyn cofrestru neu'n cofrestru a dechrau masnachu cyn cael arolygiad. Efallai na fydd y busnesau hyn wedi cael y lefel briodol o gymorth cyn gynted â phosibl i gynorthwyo cydymffuriaeth.
30. Er bod y broses gofrestru gyfredol yn gweithio, mae yna gyfle sylweddol i wella ei heffeithiolrwydd a'i chysondeb cyffredinol. Bydd y gwasanaeth newydd yn helpu i liniaru anghysondebau yn y broses gofrestru gyffredinol. Bydd yn haws i weithredwyr busnesau bwyd gofrestru gan y bydd y cwestiynau yn berthnasol i'r math o fusnes sy'n cael ei gofrestru a bydd pawb, waeth beth yw'r lleoliad, yn cael yr un profiad defnyddiwr. Bydd awdurdodau lleol hefyd yn manteisio trwy leihau prosesu gan staff, gan wneud y broses gofrestru gyffredinol yn llai dwys.
31. Bydd gwybodaeth am y gweithredwyr busnesau bwyd a'u gweithgareddau o'r gwasanaeth cofrestru ar-lein ar gael i awdurdodau lleol a'r ASB. Bydd cael manylion yr holl sefydliadau bwyd yn rhoi trosolwg i'r ASB o'r diwydiant bwyd, a allai gynorthwyo datblygiad polisi yn y dyfodol, a chaniatáu cymryd camau mwy effeithiol pan fydd digwyddiad bwyd.
32. Bydd yr wybodaeth a geir drwy'r gwasanaeth ar-lein newydd hefyd ar gael i awdurdodau lleol er mwyn helpu i lywio eu strategaethau ymyrryd. Er enghraift, ar gyfer sefydliadau symudol, bydd mynediad i'r adroddiad arolygu diweddaraf yn galluogi'r awdurdodau lleol i wybod am hanes cydymffurio'r busnes er mwyn lleihau nifer yr arolygiadau/ymyriadau diangen.

## Rydym ni'n gwahodd ymatebion rhanddeiliaid ar y pwyntiau canlynol:

C1: Mae'r ASB yn ceisio eich barn ar unrhyw rwystrau posibl a allai effeithio ar weithredu a gweinyddu'r gwasanaeth cofrestru ar-lein.

C2: Mae'r ASB yn ceisio eich barn ar p'un a fyddai gwella'r broses gofrestru drwy'r gwasanaeth ar-lein newydd yn cael yr effaith ddymunol o gynyddu effeithlonrwydd y broses gofrestru.

## Cynnig 2: Strategaeth Arolygu Genedlaethol

33. Mae'r ASB yn cydnabod y gallai Prif Awdurdodau chwarae rhan wrth gyflawni canlyniadau rhaglen ROF, ac â diddordeb penodol yng nghysyniad Strategaeth Arolygu Genedlaethol.
34. Mae'r ASB wedi bod yn gweithio gyda rhanddeiliaid i ddatblygu 'Safon' y byddai angen i Bartneriaeth Prif Awdurdod ei fodloni i allu datblygu a gweithredu Strategaeth Arolygu Genedlaethol. Y bwriad yw y bydd y Safon hon yn cael ei chyhoeddi fel canllawiau rheoleiddio cenedlaethol.
35. Dylid nodi na fydd Strategaeth Arolygu Genedlaethol ar gyfer bwyd yn cymryd lle ymyriadau rhagweithiol o fuses neu grŵp o fusesau gan yr awdurdod lleol. Bydd angen rhywfaint o wirio lleol bob amser er mwyn sicrhau bod systemau'n gweithio'n effeithiol ar lefel leol, a bydd awdurdodau lleol yn allweddol i'r broses hon. At hynny, nid yw ymyriadau adweithiol yn dod o dan gwmpas Strategaethau Arolygu Cenedlaethol felly byddai'r rhain yn parhau fel arfer hyd yn oed lle mae Strategaeth Arolygu Genedlaethol ar waith.
36. Bydd fersiwn gyntaf o 'Safon' yr ASB ar gyfer gweithredu Strategaeth Arolygu Genedlaethol yn cael ei chyhoeddi yn ystod haf 2018. Datblygwyd y Safon hon ar y cyd â rhanddeiliaid, ac fe fydd yn sicrhau bod y rhai sy'n dymuno datblygu a gweithredu Strategaeth Arolygu Genedlaethol yn gymwys ac yn gallu gwneud hynny. Bydd y Safon hefyd yn sicrhau mai dim ond y busnesau bwyd sy'n cydymffurfio fwyaf sy'n gallu cael mynediad at Strategaeth Arolygu Genedlaethol.
37. Ochr yn ochr â'r gwaith o ddatblygu Safon ar gyfer partneriaethau sy'n dymuno datblygu a gweithredu Strategaeth Arolygu Genedlaethol, mae'r ASB wedi bod yn gweithio i sicrhau'r lefel gywir o oruchwyliaeth a sicrhau bod y Strategaeth Arolygu Genedlaethol yn gweithio'n effeithiol a bod bwyd yn parhau i fod yn ddiogel ac yn cyd-fynd â'r hyn sydd ar y label.
38. Cyflwynwyd darpariaeth i'r Cod sy'n cydnabod y gall Prif Awdurdod ddewis i ddatblygu a gweithredu Strategaeth Arolygu Genedlaethol.
39. Pan fo Prif Awdurdod yn ystyried gweithredu Strategaeth Arolygu Genedlaethol, byddai angen iddynt a'u busnes partner ymgysylltu â'r ASB yn gynnar yn eu datblygiad a gallu cyflwyno dystiolaeth gadarn eu bod yn bodloni Safon yr ASB.

Caiff hwn ei asesu gan yr ASB, a fydd yn cysylltu â'r Swyddfa Diogelwch a Safonau Cynnyrch yn ystod y broses ganiatâd statudol.

40. Rydym ni'n gofyn am farn rhanddeiliaid ar y Safon ddrafft (yn cynnwys set o feini prawf a chanllawiau cysylltiedig), a chynigion goruchwyllo a sicrwydd yr ASB y gellir eu gweld yma:

<https://www.food.gov.uk/sites/default/files/media/document/PA%20NIS%20Draft%20Guidance%20on%20NIS%20Criteria.pdf>,

a

<https://www.food.gov.uk/sites/default/files/media/document/PA%20NIS%20Draft%20Guidance%20on%20NIS%20Criteria.pdf>.

Ar hyn o bryd mae'r ASB yn adolygu'r ymatebion a gyflwynwyd.

**Rydym ni'n gwahodd ymatebion rhanddeiliaid ynghylch y cwestiynau canlynol:**

C3. Beth yw manteision strategaethau arolygu cenedlaethol yn eich barn chi? Mae croeso i chi ateb y cwestiwn hwn yng nghyd-destun awdurdodau lleol, prif awdurdodau, busnesau a/neu ddefnyddwyr.

C4. Pa heriau allai godi yn sgil strategaethau arolygu cenedlaethol ar gyfer partneriaethau diogelwch bwyd yn eich barn chi? Mae croeso i chi ateb y cwestiwn hwn yng nghyd-destun awdurdodau lleol, prif awdurdodau, busnesau a/neu ddefnyddwyr.

**Cynnig 3: Cyflwyno diffiniadau Cydymffurfio**

41. Mae'r ASB yn bwriadu cyflwyno diffiniadau ar gyfer "cydymffurfiaeth lawn" a "chydymffurfiaeth barhaus" i gategoreiddio lefelau cydymffurfio mewn sefydliadau, sy'n ategu'r diffiniad presennol o gydymffurfio i raddau helaeth.
42. Gellir diffinio **Cydymffurfiaeth lawn**, at ddibenion y Cod, fel sefydliad sydd wedi cael sgôr risg:

| Ffactor risg        | Sgôr    |
|---------------------|---------|
| Strwythur           | 5 neu 0 |
| Hylendid            | 5 neu 0 |
| Hyder mewn Rheolwyr | 5 neu 0 |

43. Bydd **cydymffurfiaeth barhaus** yn cydnabod sefydliadau bwyd sydd wedi'u hasesu i fod yn cydymffurfio'n llwyr gan yr awdurdodau lleol dros gyfnod penodol, trwy gyflwyno pwysiad o fewn y cynllun sgorio ymyriadau hylendid bwyd. Bydd sefydliadau bwyd sydd wedi'u hasesu i fod yn cydymffurfio'n llwyr yn y ddau ymyriad diwethaf, ac yn ystod cyfnod o dair blynedd o leiaf, yn cael eu hystyried i fod wedi cyflawni lefel o **gydymffurfiaeth barhaus** a fydd yn cael ei gydnabod yn y cynllun sgorio ymyriadau hylendid bwyd.

## Cynnig 4: Newidiadau i'r Cynllun Sgorio Ymyriadau Hylendid Bwyd

### Cydnabod Cydymffurfiaeth Barhaus

44. Bydd sefydliad bwyd sy'n bodloni'r maen prawf hwn yn addas i gael gostyngiad i gyfanswm y sgôr asesu risg. Gellid gosod y gostyngiad hwn ar gynyddiadau o naill ai -5, -10 neu -20. Felly, bydd busnesau bwyd sy'n cynnal lefel gydymffurfio lawn ym mhob ymyriad pellach yn cael gostyngiad cnyddol yn eu sgôr asesiad risg cyfan. Dros amser, bydd y cynnig hwn yn lleihau'r ffocws rheoleiddiol ar y sefydliadau bwyd hynny sydd wedi dangos lefelau cydymffurfio parhaus a byddant yn cynorthwyo awdurdodau lleol i dargedu eu hadnoddau yn well ar y sefydliadau hynny nad ydynt yn cydymffurfio (gellir dod o hyd i enghreifftiau gweithredol yn nhabl 3 a 4 isod).
45. Mae'r cynnig hwn yn seiliedig ar dystiolaeth, fel y dangosir yn Nhabl 1 isod, sy'n dynodi bod sefydliadau'n fwy tebygol o gydymffurfio pe byddent wedi dangos lefelau cydymffurfio da yn ystod eu dau ymyriad blaenorol. Er enghraift, fe gafodd llai nag 1% o sefydliadau a oedd wedi cyflawni sgôr o 5 yn y Cynllun Sgorio Hylendid Bwyd (CSHB) yn ystod y ddau arolygiad blaenorol sgôr o 0-2 yn eu harolygiad nesaf.

### Rydym ni'n gwahodd ymatebion rhanddeiliaid yng hylch y cwestiynau canlynol:

C5: Beth yw eich barn ar y diffiniad arfaethedig o gydymffurfiaeth lawn ac a ddylid ystyried bod sefydliadau bwyd sy'n cyflawni hyn yn cydymffurfio'n llwyr?

C6: Ydych chi'n meddwl y dylid cydnabod sefydliadau bwyd am gydymffurfiaeth barhaus os cânt eu hasesu i gydymffurfio'n llwyr yn ystod y ddau ymyriad diwethaf a thros isafswm gyfnod o dair blynedd?

C7: Faint o ostyngiad i'w sgôr cynllun sgorio ymyriadau hylendid bwyd gyfan y dylai sefydliadau bwyd ei gael i sicrhau cydymffurfiaeth lawn, yn eich barn chi (ee. -5 neu 10)?

| <i>Sgoriau cyfwerth â'r CSHB yn y ddau ymyriad blaenorol</i> |     | <i>Nifer y sefydliadau</i> | <i>% o leiaf yn cydymffurfio i raddau helaeth (CSHB 3-5)</i> |
|--|-----|----------------------------|--|
| <b>5</b>   | 5   | 18,824                     | 99.1%  |
| <b>4</b>   | 5   | 3,840                      | 97.3%  |
| <b>3</b>   | 5   | 1,382                      | 96.3%  |
| <b>2</b>   | 5   | 392                        | 96.2%  |
| <b>0-1</b>   | 5   | 410                        | 93.9%  |
| <b>5</b>   | 4   | 2,657                      | 95.6%  |
| <b>4</b>   | 4   | 5,440                      | 93.9%  |
| <b>3</b>   | 4   | 2,737                      | 90.5%  |
| <b>2</b>   | 4   | 684                        | 88.3%  |
| <b>0-1</b>   | 4   | 893                        | 86.7%  |
| <b>5</b>   | 3   | 978                        | 91.6%  |
| <b>4</b>   | 3   | 1,859                      | 88.0%  |
| <b>3</b>   | 3   | 3,438                      | 84.2%  |
| <b>2</b>   | 3   | 792                        | 79.7%  |
| <b>0-1</b>   | 3   | 1,101                      | 75.2%  |
| <b>5</b>   | 2   | 322                        | 86.3%  |
| <b>4</b>   | 2   | 648                        | 79.2%  |
| <b>3</b>   | 2   | 842                        | 71.3%  |
| <b>2</b>   | 2   | 527                        | 67.0%  |
| <b>0-1</b>   | 2   | 396                        | 60.4%  |
| <b>5</b>   | 0-1 | 237                        | 83.1%  |
| <b>4</b>   | 0-1 | 633                        | 77.1%  |
| <b>3</b>   | 0-1 | 1,061                      | 66.3%  |
| <b>2</b>   | 0-1 | 452                        | 62.4%  |
| <b>0-1</b>   | 0-1 | 1,208                      | 59.1%  |

Tabl 1: Sut mae cydymffuriaeth busnesau yn yr ymyriadau dilynol yn amrywio yn ôl cydymffuriaeth yr ymyriadau blaenorol.

46. Yn y digwyddiadau ymgysylltu â'r awdurdodau lleol ym mis Ionawr 2018, mynegodd rhai awdurdodau lleol bryder pe bai hyd yr amser rhwng ymyriadau yn cynyddu, gall lefelau cydymffurfio leihau. Fel y nodir yn Nhabl 2 isod, ymddengys nad oes unrhyw dystiolaeth i ddangos bod sefydliadau sydd â chyfnod o dwy neu dair blynedd rhwng ymyriadau yn perfformio'n waeth yn ystod yr ymyrraeth ddilynol na'r rhai sydd â chyfnod blwyddyn (dylid nodi bod yna lawer llai o sefydliadau sydd â bwlc'h o dair blynedd). Yn seiliedig ar y dystiolaeth hon, bydd gweithredu'r newid o ran cydymffuriaeth barhaus yn caniatáu ailgyfeirio adhoddau'r awdurdod lleol ar fusnesau bwyd heb eu sgorio a'r sefydliadau bwyd hynny nad ydynt yn cydymffurfio.

Tabl 2: Dangos perfformiad yn yr ymyriad diweddaraf (Ymyriad 3) o ystyried y sgoriau CSHB yn ystod bob un o'r ymyriadau blaenorol (Ymyriadau 1 a 2) – yn ôl y cyfnod amser rhwng yr ymyriad diweddaraf (Ymyriad 3) a'r Ymyriad blaenorol (Ymyriad 2).

Cymhariaeth rhwng bwlch 1 flwyddyn a bwlch 2 flynedd

| Sgoriau<br>cyfwerth â'r CSHB<br>yn<br>y ddau arolygiad<br>blaenorol<br>(1 a 2) | 1 flwyddyn rhwng arolygiadau 2 a 3 |  |                                |                       | 2 flynedd rhwng arolygiad 2 a 3 |  |                                |                       | Gwahaniaeth<br>(pwyt canran) |     |     |  |  |  |
|--|------------------------------------|--|--------------------------------|-----------------------|---------------------------------|--|--------------------------------|-----------------------|------------------------------|-----|-----|--|--|--|
|  | Cyfanswm                           | Yn eu harolygiad diweddaraf                            |                                |                       | Cyfanswm                        | Yn eu harolygiad diweddaraf                            |                                |                       |                              |     |     |  |  |  |
|  |                                    | %<br>Cydymffurfio<br>i raddau<br>helaeth<br>(CSHB 3-5) | % Da/<br>Da iawn<br>(CSHB 4-5) | % Da iawn<br>(CSHB 5) |                                 | %<br>Cydymffurfio<br>i raddau<br>helaeth<br>(CSHB 3-5) | % Da/<br>Da iawn<br>(CSHB 4-5) | % Da iawn<br>(CSHB 5) |                              |     |     |  |  |  |
| 5  | 5                                  | 5,539  | 99%                            | 97%                   | 90%                             | 11,462   | 99%                            | 97%                   | 90%                          | 0   | 0   |  |  |  |
| 4  | 5                                  | 980  | 98%                            | 96%                   | 84%                             | 2,472  | 97%                            | 92%                   | 79%                          | -1  | -3  |  |  |  |
| 3  | 5                                  | 286  | 98%                            | 92%                   | 78%                             | 947  | 96%                            | 91%                   | 76%                          | -2  | -2  |  |  |  |
| 0-2  | 5                                  | 151  | 95%                            | 87%                   | 71%                             | 584  | 95%                            | 86%                   | 72%                          | 0   | -1  |  |  |  |
| 5  | 4                                  | 1,356  | 96%                            | 88%                   | 61%                             | 1,181  | 95%                            | 86%                   | 57%                          | -1  | -2  |  |  |  |
| 4  | 4                                  | 2,558  | 95%                            | 82%                   | 40%                             | 2,527  | 93%                            | 81%                   | 42%                          | -1  | -1  |  |  |  |
| 3  | 4                                  | 1,097  | 89%                            | 74%                   | 32%                             | 1,479  | 92%                            | 74%                   | 32%                          | +2  | 0   |  |  |  |
| 0-2  | 4                                  | 680  | 88%                            | 74%                   | 34%                             | 819  | 87%                            | 70%                   | 34%                          | -2  | -3  |  |  |  |
| 5  | 3                                  | 507  | 95%                            | 79%                   | 54%                             | 448  | 88%                            | 66%                   | 39%                          | -7  | -13 |  |  |  |
| 4  | 3                                  | 948  | 89%                            | 60%                   | 28%                             | 867  | 87%                            | 56%                   | 26%                          | -1  | -4  |  |  |  |
| 3  | 3                                  | 1,543  | 84%                            | 45%                   | 18%                             | 1,745  | 84%                            | 46%                   | 17%                          | 0   | 0   |  |  |  |
| 0-2  | 3                                  | 861  | 80%                            | 42%                   | 16%                             | 946  | 75%                            | 40%                   | 14%                          | -4  | -2  |  |  |  |
| 5  | 0-2                                | 416  | 88%                            | 72%                   | 46%                             | 141  | 77%                            | 65%                   | 44%                          | -10 | -8  |  |  |  |
| 4  | 0-2                                | 915  | 79%                            | 55%                   | 26%                             | 359  | 77%                            | 54%                   | 26%                          | -2  | -1  |  |  |  |
| 3  | 0-2                                | 1,352  | 69%                            | 38%                   | 15%                             | 531  | 67%                            | 40%                   | 17%                          | -2  | +2  |  |  |  |
| 0-2  | 0-2                                | 1,959  | 61%                            | 32%                   | 11%                             | 603  | 63%                            | 31%                   | 11%                          | +1  | -1  |  |  |  |

Cymhariaeth rhwng bwlch 1 flwyddyn a bwlch 3 blynedd:

| Sgoriau cyfwerth â'r<br>CSHB<br>yn y ddau<br>arolygiad<br>blaenorol<br>(1 a 2) |     | 1 flwyddyn rhwng arolygiadau 2 a 3                     |                                |                       |     | 3 blynedd rhwng arolygiadau 2 a 3                      |                                |                       |     | Gwahaniaeth<br>(pwyt canran)                           |                                |                       |
|--|-----|--|--------------------------------|-----------------------|-----|--|--------------------------------|-----------------------|-----|--|--------------------------------|-----------------------|
|  |     | Yn eu harolygiad diweddaraf                            |                                |                       |     | Yn eu harolygiad diweddaraf                            |                                |                       |     |  |                                |                       |
|  |     | %<br>Cydymffurfio<br>i raddau<br>helaeth<br>(CSHB 3-5) | % Da/<br>Da iawn<br>(CSHB 4-5) | % Da iawn<br>(CSHB 5) |     | %<br>Cydymffurfio<br>i raddau<br>helaeth<br>(CSHB 3-5) | % Da/<br>Da iawn<br>(CSHB 4-5) | % Da iawn<br>(CSHB 5) |     | %<br>Cydymffurfio<br>i raddau<br>helaeth<br>(CSHB 3-5) | % Da/<br>Da iawn<br>(CSHB 4-5) | % Da iawn<br>(CSHB 5) |
| 5  | 5   | 5,539  | 99%                            | 97%                   | 90% | 1,823  | 99%                            | 98%                   | 94% | 0  | +1                             | +3                    |
| 4  | 5   | 980  | 98%                            | 96%                   | 84% | 388  | 97%                            | 94%                   | 84% | -1   | -1                             | 0                     |
| 3  | 5   | 286  | 98%                            | 92%                   | 78% | 149  | 97%                            | 96%                   | 84% | 0  | +4                             | +6                    |
| 0-2  | 5   | 151  | 95%                            | 87%                   | 71% | 67   | 99%                            | 94%                   | 84% | +4   | +7                             | +13                   |
| 5  | 4   | 1,356  | 96%                            | 88%                   | 61% | 120  | 95%                            | 88%                   | 53% | -1   | 0                              | -8                    |
| 4  | 4   | 2,558  | 95%                            | 82%                   | 40% | 355  | 95%                            | 91%                   | 28% | 0  | +9                             | -12                   |
| 3  | 4   | 1,097  | 89%                            | 74%                   | 32% | 161  | 90%                            | 78%                   | 29% | +1   | +5                             | -3                    |
| 0-2  | 4   | 680  | 88%                            | 74%                   | 34% | 78   | 87%                            | 74%                   | 37% | -1   | +1                             | +3                    |
| Unrhyw<br>un   | 3   | 3,859  | 86%                            | 53%                   | 25% | 303  | 81%                            | 45%                   | 17% | -4   | -8                             | -8                    |
| Unrhyw<br>un   | 0-2 | 4,642  | 69%                            | 42%                   | 18% | 50   | 54%                            | 30%                   | 12% | -15  | -12                            | -6                    |

## **Grwpiau Risg sy'n Agored i Niwed**

47. Yn y Cod cyfredol, mae sefydliadau sy'n cynhyrchu neu'n gweini bwyd risg uchel a fwriedir yn benodol i'w fwyta gan grwpiau risg sy'n agored i niwed o fwy na 20 person yn cael sgôr ychwanegol o 22 (sy'n ychwanegol at y sgôr Defnyddwyr sy'n Wynebu Risg) Yn y cyd-destun hwn, Grwpiau sy'n Agored i Niwed yw'r bobl hynny sy'n debygol o fod yn fwy agored i effeithiau hylendid bwyd gwael, e.e. plant o dan 5 oed, pobl hŷn dros 65 oed, neu rhywun sy'n sâl neu sydd â nam ar eu system imiwnedd. Mae rhoi sgôr ychwanegol o 22 yn golygu cynyddu sgôr cynllun sgorio ymyriadau hylendid bwyd sefydliadau bwyd (gan gynyddu'r amlder ymyrryd) o hyd at ddau categori sgôr ymyrryd.
48. Bwriedir cysylltu'r sgôr ychwanegol ar gyfer y grŵp sy'n agored i niwed yn uniongyrchol â'r asesiad Hyder mewn Rheolwyr mewn sefydliadau bwyd. Mae cadw sgôr gyfredol y grŵp sy'n agored i niwed yn cydnabod bod rhai grwpiau o fewn y boblogaeth yn fwy agored i ddatblygu haint yn dilyn bwyta neu yfed rhywbeth sydd wedi'i halogi. Mae'r bobl hyn yn debygol o ddioddef symptomau mwy difrifol, a rhaid i'r defnyddwyr hyn gael eu diogelu'n briodol.
49. Yn ymarferol, mae'r awdurdod lleol fel arfer yn rhoi sgôr grŵp risg i sefydliadau bwyd lle gellir nodi hyn yn glir, fel ysbytai, yn hytrach na gweithgynhyrchwr sy'n cyflenwi cynhyrchion i'r boblogaeth gyfan, gan gynnwys y rheiny sydd efallai yn agored i niwed.
50. O dan Erthygl 5 Rheoliad (CE) Rhif 852/2004, mae'n rhaid i weithredwyr busnesau bwyd sefydlu, gweithredu a chynnal gweithdrefn neu weithdrefnau parhaol yn seiliedig ar egwyddorion Dadansoddi Peryglon a Phwyntiau Rheoli Critigol (HACCP). Dylai busnesau bwyd fod â systemau rheoli diogelwch bwyd effeithiol ar waith i leihau risgiau diogelwch bwyd a dylai hyn gynnwys ystyried sut bydd y bwyd yn cael ei ddefnyddio. Mae'r sgôr grŵp agored i niwed presennol yn cael ei roi p'un a yw'r busnes bwyd yn dangos lefelau da o gydymffurfio â chyfraith bwyd neu beidio. Felly, efallai y bydd busnesau bwyd sy'n cydymffurfio ac yn gweini bwyd i Grwpiau sy'n Agored i Niwed yn cael nifer uwch o ymyriadau o'u cymharu â sefydliadau bwyd eraill sy'n cydymffurfio i raddau llai.
51. Er mwyn cydnabod busnesau sydd â systemau rheoli diogelwch bwyd effeithiol ar waith, cynigir na fydd y sgôr grŵp sy'n agored i niwed yn cael ei rhoi lle mae'r sefydliad bwyd sy'n cael ei asesu yn cydymffurfio'n llawn. Er enghraift, os yw busnes bwyd yn cael sgôr 0 neu 5 ar gyfer y tri sgôr cydymffurfio, ni fyddai'r sgôr ychwanegol o 22 yn cael ei dyfarnu.
52. Mae'r cynnig hwn yn cydnabod sefydliadau bwyd sy'n cydymffurfio â systemau rheoli diogelwch bwyd effeithiol trwy leihau'r amlder ymyriadau. Fodd bynnag, cynigir y byddai'r sgôr grŵp sy'n agored i niwed yn dal i gael ei dyfarnu i sefydliadau bwyd sy'n gweini bwyd risg uchel i ddefnyddwyr sy'n agored i niwed nad ydynt yn dangos cydymffuriaeth lawn.
53. Mae dadansoddiad o ddata LAEMS yn nodi bod sgoriau Hyder mewn Rheolwyr yn uwch mewn sefydliadau gofal iechyd lle mae sgôr grŵp sy'n agored i niwed wedi'i dyfarnu a bod lefel gorfodi ffurfiol yn isel.

54. Mae dadansoddiad hefyd yn dangos gwahaniaeth amlwg yn lefelau'r camau gorfodi ffurfiol (o unrhyw fath). Mae sefydliadau sydd â sgôr Grwpiau sy'n Agored i Niwed dair gwaith yn llai tebygol o gael camau yn eu herblyn, o'i gymharu â lefel y camau gorfodi yn erbyn pob sefydliad bwyd (0.21% ar gyfer sefydliadau â sgôr Grwpiau sy'n Agored i Niwed, o'i gymharu â 0.73% o'r holl sefydliadau bwyd).
55. Mewn digwyddiadau ymgysylltu awdurdodau lleol diweddar, cafodd ei fynegi, oherwydd toriadau ariannol, bod darparwyr yn methu â darparu gofal digonol o fewn sefydliadau gofal iechyd ac yn gyffredinol mae'r safonau'n gostwng. Felly, roedd rhai swyddogion yn ystyried bod angen cynnal amlder presennol ymyriadau hylendid. Ar hyn o bryd nid oes unrhyw dystiolaeth mewn data LAEMS i gefnogi hyn, ond bydd yr ASB yn parhau i fonitro'r sefyllfa gan ddefnyddio gwybodaeth LAEMS 2017/2018.

**Rydym ni'n gwahodd ymatebion gan randdeiliaid ar y cwestiynau canlynol:**

- C8: Ydych chi'n cytuno â thrin busnesau sy'n cydymffurfio'n llawn yn wahanol o dan yr amgylchiadau hyn, a beth fyddai effeithiau cadarnhaol a negyddol tebygol y cynnig hwn?
- C9: A oes gennych chi unrhyw dystiolaeth gofnodedig a fyddai'n cadarnhau'r farn bod gostyngiad sylweddol wedi bod mewn lefelau cydymffurfio â diogelwch bwyd mewn sefydliadau bwyd lle mae sgôr Grwpiau Risg Agored i Niwed wedi ei dyfarnu?

### Cynnig 5: Mesurau Diogelu

56. Cynigir rhoi mesurau diogelu ar waith er mwyn sicrhau bod effaith gyfunol cynigion 3 a 4 yn cael ei chapio ac na fyddai'n fwy na chyfanswm gostyngiad o -40 yn y sgôr ymyrraeth hylendid bwyd gyffredinol neu'n lleihau sgôr ymyrraeth gan fwy na dau categori risg. Mae hyn i sicrhau bod mesurau rheoli swyddogol yn parhau i gael eu gweithredu mewn sefydliadau bwyd mewn ffordd sy'n gymesur â'r risg. Yn ogystal, ar gyfer sefydliadau sydd â sgôr risg o 22 ar gyfer Grwpiau Agored i Niwed, cynigia'r ASB na all y gostyngiad mewn categori risg sy'n deillio o gynigion 3 a 4 arwain at bennu categori sy'n llai na chategori D i sefydliad. Bydd hyn yn sicrhau bod ymweliadau ymyrryd â sefydliadau yn parhau i fod yn ofyniad lleiaf.
57. Mae'r enghreifftiau canlynol yn dangos effaith gyfunol cynnig 3 a 4, a'r cyfngiadau a osodir.

### Enghraifft 1

Mae cartref gofal preswyl sydd â sgôr categori C am hylendid bwyd wedi'i asesu i gydymffurfio'n llawn yn y ddau ymyriad diwethaf a thros gyfnod o dair blynedd o leiaf. Yn yr arolygiad nesaf ar 01/05/2019, byddai'r sgôr risg ar gyfer Grwpiau Agored i Niwed yn cael ei dileu a byddai gostyngiad yng nghyfanswm y sgôr elfen risg yn cael ei gymhwysyo. Mae'r enghraifft yn dangos effaith y gwahanol ostyngiadau a gynigir, sef -5, -10 neu -20. Yn yr arolygiad nesaf ar 01/05/2021, nid yw'r sgôr risg ar gyfer

Grwpiau Agored i Niwed yn cael ei chymhwys gan fod y cartref gofal wedi'i asesu i gydymffurfio'n llawn a chymhwysir y gostyngiad pellach yng nghyfanswm y sgôr risg. Pan fo'r effaith gronol yn rhoi cyfanswm sgôr o 30 neu lai, caiff y gostyngiad mewn categori risg ei gyfyngu i sicrhau bod y sefydliad yn aros o fewn categori D.

**Tabl 3: Newidiadau categori ar gyfer cartref gofal preswyl**

| Dyddiad<br>Arolygu                 | 01/05/2016 | 01/11/2017 | 01/05/2019  | 01/05/2021  |
|------------------------------------|------------|------------|---|---|
| <i>Math o fwyd/dull trin</i>       | 30         | 30         | 30  | 30  |
| <i>Dull prosesu</i>                | 0          | 0          | 0   | 0   |
| <i>Defnyddwyr sy'n wynebu risg</i> | 5          | 5          | 5   | 5   |
| <i>Grŵp Agored i Niwed</i>         | 22         | 22         | 0 Wedi'i dynnu  | 0 Wedi'i dynnu  |
| <i>Hylendid</i>                    | 0          | 0          | 0   | 0   |
| <i>Strwythur</i>                   | 5          | 5          | 5   | 5   |
| <i>Hyder mewn Rheolwyr</i>         | 5          | 0          | 0   | 0   |
| <i>Cyfanswm</i>                    | 67         | 62         | 40  | 40  |
| <i>Categori</i>                    | C          | C          | D   | D   |
| <i>Categori (-5)</i>               |            |            | 35 (-5) - D   | 30 (-10) - Parhau i fod yng nghategori D gan ei fod wedi'i gapio            |
| <i>Categori (-10)</i>              |            |            | <del>30</del> (-10) - Parhau i fod yng nghategori D gan ei fod wedi'i gapio | <del>20</del> (-20) - Parhau i fod yng nghategori D gan ei fod wedi'i gapio |
| <i>Categori (-20)</i>              |            |            | <del>20</del> (-20) - Parhau i fod yng nghategori D gan ei fod wedi'i gapio | <del>-0</del> (-40) - Parhau i fod yng nghategori D gan ei fod wedi'i gapio |

## Enghraift 2

Mae bwyty ar y stryd fawr sy'n gweini stêcs tartar a gafodd sgôr categori C ar gyfer hylendid bwyd wedi'i asesu i gydymffurfio'n llawn yn ystod y ddua ymyriad diwethaf a dros gyfnod o 3 blynedd o leiaf. Yn yr arolygiad nesaf ar 01/05/2019 mae gostyngiad yng nghyfanswm y sgôr elfen risg yn cael ei gymhwys sy'n dangos effaith -5, -10 neu -20. Yn yr arolygiad nesaf ar 01/11/2020 caiff y bwyty ei asesu unwaith eto i gydymffurfio'n llawn ac felly cymhwysir gostyngiad pellach yng nghyfanswm y sgôr elfen risg.

**Tabl 4: Newidiadau categori ar gyfer bwyty ar y stryd fawr**

| Dyddiad arolygu                    | 1/05/2016 | 1/11/2017 | 1/05/2019 | 1/11/2020 |
|------------------------------------|-----------|-----------|-----------|-----------|
| <i>Math o fwyd/dull trin</i>       | 30        | 30        | 30        | 30        |
| <i>Dull prosesu</i>                | 20        | 20        | 20        | 20        |
| <i>Defnyddwyr sy'n wynebu risg</i> | 5         | 5         | 5         | 5         |
| <i>Grŵp Agored i Niwed</i>         | 0         | 0         | 0         | 0         |

|                            |    |    |              |   |
|----------------------------|----|----|--------------|---|
| <i>Hylendid</i>            | 0  | 5  | 5            | 0   |
| <i>Strwythur</i>           | 0  | 5  | 0            | 0   |
| <i>Hyder mewn Rheolwyr</i> | 0  | 5  | 5            | 0   |
| <i>Cyfanswm</i>            | 55 | 70 | 65           | 55  |
| <i>Categori Cychwynnol</i> | C  | C  | C            | C   |
| <i>Categori (-5)</i>       |    |    | 60 (-5) - C  | 45 (-10) - C  |
| <i>Categori (-10)</i>      |    |    | 55 (-10) - C | 35 (-20) - D  |
| <i>Categori (-20)</i>      |    |    | 45 (-20) - C | 15 (-40)<br>Parhau i fod yng nghategori C gan ei fod wedi'i gapio |

## Cynnig 6: Risg Sylweddol

58. Mae'r sgôr risg sylweddol yn y cynllun sgorio ymyriadau hylendid bwyd yn cydnabod y posibl rwydd o salwch difrifol a gludir gan fwyd pan fo busnes bwyd yn methu â mynd i'r afael â risgiau penodol o ran halogiad.
59. Dylai'r sgôr risg sylweddol hon gael ei chymhwysu dan yr amgylchiadau canlynol:
- pan fydd bwyd yn cael ei halogi â *Clostridium botulinum* ac y bydd y micro-organeb yn goroesi unrhyw brosesu ac yn lluosi; neu
  - pan fo bwyd parod i'w fwyta wedi'i halogi, neu bydd yn cael ei halogi â micro-organebau neu eu tocsinau sy'n bathogenig i bobl, e.e. *E. coli* O157 neu VTEC arall, *Salmonela* sp.; *Bacillus cereus*.
60. Dylid cymhwysu'r sgôr hon fesul achos. Ni fwriedir iddi gael ei chymhwysu'n gyffredinol i gategorïau cyfan mewn perthynas â busnesau bwyd a bydd rhaid ei thynnu yn ystod yr arolygiad nesaf os nad yw'r risg sylweddol yn bodoli mwyach.
61. Mae'r cynnig hwn yn awgrymu cael gwared ar y sgôr risg sylweddol ac yn ei lle ystyried risg sylweddol yn rhan o'r asesiad Hyder mewn Rheolwyr gan ei fod yn ymwneud â'r risg o halogiad. Mae'r sgôr risg sylweddol eisoes yn uniongyrchol gysylltiedig â'r asesiad Hyder mewn Rheolwyr. Os asesir Hyder mewn Rheolwyr fel 0 neu 5, ni ddylai'r sefydliad bwyd beri risg sylweddol gan fod yna hyder yn y rheolwyr o ran diogelwch bwyd ac felly ni fyddai'r sgôr yn cael ei chymhwysu.
62. Dylai fod gan fusnesau bwyd systemau rheoli diogelwch bwyd priodol ar waith i leihau risgiau o ran diogelwch bwyd heb ystyried canlyniadau methu â gweithredu mesurau rheoli effeithiol. Mae eu dulliau nhw o reoli eisoes wedi'u hasesu fel rhan o'r asesiad Hyder mewn Rheolwyr. Mae ymgorffori'r elfen risg sylweddol yn rhan o'r asesiad Hyder mewn Rheolwyr yn cydhabod yn well sut mae'r risgiau hyn yn cael eu rheoli gan y busnes. Dylid delio â risg sylweddol gan ddefnyddio cosbau gorfodi priodol yn dilyn ymyriadau oherwydd nad eir i'r afael â'r risg trwy gynyddu amlader yr ymyriadau.

Mae data LAEMS Cymru 2016/17 yn dangos bod 109 o sefydliadau wedi cael y sgôr Risg Sylweddol anghywir. Roedd wyth o'r sefydliadau bwyd hynny (15%) wedi cael

asesiad 0 neu 5 o ran Hyder mewn Rheolwyr, yn gwbl groes i ofynion y Cod. Mae hyn yn golygu bod 89 o sefydliadau bwyd yng Nghymru wedi cael y sgôr yn briodol. O ran y 20 sgôr Risg Sylweddol a roddwyd yn anghywir, pe bai'r sgôr yn cael ei dynnu, byddai hyn yn arwain at 18 sefydliadau bwyd yn newid eu categorïau risg. Mae'r dystiolaeth hon yn ategu'r adborth a gafwyd yn y digwyddiadau ymgysylltu ag awdurdodau lleol, lle gwnaeth yr awdurdodau lleol dynnu sylw at y ffaith bod y sgôr Risg Sylweddol yn cael ei defnyddio ar adegau i nodi sefydliadau penodol ar eu cronfa ddata, yn hytrach na'i defnyddio fel dull pwrrpasol o ystyried risg.

#### **Gwahoddir ymatebion gan randdeiliaid ar y cwestiynau canlynol:**

C10: O ystyried y materion sy'n bodoli o ran cymhwysôr sgôr Risg Sylweddol, beth yw eich barn chi ar gadw hyn yn rhan o'r cynllun sgorio ymyriadau hylendid bwyd?

C11: Os cymhwysir y sgôr Risg Sylweddol am resymau heblaw am ffactor risg a nodwyd, beth yw'r manteision a pha fesurau amgen y gellid eu defnyddio i gyflawni'r un nod?

#### **Cynnig 7: Dull Prosesu**

63. Bwriad elfen Dull Prosesu'r cynllun sgorio ymyriadau hylendid bwyd yw cydnabod y sefydliadau hynny sy'n ymgymryd â dull prosesu penodol. Mae'r rhain yn cynnwys prosesau neu weithgareddau sydd â'r bwriad o ymestyn oes silff cynnyrch sydd â'r potensial o gynyddu'r risg i iechyd y cyhoedd y tu hwnt i ddulliau coginio neu storio safonol e.e. pecynnau dan wactod. Mae'n ofynnol i swyddogion ystyried a yw'r gweithgaredd neu'r broses ei hun yn cynyddu'r risg. Cynigir diwygio'r disgrifydd i gynnwys amgylchiadau lle nad yw gweithrediadau sefydliad bwyd yn fwriadol yn cynnwys proses a fyddai'n cynyddu'r risg i iechyd y cyhoedd, e.e. llaeth buwch i'w yfed yn amrwd (RCDM) lle na chaiff ei drin â gwres/ei basteureiddio.

#### **Gwahoddir ymatebion gan randdeiliaid ar y cwestiynau canlynol:**

C12: Mae'r ASB o'r farn na fydd y newid arfaethedig i ddisgrifydd y dull prosesu yn arwain at unrhyw newid sylweddol mewn amlter arolygiadau ar gyfer sefydliadau bwyd. Oes gennych chi dystiolaeth i'r gwrthwyneb?

#### **Cynnig 8: Ystyriaethau ar gyfer Asesiadau Hyder mewn Rheolwyr**

64. O dan Erthygl 6(2) o Reoliad (CE) Rhif 852/2004, mae cofrestru yn ofyniad cyfreithiol. Mae'n nodi bod angen i weithredwyr busnesau bwyd gofrestru'r sefydliad(au) dan eu rheolaeth gyda'r Awdurdod Cymwys priodol yn y modd a bennir ganddynt. Mae'r Cod yn nodi'r broses ar gyfer cofrestru busnes bwyd ac mae'n ei gwneud yn ofynnol i'r gweithredwr busnes bwyd hysbysu'r awdurdod lleol o leiaf 28 diwrnod cyn i'r busnes ddechrau masnachu neu cyn i'r gweithrediadau bwyd ddechrau. Mae cael cefnogaeth a chyfarwyddyd perthnasol ar y cam cynnar hwn yn cael ei gydnabod fel rhywbeth buddiol i

fusnesau gan ei fod yn eu helpu i fod ar y trywydd iawn o'r cychwyn ac i gynnal cydymffurfiaeth â chyfraith bwyd.

65. Mae'r ASB yn ymwybodol bod cyfran o weithredwyr busnesau bwyd nad ydynt yn mynd ati i gofrestru cyn iddynt ddechrau masnachu neu ddechrau eu gweithrediadau. Er na all yr ASB feintioli'r ymchwil ansoddol hwn ar hyn o bryd, mae wedi'i gynnal i ddeall y gwahanol lwybrau y daw'r awdurdod lleol i wybod am fusnes bwyd.
66. Mewn arolwg o 112 o awdurdodau lleol, cafodd tua 10% o fusnesau bwyd newydd eu nodi pan oeddent eisoes yn masnachu. Er bod hyn yn seiliedig ar sampl fach, byddai 10% o'r 634,580 o fusnesau bwyd presennol yng Nghymru, Lloegr a Gogledd Iwerddon yn cyfateb i oddeutu 63,458 o fusnesau bwyd a allai fod yn gweithredu heb eu cofrestru'n gyntaf.
67. Mae angen cofrestru'r rhan fwyaf o fusnesau bwyd (99.2%), ac mae cyfran fechan sydd angen eu cymeradwyo cyn y gallant ddechrau masnachu. Gall y busnesau bwyd hynny sydd angen eu cofrestru ddechrau masnachu heb unrhyw fath o asesiad i sicrhau eu bod yn cydymffurfio â chyfraith bwyd.
68. Nod cofrestru yw hysbysu'r awdurdod lleol fod busnes newydd yn bwriadu agor. Yna, fe all yr awdurdod lleol gynnllunio i gynnal ymyriadau priodol. Gall hyn gynnwys amryw weithgareddau i gefnogi'r busnes bwyd i sicrhau cydymffurfiaeth, megis addysg a chyngor wedi'u targedu trwy wahanol ddulliau.
69. Nid yw'r cynllun sgorio ymyriadau hylendid bwyd presennol yn ystyried pa un a yw busnesau bwyd wedi mynd ati i gofrestru ai peidio.
70. Mae gweithredwyr busnesau bwyd sy'n cofrestru yn y modd cywir yn cydymffurfio â'r gofyniad cyfreithiol ac fe gynigir bod y rhain yn cael eu cydnabod yn y sgôr ymyrryd a gymhwysir wrth asesu Hyder mewn Rheolwyr.
71. Prif nodau ystyried cyflwyno sgôr uwch i weithredwyr busnesau bwyd nad aethant ati i gofrestru eu hunain, yw:
  - Cyflawni dull mwy cyson at y ffordd y mae awdurdodau lleol yn ymdrin â busnesau bwyd nad ydynt yn mynd ati i gofrestru eu hunain.
  - Cynyddu nifer y gweithredwyr busnesau bwyd sy'n mynd ati i gofrestru eu hunain cyn i'r busnes ddechrau masnachu neu cyn i'r gweithrediadau bwyd ddechrau.
  - Ysgogi cynnydd mewn cydymffurfiaeth trwy effeithio ar sgoriau'r CSHB pan nad yw busnes newydd wedi mynd ati i gofrestru ei hun a chynnal cydymffurfiaeth.
72. Mae gwaith ymchwil parhaus gan yr ASB i gasglu data ar sefydliadau bwyd newydd sy'n cofrestru gyda detholiad o awdurdodau lleol ar draws Cymru, Lloegr a Gogledd Iwerddon. Mae'r canlyniadau cynnar yn dangos cydberthynas glir rhwng y gweithredwyr busnesau bwyd hynny a aeth ati i gofrestru eu hunain ac a gafodd gymorth ac arweiniad wrth ddechrau'r busnes, gyda'r busnesau hyn cael sgôr CSHB uwch yn yr arolygiad cyntaf.

73. Mewn cyfres o ddigwyddiadau ymgysylltu ag awdurdodau lleol a gynhaliwyd ym mis Rhagfyr 2017 a mis Ionawr 2018, cyflwynodd yr ASB gynigion ar y cysyniad o bwysoli'r sgôr Hyder mewn Rheolwyr ar gyfer busnesau nad aethant ati i gofrestru eu hunain. Y farn gyffredinol ar ba un a ddylai awdurdodau lleol ystyried hyn oedd na fyddai cyflwyno'r newid hwn ar ei ben ei hun yn gwneud gwahaniaeth sylweddol i nifer y gweithredwyr busnesau bwyd sy'n mynd ati i gofrestru eu hunain.
74. Er bod opsiynau eraill er mwyn mynd i'r afael â'r mater o beidio â chofrestru, cynigir y dylid adlewyrchu hyn yn y sgôr Hyder mewn Rheolwyr. Byddai'r ASB yn croesawu'ch barn ar yr opsiynau i gyflawni'r hyn a nodir isod:
- Cynnwys disgrifwyr newydd yn y Cod o dan **ran 3 – Hyder mewn Rheolwyr/gweithdrefnau rheoli**  
 ‘cynnwys ar gyfer busnesau bwyd newydd – ystyried pa un a wnaeth y gweithredwr busnes bwyd fynd ati i gofrestru'r sefydliad dan ei reolaeth ai peidio cyn i'r busnes ddechrau masnachu neu cyn i'r gweithrediadau bwyd ddechrau.’
- Cyfrifoldeb yr awdurdod lleol fyddai pennu sgôr briodol i'w chymhwysio am fethu â mynd ati i gofrestru.
- Cymhwysos isafswm sgôr o 5 ar gyfer yr asesiad Hyder mewn Rheolwyr os nad yw busnes wedi mynd ati i gofrestru ei hun. Efallai y bydd hyn yn cael effaith negyddol ar sgôr CSHB y sefydliad, yn enwedig os nodir nad ydyw wedi cydymffurfio â rheolau eraill;
  - Cymhwysos isafswm sgôr o 10 ar gyfer yr asesiad Hyder mewn Rheolwyr os nad yw busnes bwyd wedi mynd ati i gofrestru ei hun, a fyddai'n cael mwy o effaith ar ei sgôr CSHB.

#### **Gwahoddir ymatebion gan randdeiliaid ar y cwestiynau canlynol:**

C13: A oes gennych unrhyw dystiolaeth ddogfennol i gefnogi'r bwriad o ddefnyddio isafswm sgôr am beidio â chofrestru busnes bwyd?

C14: Ydych chi'n meddwl y byddai defnyddio isafswm sgôr am beidio â chofrestru yn cael digon o effaith, ac os felly pa sgôr fydd fwyaf priodol yn eich barn chi?

Mae'r enghreifftiau canlynol yn dangos beth fyddai effaith cymhwysos sgôr benodol yn rhan o'r asesiad Hyder mewn Rheolwyr am beidio â mynd ati i gofrestru, ar y sgôr hylendid bwyd gyffredinol.

#### **Enghraifft 1**

Os na fyddai ystyriaeth yn cael ei rhoi i fusnesau'n mynd ati i gofrestru eu hunain ac felly y byddai sgôr o 0 yn cael ei dyfarnu am Hyder mewn Rheolwyr, byddai'r sgôr

hylendid bwyd yn 4. Byddai dyfarnu sgôr o 5 neu 10 yr un fath â phe byddai sgôr o 3 yn cael ei rhoi.

|                            |                         |                         |                         |
|----------------------------|-------------------------|-------------------------|-------------------------|
| <b>HYLENDID</b>            | 10                      | 10                      | 10                      |
| Strwythur                  | 10                      | 10                      | 10                      |
| <b>Hyder mewn Rheolwyr</b> | <b>0</b>                | <b>5</b>                | <b>10</b>               |
| Cyfanswm sgoriau ymyrryd   | 20                      | 25                      | 30                      |
| Ffactor sgorio ychwanegol  | Dim sgôr unigol dros 10 | Dim sgôr unigol dros 10 | Dim sgôr unigol dros 10 |
| Sgôr Hylendid Bwyd         | 4                       | 3                       | 3                       |
| Disgrifydd                 | Da                      | Boddhaol ar y cyfan     | Boddhaol ar y cyfan     |

## Enghraifft 2

Os na fyddai ystyriaeth yn cael ei rhoi i fusnesau'n mynd ati i gofrestru eu hunain, a sgôr o 0 yn cael ei dyfarnu am Hyder mewn Rheolwyr, byddai'r sgôr hylendid bwyd yn 5. Yn yr enghraifft hon byddai cymhwys o sgôr o 5 neu 10 yn arwain at ganlyniad gwahanol. Os cymhwysir uchafswm sgôr o 5 ar gyfer asesiad Hyder mewn Rheolwyr, byddai'r sgôr yn parhau i fod yn 5, ond os cymhwysir uchafswm sgôr o 10 ar gyfer asesiad Hyder mewn Rheolwyr, byddai'r sgôr yn 4.

|                            |                        |                        |                         |
|----------------------------|------------------------|------------------------|-------------------------|
| <b>HYLENDID</b>            | 5                      | 5                      | 5                       |
| STRWYTHUR                  | 5                      | 5                      | 5                       |
| <b>Hyder mewn Rheolwyr</b> | <b>0</b>               | <b>5</b>               | <b>10</b>               |
| Cyfanswm sgoriau ymyrryd   | 10                     | 15                     | 20                      |
| Ffactor sgorio ychwanegol  | Dim sgôr unigol dros 5 | Dim sgôr unigol dros 5 | Dim sgôr unigol dros 10 |
| Sgôr Hylendid Bwyd         | 5                      | 5                      | 4                       |
| Disgrifydd                 | Da iawn                | Da iawn                | Da                      |

## Enghraifft 3

Os na fyddai ystyriaeth yn cael ei rhoi i fusnesau'n mynd ati i gofrestru eu hunain ac felly y byddai sgôr o 0 yn cael ei dyfarnu am Hyder mewn Rheolwyr, byddai'r sgôr hylendid bwyd yn 4. Yn yr enghraifft hon byddai cymhwys o sgôr o 5 neu 10 yn arwain at ganlyniad gwahanol eto. Os cymhwysir uchafswm sgôr o 5 ar gyfer asesiad Hyder mewn Rheolwyr bydd y sgôr yn parhau i fod yn 4, ond os cymhwysir sgôr safonol o 10 ar gyfer asesiad Hyder mewn Rheolwyr, bydd y sgôr yn 3.

|                            |                        |                         |                         |
|----------------------------|------------------------|-------------------------|-------------------------|
| HYLENDID                   | 5                      | 5                       | 5                       |
| STRWYTHUR                  | 10                     | 10                      | 10                      |
| <b>Hyder mewn Rheolwyr</b> | <b>0</b>               | <b>5</b>                | <b>10</b>               |
| Cyfanswm sgoriau ymyrryd   | 15                     | 20                      | 25                      |
| Ffactor sgorio ychwanegol  | Dim sgôr unigol dros 5 | Dim sgôr unigol dros 10 | Dim sgôr unigol dros 10 |
| Sgôr Hylendid Bwyd         | 4                      | 4                       | 3                       |
| Disgrifydd                 | Da                     | Da                      | Boddhaol ar y cyfan     |

C15: Beth yw'r manteision o gymhwysyo sgôr uwch ar gyfer asesiad hyder mewn rheolwyr am beidio â chofrestru?

C16: A oes unrhyw fesurau eraill y gellid eu defnyddio i (i) annog mwy o fusnesau bwyd i fynd ati i gofrestru, ac (ii) i wella sgoriau CSHB cychwynnol?

## Dewisiadau eraill

75. Mae'r ASB yn cydnabod bod yna lawer o opsiynau y gellid eu mabwysiadu naill ai i gymhell busnesau i fynd ati i gofrestru eu hunain neu i gymryd camau i sicrhau bod busnesau yn cofrestru. Gellid ysgogi busnesau gan ddefnyddio cymhellion ariannol trwy llai o ardrethi busnes neu becynnau cymorth a gynigir fel rhan o'r broses gofrestru. Gellid rhoi cosbau hefyd ar ffurf hysbysiadau cosb benodedig.
76. Er mwyn annog gweithredwyr busnesau bwyd i gofrestru, mae'r ASB yn bwriadu cynnal ymgyrch i godi ymwybyddiaeth o'r gofyniad i gofrestru a bydd yn gweithio gyda rhanddeiliaid er mwyn helpu i addysgu gweithredwyr busnesau bwyd posibl cyn gynted ag y bo modd.
77. Yn dilyn digwyddiadau ymgysylltu ag awdurdodau lleol a gynhaliwyd yn 2017 a 2018, nodwyd bod cefnogaeth i'r syniad o gael Caniatâd i Fasnachu neu system drwyddedu ar gyfer pob busnes bwyd. Cafodd hyn ei ystyried yn eang fel ffordd effeithiol o wella mesurau rheolaethau rheoleiddiol ar gyfer busnesau bwyd. Er nad yw hyn wedi'i gynnwys yng nghyfnod cychwynnol y gwaith, bydd yn cael ei archwilio ymhellach yn ystod y broses werthuso. Bydd gwaith ymchwil yn rhoi'r dystiolaeth i bennu a oes achos i gyflwyno system Caniatâd i Fasnachu/system drwyddedu yn y dyfodol fel mesur diogelu iechyd y cyhoedd.
78. Nid yw cyflwyno hysbysiadau cosb benodedig am fethu â chydymffurfio â'r gofyniad i gofrestru yn dod o fewn cwmpas y ffrwd waith hon ychwaith, ond bydd yn cael ei ystyried yn rhan o'r gwaith ehangach ar gyllid cynaliadwy.

## Cynnig 9: Storio a Throsglwyddo Data

79. Mae mynediad at ddata a safonau data, a'r dulliau o fanteisio arnynt yn hanfodol i weithredu'r Model Gweithredu Targed sy'n cael ei ddatblygu ar gyfer rhaglen Rheoleiddio Ein Dyfodol. Mae defnyddio data yn hanfodol i'r ASB fel rheoleiddiwr. Bydd defnyddio data'n well yn cefnogi'r gwaith o weithredu gwasanaethau cyhoeddus a gwasanaethau'r llywodraeth yn effeithlon ac yn effeithiol, gan ymateb i anghenion dinasyddion a busnesau.
80. Bwriad yr ASB yw cynnwys gofyniad newydd yn y Cod a fydd yn nodi sut y mae'n rhaid i awdurdodau lleol storio a throsglwyddo data sydd ganddynt a'r angen i ddilyn safon benodol mewn perthynas â data.

### Gwahoddir ymatebion gan randdeiliaid ar y cwestiynau canlynol:

C17: Ydych chi'n rhagweld unrhyw rwystrau rhag gweithredu safon ddata ar waith awdurdodau lleol o gyflwyno rheolaethau swyddogol neu unrhyw ganlyniadau anfwriadol o wneud hynny?

### Cynigion atodol

#### Cynigion atodol i'w datblygu:

Mae'r ASB hefyd yn dymuno gwahodd barn er mwyn helpu i ddatblygu'r mesurau perfformiad newydd a ganlyn. Bydd hyn yn galluogi asesu mwy ystyrlon ac mewn amser real o'r modd y mae awdurdodau lleol yn cyflawni eu rhwymedigaethau.

## Cerdyn Sgorio Cytbwys

81. Mae'r ASB yn datblygu Cerdyn Sgorio Cytbwys. Mae hwn yn offeryn digidol a fydd yn defnyddio data CSHB a data LAEMS i gynnig gwybodaeth fwy cynhwysfawr a chyfoes o berfformiad cyflenwi awdurdodau lleol a pha mor effeithiol ydynt. Gallai'r Cerdyn Sgorio Cytbwys hefyd ystyried ffynonellau data mewnol ac allanol eraill perthnasol sydd ar gael yn y dyfodol.
82. Cyflwynir data trwy ystod o offer gweledol, gan gynnwys mapio rhyngweithiol. Bydd hyn yn galluogi dadansoddi data'n fanwl, gan ei gwneud hi'n haws gweld a deall perfformiad a thueddiadau awdurdodau lleol yn genedlaethol. Fe allai hyn helpu i lywio'r gwaith o ddatblygu polisiau wedi'u targedu'n well ar gyfer Cymru, Lloegr a Gogledd Iwerddon. Bydd y Cerdyn Sgorio Cytbwys hefyd yn ei gwneud yn haws i awdurdodau lleol feincnodi eu perfformiad yn erbyn awdurdodau tebyg eraill. Dylai hyn wella'r gwasanaeth.

### Gwahoddir ymatebion gan randdeiliaid ar y cwestiynau canlynol:

C18: A ydych chi'n gwybod am unrhyw setiau data sydd ar gael yn gyhoeddus, ar wahân i ddata LAEMS a data CSHB, y gellid eu hychwanegu at y Cerdyn Sgorio Cytbwys i wella ei gwmpas?

C19: A oes unrhyw ddangosyddion mesuradwy eraill o berfformiad awdurdodau lleol, ar wahân i ddata LAEMS a data CSHB, y gellid eu datblygu a'u defnyddio i fonitro pa mor effeithiol yw awdurdodau lleol yn cyflawni eu dyletswyddau? Gallai'r rhain fod yn ddangosyddion uniongyrchol neu anuniongyrchol ac yn fesurau meintiol neu ansoddol.

## **Y Broses Ymgysylltu ac Ymgynghori**

83. Cyflwynodd yr ASB y gwelliannau arfaethedig hyn mewn cyfres o ddigwyddiadau ymgysylltu ag awdurdodau lleol yn ogystal â chyflwyno'r cynigion i gynrychiolwyr ar ran y diwydiant yng nghyfarfod y Panel o Arbenigwyr Hylendid Bwyd. Yng Nghymru, cynhalwyd tri gweithdy, un yn y Gogledd ar 11 Ionawr, un yn y Canolbarth ar 18 Ionawr ac un yn y De ar 1 Chwefror 2018. Roedd tua 50 cynrychiolydd o'r awdurdodau lleol yn bresennol. Hefyd, cynhaliodd yr ASB gyfarfodydd gyda'r Gweithgor Segmentu cyn lansio'r ymgynghoriad lle y cyflwynwyd y cynigion i gynrychiolwyr yr awdurdodau lleol, a rhanddeiliaid eraill gan gynnwys cynrychiolwyr ar ran y diwydiant a chynrychiolwyr ar ran cyrff proffesiynol. Derbyniodd yr ASB ymatebion manwl i'r cynigion gan awdurdodau lleol.

### **Crynodeb o'r ymatebion:**

#### **Cynnig 1: Cofrestru manylach**

84. Yn y digwyddiadau ymgysylltu â rhanddeiliaid, roedd cefnogaeth gadarnhaol i gyflwyno dull cofrestru manylach. Fodd bynnag, roedd siom nad oedd y gwaith o gryfhau'r broses gofrestru, yn hytrach na'i gwella, yn cael ei flaenoriaethu gan yr ASB. Cafodd diffygion o fewn y system gofrestru bresennol eu nodi'n glir. Tynnwyd sylw at y ffaith bod awdurdodau lleol yn defnyddio llawer o adnoddau i fynd i'r afael ag achosion o beidio â chofrestru a pha mor anaml y cymerir camau gorfodi yn erbyn gweithredwyr busnesau bwyd am fethu â chofrestru. Roedd yna gefnogaeth gref i gyflwyno Hysbysiadau Cosb Benodedig fel cosb orfodi i weithredwyr busnesau bwyd sy'n methu â mynd ati i gofrestru eu busnes eu hunain.

85. At hynny, roedd cefnogaeth gref ymhlið awdurdodau lleol i gyflwyno gofynion trwyddedu ar gyfer busnesau bwyd, ac ar y cyfan, maent yn cytuno bod angen mechanwaith ariannu i ddatrys problemau o ran adnoddau. Roedd awdurdodau lleol o'r farn y byddai tâl am drwyddedu yn dod ag incwm y gellid ei glustnodi ar gyfer mesurau rheoli bwyd swyddogol. Byddai trwyddedu hefyd yn galluogi amodau i gael eu cynnwys er mwyn sicrhau cydymffurfiaeth adeg masnachu a gellid defnyddio cosbau e.e. dirymu/atal y drwydded.

#### **Cynnig 2: Strategaethau Arolygu Cenedlaethol**

86. Mae ymatebion gan randdeiliaid i'r Safon ddrafft ar Strategaethau Arolygu Cenedlaethol a chynigion yr ASB i'w harolygu yn dal i gael eu casglu, eu hadolygu a'u hystyried. Ymddengys bod y safbwytiau cychwynnol yn gymsg, gan fod rhai yn gefnogol ac eraill yn codi pryderon ac awgrymiadau ar gyfer gwella. Mae'r holl safbwytiau'n cael eu hystyried a byddant yn cael eu defnyddio i lywio dull yr ASB o weithredu Strategaethau Arolygu Cenedlaethol.

### **Cynnig 3: Cydymffurfiaeth lawn a chydymffurfiaeth barhaus**

87. Yng Nghymru, Lloegr a Gogledd Iwerddon, ystyriwyd bod y diffiniadau newydd arfaethedig o 'gydymffurfiaeth lawn' a 'chydymffurfiaeth barhaus' yn rhesymol, ond roedd rhai awdurdodau lleol yn cwestiynu gwir effaith/arbedion y cynnig. Dywedodd awdurdodau lleol eu bod eisoes yn defnyddio'r dulliau hyblyg sydd ar gael iddynt yn y Cod ar gyfer sefydliadau â sgôr categori C a categori D sy'n cydymffurfio i raddau helaeth, felly efallai na fyddant yn dangos cydymffurfiaeth barhaus am flynyddoedd. Ystyriwyd hefyd bod yr effaith ar arolygiadau yn ddibwys.

### **Cynnig 4: Grwpiau Agored i Niwed**

88. Yn Lloegr a Gogledd Iwerddon roedd rhywfaint o gefnogaeth i ddileu'r sgôr risg ar gyfer Grwpiau Agored i Niwed dan yr amgylchiadau a ddisgrifiwyd, cyn belled â bod mesurau eraill ar waith i gydnabod y risg gynyddol o weini bwyd i grwpiau sy'n agored i niwed. Roedd gwrt hwynebiad unfrydol yng Nghymru i'r cynnig i ddileu'r sgôr ychwanegol o 22 ar gyfer busnesau bwyd sy'n gweini bwyd i Grwpiau Agored i Niwed.

### **Cynnig 6: Risg sylweddol**

89. Awgrymwyd y gallai'r ASB gyflwyno rhai o'r ffactorau sy'n dylanwadu ar y sgôr risg sylweddol o dan yr asesiad Hyder mewn Rheolwyr. Yn Lloegr a Gogledd Iwerddon, ni ellid dod i gonsensws. Fodd bynnag, cytunwyd nad oedd y sgôr hon yn cael ei defnyddio'n gyson ac os byddai'n parhau i gael ei defnyddio, byddai angen hyfforddiant cysondeb. Gofynnodd awdurdodau lleol Cymru am ddata i bennu pa mor aml y cymhwysir y sgôr a beth fyddai effaith bosibl cael gwared ar y sgôr o'r cynllun. Ar y cyfan, cytunwyd os na fyddai dileu'r sgôr yn newid y categori risg cyffredinol, byddai'r newid yn cael ei gefnogi.

### **Cynnig 8: Ystyried y broses gofrestru**

90. Roedd yna wahanol safbwytiau ar y cynnig a ddylai awdurdodau lleol, yn rhan o'r sgôr Hyder mewn Rheolwyr, ystyried pa un a oedd busnes bwyd newydd wedi mynd ati i gofrestru ei hun. Ystyriwyd yn gyffredinol na fyddai'r newid hwn ar ei ben ei hun yn gwneud gwahaniaeth sylweddol i nifer y gweithredwyr busnesau bwyd sy'n mynd ati i gofrestru eu hunain. Mae'n ofyniad cyfreithiol ac mae'r ASB yn ymwybodol bod rhai awdurdodau lleol eisoes yn ystyried diffyg cofrestru wrth sgorio busnes.

### **Ymgynghoriad pellach**

91. Mae'r ASB yn bwriadu parhau i ymgysylltu â rhanddeiliaid trwy gydol y cyfnod ymgynghori, gan gynnwys trafodaethau wyneb yn wyneb ychwanegol i fynd i'r

afael â materion penodol gan randdeiliaid penodol lle bo modd. Yng Nghymru bydd yr ASB yn cwrdd â chynrychiolwyr Cyfarwyddwyr Diogelu'r Cyhoedd yng Nghymru fis Medi a bydd yn cyflwyno'i chynigion i weithgor Llywodraeth Cymru a sefydlwyd i roi sicrwydd i Weinidogion Cymru fod anghenion Cymru'n cael eu hystyried yn rhan o raglen ddiwygio Rheoleiddio ein Dyfodol yr ASB.

92. O ran y gwaith ar Strategaethau Arolygu Cenedlaethol, mae'r ASB wedi gofyn am safbwytiau rhanddeiliaid trwy nawfed rhifyn y cylchlythyr Rheoleiddio Ein Dyfodol, y gellir ei weld isod. Hefyd, cynhaliwyd sesiwn ymgysylltu â'r Grŵp Ffocws Hylendid Bwyd Cenedlaethol, a'r Grŵp Safonau Bwyd a Labelu Cenedlaethol yn gynnar yn 2018. Cafodd y gwaith ar Strategaethau Arolygu Cenedlaethol ei gyfathrebu i bob awdurdod lleol ledled Cymru, Lloegr a Gogledd Iwerddon trwy'r platform RIAMS/Hwyluso Cyfathrebu.

<https://www.food.gov.uk/cy/about-us/nawfed-rhifyn-cylchlythyr-rheoleiddio-ein-dyfodol>

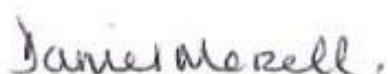
93. Ar ôl cwblhau'r ymgynghoriad, bydd yr ASB yn cynhyrchu ac yn cyhoeddi crynodeb o'r adborth ymgynghori a'r ymatebion i'r sylwadau a godwyd. Er bod gan rai newidiadau a gynigir yn yr ymgynghoriad hwn ddyddiad gweithredu penodol, bydd yr ASB yn gohирio newidiadau eraill nes bod polisi ategol ar waith i sicrhau cyn lleied o darfu â phosibl ar waith awdurdodau lleol o gyflenwi gwasanaethau.

### **Ymatebion**

94. Mae angen ymatebion erbyn **23 Tachwedd 2018**. Yn eich ymateb, nodwch a ydych yn ymateb fel unigolyn neu ar ran sefydliad neu gwmni (gan gynnwys manylion unrhyw randdeiliaid y mae'ch sefydliad yn eu cynrychioli).

**Ar ran yr Asiantaeth Safonau Bwyd, hoffwn ddiolch yn fawr i chi am gymryd rhan yn yr ymgynghoriad cyhoeddus hwn.**

Yn gywir,



**Daniel Morelli**  
**Rheolwr Partneriaethau Awdurdodau Lleol**

## **Atodiadau**

**Atodiad A: Gwybodaeth Safonol am yr Ymgynghoriad**

**Atodiad B: Asesiad Effaith Cofrestru Manylach**

**Atodiad C: Asesiad Effaith Strategaethau Arolygu Cenedlaethol**

**Atodiad D: Asesiad Effaith Newidiadau Asesu Risg**

**Atodiad E: Testun Diwygiedig Cod Ymarfer Cyfraith Bwyd (Cymru)**

**Atodiad F: Tabl Newidiadau i'r Cod**

## **Atodiad A: Gwybodaeth safonol am yr ymgynghoriad**

### **Datgelu'r wybodaeth a ddarperir gennych**

Efallai caiff yr wybodaeth a roddir mewn ymateb i'r ymgynghoriad hwn ei chyhoeddi i bartion eraill neu ei datgelu yn unol â'r cyfundrefnau mynediad at wybodaeth (yn bennaf Deddf Rhyddid Gwybodaeth 2000, Deddf Diogelu Data 1998 a Rheoliadau Gwybodaeth Amgylcheddol 2004).

Os dymunwch i'r wybodaeth yr ydych yn ei rhoi gael ei thrin yn gyfrinachol, byddwch yn ymwybodol bod yna God Ymarfer statudol o dan y Ddeddf Rhyddid Gwybodaeth y mae'n rhaid i awdurdodau cyhoeddus gydymffurfio ag ef. Mae'n ymdrin, ymhliith pethau eraill, â rhwymedigaethau cyfrinachedd.

O ystyried hyn, byddai'n ddefnyddiol pe gallich esbonio i ni pam eich bod yn ystyried yr wybodaeth a roddwyd gennych yn gyfrinachol. Os cawn gais i ddatgelu'r wybodaeth, byddwn yn ystyried eich esboniad yn llawn, ond ni allwn roi sicrwydd y gellir cadw cyfrinachedd dan bob amgylchiad.

Ni fydd unrhyw ymwadiad cyfrinachedd awtomatig a gynhyrchir gan eich system TG, ar ei ben ei hun, yn cael ei ystyried fel un sy'n rhwymo.

Yr Asiantaeth Safonau Bwyd (ASB) fydd 'Rheolydd' y data personol a ddarperir i ni.

### **Pam ein bod yn casglu eich data personol a'r hyn a wnawn â'r data hwnnw**

Mae eich data personol yn cael ei gasglu fel rhan hanfodol o'r broses ymgynghori, fel y gallwn gysylltu â chi ynglŷn â'ch ymateb ac at ddibenion ystadegol. Efallai hefyd y byddwn yn ei ddefnyddio i gysylltu â chi am faterion cysylltiedig.

Mae Deddf Diogelu Data 2018 yn datgan y gall yr Asiantaeth Safonau Bwyd, fel adran o'r Llywodraeth, brosesu data personol fel bo'r angen er mwyn cyflawni tasg sydd er budd y cyhoedd yn effeithiol h.y. ymgynghoriad.

Dim ond am y cyfnod sydd ei angen i gyflawni'r swyddogaethau hyn rydym ni'n cadw gwybodaeth bersonol, ac yn unol â'n polisi cadw. Mae hyn yn golygu y byddwn ni'n cadw'r wybodaeth hon am uchafswm o 7 mlynedd wedi iddi ddod i law.

Mae'r holl ddata personol rydym ni'n ei brosesu yn byw ar weinyddion o fewn yr Undeb Ewropeidd. Mae ein gwasanaethau cwmwl wedi'u caffaer drwy gytundebau fframwaith y Llywodraeth a'u hasesu yn erbyn egwyddorion cwmwl y ganolfan seiberddiogelwch genedlaethol.

Nid oes gan drydydd partïon fynediad at eich data personol oni bai bod y gyfraith yn caniatáu iddynt wneud hynny. Bydd yr ASB weithiau'n rhannu data gydag adrannau eraill y Llywodraeth, cyrrf cyhoeddus a sefydliadau sy'n cyflawni swyddogaethau cyhoeddus i'w cynorthwyo i gyflawni eu dyletswyddau statudol, neu pan fydd er budd y cyhoedd.

### **Beth yw eich hawliau?**

Mae gennych chi'r hawl i weld yr wybodaeth sydd gennym ni amdanoch chi drwy wneud cais ysgrifenedig i'r cyfeiriad e-bost isod. Os ydych chi ar unrhyw adeg o'r farn bod yr wybodaeth

rydym ni'n ei phrosesu amdanoch chi yn anghywir, gallwch chi wneud cais i'w chywiro. Os hoffech chi wneud cwyn am y ffordd rydym ni wedi trin eich data personol, gallwch chi gysylltu â'n Swyddog Diogelu Data a fydd yn ymchwilio i'r mater.

Os nad ydych chi'n fodlon â'n hymateb neu os ydych chi o'r farn nad ydym yn prosesu eich data personol yn unol â'r gyfraith, fe allwch chi gwyno i Swyddfa'r Comisiynydd Gwybodaeth yn <https://ico.org.uk/>, neu drwy ffonio 0303 123 1113.

Ein Swyddog Diogelu Data yn yr ASB yw Arweinydd y Tîm Rheoli Gwybodaeth a Diogelwch. Gallwch chi gysylltu drwy anfon e-bost at: [informationmanagement@food.gov.uk](mailto:informationmanagement@food.gov.uk)

### Rhagor o wybodaeth

Os ydych angen y ddogfen hon mewn fformat sy'n haws i'w ddarllen, anfonwch fanylion at y cyswllt a enwir ar gyfer ymatebion i'r ymgynghoriad hwn a bydd eich cais yn cael ei ystyried.

## Atodiad B

| <b>Title:</b> Regulating Our Future – Amendments to the Food Law Code of Practice (Wales) – Implementation of an Enhanced Registration System for Food Businesses<br><b>IA No:</b><br><b>Lead department or agency:</b><br><b>Other departments or agencies:</b>   | <b>Impact Assessment (IA)</b>         |  |                      |   |
|--|---------------------------------------|--|----------------------|---|
|  | Date: 31/08/2018                      |  |                      |   |
|  | Stage: Development/Options            |  |                      |   |
|  | Source of intervention: Domestic      |  |                      |   |
|  | Type of measure: Other                |  |                      |   |
|  | Contact for enquiries: Daniel Morelli |  |                      |   |
| <b>Summary: Intervention and Options</b>   |                                       | <b>RPC Opinion:</b> RPC Opinion Status                         |                      |   |
| <b>Cost of Preferred (or more likely) Option</b>   |                                       |  |                      |   |
| Total Net Present Value<br>£m  | Business Net Present Value<br>£m      | Net cost to business per year<br>(EANDCB in 2014 prices)<br>£m | One-In,<br>Three-Out | Business Impact Target Status<br>Qualifying provision |
| <p><b>What is the problem under consideration? Why is government intervention necessary?</b></p> <p>Change is proposed to the process of food business registration to assist the Food Standards Agency (FSA) in identifying an increasingly diverse food industry and to improve the overall effectiveness, efficiency and consistency of food business registration. Additional information provided at the point of registration will allow for an assessment to be undertaken to determine an appropriate risk-based approach to intervention strategies for new businesses. In addition, information obtained will provide the FSA as Central Competent Authority (CCA), with a comprehensive understanding of the food industry. This should help inform future policy development and in the management of food safety incidents.</p>   |                                       |  |                      |   |
| <p><b>What are the policy objectives and the intended effects?</b></p> <p>Enhancing the registration process is a key element in the operational delivery of the FSA's Regulating Our Future (ROF) programme. The policy objectives are:</p> <ol style="list-style-type: none"> <li>1) The development of an online registration service that will provide the FSA with oversight of all food businesses in Wales, England and Northern Ireland.</li> <li>2) To provide food businesses with tailored support and guidance at the point of registration to assist them in complying with food law and improve standards.</li> <li>3) To conduct research to inform an evidence base to support future policy direction and development.</li> <li>4) To raise awareness of the requirement to register with the intention of increasing the number of food business that proactively register</li> </ol>  |                                       |  |                      |   |
| <p><b>What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)</b></p> <p>Option 1: 'Do Nothing', and continue with the current system of registration. Food Business Operators (FBOs) would continue to register through different methods. Local authorities (LAs) would continue to adopt a range of approaches to processing and reporting information to the FSA. This would not realise the policy objective.</p> <p>Option 2: Introduce an online service for the registration of all new food businesses using a two-phased approach:</p> <ul style="list-style-type: none"> <li>• Phase 1 (pre EU-exit): Introduce an online registration service for those food businesses required by law to register</li> <li>• Phase 2 (post EU-exit): Incorporate into the system those food businesses legally required to seek approval.</li> </ul> <p>The new registration service proposed in option 2 will work in conjunction with LAs' existing Management Information Systems (MIS)/databases and would deliver the policy objectives set-out. This is the preferred option.</p> |                                       |  |                      |   |
| <b>Will the policy be reviewed? It will/will not be reviewed. If applicable, set review date: Month/Year</b>   |                                       |  |                      |   |
| Does implementation go beyond minimum EU requirements?   |                                       | N/A  |                      |   |
| Are any of these organisations in scope?   |                                       | Micro<br>Yes   | Small<br>Yes         | Medium<br>Yes   |
| Large<br>Yes   |                                       |  |                      |   |
| What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions?<br>(Million tonnes CO <sub>2</sub> equivalent)  |                                       | Traded:  |                      | Non-traded:   |

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

responsible SELECT SIGNATORY:

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# Summary: Analysis & Evidence Policy Option 1

## Description:

### FULL ECONOMIC ASSESSMENT

| Price Base Year  | PV Base Year | Time Period Years                                 | Net Benefit (Present Value (PV)) (£m)                        |                          |   |  |  |  |
|--|--------------|---|--|--------------------------|---|--|--|--|
|  |              |   | Low: Optional  | High: Optional           | Best Estimate:                          |  |  |  |
| <b>COSTS (£m)</b>  |              | <b>Total Transition</b><br>(Constant Price) Years | <b>Average Annual</b><br>(excl. Transition) (Constant Price) |                          | <b>Total Cost</b><br>(Present Value)    |  |  |  |
| Low  |              | Optional  | Optional   |                          | Optional                                |  |  |  |
| High   |              | Optional  | Optional   |                          | Optional                                |  |  |  |
| Best Estimate  |              |   |  |                          |   |  |  |  |
| <b>Description and scale of key monetised costs by 'main affected groups'</b>  |              |   |  |                          |   |  |  |  |
| <b>Option 1 'Do Nothing'.</b> The FSA currently has no evidence to suggest any of the important variables will change over time in the absence of intervention. Monetary costs are assumed to remain constant and unchanged. |              |   |  |                          |   |  |  |  |
| <b>BENEFITS (£m)</b>   |              | <b>Total Transition</b><br>(Constant Price) Years | <b>Average Annual</b><br>(excl. Transition) (Constant Price) |                          | <b>Total Benefit</b><br>(Present Value) |  |  |  |
| Low  |              | Optional  | Optional   |                          | Optional                                |  |  |  |
| High   |              | Optional  | Optional   |                          | Optional                                |  |  |  |
| Best Estimate  |              |   |  |                          |   |  |  |  |
| <b>Description and scale of key monetised benefits by 'main affected groups'</b>   |              |   |  |                          |   |  |  |  |
| <b>Option 1 'Do Nothing'.</b> It is assumed that the monetary benefits will remain unchanged. The FSA has no evidence to suggest that any of the significant variables will change over time if it does not intervene.       |              |   |  |                          |   |  |  |  |
| <b>Other key non-monetised benefits by 'main affected groups'</b>  |              |   |  |                          |   |  |  |  |
| 'Do Nothing'. The non-monetary benefits are expected to remain unchanged.  |              |   |  |                          |   |  |  |  |
| <b>Key assumptions/sensitivities/risks</b>   |              |   |  | <b>Discount rate (%)</b> | <input type="text"/>                    |  |  |  |
| N/A  |              |   |  |                          |   |  |  |  |

### BUSINESS ASSESSMENT (Option 1)

| Direct impact on business (Equivalent Annual) £m: |           |      | Score for Business Impact Target (qualifying provisions only) £m: |
|---|-----------|------|---|
| Costs:  | Benefits: | Net: |   |
|   |           |      |   |

## Summary: Analysis & Evidence

## Policy Option 2

Description: Make amendments to the establishment intervention rating scheme used to set intervention frequencies. FULL ECONOMIC ASSESSMENT

| Price Base Year   | PV Base Year | Time Period Years                          | Net Benefit (Present Value (PV)) (£m)                 |                               |                  |
|-------------------|--------------|--|---|-------------------------------|------------------|
|                   |              |  | Low: Optional   | High: Optional                | Best Estimate: 0 |
| <b>COSTS (£m)</b> |              | Total Transition<br>(Constant Price) Years | Average Annual<br>(excl. Transition) (Constant Price) | Total Cost<br>(Present Value) |                  |
| Low               | Optional     | 0  | Optional  | Optional                      | Optional         |
| High              | Optional     |  | Optional  | Optional                      | Optional         |
| Best Estimate     | 0            |  | 0   | 0                             | 0                |

### Description and scale of key monetised costs by 'main affected groups'

The cost to each business (per-business cost) for paper and web-based registration is £1.95 and £1.22, respectively. The total annual cost to the UK is £49,496.85 for paper registration submissions and £123,871.48 for web-based methods, according to forecasts for future registration. LAs incur a paper and/or web-based per-application resource cost of £6.88 and £3.45, respectively. Processing paper and web-based applications in future is estimated to cost £174,635.04 and £350,292.30, respectively. The FSA's estimated cost of developing the digital registration service is £772,000.

### Other key non-monetised costs by 'main affected groups'

Although the per-business cost for paper and web-based registration could be calculated, these estimates cannot be used to calculate the total cost to businesses that are currently trading, but have not registered. Similarly, the resource costs incurred by LAs of having to process applications for those food businesses that are currently not registered cannot be calculated. The FSA does not have data available and, hence, cannot quantify these costs.

| BENEFITS (£m) | Total Transition<br>(Constant Price) Years | Average Annual<br>(excl. Transition) (Constant Price) | Total Benefit<br>(Present Value) |
|---------------|--|---|----------------------------------|
| Low           | Optional                                   | 0   | Optional                         |
| High          | Optional                                   |   | Optional                         |
| Best Estimate | 0  |   | 0                                |

### Description and scale of key monetised benefits by 'main affected groups'

N/A: Option 2 (the preferred option) the benefits cannot be quantified at this stage. Through stakeholder consultation, the FSA seeks to collect data to assist in monetise as many benefits as possible.

### Other key non-monetised benefits by 'main affected groups'

It is envisaged that consumers will have better access to information about food businesses and that there will be reductions in the incidence of foodborne illnesses. Food businesses have further opportunities for economic savings and the ability to demonstrate stronger compliance. This would reduce the burden of enforcement. Through data sharing, local authorities benefit from better inspection strategies. The FSA will be able to establish traceability and place itself in a better position for the design and implementation of sound food policy.

| Key assumptions/sensitivities/risks  | Discount rate | - |
|--|---------------|---|
| In forecasting the future levels of food business registration and ensuing LA administration, an industry churn rate has been estimated. According to calculations, this percentage is assumed to remain constant. |               |   |

### BUSINESS ASSESSMENT (Option 2)

| Direct impact on business (Equivalent Annual) £m: |             |        | Score for Business Impact Target (qualifying provisions only) £m |
|---|-------------|--------|--|
| Costs: 0  | Benefits: 0 | Net: 0 | Zero net cost  |

# **Evidence Base (for summary sheets)**

## **Background – Regulating Our Future Programme**

1. The Food Standards Agency's (FSA) 'Regulating Our Future' (ROF) programme aims to modernise how food businesses in Wales, England and Northern Ireland are regulated to check that our food is safe and what it says it is. The FSA is building a system that is dynamic and flexible and can adapt as the global food economy changes and as technology develops in the future.
2. The FSA is doing this so that the system has the sophistication needed to regulate an increasingly diverse food industry, to adapt quickly to changing risks and to respond to changing patterns of food production, trade and consumption when the United Kingdom (UK) leaves the European Union (EU).
3. Ensuring regulatory decisions are tailored, proportionate and based on a clear picture of UK food businesses is one of the 2 principles of the ROF programme that will be realised through this work. The other is to make it easier for food businesses to be transparent and honest in the provision of information.

## **Policy Objective**

4. Enhancing the registration processes will modernise the current approach for new food businesses when they start-up. Introducing new technology will allow the FSA to maximise the value derived from registration information supplied by businesses. The project aims to improve the accessibility and quality of information for new food businesses in a phased approach. Furthermore, this work is the key element in the operational delivery of the FSA's ROF programme.

Phase one of the 'Enhanced Registration' project can be split into the following four objectives:

- The development of an improved digital service for the registration of food businesses, streamlining and simplifying the process for the user (FBOs), reducing administrative burdens for LAs and providing the FSA as Central Competent Authority (CCA) with a unified view of all food businesses in Wales, England and Northern Ireland. Using an enhanced data set captured at the point of registration should help design an appropriate regulatory regime, improve incident handling and better inform future policy direction.
- To provide businesses with access to relevant information and guidance promptly, increasing the opportunity for them to ensure compliance with food law and improve standards of compliance.
- To carry out research to understand the barriers to new businesses proactively registering and to help develop an evidence base to inform the case for the introduction of fixed penalty notices (FPN) and/or a Permit to Trade (PTT)/licensing system as a public protection measure.
- Deliver awareness raising campaigns to promote the new registration system, helping to encourage and increase proactive registration of food businesses.

5. The ROF programme is being developed via several workstreams, with the intention of introducing changes in a phased approach. This update to the Food Law Code of Practice (the Code), includes input from the Enhanced Registration workstream, and introduces a process change for FBOs for registering the food establishment(s) under their control.

6. The changes aim to improve the overall effectiveness, efficiency and consistency of food business registration across Wales, England and Northern Ireland. However, this assessment only covers changes in Wales, separate consultations are underway in England and Northern Ireland.
7. It is important to recognise the proposed online registration service will be fundamental to the success of the other workstreams and overall ROF programme. The online service will capture an enhanced set of data from FBOs at the point of registration, which will be used to assess the risk posed by the food business. This will allow for an assessment to be undertaken to determine an appropriate risk-based approach to intervention strategies for new businesses and ensure the efficient use of LA resources.
8. The proposal to use a digital solution will also ensure LAs are informed of new food businesses at the earliest opportunity. This will enable LAs to provide relevant advice and support to assist businesses in achieving compliance from the start.
9. As this work is still in its development phase, the FSA does not have the evidence base required to quantify all the benefits it anticipates will be achieved through implementation of the new online registration service. Work will continue to gather the full evidence base required through on-going research and the consultation process.

## **The Current System for Registering/Obtaining Approval for a Food Business – How it Operates**

10. FBOs must either register the establishment(s) under their control or apply for approval with the appropriate competent authority (CA).
  - Under Article 6(2) of Regulation (EC) No 852/2004, FBOs must register an establishment(s) under their control that carries out any stage of production, processing and distribution of food, with the appropriate CA.
  - Regulation (EC) No 853/2004 requires that food establishments handling certain foods of animal origin, with some exceptions, be approved by the CA prior to trading. In respect of businesses that require approval, it is necessary that they demonstrate compliance with relevant requirements of Regulation (EC) No 853/2004, in addition to compliance with Regulation (EC) No 852/2004 before approval can be granted. Registration under Article 6(2) of Regulation (EC) No 852/2004 is not required for establishments that are subject to approval.
11. In the UK, 634,584 food establishments are recorded as registered with LAs as at 31 March 2017. That equates to 99.2% of food businesses in Wales, England and Northern Ireland being required to register whilst 0.8% are approved. In Wales, there were over 35,000 food businesses registered with LAs at 31 March 2017.
12. FBOs are only required to provide a limited amount of information when registering with the LA. Registration is required at least 28 days before the business starts trading or the food operations commence. Upon receipt of a registration, LAs use the information to determine when to carry out an initial inspection. Currently, LAs use a number of different registration forms and approaches for the registration process.
13. For a variety of reasons, many FBOs either start trading before registering and/or register but commence trading prior to a LA inspection taking place. This means FBOs may not receive the appropriate level of support at the earliest opportunity to aid compliance.
14. Food businesses that produce certain products of animal origin (meat, fish, dairy or eggs) and supply these to other food establishments, may require approval. To obtain approval, a FBO must provide more detailed information on the approval application form, and during an on-site inspection, to demonstrate compliance with the relevant hygiene legislation. Until

compliance has been checked and verified, the FBO is not allowed to commence operation of the food business.

15. Establishments requiring approval only represent a small proportion of all food businesses, as the majority are only required to register. The FSA intends to incorporate food businesses requiring approval into the new online service at a later phase in the programme.

## Why Enhance the Current Registration System?

16. Whilst the current registration process works, the FSA recognises that there are opportunities for improving its overall effectiveness, efficiency and consistency. The reasons for this include:
  - LAs currently have the option to adapt and issue variations of the model registration form provided by the FSA. This can create inconsistencies between LAs and across Wales, England and Northern Ireland. This approach can be confusing and frustrating for FBOs, particularly those who have multiple food establishments located in different LA areas and/or countries.
  - LAs process and acknowledge food business registrations according to their individual internal procedures. This can involve administrative activities to issue letters/emails and the inputting/verification of data on MIS, which can be labour intensive.
  - The current government online registration service (<https://www.gov.uk/food-business-registration>) redirects FBOs to the LA in which their food establishment is/will be located. The route for registration is defined by the LA, creating inconsistencies in the process. For example, some FBOs are directed to the LA's registration form, others are simply provided with the address of the LA in which their business is located.
  - FBOs follow numerous registration pathways, and many businesses requiring registration are not being identified until an LA receives information to that effect either from its own officers or from consumers. Qualitative research has identified that the main reason FBOs do not proactively register is a lack of knowledge or understanding about how to register. Simplifying the process and taking the opportunity to raise awareness of the new online registration service will help to improve consistency and better inform FBOs of how to fulfil their legal obligations.
  - The current model form only gathers basic information about the food business establishment, for example: the FBO's name, address, and business type. This is insufficient to assess the level of risk associated with the business.
  - Pertinent information obtained from FBOs at the point of registration and following an intervention by the CA is held by individual LAs on a variety of management information systems, and in differing formats. These systems do not currently communicate with each other or with FSA systems.
  - In respect of FBOs that own mobile food establishments, there is the potential for these to operate across numerous LA boundaries. To prevent unnecessary regulatory activity, details of interventions and enforcement activity should be referred to the registering authority to take account when determining an intervention rating. Currently, the onus is on the inspecting LA to obtain and share the information in a timely manner. Failure to do so can result in an inaccurate assessment of risk and numerous interventions being carried out as and when the mobile establishment moves between LA areas. This can be a labour-intensive process.

17. The FSA is aware that there is an appetite for the introduction of alternative approaches to secure an increase in proactive registration and to ensure that FBOs have the relevant support they need before they commence trading. Examples include the use of FPNs for FBOs who do not proactively register, and/or the introduction of a Permit to Trade (PTT) licensing system.
18. The use of sanctions, such as FPNs, is being considered within the wider ROF programme, but due to other legislative priorities such provisions will not be introduced pre-EU exit. In addition, the introduction of a PTT/licensing system could take several years to bring forward, as there is a need to carry out further research to provide a robust evidence base before these changes can be considered and potentially introduced. Through enhancing the current registration system, the FSA aims is to obtain evidence to demonstrate that the introduction of FPNs/PTT licensing system in Wales, England and Northern Ireland are necessary measures to protect public health.

### **Justification for Enhancing the Current Registration System**

19. Introducing an online registration service will streamline the process, improving the overall effectiveness and efficiency for LAs and FBOs, whilst also providing the foundation for introducing other ROF programme deliverables.
20. This new service should alleviate inconsistencies in the registration process and make it less labour intensive. For example, FBOs in different LA areas will be asked the same questions that are pertinent to the type of business they are registering.
21. Opportunities to raise awareness of the need to register will better inform FBOs of the legal requirement and potentially increase the number of businesses that register prior to trading. Enhancing the registration process will provide an opportunity to gather more in-depth information about the business at the point of registration. This will allow for tailored advice and guidance to be provided to the FBO at the earliest opportunity. Furthermore, through capturing more in-depth information on business activities, this allows for a more accurate assessment of risk to be determined, enabling an appropriate intervention strategy to be identified.
22. Relevant information about the FBO and their activities obtained through the online registration service will be made available to LAs and the FSA as the CCA. Gaining an overview of all food businesses establishments will give the FSA a comprehensive understanding of the industry and will assist in future policy development and in the management of food safety incidents.
23. The information obtained through the new online service will be available for LAs to view. In addition, a new FSA system currently under development, called “the unified view”, will mean information regarding interventions and compliance will be made available to support the co-ordination of activity e.g. for mobile traders that operate across LA boundaries.
24. The system should also ensure the reduction in time taken by a FBO to register their business as opposed to following the current process. Initial findings of a study using a small sample size suggests that there will savings realised from the new system.

### **Benefits for Local Authorities**

25. Introducing an online service will streamline the process, helping to reduce the burden for LA officers involved in manually inputting registration information onto MIS/databases. For example, there will be no need for manual verification checks of post codes and addresses,

as these will be incorporated into the initial version of the online form. At a later date, this will be expanded to include further verification of FBOs.

26. LAs will be able to view relevant information about food establishments from across Wales, England and Northern Ireland via the unified view. This will help to make informed decisions regarding the most appropriate interventions to undertake and provide a better understanding of overall business compliance. The unified view will allow LAs to make links between food businesses, such as being able to detect frequent changes of FBO, or identifying multiple businesses owned by the same FBO. This will help build an overall picture of compliance and assist in the management of food safety incidents.
27. The new online service will alert LAs of a new food business registering in their area enabling them to contact the FBO at the earliest opportunity to ascertain what support and guidance they might require. Early findings from some quantitative research suggests those FBOs that received support at an early stage go on to achieve higher initial food hygiene ratings than those who did not.
28. Obtaining additional information about a new business at the point of registration will enable an assessment of the risk associated with that business. Information obtained will be run through a 'risk engine' which uses a set of rules to generate a 'risk score' and segments businesses into categories. This categorisation will determine the nature, frequency and intensity of official controls for all new businesses using the online service to register.
29. The new service will be compatible with most of the MIS currently utilised by LAs. Therefore, there will be no requirement for LAs to change to a new provider. LAs will still be able to obtain supplementary data relevant to their local requirements in addition to that requested through the online registration form.
30. There will be an improved flow of information between the LAs and the FSA, enabling data to be accessed and used effectively and efficiently.

### **Benefits for the Food Standards Agency**

31. The new online registration service will gather information that will enable the FSA, as the CCA, to have a unified overview of all food businesses across Wales, England and Northern Ireland, which is paramount as the UK prepares to exit the EU.
32. Greater access to information about food businesses and their activities will assist the FSA in the event of a food incident or crisis, making it easier to trace products and identify relevant links, which will provide better public protection.
33. Having a unified view of all food businesses will enable the FSA to better inform future policy direction.

### **Benefits for Food Business Operators**

34. Recent research shows there are a variety of ways a food business registers or becomes known to the LA. The new service aims to simplify the registration process for a FBO, making it a consistent experience regardless of where their business is located.
35. The new online registration service will provide the FBO with confirmation that their food business has been registered with the LA relevant to their business location. In addition, a food business registration number (FBRN) will be issued that is unique to that registration.
36. Introducing a new online registration service that asks questions relevant to the business activities will enable new businesses to receive links to current and tailored information and advice that will help them to start-up successfully. The provision of tailored guidance to help

FBOs comply with food law prior to trading will improve business awareness and may lead to financial savings, i.e. businesses are less likely to spend money unnecessarily to comply.

37. Initial findings following a small user testing study have shown savings in the time taken by a FBO to complete the new online registration form as opposed to completing the current government form (<https://www.gov.uk/food-business-registration>). Completion of the current on-line form took on average 11.2 minutes, whereas early testing of the new form which asks additional questions is averaging between 6-8 minutes. The new online registration service will ask questions that are appropriate to the type of business being registered that are dependent on the answers given to questions throughout the process. Further user testing, to quantify time savings to FBOs, is on-going as the FSA continues to develop the service.
38. Achieving compliance with food law from the outset should lead to a high food hygiene rating for new businesses, which in turn provides commercial benefits for a business.

## **Benefits for Consumers**

39. It is anticipated that improved access to guidance for FBOs will in turn result in more compliant food businesses with higher food hygiene ratings, which is positive for public health protection and consumer choice and confidence.
40. Consumers will have greater confidence as they will be able to identify if a food business has fulfilled its legal obligation to register.

## **User Research – Main Findings**

41. Some food businesses do not proactively register before they begin trading or food operations commence. In addition, some FBOs fail to notify relevant authorities of material changes that may affect risks associated with their business.
42. The introduction of a new online registration service will help to identify new food businesses at the outset, make it easier for FBOs to register their business, assess the risk and inform an appropriate intervention strategy based on the information obtained. It will also direct LAs support to the food businesses that need it.

## **Engagement**

43. The plans to implement a new online service were shared with LAs during several engagement events. At the LA ROF engagement events held in December 2017 and January 2018, there was disappointment that the work to introduce PTT, as opposed to an enhanced registration process, was not being progressed/prioritised by the FSA. Shortfalls in the existing registration system were clearly identified and included:
  - It is resource intensive to chase up non-registration. A financial obligation related to registration could prevent this from happening and free up resource.
  - LAs do not generally take enforcement action, i.e. prosecution against a food business for failure to register, but the offence may be cited if prosecutions are brought for other matters. The view was that courts would not support formal action if a LA whereas to enforce the word of the law in respect of registration.
  - A permit or licence may improve business engagement i.e. the word 'registration' implies a less formal process.
44. There was strong support amongst LAs for introducing licensing requirements for food businesses, although there was general agreement that a funding mechanism would be

necessary to resolve resourcing issues. It was suggested that a charge for licensing could provide a ring-fenced income for official food controls, allowing conditions to be attached to ensure compliance at the point of start-up. A licence could also introduce additional sanctions to deal with non-compliance e.g. revocation/suspension.

45. There was also strong support for the introduction of FPNs as an enforcement sanction for FBOs that fail to register their business, and for introducing financial penalties for non-compliance, to influence business behaviour. LAs recognised the benefit of introducing an immediate sanction with ring-fenced income that could be used to fund official food controls.
46. LAs requested that the FSA considered the following with regards to the proposed system of enhanced registration:
  - Research should be undertaken to explore incentives for registration, as currently many FBOs fail to register despite the current form not being difficult to complete.
  - A digital form would not always be well received due to the lack of access to, or willingness to use IT by the small and medium sized enterprises (SMEs). Therefore, an offline version should also be made available.
  - The registration process should be clear and signpost businesses to where they can obtain advice and guidance. For example, if the registration process sits with the FSA, businesses may not know who conducts inspections.
  - Ensure that any future registration process is compatible with all the MIS in use, to provide efficient data capability and prevent duplication of effort.
  - Ensure that IT providers are kept fully informed of any proposed changes due to the long lead in time for software development.
  - The integration with other areas of environmental health work e.g. premises licensing (alcohol and public entertainment).
47. LAs have also expressed concern about introducing a system that provides a central point for registration for the following reasons:
  - It would not enable LAs to include or obtain information at a local level or to link to local services e.g. local Fire Authority. However, LAs recognised the benefit that could result from links being provided to tailored advice that is updated centrally by the FSA to improve consistency in the provision of advice.
  - Difficulties with accessing the information due to Data Protection/FOI considerations.

The FSA will consider these comments and views throughout the development process.

48. Whilst the use of sanctions, such as FPNs, or the introduction of a PTT/licensing system are not within the scope of this phase of work, these measures will be considered in the longer term within the wider ROF programme. Research will provide an evidence base to establish if there is a case to introduce a PTT/licensing system in Wales, England and Northern Ireland as a public protection measure.
49. To help inform the design of a new online registration service and to better understand FBOs requirements, the FSA has commissioned independent research, which is being carried out throughout the development process.

## **IT development**

50. The FSA has requested information to better understand user perception of the existing registration process to identify areas in which the most value could be added. A sample of

over 750 responses from the FSA, LAs and FBOs have been collected using a range of research methods that included interviews, surveys and enquiries.

51. Responses indicate that 75% of the LAs asked either use or accept the online business form available at [www.gov.uk](http://www.gov.uk). Despite this website being the main route to registration, 60% of LAs are dissatisfied with this process. Quantitative results highlight issues with clarity, as on average 19% of registrations omit mandatory information, whereas on average 15% have incorrect information provided. The current registration process also imposes costs to LAs due to unnecessary use of resources. For example, an average of 1 in 35 inspections of new establishments could not be completed because the FBO had not opened or had ceased trading. Further, an average of 1 in 15 inspections are not undertaken because of the FBO does not begin trading.
52. Research to assess the existing registration process identified, and separated key user group needs into, four categories.
  - Better consistency is needed. FBOs expect to have the same registration experience regardless of their LA, providing the same information at all times. On the other hand, LAs need to fill current gaps in mandatory data, which can be achieved through providing a unified, unambiguous and validated registration form.
  - FBOs would like confirmation of receipt of the application and be able to track the registration and its status.
  - The FSA and LAs would like to improve data quality. These groups would like the information submitted to LAs to be validated and forwarded to the relevant LA. Data concerning FBOs should be consistent in content and format across all LAs and accessible to the FSA.
  - LAs need to be able to share data with one another, enabling a wider overview of food businesses. For the FSA, up-to-date information concerning the FBO would be available in one place to allow accurate analysis into the performance of the FBO and the LA.
53. The FSA used questionnaires as part of this work and LAs were asked to provide feedback on their experiences with the existing registration system. The questionnaire sought to better understand details surrounding the processing of applications under the non-web and web-based methods of business registration.
54. To better understand the burden on LAs when processing non-web applications (inclusive of telephone registration, in-person form submissions etc.), the FSA posed the following question:
  - *Approximately how long does it take to process a non-online registration form, including the performance of necessary checks and the input of information into the database?*
55. The participating LA is then presented with a list of closed-ended responses. These take the form of duration thresholds from which the LA is required to select an answer. Responses to this question comprise the experience of 21 LAs. Figure 1 provides a pie chart to illustrate results.

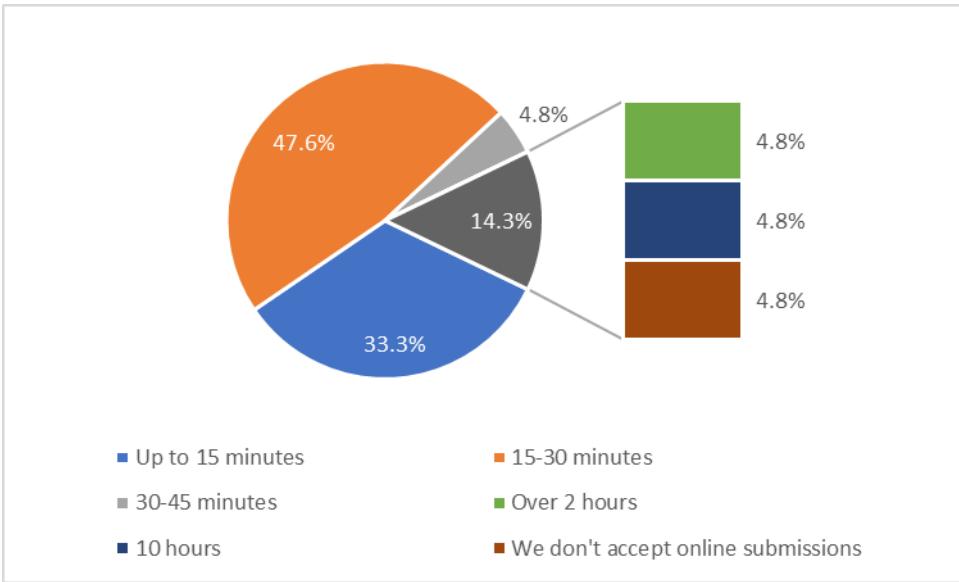


Figure 1. Responses of 21 LAs (shown as a percentage) to the question “*Approximately how long does it take to process a non-online registration form, including the performance of necessary checks and the input of information into the database?*”.

- 56. In total, 33.3% of respondents believe that it takes up to 15 minutes to process a paper registration form, with 47.6% of LAs indicating that processing takes between 15-30 minutes. There was one LA, equating to 4.6%, which indicated that processing can take 30-45 minutes, another LA indicating over 2 hours and a further LA indicating 10 hours. One LA out of those surveyed indicated they do not accept non-web forms.
- 57. The disparity in results are attributed to the different processes applied by LAs for registering food businesses. These include carrying out different checks and following different data-input procedures. The conclusion is that registration present a burden to LAs albeit to varying degrees.
- 58. For web-based applications, the FSA asked the following question:
  - *Approximately how long does it take to process a registration form through the www.gov.uk website, including the performance of necessary checks and the input of information into the management information system?*
- 59. Responses to this question are based on the experience of 18 LAs. Figure 2 provides a pie chart to illustrate results.

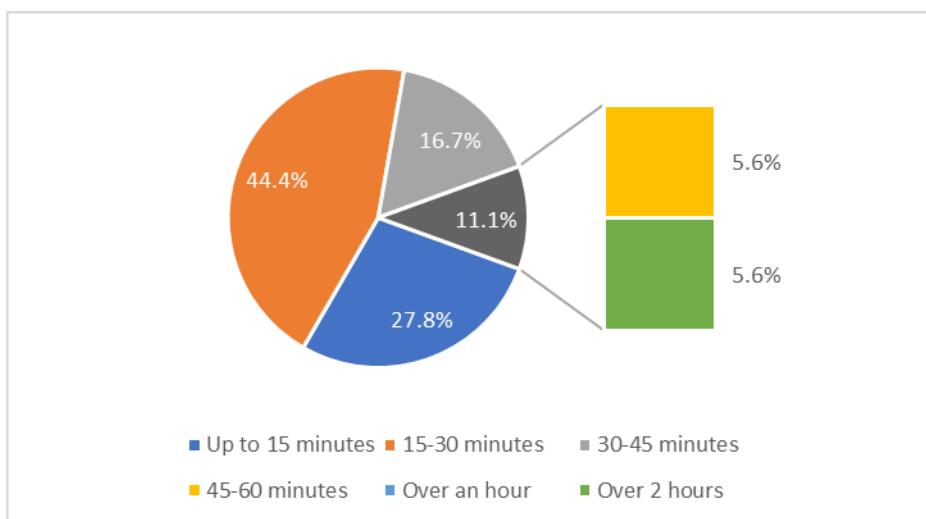


Figure 2. Responses of 18 LAs (shown as a percentage) to the question “*Approximately how long does it take to process a registration form through the www.gov.uk website, including the performance of necessary checks and the input of information into the management information system?*”.

60. A total of 27.8% of respondents stated that it takes up to 15 minutes to process a web-based application. The majority of LAs (44.4%) indicated it takes between 15-30 minutes. There were 16.7% of LAs that indicated it takes between 30-45 minutes. Finally, 5.6% (equivalent to 1 LA) indicated it takes 45-60 minutes and another LA indicated over 2-hours.
61. The conclusions from this study showed that, with the disparity in results, there is scope for bringing processing time down significantly, especially for those at the upper end of duration estimates. It was also clear there are business applications that impose high resource costs to LAs, regardless of whether the business opts for non-web or web-based routes for registration.
62. The validity of this study is limited by its relatively small sample size. Although this may not necessarily be representative of all LA experiences across Wales, England and Northern Ireland, these results indicate instances of high resource costs and serve as a useful benchmark to introduce changes to the existing system. The proposed changes are intended to reduce the time taken by LAs to process food business registrations.
63. The FSA has entered the Beta stage of testing the new registration service and is working with LAs to get their views and see how it compares to the existing process. Through administering the same questionnaires and representing results in a similar fashion, the FSA will be able to measure the results accordingly.
64. The Beta stage will also enable the FSA to explore specific points of benefit to be included in the development of the new online service. For example, the use of holding areas for FBOs registering too early and automated prompts to check start dates to help reduce the number of failed visits.

## **Quantitative Data Gathering**

65. An LA data gathering exercise to provide a significant body of information to progress the final model for the registration and segmentation of food businesses is on-going. This exercise aims to provide a quantitative evidence base which will help the FSA establish the performance of the current system; identify the level and type of support provided to new food businesses; analyse the impact of this support on business compliance; evaluate the case for an enhanced registration system and investigate the need for a new food business pathway to registration as a component of a new risk profiling system.
66. The FSA acknowledges that there are many ways a new business becomes known to the LA and that the main route is when they voluntarily present themselves by telephone, email, via the LA’s website or in person. For the FSA to address the issue of non-registration, it is important to know any other potential routes.
67. The feedback obtained through LA audits anecdotally suggests that not all food businesses proactively register. Therefore, the FSA needs to determine the frequency of proactive registration.
68. The FSA also needs to gain a better understanding on the impact of the advice, to determine whether the FBO has been able to understand and implement it successfully to achieve compliance and obtain a good rating under the FCRS.

The following information is being collected by 20 urban and rural LAs located across Wales, England and Northern Ireland to help inform a robust evidence base:

- How the new business was identified (pathway) i.e. voluntarily presented via LA, voluntarily registered via [www.gov.uk/third party](http://www.gov.uk/third party), discovered trading by the LA, the LA was notified by other Government Departments or via another alternative route;
- Reason for the registration i.e. a new food business operation, a change of food business operator, or a significant change to existing food establishment's operations that requires notification to the LA;
- Establishment's ID, establishment's name, address and business type (contact details are not required);
- Date of registration for the food business and date the FBO commenced trading;
- Support given to the FBO, including the date provided and the way it was given (advice/guidance posted or emailed or delivered face to face at a pre-inspection visit). If the advice was provided before or after trading/inspection, and if the LA charged for the advice;
- The first intervention and second intervention rating scores, where applicable, for hygiene, structure and confidence in management.

Data is being reported to the FSA monthly for a period of up to 12 months pre- and 12 months post-EU exit. Whilst the FSA only has a small dataset to date, initial findings show that those FBOs who received support at an early opportunity received a high FTRS rating at their first inspection. The FSA will be able to quantify this further as the research progresses.

## **Qualitative Research**

69. To complement the quantitative research, the FSA also carried out a social science study on the flow of food business establishments into the regulatory system. The aim of this was to identify the main pathways through which a new business becomes known to the LA, why that route was 'chosen', to establish the type of support they received and how helpful they found it.
70. Findings showed more than three quarters (77%) registered or gained approval voluntarily via their LA, whilst 13% became known via other routes i.e. through third parties, leaving approximately 10% that were identified already trading. In relation to the number of food businesses in Wales, England and Northern Ireland, this equates to approximately 63,458 that may not be known to the LA when they start up. The quantitative research will help to better quantify the figure as it will involve a larger sample size over a longer period of time.

Those FBOs receiving support and advice from the LA are considered to go on to be more compliant than those that did not.

## **Headline Findings from Surveyed LAs and FBOs**

71. The results of the survey are as follows:
  - According to LAs, food businesses most likely to be trading unregistered include takeaways, fixed establishment food retailers and stall/market retailers;
  - Two thirds of LAs (66%) say they take steps to verify the accuracy of information supplied by FBOs;
  - Almost half of LAs (49%) believe that FBOs not proactively registering or seeking approval demonstrate greater instances of non-compliance than those who register voluntarily;

- Thinking back to the time of registration, FBOs would on average rate their understanding of the registration/approval process at 6 out of 10;
  - Just under a quarter (24%) of FBOs believe the registration/approval process could be improved;
  - Less than one in 50 LAs believe that all FBOs notify them of significant changes to their business. This is despite 88% of FBOs saying they are aware that this is a legal requirement;
  - Just under three quarters of LAs (74%) consider the support they offer to be effective at encouraging FBOs to register or obtain approval;
  - 66% of LAs and 58% of FBOs are favourable to the idea of a standardised digital registration system for food businesses;
  - 94% of LAs and 25% of FBOs favour the idea of a licensing system (PTT).
72. In combination, the quantitative and qualitative research will provide a robust evidence base and contribute to the longer term aims of the ROF programme.

## **Policy Options**

Two options have been identified:

73. **Option 1:** 'Do Nothing', and continue with the current system of registration. FBOs would continue to register through different methods. LAs would continue to adopt a range of approaches to processing and reporting information to the FSA. This would not realise the policy objective.
74. **Option 2:** Introduce an online service for the registration of all new food businesses using a two-phased approach:
- Phase 1 (pre EU-exit): Introduce an online registration service for those food businesses required by law to register
  - Phase 2 (post EU-exit): Incorporate into the system those food businesses legally required to seek approval.

The new registration service proposed in Option 2 will work in conjunction with LAs' existing MIS/databases and would deliver the policy objectives set-out. This is the preferred option.

## **Groups Affected**

The following groups are affected:

### **Consumers**

75. A key aspect of registration is to inform the relevant CA of business operation to determine the nature of regulatory intervention applied. Ultimately, the process helps businesses better comply with food law by setting themselves up correctly, FBOs place themselves in a better position to protect and reduce consumer exposure to unacceptable food-related risks.

### **Food Businesses**

76. Food business establishments are the primary focus of the registration process. The number of food businesses who are not currently registered prior to commencing trade in Wales, England and Northern Ireland at any one time has not been quantified. Following

research using a small sample size, it is estimated that there could be approximately 63,458 establishments across the UK. The enhanced registration proposal would affect existing businesses which are yet to register as well as all new food businesses in the future.

## **Local Authorities**

77. LAs are responsible for food law enforcement, including official controls in the majority of food businesses, and registration is fundamental to enabling them to discharge their obligations.

## **The FSA**

78. The FSA is the CCA responsible for ensuring that an effective regulatory regime is in place to verify food businesses meet their obligation of ensuring food is safe and what it says it is. In addition to developing the new digital service for the registration of food business establishments, the FSA will be responsible for providing the support for the effective operation of the service.

## **Wider Economy**

79. Through increasing overall levels of proactive business registration, LAs will be able to apply suitable, timely controls at food establishments. Better understanding and compliance with food law by FBOs prior to trading may help reduce instances of foodborne illness. This could have beneficial impacts on the economy in terms of reduced burden on the National Health Service (NHS), thereby signifying reductions in health costs and financial costs to potential sufferers of food related illnesses. This would include reductions in pain, suffering and death, as well as forgone economic output due to absence from work or a reduction in the workforce.

## **Option Appraisal**

### **Option 1: ‘Do Nothing’, and continue with the current system of registration**

#### **Costs and Benefits**

80. Option 1 is the baseline against which all other options are appraised. The FSA currently holds no evidence to suggest that any of the important variables in the baseline will change over time in the absence of intervention. Therefore, the costs and benefits in the baseline across time assume current levels of business registration, compliance, consumer risk and incidences of foodborne illnesses. Similarly, there is no expectation that the intensity of LA or FSA intervention will change. All costs and benefits in the policy options are measured incrementally against the status quo.

## **Option 2: Introduce an online service for the registration of all new food businesses – two phased approach**

### **Food Business Costs**

#### **Registration of existing businesses**

81. Existing food businesses who have already registered will not be required to re-register their business as part of this process. Those FBOs who have commenced trading, but are yet to register will need to register their business. The introduction of an online registration service and campaign to raise awareness of the requirement to register will help to prompt FBOs to register, ideally through the online service. As for FBOs who have not commenced trading, an element of familiarisation will be required to ascertain what is required. Paper and online applications will continue to be the two main methods for registration, although online submissions will be encouraged.
82. At this stage, the FSA estimates that registration through the new online service would take an average completion time of between 6-8 minutes and a maximum of 11.2 minutes using paper. User testing is on-going as the model continued to develop, which will enable the time savings to FBOs in using the new online system and paper form to be quantified.
83. The time that managers devote to registration can be burdensome. In monetising this burden, the loss in productivity that managers bear can be a point of focus. Calculating this makes use of two variables. The first is the hourly wage earned by the manager, as it is an indicator of productive value. The second is the length of time for which the manager diverts from business activities to register their business onto the new system. The product of the two variables can be used as a proxy for the economic value forgone due to registration.
84. In identifying an accurate figure for the manager's average hourly wage, the 2017 Annual Survey of Hours and Earnings (ASHE) is a suitable data source<sup>3</sup>. Specifically, the median hourly wage for restaurant and catering establishment managers and proprietors is reported at £10.45. The value for the second variable depends on whether the manager opts for paper or web-based registration. For the paper application, £10.45 is multiplied by the estimated duration of 11.2 minutes (or 0.186). The per-business cost is £1.95. For web applications, £10.45 is multiplied by the estimated 7-minute duration (or 0.116). The per-business cost of this is £1.22.
85. Data is not available to carry out industry cost calculations as an estimation of the total number of businesses that are unregistered and trading, along with the estimated split for which registration method they are likely to choose is needed. Therefore, the per-business cost can only be calculated.

#### **Ongoing Registration**

86. The new online registration service is expected to capture the majority of new food business registrations in the future. Research carried out by the FSA provides a basis for predicting future levels. It is estimated that 634,584 food businesses are currently in operation across Wales, England and Northern Ireland with a corresponding annual churn rate of 20%. Assuming the churn rate remains constant and unchanged, 126,917 businesses are expected to register per annum.

<sup>3</sup> The 2017 Annual Survey of Hours and Earnings (ASHE) is a detailed and comprehensive survey of earnings information in the United Kingdom. The headline measure of earnings from the ASHE is the median hourly earnings for full-time employees. The median is used because the distribution of earnings is skewed, with more people earning lower wages than higher wages.

87. Under the current system, the ratio of paper to online registration is split 60:40. With a new online solution to registration, the FSA aims to significantly increase the proportion of FBOs registering online. Specifically, the ratio for future paper to online business registration is anticipated to be 20:80. Given the churn rate, this ratio provides a corresponding split of 25,383 businesses registering through the paper form and 101,534 businesses registering online every year.
88. The 25,383 businesses expected to register through the paper form in future is multiplied by the per-business productivity loss attributed to this route (£1.95). The total productivity loss across these businesses is £49,496.85.
89. Similarly, the 101,534 businesses expected to register through the new online service in future can be multiplied by the per-business productivity loss associated with this method (£1.22). The productivity loss across these firms is £123,871.48.

## **Local Authority Costs**

### **One-Off Administration of existing businesses**

90. One of the key policy objectives for the FSA is to have a strategic overview of all food businesses operating in Wales, England and Northern Ireland. The FSA anticipates, following a campaign to raise awareness of the requirement to register, there will be an increase in the number of registrations by those businesses which are unregistered. This increase could present a one-off administration cost to LAs needing to reallocate staff resources.
91. Monetising the strain on LA resources involves staff costs as well as the average duration associated with processing an individual registration. A variety of staff are involved in processing a business' registration. For both paper and web-based methods, the time breakdown per application is approximated as follows:
  - 75% of Administration staff time,
  - 24% of Environmental Health Officer (EHO) time,
  - 1% of Team Leader time.
92. Following this, the median hourly wage for each occupation is identified through the ASHE survey. Local government administrative staff earn a median hourly ASHE wage of £12.24. EHOs earn a median ASHE wage of £18.54. Finally, office managers (used to represent team leaders) earn a median hourly ASHE wage of £14.36. These figures provide the first component in modelling the burden to LAs.
93. The typical time taken to process a paper-based registration is 30 minutes. Given the time breakdown for each staff along with their respective median hourly ASHE wage, the LA's cost for processing each paper application is £6.88.
94. The typical time taken to process a web-based application is 15 minutes. Given the time breakdown and median hourly ASHE wages for all staff involved, the LA's cost for processing each online application is £3.45.
95. The costs for processing the two types of registrations are based on conservative duration estimates. User testing, which will enable us to quantify the anticipated time savings, is ongoing as the new service continues to develop. The FSA believes that use of the new technology will eliminate the need to re-enter information bringing down costs further by reducing processing time.

96. Since the FSA does not know the number of FBOs who are unregistered, it is only possible to estimate the per-application cost to the LA.

## Ongoing Administration

97. The forecast for future business registration reflects ongoing administration that LAs would undertake. Based on research carried out by IBM, the 20% churn rate corresponds to 126,917 new food businesses expected to register every year. The time taken by LAs to process registrations is to be estimated in accordance with the proportion of businesses opting for paper or web-based methods in future.
98. The ratio for future paper to web registration is predicted as 20:80. With this, 25,383 FBOs are likely to register through paper, relative to 101,534 registering online. According to this estimate, the per-registration cost of £6.88 is multiplied by the 25,383 food businesses likely to register using the form. The total cost to LAs for this method is £174,635.04. Similarly, the per-registration cost of £3.45 is multiplied by the 101,534 food businesses expected to register online in future. The total cost to the LA for this method is £350,292.30.

## FSA Costs

### Software Development

99. The net cost of the initial work to develop the new online registration service for implementation in March 2019 will be £772,000. This represents the first iteration of the new service known as the minimal viable product (MVP). Further enhancements will be made in due course.

## Benefits

### Consumer Benefits

#### Improved Consumer Choice

100. Streamlining the registration process for food businesses, through the use of technology and making certain information publicly available, will enable consumers, and other interested parties, to check the status of a food business. This will provide for greater consumer confidence in the businesses compliance with food law requirements.
101. Through improving the availability of information, consumers will be better informed to make decisions regarding the food that they buy and eat outside of the home.
102. The FSA has been unable to estimate the value of this benefit, as it does not have access to information about how much the consumer would be willing to pay for improved access to information to aid decision-making, and is unable to observe behaviour in markets that are similar/related to food safety.

### Foodborne Illnesses

103. The new online service is intended to provide FBOs with appropriate guidance and support. Assuming FBOs make use of the guidance which they are provided, there is potential for food-related risks to be managed and controlled more effectively. This reduces the risk to consumers and could potentially improve the quality of food.

104. Sustained improvements in food quality through better risk-management and compliance means consumers are better protected from food risks. Less exposure to this could lead to various long-term health and financial benefits through a reduction in the number of cases of foodborne illnesses and a reduction in associated costs.
105. In monetising the value of a reduction in the number of consumers contracting foodborne illnesses, the FSA would need to examine the relationship between better food business compliance and the number of cases of foodborne illnesses. As this information is not held, these benefits cannot be quantified.

## **Food Business Benefits**

### **Economic Savings**

106. FBO compliance with food law requirements provides assurance that FBOs are meeting their duty to protect consumers from foodborne illnesses. Researching how they can comply can take time and resource and may lead to FBOs not always obtaining the right information for their business.
107. Introducing an online service that provides links to tailored support tools will provide FBOs with a wealth of appropriate information easily and instantly before they start trading. A similar level of information will be available to all FBOs completing an online registration.
108. The time saved by FBOs in their search for appropriate information represents an economic saving to the business. Monetising the benefit of this requires data on the time devoted to searching for relevant guidance documents, as well as how this figure adjusts in light of new technology and, hence, new guidance. This data is not held by the FSA and the benefit cannot be quantified.

## **Burden of Enforcement**

109. Option 2 presents an effective way of combining the registration of a food business with the provision of tailored guidance to help businesses achieve and maintain compliance with relevant food law. Raising awareness of the need to register and streamlining the registration process will help to identify the food business at the earliest opportunity, enabling the LA to determine and offer tailored advice and support to businesses. FBOs are expected to capitalise on this new facility and work towards demonstrating higher standards of compliance which they can then sustain.
110. Food businesses able to demonstrate compliance when they start-up are more likely to sustain standards and may be subject to less controls by LAs over time. This may ease the regulatory burden with a reduction in the time allocated to various inspections and interventions. This translates to an opportunity to remain productive and add value to their food business.

## **Local Authority Benefits**

### **Inspections**

111. This preferred option is expected to bring several benefits to LAs. It will fundamentally allow for better communication with businesses by requiring FBOs to submit relevant information using the online service. With LAs being able to access a high-quality and expanded data set, they will gain a better understanding of the nature of the activities to be carried out and

their applicable risks. This will help shape inspection strategies and for interventions to become more risk-based and proportionate to the type of business under consideration.

112. This option will facilitate better communication for LAs across Wales, England and Northern Ireland. Information about new FBOs captured through the new online service and of existing food businesses from the LA MIS will be shared across LAs. This will provide additional information relevant to a LA's enforcement programme and may reduce unnecessary inspections, particularly of mobile traders.
113. The enhanced data that will be captured at the point of registration will enable a more risk based approach to the development of inspection strategies. This has implications for the planning and delivery of official controls. LAs may be able to redirect resource from certain types of business to focus on support for new FBOs or target resource at existing establishments that are non-compliant and present the greatest risk to consumers.

## **FSA Benefits**

### **Traceability**

114. Preparation for EU exit is a priority for the FSA. Significant changes to the pattern of food consumption, production and trade will mean that the FSA, must take measures to ensure it has an overview of the businesses engaged in import and export across Wales, England and Northern Ireland. This will be possible through a comprehensive unified view of food businesses using the information obtained through the online registration service and other data sources.
115. In the event of a possible outbreak of foodborne illness or other food related incident, the FSA, will be able to identify relevant food businesses that could be receiving or supplying specific products giving it a greater sense of accountability across an international scale.
116. Monetising this benefit would involve examining the relationship between foodborne illness and various tools applied by LAs to allow for traceability. As this information is currently unavailable, this benefit cannot be quantified.

### **Policy Development**

117. A key objective of this proposal is to make the FSA a better-informed regulator. With access to richer information for all food establishments, the FSA will be able to better develop policy. Future government policy could be more reflective of the nature and profile of FBOs and related agents. Furthermore, better policy design increases the likelihood for the government to reach long-term food-related objectives.

### **Wider Impacts**

#### **Small Firms Impact Test**

118. Business costs identified relate to the time taken registering the business. This is a legal requirement for all businesses, regardless of size. The FSA does not consider this would have a significantly disproportionate impact on businesses of a smaller size.

#### **Competition Assessment**

119. With better access to documents that enable sustained improvements in compliance, the new system is considered to have a positive impact on the level of competition.

## **Economic Impact**

120. The introduction of a new online service with the signposting of relevant advice and guidance at the outset would mean that food businesses have the opportunity to succeed. This should lead to compliance with food law requirements. This should lead to better FBO behaviour and drive up competition in the market.

## **Social Impact**

121. Social arguments address information barriers and potential health inequalities. Consumers will know if a food business is registered with a LA and, hence, this should promote greater trust in those who have registered. With helpful compliance documents available to FBOs, food safety and quality can be improved. This should reduce the consumer's exposure to food-related risks. In time, this would reduce the incidence of foodborne illness and associated costs.

## **Environmental Impact**

122. The FSA considers that the introduction of a new online service for registration capturing all food businesses will have no impact on environmental sustainability issues.

## Atodiad C

| <p><b>Title:</b> Regulating Our Future: Amendments to the Food Law Code of Practice (Wales) - Recognising national inspection strategies (NIS) for food hygiene and food standards (food partnerships).</p> <p><b>IA No:</b></p> <p><b>Lead department or agency:</b> Food Standards Agency</p> <p><b>Other departments or agencies:</b></p>   | <b>Impact Assessment</b>                     |   |                   |                        |        |
|--|--|---|-------------------|------------------------|--------|
|  | <b>Date:</b> 31/08/2018                      |   |                   |                        |        |
|  | <b>Stage:</b> Consultation                   |   |                   |                        |        |
|  | <b>Source of intervention:</b> Domestic      |   |                   |                        |        |
|  | <b>Type of measure:</b> Other                |   |                   |                        |        |
|  | <b>Contact for enquiries:</b> Daniel Morelli |   |                   |                        |        |
| <b>Summary: Intervention and Options</b>   | <b>RPC Opinion:</b> Not Applicable           |   |                   |                        |        |
| <b>Cost of Preferred (or more likely) Option</b>   |  |   |                   |                        |        |
| Total Net Present Value  | Business Net Present Value                   | Net cost to business per year (EANDCB in 2014 prices) | One-In, Three-Out | Business Impact Target | Status |
| £0m  | £0m  | £0m   | Not applicable    | To be determined       |        |
| <b>What is the problem under consideration? Why is government intervention necessary?</b>  |  |   |                   |                        |        |
| <p>Primary Authority (PA)<sup>4</sup> currently operates across England and Wales in relation to food safety legislation that is enforced by local authorities. In England and Wales, a PA can provide services in relation to all the regulatory areas in scope that it has responsibility for:</p> <ul style="list-style-type: none"> <li>• a PA in England or Wales can advise on reserved regulatory areas (including fire safety, health and safety, metrology, product safety)</li> <li>• a PA in England can advise on 'England only' regulatory areas (including food, agriculture, animal health, environment, housing and public health)</li> <li>• a PA in Wales can advise on devolved Welsh regulatory areas (including food, agriculture, animal health, environment, housing and public health).</li> </ul> |  |   |                   |                        |        |
| <p>Businesses trading in England and Wales that are regulated in relation to devolved matters and wish to benefit from PA in both nations will need to partner with a PA in England and a PA in Wales. It should be noted that only a local authority in Wales should be nominated in respect of relevant functions that relate to devolved Welsh matters. These primary authorities will be able to work closely together to provide an efficient service.</p>  |  |   |                   |                        |        |
| <p>PA offers businesses the opportunity to form a legally recognised partnership with one local authority- the 'PA', which can then provide advice for other local authorities to consider when carrying out inspections or dealing with non-compliance. PA has a statutory basis, the scheme was introduced around 10 years ago, via the Regulatory Enforcement and Sanctions Act 2008. One of the statutory tools a PA may use is an Inspection Plan to guide local authority checks on business compliance, where the PA sees that this would be beneficial in improving the coordination and efficiency of such checks. Inspection Plans can set-out national priorities for inspection of the business in question, focusing activity on areas where it's most needed.</p>  |  |   |                   |                        |        |
| <p>As part of an Inspection Plan, the PA could take the view that it has sufficient evidence that the business is being well managed, and that a lower number or a more tailored style of regulatory intervention is warranted, which would still enable proper regulation of the business and ensure public safety.</p>   |  |   |                   |                        |        |
| <p>The PA could consider available information from the business such as:</p> <ul style="list-style-type: none"> <li>○ Systems for managing compliance</li> <li>○ Data generated from internal compliance checks e.g. through in-house audits</li> <li>○ Data generated by 2<sup>nd</sup> or 3<sup>rd</sup> party compliance checks e.g. through external auditing, accreditation</li> </ul>   |  |   |                   |                        |        |

<sup>4</sup> More information on Primary Authority is available at: <https://www.gov.uk/guidance/local-regulation-primary-authority>

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checks, test purchases, surveillance and sampling programmes

- Data generated by regulatory checks on the business

If satisfied that the business is compliant and being well managed and with the agreement of the business, a **national inspection strategy** (NIS) could be put in place by the PA. This may reduce the number or intensity of proactive local authority interventions needed.

At present there are no NIS for food safety. The Food Standards Agency (FSA) has been working with relevant stakeholders to consider why this is the case. One of the contributory factors for the lack of uptake is that the Food Law Code of Practice (the Code) has not, to date, acknowledged them as an approach by which compliant multi-site businesses (or groups of businesses) could be regulated.

The proposed amendments to the Code would address this issue by specifically referencing and including information on NIS thus making them a possibility for food partnerships that meet the FSA's robust 'Standard' and oversight mechanisms.

The FSA's Standard for NIS is currently being developed, and is expected to be published during the summer of 2018. Information on the work underway to develop this Standard is provided in the 9<sup>th</sup> edition of the ROF newsletter, available at: <https://www.food.gov.uk/about-us/ninth-regulating-our-future-newsletter>.

### What are the policy objectives and the intended effects?

The policy objective is to form better alignment between the provisions of PA and the Code, recognising NIS in the Code. Primary Authority Partnerships (PAPs) have the option of considering whether NIS, which meets the FSA's Standard, is something that they wish to develop and implement.

### What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1: Do Nothing: Make no changes to the Code so that NIS remain unrecognised for food partnerships. Food partnerships may still choose to develop national inspection strategies, as they are a legitimate tool available to them under PA. However, there would remain poor alignment between the requirements of the Code and the provisions of the statutory PA scheme.

Option 2 (Preferred Option): Amend the Code to recognise NIS for food partnerships.

Implementing changes to recognise the option for primary authorities to develop a national inspection strategy would provide partnerships with the ability to reduce the frequency and intensity of proactive interventions. This will assist in removing some regulatory burden at a local level, if where the PA is confident, and has good evidence, that establishments are compliant and are being well managed.

Resources at a local authority level could be re-directed at establishments where there is less evidence of compliance and poor management.

### Will the policy be reviewed? It will be reviewed. If applicable, set review date: Month/Year

|   |              |              |               |              |
|---|--------------|--------------|---------------|--------------|
| Does implementation go beyond minimum EU requirements?  |              | No           |               |              |
| Are any of these organisations in scope?  | Micro<br>Yes | Small<br>Yes | Medium<br>Yes | Large<br>Yes |
| What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions?<br>(Million tonnes CO <sub>2</sub> equivalent) |              | Traded:      |               | Non-traded:  |

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible SELECT SIGNATORY:

Date:

# Summary: Analysis & Evidence Policy Option 2

**Description:** Do Nothing: Make no changes to the Code so that NIS remain unrecognised in this document for food partnerships.

## FULL ECONOMIC ASSESSMENT

| Price Base Year<br>2018  | PV Base Year<br>2018 | Time Period<br>Years 10                    | Net Benefit (Present Value (PV)) (£m)                        |                |   |  |  |  |  |
|--|----------------------|--|--|----------------|---|--|--|--|--|
|  |                      |  | Low: Optional  | High: Optional | Best                                    |  |  |  |  |
| <b>COSTS (£m)</b>  |                      | Total Transition<br>(Constant Price) Years | <b>Average Annual</b><br>(excl. Transition) (Constant Price) |                | <b>Total Cost</b><br>(Present Value)    |  |  |  |  |
| Low  |                      | Optional                                   | Optional   |                | <b>Optional</b>                         |  |  |  |  |
| High   |                      |  | Optional   |                | <b>Optional</b>                         |  |  |  |  |
| Best Estimate  |                      |  | 0  |                | 0                                       |  |  |  |  |
| <b>Description and scale of key monetised costs by 'main affected groups'</b>    |                      |  |  |                |   |  |  |  |  |
| There are no associated monetised costs for this option.                         |                      |  |  |                |   |  |  |  |  |
| <b>Other key non-monetised costs by 'main affected groups'</b>                   |                      |  |  |                |   |  |  |  |  |
| There are no associated costs for this option.                                   |                      |  |  |                |   |  |  |  |  |
| <b>BENEFITS (£m)</b>   |                      | Total Transition<br>(Constant Price) Years | <b>Average Annual</b><br>(excl. Transition) (Constant Price) |                | <b>Total Benefit</b><br>(Present Value) |  |  |  |  |
| Low  |                      | Optional                                   | Optional   |                | <b>Optional</b>                         |  |  |  |  |
| High   |                      |  | Optional   |                | <b>Optional</b>                         |  |  |  |  |
| Best Estimate  |                      |  | 0  |                | 0                                       |  |  |  |  |
| <b>Description and scale of key monetised benefits by 'main affected groups'</b> |                      |  |  |                |   |  |  |  |  |
| There are no associated monetised benefits for this option.                      |                      |  |  |                |   |  |  |  |  |
| <b>Other key non-monetised benefits by 'main affected groups'</b>                |                      |  |  |                |   |  |  |  |  |
| There are no associated benefits for this option.                                |                      |  |  |                |   |  |  |  |  |
| Key assumptions/sensitivities/risks  |                      |  | <b>Discount rate (%)</b>                                     |                | -                                       |  |  |  |  |

## BUSINESS ASSESSMENT (Option 3)

| Direct impact on business (Equivalent Annual) £m: |             |        | Score for Business Impact Target (qualifying provisions only) £m: |
|---|-------------|--------|---|
| Costs: 0  | Benefits: 0 | Net: 0 | Zero net cost   |
|   |             |        |   |

# Summary: Analysis & Evidence Policy Option 2

Description: Amending the Food Law Code of Practice to recognise NIS for food hygiene and food standards (food partnerships)

## FULL ECONOMIC ASSESSMENT

| Price Base Year<br>2018 | PV Base Year<br>2018 | Time Period<br>Years 10                           | Net Benefit (Present Value (PV)) (£m)                        |                |                                      |
|-------------------------|----------------------|---|--|----------------|--------------------------------------|
|                         |                      |   | Low: Optional  | High: Optional | Best                                 |
| <b>COSTS (£m)</b>       |                      | <b>Total Transition</b><br>(Constant Price) Years | <b>Average Annual</b><br>(excl. Transition) (Constant Price) |                | <b>Total Cost</b><br>(Present Value) |
| Low                     | Optional             | Optional  | Optional   | Optional       | Optional                             |
| High                    | Optional             |   |  |                | Optional                             |
| Best Estimate           | 0                    |   |  | 0              | 0                                    |

### Description and scale of key monetised costs by 'main affected groups'

The FSA welcomes responses to provide evidence on any monetised costs by affected groups as part of this consultation. It is not envisaged there will be cost to business as a result of this option as NIS are optional.

### Other key non-monetised costs by 'main affected groups'

The provision for a PA to establish a NIS already exists under PA legislation.

PA operates on a cost recovery basis, and therefore cost incurred by a PA developing and implementing a national inspection strategy could be recovered from the PA partner (i.e. business or co-ordinator of businesses).

The actual costs to develop and implement a national inspection strategy will vary significantly as businesses, groups of businesses, and PAP can vary.

The FSA has been working with six primary authorities on a 'pathfinder' project, which is due to report during the summer of 2018. This project will help the FSA start to understand the estimated costs of a partnership meeting the FSA Standard and using business data to predict local level compliance.

During 2018/2019, the FSA will be working with 2 (or more) PAP to understand the time and costs involved in developing and implementing NIS.

We do not foresee local authorities (enforcing authorities) bearing any additional costs due to the implementation of national inspection strategies. Local authorities may be required to have some engagement with a PA who is operating a national inspection strategy, but this is likely to be less time consuming (and therefore lower in cost), than carrying out a physical inspection.

| BENEFITS (£m) | Total Transition<br>(Constant Price) | Years | Average Annual<br>(excl. Transition) (Constant Price) | Total Benefit<br>(Present Value) |
|---------------|--------------------------------------|-------|---|----------------------------------|
| Low           | Optional                             | 0     | Optional  | Optional                         |
| High          | Optional                             |       | Optional  | Optional                         |
| Best Estimate | 0                                    |       | 0   | 0                                |

#### Description and scale of key monetised benefits by 'main affected groups'

At present we do not have figures for the monetised benefits. The pathfinder project, expected to report during the summer of 2018, will provide some insight into the number of local interventions that could potentially be reduced if a partnership develops and implements a national inspection strategy.

It is not expected that any business, or group of businesses, will be completely removed from local authority intervention. It is more likely that the percentage of establishments inspected in any one year may reduce, for example from 33% of an estate inspected per year, to 20% or 15% (depending on the business, compliance levels, PA confidence etc).

It is not possible to estimate the likely take-up of NIS for food partnerships at present as exploratory work into this area is still underway. It is hoped that through this consultation, the FSA will gain some insight into partnerships who are interested in developing NIS and will obtain a better idea of potential uptake when the consultation concludes.

#### Other key non-monetised benefits by 'main affected groups'

A national inspection strategy may lead to a reduction in local authority physical inspections at compliant, well managed businesses. It is likely there will be a need for dialogue between local authorities (enforcing authorities) and primary authorities operating NIS.

It is envisaged that local authorities would be able to re-allocate any saved time resource to less compliant businesses, which could deliver additional public health benefits.

| Key assumptions/sensitivities/risks  | Discount rate (%) | 3.5 |
|--|-------------------|-----|
| <p>The costs and benefits to a business of setting up a national inspection strategy will vary considerably. However, it has been assumed that a business will only pursue a national inspection strategy if it will be financially viable to do so. Businesses are under no obligation to set-up a national inspection strategy and there should be no new burdens placed on them if they do not set one up.</p> <p>The intention of this Code change is to recognise NIS, thus making a more viable option for partnerships.</p> <p>If the Code is not changed to recognise NIS, partnerships may still establish NIS despite the lack of alignment between the provisions of PA and the Code.</p> |                   |     |

#### BUSINESS ASSESSMENT (Option 4)

| Direct impact on business (Equivalent Annual) £m: |             |        | Score for Business Impact Target (qualifying provisions only) £m: |
|---|-------------|--------|---|
| Costs: 0  | Benefits: 0 | Net: 0 | Zero net cost   |
|   |             |        |   |

## Impact Assessment: Primary Authority National Inspection Strategies

### EVIDENCE BASE

#### **CURRENT NUMBERS OF PRIMARY AUTHORITIES, INSPECTION PLANS AND NATIONAL INSPECTION STRATEGIES IN WALES AND ENGLAND.**

Currently businesses (or groups of businesses) can have a relationship with a PA which may include food hygiene or food standards. These partnerships will fall into environmental health and/or trading standards PAP.

Unfortunately, it is not currently possible to split out food hygiene and food standards from the wider categories of environmental health and trading standards functions (due to how PA operates). The data available on the current partnerships and inspection plans are detailed below in **Table 1**.

**Table 1:** Approximate number of PA and NIS plans (August 2018)

| Primary Authority recorded function |  | Number of partnerships (Wales and England) | Number of partnerships (Wales) | # of inspection plans | # of inspection plans with food business elements | # of national inspection strategies for food partnerships |
|-------------------------------------|--|--|--------------------------------|-----------------------|---|---|
| Environmental Health                |  | 660  | 39                             | 20 (None for Wales)   | 13  | 0   |
| Trading standards                   |  | 1103                                       | 37                             | 15 (None for Wales)   | 9   | 0   |

There are currently no environmental health or trading standards partnerships that operate NIS for their partnerships.

The only sectors currently using NIS are for age restricted sales (gambling and alcohol). There are currently (as of June 2018) six PAPs for gambling and one National Inspection Strategy<sup>5</sup>.

There has previously been a NIS for health and safety; it is understood that with HSE's change in direction for local authorities that reduced proactive inspections health and safety national inspection strategy became non-viable.

### **POLICY IMPACT ANALYSIS**

#### Option 1: Do nothing

Taking no action would have no associated costs or benefits to any parties.

#### Option 2 (Preferred Option):

#### Amend the Food Law Code of Practice to recognise national inspection strategies for food standards and food hygiene (food partnerships).

Implementing changes to recognise that businesses (or groups of businesses) can, if they choose, set-up a national inspection strategy with their chosen PA, would provide alignment between PA and the Code. If a PAP judges that a national inspection strategy will deliver benefits in terms of more efficient and risk based regulation at a local level, they will be able to develop and implement such a strategy, and remain in line with the requirements of the Code.

<sup>5</sup> <http://www.gamblingcommission.gov.uk/for-licensing-authorities/Licensing-authority-toolkit/Premises-assessments/Premises-assessments-toolkit.aspx>

## **Costs**

The FSA is not imposing any regulatory burden on businesses so there are no associated costs with this proposal. However, to benefit from a national inspection strategy there will be some costs faced by businesses in the initial setup and ongoing maintenance. These will be administered by the PA and met on a cost recovery basis.

To set-up a national inspection strategy a business will first have to set-up a partnership with a PA (if they do not already have one). The 2011 Impact Assessment (IA) of extending the PA estimated the net benefit of setting up a partnership with a PA at around £17,000 (£18,700 2017 prices) per business<sup>6</sup>.

This IA is not concerned with the benefits of PA as it is already possible for businesses to set-up partnerships with them on food hygiene and standards and some have already done so. Therefore, it is not considered proportionate to update the 2011 analysis.

The FSA pathfinder project, working with 6 PAPs, and due to be published during the summer of 2018, is expected to provide better insight into the resource needed to develop and implement NIS for food partnerships. It is expected that any cost incurred by a PA will be cost recovered from the partner.

## **Benefits**

The introduction of NIS is not intended to reduce local authority resource dedicated to food regulation, but could instead enable the reallocation of that resource from more compliant to less compliant businesses. The impact of the transfer of local authority inspection resource towards high-risk businesses may therefore improve public health outcomes.

## **DISTRIBUTIONAL IMPACTS**

While businesses of all sizes can be part of a PAP, a national inspection strategy is likely to be most attractive to large multi-site businesses such as retailers and catering chains who already invested in PA. Therefore, the preferred option is likely to benefit large, compliant business more than small or medium enterprises. SMEs who are in a PAP (including a coordinated partnership) are still eligible to develop and implement NIS.

<sup>6</sup> Extending Primary Authority Scheme 2011 IA, page 22, Net Benefits divided by 600 low and 1000 high number of business expected to apply. Appraised over a 15-year period.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/31432/11-987-impact-assessment-extending-primary-authority-scheme.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/31432/11-987-impact-assessment-extending-primary-authority-scheme.pdf)

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| <b>Title:</b> Regulating Our Future: Amendments to the Food Law Code of Practice (Wales) - Risk Assessment of Food Businesses<br><b>RPC Reference No:</b><br><b>Lead department or agency:</b> Food Standards Agency<br><b>Other departments or agencies:</b>  |                                  | <b>Impact Assessment (IA)</b>  |                   |                        |             |
|--|----------------------------------|--|-------------------|------------------------|-------------|
|  |                                  | <b>Date:</b> 05/07/2018<br><b>Stage:</b> Development/Options<br><b>Source of intervention:</b> Domestic<br><b>Type of measure:</b> Other<br><b>Contact for enquiries:</b> Daniel Morelli |                   |                        |             |
| <b>Summary: Intervention and Options</b>   |                                  | <b>RPC Opinion:</b> Not Applicable   |                   |                        |             |
| <b>Cost of Preferred (or more likely) Option</b>   |                                  |  |                   |                        |             |
| Total Net Present Value<br>£m  | Business Net Present Value<br>£m | Net cost to business per year (EANDCB in 2014 prices)<br>£m  | One-In, Three-Out | Business Impact Target | Status      |
|  |                                  |  | Not applicable    | To be determined       |             |
| <b>What is the problem under consideration? Why is government intervention necessary?</b><br><p>Operational changes to the Food Law Code of Practice (the Code) for Wales are required to implement the Food Standard Agency's (FSA's) Regulating Our Future (ROF) principles into the establishment based approach to risk assessment of food businesses. These changes are aimed at ensuring enforcement practices are risk based, proportionate and effective. In the UK, local authorities are responsible for monitoring food businesses to check that they comply with food law. Direction and guidance for local authorities (LAs) on the approach to take is provided in the Code for each country in the UK. LAs must have regard to the requirements set-out in the Code to ensure effective and consistent delivery of food law enforcement services.</p> |                                  |  |                   |                        |             |
| <b>What are the policy objectives and the intended effects?</b><br><p>To introduce ROF principles into the risk assessment of food businesses, to ensure enforcement activities are risk based, proportionate and effective, to reduce unnecessary burden on food businesses. The proposals:</p> <ol style="list-style-type: none"> <li>1) Amend and clarify descriptors for Method of Processing, Consumers at Risk and Confidence in Management (CIM) that are used to rate businesses and assign frequency and nature of interventions.</li> <li>2) Introduce new definitions for full compliance and sustained compliance.</li> <li>3) Provide for targeting of high-risk and non-compliant businesses by reducing the frequency of intervention. in low risk and compliant businesses.</li> </ol>   |                                  |  |                   |                        |             |
| <b>What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)</b><br><p>Option 1: Do nothing, the Code would not be amended and the current food hygiene intervention rating scheme system would remain.</p> <p>Option 2: Make amendments to the food hygiene intervention rating scheme used to determine the nature and frequency of interventions.</p> <p>Option 3: Option 2, with safeguards put in place to ensure that a food establishment's intervention frequency cannot be reduced disproportionately.</p> <p>The preferred option is Option 3 as it would allow for delivery of a more risk based and proportionate approach to official control interventions, which also recognises sustained compliance set within safe limits.</p>                        |                                  |  |                   |                        |             |
| <b>Will the policy be reviewed? It will be reviewed. If applicable, set review date: 10/2023</b>   |                                  |  |                   |                        |             |
| Does implementation go beyond minimum EU requirements?   |                                  |  |                   | No                     |             |
| Are any of these organisations in scope?   |                                  |  | Micro Yes         | Small Yes              | Medium Yes  |
| What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions?<br>(Million tonnes CO <sub>2</sub> equivalent)  |                                  |  | Traded:           |                        | Non-traded: |

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY:

Date:

## Summary: Analysis & Evidence

Policy Option 3

Description: Do nothing: the code of practice would not be amended and the current system would remain

### FULL ECONOMIC ASSESSMENT

| Price Base<br>Year 2018   | PV Base<br>Year 2018 | Time Period<br>Years 10                           | Net Benefit (Present Value (PV)) (£m)                        |                |   |  |  |
|---|----------------------|---|--|----------------|---|--|--|
|   |                      |   | Low: Optional  | High: Optional | Best Estimate: 0                        |  |  |
| <b>COSTS (£m)</b>   |                      | <b>Total Transition</b><br>(Constant Price) Years | <b>Average Annual</b><br>(excl. Transition) (Constant Price) |                | <b>Total Cost</b><br>(Present Value)    |  |  |
| Low   |                      | Optional  | Optional   | Optional       | Optional                                |  |  |
| High  |                      | Optional  |  | Optional       | Optional                                |  |  |
| Best Estimate   |                      | 0   |  | 0              | 0                                       |  |  |
| <b>Description and scale of key monetised costs by 'main affected groups'</b><br>None. This is the baseline against which all other options are appraised.    |                      |   |  |                |   |  |  |
| <b>Other key non-monetised costs by 'main affected groups'</b><br>None. This is the baseline against which all other options are appraised.                   |                      |   |  |                |   |  |  |
| BENEFITS (£m)   |                      | <b>Total Transition</b><br>(Constant Price) Years | <b>Average Annual</b><br>(excl. Transition) (Constant Price) |                | <b>Total Benefit</b><br>(Present Value) |  |  |
|   |                      |   | Optional   | Optional       | Optional                                |  |  |
| Low   |                      | Optional  |  | Optional       | Optional                                |  |  |
| High  |                      | Optional  |  | Optional       | Optional                                |  |  |
| Best Estimate   |                      | 0   |  | 0              | 0                                       |  |  |
| <b>Description and scale of key monetised benefits by 'main affected groups'</b><br>None. This is the baseline against which all other options are appraised. |                      |   |  |                |   |  |  |
| <b>Other key non-monetised benefits by 'main affected groups'</b><br>None. This is the baseline against which all other options are appraised.                |                      |   |  |                |   |  |  |
| Key assumptions/sensitivities/risks   |                      |   | Discount rate (%)  |                | <input type="text"/>                    |  |  |
| None. This is the baseline against which all other options are appraised.   |                      |   |  |                |   |  |  |

### BUSINESS ASSESSMENT

| Direct impact on business (Equivalent Annual) £m: |             |        | Score for Business Impact Target (qualifying provisions only) £m: |
|---|-------------|--------|---|
| Costs: 0  | Benefits: 0 | Net: 0 | Zero net cost   |
|   |             |        |   |

## Summary: Analysis & Evidence

## Policy Option 2

Description: Make amendments to the establishment intervention rating scheme used to set intervention frequencies. **FULL ECONOMIC ASSESSMENT**

| Price Base<br>Year 2018 | PV Base<br>Year 2018 | Time Period<br>Years 10 | Net Benefit (Present Value (PV)) (£m) |                |                  |
|-------------------------|----------------------|-------------------------|---------------------------------------|----------------|------------------|
|                         |                      |                         | Low: Optional                         | High: Optional | Best Estimate: 0 |

| COSTS (£m)    | Total Transition<br>(Constant Price) Years | Average Annual<br>(excl. Transition) (Constant Price) | Total Cost<br>(Present Value) |
|---------------|--|---|-------------------------------|
| Low           | Optional                                   | Optional  | Optional                      |
| High          | Optional                                   |   | Optional                      |
| Best Estimate | 0  |   | 0                             |

### Description and scale of key monetised costs by 'main affected groups'

Under this option there would be a familiarisation cost to LAs in reading and understanding the changes, estimated at £6,240. There would also be a transfer of regulatory burden (the productivity loss to a business of being inspected by the LA from more compliant businesses to less compliant businesses). This will be because in some cases LAs will divert resources from businesses that demonstrate compliance to businesses that do not demonstrate acceptable levels of compliance. The scale of this transfer will depend on the exact policy implemented but the maximum has been estimated at £56,317.

### Other key non-monetised costs by 'main affected groups'

There are not expected to be any other costs as a result of this option.

| BENEFITS (£m) | Total Transition<br>(Constant Price) Years | Average Annual<br>(excl. Transition) (Constant Price) | Total Benefit<br>(Present Value) |
|---------------|--|---|----------------------------------|
| Low           | Optional                                   | Optional  | Optional                         |
| High          | Optional                                   |   | Optional                         |
| Best Estimate | 0  |   | 0                                |

### Description and scale of key monetised benefits by 'main affected groups'

The transfer of regulatory burden covered under 'costs' (and estimated at a maximum of £56,317) will represent a benefit to those businesses that demonstrate sustained compliance. The value of this benefit will be transferred to less compliant businesses. LAs are expected to reallocate inspection/intervention resource to less compliant businesses so there should be no saving arising from these changes.

### Other key non-monetised benefits by 'main affected groups'

The reallocation of LA resources to less compliant businesses will deliver enhanced public health benefits. The additional resources dedicated to businesses that represent higher risks to public health is expected to outweigh the reduction in resources dedicated to businesses that represent a lower risk to public health.

|                                     |                   |   |
|-------------------------------------|-------------------|---|
| Key assumptions/sensitivities/risks | Discount rate (%) | - |
|-------------------------------------|-------------------|---|

To represent the potential size of the transfer, it has been assumed that the proposed change which incurs the highest costs will be progressed following consultation. It has also been assumed that training and monitoring of the Food Law Code of Practice (the Code) changes will be delivered through the existing FSA systems at no additional cost.

## BUSINESS ASSESSMENT

| Direct impact on business (Equivalent Annual) £m: |             |        | Score for Business Impact Target (qualifying provisions only) £m: |
|---|-------------|--------|---|
| Costs: 0  | Benefits: 0 | Net: 0 | Zero net cost   |
|   |             |        |   |

## Summary: Analysis & Evidence

## Policy Option 3

Description: Option 2, with safeguards put in place to ensure that a business intervention frequency cannot be reduced disproportionately

### FULL ECONOMIC ASSESSMENT

| Price Base<br>Year 2018 | PV Base<br>Year 2018 | Time Period<br>Years 10 | Net Benefit (Present Value (PV)) (£m) |                |                  |
|-------------------------|----------------------|-------------------------|---------------------------------------|----------------|------------------|
|                         |                      |                         | Low: Optional                         | High: Optional | Best Estimate: 0 |

| COSTS (£m)    | Total Transition<br>(Constant Price) Years | Average Annual<br>(excl. Transition) (Constant Price) | Total Cost<br>(Present Value) |
|---------------|--|---|-------------------------------|
| Low           | Optional                                   | Optional  | Optional                      |
| High          | Optional                                   |   | Optional                      |
| Best Estimate | 0  |   | 0                             |

#### Description and scale of key monetised costs by 'main affected groups'

The familiarisation cost to LAs in reading and understanding the changes would be the same as option 2, estimated at £6,240. As with option 2, there would be a transfer of regulatory burden from more compliant businesses to less compliant businesses. However, due to the safeguards (capping) to limit how much an intervention frequency being reduced, the maximum size of the estimated transfer is reduced to £48,749.

#### Other key non-monetised costs by 'main affected groups'

There are not expected to be any other costs as a result of this option.

| BENEFITS (£m) | Total Transition<br>(Constant Price) Years | Average Annual<br>(excl. Transition) (Constant Price) | Total Benefit<br>(Present Value) |
|---------------|--|---|----------------------------------|
| Low           | Optional                                   | Optional  | Optional                         |
| High          | Optional                                   |   | Optional                         |
| Best Estimate | 0  |   | 0                                |

#### Description and scale of key monetised benefits by 'main affected groups'

The transfer of regulatory burden covered under 'costs' (and estimated at a maximum of £48,749) will represent a benefit to those businesses that show sustained compliance. The value of this benefit will be transferred to less compliant businesses. LAs are expected to reallocate inspection resource to less compliant business so there should be no savings arising from these changes.

#### Other key non-monetised benefits by 'main affected groups'

The reallocation of LA resources to less compliant businesses will deliver enhanced public health benefits. The additional resources dedicated to businesses that represent higher risks to public health is expected to outweigh the reduction in resources dedicated to businesses that represent a lower risk to public health.

|  |                   |   |
|--|-------------------|---|
| Key assumptions/sensitivities/risks  | Discount rate (%) | - |
| To represent the potential size of the transfer we have assumed that the proposed change which incurs the highest costs will be progressed following consultation. It has also been assumed that training and monitoring of the Food Law Code of Practice (the Code) changes will be delivered through existing FSA systems at no additional cost. |                   |   |

### BUSINESS ASSESSMENT

| Direct impact on business (Equivalent Annual) £m: |             |        | Score for Business Impact Target (qualifying provisions only) £m: |
|---|-------------|--------|---|
| Costs: 0  | Benefits: 0 | Net: 0 | Zero net cost   |
|   |             |        |   |

## **Evidence Base (for summary sheets)**

### **Problem Under Consideration**

1. The Food Standards Agency (FSA) is responsible for ensuring that an effective regulatory regime is in place to verify that food businesses meet their obligation to ensure food is safe and what it says it is. Local Authorities (LAs) are responsible for most food law enforcement and for verifying food business compliance with food law. Direction and guidance on the approach that LAs should take is included in the statutory Food Law Code of Practice (the Code) for each country, which sets out instructions and criteria that LAs must have regard when discharging their official control duties in relation to food law. The Code requires periodic revision to ensure that it reflects current food law policies and practices so that the official controls undertaken by authorised officers remain effective, consistent and proportionate.
2. The FSA is proposing a number of possible changes to the existing approach to determining the frequency of LA interventions at food establishments because the current system is considered to be outdated and will become increasingly unsustainable. The FSA is seeking views from interested parties on the scope and impact of the possible measures. The current approach has been in place for more than 30 years and has served consumers well, but has not kept pace with technological change in the food industry and is not flexible enough to adapt to the changing environment or the incredibly diverse nature of the industry.

### **Rationale for Intervention**

3. It is intended to better recognise those businesses that demonstrate sustained compliance by ensuring that an intervention is proportionate to their level of compliance (compliance status) and the reduced risk to consumers that they pose, resulting in reducing the regulatory burden on them. For some businesses, the risk may be so low that they do not warrant intervention, for others, inspection could be more frequent than they have experienced to support their move to compliance.

### **Policy Objective**

4. The FSA intends to revise the hygiene intervention rating scheme in two ways;
  - a. updating and clarifying the text used to describe the level of risk;
  - b. changing the scores in the intervention rating scheme for certain food businesses found to be compliant with food law. This will move them into a lower risk category, resulting in a reduced intervention frequency. The aim is to allow LAs to provide a greater focus on less compliant businesses, in particular those where persistent or serious non-compliances are identified, by reducing the frequency of interventions at those businesses with good food safety controls in place. In addition, LA resources can be directed towards dealing with new food businesses on a risk priority basis.
5. These changes will improve the regulatory process for the 34,655 food establishments registered with LAs in Wales at 31 March 2017. These include primary producers, manufacturers, processors, packers, importers, distributors, wholesalers, retailers, restaurants and caterers. These establishments are all subject to the requirements of food law that applies in Wales and originates at European Union (EU) level.
6. Responsibility for verifying compliance with food law in these food establishments is delegated to the 22 LAs in Wales. In undertaking these responsibilities, LAs, as food authorities, must comply with the requirements of Regulation (EC) No 882/2004<sup>7</sup> on Official Controls Performed to Ensure the Verification of Compliance with Feed and Food Law, Animal Health and Animal Welfare

<sup>7</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004R0882-20180701&qid=1535104547851&from=EN>

Rules. This Regulation sets out the general risk based approach and the principles that must be adopted when carrying out official controls (checks to ensure compliance with food law).

7. In carrying out their duties, LAs must have regard to the direction given by the FSA in the Code (separate but parallel Codes apply in England and Northern Ireland) when discharging their duties. These Codes are being updated to reflect the developments in approach.
8. The proposed amendments to the food hygiene intervention rating scheme can be summarised as follows:
  - to introduce the terms “full compliance” and “sustained compliance” for food businesses that have been assessed to be compliant by the LA at the last two interventions and over a minimum period of 3 years;
  - to link the additional score for the Vulnerable Risk Groups to the assessment of Confidence in Management (CIM) at food businesses;
  - to remove the additional score for significant risk and include the significant risk element in the CIM assessment.
  - to consider, when assessing CIM, whether the food business operator (FBO) proactively registered the new establishment under their control before the business started trading or when food operations commenced;
  - to amend the method of processing element of the food hygiene intervention scheme to include a descriptor to address where an establishment fails to undertake a process, which results in the potential to increase the risk to public health.

## **CONSULTATION**

9. The FSA presented the proposed amendments to LAs at a series of LA engagement events that were held from December 2017 to January 2018 across Wales, England and Northern Ireland. In Wales, the FSA hosted three workshops, one in north Wales, one in mid-Wales and one in south Wales on 11 and 18 January and 1 February 2018. These were attended by approximately 50 LA representatives. The FSA also held meetings with the ROF Segmentation Working Group prior to this consultation being launched, which included LA representatives, and other stakeholder groups comprising industry representatives and professional bodies. In Wales, the FSA will ask the Working Group (WG), established at the request of the then Minister for Social Services and Public Health (Rebecca Evans), to consider the proposals at its next meeting as part of the consultation process. The WG is chaired by the Welsh Government and was set-up to provide an assurance to Welsh Ministers that Wales’ needs are taken account of within the FSA’s ROF programme of reform. The FSA received detailed responses, from the enforcement community following the engagement events.

### **Summary of responses:**

#### **Proposed Amendment: Full Compliance and Sustained Compliance**

10. In Wales, England and Northern Ireland the proposed new definitions of ‘full compliance’ and ‘sustained compliance’ were considered reasonable, but some LAs questioned the true impact/savings of the proposal. Some LAs stated that they are already using flexibilities in the Code for broadly compliant category C and for category D rated establishments so they may not demonstrate sustained, full compliance to the LA for several years. Therefore, it is believed that the impact on interventions will be negligible.

Q19: The FSA would welcome any documentary evidence that would substantiate the view expressed by some LAs that the proposed change will not allow the reallocation of resources.

#### **Proposed Amendment: Vulnerable Risk Groups**

11. There was objection from LAs in Wales on the proposal to remove the additional score of 22 for food businesses serving vulnerable groups. In England and Northern Ireland there was some support for the vulnerable group score being removed in the circumstances described so long as there were alternative measures in place to recognise the higher impact of serving to vulnerable groups.

#### **Proposed Amendment: Significant Risk**

12. LAs in Wales requested data to determine how often the score is applied and the possible impact of removing the score from the scheme. This data has been included into the Code consultation document. The general agreement was that if removal of the score did not alter the overall risk category the change would be supported. In England and Northern Ireland, a consensus could not be reached. There was, however, agreement that this score wasn't currently used consistently and therefore if it remained, consistency training would be required.

#### **Proposed Amendment: Consideration of the Registration Process**

13. There were various views on whether LAs should take into account that a new business had not registered prior to trading when determining the (CIM) score. It was generally considered that this change alone would not make a significant difference to the number of FBOs that pro-actively register. However, it is a legal requirement and the FSA is aware that some LAs are already taking non-registration into account when rating a business that had not pro-actively registered. The FSA is not currently able to quantify the impact of this change. Therefore, to ensure a consistent and fair approach, further consideration is required and the FSA is taking this opportunity to consult on the principle of considering a business' failure to proactively register into the CIM score as one option for address this issue.

### **SECTORS AND GROUPS AFFECTED**

#### **Enforcement**

##### **Local Authorities**

14. To identify the impact of the proposed amendments on LAs, the FSA has consulted the ROF Segmentation Working Group and other regional groups that attended the LA ROF engagement events. LAs will be affected primarily through:
  - Changes to their management information systems (MIS).
  - Officers will have to familiarise themselves with the amendments to the Code.
  - Officers may need to undertake some form of consistency training on the application of these changes.
  - The ability to re-allocate resource more efficiently by focusing resources on non-compliant businesses and new food establishments (see Table 1).
15. It is estimated that 163 authorised officers in Wales will require training to effectively implement the changes.

#### **Food Standards Agency**

16. There are changes in food law enforcement over time and it is necessary for authorised officers keep up-to-date. The FSA provides LA officers with opportunities to develop their knowledge through training tools, professional courses and funding for LA work. The FSA works with LAs to further develop their enforcement services and one area the FSA is particularly active is in providing ongoing programme of consistency training.

## Food Business

17. The proposed amendments on sustained compliance will have a positive impact on compliant food businesses, many of whom currently are subject to a number of food hygiene interventions which are not proportionate to the risk they present. This level of intervention would be redressed by the proposed change. The change would apply to a small percentage of food businesses over time as indicated in Table 1 below:

| Proposed Change   | Est. number of reallocated inspections | % reallocation of inspections | Reallocation in Hrs <sup>8</sup> | Reallocation in FTEs | % in FTEs reallocated <sup>9</sup> |
|---|--|-------------------------------|----------------------------------|----------------------|------------------------------------|
| Sustained compliance (if FHRS of 5 for at least the last two inspections, the establishment receives negative 5 adjustment to risk score and for each subsequent inspection with rating of FHRS 5)  | 434                                    | 2.5%                          | 1,520                            | 1.0                  | 0.6%                               |
| Sustained compliance (if FHRS of 5 for at least the last two inspections, the establishment receives negative 10 adjustment to risk score and for each subsequent inspection with rating of FHRS 5) | 906                                    | 5.2%                          | 3,170                            | 2.0                  | 1.2%                               |
| Sustained compliance (if FHRS of 5 for at least the last two inspections, the establishment receives negative 20 adjustment to risk score and for each subsequent inspection with rating of FHRS 5) | 1,420                                  | 8.2%                          | 4,969                            | 3.2                  | 1.9%                               |
| Removal of vulnerable groups for FHRS 5   | 431                                    | 2.5%                          | 1,507                            | 1.0                  | 0.6%                               |
| Risk of contamination removed   | 52                                     | 0.3%                          | 182                              | 0.12                 | 0.07%                              |
| Sustained compliance (negative 5). Removal of vulnerable groups for FHRS 5 and Risk of contamination removed  | 880                                    | 5.1%                          | 3,081                            | 2.0                  | 1.2%                               |
| Sustained compliance (negative 10). Removal of vulnerable groups for FHRS 5 and Risk of contamination removed   | 1,340                                  | 7.7%                          | 4,690                            | 3.0                  | 1.8%                               |
| Sustained compliance (negative 20). Removal of vulnerable groups for FHRS 5 and Risk of contamination removed   | 1,758                                  | 10.1%                         | 6,152                            | 3.9                  | 2.4%                               |

Table 1: Shows the proposed change, estimated in the inspections and Full Time Equivalents (FTEs). All calculations use 2016-17 LAEMs data<sup>10</sup> (without safeguards).

<sup>8</sup> Assuming an average inspection takes up 3.5 hrs of an officer's time

<sup>9</sup> Based on the 2016/17 food hygiene allocated Full Time Equivalent (FTE) professional LA staff figure of 163

| <b>Proposed Change</b>  | <b>Est. number of reallocated inspections</b> | <b>% reallocation of inspections</b> | <b>Reallocation in Hrs</b> | <b>Reallocation in FTEs</b> | <b>% in FTEs reallocated</b> |
|---|---|--------------------------------------|----------------------------|-----------------------------|------------------------------|
| Sustained compliance (if FHRS of 5 for at least the last two inspections, the establishment receives negative 5 adjustment to risk score and for each subsequent inspection with rating of FHRS 5)  | 425   | 2.4%                                 | 1,489                      | 0.9                         | 0.6%                         |
| Sustained compliance (if FHRS of 5 for at least the last two inspections, the establishment receives negative 10 adjustment to risk score and for each subsequent inspection with rating of FHRS 5) | 883   | 5.1%                                 | 3,090                      | 2.0                         | 1.2%                         |
| Sustained compliance (if FHRS of 5 for at least the last two inspections, the establishment receives negative 20 adjustment to risk score and for each subsequent inspection with rating of FHRS 5) | 1,329   | 7.7%                                 | 4,650                      | 3.0                         | 1.8%                         |
| Removal of vulnerable groups for FHRS 5   | 386   | 2.2%                                 | 1,350                      | 0.9                         | 0.5%                         |
| Risk of contamination removed   | 52  | 0.3%                                 | 182                        | 0.12                        | 0.07%                        |
| Sustained compliance (negative 5). Removal of vulnerable groups for FHRS 5 and Risk of contamination removed  | 776   | 4.5%                                 | 2,717                      | 1.7                         | 1.1%                         |
| Sustained compliance (negative 10). Removal of vulnerable groups for FHRS 5 and Risk of contamination removed   | 1,165   | 6.7%                                 | 4,079                      | 2.6                         | 1.6%                         |
| Sustained compliance (negative 20). Removal of vulnerable groups for FHRS 5 and Risk of contamination removed   | 1,522   | 8.8%                                 | 5,325                      | 3.4                         | 2.1%                         |

Table 2: Shows the proposed change, estimated in the inspections and Full Time Equivalents (FTEs). All calculations use 2016-17 LAEMs data (with safeguards).

## Consumers

18. The amendments create an opportunity for a positive impact for public protection. Consumers will be assured that officers are able to use their resources more effectively to target non-compliant businesses.

<sup>10</sup> <https://signin.riams.org/connect/revision/kmhfa/Environmental-Health/Annual-report-on-UK-local-authority-food-law-enforcement-1-April-2016-to-31-March-2017>

19. The focus on effective, risk-based, and proportionate regulation and enforcement provides more frequent inspections/interventions at establishment where persistent or serious non-compliances are identified, and less frequent inspections should be applied to fully compliant businesses. Business compliance with food law will ensure safer food and consumer protection.

## **OPTION APPRAISAL**

### **COST BENEFIT ANALYSIS**

#### **Option 1: Do nothing, the Code would not be amended and the current system would continue**

##### **Summary of Costs and Benefits Under Option 1**

20. There are no incremental costs and benefits associated with this option; this is the baseline against which all other options are appraised.

#### **Option 2: Make amendments to the Food Establishment Hygiene Intervention Rating Scheme section in the Food Law Code of Practice.**

##### **Costs**

###### **Costs to Industry**

21. There are no identified costs to industry in relation to the proposed amendments, as food establishments do not need to familiarise themselves with the contents of the Code, as it lays down criteria for LAs. The food businesses that present the highest risk will receive additional regulatory focus from LAs because of the proposed changes and those representing the lowest risk will receive proportionately less regulatory focus.
22. This change represents a transfer of the productivity loss of being inspected by the LA (in the form of employee time spent with the inspector that could be spent elsewhere). The value of this transfer is estimated by multiplying the estimated number of reallocated inspections by an average cost to business per inspection. The average cost to a business per inspection is calculated by the average length of an inspection multiplied by the average wage cost of manager in a food business (including overheads). This has been estimated at £32.04 productivity loss to business per inspections. The size of the transfer for each estimated scenario is presented in Table 2.

| <b>Proposed Change</b>   | <b>Est. number of reallocated inspections</b> | <b>Estimated transfer to less compliant businesses</b> |
|--|---|--|
| Sustained compliance -5 based on FHRs of 5 for at least the last two inspections)                        | 434   | £13,916  |
| Sustained compliance -10 based on FHRs of 5 for at least the last two inspections)                       | 906   | £29,022  |
| Sustained compliance -20 based on FHRs of 5 for at least the last two inspections)                       | 1,420   | £45,490  |
| Removal of vulnerable groups below 10 CIM  | 431   | £13,793  |
| Risk of contamination removed  | 52  | £1,666   |
| Sustained compliance -5 and removal of vulnerable groups below 10 CIM and risk of contamination removed  | 880   | £28,208  |
| Sustained compliance -10 and removal of vulnerable groups below 10 CIM and risk of contamination removed | 1,340   | £42,937  |
| Sustained compliance -20 and removal of vulnerable groups below 10 CIM and risk of contamination removed | 1,758   | £56,317  |

Table 2: Estimated transfer of productivity loss from low risk businesses to high risk businesses in Wales under Option 2.

## **Costs to Local Authorities**

### **One-off Familiarisation Costs**

23. The proposed amendments will result in a familiarisation cost to LA officers who will need to read and familiarise themselves with the changes. Local Authority Enforcement Monitoring System (LAEMS) data shows that as at 31 March 2017, there were 163 FTE occupied posts engaged in food hygiene enforcement in Wales<sup>11</sup>.
24. The FSA estimates that an authorised officer will invest approximately two hours reading and familiarising themselves with the descriptors for consumers at risk and CIM that are used to rate and assign the frequency and nature of interventions, and with the introduction of the new definitions of full compliance and sustained compliance.
25. The familiarisation cost can be monetised by multiplying the total number of hours needed for officers to familiarise themselves with the changes by the average hourly cost of employing those officers (including overheads). This has been estimated at £6,240<sup>12</sup>.

### **Training Costs**

26. The FSA has previously provided training to LA officers to support the introduction of changes to the intervention rating scheme on matters of interpretation. These exercises are based around food business inspection scenarios. They can be used as a team exercise or by individuals to work through and give the businesses a food hygiene rating. As the proposals do not relate to any significant change to the interpretation of the rating scheme the FSA does not foresee any additional cost above the familiarisation costs in relation to the change in process. However, the FSA will monitor the application of the rating scheme to determine whether any additional training is required.

## **Costs to FSA**

### **Monitoring Costs**

27. The FSA already provides the materials needed by LAs to participate in the consistency monitoring exercises, which are delivered and funded through the FSA's existing resources. While the FSA does not think that additional LA training is required, the results of this monitoring exercise will validate this assumption.

### **Total Costs**

28. The total cost associated with policy Option 2 equates to £6,420 for LAs. There is also a transfer of cost of up to £56,317 from more compliant to less compliant businesses.

### **Benefits to Consumers**

29. No monetised benefits to consumers have been identified. However, it is expected that the amendments will have a positive impact on consumers. Consumers will be assured that officers delivering official controls are able to use their resources more effectively to target non-compliant businesses. The focus on effective, risk-based and proportionate regulation and enforcement provides more frequent inspections of businesses with persistent or serious non-compliances and less frequent inspections of fully compliant businesses. Therefore, it is expected that the public health benefit per inspection will increase as a result of this change. Business compliance with food law will ensure safer food and consumer protection.

<sup>11</sup> <https://signin.riams.org/connect/revision/kmhfa/Environmental-Health/Annual-report-on-UK-local-authority-food-law-enforcement-1-April-2016-to-31-March-2017>

<sup>12</sup> ASHE data set (same as above) lists wage for "Inspectors of standards and regulations" at £15.95 (£19.14 including overheads as above). £19.14/hour x 163 FTEs x 2 hours to familiarise = £6,420 total cost to LAs.

## **Benefits to Industry**

### **Monetised Benefits to Industry**

30. The benefit to low-risk businesses from a reduction in the number of interventions is equal to the cost to higher risk, less compliant businesses of having an increased number of interventions. This is because the resource LAs are putting into interventions is shifting from one group of businesses to the other. Therefore, there will be a transfer of cost, with the overall net cost remaining the same. The estimated size of the transfer in each scenario is listed in Table 3.

## **Benefits to Local Authorities**

### **Monetised Benefits to Local Authorities**

31. The FSA does not foresee any monetised benefits for LAs as there will not be any effect on the total amount of resource expended in the delivery of food official controls at food establishments. However, the changes should allow for reallocation of resource at food business establishments where there is demonstrable evidence of persistent and/or significant non-compliance with food law and on unrated food establishments, on a risk priority basis improving public protection.

### **Non-monetised Benefits**

32. These changes will mean that LA resources will be reallocated away from businesses with a history of full compliance and towards businesses with less compliance. Whilst quantifying the public health benefit of LA inspections of food businesses (due to a reduction in foodborne illness and death, allergic reactions, etc.) is difficult, the FSA can say with confidence that the impact of the reallocated resource will increase. Inspections and enforcement action on businesses which represent a greater risk to public health will have a greater impact than the same action at businesses that present a lower risk.

## **Total Benefits**

33. There are no monetisable benefits of any of the policy options. The non-monetised benefits will be public health benefits associated with LAs being able to deploy their resources more effectively to target non-compliant businesses.

### **Option 3: To include a score limitation of -40, so that a business is unable to drop more than 2 risk bands**

#### **Costs**

##### **Costs to Industry**

34. There are no identified costs to industry in relation to the proposed amendments, as food establishments do not need to familiarise themselves with the contents of the Code, as it lays down criteria for LAs. The food businesses that present the highest risk will receive additional regulatory focus from LAs because of the proposed changes and those presenting the lowest risk will receive proportionately less regulatory focus.
35. This change represents a transfer of the productivity loss of being inspected by the LA (in the form of employee time spent with the authorised officer that could be spent elsewhere). The value of this transfer is estimated by multiplying the estimated number of reallocated inspections by an average cost to business per inspection. The average cost to business per inspection is calculated by the average length of an inspection multiplied by the average wage cost of manager in a food business (including overheads). This has been estimated at £32.04 productivity loss to business per inspection<sup>13</sup>. The size of the transfer for each estimated scenario is presented in Table 3.

<sup>13</sup> Assumes an inspection length of 2 hours. Manager wage is based on ASHE 2017 (gross hourly wage for “Managers and proprietors in hospitality and leisure services” at £13.35 (£16.02 including +20% for overheads in line with HMT guidance). 2 hours x £16.02 = £32.04. ASHE dataset is accessible here (Table 14.5a, Row 42, mean hourly wage):

| <b>Proposed Change</b>   | <b>Est. number of reallocated inspections</b> | <b>Estimated transfer to less compliant businesses</b> |
|--|---|--|
| Sustained compliance -5 based on FHRs of 5 for at least the last two inspections)                        | 425   | £13,629  |
| Sustained compliance -10 based on FHRs of 5 for at least the last two inspections)                       | 883   | £28,286  |
| Sustained compliance -20 based on FHRs of 5 for at least the last two inspections)                       | 1,329   | £42,567  |
| Removal of vulnerable groups below 10 CIM  | 386   | £12,356  |
| Risk of contamination removed  | 52  | £1,666   |
| Sustained compliance -5 and removal of vulnerable groups below 10 CIM and risk of contamination removed  | 776   | £24,873  |
| Sustained compliance -10 and removal of vulnerable groups below 10 CIM and risk of contamination removed | 1,165   | £37,377  |
| Sustained compliance -20 and removal of vulnerable groups below 10 CIM and risk of contamination removed | 1,522   | £48,748  |

**Table 3: Estimated transfer of productivity loss from low risk businesses to high risk businesses in Wales under Option 3.**

### **Costs to Local Authorities**

#### **One - off Familiarisation Costs**

36. As option 2.

#### **Training Costs**

37. As option 2.

#### **Costs to FSA**

#### **Monitoring costs**

38. As option 2.

#### **Total Costs**

39. The total cost associated with preferred policy Option 3 equates to £6,240 falling only to LAs. There is also a transfer of cost of up to £48,749 from more compliant to less compliant businesses.

#### **Benefits to consumers**

40. As option 2.

#### **Benefits to industry**

#### **Monetised Benefits to industry**

41. As option 2.

#### **Benefits to Local Authorities**

#### **Monetised Benefits to Local Authorities**

42. As option 2.

## **Non-monetised Benefits**

43. As option 2.

## **Total Benefits**

44. There are no monetisable benefits of any of the policy options. The non-monetised benefits will be public health benefits associated with LAs being able to deploy their resources more effectively to target non-compliant businesses.

## **OTHER CONSIDERATIONS**

### **Wider Impacts**

45. The industry sector most affected by this amendment in Wales are restaurants and caterers. These are in the main micro or small/medium enterprises (SMEs). This proposal will result in a proportionally greater benefit for compliant micro or SMEs compared to the wider food industry.

### **Competition Assessment**

46. The proposed amendment should not have any significant positive or negative effect on competition between firms.

### **Small & Micro Business Assessment**

47. The United Kingdom (UK) food industry sector is comprised of mainly small and micro businesses (generally greater than 90%) and therefore the greatest impact from new changes will, in most cases, be on small and micro businesses. For this reason, the FSA assesses the impact on small and micro businesses as standard when undertaking impact assessments.
48. European Union (EU) legislation generally applies to food/feed businesses regardless of size, as requirements are intended to be risk based to reflect the activities undertaken. Due to the high ratio of small and micro food businesses in the UK, it is often not feasible to exempt smaller businesses from new food measures, as this would fail to achieve the intended effect of reducing risks to public health. That said, FSA makes every effort to minimise burdens on small and micro businesses and pays attention to impacts on them. The proposed amendments should not have any disproportionate negative impact on the small and microbusinesses.

### **Equality impact:**

49. This policy has been screened for impact on equalities with specific consideration of all legally protected groups. The policy will introduce changes to operational procedures for LA food law enforcement officers only. The primary impact of the policy is intended to introduce an initial benefit to LA resource enabling them to target their resources to higher risk food businesses to better protect consumers. Compliant businesses could also benefit from a reduced frequency of inspection. The policy is not believed to present any risks or barriers to equality. It has been decided that a full equality impact assessment is not required.

### **Human rights impact:**

50. The FSA does not foresee that the proposed change will have a negative impact on the human rights of any person.

## Atodiad E

### Changes applied into CoP (Wales)

| Changes applied into CoP (Wales) |   |
|----------------------------------|---|
| Chapter 1 - Introduction         | Reference to National Regulator Guidance included.  |
| 2.1.2                            | Reference to parts 1 and 2 of the Regulatory Enforcement and Sanctions Act 2008, and the Office for Product Safety and Standards included.<br><br>Reference to the FSA recognised national inspection strategies (NIS) included.                                      |
| 2.1.3                            | Re-wording of the fifth paragraph.<br><br>Deletion of first sentence of the sixth paragraph relating to Home Authority Principle.   |
| 3.2.7.2                          | Re-wording of the type of appropriate interventions and the need to inform the registering food authority of findings and enforcement actions taken.  |
| 3.2.7.4                          | Title amended.  |
| 3.2.9.3                          | Full re-wording of information on 'channels of registration' and 'action to take on receipt of registration'.<br><br>Proposal to include weblink to online registration system.   |
| 3.2.9.4, 3.2.9.6 & 3.2.9.7       | Full re-wording of information on 'Action on Receipt of Completed Registration', paragraph added on 'Data Storage Transfer' and full re-wording of information on 'Acknowledgement of Registration', including approach to handling and retaining paper registration. |
| 3.2.10                           | Additional explanation of the types of business changes that require notification to the relevant FA.<br><br>Deletion of second paragraph on actions to taken on receipt of a notification of changes.  |
| 3.2.11                           | Additional paragraph on notifications about changes to FBO or cease trading.  |
| 3.3.3                            | Weblink to Approval of Establishments Guidance updated.   |
| 3.3.8                            | Weblink to Approval of Establishments Guidance updated.   |

|                                       |  |
|---------------------------------------|--|
| 5.1.1                                 | Additional paragraphs on the requirement for Food Authorities to review their Written Service Plans, to accommodate the work of FSA national inspection strategies (NIS) and how the FSA will communicate the relevant work.   |
| 5.2                                   | Last paragraph re-worded to include references to inspection plans to direct official controls and NIS.  |
| 5.2.3.1                               | Auto numbering of footnotes from 23 onwards to correct numerical error.  |
| 5.2.7.1                               | Sentence included on how frequency of interventions at food businesses that are part of a national inspection strategy, and how PA and FSA will communicate with the Food Authority.   |
| 5.2.14                                | Full re-wording of the first paragraph on 'Enforcement at Points of Entry and Inland' and deletion of subsequent two paragraphs.   |
| 5.2.17.4.1.1 to<br>5.2.17.4.1.7       | These bullet points are detailed explanations directly related to point 5.2.17.4.1.<br>These were previously bullet points 5.2.17.4.2 to 5.2.17.4.8 but have been replaced as subheadings of 5.2.17.4.1.   |
| 5.2.17.4.<br>(formerly<br>5.2.17.4.9) | Changes in former points 5.2.17.4.2 to 5.2.17.4.8 have altered this numeration.  |
| 5.2.17.4.2.1 to<br>5.2.17.4.2.5       | These bullet points are detailed explanations directly related to former point 5.2.17.4.2 (formerly 5.2.17.4.9).<br>These are now sub-entries for 5.2.17.4.2, in previous versions showing as sections 5.2.17.4.10 to .5.2.17.4.14.  |
| 5.2.17.4.10 to<br>5.2.17.4.14         |  |
| Annex 1                               | New descriptions added: <ul style="list-style-type: none"> <li>○ Full Compliance.</li> <li>○ National Inspection Strategy</li> <li>○ National Regulator Guidance</li> <li>○ Office for Product Safety and Standards (OPS&amp;S)</li> <li>○ Sustained Compliance</li> </ul> |
| A5.1, Part 1, B                       | Establishments that intentionally do not implement a process included in the description.<br>Lack of a process included in the description for score 20.   |
| A5.1, Part 1,                         | Second paragraph added specifying when the additional score of 22 must not be applied.   |

|                 |   |
|-----------------|---|
| C, PLUS         |   |
| A5.1, Part 3    | <p>Point restructured, with a sub-division in sections A, B and C.</p> <p>Section on 'significant risk' score deleted.</p>  |
| A5.1, Part 3, A | <p>This point was previously A5.1 Part 3 only.</p> <p>Sixth paragraph (need for officers to reflect the level of reassurance provided by checks undertaken on the food safety management directly at an individual establishment via an independent 3<sup>rd</sup> party) removed.</p> <p>Seventh paragraph includes comment that bullet points on factors that will influence the inspector's judgement are not the sole ones to be considered.</p> <p>Bullet point added for new businesses.</p> <p>Removal of comment for the requirement for businesses to retain records flexibly to avoid burdens to small businesses.</p> <p>Line for "and may have external audit processes in place" removed from score 0 when referring to effective self-checks.</p> |
| A5.1, Part 3, B | <p>Point added (Recognising Compliance).</p> <p>The point covers the need for officers to consider previous assessments and what Full Compliance and Sustained Compliance mean.</p>   |
| A5.1, Part 3, C | <p>Point added (Recognising Sustained Compliance).</p> <p>The point covers additional scoring systems for businesses with positive records for 2 or more inspections in the last 3 years.</p> <p>Illustrative table added on how the scoring would work.</p>  |