

Mid-Point Programme Report – Regulating Our Future

Report by Nina Purcell, Director of Regulatory Delivery & Wales

For further information contact Leigh Sharpington, Tel: 07766 367290

Email: Leigh.Sharlington@food.gov.uk

SUMMARY

1. This paper provides an update on progress made across the Regulating Our Future Programme (ROF) since June 2017 when we published our paper on [‘Why food regulation needs to change and how we are going to do it’](#). It describes the key changes that will be made to the regulatory regime in time for the UK leaving the EU. It also outlines work that we are doing on other elements of the new regulatory system that we are developing for delivery post EU exit.
2. The Board is asked to:
 - **review** the progress being made to transform the way food businesses in England, Wales and Northern Ireland are regulated;
 - **consider and agree** the changes that will be delivered in advance of the UK leaving the EU; and
 - **endorse** our plans for further modernisation of the regulatory system following EU exit.

INTRODUCTION

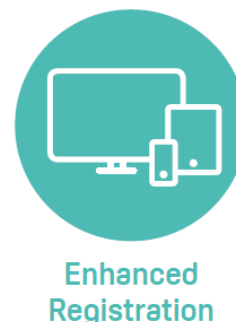
3. The ROF Programme aims to modernise how food businesses in England, Wales and Northern Ireland are regulated to check that our food is safe and what it says it is. We are building a system that is dynamic and flexible and can adapt as the global food economy changes and as technology develops in the future. We are doing this so that our system has the sophistication needed to regulate an increasingly diverse food industry and to adapt quickly to changing risks and so that it can respond to changing patterns of food production, trade and consumption when the UK leaves the EU.
4. In June last year we published our plans to create this modern, risk-based, proportionate, robust and resilient system in [‘Why food regulation needs to change and how we are going to do it’](#). This paper reports on the progress we have made since then.

Pre-EU exit priorities

5. Our priority has been to ensure that the elements of the new system that are key to continued protection of public health and maintenance of consumer and business trust and confidence in the system are in place in advance of EU exit. Progress on delivery of these is described below and summarised in the infographic at [Appendix 1](#).

Business start-up and enhanced registration

6. In the plans we published last year, we said that we would introduce a new digitally-enabled approach to make it easier for businesses to register and easier for them to access information and guidance that will enable them to get things right from the start. To do this we are building an online service which will give us more information on food business at the time they register and will provide real-time access to registration details of all businesses in England, Wales and Northern Ireland.



7. The development phase of the online service was completed in April and testing of a working version with a limited number of local authorities (LAs) and food businesses has commenced. The findings will be used to make improvements ahead of the system going live by March 2019. Integral to the new online system when it goes live will be processes for generating a unique identifier for each registration and for verification of the person(s) responsible for each business.
8. Alongside development of the online registration service we have undertaken research to gain a better understanding of how new businesses currently enter the regulatory system and what type of support they receive and find useful. This has helped to identify when and how its most helpful to provide the advice and support. As a result, and as part of the re-design of the FSA website, advice for food businesses is being revised to make it easier to follow. The new content will be tested through workshops in the autumn and finalised by December. Following that, specific advice will be categorised against business types and incorporated into the online service providing businesses with tailored advice at the time they register.
9. An engagement programme is planned for the beginning of 2019 to forge third party alliances (including with trade associations, financial institutions, insurance companies etc) to help raise awareness of the need to register and to signpost businesses to the FSA website for relevant guidance.

Segmentation of food businesses

10. Currently, all new food businesses are inspected when they first start trading, regardless of their food safety risk. This 'one size fits all' approach is not sustainable, proportionate or risk-based so we said that we would develop a more sophisticated and data driven method for the segmentation of businesses.



Segmentation

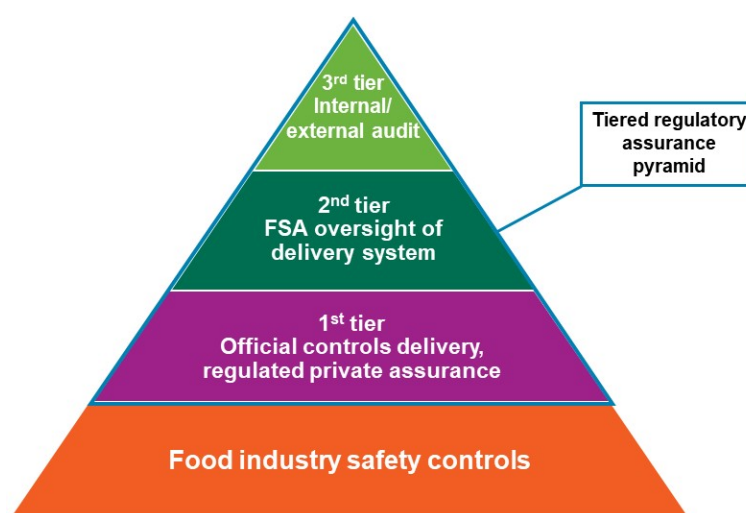
11. The focus to date has been on building a 'risk engine' which uses a set of business rules to generate a 'risk score' which segments businesses into categories. This categorisation will determine the nature, frequency and intensity of official controls for all new business using the online service to register. Our proposal, which we will be consulting on, is that some businesses - for example, those that provide only low risk food, or those that are of a limited scale and complexity - will no longer receive an initial inspection but rather will only be inspected as and when additional information or a complaint indicates that one is necessary.
12. The first iteration of this risk engine will be tested using information provided by businesses at the point of registration using the new online service. The 'risk scores' generated by the risk engine will be validated against what LA officers find when they undertake their first inspection of these businesses.
13. Controlled field trials will take place with local authorities later this summer to ensure that we are collecting the appropriate data at registration and that the risk scores generated by the risk engine are accurate and can be used for segmentation purposes. Once we have a good level of confidence that this is the case, LAs will be able to use the segmentation outputs from the risk engine to plan and prioritise their inspections, and to evaluate its accuracy and effectiveness. We intend to release an initial version of the risk engine in conjunction with the new enhanced registration system by March 2019.
14. Looking forward, a number of research projects are underway with the aim of providing an evidence base to inform future iterations of the risk engine where data from wider sources is used to determine the risk score. These projects are exploring, for example, whether compliance performance in other regulatory areas correlates with food safety compliance, and what the impact of the culture within a business has on food safety compliance. These projects are due to report in the second half of this year and the findings will be factored into the further development of the risk engine.

Primary Authority National Inspection Strategies



Primary Authority,
National Inspection
Strategies (NIS)

15. For multi-site operators, we said that we would put an increased focus on the controls that operate at business level rather than doing this routinely at each individual outlet. We are doing this by developing Standards for Primary Authority National Inspection Strategies (NIS).
16. We reported on this work in December last year when we had just started pathfinding trials with six partnerships to test the concept of NIS. These pathfinders are nearing completion. The report of an independently conducted evaluation of the findings is expected in July.
17. The first version of the 'FSA Standards' for operation of Primary Authority NIS will be published in the summer. These Standards have been developed in conjunction with stakeholders and will ensure the NIS are robust, that there is the right level of oversight, and that they can provide regulated private assurance within the assurance hierarchy triangle.
18. NISs are suited to multi-site businesses (or groups of businesses) that demonstrate high levels of compliance. Assurance that the business is meeting its responsibilities will be assessed centrally by its primary authority, feedback from LAs will be used to check that the NIS is working and the FSA will have oversight that the approach is reliable and robust. This means responsible businesses could face a lower burden from regulation, and LA resource can be better targeted to the businesses that present the greatest (residual) risk to public health.
19. A small number of Primary Authority partnerships in England are actively considering developing NIS where the primary authority will use business data and information to inform the frequency of local food hygiene inspections. This gives us an opportunity, dependent on the partnership's timescales (but likely from late 2018 and during 2019) to test how the FSA Standards work in practice – for the Primary Authority partnership, for LAs and for the FSA in 'assuring the assurers' - followed by refinement where necessary.



Food Hygiene Rating Scheme

20. To ensure FHRS can continue to operate effectively and successfully as part of the changing regulatory system, we have identified the interdependencies with the different elements of the new operating model and are planning how these will be managed – the initial focus is on the impact of the new system of segmentation and the operation of Primary Authority NIS. This will inform our work to secure the necessary support for introducing a statutory scheme in England. We are preparing a framework for this scheme, as far as we can at this stage, so that we are ready to capitalise on any opportunities that may arise to put this in place. We aim to have the framework ready by the end of July.



UPDATE ON OTHER ELEMENTS OF THE NEW REGULATORY SYSTEM

21. The high-level plan covering the other elements of the programme, most of which are for delivery post EU exit, is provided at [Appendix 2](#). More detail on the progress towards delivery of the key elements shown in the plan is outlined below.

Assurance framework

22. In December last year the Board considered and endorsed the direction of travel regarding the assurance framework that we are developing ([FSA 17/12/06](#)). The framework will provide the mechanisms and standards to enable businesses' own assurance data and information to be considered in assessing risk and determining the nature, frequency and intensity of official controls in our new regulatory system.
23. Within the framework, the FSA is the standards setting body and as well as the work on standards for **Primary Authority NIS** (see paras 14 to 18) we have been progressing work in the following areas:
- **standard for enhanced food business registration data** – A draft specification for the collection of registration data has been produced and will be refined ready for March 2019 when the online service goes live;
 - **standards for recognised assurance schemes** - Updated standards have been put in place for schemes recognised by the FSA in the animal feed and primary production of food sectors;
 - **generic standard for 3rd party assurance schemes** - This is scheduled for completion post EU exit and will take account of international guidance on the use of 3rd party assurance schemes being developed by CODEX; and
 - **standard vocabulary** – This is being produced to promote consistency in the meaning and use of commonly used terminology, avoiding misinterpretation and the potential for confusion

24. It will be important to ensure that standards remain current, approved and accessible so we are developing a framework to facilitate that. In February and March, we carried out collaborative work with the British Standards Institute to identify the essential elements of such a framework. We will develop this over the summer so that it is in place by the end of December 2018.

Local authority oversight - the Balanced Scorecard (BSC)

25. LAs will remain key to delivery in the new regulatory system so we are updating and improving the way in which we provide oversight of their performance. Currently, we base this on annual LAEMS (Local Authority Enforcement Monitoring System) data returns. The BSC is a digitally enabled tool which can use additional internal and external data, including FHRS data, to help provide a more rounded and more up-to-date picture of performance. It will also enable us to more easily visualise performance data on a national basis. Some examples of this are shown at [Appendix 3](#). By providing LAs with access to a version of the tool, they will more easily be able to benchmark against other authorities which should provide a driver for service improvement.
26. Initial versions of the tool for FSA use and the tool for local authorities have been developed and are being tested with a view to making improvements. The FSA version will be ready imminently so we can start using it to aid our performance monitoring. The LA version will be tested further with a small number of LAs over the summer and then made available more widely in the autumn. We are also planning to develop and introduce mobile versions of the tool and anticipate these being ready by the end of 2018.

Food standards

27. When we set out our plans last year we highlighted that for some businesses, we are considering integrating hygiene and standards controls to provide a more holistic approach to checking that businesses are meeting all their food safety obligations. We have started to explore this through a survey of LAs to assess the current delivery arrangements for food standards, resources, prioritisation, provision of business advice etc. Approximately 60% of LAs across the three countries responded and we are currently completing an analysis of the information provided. This will help us identify issues of concern and examples of best practice/innovative delivery which may be worthy of further exploration. We will report our findings in late June. We will then develop recommendations where appropriate for further work in relation to food standards including within the ROF programme.

Sustainable funding

28. The new regulatory regime we are implementing will be more effective and will mean more efficient use of resources. This modernised and better focussed approach still needs to be paid for, with a sustainable funding package that enables ongoing delivery

and meets public expectations. Those resources must come either from the public purse, at local and national level, or from the businesses being regulated. Today, local and national government bear the lion's share of the costs of regulatory assurance, official controls etc. Businesses pay their own costs to get their own assurance that they are complying with the law, and to very different degrees some pay towards the costs the competent authorities incur.

29. Last year we highlighted that wider Government policy in England (most recently reaffirmed in the [report of the Regulatory Futures Review](#)) required that businesses should bear the cost of regulation, and we noted that these costs should be no more than they need to be. To meet expectations about financing regulation in England, and as most official controls in the feed and food sectors are currently funded through taxation, we will need a new funding model to achieve this. The [Welsh Government's position statement on the ROF proposals](#) highlighted that we should consider the scope for charging a fee to recover the costs incurred, or expected to be incurred, in undertaking official controls.
30. We are taking a phased approach to this work focussing firstly on scoping and baselining costs. In terms of scope, the delivery landscape for controls along the feed and food chain is complex and differs in England, Wales and Northern Ireland. We have mapped out delivery and propose that the funding model we will develop will extend to official controls undertaken by the FSA itself, by other bodies on behalf of the FSA, by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland (DAERA) in relation to animal feed where FSA has policy responsibility, and by LAs in each country. The areas that are within and out of scope are shown in [Figure 1](#) below.
31. For those areas in scope, the relevant regulatory delivery bodies are shown in [Figure 2](#). The annual cost to the regulatory bodies in the three countries of undertaking these controls has been estimated at approximately £198 million (£142 million of which is for LA controls) with only around £26 million of this total currently funded by charges to businesses, principally those in the meat sector. In addition, there are costs to businesses themselves related to regulatory controls, such as time costs for staff accompanying inspectors during visits to their establishments, and this is estimated at approximately £8 million annually.

government as appropriate and engage with the food industry. We will work on the basis of a number of general principles – see box below.

Principles for creating a new sustainable funding model

- Costs to be recovered will be specifically identified so that there is transparency for businesses.
- Costs should be no more than they need to be.
- We will not assume that one size fits all and different approaches may be adopted within each country and within different sectors.
- Charging systems will be easy to understand by businesses and easy for the delivery bodies to operate and administer.
- Charging systems will be fair and equitable, encourage innovation, incentivise compliance and provide good value for money.

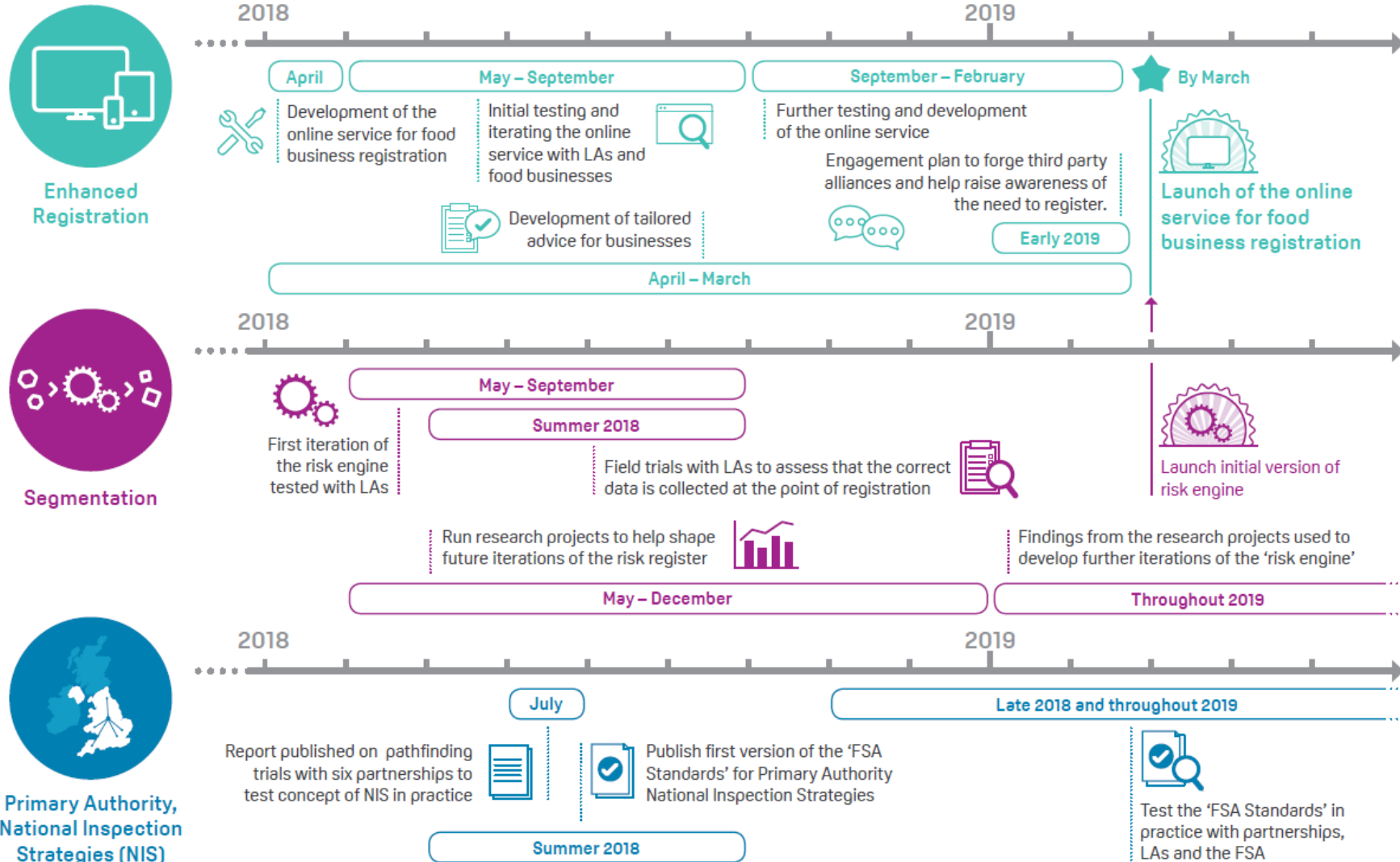
33. Looking to the phases beyond that, our initial assessment suggests that moving to a sustainable funding model where businesses bear the cost will need new powers in primary legislation in each country. Securing political support and parliamentary time for this in each of the countries is unlikely to be straightforward so timing of any implementation is uncertain at this stage. We will ensure that our work on charging aligns to the FSA's EU Exit Programme. In England we will take account of any recommendations made through the Regulatory Futures Review Implementation Project, which should become clearer over the summer, and the impact of the next Government spending review.

CONCLUSIONS

34. The Board is asked to:
- **Review** the progress being made to transform the way food businesses in England, Wales and Northern Ireland are regulated;
 - **Consider and agree** the changes that will be delivered in advance of the UK leaving the EU; and
 - **Endorse** our plans for further modernisation of the regulatory system following EU exit.

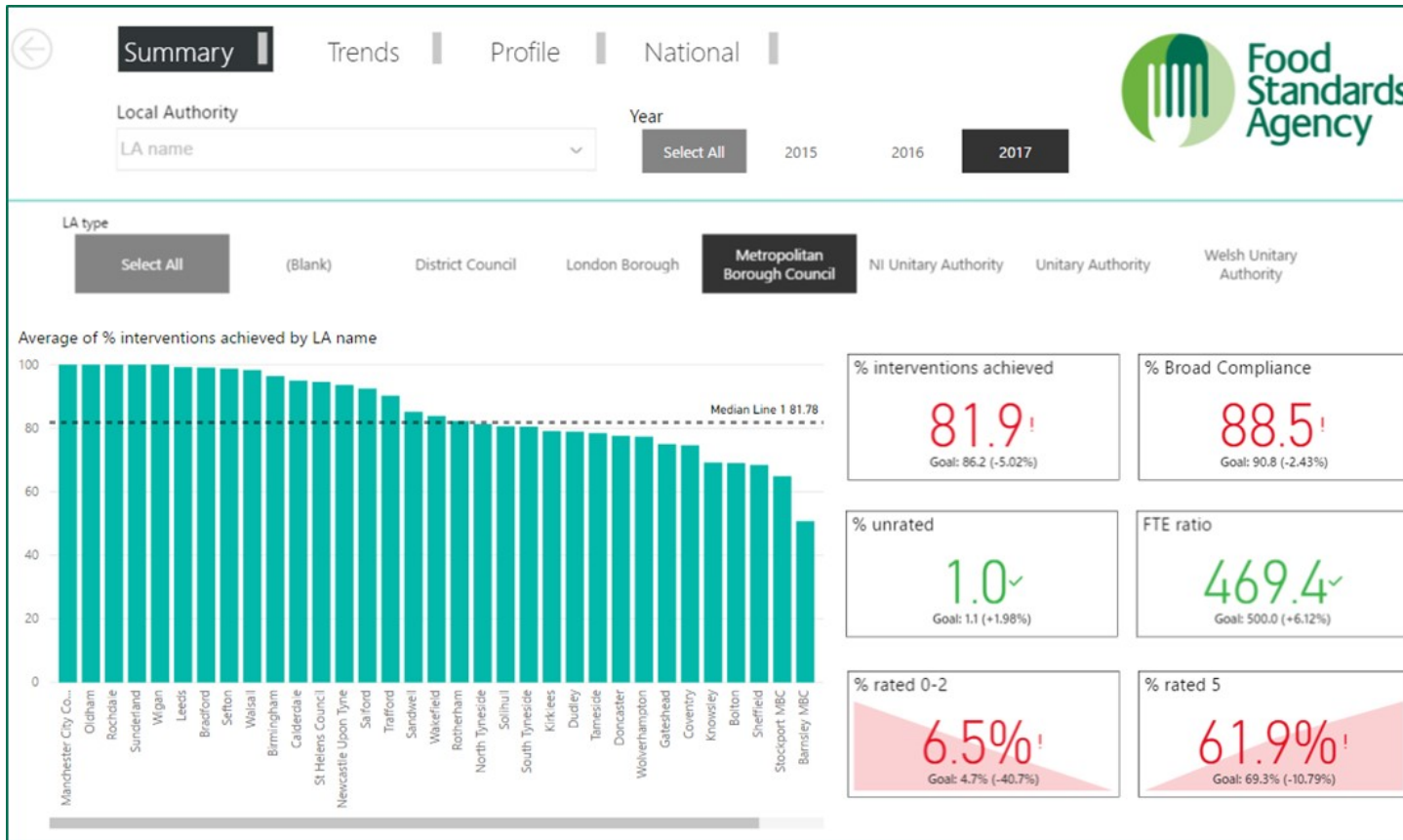
Appendix 1 – Progress on delivery of pre-EU exit priorities

REGULATING OUR FUTURE



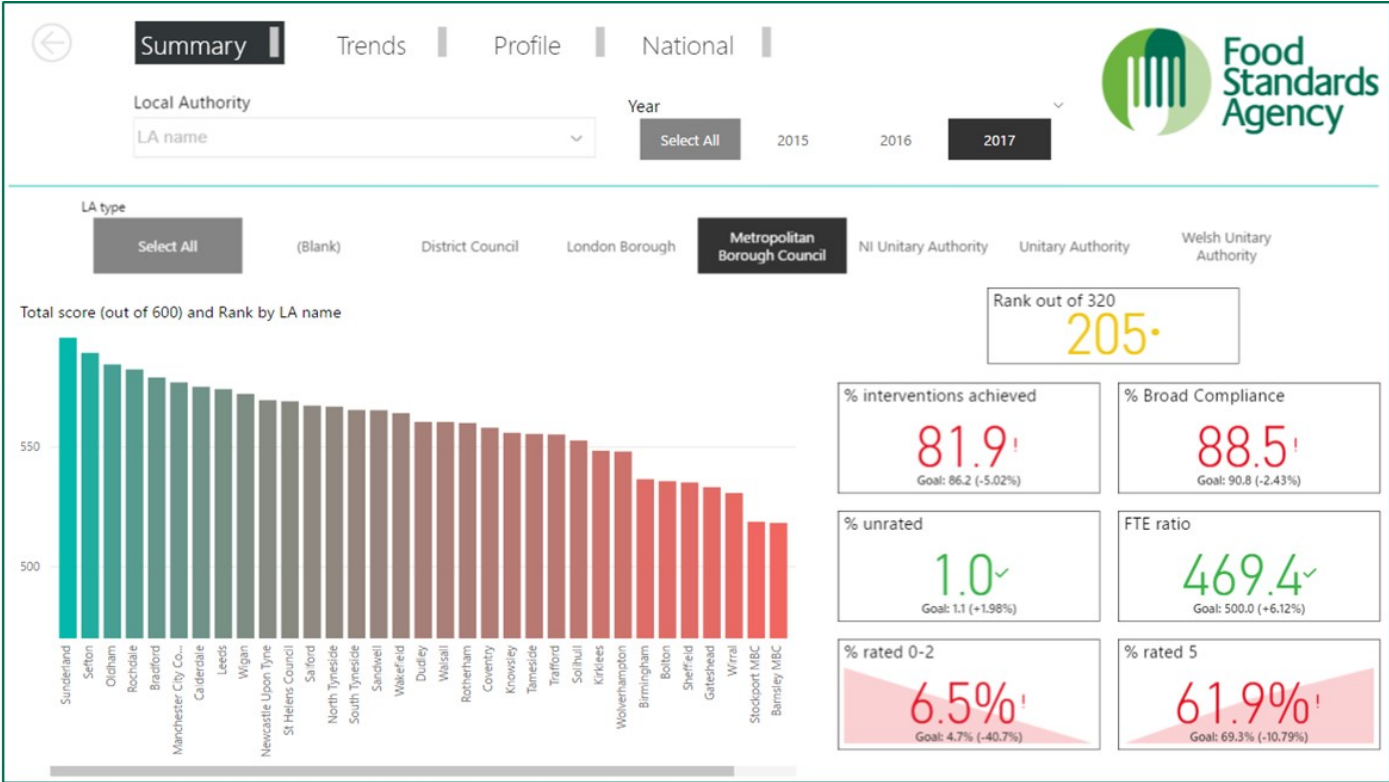
Appendix 3 – Balance scorecard for oversight of local authority performance

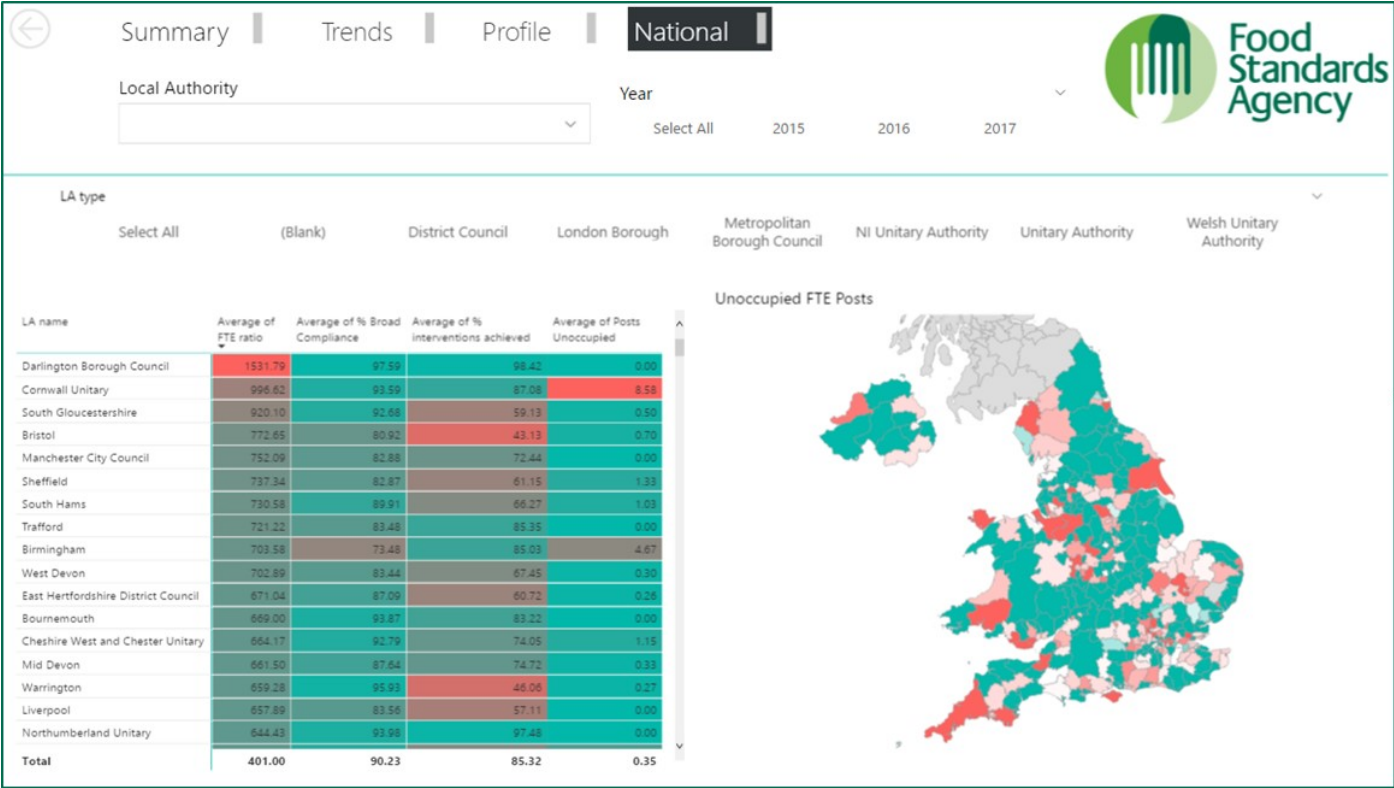
Note – These visualisations have been created using data from the 2016/17 LAEMS returns.



- Key metrics/KPIs
- Searchable by LA/LA Type/Region/Year/Country
- "Quick View" 3-year trend
- Adjustable targets

- National picture based on key metrics
- Searchable by LA/LA Type/Region/Year/Country
- Explanatory KPIs





- Mapping Functionality
- Displays changes in KPIs over x years
- Highlights "hotspots"
- Exportable data tables