

# Summary of stakeholder responses: Consultation on developing a modernised food hygiene delivery model in Wales

This consultation, which was published on 3 April 2023 and closed on 30 June 2023, sought stakeholder views on modernising the Food Hygiene Delivery Model.

## Introduction

The Food Standards Agency (FSA) is grateful to stakeholders who responded to this consultation on the following proposed developments to the food hygiene delivery model:

- a modernised food hygiene intervention rating scheme, including a decision matrix to determine the appropriate frequency of these controls based on the risk posed by a food business establishment
- an updated risk-based approach to the timescales (where not prescribed in legislation) for initial official controls of new food establishments, and undertaking due official controls
- increased flexibility as to the methods and techniques of official controls that can be used to risk rate an establishment, including the use of remote official controls
- extending the activities that officers, such as Regulatory Support Officers, who do not hold a 'suitable qualification' for food hygiene can, if competent, undertake

The proposed developments were also consulted on in England and Northern Ireland:

- [consultation on developing a modernised food hygiene delivery model in England](#)
- [consultation on developing a modernised food hygiene delivery model in Northern Ireland](#)

The purpose of the consultation was to understand how the proposed developments would affect key stakeholders and gather feedback, suggestions, and potential alternative approaches from interested parties before progressing further with this project.

We contacted a range of relevant stakeholders to make them aware of the consultation and provided them with an opportunity to submit their comments. These included local authorities, professional bodies ([footnote 1](#)), education providers, other government departments and local authority (LA) management information system (MIS) suppliers. Alongside the consultation, we also held a series of LA engagement events.

A full [list of respondents can be found at Annex A](#).

## Summary of comments received

The below summarise the responses received to the questions contained in the consultation package and the feedback from the local authority engagement events.

Careful consideration has been given to the comments provided and the views expressed. Our responses to the feedback received are included following the stakeholder comments.

A summary of proposed changes to the original proposed developments resulting from stakeholder feedback is set out in the [Conclusion and next steps section](#).

**Note:** A summary of the comments is also available for [Northern Ireland](#) and [England](#).

## **Proposed development 1: Modernised intervention rating scheme**

### **Question 1**

What are your views on the proposed development for a modernised food hygiene intervention rating scheme, including the frequencies for official controls?

#### **What did stakeholders say?**

Stakeholders from industry and a professional body broadly supported the proposal.

LA stakeholders commented there was a lack of data and evidence to demonstrate the need for change in Wales, or the benefits of the proposals, which could impact FHRS and reduce public health.

LA stakeholders commented the proposals only formalise what LAs currently do, and objectives could be achieved with minor amendments to current model.

LA stakeholders commented that they already focus official controls based on risk, and that the proposal is excessive and overcomplicates the system.

LA stakeholders and a professional body disagreed with proposed frequencies, commenting that existing frequencies should be retained. It was commented that the extended frequencies for compliant lower risk businesses were too long and could lead to a decline in standards as well as a reduction in consumer confidence in the Food Hygiene Rating Scheme (FHRS). However, the intensive frequencies for high risk and non-compliant establishments were too short, particularly as re-visits are undertaken in Wales following an agreed policy and could impact FHRS re-ratings. One LA generally supported the additional confidence in management score (equivalent to a score of 15 in the current model).

LA stakeholders commented that 'allergens (cross-contamination)' is a Food Standards matter, so did not support its inclusion. It was also commented that, if implemented, six descriptors were too many, and that it should not be part of FHRS.

LA stakeholders queried whether Food Safety Culture could be considered, as it is not included in retained food hygiene regulations. Stakeholders from LAs, industry and professional body also commented that this would be difficult to assess consistently.

A respondent from an LA and one from industry commented that piloting was necessary to assess the impacts. An LA respondent also commented that the planned six-month pilot was too short to provide meaningful data or effectively evaluate impacts, with a 12-month pilot being suggested.

#### **FSA's response**

We acknowledge the feedback received from stakeholders, particularly the elements which were highlighted as key areas of improvement for the existing food hygiene delivery model. We also acknowledge the concerns raised by several stakeholders around the proposed new scoring system and the frequencies of planned official controls.

Having considered the responses received, the proposed intervention scoring and planned official control frequencies (decision matrix approach) will not be progressed.

We will explore the potential development and viability of the other elements of this proposal including providing clarification to LAs regarding the assessment of allergens as part of a food hygiene official control. Further details can be found in the [Conclusion and next steps section](#).

## **Question 2**

What are your views on the identified benefits and impacts for a modernised intervention rating scheme? Are there any further benefits and/or impacts that the proposed development could have? If yes, please outline what these are.

### **What did stakeholders say?**

Mixed responses to the identified benefits and impacts. Some respondents agreed with the identified benefits and impacts, while others commented that LAs are already focusing on the highest risk and non-compliant businesses.

LA stakeholders stated that the modernised FHDM could lead to an increase the number of official controls due and impact LAs with a larger number of non-compliant establishments.

It was also commented that one of the most substantial impacts is on FHRS, and that such changes are not welcomed and would require amendments to legislation.

### **FSA's response**

We note the stakeholder feedback received regarding the identified benefits and impacts of the proposed development.

The proposed intervention scoring and planned official control frequencies will not be progressed.

## **Question 3**

Do you foresee any challenges if the proposed development for a modernised food hygiene intervention rating scheme were to be implemented? If yes, please outline what these challenges are and what, if any, solutions we should consider?

### **What did stakeholders say?**

Respondents highlighted challenges with implementing the proposed development which included:

- Consistency of scoring
- LA management information system (MIS) alignment costs
- Complexity of the proposed decision matrix approach
- Training of LA officers
- Producing LA Food Service plans
- How the proposed developments would align with the proposed Food Standards model
- Communication to stakeholders regarding the proposed change

### **FSA's response**

We have considered the stakeholder feedback received regarding the potential challenges of the proposed development. As a consequence, we will take forward elements of the proposed development using an amended approach, whilst other elements will not be progressed.

Further details as to the actions being considered for development and/or exploration can be found in the [Conclusion and next steps section](#).

## **Proposed development 2: Risk-based approach to initial and due official controls**

### **Question 4**

What are your views on the proposed development for an updated risk-based approach to the timescales for initial and due official controls, including the proposed frequencies?

#### **What did stakeholders say?**

Stakeholders from LAs and a professional body generally welcomed the introduction of a risk-based triage system but highlighted that it is not a new concept and only formalises what LAs are currently doing.

LA stakeholders highlighted that the proposal does create challenges, in particular, that the FSA's Register a Food Business (RAFB) service does not collect enough information to assist with triaging, and that a number of businesses do not proactively register, only being identified through intelligence, which would minimise the benefits of the proposed developments.

In relation to the timescales proposed, stakeholders, including from industry and a professional body commented that they would delay initial official controls further, increasing risks to public health and undermining FHRS.

#### **FSA's response**

While there were some mixed opinions regarding the detail of this proposal, on balance, the ability to triage and prioritise official controls according to risk was welcomed. FSA Wales will be piloting a new triaging system as part of the review of the Food Standards Delivery Model and this feedback will be considered following the outcome of that pilot.

Having considered all the feedback received, we intend to progress with elements of this proposed development but with an amended approach.

Further details as to the actions being considered for development and/or exploration can be found in the [Conclusion and next steps section](#).

### **Question 5**

What are your views on the identified benefits and impacts for an updated risk based approach to the timescales for initial and due official controls? Are there any further benefits and/or impacts that the proposed development could have? If yes, please outline what these are.

#### **What did stakeholders say?**

A professional body, industry and LAs had mixed responses to the identified benefits and impacts. It was highlighted that the benefits identified are similar to what currently takes place in reality regarding prioritising highest risk and/or non-compliant businesses and utilising risk-based timescales to prioritise.

Comments were raised by LAs regarding the data used for average times to receive an initial official control was pre-pandemic data and that the pandemic would have impacted the validity of

this. More up-to-date data should be used when assessing the impacts of this proposed development.

A respondent from a professional body commented the identified benefits are limited as all food businesses will still require an initial official control.

### **FSA's response**

We note the stakeholder feedback received regarding the identified benefits and impacts of the proposed development, including the use of data.

### **Question 6**

Do you foresee any challenges if the proposed development for an updated risk based approach to the timescales for initial and due official controls were to be implemented? If yes, please outline what these challenges are and what, if any, solutions we should consider?

### **What did stakeholders say?**

LAs welcomed the introduction of a formal approach to a risk based triaging system and to review the required frequency of all new businesses needing an official control within 28 days. Respondents also highlighted challenges with implementing the proposed development which included:

- Limitations of the current food business registration requirements
- Implementation of the proposed changes
- Consistency of triaging
- Resource required to support triaging

### **FSA's response**

We have considered the stakeholder feedback received regarding the potential challenges of the proposed development. As a consequence, we will take forward elements of the proposed development using an amended approach, whilst other elements will not be progressed.

Further details as to the actions being considered for development and/or exploration can be found in the [Conclusion and next steps section](#).

## **Proposed development 3: Flexibility as to methods and techniques of official controls**

### **Question 7**

What are your views on the proposed development for introducing flexibilities as to the methods and techniques of official controls and the use of remote official controls, including factors to consider?

### **What did stakeholders say?**

LAs commented that flexibilities would be limited in Wales due to the statutory FHRS.

LA stakeholders commented that there are flexibilities in the current model, so benefits of the proposed development would be minimal. It was suggested guidance is provided on current flexibilities instead.

Stakeholders from LAs, industry and a professional body commented that the flexibilities could create inconsistencies between LAs, which could undermine consumer confidence in FHRS, and that, if implemented, guidance and training would be required.

LA stakeholders commented that remote methods and techniques were only useful in very limited circumstances, and not appropriate for awarding FHRS ratings in Wales due to the statutory FHRS requirements, and food business operators (FBOs) could falsify documents or prepare for the remote official control.

Stakeholders from industry were more open to LAs using remote methods and techniques but comments from a professional body highlighted that greater clarification on their use was required.

One respondent from industry, a food safety consultant firm and a professional body generally welcomed the flexibilities and commented that Primary Authority partnerships and whether a business is subject to second or third party audits should be factors to consider when determining the appropriate methods and techniques to use.

### **FSA's response**

While there were some mixed opinions regarding the detail of this proposal, on balance, the flexibility of methods and techniques of official controls, in suitable circumstances, was welcomed.

Having considered all the feedback received, we intend to progress with elements of this proposed development but with an amended approach to address some of the concerns raised and limitations suggested by stakeholders.

Further details as to the actions being considered for development and/or exploration can be found in the [Conclusion and next steps section](#).

### **Question 8**

What are your views on the identified benefits and impacts for introducing flexibilities as to the methods and techniques of official controls and the use of remote official controls? Are there any further benefits and/or impacts that the proposed development could have? If yes, please outline what these are.

#### **What did stakeholders say?**

Mixed views regarding the identified benefits and impacts. LAs commented that the use of remote methods and techniques may not create additional capacity due to their limited use and LAs generally planning work to ensure resources are maximised.

Respondents from LAs generally agreed with the identified impacts and highlighted that a different approach for MIS system amendments may be required in Wales due to the statutory FHRS.

Additionally, respondents from industry and a professional body commented that another potential impact is that, if LAs become heavily reliant on remote methods and techniques, it could limit the intelligence they gather about their local area.

### **FSA's response**

We note the stakeholder feedback received regarding the identified benefits and impacts of the proposed development.

## Question 9

Do you foresee any challenges if the proposed development for introducing flexibilities as to the methods and techniques of official controls, including the use of remote official controls were to be implemented? If yes, please outline what these challenges are and what, if any, solutions we should consider?

### What did stakeholders say?

Respondents highlighted challenges with implementing the proposed development which included:

- Suitability of businesses for use of flexibilities
- Technology for use of remote methods and techniques
- Reputation if remote official controls are used but significant issues occur following this
- Consistency in application

### FSA's response

We have considered the stakeholder feedback received regarding the potential challenges of the proposed development. We will take these comments into account as the proposal is developed and refined.

## Proposed development 4: Flexibility as to who can undertake official controls

### Question 10

What are your views on the proposed development for introducing flexibilities as to who can undertake official controls and other official activities?

### What did stakeholders say?

LA stakeholders highlighted the Directors of Public Protection Wales 'Workforce Strategy and Action Plan' and the 'Building for the Future' report in Wales, and that recommendations of the report need to be considered.

Stakeholders from LAs and a professional body commented that qualified environmental health officers have a holistic set of competencies to verify compliance and protect public health, and that instead of diluting the qualification requirements, the focus should be on upskilling officers and ensuring LAs are properly resourced.

LA stakeholders, and some from industry also highlighted that the proposal could negatively impact on consumer confidence in FHRS.

LA stakeholders also commented that officers may not have capacity to undertake additional activities, and that LAs may not be able to recruit additional officers.

LA stakeholders also raised concerns about the impact of training and assessing the competency of officers not holding a 'suitable qualification'.

Industry and a professional body commented that the proposal could also have a negative impact on food safety standards and undermine public confidence in the model. It was also commented that it may be appropriate where officers are currently working towards a 'suitable qualification'

## **FSA's response**

We acknowledge the challenges and concerns raised by stakeholders on the proposed development for introducing flexibilities as to who can undertake official controls and other official activities.

Having considered all the feedback received, we will refine the proposal to address the challenges and concerns raised.

Further details as to the actions being considered for development and/or exploration can be found in the [Conclusion and next steps section](#).

## **Question 11**

What are your views on the identified benefits and impacts for introducing flexibilities as to who can undertake official controls and other official activities? Are there any further benefits and/or impacts that the proposed development could have? If yes, please outline what these are.

### **What did stakeholders say?**

Respondents from LAs commented that it may be of benefit to use a wider cohort of officers at low-risk businesses and for sampling, but it may not be practical. Comments were also received other types of regulatory officers already have full workloads and may not be able to readily switch disciplines.

Respondents from LAs generally agreed with the identified impacts of the proposal. Respondents also commented that the proposal could impact on LAs resilience and preparedness if there was another pandemic.

Respondents from industry commented that the proposal could lead to inconsistencies in enforcement and FHRS ratings. Respondents from industry and a professional body also commented that the proposals could lead to an increase in the use of contractors who also do not hold a 'suitable qualification'.

## **FSA's response**

We note the stakeholder feedback received regarding the identified benefits and impacts of the proposed development.

## **Question 12**

Do you foresee any challenges if the proposed development for introducing flexibilities as to who can undertake official controls and other official activities were to be implemented? If yes, please outline what these challenges are and what, if any, solutions we should consider?

### **What did stakeholders say?**

Respondents highlighted challenges with implementing the proposed development which included:

- Burden of training staff
- Competency Framework is too complex and adds unnecessary burdens upon LAs
- Resource requirements where a business is no longer low risk, as a qualified officer would need to attend
- Producing LA Food Service plans

## **FSA's response**

We have considered the stakeholder feedback received regarding the potential challenges of the proposed development. As a consequence, we will take forward elements of the proposed development using an amended approach, whilst other elements will not be progressed.

Further details as to the actions being considered for development and/or exploration can be found in the [Conclusion and next steps section](#).

## **General questions**

### **Question 13**

If the proposed developments were to be implemented, what guidance and/or examples would be useful to assist with understanding and consistent implementation?

#### **What did stakeholders say?**

Stakeholders from LAs, industry and a professional body commented that guidance, training and consistency exercises would be required if the modernised food hygiene delivery model (FHDM) was implemented.

#### **FSA's response**

The FSA notes consultation feedback regarding the need for guidance, training and consistency exercises. These will be considered and implemented in combination with the elements of the proposals which are to be progressed.

### **Question 14**

Are there alternative approaches that could be considered for a modernised FHDM? If yes, please outline what these are.

#### **What did stakeholders say?**

Stakeholders from LAs and a professional body suggested alternative approaches including:

- Introducing an enhanced registration / licensing approach
- Make minor amendments to current model to achieve same objectives.
- Charge for official controls and for non-compliances
- Modernisation of enforcement powers.
- LA resources / increasing the number of Environmental Health Officers in the profession.
- Stakeholders from a professional body, a food safety consultancy firm and industry commented that there should be greater recognition of assurance scheme membership and Primary Authority.

#### **FSA's response**

The FSA notes the consultation feedback regarding alternative approaches to modernising the food hygiene delivery model.

The broader FSA Achieving Business Compliance (ABC) Programme is looking at modernisation of the food regulatory system which may consider longer-term reforms in some of these areas. This would be done in collaboration with stakeholders, through defined forums and existing

governance structures.

## Conclusion and next steps

There were mixed views on some elements of our proposals, but there were others which had broad support.

We therefore intend to progress with elements of the proposed developments, which were supported by the consultation. These elements are set out in the Next steps section below. The FSA will be engaging and consulting with stakeholders further as we refine the proposals and review the Food Law Code of Practice (Wales) (Code) prior to further engagement and consultation.

Proposals which would require piloting, or significant management information system (MIS) changes, will not be progressed. This includes the proposed food hygiene intervention scoring and planned official control frequencies (decision matrix approach). Given the responses to the consultation, it outlines that the potential costs and timescales required outweigh the potential benefits. Further work would be required to quantify the costs v benefits.

The next milestone of this project was to pilot the proposed developments. In light of the consultation feedback, and our subsequent revised approach, the planned pilot will not be going ahead.

Feedback from the consultation also highlighted alternative approaches to enhance the existing food hygiene delivery model. The broader Achieving Business Compliance (ABC) Programme is looking at modernisation of the food regulatory system which may consider longer-term reforms in some of these areas. This would be done in collaboration with stakeholders.

### Next steps

The proposed amended approach for each proposal has been outlined below:

**Proposed development 1** – A modernised food hygiene intervention rating scheme including a decision matrix to determine the appropriate frequency of these controls based on the risk posed by a food business establishment.

**Proposed action** - There was a mixed response to proposed development 1. A number of concerns were raised regarding the proposed food hygiene intervention scoring and planned official control frequencies (decision matrix approach). Therefore, we have decided not to progress development of these elements of this proposal. However, we will explore further the potential development and viability of the following amendments, including the provision of clarification and guidance on:

- the scoring of the provision of food to vulnerable risk groups under the current intervention rating scheme
- a score of 15 for confidence in management
- assessment of allergens by LAs during inspections
- the assessment of Food Safety Culture (where appropriate)

We will consider what changes are needed to the Code and Food Law Practice Guidance (Wales) (the Practice Guidance) to achieve these amendments. If MIS changes are required that are not covered under current MIS contracts, we will assess the costs of introducing these amendments and consider the approach ahead of any consultation on potential Code amendments.

**Proposed Development 2** – An updated risk-based approach to the timescales (where not prescribed in legislation) for initial official controls of new food establishments and undertaking

due official controls.

**Proposed action** - There were mixed opinions on the detail of this proposal. However, there was broad support for the triaging and prioritisation of new food businesses and due official controls.

We will consider what changes are needed to the Code and Practice Guidance to achieve this. Feedback from the consultation will be considered when developing and refining this proposal. If MIS changes are required that are not covered under current MIS contracts, we will assess the costs of introducing this proposal and consider the approach ahead of any consultation on potential Code amendments.

Feedback from the consultation indicated the need to develop the FSA's online Register a Food Business (RAFB) system to support the collection of more data to assist LAs with triaging newly registered businesses. Following the review of the Code and Practice Guidance consideration will be given to any future development to support the changes to the Code.

**Proposed Development 3** – Increased flexibility as to the methods and techniques of official controls that can be used to risk rate an establishment, including the appropriate use of remote official controls.

**Proposed action** - There was a mixed response regarding increased flexibility as to the methods and techniques of official controls. On balance, the introduction of these flexibilities was welcomed, including the use of remote assessment in suitable circumstances. Further work will be undertaken to develop and refine this proposal to address some of the concerns raised and limitations suggested by stakeholders. All future proposed developments will take FHRS into consideration.

We will consider what changes are needed to the Code and Practice Guidance to introduce appropriate flexibilities ahead of any consultation on potential Code amendments.

**Proposed Development 4** – Extending the activities that officers, such as Regulatory Support Officers (RSOs), who do not hold a 'suitable qualification' for food hygiene can, if competent, undertake.

**Proposed action** - There was a mixed response to extending the activities of officers who do not hold a 'suitable qualification'. Further consideration will be given to this proposed development including the extent and any additional limitations, controls and training required in order to mitigate the concerns raised.

A review of the Code, Practice Guidance and Competency Framework will be undertaken ahead of any consultation on potential Code amendments.

## **Annex A - List of respondents**

- Association of Convenience Stores
- Blaenau Gwent County Borough Council
- Bridgend County Borough Council
- British Sandwich & Food to Go Association
- Caerphilly County Borough Council
- Carmarthenshire County Council
- Ceredigion County Council
- Chartered Institute of Environmental Health (CIEH)
- City of Cardiff Council
- Cradoc's Savoury Biscuits Ltd
- Conwy County Borough Council
- Costa Ltd

- Denbighshire County Council
- Flintshire County Council
- Gwynedd County Council
- Isle of Anglesey County Council
- Merthyr Tydfil County Borough Council
- Monmouthshire County Council
- Neath Port Talbot County Borough Council
- Newport City Council
- Pembrokeshire County Council
- Powys County Council
- Rhondda Cynon Taff County Borough Council
- Safe to Trade
- City and County of Swansea Council
- Torfaen County Borough Council
- Vale of Glamorgan Council
- Wales Food Safety Expert Panel
- Wrexham County Borough Council

In addition to the above respondents, officers from the following LAs attended a face-to-face engagement event, where they provided feedback on the proposed developments:

- Blaenau Gwent County Borough Council
- Caerphilly County Borough Council
- Carmarthenshire County Council
- Conwy County Borough Council
- Isle of Anglesey County Council
- Denbighshire County Council
- Flintshire County Council
- Merthyr Tydfil County Borough Council
- Monmouthshire County Council
- Neath Port Talbot County Borough Council
- Newport City Council
- Pembrokeshire County Council
- Powys County Council
- Rhondda Cynin Taff County Borough Council
- City and County of Swansea Council
- Torfaen County Borough Council
- Wrexham County Borough Council

1. The term 'Professional bodies' refers to professional membership bodies such as the Chartered Institute of Environmental Health and Chartered Trading Standards Institute