

## **Review of the Food Law Code of Practice for the Food Hygiene and Food Standards Delivery Models (Wales)**

**Launch date: 24 February 2025**

**Respond by: 19 May 2025**

### **This consultation will be of most interest to**

- Competent Authorities – Local Authorities and Port Health Authorities
- Food businesses and industry trade bodies
- Awarding bodies for environmental health and trading standards professionals
- Trade unions and expert groups may also have an interest

### **Purpose of the consultation**

To seek stakeholder views on the proposed changes to the Food Law Code of Practice (the Code) and Practice Guidance (PG). Including changes to the Food Standards Delivery Model and guidance to support this.

Key proposals include:

- an updated risk-based approach to the prioritisation and timescales for undertaking initial food hygiene official controls of new food establishments, and undertaking due official controls
- introducing the flexibility to undertake official food hygiene controls remotely in specific circumstances
- extending the activities that officers, who do not hold a ‘suitable qualification’<sup>1</sup> for food hygiene or food standards, can, if competent, undertake
- a clarification in approach to interventions at food business establishments that fall into risk category E for food hygiene
- removal of the specific number of hours required for continuing professional development (CPD)

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<sup>1</sup> A list of suitable qualifications can be found in Section 3.2.3 of the Code

- the introduction of a new food standards intervention rating scheme that LA officers will use to evaluate the risk posed by a food business
- the introduction of a new decision matrix to determine the frequency at which food standards official controls should be delivered in line with the outcome of the risk assessment
- other amendments which do not amend policy, to provide clarity and improve consistency and keep pace with current practices

## How to respond

Please use the consultation response form below to provide your comments:

- [Consultation response form \(accessible Word version\)](#)
- [Consultation response form \(accessible PDF form\)](#)

The consultation response form should then be emailed to [CodeReviewResponses@food.gov.uk](mailto:CodeReviewResponses@food.gov.uk)

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# Details of consultation

## Introduction

In Wales, local authorities (LAs) and port health authorities (PHAs) are Competent Authorities (CAs) responsible for verification and enforcement of compliance with food law in the majority of food businesses. The Food Standards Agency (FSA) is responsible for providing advice and guidance on the approach that CAs should take, and this is set out in the Code, which is issued by Welsh Ministers. The Practice Guidance is issued to assist CAs with the discharge of their statutory duty to enforce food law. It is non-statutory, complements the Code, and provides general advice on the approach to enforcement of the law

CAs have a legal obligation to have regard to the provisions in the Code in relation to the delivery of official controls. The Code requires regular review and revision to ensure that it reflects current priorities, policy and legislative requirements so that CAs' delivery of food control activities remains effective, consistent and proportionate.

This consultation aims to provide stakeholders with an opportunity to comment on the proposals, which are outlined below. Please note that when we refer to food official controls it includes both food hygiene and food standards official controls. Consultations are also being undertaken in [England](#) and [Northern Ireland](#) with regards to proposals 1 to 5. The food standards delivery model proposals within this consultation were subject to consultations in [England](#) and [Northern Ireland](#) in 2023 and have been implemented in their respective Codes.

## Background

The food landscape has changed dramatically in the three decades since the current regulatory system was introduced, as has the way we buy and consume food. These changes create new opportunities for us to better protect consumers' interests. We want to make sure CAs can target their resources as effectively as possible, ensure that every intervention adds value and drive compliance.

### **Food Hygiene Delivery Model (FHDM)**

Having assessed the challenges with the current food hygiene delivery model, in [September 2022](#), the FSA Board endorsed the headline policy proposals for a revised FHDM. During the spring of 2023, we held a 12-week consultation on the proposed developments for a modernised FHDM across [Wales](#), [England](#) and [Northern Ireland](#). As part of the consultation, we held nine LA engagement events across the three nations and an online webinar. We received 114 consultation responses and gathered over 2000

pieces of feedback from across the three nations including LAs, industry groups and professional bodies.

The proposed developments consulted on were:

- 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

There were mixed views on some elements of the proposed developments, but others had broad support.

Our published [response](#) to the consultation captured stakeholders mixed views on some elements of the proposed developments. As a result of the consultation the FSA decided not to progress the proposals which required piloting or significant changes to management information system (MIS) until further information about associated costs involved with the roll out of the Food Standards Model in England and Northern Ireland was available to inform these proposals. Instead, the FSA decided to focus on further developing the policy proposals which had broad support and could be implemented without piloting. These are included in the main proposals for this consultation.

### **Food Standards Delivery Model (FSDM)**

In 2018, the FSA commenced a review of food standards delivery to provide a better understanding of the changing approach to food standards enforcement by LAs and the challenges faced. Anecdotal evidence, supporting the findings of the [Elliott Review](#) and other reports, indicated that there had been a decline in the effectiveness of regulatory delivery over some years, that LAs were increasingly struggling to comply with the Food Law Code of Practice (The Code) requirements, and that the Code itself was no longer fit for purpose.

The results of the food standards review were [published](#) and subsequently discussed by the FSA Board at its meeting in December 2018. The Board agreed to prioritise the development and delivery of an improved FSDM and subsequently endorsed the proposed approach at its meeting in June 2019.

The FSA has developed, with a FSA/LA, working group a new model for delivery of food standards Official Controls for LAs.

The proposed approach aims to allow LAs flexibility to better target resources at food businesses presenting the greatest risk by the introduction of a new intervention rating scheme and a decision matrix that determines the frequency of official controls. This consultation on amendments to the Code is informed by an initial 15-month pilot of the proposed model in England and Northern Ireland and a 6-month pilot in Wales to test the approach and identify any unintended consequences.

## **Main proposals:**

The main proposals in this consultation are:

- an updated risk-based approach to the prioritisation and timescales for undertaking initial food hygiene official controls of new food establishments
- introducing flexibility to undertake official food controls remotely in specific circumstances
- extending the activities that officers, who do not hold a 'suitable qualification' for food hygiene or food standards can, if competent, undertake
- clarification in approach to interventions at food business establishments that fall into risk category E for food hygiene
- removal of the specific number of hours required for continuing professional development (CPD)
- the introduction of a new food standards intervention rating scheme that LA officers will use to evaluate the risk posed by a food business
- the introduction of a new decision matrix to determine the frequency at which food standards official controls should be delivered in line with the outcome of the risk assessment
- other amendments which do not amend policy, to provide clarity and improve consistency and keep pace with current practices

## **Policy Objectives**

The developments proposed in this consultation are intended to enhance more effective use of CA resources by:

- prioritising official controls at highest risk establishments
- removing unnecessary barriers to official control delivery, including widening the cohort of professionals that can undertake certain activities and providing flexibility to determine appropriate official control methods and techniques

- ensure the continued protection of public health and consumer confidence, including in relation to the food hygiene rating scheme (FHRS)

## Detailed Proposals

### Proposal 1: An updated risk-based approach to the prioritisation and timescales for undertaking initial food hygiene and food standards official controls of new food establishments

#### Current approach

The current [Code](#) (issued July 2021) provides that an initial inspection of a new food business establishment must occur within 28 days of registration or when the LA becomes aware that the establishment is in operation, whichever is the sooner. The Code also provides that CAs must use information supplied by food business operators (FBOs) when registering their food business establishments to determine when to carry out an initial inspection.

The current [PG](#) provides that, where the establishment is believed to be low risk, consideration can be given to postponing the initial inspection in circumstances where conducting it would delay planned interventions to premises involved in high-risk activities. Furthermore, where an establishment has registered 28 days before the commencement of operations, the inspection can be delayed until operations have begun.

**Proposed approach** It is proposed that clarification is provided as to how the information supplied by FBOs is used by CAs, and that a more risk-based approach is taken to the timescales for undertaking initial official food hygiene controls of new food business establishments, which aligns with the approach taken for food standards.

It is proposed that CAs review the information supplied by FBOs when registering a new food business establishment (referred to as an initial desktop assessment) within 28 days of registration, or from when the CA becomes aware that the establishment is in operation, whichever is the sooner. However, this approach would not apply to establishments subject to approval under assimilated [Regulation \(EC\) No 853/2004](#) or the requirements of assimilated [Regulation \(EU\) No 210/2013](#) on the approval of establishments producing sprouts, which could continue to receive an initial on-site visit as soon as practicable.

The initial desktop assessment would use any information supplied by the registering FBO and any other information the CA deems relevant, to assess an establishment's potential hazard score and determine when to undertake an initial official control. This

potential hazard score is provided in part 1 of the food hygiene scoring system (set out in [annex 1](#) to Chapter 4 of the Code) which includes the following elements:

- type of food and method of handling
- method of processing
- consumers at risk, including consideration of vulnerable risk groups

The scores from these three elements are added together to give the overall ‘potential hazard’ score.

The FSA’s Register a Food Business Service (RAFB) was enhanced in summer 2024, with new questions added to gain information on the three elements listed above, which will assist CAs when reviewing information supplied by the FBO.

It is also proposed that the initial desktop assessment is an activity that can be undertaken by officers not holding a ‘suitable qualification’ as long as they are competent.

When an establishment’s potential hazard score has been determined, it is proposed that an initial official control would be undertaken within the timescales set out in table 1 using appropriate methods and techniques.

**Table 1: Timescales and methods and techniques for initial official food hygiene controls**

| <b>Potential hazard score</b> | <b>Timescales to undertake initial official control</b>   | <b>Appropriate methods and techniques of official controls</b>   |
|-------------------------------|---|--|
| 30 – 97                       | Initial official control undertaken within 28 days of the establishment commencing operations, or from the initial desktop assessment being carried out, whichever is the sooner                    | A physical inspection or audit (whether full or partial)   |
| 5 – 29                        | Initial official control undertaken, on a risk basis, within 3 months of the establishment commencing operations, or from the initial desktop assessment being carried out, whichever is the sooner | Any method and technique of official control (individually or a combination thereof), provided for in article 14 of assimilated Regulation (EU) 2017/625, whether undertaken physically or remotely, as long as they: <ul style="list-style-type: none"> <li>• are effective and appropriate in the circumstances</li> </ul> |



|  |  |   |
|--|--|---|
|  |  | <ul style="list-style-type: none"> <li>• verify compliance with relevant food law</li> <li>• enable validation of the desktop assessment</li> </ul> <p>Official controls should not be conducted remotely where a Competent Authority is legally required to provide a food hygiene rating to an establishment.</p> |
|--|--|---|

For lower risk establishments (meaning those with a potential hazard score of between 5-29), when considering the effective and appropriate methods and techniques to use in the circumstances, this would take into account relevant guidance, such as the Food Hygiene Rating Scheme (FHRS) [Statutory Guidance](#). Consideration of the FHRS Statutory Guidance will mean that these establishments still receive a physical inspection or audit, to enable an FHRS rating to be provided.

Where CAs become aware that a business is trading, but not registered, an initial official control should be undertaken within the above timescales, starting from the date they became aware of the establishment.

It is also proposed that CAs prioritise initial official controls of new food business establishments, so that those with a lower potential hazard do not cause undue delays to the delivery of initial or due official controls at higher risk and/or non-compliant establishments. For example, if as part of the initial desktop assessment, information is received which indicates potential non-compliance at an establishment, this information may be used to prioritise the initial official control at that establishment, even though this would not necessarily impact the establishment's potential hazard score. This prioritisation approach is consistent with that currently taken in relation to initial food standards controls.

### Rationale for change

In 2017 the FSA commissioned [research](#) to inform work on the modernisation of the risk intervention rating systems for UK food establishments found that CA officers saw the requirement to undertake an initial inspection of all establishments within 28 days as a drain on resources, particularly in urban areas with significant business churn. Many officers said they would welcome the removal of this requirement and the enabling of alternative approaches, such as desktop risk assessments.

As part of the consultation on a modernised FHDM a risk-based approach to the timescales for undertaking initial official controls, with triaging of new food business establishments, was proposed.

Feedback from the consultation was varied, but on balance, the ability to triage and prioritise official controls according to risk was welcomed. However, it was considered that the proposed development for the modernised FHDM was overcomplicated.

Taking into account the feedback, a simplified risk-based approach, for food official controls, has been proposed.

The proposed approach clarifies the current provision within the Code that CAs use information supplied by FBOs when registering their food business establishments to determine when to carry out an initial inspection. It also enables the use of a wider range of methods and techniques of official control, including those undertaken remotely, while safeguarding consistency in FHRS across the three nations.

The proposed approach would enable CAs to use their resources effectively by focusing on the highest risk establishments, while still ensuring all establishments are subject to official controls within appropriate timescales.

Based on the [2019-20 annual report on LA food enforcement for England, Wales and Northern Ireland \(LAEMS\) data](#) and the data provided by CAs to the FSA for the year 2022-2023, 47% of existing establishments in Wales have a potential hazard score of less than 29 and would have fallen into the three-month timescale for an initial official control. Of these establishments, 97% of them fell into risk category D and E. The data also provides that over 99% of these category D and E establishments are broadly compliant (as defined in the 2021 published Food Law Code of Practice)

This demonstrates that, based on the potential hazard scores, CAs would be prioritising initial official controls at establishments likely to be risk rated A, B or C, and that, based on levels of compliance, the proposed approach would not have a negative impact on public health.

Additionally, officers not holding a 'suitable qualification' for food hygiene, but who are competent, would be able to undertake the desktop assessment of new establishments, which further enables effective use of CA resources.

## **Proposal 2: Introducing flexibility to undertake official food controls remotely in specific circumstances**

### **Current approach**

Article 9 of assimilated Regulation (EU) 2017/625, and the current Code, provide that CAs must ensure they perform official food controls on all operators regularly, on a risk basis and with appropriate frequency.

It is prescriptive as to the methods and techniques of food official controls that can be used by CAs, in that an intervention rating can only be reviewed after a full or partial

inspection or audit and all new establishments must receive an initial inspection. The current PG includes the remote assessment of the adequacy of a Hazard Analysis and Critical Control Point (HACCP) plan and pre-requisites (not necessarily necessitating an actual physical visit to the establishment) as an example of verification.

## Proposed approach

The proposed approach is to increase the flexibility given to CAs, to use any of the methods and techniques of official controls, including those undertaken remotely:

- at certain categories of establishments, set out in the table(s) below
- to support and inform a physical official control, for example, examining food safety management system documentation away from the establishment before using inspection and audit methods and techniques onsite
- for follow-up checks following a physical official control for all categories of establishments where a CA can verify compliance

It is also proposed that an intervention rating can be amended where the following are met:

- at the conclusion of an official control where appropriate and effective methods and techniques have been used
- where sufficient information has been gathered to justify the revision of the intervention rating
- an intervention rating can only be updated or amended where the establishment is not subject to FHRS (for food hygiene only)

The decision whether to undertake official controls or follow-up checks remotely would rest with each CA based on their own unique circumstances.

**Table 2 and 3: Appropriate methods and techniques of official controls**

| Existing intervention rating for food hygiene | Appropriate methods and techniques of official controls  |
|---|--|
| A or B  | <ul style="list-style-type: none"> <li>• physical inspection or audit (whether full or partial)</li> </ul>   |
| C   | <ul style="list-style-type: none"> <li>• non-broadly compliant establishments               <ul style="list-style-type: none"> <li>- physical inspection or audit (whether full or partial)</li> </ul> </li> </ul> |

|   |  |
|---|--|
|   | <ul style="list-style-type: none"> <li>• broadly compliant establishments: <ul style="list-style-type: none"> <li>- physical inspection or audit (whether full or partial)</li> </ul> </li> </ul> <p>Competent Authorities can, on an alternating basis, use any method and technique of official control (individually or a combination thereof), provided for in article 14 of Regulation (EU) 2017/625, whether undertaken physically or remotely</p>   |
| D | <ul style="list-style-type: none"> <li>• establishments scoring 30 or 40 for type of food and method of handling: <ul style="list-style-type: none"> <li>- physical inspection or audit (whether full or partial)</li> </ul> </li> </ul> <p>Competent Authorities can, on an alternating basis, either use any method and technique of official control (individually or a combination thereof), provided for in article 14 of Regulation (EU) 2017/625, whether undertaken physically or remotely; or a non-official control, which can be undertaken physically or remotely</p> <ul style="list-style-type: none"> <li>• establishments scoring 5 or 10 for type of food and method of handling: <ul style="list-style-type: none"> <li>- any method and technique of official control (individually or a combination thereof), provided for in article 14 of Regulation (EU) 2017/625, whether undertaken physically or remotely</li> </ul> </li> </ul> <p>Competent Authorities can, on an alternating basis, use a non-official control, which can be undertaken physically or remotely</p> |
| E | <ul style="list-style-type: none"> <li>• any method and technique of official control (individually or a combination thereof), provided for in article 14 of Regulation (EU) 2017/625, whether undertaken physically or remotely</li> </ul> <p>Competent Authorities can, on an alternating basis, use a non-official control, which can be undertaken physically or remotely</p>  |

|   |  |
|---|--|
| <b>Intervention rating for food standards</b> | <b>Appropriate methods and techniques of official controls</b> |
|---|--|

|                          |  |
|--------------------------|--|
| Priority intervention    | <ul style="list-style-type: none"> <li>physical inspection or audit (whether full or partial)</li> </ul>   |
| All other establishments | <ul style="list-style-type: none"> <li>any method and techniques of official control (individually or a combination thereof), provided for in article 14 of Regulation (EU) 2017/625, whether undertaken physically or remotely</li> </ul> |

To support CAs in determining the methods and techniques to use, including whether to undertake them remotely, it is proposed that the following are considered:

- the purpose of the official control
- which methods and techniques would be most effective and appropriate, in the circumstances, this would take into account relevant guidance, such as the [FHRS statutory guidance](#)
- the methods and techniques used previously, including whether undertaken physically or remotely
- whether officers are familiar with the establishment
- the track record of the establishment and any data, information or intelligence received about the establishment since the last official control
- whether the FBO is capable of receiving an official control remotely
- whether the technology used during an official control ensures confidentiality and security of business data

For the purposes of the Code, a remote official control is defined as an activity undertaken away from a food business establishment, that enables evidence to be gathered to verify the establishment's compliance. This could include:

- a desk-based examination of relevant documentation, which could include, for example reviewing completed survey responses, food safety management systems or monitoring records
- reviewing video and/or photographic evidence
- video-conferencing
- examination of websites
- any other digital tools which enable compliance to be verified away from an establishment

The use of remote methods and techniques would be considered an official control if it verifies compliance with relevant legislation. For example, examining documentation, such as photographs, away from the food business establishments to verify whether previously identified non-compliance have been resolved.

## **Rationale for change**

As part of the modernised FHDM consultation the use of remote methods and techniques for official controls was proposed.

Feedback from the consultation was varied. While stakeholders did acknowledge that remote official controls would be useful and welcomed their introduction, there were concerns raised regarding their use to sufficiently award an FHRS rating, (particularly in Wales and NI where statutory schemes are in operation), that they could only be used in limited circumstances and that they may create inconsistencies between CAs.

Taking into account the feedback, the proposed approach has been refined to address some of the concerns by increasing the current flexibilities in the Code with regards to remote official controls, taking account of the statutory scheme in Wales and only enabling a remote official control where an FHRS score is not being awarded. This approach is also part of the consultation in relation to the proposed Food Standards Delivery Model.

The proposed approach will enable CAs to use their resources effectively by focusing physical inspections on the highest risk establishments and those requiring a FHRS score. Allowing CAs the option to undertake official controls for lower risk establishments remotely where appropriate. It also gives the CA the option to undertake follow-up checks remotely for those non compliances that can be verified away from the food business.

Additionally, officers not holding a 'suitable qualification' for food hygiene, but who are competent, would be able to undertake remote official controls for lower risk establishments, which further enables effective use of CA resources.

## **Proposal 3: Extending the activities that officers, who do not hold a 'suitable qualification' for food official controls, can, if competent, undertake**

### **Current approach**

The current Code provides that officers holding a 'suitable qualification' for food official controls can, if competent, be authorised to undertake official controls, and other activities at all food businesses, including relevant enforcement action.

It also provides that officers who do not hold a 'suitable qualification' for food official controls can, if competent, be authorised to undertake the following activities:

- alternative interventions at lower risk establishments (category D and E establishments for food hygiene)
- education, advice, and coaching
- information gathering (excluding gathering, processing, and sharing intelligence)
- shellfish environmental monitoring
- official food controls or certain tasks related to other official activities on products of animal origin at Border Control Posts (BCPs)

## Proposed approach

We propose extending the activities that officers who do not hold a 'suitable qualification' can, if competent, be authorised to undertake. This would mean that in addition to the activities listed above, officers not holding a 'suitable qualification' could, if competent undertake:

- sampling
- non-official controls, including: the initial desktop assessment of new food business establishments
- gathering, processing and sharing intelligence
- due official food hygiene controls at broadly compliant category D risk rated establishments and category E risk rated establishments which are:
  - not subject to approval under assimilated Regulation (EC) No 853/2004 or the requirements of assimilated Regulation (EU) No 210/2013 on the approval of establishments producing sprouts
  - rated more than 10 for 'type of food and method of handling'
  - rated more than 0 for 'method of processing'
- initial official food hygiene controls at establishments other than those operating at level of primary production, which:
  - from the initial desktop assessment are not subject to initial official controls within 28 days, meaning those with potential hazard score of 30 - 97

- are not subject to approval under assimilated Regulation (EC) No 853/2004 or the requirements of assimilated Regulation (EU) No 210/2013 on the approval of establishments producing sprouts
- due official food standards controls at establishments which have an inherent risk score of at least 4 and a compliance assessment score of at least 3
- initial official food standards controls at establishments which from the initial desktop assessment, are anticipated to have an inherent risk score of 5

It is also proposed that, if when undertaking official controls it is found the risk rating category (food hygiene), inherent risk (food standards) and/or level of compliance has changed, so that the establishment does not meet the criteria above in relation to initial and due official controls, then the official control would be undertaken as soon as practicable by an officer holding a suitable qualification, who is competent to carry out official controls at that type of establishment.

Additionally, if formal enforcement action is required, this would also be undertaken by an officer holding a suitable qualification and who is competent to undertake the formal enforcement action. However, if competent, officers not holding a suitable qualification could undertake informal action following official controls they have undertaken.

As currently, officers not holding a suitable qualification would be subject to appropriate supervision. For example, the outcome of the official controls they undertake, and the risk rating provided is reviewed by an officer, who holds a suitable qualification and is competent, to ensure the risk rating is appropriate.

## Rationale for change

Officers not holding a 'suitable qualification' are limited in the types of activities they can be authorised to undertake.

The activities these officers could undertake was expanded in 2021 to include shellfish environmental monitoring. However, feedback from some CAs was that the activities should be expanded further and include official controls at low-risk establishments.

One of the proposed developments consulted on as part of the modernised FHDM was to extend the activities officers not holding a 'suitable qualification' could, if competent, undertake, which included official controls at low-risk establishments. Feedback to this proposed development highlighted that some additional flexibility as to who can undertake official controls. However, some concerns were raised about the proposed development, which included: that officers should have a holistic skillset of competencies; inconsistencies in assessing officer competency; and the availability of relevant training.

Recognising the feedback received, the proposed approach would extend the activities officers not holding a suitable qualification could undertake including official controls at low-risk establishments, which do not use high risk processes.



The proposed approach will allow CAs to deploy a wider cohort of officers and enable more effective use of resources. For example, unitary authorities could choose to upskill and authorise their food standards and/or food hygiene officers to undertake official food hygiene controls at low-risk establishments, which could, if appropriate, be undertaken at the same time as other regulatory activities. Similarly, CAs could authorise apprentices working towards a relevant apprenticeship, if competent, to undertake official controls at low-risk establishments.

Based on data provided by CAs to the FSA for the year 2022-2023, there were 18 officers in relation to food hygiene and 12 officers in relation to food standards, employed by CAs but who did not hold a suitable qualification. This includes regulatory support officers and trainees working towards a suitable qualification. These officers, if competent, and had capacity, could be authorised to undertake official controls and the other activities listed above. If all these officers were to be authorised, then it would mean an additional 8% of officers in relation to hygiene and 6% in relation to standards that could undertake official controls at lower risk establishments when compared to the number of officers holding a suitable qualification.

This would be a flexibility provided to CAs, enabling them to choose whether to extend the authorisations of officers who are competent. To support CAs in determining whether officers are competent, the Competency Framework, which was implemented in 2021, provides a standard against which competency can be assessed. This means public health is not undermined by this proposal, as officers would still need to be able to demonstrate they are competent before being authorised to undertake any additional activities.

## **Proposal 4: A change in approach to interventions at food business establishments that fall into risk category E for food hygiene**

### **Current approach**

The current Code provides that the lowest risk establishments for food hygiene (those with an intervention rating of E) must, as a minimum, be subject to an intervention by a CA, which could be in the form of an alternative enforcement strategy (AES), every three years.

AES is defined in the Code as, 'methods by which low risk establishments are monitored to ensure their continued compliance with food law.' Examples of AES include making use of questionnaires, surveys, project-based inspections and intelligence gathering visits.

Where CAs choose to use AES, the Code provides that they must set out their AES in their service plan or enforcement policy. The Code also provides that CAs must ensure that where AES is used that establishments continue to be subject to official controls, and that their strategy must devise how official controls will be conducted at these establishments.

The PG advises that where AES is being used by CAs, that establishments are to have received an initial inspection and be risk rated before determining that AES is appropriate at that establishment. The PG also advises that, a CAs strategy is to allow interventions to be undertaken at establishments subject to AES, for example, where a consumer complaint has been received, and that a random percentage of establishments are subject to inspection.

The flexibility to use AES does not prevent CAs from using other methods and techniques, such as inspections or audits at these establishments, if that is the CAs preferred option. Additionally, AES cannot be used at establishments subject to approval under assimilated Regulation (EC) No 853/2004, as these establishments must receive an official control.

AES can also be used for food standards, with the Code providing that for the lowest risk establishments, any method and technique of official control could be used, as long as effective and appropriate in the circumstances, which could include remote interventions, or AES.

## **Proposed approach**

It is proposed that, as currently, the lowest risk establishments for food hygiene (those with an intervention rating of E) receive an intervention every three years, but the frequency at which official controls are undertaken is clarified.

This would mean that establishments would continue to receive an intervention every three years, but this intervention would alternate between an official control and a non-official control.

The official control, as currently, be any method and technique and may be undertaken physically or remotely, provided it is effective and appropriate in the circumstances and verifies compliance with relevant food law.

The non-official control could be any activity which maintains contact with an establishment, but does not verify compliance with relevant food law, and could also be undertaken physically or remotely.

This approach would also mean that the term AES is removed from the Code and PG for both food hygiene and standards. In relation to food standards, CAs would still be able to

use any method and technique of official control at the lowest risk establishments, including those undertaken remotely.

## **Rationale for change**

The current approach to interventions at category E establishments, with the flexibility to use AES, has caused confusion in how interventions are being undertaken by CAs. It has also led to inconsistencies in the frequencies at which category E establishments receive official controls.

Article 9 of assimilated Regulation (EU) 2017/625, and the Code, provides that CAs shall perform official controls on all operators regularly, on a risk basis and with appropriate frequency.

To provide clarity and consistency in the frequency at which category E establishments receive official controls, and the methods and techniques that are appropriate, it is proposed that CAs would alternate between official controls and non-official controls every three years.

The proposed approach would, as currently, provide CAs with the flexibility to choose any method and technique of official control, including those undertaken remotely, and clarifies that an establishment is subject to an official control at least every 6 years. The proposed approach would also mean that CAs are no longer required to have an AES set out in their service plan or enforcement policy.

Currently, the Code provides that official controls at higher risk and/or non-compliant businesses, or those that are likely to be high-risk, take priority over official controls at those which are lower risk and/or compliant. Therefore, as currently, CA resources will continue to be focused on the highest risk and/or non-compliant establishments.

The proposed approach is not anticipated to impact FHRS. As currently, a new (or updated) FHRS rating would only be provided following a physical inspection or audit. If other methods and techniques of official controls or non-official controls are used, the FHRS rating would not be updated. This is consistent with the current approach where an FHRS rating is not updated following AES.

## **Proposal 5: A change in approach to continuing professional development (CPD)**

### **Current approach**

The current Code provides that CAs must ensure officers undertaking official controls receive a minimum of 20 hours CPD a year, relevant to the activities they are authorised to undertake. These 20 hours are then split between 10 hours relating to subject matters

set out in Chapter 1 of Annex II of [assimilated Regulation \(EU\) 2017/625](#), and 10 hours on other professional matters which supports an officers role but is not necessarily food related.

Although currently the number of hours of CPD to undertake a year is 20, this is a minimum number, and it is recognised that some officers may need to undertake extra hours depending on the experience of individual officers, their areas of authorisation and any specific training needs they may have.

Additionally, officers not holding a suitable qualification, such as regulatory support officers, do not have to undertake a minimum number of CPD hours, but are still required to receive relevant training that is appropriate to the activities they undertake.

## Proposed approach

It is proposed that officers, including those that do not hold a suitable qualification, undertake CPD and training which is relevant to their role and the activities they are authorised to undertake. However, a minimum number of CPD hours is not specified. Instead, it is proposed that the amount of training and CPD officers receive is:

- proportionate to their role and the activities they are authorised to undertake
- informed by the officers' competency assessment
- reviewed on an annual basis.

It would be expected that CAs are able to demonstrate how they have assessed the CPD requirements of each officer, including the CPD and training that has been made available in response to the officer's learning and development needs.

## Rationale for change

The current approach to CPD, and prescribing a minimum number of hours, does not recognise that every officer differs, and that to maintain or improve their competency, some officers may need more training and CPD than others. For example, the training and CPD needs of an officer undertaking official controls at lower risk establishments is likely to differ from an officer undertaking official controls at high-risk establishments.

We also have anecdotal evidence that the current approach has led to officers attending training courses solely to achieve the 20 hours CPD, even though the training may not be relevant to their role or needed to maintain their competence.

The proposed approach provides flexibility for CAs to determine the amount of training and CPD that each officer requires to be competent to undertake their role and the activities they are authorised for. This approach means that CAs can consider officers on an individual basis to ensure they receive the training and CPD they require and

recognised that an officer may require more training and CPD one year than another depending on their specific circumstances.

It is recognised that, as currently, the proposed approach may mean that some officers undertake more than 20 hours training and CPD a year, but there may also be instances where officers receive less depending on their role the activities they are authorised to undertake and their competency.

## **Proposal 6: New Food Standards Intervention Rating Scheme**

Currently, all LAs in Wales follow the intervention rating scheme within Annex A1.2 of the Food Law Code of Practice (Wales). The scheme is formed in three parts: Part 1, The Potential Risk, Part 2, Level of (Current) Compliance and Part 3, Confidence in management/control systems.

In total, the rating scheme covers six factors, four having regards to the scale, size and activities undertaken by the business and two regarding the level of compliance and confidence in the businesses management. Each of the six factors together provide a total risk assessment score. That score provides the intervention frequency of the business.

### **Proposed approach**

The proposed new intervention rating scheme seeks to provide a more accurate assessment of the potential risk posed by a food business establishment, taking into account both the inherent risk associated with the food business and the level of current and, where appropriate, sustained compliance the business has demonstrated. The new scheme is intended to ensure that LA resources are targeted, as effectively as possible, towards the areas of greatest risk in the market.

The proposed food standards intervention rating scheme involves the calculation of a risk profile for each food business establishment that is based on its 'inherent risk profile' and a 'compliance assessment'.

The inherent risk profile gives an indication of the risks associated with a food establishment and the compliance assessment assesses the FBO's performance. Both the inherent risk profile and compliance assessment are made up of subcategories, which are individually scored to allow the accurate assessment of different risk elements, that will be assigned according to the information available. These subcategories are:

- inherent risk profile:
  - scale of supply and distribution
  - ease of compliance
  - complexity of supply chain

- responsibility for information
- potential for product harm
- compliance assessment:
  - confidence in management (CIM)
  - current compliance level
  - management systems and procedures
  - allergen information

When applying the food standards intervention rating scheme, LAs will assign the risk factor score that is most relevant to the food business establishment. Where a food business falls into more than one scoring category for a scoring factor, they must be allocated the lowest score (higher risk), in line with the precautionary principle. It is recognised that competent officers will use their professional judgement to assign a score based on using the descriptors under each of the risk scores.

Whilst individual scores are attributed to each subcategory, these are then averaged and rounded (to the nearest whole number) to give the overall inherent risk and compliance assessment scores. Rules are applied to take into account situations where significant non-compliance has been identified within the compliance assessment.

This rule and principle provide additional assurance within the model where significant non-compliance has been identified, namely an establishment with one serious non-compliance (score of 1 under the compliance assessment), will be given an overall compliance assessment score of 1 for the compliance assessment regardless of the other individual compliance risk factor scores.

To complete a risk assessment, the officers will need to ensure that they have sufficient information about the food business (for example business type and supporting information) so they can consider the potential hazards associated with the establishment.

For the new approach to operate successfully, a common risk assessment framework has been established to ensure a consistent approach between LAs and further information on these risk factors are detailed in the consultation.

### **Rationale for Change:**

The current approach to the intervention rating scheme focuses on the inherent risk of the business. An establishment will fall into one of three broad categories, A, B or C. Whereas under the new rating scheme an establishment will be assessed under nine risk factors, five regarding the establishments inherent risk and four regarding its management of those risks and compliance with applicable requirements. The

establishment will then fall within one of ten intervention frequencies. Ranging from 1 month for establishments of the highest inherent risk and lowest level of compliance to 120 months for those presenting the least inherent risk and highest level of compliance. In this way, the intervention frequency is based on what the establishment is doing and what their compliance is rather than being led by the nature of the business.

The pilot in Wales ran from 1 September 2023 to 29 February 2024. It involved two LAs operating the proposed new model and two control LAs working to the current Code. LAs volunteered to be involved and the participants were selected based on specific criteria to provide a representative cohort on which to base our evaluation.

Prior to the pilot commencing, we trained pilot LAs on implementation of the new model including the new risk scheme. We provided support and engaged with LAs throughout the pilot to identify issues and understand how the new model operates in practice. The formal evaluation process for the initial pilot, undertaken by an independent body, concluded that the new approach is effective and that there were no unintended consequences identified following the pilot in England and Northern Ireland. Critically, the evaluation data indicated that the new model is more effective at directing officers to food businesses that are non-compliant with food law. Findings from officer interviews as part of the process evaluation were consistent in identifying the following aspects as working well:

- ability to re-score a food business establishment after an activity such as revisit was welcomed
- the new decision matrix and risk assessment scheme are easy to understand and implement
- the new decision matrix allows risk to be assessed and balanced across different types of premises. This allows a more accurate assessment of risk
- a key benefit is that manufacturers were no longer considered high risk by default
- use of remote interventions at appropriate food business establishments
- integration of the new model into existing LA working practices
- officers were recognising when problems may not be local and sharing more information with the FSA

The formal evaluation of the Wales pilot, undertaken by the same independent body who evaluated the pilot in England and Northern Ireland, concluded that the proposed model was fit for purpose, was generally easy to understand and use with both pilot authorities perceiving that it is an improvement in comparison to the current model. The proposed

model provided a more balanced assessment of food businesses, taking account of both the level of inherent risk and the level of compliance observed. When the level of compliance is of sufficient concern, the proposed model determines that the next intervention should be a priority intervention. The report concludes that this enables LAs to target their resources towards such businesses with the aim of improving compliance. The proposed risk assessment scheme was seen as beneficial and the addition of a standalone compliance factor for allergens was regarded as valuable in assisting LAs to give allergens proportional focus within interventions and target resources where the risks are highest.

## **Proposal 7: Decision Matrix**

### **Current approach**

Following an official food control a risk assessment is undertaken to determine the frequency of the next intervention. An establishment will fall within one of three Categories, Category A, will be due an official control in at least every 12 months, Category B, in at least every 24 months and Category C, in at least every 60 months. This is a minimum frequency, and LAs may undertake an official control sooner where there is intelligence to suggest the risk has changed or the LA is at the premises and food standards matters are assessed.

### **Proposed approach**

To determine the frequency at which official controls should be carried out, the average scores for the inherent risk profile and compliance risk assessment are plotted onto the decision matrix.

The decision matrix follows a graduated approach based on risk. The frequency of official control activities starts at one month (high intensity) and progresses to less intensive frequencies enabling LAs to target their resource on those establishments deemed to be highest risk. This supports the objective of the model and recognises that LAs will be focusing their resource on those establishments where they need to take prompt action to safeguard public health and protect consumers.

The decision matrix does not specify the particular official control activity that should take place. Instead, this approach gives LAs the flexibility to use any of the methods and techniques of official controls specified in Article 14 of Retained (EU) Regulation 2017/625, either individually or in combination, providing they are effective and appropriate in the circumstances.

The overarching principle when considering which method(s) or technique(s) to use is to ensure that the most effective official control activity is chosen and that the officer is



satisfied that the selected method(s) and/or technique(s) will allow them to verify compliance with food law.

The decision matrix identifies where LAs should take prompt action to safeguard public health and protect consumers. It recognises that they will be directing their resources to work with those food businesses to ensure appropriate corrective action is taken until compliance is achieved. The matrix introduces the concept of priority interventions to enable a more intensive approach to be taken where required, and to ensure LAs quickly secure improvements at these food business establishments so those establishments move into compliance, thereby protecting consumers.

Where a priority intervention is identified as the appropriate action, the expectation is that the officer will return to the establishment and focus on non-compliances in those areas causing the greatest concern rather than undertaking a further full inspection. When undertaking a priority intervention, the officer should focus on those areas of concern and rescore the establishment on that basis (therefore a focused inspection/intervention may be sufficient), with the intention of working towards a more compliant establishment and a less intensive regulatory input. The reassessment of the establishment should reflect any improvements made and revise its risk profile. Ideally, compliance will have been achieved, and the resulting regulatory input will have improved (for example moved out of the priority intervention category). However, if appropriate action hasn't been taken by the Food Business Operator (FBO), the establishment may remain as requiring a priority intervention.

It should be noted that the frequencies provided in respect of priority interventions are minimum frequencies. When determining the appropriate frequency, consideration should be given to the non-compliances found, available enforcement options (for example improvement notices), how quickly the non-compliances can be corrected and any relevant local procedures or protocols.

It is recognised that there will be circumstances where an FBO is unwilling or unable to take the necessary action required to achieve compliance. In such cases, LAs should consider taking formal enforcement action in line with their enforcement policy and the hierarchy of enforcement. Further priority interventions at the prescribed frequency are at the discretion of the LA until the formal enforcement action has been concluded.

## **Rationale for change**

This approach is to focus resources on seeking corrective action where non-compliance has been identified. It aims to minimise the potential for conflict between conducting a focussed inspection, to rectify non-compliance, and conducting another outstanding intervention at an establishment posing less risk. This shifts the model to one of an outcome driven approach.

## Proposal 8: Other amendments to provide clarity, improve consistency and keep pace with current practices

There have been some other changes to the Code and PG, as detailed in [Annex A](#) and [Annex B](#) of this consultation package, not brought about by the changes listed above. None of these other changes amend policy, but CAs will need to familiarise themselves with these amendments. Examples of other changes made to the Code and PG include:

- Providing, in the PG, examples of where the additional score of 22 for vulnerable risk groups as set out in the food hygiene intervention rating scheme would not apply, to increase consistency in the use of this score
- clarifying within the text regarding delivery of official controls and other official activities that allergen cross-contamination is to be considered
- Replicating guidance in section 4 of the food hygiene intervention rating scheme from the current FHRS Statutory Guidance to the PG
- adding the [Trading Standards Professional Apprenticeship](#), depending on the modules completed as a suitable qualification for food standards and food hygiene at the level of primary production. This qualification was [endorsed](#) by the FSA in May 2023 and will widen the cohort of professionals that can undertake official food standards and controls at the level of primary production.
- adding the following qualifications to the list of suitable qualifications for food hygiene and food standards:
  - Degree in Environmental Health awarded by the Dublin Institute of Technology (awarded from June 2012 onwards)
- Degree in Environmental Health awarded by the Technical University Dublin
- Adding the CTSI [Professional Competency in Feed](#) as a suitable qualification for food hygiene at the level of primary production
- amending terminology in Code and PG so that it is consistent throughout. This includes consistent use of 'must' to highlight a legal obligation which CAs must follow, and 'should' to highlight statutory guidance that provides clarification and guidance on legal obligations, which CAs must have due regard to
- moving some provisions from the Code to the PG and vice versa to align with the terminology changes
- removing references to the Competency Framework from the Code, but retaining references to it in the PG. This is to enable the Competency Framework, following appropriate engagement/consultation with stakeholders, to be updated in a more agile manner.

- clarifying in the Code the guidance on appropriate competency assessments
- removing references to the PG from the Code to enable the PG, following appropriate engagement/consultation with stakeholders, to be updated in a more agile manner
- removing references to the [Framework Agreement](#), as the relevant provisions from the Framework Agreement were already included within the Code and PG. It is anticipated that the Framework Agreement would be disapplied for food and feed controls in the future, when the Feed Code has been reviewed.
- removing references to simple cautions to take into account the [Police, Crime, Sentencing and Courts Act 2022](#) which removes use of term 'simple caution' and does not appear to include CAs as authorities who can serve diversionary or community cautions

[Annex A](#) and [Annex B](#) of this consultation package provide an overview of the changes and provides details of the provisions that have moved from the Code to the PG and vice versa.

## Impacts

### Costs: Food Standards Delivery Model

#### Costs to LAs

##### Familiarisation costs

All officers who deliver food hygiene and food standards official controls will have to read and understand the Practice Guidance and the changes to the Code, including the introduction of the FSDM as appropriate.

The one-off familiarisation time of approximately 6 hours is estimated by dividing the total word count of the Code and Practice Guidance, including annexes (96,755) with the average number of words a person can read per minute, for a prose text (275).

In Wales, there are 22 LAs and 322 qualified officers engaged in delivering food hygiene and standards controls (132 for hygiene and 190 for standards), as of the 31 March 2024. This is from data provided to the FSA from CAs covering the 2023-24 financial year.

We assume that all Environmental Health Officers (EHOs) and Trading Standards Officers (TSOs) will need to familiarise themselves with the changes, alongside 47 Lead Officers and 35 Regulatory Support Officers. This assumption may mean that the costs presented below are an overestimate, if some hygiene officers not in dual service do not wish to familiarise themselves with the standards elements of the Code. However, it is anticipated that many will, so that they may fully understand the potential impact on their work.

Familiarisation costs are quantified by multiplying the wage cost of the relevant officers, with the time spent on familiarisation. Information previously collected from LAs by the FSA suggests that a Public Protection Officer's time is valued at £53.35, when undertaking cost-recovery exercises. A Lead Officer's time is valued at £64.94 and Regulatory Support Officer's at £40.91

Multiplying this with the time spent on familiarisation, the number of food standards and food hygiene officers in Wales and their respective wages generates a total familiarisation cost of £127,000.

### **Familiarisation costs (changes to the Management Information Systems (MIS))**

In order to operate the new food standards model changes will be required to the MIS used by LAs.

LA officers who deliver food standards official controls will have to familiarise themselves with the changes to their MIS.

It is assumed that all food officers undertaking food standard official controls in Wales will be affected by these amendments. Familiarisation with the updated MIS will vary depending on the MIS provider. We assume it will take on average, 2 hours each for Lead Officers, Public Protection and Regulatory Support Officers to familiarise themselves with changes to the MIS, at a total cost of £43,300.

### **LAs officers training costs**

We anticipate that all officers undertaking food standards official controls will need to undertake one day of training to understand the revised food standards delivery model. Therefore, we assume that all 371 officers will be required to spend approximately 8 hours attending the training. This training will be provided by the FSA remotely.

Training costs are quantified by multiplying the time cost of the relevant officers with the time spent on training. Using the hourly costs above, this amounts to a total of £173,300 across all officers in Wales.

The training costs are opportunity costs. LA officers will need to give up some of their time to undergo the required training. Therefore, these costs don't constitute additional financial costs.

### **MIS/IT cost of moving to the new model**

We anticipate that LAs running the Idox MIS will require their existing risk data to be converted to the new model risk scheme and migrated to their MIS product. We anticipate this will require activities such as data cleansing, mapping between the two systems and some project management.

The FSA will undertake the conversion exercise on behalf of the LAs where required. However, LAs will need to undertake a validation exercise on a random 10% sample of the data migrated, to ensure accuracy.

### **Initial desktop assessment costs**

The proposed risk-based approach in relation to prioritisation and timescales for undertaking initial official controls would mean that CAs undertake a desktop assessment of new establishments to determine the likely potential hazard.

### **New LA systems/ procedures costs**

As the new food standards model introduces changes to how LAs manage and deliver their food standards interventions, we would expect that LAs will need to update their administration systems, procedures, and paperwork.

### **Additional visits to non-compliant businesses**

The aim of the proposed model is to better identify the risk posed by FBOs. If the model achieves this aim, then this could lead to the discovery of a greater number of non-compliances, and further visits by CAs. This could impose additional costs on them.

It is difficult to estimate if, or how many, additional visits will be required. This will depend on how quickly businesses return to compliance and to an extent, local characteristics. Under the proposed model, CAs have a greater range of options for intervention frequencies to choose from. Officers may wish to utilise this if they feel that more frequent visits are appropriate for some businesses.

The data collected from the pilot evaluation in Wales showed that 35% of premises had a shorter time until next intervention under the proposed scheme in comparison to the current scheme, 25% of premises had no difference and 40% of premises had a longer time until next intervention under the proposed scheme. However, the number of interventions due in the next 12 months increased by 14%.

As only two LAs piloted the proposed model in Wales, the results cannot be viewed as representative for Wales as a whole. However, the evaluation findings do suggest that the proposed model would work as intended in Wales. As it has been shown to better identify risk and is likely to lead to a higher number of non-compliances found as a result, it is reasonable to expect some increase in the number of inspections due.

However, an increased number of interventions in the short-term can lead to a decrease in the long-term, as businesses have a greater incentive to return to compliance.

## Costs to industry

### Impact of proposal for approach to low-risk establishments

The proposed approach to low risk establishments is not anticipated to have an impact on businesses.

The proposed approach would mean that the lowest risk establishments would receive an intervention every three years, which alternates between an official control and a non-official control.

Similarly, the flexibility to decide what methods and techniques of official controls to use is also not anticipated to have an impact on businesses, as CAs already have flexibility to determine the type of intervention to undertake at low-risk establishments. The proposed flexibility means that if CAs currently use surveys as their method of AES, then as long as they verify compliance with relevant food law, they may continue to use surveys for their method and technique of official control, as well as an information gathering survey for the non-official control.

### Costs of regulatory burden for non-compliant food businesses

The new food standards model aims to change the frequency of food standards official controls based on a better understanding of the level of risk a food business establishment poses. The level of risk posed considers the inherent risks associated with a food business establishment and their level of compliance with food law. All else being equal, high-risk businesses will be inspected more frequently than low-risk businesses.

An increased number of inspections will result in a time cost for non-compliant businesses to deal with the additional inspections. As mentioned above, the pilot evaluation found that the number of inspections required increased by 14% during the pilot of the model in Wales.

The evaluation also showed that compliant businesses benefitted from being inspected less often. Therefore, there is expected to be a transfer of regulatory burdens from compliant to non-compliant businesses.

As only two LAs in Wales piloted the proposed model, the results are unlikely to be representative of Wales as a whole. However, if the model works as intended (and the pilot suggests that it will), it is likely that in the short-term, non-compliant businesses will CAce and increase in the number of inspections. Over time, these are expected to reduce, as businesses are brought back into compliance.

## Costs to the FSA

### Preparing and moving data to the new model (conversion cost)

The FSA will undertake the data conversion exercise on behalf of the LAs where needed. This involves migrating existing data from the current risk scoring scheme and intervention frequency to the new scoring scheme and decision matrix. LAs will need to provide a small team to validate a sample of the data for quality assurance processes; and to re-integrate the data back into LA systems.

### **FSA support to LAs during the roll-out phase**

FSA staff will provide dedicated support to LAs during the six-month roll-out phase of the model.

## **Benefits to LAs**

### **Enables the most effective use of resources**

The majority of the key proposals enable CAs to make the most effective use of their resources.

The proposal to introduce a risk-based approach to the prioritisation and timescales for undertaking initial official controls will enable CAs to use their resources effectively while ensuring that establishments are subject to official controls within appropriate timescales. Additionally, Regulatory Support Officers could undertake the desktop assessment of new food business establishments and official controls at lower-risk establishments.

However, it may not be possible for LAs to benefit from this additional flexibility immediately. Firstly, CAs can only benefit if they have the officers in post and there are currently 35 Regulatory Support Officers in Wales. Even if this number were to grow, they may require training and support to gain the required knowledge and skills and may also require further annual CPD in recognition of the additional activities they are authorised to undertake.

Similarly, the proposed flexibility to undertake certain official food standards controls remotely, where appropriate, could also help officers save time and travel costs, leading to more effective use of CA resources. Reduced travelling may also lead to an environmental benefit due to a reduction in carbon dioxide emissions.

It is not clear to what degree individual CAs will make use of these flexibilities. Additionally, officers may continue to carry out onsite official controls due to the overlapping nature of other CA functions that they have responsibility for which necessitate an onsite visit.

### **Increased effectiveness of LA resources, leading to increased compliance levels in the long-term**

As mentioned, the new food standards model will better target LA resources towards the highest risk premises. The frequency of food standards official controls will be based on a

better understanding of the level of risk a food business pose. It is assumed that this will create a benefit to LAs, as they will use the same level of resources in a more efficient way - by carrying out official controls at the highest risk businesses where they will identify more non-compliances.

The evaluation of the FSDM pilot in Wales suggests that the proposed model will help LAs to provide a more accurate assessment of food businesses. Feedback from the LAs who took part in the pilot suggests that the proposed model is more in-line with how they feel that the food standards service should be operating.

The evaluation report also suggests that the premises visited by the pilot LAs in Wales were more likely to be not broadly compliant than in the control LAs.

As evidenced by the pilot in Wales, this is likely to lead to an increase in the number of inspections required in the short-term. However, the pilot in Wales was unable to assess the long-term impact. It is expected that in the long-term, the FSDM will achieve a steady state, where the number of inspections required will be reduced. The short-term increase in inspection frequencies for non-compliant businesses will provide them with the incentive and the support they need to achieve compliance with the law.

By allowing LA resources to be targeted more effectively, this should also reduce the likelihood of food business related incidents occurring, reducing the amount of LA resource needed to address these.

### **Time savings due to new methods of undertaking food standards Official Controls**

The new food standards model introduces greater flexibility in the methods and techniques of official controls that LAs can use. For example, Targeted Remote Interventions (TRIs) are designed to monitor the activity of low-risk businesses remotely, without the need for a physical inspection to be carried out.

This new approach, if used appropriately, will help LA officers to save time, as they won't need to travel to the business premises to undertake the Official Control.

### **Benefits to consumers**

The proposals are anticipated to improve the quality and consistency of food control activities and ensure CA resources are being used effectively, as well as focusing resources on the highest risk establishments. This means that consumers will benefit from enhanced consumer protection through more efficient allocation of resources, maximising the effectiveness of consumer protection provided by these controls.

### **Improved consumer protection and public safety**

The new model aims to reduce the number of harmful or non-compliant products that enter the market by addressing the issue at source or at the most appropriate point in the



food supply chain. As food businesses become more compliant, we expect the number of non-compliant products that reach consumers to decrease over time, therefore improving consumer safety.

We anticipate consumers will be more confident that the food they buy is safe and what it says it is and that the information on food labels is accurate.

## Costs: Food Hygiene Delivery Model

### Costs to LAs

No additional familiarisation costs are anticipated, as it is assumed that Officers will read the Code in full and familiarise themselves with the changes to the FHDM, alongside other changes.

However, Officers will be required to undertake an additional 1.25 hours of training in relation to the FHDM changes. Using the hourly rates above, this amounts to a total training cost across all Officers in Wales of £27,100.

### Cost to Industry

#### Impact of proposal to amend timescales for undertaking initial official controls

The proposed risk-based approach in relation to the prioritisation and timescales for undertaking initial official controls may mean that lower-risk establishments do not receive an initial FHRS rating for up to 3 months and 28 days, compared to 28 days currently. Although this would not legally prevent these establishments from trading, it could impact their ability to trade on some marketplaces and online platforms, if these platforms require establishments to have an FHRS rating before trading. However, based on analysis of FHRS data between April 2023 and March 2024, the average waiting time for an initial FHRS rating across Wales was just over 2.5 months. Therefore, the additional impact relative to the status quo is likely to be small.

## Engagement and Consultation Process

### Food Hygiene Delivery Model

Widespread engagement activities have taken place throughout the development of these proposals.

Work to modernise the FHDM in Wales, England and Northern Ireland commenced in September 2021. We established an LA/FSA Working Group to provide a mechanism for working collaboratively across the three countries to modernise the model. The Group helped to critically review and inform our thinking on the proposed developments.

The engagement with the LA/FSA Working group was supplemented by nine LA engagement events across the three nations and an online webinar during 2023. In parallel, we held a 12-week written consultation on the proposed developments, covering [Wales](#), [England](#) and [Northern Ireland](#).

As a result of that engagement and consultation, we have refined and further developed the proposals, which are the subject of this consultation.

### **Food Standards Delivery Model**

Widespread engagement activities have taken place throughout the development of the new food standards delivery model, prior to the pilots commencing across the three countries.

At the start of the project, a Food Standards Working Group (FSWG) was formed, including representation from LAs, the Chartered Trading Standards Institute (CTSI), industry and the Public Analyst Scientific Service. The FSWG was instrumental in designing the new delivery model and working through potential challenges and barriers.

The work of the FSWG was supplemented by two rounds of regional face to face engagement events in 2019, seeking input and feedback from the wider enforcement community on our proposals, which led to further refinement of the model prior to the pilots commencing in England and Northern Ireland.

Following the consultation to amendments to the Food Law Codes of Practice for England and Northern Ireland the model was refined further, and this refined model was piloted in Wales to identify any unintended consequences.

At the end of the consultation period, the FSA will analyse the responses, make any relevant amendments to the Code and PG and within three months of the consultation ending we aim to publish a summary of responses received and provide a link to it on our website.

### **Questions asked in this consultation**

To enable us to fully understand your responses and adequately take account of them, please explain, and where possible evidence, any answers to the eight questions we have included in this consultation. Please complete the consultation response form (see Responses section below).

## Questions asked in this consultation:

- 1) In relation to proposal 1, an updated risk-based approach to the prioritisation and timescales for undertaking initial official controls of new food establishments:
  - a) Do you consider that the approach will provide CAs with the ability to deploy current resources more effectively? If not, why not? (Please specify any aspects of the proposal which require further consideration, and why).
  - b) If responding on behalf of a CA, how long would you estimate it would take, from a food hygiene perspective to desktop assess a new food business establishment?
  - c) Would you agree or disagree with the approach that is being proposed for timescales provided for initial controls of all food establishments?
  - d) Timescales for due official controls will remain, as currently, at 28 days, for all establishments. Do you agree or disagree with keeping the timescales for undertaking due official controls at 28 days? If not, why not?
- 2) In relation to the proposal for introducing flexibilities as to the methods and techniques of official controls, including the use of remote official controls, as described under proposal 2:
  - a) Do you consider that the flexibilities will enable CAs to deploy current resources more effectively? If not, why not? (Please specify any aspects of the proposal which require further consideration, and why).
  - b) If responding on behalf of a CA, would you, if implemented, utilise this flexibility and authorise officers, if competent, to undertake additional activities? If not, why not?
  - c) It is proposed that intervention risk scores can be changed using official controls other than inspection or audit. Do you consider that the FHRs rating could also be updated based on a wider range of methods and techniques, as long as sufficient evidence was gathered to justify the revision? If not, why not?
  - d) If responding on behalf of a CA, would the proposed widening of the methods and techniques that can be used to update an intervention risk score impact on how data is uploaded from your MIS to the FHRs portal? If so, please provide details of the potential impact.
- 3) In relation to proposal 3, extending the flexibilities as to who can undertake official controls and other official activities:

- a) Do you consider that the flexibilities will enable CAs to deploy current resources more effectively? If not, why not? (Please specify any aspects of the proposal which require further consideration, and why).
  - b) If responding on behalf of a CA, would you, if implemented, utilise this flexibility and authorise officers, if competent, to undertake additional activities, and if so, how many officers would you anticipate authorising? If not, why not?
- 4) In relation to proposal 4, a clarification in approach to interventions at category E establishments, do you consider that the proposed approach will provide clarity and consistency in the frequency of official controls at these establishments? If not, why not? (Please specify any aspects of the proposal which require further consideration, and why).
  - 5) Do you agree that the proposed changes to the food standards risk assessment scheme will provide LAs with the ability to deploy current resources more effectively by improving the way in which the levels of risk and compliance associated with a food business are assessed? If not, why not? (Please specify any aspects of the new model which require further consideration, and why).
  - 6) Do you agree that the proposed frequencies for official controls, specified in the decision matrix, within the new food standards intervention rating scheme are appropriate based on the levels of risk and compliance associated with the food business? If not, please identify any concerns you have with the proposed frequencies.
  - 7) Following the outcome of the consultation, if the food standards delivery model is to be included in the Code, the FSA will be in a position to provide support in the same way that has been provided during the rollout in England and Northern Ireland. There is an intention to include a transition period for Welsh LAs. Bearing in mind the works to MIS providers have been undertaken for LAs in England and Northern Ireland do you feel with training and support from the FSA a 6-month transition is sufficient?
  - 8) In relation to the proposed changes to the amount of training and CPD that officers undertake on an annual basis do you consider that the approach will provide CAs with greater flexibility to determine appropriate levels of CPD and training that officers undertake? If not, why not? (Please specify any aspects of the proposal which require further consideration, and why).
  - 9) In relation to impacts proposal 8 - other amendments which provide clarity, improve consistency and keep pace with current practices:
    - a) Do you consider that the examples of where the additional score of 22 for vulnerable risk groups would not be used, provides further clarity and will

- improve consistency in the application of the score? If not, why not? (Please specify any aspects of the proposal which require further consideration, and why)
- b) Do you consider that moving the guidance on parts two and three of the food hygiene intervention rating scheme from the Statutory Guidance to the PG will improve clarity as to where the guidance can be found? If not, why not? (Please specify any aspects of the proposal which require further consideration, and why)
- c) Do you have any objections to the inclusion of the following qualifications:
- i) Trading Standards Professional Apprenticeship with the food module as a suitable qualification for food standards
  - ii) Trading Standards Professional Apprenticeship with the animal feed module as a suitable qualification for food hygiene at the level of primary production
  - iii) Degree in Environmental Health awarded by the Dublin Institute of Technology (awarded from June 2012 onwards)
  - iv) Degree in Environmental Health awarded by the Technological University Dublin
- 10) If you do have any objections, please provide reasons for these. (Please specify any aspects of the proposal which require further consideration, and why)
- 11) Do you consider that the amendments to the terminology in the Code and PG has improved clarity and consistency between the documents? If not, why not? (Please specify which sections and any aspects of the proposal that require further consideration, and why)
- 12) Do you agree or disagree with the removal of references to the Competency Framework from the Code but retaining references to it in the PG? Please describe the main reasons for your answer. (Please specify any aspects of the proposal which require further consideration, and why)
- 13) Do you agree or disagree with the removal of references to the PG and Framework Agreement from the Code? Please describe the main reasons for your answer. (Please specify any aspects of the proposal which require further consideration, and why)
- 14) Does the layout/presentation of the proposed revisions to the Code facilitate consistent interpretation? If not, how could they be improved?
- 15) In relation to impacts:

- a) Do you agree or disagree with our assessment of the impacts on CAs and our assumptions on familiarisation and training resulting from the proposed changes to the Code? Please describe the main reasons for your answer.
- b) Do you agree or disagree with our assessment of the impacts on CAs in relation to changes to procedures? Please describe the main reasons for your answer.
- c) If responding on behalf of a CA, how long would you estimate that it will take to update procedures if the proposals were implemented? If providing an estimate, please explain which proposal (or proposals) it relates to.
- d) Do you foresee any other impacts from the implementation of the main proposals detailed beyond those we have identified? Where possible, please explain your views, which proposal (or proposals) they relate to, and provide quantifiable evidence (for example, costs associated with updating your administration systems, existing procedures, the benefits of greater flexibility to allocate staff to activities).
- e) Do you foresee any challenges with the implementation of the proposals under consultation? If yes, please outline what these challenges are and what, if any, solutions we should consider?

## Other relevant documents

- Draft Food Law Code of Practice (Wales)
- Draft Food Law Practice Guidance (Wales)
- Draft Food Law Code of Practice and Practice Guidance (Wales) Change Tables

## Responses

Responses are required by 23:59 on 19 May 2025. Please state in your response whether you are responding as a private individual or on behalf of an organisation/company (including details of any stakeholders your organisation represents).

Please use the consultation response form to provide your comments.

[Consultation response form \(accessible Word version\)](#)

[Consultation response form \(accessible PDF form\)](#)

To enable us to fully understand your responses and adequately take account of them, please explain, and where possible evidence, any answers to support your feedback.

The consultation response form should then be emailed to  
CodeReviewResponses@food.gov.uk

For information on how the FSA handles your personal data, please refer to the [privacy notice for consultations](#) on the FSA website.

## Further information

If you require a more accessible format of this document please contact us by emailing [CodeReviewResponses@food.gov.uk](mailto:CodeReviewResponses@food.gov.uk) and your request will be considered.

This consultation has been prepared in accordance with [HM Government consultation principles](#) and [Welsh Government consultation principles](#).

Thank you on behalf of the Food Standards Agency for participating in this public consultation.

Yours faithfully,

Sarah Aza

Head of Local Authority Delivery