

National Level Regulation

FSA 24/12/04 - Report by Carmel Lynskey.

1. Summary

1.1 This paper provides an update on our activity around National Level Regulation (NLR) since the September Board.

1.2 The Board are asked to:

- Note the engagement activity undertaken so far, and support the proposed engagement plans
- Comment on the direction of travel and next steps

2. Update on engagement activity

2.1 In its September discussion on the Achieving Business Compliance programme, the Board supported the proposal of using national level scrutiny of food safety controls and data in some large businesses to supplement local authority and primary authority activity. The Board acknowledged the significant level of stakeholder interest in this work and asked us to develop this idea further through engagement with stakeholders. The Board was clear that it was not endorsing any proposals for longer term legislative change at this point. We have therefore paused any policy work on ideas for longer-term reforms, to focus on engagement with stakeholders about the trial and potential next steps.

2.2 In the last three months we have spoken with a wide range of stakeholders about the findings from the trial and the ideas raised in the September Board paper. We have attended multiple forums including our Local Authority Advisory Forum, the Welsh Food Advisory Committee, and the Northern Ireland Food Advisory Committee, to hear stakeholder feedback and concerns, and take questions. We have also met with the trial participants, the large retailers and their primary authorities, and colleagues at the Office for Product Safety and Standards, in addition to other stakeholders across the food and regulatory landscape. The Chief Executive has chaired two roundtables with leaders of representative bodies in environmental health, trading standards and local government across the three countries. We are grateful to all those people who have taken time to meet with us, or shared their feedback, which has collectively helped to establish our plans for the coming months.

2.3 One of the common themes we heard is a clear need for greater transparency around the proof-of-concept trial. We acknowledge that it would have been better in retrospect to have published the trial evaluation earlier, and provided more opportunity to share detailed information about the trial and the evaluation ahead of the September Board meeting. We have plans in place to provide this opportunity now.

2.4 We have also heard a lot of questions and concerns about how any process of national level scrutiny would work in detail, including how it would interact with the work of primary authorities and local authorities, how risks would be managed, and how complaints would be dealt with. These are all questions on which we want to get input from delivery partners and other stakeholders to inform any decisions on next steps.

2.5 Finally, we heard concerns that we were prioritising NLR at the expense of other reforms that would help improve business compliance and support local authorities. Part of the reason for this is the attention attracted by the last Board paper in particular, which had a large section on National Level Regulation. This paper included less detail on the other areas of work already underway within the FSA, for example, the new food standards model, changes to the Food Law Code of Practice to help local authorities make the best use of the resources they have in delivering their food hygiene interventions, a review of the competency framework and support for new workforce pipelines. It also did not touch on other areas in which we would like to explore reform, for example, enhanced registration and the potential to charge for official controls, or our long-standing ambition to introduce mandatory Food Hygiene Rating Scheme (FHRS) display in England.

2.6 In response to this feedback, we have developed an engagement plan focused on two key areas:

- **Intensive engagement on the proof-of-concept trial and immediate next steps from it**. We will start by giving delivery partners and other key stakeholder better insight into the trial and opportunities to ask questions and share reflections. Then we want to co-design the next steps with them, utilising a new **Senior Steering Forum** with regulatory delivery partner representatives. This activity has begun, and we expect it to continue into early 2025.
- **Strategic level discussions on the future of regulation**. We will create an additional forum for a more holistic set of discussions about reform with representatives of regulatory delivery partners, businesses and consumers. In this process, we can discuss all the building blocks for reform identified with the Board so far, and all potential legislative change. We expect to get this underway in early 2025.

3. Engagement on the proof-of-concept trial and next steps

3.1 A new Senior Steering Forum has been convened to follow on from the CEO-led roundtable sessions. It is chaired by the FSA Operations Director, and includes senior representatives from regulatory delivery partners, including environmental health, trading standards, and local government across England, Wales and Northern Ireland. Its purpose is to oversee the co-design of the immediate next steps for NLR – essentially helping to identify how the FSA can share and use the business compliance insight for the large retailers, with primary and local authorities, to complement the regulatory toolkit.

3.2 In response to the feedback we have heard, we have started to share more detail of the trial, using existing forums where possible to reduce the burden on LAs. We have met with the LA Advisory Forum, the National Food Hygiene Focus Group, and a Business Expert Industry Panel. Meetings are scheduled with Food Liaison Groups, the Food Standards Focus Group, regional Lead Food Officers, District Councils, and the CIEH Food Advisory Panel.

3.3 The approach we have outlined will not engage every local authority Environmental Health Officer (EHO), as we have heard that attempting to do that would not be best use of the limited resources in the system. However, this approach combined with our other engagement activity will ensure that all frontline EHOs have the opportunity to engage with, and understand the trial, with a responsibility on Lead Officers to cascade messages to their teams. We also add regular updates to FSA Link which is available to all local authority staff.

3.4 The large retailers who participated in the trial have all confirmed their continued commitment to NLR and continue to share their data. We will keep working with the large retailers and their primary authorities to refine the approach taken during the trial, and to share the learning to date.

3.5 Once there has been an opportunity for engagement on, and scrutiny of, the proof-of-concept trial, we want to bring together stakeholders from the local authority, environmental health and trading standards communities, industry and academia to co-design the next steps. Following the Board's support for national level scrutiny of large retailer food safety management systems, we remain committed to realising the potential benefits for the regulatory system of this additional scrutiny, to protect consumers. This collaborative working through the Senior Steering Forum, will help us to achieve this.

3.6 Although our focus will be on designing the immediate next steps in England, we will engage across all three countries, including through country-specific discussions in Wales and Northern Ireland. We will engage government departments and ministers about the trial and how it might inform the next steps.

4. Future of regulation

4.1 In addition to this immediate work focused on national level scrutiny of data, we also propose to convene stakeholders across the system to take a collective look at the broader system-wide challenges and the future of food regulation.

4.2 In our December 2023 Board paper, we outlined our view of the challenges in the current regulatory system, and some proposed building blocks to address these. The building blocks we identified were national level regulation for some of the largest businesses; an enhanced registration process for the rest of the food industry; a role for the FSA in collecting and sharing intelligence about risk to drive activity, building on the new food standards model; the right enforcement toolkit to drive compliance; and high quality guidance for businesses. We want to discuss these ideas with experts from across the system.

4.3 To achieve this, we will hold a series of discussions with representatives of consumers and businesses as well as the regulatory community from England, Northern Ireland, Wales and Scotland, to explore the system-wide challenges that require attention and to discuss potential solutions. This could cover the range of potential future reforms we are exploring, including the registration process, cost recovery, enforcement tools, and mandatory display of FHRS in premises and online, as well as National Level Regulation. We aim to get this activity underway in early 2025.

5. Conclusions

5.1 We will work with the new Senior Steering Forum to co-design next steps and will return to the Board with our proposals in June 2025.

5.2 The Board are asked to:

- Note the engagement activity undertaken so far, and support the proposed engagement plans.
- Comment on the direction of travel for the next steps.