

## REGULATING OUR FUTURE (ROF) – DELIVERING A MODERNISED MODEL FOR FOOD STANDARDS OFFICIAL CONTROLS

### Report by Maria Jennings

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#### 1. Summary

- 1.1 This paper details the FSA's plans to develop and implement a modernised food standards delivery model over the next two years and provides an update on our progress since the findings of the local authority (LA) food standards delivery survey were discussed at the FSA Board meeting on 5 December 2018.
- 1.2 The Board is asked to:
- **Note** the progress to date;
  - **Endorse** the methodology for delivering the elements required for a modernised approach to food standards official controls; and
  - **Consider and comment** on the potential impact of the modernised approach for the FSA and delivery partners.

#### 2. Introduction

- 2.1 The food standards delivery survey, completed by lead officers responsible for food standards controls in local authorities across England, Wales and Northern Ireland (E/W/NI) sought to establish a baseline to inform the ROF programme. Unlike food hygiene compliance, where consumers benefit from the Food Hygiene Rating Scheme and can make an assessment of compliance through observation, it is more difficult for consumers to make a considered judgement in relation to food standards, where compliance cannot be identified by visual means. Therefore, consumers rely on an effective regulatory food standards regime to identify and address risk and provide confidence that food is safe and what it says it is.
- 2.2 A report into the findings of the survey has been published<sup>1</sup> and was considered by the FSA Board in December 2018, when the Board agreed that a 'root and branch' approach to the modernisation of the food standards delivery model was needed to address the issues identified and ensure consumer protection and public safety. The key findings of the report have been summarised at **Annex I**.
- 2.3 Building on the findings of the survey, we have adopted a collaborative approach to develop proposals for introducing improvements to the system of

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<sup>1</sup> <https://fsa.riams.org/communications/files/3190>

standards official controls. Due to shared policy responsibility around food standards, we have forged closer working relationships with other Government departments such as DEFRA and DHSC. We have also been working with BEIS, who hold policy in other areas of consumer protection, recognising that any changes to the food standards delivery model could affect wider LA regulatory services. BEIS also has responsibility for administering the Primary Authority scheme and has recently formed an intelligence hub within the Office for Product Safety and Standards, providing us with an opportunity to share best practice and learn from each other.

- 2.4 We have established a Food Standards Delivery Working Group (FSDWG) that includes representatives from LA regulators, industry and the public analyst service. The group provides input and analytical rigour to the policy development process and critical challenge to proposals.
- 2.5 In order to ensure engagement with officers involved in the delivery of food standards controls and to seek their views on our early thinking, 9 LA engagement events were delivered in England (on a regional basis), Wales and Northern Ireland throughout February and March 2019. Approximately 190 officers attended these events, providing valuable input and feedback for future consideration on our work in this area and on our priorities. These events also enabled us to update officers on developments within the National Food Crime Unit (NFCU) and how it will work effectively with LAs.
- 2.6 A diagram outlining our approach to external engagement throughout the development process is included at **Annex II**, with proposals being considered by the FSDWG, the recently established ROF Implementation Advisory group and the enforcement community.
- 2.7 Internally there are co-dependencies across the organisation, for example, with the work of the NFCU in assimilating and analysing intelligence and with Strategic Surveillance as a source of data and industry information. Due to the importance of sampling as a means of determining food standards compliance, there are co-dependencies with the review of Official Control Laboratories and the development of a strategic approach to sampling. We will also consider the recently modernised model for delivery of feed official controls, to determine whether there are elements that could be adapted to improve the model for food standards. In undertaking this work, we will also liaise with colleagues from Food Standards Scotland (FSS) to ensure a consistent approach to food regulation across the UK wherever possible.
- 2.8 The survey and our subsequent engagement has enabled us to identify the issues with the current system and confirm that the need for change is widely accepted and that the value in participating in the modernisation process is recognised.

### 3. Delivery Approach

- 3.1 Due to the interdependencies work will be brigaded into cycles to enable us to approach development in manageable sprints. This will give us the opportunity to review and consult on our proposals throughout the process and refine the outcomes iteratively. Issues identified in relation to competence and performance management will be addressed within the work being led on by the FSA's Regulatory Compliance Division to develop a competency framework for all persons delivering official controls and the development of performance indicators for inclusion in the LA Balanced Scorecard.
- 3.2 Delivery timescales, which have been separated into short, medium, and long-term deliverables with dependencies identified for each, are detailed in **Annex III**. These timescales take into account the activities that will be required to ensure that the modernised model is properly tested, fit-for-purpose and underpinned by a sound statutory basis.
- 3.3 The following specific elements have been identified as required to deliver a modernised model:

#### ***Developing a Food Standards Training Manual for LA officers in England***

- 3.4 We have recognised the positive feedback from LA officers in Wales and Northern Ireland regarding the 'Food Standards Manual' resource available in these countries. During engagement events, officers indicated a desire for a similar resource being made available in England. The Manual provides a single point of reference for food standards legislation and technical guidance and by developing this resource, we can start to improve competency and confidence of environmental health practitioners, which was identified as an issue.

#### ***Improving the central advice available to food businesses***

- 3.5 The Food Standards Manual for England will be supplemented by a review of the advice and guidance provided to Food Business Operators (FBOs). By tailoring advice to the needs of different types of business we can better communicate the steps FBOs need to take to ensure compliance with food standards obligations and increase levels of consumer protection and public safety. In tandem with improvements on food hygiene advice being delivered through the Register a Food Business (RAFB) service the aim is to provide tailored food standards advice to businesses at the point of registration, helping promote a positive approach to compliance from the start. This will ensure all FBOs have access to the same free advice at the point of registration and should enable LAs to focus their resources on the delivery of official controls.

#### ***Developing an integrated approach across food regulation***

- 3.6 Work is being undertaken to develop options for a more integrated approach to the delivery of safety food controls. In certain circumstances we see the value of a combined assessment of both hygiene and standards compliance as part of

a single intervention to achieve more efficient and effective public health protection outcomes. For example, the frequency of intervention for hygiene controls by food safety officers (primarily environmental health practitioners) in certain types of establishments, including restaurants and take-aways, could provide for a more regular assessment of allergen controls and reduce the number of allergen incidents. This would also enable us to look at measures to provide more direct and accessible information to consumers in respect of assurance on food allergen management in food outlets – an increasingly important requirement that the current delivery model is not capable of supporting.

- 3.7 However, in developing our proposals we will need to understand and assess the impact of any changes in approach, including the legislative changes required to enable greater integration, and identify and manage the unintended consequences this could have on the wider regulatory model. We will also need to ensure that we have identified the training and support required to ensure competency of food safety officers to undertake this work.

***Developing options for an improved risk-assessment process for food standards, including integration of an intelligence-based approach***

- 3.8 The development of an improved risk-assessment scheme to inform the nature and frequency of official controls and the integration of an intelligence-led approach have been identified as key requirements for a modernised delivery model. These are more complex pieces of work, with higher levels of dependency in terms of how the different aspects of food standards delivery will work together. Our aspiration is to develop a delivery model that will deliver the maximum benefit from the full range of inputs, including intelligence and surveillance data. Delivering these improvements will require further research and testing prior to implementation and will therefore take longer to deliver. However, taking this approach will help ensure that any changes do not result in unintended consequences that could reduce the effectiveness of the model.
- 3.9 Initial work is underway to develop options for a new risk-assessment scheme, taking into consideration the approach used in similar regimes, including the integrated approach recently adopted by FSS. We are building the evidence base to support the development process by undertaking a root cause analysis of food standards non-compliances. We will also be considering emerging findings from research to identify potential indicators for non-compliant or problem businesses and gathering the views of experts from within the field. We aim to incorporate an assessment of both the inherent risk of an establishment and compliance with legal requirements which, together with the use of relevant intelligence, will identify businesses posing the greatest risk, enabling LAs to target their resources accordingly.
- 3.10 The development of an improved model for the delivery of food standards official controls is a key element of wider changes currently being implemented, such as the work of the NFCU and a future approach to strategic sampling. In developing the intelligence aspect of the improved model, we will continue to

work closely with relevant colleagues to ensure that this work collectively delivers an effective regulatory regime.

#### **4. Impact of the Modernised Model on LAs and the FSA**

- 4.1 The modernised food standards model will result in an increase in the resources required for delivery and implementation, both for LAs and the FSA. The impact will be greatest for those LAs that are not providing the level of resource required to deliver against current requirements and will be significantly less for those that are. We will need to consider how certain activities, for example, a directed food standards sampling programme, could be funded in future. It is anticipated that improved performance management indicators for food standards will better enable LAs to make a case for appropriate funding at a local level. This is particularly important as moving away from a purely establishment-based inspection programme for all businesses will make it more difficult for LAs to prepare a proactive annual plan for food standards controls. Adopting an integrated approach would also require changes to LA delivery arrangements, which could be particularly challenging for two-tier authorities in England. The impact of the proposed model on LA management information systems (MIS) and the associated development costs will also need to be considered.
- 4.2 For the FSA the changes will require a greater centralised intelligence gathering, analysis and tasking capability. Whilst this exists to some extent within the NFCU we will need to ensure that we take a holistic approach with the NFCU investigating issues around food crime, whilst lower level regulatory non-compliance intelligence is notified to relevant LA regulatory services. We will work closely with the NFCU to identify whether current resource and technological capabilities are sufficient to support the proposed improvements to the delivery model.

#### **5. Recommendations**

- 5.1 It is recommended that in the short term (to Dec 2019) we increase support for enforcement officers, which will improve competency and confidence and support delivery in the modernised model, whilst the fundamental review and necessary testing of the new regime takes place in the medium (by Oct 2020) and longer term (by Mar 2021). This will be achieved by developing a food standards manual for LA officers in England, improving the centralised advice offer to business and evaluating the viability of an integrated approach to food controls being adopted in certain circumstances, such as allergen controls at catering establishments. In parallel, we will progress work on our longer-term goals to identify and test solutions to the more fundamental challenges relating to the food standards risk assessment and integration of an intelligence-led approach.
- 5.2 The success of a modernised delivery model will be dependent on effective collaboration with key partners and continued engagement will be a core aspect of our approach to taking this work forward.

## 6. Conclusions

6.1 The Board is asked to:

- **Note** the progress to date;
- **Endorse** the planned approach for deliver the different elements required for new approach for food standards official controls; and
- **Consider and comment** on the potential impact of the modernised approach for the FSA and delivery partners.

## **ANNEX I: LA FOOD STANDARDS DELIVERY SURVEY - KEY FINDINGS**

### People

There is a general lack of resource in terms of food standards enforcement capability, with considerable variation in levels of resource available both between E/W/NI, and between individual LAs within the countries. Respondents identified difficulties in recruiting qualified officers, and in supporting students through the Trading Standards Qualification Framework. Where LAs in England and Wales have transferred food standards enforcement responsibilities to EHPs, several EHPs expressed their opinion that, where hygiene and standards inspections are combined, food standards considerations can take a 'back seat' to hygiene issues, and are given lower priority, in some cases due to a lack of confidence in this area of regulation.

### Reporting & Oversight

LAs have adopted alternative approaches to the delivery of food standards official controls, as the premises-based approach outlined in the FLCOP is seen as no longer fit for purpose, echoing the findings of a recent IPSOS MORI report<sup>2</sup> on risk intervention rating systems. The FSA has failed to maintain a full appreciation of the ways in which LAs deliver food standards controls, and of the extent to which delivery arrangements vary across E/W/NI. The survey highlighted the failure of many LAs to include a minimum service requirement for the delivery of food standards official controls within their Food Service Plan<sup>3</sup>, whilst just over half of respondents indicated that their LA measured the impact or success of their food standards work.

### Intelligence-Led Working

Responses highlighted the adoption of intelligence-led working by LAs to help plan and prioritise enforcement and surveillance activities to facilitate the effective targeting of resources, which is not fully recognised under the FLCOPs in E/W/NI. The importance of LA regional meetings, effective food sampling activities and the input and assistance of Public Analysts as conduits to the gathering/sharing of intelligence was emphasised by respondents, particularly as the number of physical inspections falls due to resource issues.

### Changing Business Behaviours

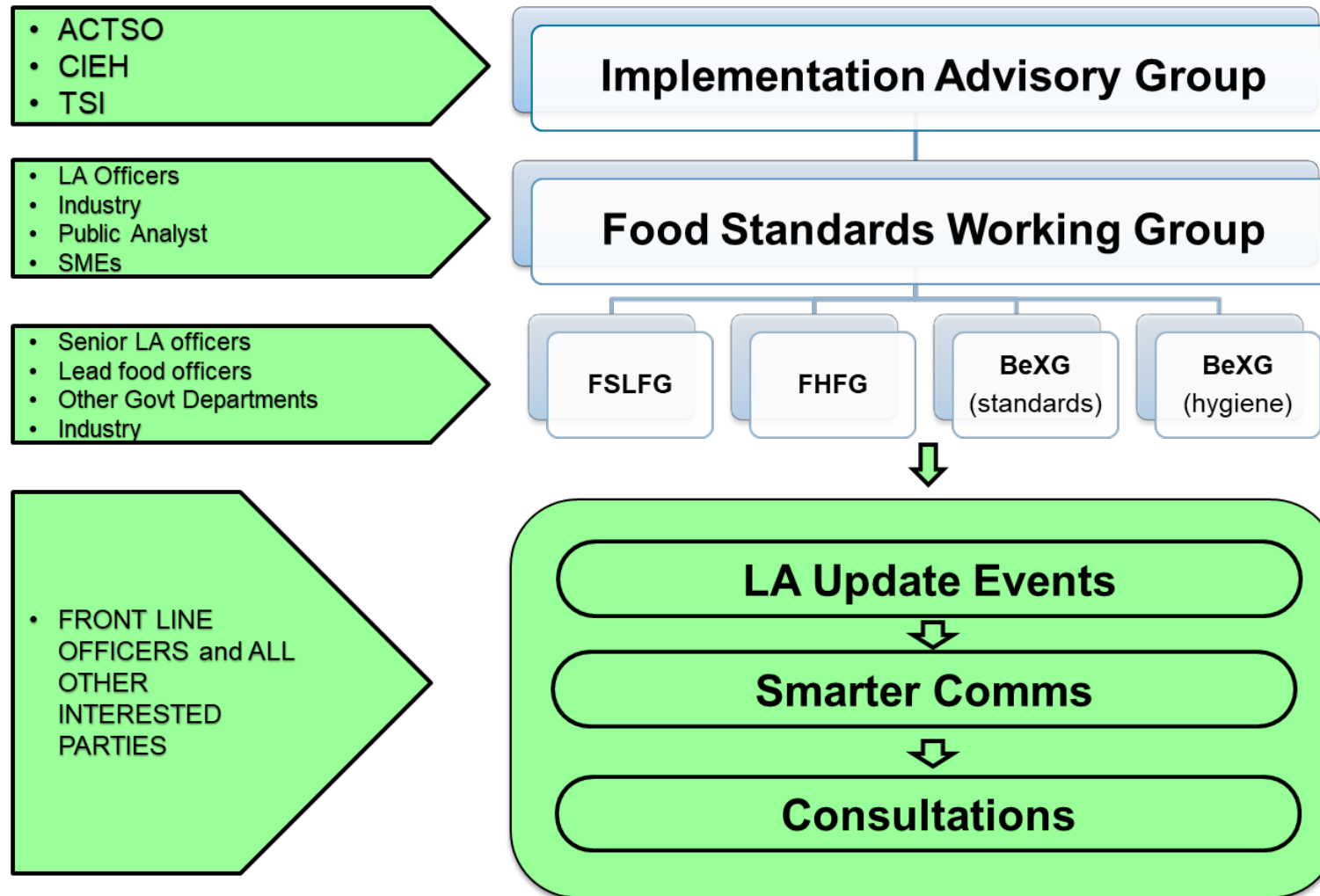
Whilst many LAs offer a range of services to businesses to assist compliance, responses suggest an inconsistent approach to the provision of business advice and guidance, with a range of free and charged-for services being offered by LAs across England and Wales. No NI LAs currently charge for business advice. Cost recovery arrangements for advice are most prevalent in England, with significant variation in the cost of the service and the charging mechanisms adopted.

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<sup>2</sup> <https://www.food.gov.uk/sites/default/files/media/document/fs517009finrep.pdf>

<sup>3</sup> as specified in the Framework Agreement on Official Feed and Food Controls by Local Authorities

ANNEX II – ENGAGEMENT APPROACH





**ANNEX III - DELIVERY TIMESCALES**

Timescale	Deliverables	Dependencies
<p><b>Short-Term (Apr 2019 – Dec 2019)</b></p>	<ul style="list-style-type: none"> <li>• Processes put in place to co-develop delivery options with relevant partners</li> <li>• Production of food standards training manual (reference manual covering food standards legislation) to support existing and new officers</li> <li>• Defining an operating model that integrates prescribed inspections with an intelligence-driven approach, using information, data and analysis to direct sampling activity and tasked intervention programmes, aligned with the surveillance strategy and feed programme</li> <li>• Developing the proposal to replace the 3 establishment risk rating approaches currently in use (FLCOP, LACORS &amp; ACTSO risk assessment schemes) with a single unified approach, which reflects the modern food supply chain.</li> </ul>	<ul style="list-style-type: none"> <li>• The development of the new competency framework to reflect what knowledge and experience is necessary for officers in terms of the new risk assessment process and delivery framework</li> </ul>
<p><b>Medium-Term (Apr 2019 – Oct 2020)</b></p>	<ul style="list-style-type: none"> <li>• Systematic review of guidance for enforcers and FBOs on food standards issues to ensure it is relevant, effective and meets the needs of users</li> <li>• Development of a basis for a national directed sampling programme, aligned with the surveillance strategy and feed programme</li> <li>• Complete field testing of the new approach to establishment risk rating approaches with volunteer local authorities to evaluate impact &amp; effectiveness</li> <li>• Consideration of potential changes to enforcement responsibilities to enable an integrated approach to be taken to food regulation in certain areas (e.g. allergens) to increase surveillance</li> </ul>	<ul style="list-style-type: none"> <li>• Review how food standards advice to business is offered to the food industry on Food.gov</li> <li>• Review how standards enforcement advice is offered to local authorities via Smarter Comms platform</li> <li>• Explore options for establishing a standardised grant funding model for certain aspects of food standards delivery to ensure that the demands of the model can be met by LA delivery partners, which aligns with the model currently used for feed enforcement work</li> <li>• Review of the LA framework agreement and interim BSC measures</li> <li>• Identify a suitable mechanism for capturing sampling data which fulfils the needs of an intelligence-led approach</li> <li>• Consider outcome of DEFRA consultation on allergen labelling of food which is prepacked for direct sale (PPDS) and impact on LA delivery</li> <li>• Collaboration with allergens team to realise developments and improvements in relation to allergens regulation, enforcement and guidance.</li> </ul>

<p><b>Long-Term (Apr 2019 – Mar 2021)</b></p>	<ul style="list-style-type: none"><li>• Development of an intelligence led approach to direct official controls that integrates with operating models used by Local authorities, NFCU, Strategic Surveillance and BEIS OPSS intelligence teams, to maximise the use of available data and intelligence in directing official control activity and targeting available resource</li><li>• Review capability and capacity of FSA to potentially fulfil the enhanced CCA role of intelligence Analysis and tasking official (nonfraud) controls in an operational environment</li></ul>	<ul style="list-style-type: none"><li>• Development of new LA KPIs to reflect the new approach in the model and better monitor the impacts and outcomes associated with food standards regulatory activity</li><li>• Development of cross government intervention strategy for failing LAs</li><li>• Common desire with BEIS/OPSS to move towards a single integrated intelligence model for regulators, underpinned by a cross-governmental 'intelligence community' with involvement from OGD stakeholders, with responsive actions undertaken by LAs or NFCU (operating at full investigatory capacity), as appropriate</li><li>• Cost implications associated with development of intelligence &amp; tasking unit, associated with need for resource and capability and access to relevant software/reporting mechanisms etc.</li></ul>
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