

# Consultation on developing a modernised food hygiene delivery model - England

**Launch date: 03 April 2023**

**Respond by: 30 June 2023**

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

- Competent Authorities - Local Authorities (LAs) and Port Health Authorities
- Food businesses and industry trade bodies
- Third-party assurance organisations for food safety
- Awarding Bodies for environmental health and trading standards professionals
- Trade Unions and expert groups may also have an interest.

## **1. Consultation purpose/subject**

This consultation aims to gather stakeholders' views on proposed developments for a modernised food hygiene delivery model (FHDM) as part of our wider engagement with stakeholders.

Key proposed developments include:

- a modernised food hygiene intervention rating scheme
- an updated risk-based approach to the timescales 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.

## **2. How to respond**

Please use the consultation response form 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 [hygienemodelreview@food.gov.uk](mailto:hygienemodelreview@food.gov.uk)

# Contents

1.	Consultation purpose/subject .....	1
2.	How to respond .....	1
3.	Details of consultation .....	3
4.	Proposed development 1 - A modernised food hygiene intervention rating scheme .....	6
5.	Proposed development 2 - An updated risk-based approach to timescales for completion of initial and due official controls.....	16
6.	Proposed development 3 - Flexibility as to the methods and techniques of official controls, including the use of remote official controls.....	20
7.	Proposed development 4 - Flexibility as to who can undertake official controls and other official activities.....	28
8.	Engagement .....	30
9.	Responses .....	31
10.	Further information .....	31

## 3. Details of consultation

### 3.1 Introduction

Work to modernise the FHDM in England, Wales and Northern Ireland commenced in September 2021 and is part of the [Achieving Business Compliance \(ABC\) programme](#) workstream 'modernising the delivery of local authority regulation' – which aims to make sure LAs can target their resources to the businesses that need it most.

We established an LA/FSA Working Group to provide a mechanism for working collaboratively across the three countries to modernise the model, which helped critically review and inform our thinking on the proposed developments.

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. For some parts of the food sector, there may be more effective and efficient ways to ensure that businesses comply with the rules than our current assurance model. Through our work to modernise the FHDM, we want to make sure LAs can target their resources as effectively as possible as we develop a food regulatory assurance model that is fit for the future.

We have assessed the [challenges](#) with the current model and the elements we should retain to provide a solid evidence base for developing the [headline policy](#), which the FSA Board endorsed on 26 September. As part of the headline policy, it was proposed that, should the model be implemented, we would provide support to LAs through guidance and training to enable consistent implementation of the modernised FHDM.

To ensure the success of the modernised FHDM, we propose to evaluate the outcomes of this workstream against the following five principles:

- **Effective** – protects public health and provides the assurance needed to maintain consumer confidence, reduce regulatory burdens on compliant and/or low-risk businesses, and facilitate trade and export now and in the future
- **Risk-based** – provides a proportionate, risk-based, and consistent approach for dealing with new and existing food businesses that is compliant with existing legislation and makes effective use of data, information, and intelligence
- **Adaptable** – adapts to different types of food businesses and takes account of current, emerging, and future risks (local, regional, national and international) in the food system, changing business models and innovation in the food industry
- **Sustainable** – facilitates resilience and capability within LAs by providing flexibility, enabling and encouraging them to target their resources effectively to ensure every intervention adds value and drives continuous improvements in business compliance

- **Considered** – takes account of the food hygiene rating scheme so that it can continue to operate successfully and maintain consumer confidence; and, where appropriate, the food standards delivery model, other ABC programme workstreams, and the animal feed intervention rating scheme (where applicable).

The proposed developments outlined in this document are built on the endorsed headline policy, and in collaboration with our LA/FSA Working Group, are our shared view of where the current FHDM could be enhanced and modernised. We want to gain insight into how the proposed developments would affect key stakeholders and gather feedback, suggestions, and alternative approaches from interested parties before progressing further with this work.

Following this consultation, we will review the feedback and refine the proposals for a modernised FHDM which will then be subject to a six-month pilot and a formal consultation. We anticipate the pilot will run from January to June 2024, leading to implementation of the modernised model in 2025/26 following the publication of an amended Food Law Code of Practice.

### 3.2 Main proposed developments

The key proposed developments include:

- 1) a modernised food hygiene intervention rating scheme, including a decision matrix to determine the appropriate frequency of these controls based on the risk posed by a food business establishment
- 2) an updated risk-based approach to the timescales (where not prescribed in legislation) for initial official controls of new food establishments, and undertaking due official controls
- 3) 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
- 4) extending the activities that officers, such as Regulatory Support Officers, who do not hold a 'suitable qualification' for food hygiene can, if competent, undertake.

### 3.3 Policy objectives

The proposed developments described above are intended to:

- protect public health, maintain consumer confidence, including in relation to the food hygiene rating scheme (FHRS), and provide the assurance needed to facilitate continued trade and exports
- deliver a robust system of official controls for food hygiene on a sustainable basis
- enable the most effective use of LA resources where every intervention adds value by focusing official controls on the highest risk and/or non-compliant establishments
- drive continuous improvements in business compliance.

### 3.4 Scope

The proposed developments for the modernised FHDM include all food business establishments within scope of the current model, including those which are approved under [Retained \(EC\) Regulation 853/2004](#).

We are still considering the potential approach to wider primary production establishments not included within scope of the current model. We anticipate engaging with stakeholders on these proposed developments in early 2024.

Low and very low risk establishments continue to be included within scope of the modernised FHDM as [Retained \(EU\) Regulation 2017/625](#) on official controls do not permit an indefinite absence of official controls nor the removal of low-risk businesses from planned intervention programmes. Due to this, we cannot remove these establishments from the scope of the modernised FHDM. However, the proposed developments include flexibilities as to the methods and techniques of official controls that can be used and who can undertake them, as well as amendments to the frequencies at which they occur.

For illustrative purposes, examples have been included to explain how the proposed developments could work in practice. These examples will be further developed based on feedback received.

### 3.5 Impacts

The proposed developments for the modernised FHDM are still at an early stage, so a full impact assessment, including costs, has not been included. However, potential benefits and impacts of the proposed developments have been highlighted below. Following this informal consultation period, we will review and refine the proposed developments ahead of a six-month pilot. We will use the pilot's outcomes to evaluate further the impacts on LAs, businesses and consumers and include this in a formal consultation on the proposed modernised FHDM.

As part of assessing the impacts of the proposed developments, we will liaise with LA Management Information System (MIS) providers to ensure the changes could be incorporated into their systems and agree the timescales for the amendments.

We recognise that a modernised model needs to ensure that the FHRS continues to operate successfully and maintains consumer confidence. The potential impacts on FHRS have been considered in relation to the proposed developments but will be considered further following this consultation and subsequent pilot.

Based on our initial assessments, we do not anticipate that the modernised FHDM would impact the FHRS ratings that establishments will receive, with the majority receiving the same rating as they would currently. However, due to the proposed development to include an additional score for the confidence in management element of the intervention rating scheme, some establishments may receive an FHRS rating of 2 rather than a 1.

However, amendments will inevitably be required, irrespective of the proposed developments, to the FHRS [Brand Standard](#), FHRS IT systems and LA MIS to align

them with the modernised FHDM and ensure a seamless transition for those submitting and using FHRS data.

The proposed developments are also subject to separate consultations in Wales and Northern Ireland. However, due to the statutory FHRS schemes in Wales and Northern Ireland, the flexibilities proposed as to the methods and techniques of official controls and whether LAs can undertake these remotely could not be fully realised without legislative change. At this time, there are no plans to amend primary FHRS legislation in Wales or Northern Ireland.

## **4. Proposed development 1 - A modernised food hygiene intervention rating scheme**

### **4.1 Current approach**

The current intervention rating scheme is described in Chapter 4 and Annex 1 of the [Food Law Code of Practice \(England\)](#) (the Code) and is broken down into the following three parts:

- Part 1: the potential hazard, which includes three factors:
  - a) type of food and method of handling;
  - b) method of processing; and
  - c) consumers at risk

with an additional score for food intended for consumption by vulnerable risk groups.

- Part 2: level of (current) compliance - with a score being given for:
  - a) food hygiene and safety procedures; and
  - b) structure of the establishment.
- Part 3: Confidence in management/control procedures – with an additional score where there is a significant risk of cross-contamination by specified micro-organisms.

Scores are given to each of these parts, with the potential scoring options varying between the parts/factors. These scores are then added together to give an overall score for the establishment.

The total score then determines the risk category of the establishment and the minimum intervention frequency. The higher the score, the higher the risk of the establishment. The risk categories and associated frequency of official controls are set out below:

- Category A – at least every 6 months
- Category B – at least every 12 months
- Category C – at least every 18 months
- Category D – at least every 24 months
- Category E – Alternative Enforcement Strategies or every three years.

## 4.2 Proposed approach

### 4.2.1 Intervention rating scheme - risk profiles

The proposed development for the food hygiene intervention rating scheme involves producing a 'risk profile' for a food establishment that is based on its 'inherent risk' and a 'compliance and confidence in management' assessment.

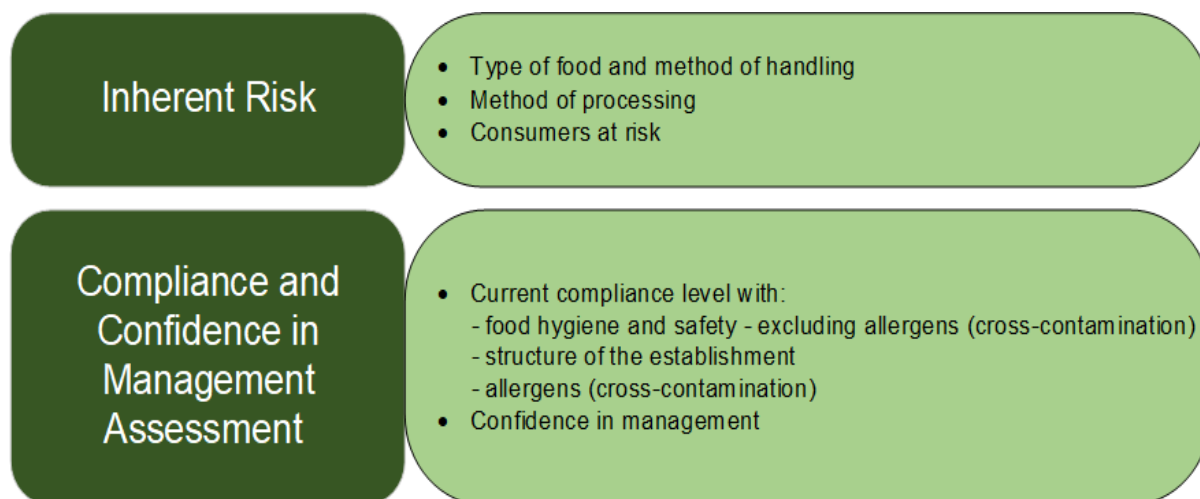
As with the current intervention rating scheme, the 'inherent risk' would indicate the risks associated with a food establishment and its activities. The 'compliance and confidence in management' would assess the establishment's compliance with relevant food hygiene legislation and confidence in management.

The 'inherent risk' and 'compliance and confidence in management' would then be combined to provide an establishment's 'risk profile'.

The 'inherent risk' and 'compliance and confidence in management', as currently, would contain several elements (Figure 1) which effectively assess the establishment's risk, level of compliance and confidence in management.

The elements included for 'inherent risk' and 'compliance and confidence in management' are the same as those included in the current intervention rating scheme. However, an additional compliance element is proposed concerning 'allergens (cross-contamination)', but this extra compliance element would not be considered when awarding an FHRs rating.

**Figure 1: Elements of the risk profile**



### 4.2.2 Intervention rating scheme - compliance levels and definitions

It is proposed that the 'inherent risk' and 'compliance and confidence in management' assessments have equal weighting when determining risk profiles. Tables 1 and 2 detail the proposed scores and descriptions for the elements of 'inherent risk' and 'compliance and confidence in management' assessment.

References to 'food business establishments' within Tables 1 and 2 include all food business establishments within the scope of the modernised FHDM, including those which are approved under [Retained \(EC\) Regulation 853/2004](#).

To support LAs in assessing an establishment's 'inherent risk' and 'compliance and confidence in management', we propose developing additional guidance on what each score looks like in practice. For example, the 'method of processing' guidance would include the current list of processes which increase the risk to public health. For 'consumers at risk' the guidance would provide examples of the establishments which are manufacturing, producing and/or serving high-risk foods intended specifically for consumption by a vulnerable risk group.

In relation to 'compliance and confidence in management' it is envisaged that the content of the guidance would be similar to the guidance currently provided in the FHRS [Brand Standard](#).

The descriptions used within the 'inherent risk' and 'compliance and confidence in management' tables are largely based on the current intervention rating scheme. However, some minor differences are proposed, as set out below:

- **Type of food and method of handling:**
  - the descriptions are placed over five scores rather than the four in the current intervention rating scheme, and wording is amended slightly.
  - description for, "establishments involved in the filleting, salting of fish for retail sale to final consumer" is not included, as this appears to be a description that is rarely used and is covered within the other descriptions.
- **Method of processing** – the current descriptions have been retained, but:
  - establishments that undertake no processing are separated from those that do not have the potential to increase the risk to public health beyond normal cooking or storage, to make the modernised FHDM more risk-based.
  - the list of processes that increase the risk to public health are retained but would be included in separate guidance.
- **Consumers at risk** – the current descriptions have been retained, but the additional score relating to vulnerable risk groups is included within the 'very high' (score of 1) inherent risk score.
- **Current compliance** – the current descriptions have been retained, but there are minor amendments made to the wording.
- **Confidence in management:**
  - an additional score is included, equivalent to adding a score of '15' to the current intervention rating scheme.
  - the wording is amended, and some descriptions, such as references to 'guides to good practice', Primary Authority and assurance schemes, would be included in supporting guidance.
  - additional score for significant risk included within the 'very poor' (score of 0) confidence in management element.
  - 'food safety culture' is specifically included – the current intervention rating scheme does consider elements of food safety culture, such as an establishment's, "willingness to act on previous advice and enforcement" and the "attitude of the present management towards hygiene and food safety", but does not specifically reference 'food safety culture'. Guidance would be provided to assist LAs in the assessment of 'food safety culture'.



**Table 1: Inherent risk**

Inherent risk factors	1 Very high	2 High	3 Moderate	4 Low	5 Very low
<b>Type of food and method of handling</b>	Food establishments which manufacture, import, produce, re-wrap or re-pack high-risk ready to eat foods.	Food establishments which prepare, cook or handle open high-risk ready to eat foods and supply (on average) more than 20 meals per day.	Food establishments which prepare, cook or handle open high-risk ready to eat foods and supply (on average) 20 or less meals per day.  Food establishments which manufacture, import, produce, wholesale or pack (including those which re-wrap and re-pack) foods, which are ready to eat, but not considered high-risk.	Food establishments which manufacture, import, produce, wholesale or pack (including those which re-wrap and re-pack) foods other than high-risk, which are not ready to eat.  Food establishments which import, handle, retail or distribute pre-packed high-risk ready to eat foods.	Food establishments which import, handle, retail or distribute prepacked foods (other than high-risk ready to eat foods), and other ambient shelf stable products.  Food establishments not covered by the 'very high', 'high', 'moderate' or 'low' risk categories.
<b>Method of processing</b>	Food establishments undertaking processes (including those that extend shelf life of the product) which have the potential to increase the risk to public health beyond normal cooking or storage.  Food establishments that increase risk to public health by intentionally not implementing a process.	N/A	N/A	Food establishments undertaking processes which do not have the potential to increase the risk to public health beyond normal cooking or storage.	Food establishments not undertaking any processing.
<b>Consumers at risk</b>	Food establishments which manufacture, produce and/or serve high-risk foods intended specifically for consumption by a vulnerable risk group of more than 20 persons.	Food establishments which manufacture, produce, distribute, pack or wrap food which is distributed across the UK or internationally.	Food establishments which manufacture, produce, distribute, serve or retail food to consumers, a significant proportion of which are from outside the local area.	Food establishments which manufacture, produce, distribute, serve or retail food to consumers, the majority of which are likely to be living, staying, or working in the local area.	Food establishments which on average supply less than 20 consumers each day.

**Note:** For the purposes of inherent risk, the following definitions should be used:

- High-risk foods - Are those that support the growth of micro-organisms and are ready to eat without further treatment that would destroy pathogenic micro-organisms or their toxins.
- Vulnerable risk groups - Vulnerable risk groups are those that include persons likely to be more susceptible to the effects of microbiological food safety hazards. These groups include, babies, children (under 5), the elderly (over 65), pregnant women and people with weakened immune systems.

Additionally, the list of processes which have the potential to increase the risk to public health beyond normal cooking or storage, which is included in the current Codes, will remain. However, it is anticipated that they will be included within supporting guidance on 'inherent risk' and 'compliance and confidence in management'.

**Table 2: Compliance and confidence in management assessment**

<b>Compliance and Confidence in Management Factors</b>	<b>0 Very poor</b>	<b>1 Poor</b>	<b>2 Varying</b>	<b>3 Satisfactory</b>	<b>4 Good</b>	<b>5 Very good</b>
<p><b>Current compliance level - separate score given for:</b></p> <ul style="list-style-type: none"> <li>• <b>food hygiene and safety</b></li> <li>• <b>structure of the establishment</b></li> <li>• <b>allergens (cross-contamination) [see note below]</b></li> </ul>	<p>Very poor compliance with statutory obligations.</p> <p>Standards very low.</p>	<p>Poor compliance with statutory obligations.</p> <p>Standards generally low.</p>	<p>Varying compliance with statutory obligations.</p> <p>More work required to prevent fall in standards.</p>	<p>Satisfactory compliance with statutory obligations.</p> <p>Standards are being maintained or improved.</p>	<p>Good compliance with statutory obligations.</p> <p>Only minor non-compliances which will be resolved before next official control.</p>	<p>Very good compliance with statutory obligations.</p>
<p><b>Confidence in management (CIM)</b></p>	<p>Almost no confidence in management.</p> <p>Track record of very poor compliance.</p> <p>No or very poor food safety management procedures in place for the nature and size of the business and/or not being implemented, where non-compliance may lead to serious repercussions / imminent risk to consumer health.</p> <p>Significant risk of food being contaminated with Cl. Botulinum (and the organism surviving any processing and multiplying); or significant risk of ready-to-eat food being contaminated with microorganisms or their toxins that are pathogenic to humans.</p> <p>Very poor food safety culture for the nature and size of the business.</p>	<p>Very little confidence</p> <p>Track record of poor compliance.</p> <p>Poor food safety management procedures in place for the nature and size of the business and/or not being implemented, where non-compliance could lead to consumer health being affected.</p> <p>Poor food safety culture for the nature and size of the business</p>	<p>Little confidence.</p> <p>Track record of varying compliance.</p> <p>Inadequate food safety management procedures in place for the nature and size of the business and/or not being implemented appropriately.</p> <p>Inadequate food safety culture for the nature and size of the business.</p>	<p>Some confidence.</p> <p>Track record of satisfactory compliance.</p> <p>Satisfactory food safety management procedures in place for the nature and size of the business and generally implemented.</p> <p>Satisfactory food safety culture for the nature and size of the business.</p>	<p>Good confidence.</p> <p>Track record of good compliance.</p> <p>Good food safety management procedures in place for the nature and size of the business and well implemented.</p> <p>Good food safety culture for the nature and size of the business.</p>	<p>Very good confidence</p> <p>Track record of very good and sustained compliance.</p> <p>Very good food safety management procedures in place for the nature and size of the business, which are well implemented and subject to ongoing verification.</p> <p>Very good food safety culture for the nature and size of the business.</p>

**Note:** The 'allergens (cross-contamination)' compliance assessment should consider the control of cross-contamination of allergens, including any allergen-related contamination identified in preparing food specifically for consumers with a food allergy or intolerance. Requirements relating to the provision of allergen information, including that relating to non-prepacked and prepacked for direct sale foods should not form part of the 'allergens (cross-contamination)' compliance assessment as these are food standards requirements and considered within the food standards intervention rating scheme.

### 4.2.3 Intervention rating scheme - average score

It is proposed that individual scores would be attributed to each 'inherent risk' and 'compliance and confidence in management' element. These scores would then be averaged and rounded (to the nearest whole number) to give the overall 'inherent risk' and 'compliance and confidence in management' scores.

The average score for the 'inherent risk' would be derived by adding the scores for each element and dividing the total score by three before rounding to the nearest whole number.

The average score for the 'compliance and confidence in management' would be derived by adding the scores for each element and dividing the total score by four before rounding to the nearest whole number.

It is also proposed that the following safeguards are applied to the 'compliance and confidence in management' scores:

- any establishment that is found to have 'very poor' (score of 0), 'poor' (score of 1) or 'varying' (score of 2) compliance with any of the compliance assessment elements ('food hygiene and safety', 'structure of establishment' or 'allergens (cross-contamination)') or confidence in management, would automatically be given an overall 'compliance and confidence in management' score of 0, 1 or 2 respectively.
- any establishment that received a 'very poor' (score of 0) or 'poor' (score of 1) 'compliance and confidence in management' score at the previous official control may only be promoted to a maximum overall 'compliance and confidence in management' rating of 'satisfactory' (score of 3) at their subsequent official control, regardless of the average score achieved.

**Note:** these safeguards are only intended to be applied to the intervention rating scheme, it is not envisaged that they would apply to FHRs scores.

### 4.2.4 Decision Matrix

It is proposed that the average scores for the 'inherent risk' and 'compliance and confidence in management' would be plotted against a decision matrix (Figure 2) to determine the minimum frequency of official controls.

**Figure 2: Decision Matrix**

Inherent risk profile ↑	5 Very low	6 months	12 months	18 months	36 months	48 months	60 months
	4 Low	4 months	6 months	12 months	24 months	36 months	48 months
	3 Moderate	4 months	6 months	6 months	18 months	24 months	36 months
	2 High	2 months	4 months	4 months	12 months	18 months	24 months
	1 Very high	2 months	2 months	4 months	6 months	12 months	18 months
		0 Very poor	1 Poor	2 Varying	3 Satisfactory	4 Good	5 Very good
	Compliance and confidence in management assessment profile →						

The frequencies in the decision matrix are minimum frequencies, and do not prevent LAs undertaking official controls sooner. For example, an LA may choose to verify that previously identified non-compliances have been remedied within shorter timescales, or they may receive data, information or intelligence which suggests the establishment's risk profile has changed, so they undertake an official control sooner to verify this.

**Note:** In relation to recording and reporting of official controls, this will be considered as part of the key performance indicator (KPI) and data reporting projects being undertaken within the FSA.

#### 4.2.5 Examples - Intervention rating scheme - determining risk profiles

Examples of how the 'inherent risk' and 'compliance and confidence in management' scores would be derived, and safeguards applied, are below:

**Example 1:** A manufacturer, who is producing high-risk ready to eat foods using a high-risk process (which has the potential to increase the risk to public health beyond normal cooking or storage) which are distributed nationally are, following an official control, given the following scores for the 'inherent risk' and 'compliance and confidence in management':

Inherent risk:

- Type of food and method of handling – very high 'inherent risk' (score of 1)
- Method of processing – very high 'inherent risk' (score of 1)
- Consumers at risk - high 'inherent risk' (score of 2)

The individual 'inherent risk' scores (1, 1, 2) give a total score of 4, which means an average score of 1.3, that is rounded down to 1. Therefore, the 'inherent risk' score for the establishment is 'very high' (score of 1).

Compliance and confidence in management:

- Food hygiene and safety – poor compliance (score of 1)
- Structure of establishment – satisfactory compliance (score of 3)
- Allergens (cross-contamination) – satisfactory compliance (score of 3)
- Confidence in management – satisfactory (score of 3)

The individual 'compliance and confidence in management' scores (1,3,3,3) give a total score of 10, which means an average score of 2.5, that is rounded up to 3.

However, as one of the compliance scores is 'poor' compliance (score of 1), the first safeguard is applied, which means that the overall 'compliance and confidence in management' score for the establishment is 'poor' (score of 1).

Using the decision matrix, the minimum frequency for the next official control would be 2 months. In the current model, this would be considered a category A establishment, with a 6 month minimum frequency of official controls.

**Example 2:** A high street takeaway following an official control is given the following scores for the 'inherent risk' and 'compliance and confidence in management':

Inherent risk:

- Type of food and method of handling – high 'inherent risk' (score of 2)
- Method of processing – low 'inherent risk' (score of 4)
- Consumers at risk - low 'inherent risk' (score of 4)

The individual 'inherent risk' scores (2, 4, 4) gives a total score of 10, which means an average score of 3.3, that is rounded down to 3. Therefore, the 'inherent risk' score for the establishment is 'moderate' (score of 3).

Compliance and confidence in management:

- Food hygiene and safety - satisfactory compliance (score of 3)
- Structure of establishment – satisfactory compliance (score of 3)
- Allergens (cross-contamination) - satisfactory compliance (score of 3)
- Confidence in management – satisfactory (score of 3)

Taking the individual 'compliance and confidence in management' assessment scores (3,3,3,3) gives a total score of 12, which means an average score of 3 (no rounding required).

As none of the compliance scores are 0, 1 or 2, no safeguards need to be applied, so the establishment's 'compliance and confidence in management' score is satisfactory (score of 3).

Using the decision matrix, the minimum frequency for the next official control would be 18 months. In the current model, this would be considered a category C establishment, with an 18 month minimum frequency of official controls

## **4.3 Amending risk profiles**

### **4.3.1 Current approach**

The current Code provides that an intervention rating can only be revised:

- at the conclusion of a full or partial inspection or audit, and in accordance with section 4.4 and Annex 1; and
- where sufficient information has been gathered to justify the revision of the intervention rating.

The amended intervention rating should be recorded as well as justification for its revision.

The current Codes also provide that when new information becomes available, which might suggest the nature of an FBO's activities has changed, or the level of compliance has deteriorated, the LA must:

- reconsider both the intervention rating and appropriateness of the next planned intervention for that establishment;
- decide whether it is appropriate to conduct an inspection, partial inspection, or audit to investigate further;
- revise the intervention rating as necessary; and
- record the intervention rating and justification for its revision.

#### 4.3.2 Proposed approach

It is proposed that an establishment's risk profile (and frequency of their next official control) can be amended:

- following any method and technique of official control (whether physical or remote);
- which has verified compliance with specific legal requirements or compliance with all applicable legislation; and
- where sufficient evidence is gathered to justify changes to the risk profile.

Additionally, if data, information or intelligence (including industry assurance data) is received, which verifies that an establishments' inherent risk' and/or 'compliance and confidence in management' has changed, then the risk profile can be revised, so that the next official control occurs sooner or later, as appropriate.

In such circumstances, LAs would record the justification for amending the rating on the establishment's record. LAs would also need to ensure that resources are being focused on the highest risk and/or non-compliant establishments.

#### 4.4 Benefits of proposed development 1

This proposed development for the modernised FHDM better targets LA resources at the highest risk and/or non-compliant establishments, as the frequency of official food hygiene controls is based on a better understanding of the level of risk a food business poses.

We assume this will benefit LAs, as they will use the same resources more efficiently – by carrying out official controls at the highest-risk businesses where they will identify more non-compliances.

Based on our modelling using [2019-20 Local Authority Enforcement Monitoring System \(LAEMS\) data](#), the proposed development is anticipated to slightly reduce the number of official controls when compared to the current model, which could release some capacity within the modernised FHDM. However, although the modelling considers the likely impacts of the proposed additional compliance element for allergens (cross-contamination), it does so on a theoretical basis as we do not have any allergen specific data to support our assumptions. We will test our modelling assumptions and gain a more accurate assessment of the impacts of the proposed developments as part of the six-month pilot.

Our modelling also shows that under this proposed development, the average time between official controls at non-compliant establishments decreases from 1.2 to 0.5 years. This demonstrates that resources would be focused on non-compliant establishments, with planned official controls being undertaken approximately five times



more frequently than at compliant ones. This also means that burdens on compliant establishments are reduced. This is based on planned official controls as per the decision matrix, and LAs may have to do further work to bring businesses into compliance, such as undertaking revisits and carrying out enforcement action. However, another benefit of the proposed developments is that these revisits would be considered official controls and reported accordingly in the future.

We expect to see poorly performing individual businesses improving their levels of compliance over time because they will be subject to more frequent official controls and follow-up action by LAs.

In relation to costs to industry, the proposed developments for the modernised FHDM are anticipated to reduce regulatory burdens on compliant businesses, as the frequencies of official controls would be extended. Non-compliant establishments will receive more frequent official controls, resulting in an increased time cost to deal with the increase in number of official controls they receive. However, at an industry level, we anticipate that there will be a transfer of regulatory burdens from compliant to non-compliant businesses, meaning the net impact on industry would be zero.

With regards to consumers, as the proposed developments focus resources towards the highest risk and/or non-compliant establishments, we anticipate there being enhanced consumer protection through more efficient allocation of LA resources, maximising the effectiveness of these controls in identifying and remedying non-compliance. However, reducing the frequencies of official controls for lower risk and compliant establishments will mean that some FHRS ratings are not updated as often. It is possible that this will lower consumer confidence in the scheme.

## 4.5 Impacts of proposed development 1

The potential impacts include:

- Depending on the number of non-compliant establishments, there could be an increase in the number of official controls for some LAs. However, we anticipate this will decrease over time as the levels of compliance at these establishments improves due to LAs more effectively targeting their existing resources towards those non-compliant food businesses.
- Familiarisation and training – LAs would need to familiarise themselves with the risk-based approach, and training to ensure consistent implementation.
- Amendments to LA documentation – LAs, if they use proforma documents (whether physical or digital), may need to amend these to reflect the modernised intervention rating scheme.
- Amendments to MIS – LA MIS would need to be updated to reflect the modernised intervention rating scheme – the extent of these changes and details of how systems will be transitioned to the modernised FHDM will be considered as the model is developed.
- FHRS – amendments would be required to FHRS IT system and the [Brand Standard](#) to align them with the modernised FHDM.

- Lower risk and compliant establishments which have reduced frequencies of official controls may receive less support and advice from LAs as the periods between official controls will potentially be longer.

### Feedback questions on proposed development 1

1. What are your views on the proposed development for a modernised food hygiene intervention rating scheme, including the frequencies for official controls?
2. What are your views on the identified benefits and impacts for a modernised intervention rating scheme? Are there any further benefits and/or impacts that the proposed development could have? If yes, please outline what these are.
3. Do you foresee any challenges if the proposed development for a modernised food hygiene intervention rating scheme were to be implemented? If yes, please outline what these challenges are and what, if any, solutions we should consider?

## 5. Proposed development 2 - An updated risk-based approach to timescales for completion of initial and due official controls

### 5.1 Current approach

The current Code provides that an initial inspection of a new food business establishment must take place within 28 days of registration or when the LA becomes aware that the establishment is in operation, whichever is the sooner.

However, flexibility to these timescales is provided within the [Food Law Practice Guidance \(England\)](#), which provides that, where the establishment is believed to be low risk, then 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.

Additionally, where an establishment has registered 28 days before the commencement of operations, the inspection can be delayed until operations have begun.

In relation to due official controls of existing establishment, the Code provides that intervention programmes are planned so that establishments receive an intervention no later than 28 days after the due intervention date. However, in circumstances outside the control of the LA, such as seasonal business closures, there is the flexibility to defer the intervention.

### 5.2 Proposed approach

#### 5.2.1 Initial official controls of new food business establishments

The proposed development for the modernised FHDM provides a more proportionate approach to initial official controls of new food business establishments.

In relation to new establishments, LAs would be able to use all relevant data, information, and intelligence to determine the likely 'inherent risk' of an establishment. This could include, as appropriate:



- information provided at registration
- information collected through communications with the food business operator (FBO), such as through telephone conversations, emails or other digital tools
- other data, information, or intelligence about the business, for example, a website, software, or local knowledge.

The collection of this data, information and intelligence is unlikely to verify an establishment's compliance with relevant legislation, so in most instances, it will not be considered an official control. Therefore, this data, information and intelligence can be collected by officers who do not hold a 'suitable qualification' as long as they are competent. Activity B8: Information Gathering within the [Competency Framework](#) would be relevant to this activity. However, the decision as to the anticipated 'inherent risk' would be made by an authorised officer who is competent to undertake official controls.

When a new food business registration is received, it would be triaged, and the establishment's anticipated 'inherent risk' determined (using Table 1) within 28 days of receipt. Following this 28-day triaging period, an initial official control would be undertaken within the timescales in Table 3.

Where an LA becomes aware that a business is trading but has not registered, an initial official control should be undertaken within the timescales in Table 3, starting from the date they become aware of the establishment.

**Table 3: Timescales in which to undertake initial official food hygiene controls**

Anticipated inherent risk	Timescales to undertake initial official control following the triaging period
1 – Very high and 2 – High	1 month
3 – Moderate	2 months
4 – Low and 5 – Very low	3 months

Additionally, LAs may undertake initial official controls within shorter timescales by taking a risk-based approach. For example, undertaking the initial official control sooner when they have concerns about a potential public health risk based on data, information or intelligence.

LAs would also have the flexibility to postpone initial official controls of newly registered food business establishments that are anticipated to be lower risk, if undertaking them would mean that official controls of higher risk and/or non-compliant establishments would be delayed. Where an official control is postponed, the LA would record the rationale for this and undertake the official control as soon as practicable.

### 5.2.2 Example of determining timescales for undertaking initial official controls

An example of how this approach to initial official controls of new establishments could work in practice is set out below:

**Example 3:** An LA receives details of a new food business establishment through the [Register a Food Business service](#), which provides the following details:

- The business is operated by a sole trader, who is the FBO.
- The address provided is for a domestic dwelling.
- Producing cakes which they plan to sell at local markets.

Using this information, the establishment would be triaged within 28 days and anticipated 'inherent risk' scores determined, which for this establishment are:

- Type of food and method of handling – Moderate 'inherent risk' (score of 3)
- Method of processing – Low 'inherent risk' (score of 4)
- Consumers at risk – Low 'inherent risk' (score of 4)

Taking the individual 'inherent risk' scores (3, 4, 4) gives a total score of 11, which means an average score of 3.7, that is rounded up to 4. Therefore, the establishment's anticipated 'inherent risk' score is low risk (score of 4).

Using Table 3, the timescale to undertake the initial official control is 3 months from the end of the triaging period.

### 5.2.3 Due official controls of existing food business establishments

With regards to due official controls, the proposed development for a modernised FHDM provides that LAs should undertake official controls within the timescales set out in Table 4 after the date they are due.

**Table 4: Timescales in which to undertake due official food hygiene controls**

Minimum frequency of official controls from decision matrix	Timescales to undertake due official controls
Establishments with minimum frequency of official controls of 2, 4 or 6 months	1 month
Establishments with minimum frequency of official controls of 12, 18 or 24 months	2 months
Establishments with minimum frequency of official controls of 36, 48 or 60 months	3 months

Additionally, official controls of lower-risk and/or compliant establishments can be further postponed, if undertaking them would mean that official controls of higher-risk and/or non-compliant establishments would be delayed. Where an official control is postponed, the LA would record the rationale for this and undertake the official control as soon as practicable.

As currently, where an LA is responsible for undertaking official controls for food hygiene, food standards and/or animal feed, then they should determine whether it is appropriate to include food standards and/or animal feed matters during an official food hygiene control, even though they may not be due under one of the LAs planned official control programmes.

### 5.3 Benefits of proposed development 2

The proposed development for the modernised FHDM to introduce a risk-based approach to the timescales for undertaking initial and due official controls will enable LAs to use their resources effectively while ensuring that establishments are subject to official controls within appropriate timescales. The proposed ability to prioritise official controls based on risk ensures LA resources are being used effectively by focusing them on the highest risk and/or non-compliant establishments, which should also increase public health.

Additionally, officers not holding a 'suitable qualification' for food hygiene, but who are competent, could gather and collate data, information and intelligence to support the triaging of new food business establishments by authorised officers who are competent to undertake official controls. This would further enable effective use of resources.

### 5.4 Impacts of proposed development 2

The potential impacts include:

- Familiarisation and training – LAs would need to familiarise themselves with the risk-based approach and training to ensure consistent implementation.
- Amendments to MIS – LA MIS would need to be updated to reflect the risk-based approach to timescales for initial and due official controls – the extent of these changes and details of how systems will be transitioned to the modernised FHDM will be considered as the model is further developed.
- FHRS – the risk-based approach in relation to the timescales for undertaking initial official controls would mean lower risk establishments may not receive an initial FHRS rating for up to three months, compared to 28 days currently. This could impact on these establishments' ability to trade as they may not have an FHRS rating for a longer period of time. However, based on analysis of available data, between 2016-2022, the average waiting time for an initial FHRS rating was seven months.

#### Feedback questions on proposed development 2

4. What are your views on the proposed development for an updated risk-based approach to the timescales for initial and due official controls, including the proposed frequencies?
5. What are your views on the identified benefits and impacts for an updated risk-based approach to the timescales for initial and due official controls? Are there any further benefits and/or impacts that the proposed development could have? If yes, please outline what these are.
6. Do you foresee any challenges if the proposed development for an updated risk-based approach to the timescales for initial and due official controls were to be implemented? If yes, please outline what these challenges are and what, if any, solutions we should consider?

## 6. Proposed development 3 - Flexibility as to the methods and techniques of official controls, including the use of remote official controls

### 6.1 Methods and techniques of official controls

#### 6.1.1 Current approach

The current Code is prescriptive as to the methods and techniques of official controls that can be used by LAs, and are based on the risk of an establishment.

The highest risk-rated establishments (risk categories A and B) must receive an inspection, partial inspection or audit.

For category C risk-rated establishments, the methods and techniques of official controls that can be used alternate between 'an inspection, a partial inspection or an audit', and 'another type of official control'.

For category D risk-rated establishments, interventions can alternate between an official control and an intervention that is not an official control. However, if the establishment is high risk for the 'type of food and method of handling' then the type of official control can alternate between 'an inspection, a partial inspection, or an audit' and 'other types of intervention'.

The lowest risk-rated establishments (category E) can be subject to Alternative Enforcement Strategies (AES).

#### 6.1.2 Proposed approach

The proposed development provides that, as long as they are effective and appropriate in the circumstances, LAs can use any of the following methods and techniques of official controls (individually or a combination thereof).

These methods and techniques are all provided for in Article 14 of [Retained \(EU\) Regulation 2017/625](#) and include:

- an examination of the food hygiene and safety controls that establishments have put in place and of the results obtained;
- an inspection of:
  - equipment, means of transport, premises and other places under the FBO control and their surroundings;
  - food at any stage of production, processing and distribution, including semi-finished foods, raw materials, ingredients, processing aids and other products used for the preparation and production of food;
  - cleaning and maintenance products and processes;
  - controls on the hygiene conditions in the establishment.
- an assessment of procedures on good manufacturing practices, good hygiene practices, and procedures based on the principles of hazard analysis critical control points (HACCP);

- an examination of documents, traceability records and other records which may be relevant to the assessment of compliance, including, where appropriate, documents accompanying food and any substance or material entering or leaving an establishment;
- interviews with FBO and/or their staff;
- the verification of measurements taken by the establishment and other test results;
- sampling, analysis, diagnosis and tests;
- audits of establishments;
- any other activity required to identify non-compliance.

#### 6.1.2.1 Factors to determine effective and appropriate methods and techniques of official control

When determining which methods and techniques are effective and appropriate in the circumstances, LAs would need to ensure that they verify compliance with applicable food hygiene legislation and that violations of this legislation are identified. For example, an interview with a member of staff about changes to a menu alone, would be unlikely to verify compliance, and so not considered an official control. However, the interview, alongside other methods and techniques, for example, an inspection, an examination of controls, and/or an assessment of procedures, could, depending on the circumstances, be considered an official control.

To assist LAs in determining which methods and techniques of official controls are effective and appropriate, the following non-exhaustive list of factors should be considered:

- **the risk profile (inherent risk and/or compliance and confidence in management assessment) of the establishment** – with more intensive methods and techniques being considered at establishments which have a higher inherent risk and/or higher levels of non-compliance, this could include inspection and/or audit methods and techniques.
- **whether it is an initial official control of a new establishment** - with more intensive methods and techniques being considered at new establishments, this could include inspection and/or audit methods and techniques.
- **the track record of the establishment** - with more intensive methods and techniques being used at establishments which have a lesser track record, this could include inspection and/or audit methods and techniques.
- **data, information, and intelligence (including industry assurance data) received about the establishment since the last official control or, for new establishments, any data, information and intelligence (including industry assurance data) received** - with more intensive methods and techniques being used at establishments where data, information or intelligence suggests they are non-compliant, this could include inspection and/or audit methods and techniques.
- **the methods and techniques of official control used previously** – consideration of the methods and techniques used at the last official control and whether alternative methods and techniques could be used on the next occasion.

- **the areas of compliance verified at the previous official control** – consideration of the scope of the previous official control and if verifying other areas during the next official control whether alternative methods and techniques would effectively verify compliance.
- **whether an FHRs rating will be determined following the official control** – consideration as to whether the establishment is within scope of FHRs and whether a rating will be provided following the official control. If it is, then the methods and techniques of official controls will need to consider the Brand Standard.

### 6.1.3 Examples – Effective and appropriate methods and techniques of official controls

Examples of how these factors should be considered are set out below:

**Example 4:** An officer is planning to undertake an initial official control of a new restaurant that is using a sous-vide process. The anticipated 'inherent risk' of establishment is 'high' (score of 2) and it is in scope of FHRs.

Based on these circumstances, and considering the factors in section 6.1.2.1, the officer could determine that the following methods and techniques of official controls would be effective and appropriate:

- examination of the food hygiene and safety controls
- inspection of equipment, premises, food, cleaning and maintenance
- assessment of food safety management system
- interviews with FBO and staff
- verification of measurements taken by the establishment

As the establishment is within scope of FHRs, the official control would need to verify compliance with 'food hygiene and safety', 'structure of establishment' and 'confidence in management' in order for an FHRs rating to be provided.

The officer would record the methods and techniques used (including their rationale) and the scope of the official control so that these can be considered by officers at subsequent official controls.

**Example 5:** An officer is planning to undertake a due official control of a visitor centre at a tourist attraction selling tins of biscuits, in the following circumstances:

- it is an existing establishment which has a 'low' (score of 4) 'inherent risk' and at their last official control had a 'good' (score of 4) level of 'compliance and confidence in management'
- the establishment has a good track record being assessed as having a 'good' (score of 4) level of 'compliance and confidence in management' at their last two official controls
- no data, information or intelligence has been received since the last official control to indicate there have been any changes to the establishment or to suspect the level of compliance has changed
- the establishment is outside the scope of FHRs

Based on these circumstances, and considering the factors above, the officer could determine that the following methods and techniques of official controls would be effective and appropriate:

- interview with the FBO and their staff
- examination of relevant documents
- inspection of premises

As the establishment is not within scope of FHRS, the officer could determine which areas of compliance to verify during the official control, but they should ensure that they have sufficient evidence to be able to amend the establishments risk rating.

The officer would record the methods and techniques used (including their rationale) and the scope of the official control so that officers can consider these at subsequent official controls.

On the next official control, the officer, based on the scope of this official control and the methods and techniques used, could decide it would be effective and appropriate to use different methods and techniques of official controls.

## **6.2 Remote official controls**

### **6.2.1 Current approach**

During the COVID-19 pandemic and the recovery period, as part of the FSA's LA Recovery Plan, LAs were able to use remote assessments in the following limited circumstances:

- to facilitate the targeting of what to focus attention on at a subsequent onsite visit - for food hygiene, where the onsite intervention is a full inspection, partial inspection, or audit, and where the establishment falls within the scope of the FHRS, a food hygiene rating should be given or updated as appropriate following the onsite visit
- to help inform the need for onsite intervention at lower risk establishments where an intelligence/information-based approach can be used during the recovery period-this included category D–broadly compliant or better (FHRS 3, 4 or 5) and category E
- to establish if corrective action has been taken and if non-compliances found during an onsite visit have been rectified
- in the following limited cases, for FHRS requested re-visits:
  - where the establishment has been subject to an inspection, partial inspection or audit and given a food hygiene rating of less than 5;
  - they have addressed the issues identified and requested a re-inspection to re-assess the rating; and
  - only for the assessment of rectification of structural non-compliances identified at an inspection or issues with food safety management systems documentation.

ICF Consulting Services Limited undertook, on behalf of the FSA, an [evaluation](#) of the use of remote assessments by LAs during the pandemic. This evaluation found that remote assessments were mainly used to:

- enable exchanges of documentation and information about food businesses pre-inspection



- identify key points of focus for subsequent onsite visits
- determine, in certain business contexts, whether an imminent onsite visit was required or could be delayed to a later time

However, the use of remote assessments was still limited during the pandemic and subsequent recovery period. For example, LAs were not able to risk rate an establishment without a physical onsite official control taking place.

We will publish soon an independent evaluation of the use of remote assessment for FHRs requested re-visits in England.

### **6.2.2 Proposed approach**

For this proposed development, 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 telephone discussion
- 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.

The use of remote methods and techniques could also be used 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.

It is proposed that, as long as they are effective and appropriate in the circumstances, LAs could use any of the methods and techniques of official controls listed in section 6.1.2 remotely. However, the decision as to whether to undertake official controls remotely would rest with each LA based on their own unique circumstances.

#### **6.2.2.1 Factors to determine whether to undertake an official control remotely**

To assist LAs in determining whether it would be effective and appropriate to use remote methods and techniques, the following non-exhaustive list of factors should be considered:



- **the factors listed in section 6.1.2.1** – would also be considered when determining whether it is appropriate to undertake official controls remotely. For example, if an establishment has a lesser track record, it would be more appropriate to undertake official controls physically.
- **whether compliance can be effectively verified remotely** – consideration of the purpose of the official control and whether compliance could be verified remotely. For example, if it is to verify whether previously identified non-compliances have been rectified, it could be appropriate to use remote methods and techniques. However, if it is an initial official control of an establishment, it could be more appropriate to use physical methods and techniques.
- **whether the officer is familiar with the establishment** - if the officer has never been to the establishment before, then it could be more appropriate to use physical methods and techniques.
- **whether the previous official control was undertaken physically or remotely** - if the previous official control was undertaken remotely, then it could be more appropriate to use physical methods and techniques at the next official control.
- **whether it is feasible to undertake the official control remotely** – consideration as to whether the establishment has access to relevant technology as well the FBOs capacity and capability to receive an official control remotely, if they do not, then physical methods and techniques would be more appropriate.
- **whether the technology ensures confidentiality and security of data and information** – consideration as to whether the technology ensures confidentiality and security. If it does not, then alternative technology should be considered, or physical methods and techniques used.

### 6.2.3 Examples - Remote official controls

Examples of how these factors should be considered are set out below:

**Example 6:** An officer is planning to undertake an official control (re-visit) of a local cake producer, in the following circumstances:

- establishment has a 'low' (score of 4) 'inherent risk' and was found to have a 'satisfactory' (score of 3) level of 'compliance and confidence in management' at their last official control
- purpose of the official control (re-visit) is to verify whether previously identified non-compliance have been rectified
- during the last official control non-compliances were identified relating to some wall tiles missing near food preparation surface and training certificates missing for two members of staff
- establishment has a track record of rectifying non-compliances previously identified
- establishment is within scope of FHRS
- officer is familiar with the establishment, having undertaken the previous physical official control and has photographs to evidence the missing tiles
- establishment has the technology, capability and capacity to receive an official control remotely.

Based on these circumstances, the officer could determine that it would be appropriate to use remote methods and techniques of official controls to:

- examine relevant documents, in particular photographs evidencing the replacement of missing tiles and copies of training certificates, which were supplied by email by the establishment.

The officer would record the methods and techniques used (including their rationale) and the scope of the official control so that officers can consider these at subsequent official controls.

**Example 7:** An officer is planning to undertake a due official control of a takeaway in the following circumstances:

- establishment has a 'moderate' (score of 3) 'inherent risk' and was found to have a 'good' (score of 4) level of 'compliance and confidence in management' at their last official control.
- the establishment is within scope of FHRS.
- no data, information or intelligence has been received since the last official control to indicate any changes to the establishment or to suspect the level of compliance has changed
- the establishment has the technology to have discussions and/or provide documents electronically.

Based on these circumstances, the officer could determine that it would be appropriate for the following methods and techniques to be undertaken, in no particular order:

- remote interview with the FBO/manager via telephone or 'virtual' face to face discussion
- remote examination of relevant documents supplied electronically, such as food safety management system documentation
- physical inspection and/or audit of the establishment

As the establishment is in scope of FHRS, and a new rating was to be provided, the physical methods and techniques would need to assess compliance with 'food hygiene and safety', 'structure of the establishment' and 'confidence in management'.

In this example, the remote methods and techniques have been used to support and complement the physical inspection and/or audit. The officer would record the methods and techniques used (including their rationale) and the scope of the official control so that officers can consider these at subsequent official controls.

## 6.3 Prior notification

### 6.3.1 Current approach

The current Code provides that LAs must carry out official food controls without prior notice, except in cases such as audits where prior notification of the FBO is necessary.

It also provides that prior notification must be necessary and duly justified for the official control to be carried out, with the following examples being provided in the Practice Guidance where prior notification may be considered acceptable:

- when the purpose of an intervention is to see a specific process in operation

- to examine records which are only available if the proprietor of the food business is present

Additionally, it is provided that authorised officers must exercise discretion in this area guided by the overriding aim of ensuring compliance with food law.

### **6.3.2 Proposed approach**

The proposed development is that the default position should continue to be that prior notification of official controls is not given.

However, LAs should consider the methods and techniques of official control being undertaken, and whether it is physical or remote, to determine whether prior notice is necessary and duly justified, considering the overriding aim of ensuring compliance with food law.

A non-exhaustive list of examples where prior notification may be appropriate are:

- when the purpose of the official control is to see a specific process in operation
- to examine records which are only available if the proprietor of the food business is present
- where the method and technique of official control includes audit activities (whether undertaken physically or remotely), and appropriate food business personnel, need to be present.

Where prior notification is provided, LAs would record their rationale for this and the methods and techniques of official control used.

## **6.4 Benefits of proposed development 3**

The proposed development is anticipated to create capacity in the FHDM. This is because, in appropriate circumstances, less intensive methods and techniques can be used and/or undertaken remotely, leading to more effective use of LA resources. However, we don't know to what degree individual LAs will avail themselves of the flexibilities.

We also anticipate that using remote official controls, where appropriate, would reduce travelling time and costs, positively impacting LAs carbon footprint.

## **6.5 Impacts of proposed development 3**

The potential impacts include:

- Familiarisation and training – LAs would need to familiarise themselves with the flexibilities in the methods and techniques of official controls that could be used, and training provided to ensure consistent implementation. Due to this, the benefits may not be realised immediately.
- Amendments to MIS – LA MIS would need to be updated to be able to record the different methods and techniques used, as well as whether they were undertaken physically or remotely – the extent of these changes and details of how systems will be transitioned to the modernised FHDM will be considered as the model is further developed.

- FHRs – if FHRs ratings are provided following remote official controls, it may impact on consumer and business confidence in the scheme, particularly as there could be inconsistencies in the use of remote official controls across the three nations, as their use will be limited in Wales and Northern Ireland due to the statutory schemes. [Recent research on the value of FHRs](#) found that consumers were generally not in favour of remote official controls, as they felt it limited officers' ability to identify non-compliance, especially as they were not able to use all their senses. However, other research, in England, on the use of remote assessments during the COVID-19 pandemic has found that businesses, from the limited number interviewed, were open to the idea of remote official controls providing they were delivered consistently, to a sufficient standard and underpinned by clear guidance.

### Feedback questions on proposed development 3

7. What are your views on the proposed development for introducing flexibilities as to the methods and techniques of official controls and the use of remote official controls, including factors to consider?
8. What are your views on the identified benefits and impacts for introducing flexibilities as to the methods and techniques of official controls and the use of remote official controls? Are there any further benefits and/or impacts that the proposed development could have? If yes, please outline what these are.
9. Do you foresee any challenges if the proposed development for introducing flexibilities as to the methods and techniques of official controls, including the use of remote official controls were to be implemented? If yes, please outline what these challenges are and what, if any, solutions we should consider?

## 7. Proposed development 4 - Flexibility as to who can undertake official controls and other official activities

### 7.1 Current approach

The current Code provides that officers holding a 'suitable qualification' for food hygiene can, if competent, be authorised to undertake all methods and techniques of official food hygiene 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 hygiene can, if competent, be authorised to undertake the following activities:

- alternative interventions
- 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)

## 7.2 Proposed approach

The proposed development is that, as currently, officers who hold a 'suitable qualification' for food hygiene can, if competent, be authorised to undertake all methods and techniques of official food hygiene controls and other activities at all food businesses, including relevant enforcement action.

Officers who do not hold a 'suitable qualification' for food hygiene can, if competent, be authorised to undertake the activities they do currently, as well as the following activities:

- official food hygiene controls at establishments that have (or for new establishments that are anticipated to have) a low (score of 4) or very low (score of 5) 'inherent risk'

**Note:** if when undertaking the official control, it is established the 'inherent risk' is not 'low' or 'very low' the officer would not undertake the official control, but ensure it is undertaken by a competent officer with a 'suitable qualification' for food hygiene as soon as practicable.

- gathering, processing, and sharing intelligence
- sampling – formal and informal
- informal action, including written warnings

**Note:** this would not include voluntary prohibitions and closures or voluntary surrender of products.

To be appropriately authorised, officers not holding a 'suitable qualification' for food hygiene would be assessed against the relevant activities and sub-activities within the [Competency Framework](#) to ensure they were competent.

## 7.3 Benefits of proposed development 4

Extending the activities for officers not holding a 'suitable qualification' for food hygiene, if competent, can undertake will allow LAs to deploy a wider cohort of officers, which the current Code restrict.

Based on our modelling of the 2019/20 LAEMS data, approximately 43% of establishments were category D and E, with a low or very low 'inherent risk'. Therefore, the proposed development for officers who do not hold a 'suitable qualification' for food hygiene could significantly increase LA's capability to undertake these additional controls. For example, unitary authorities could choose to upskill and authorise their food standards and/or feed officers to undertake official food hygiene controls at low or very low inherent risk establishments.

This would be a flexibility provided to LAs that choose to extend the authorisations of officers who are competent, to enable more effective use of existing resources. The [Competency Framework](#), which was implemented in 2021, sets out the knowledge and skills that officers should be able to demonstrate before being authorised to undertake additional activities. This means food safety, public health and consumer protection is not undermined by this proposed development. However, it is recognised that officers may require training and support to gain the required knowledge and skills, and may also require additional annual continuing professional development (CPD) in recognition of the additional activities they are authorised to undertake. This could impact on the resources

of LAs who choose to use this flexibility, and mean the benefits are not immediately realised.

## 7.4 Impacts of proposed development 4

The potential impacts of proposed development 4 would include:

- Capacity – officers not holding a 'suitable qualification' for food hygiene may not have the capacity to undertake additional activities. There may also be contractual/salary issues preventing extension of activities.
- Recruitment – LAs may not currently have officers that do not hold a 'suitable qualification' for food hygiene which they could authorise. Due to recruitment freezes, they might not be able to recruit them either, meaning they cannot benefit from this proposed development in the short term.
- FHRS – consumer and business confidence in FHRS could be reduced if officers not holding a 'suitable qualification' for food hygiene are providing FHRS ratings to establishments with low and very low 'inherent risk' and could lead to more appeals of ratings provided by these officers. However, to be authorised an officer would need to be competent and be able to demonstrate the relevant knowledge and skills as provided in the [Competency Framework](#).

### Feedback questions on proposed development 4

10. What are your views on the proposed development for introducing flexibilities as to who can undertake official controls and other official activities?
11. What are your views on the identified benefits and impacts for introducing flexibilities as to who can undertake official controls and other official activities? Are there any further benefits and/or impacts that the proposed development could have? If yes, please outline what these are.
12. Do you foresee any challenges if the proposed development for introducing flexibilities as to who can undertake official controls and other official activities were to be implemented? If yes, please outline what these challenges are and what, if any, solutions we should consider?

## 8. Engagement

We developed these proposed developments with an LA/FSA Working Group. The Group provided a mechanism for working collaboratively across England, Wales and Northern Ireland to modernise the model and help to critically review and inform our thinking on the proposed developments for a modernised FHDM.

As part of this consultation, we are undertaking a series of engagement events with LAs in England, Wales and Northern Ireland to provide further opportunities to give feedback on these proposed developments.

As the proposed developments for a modernised model develop further, we will continue to engage with LAs and other stakeholders, which will include a formal consultation.

## General questions on the proposed developments

13. If the proposed developments were to be implemented, what guidance and/or examples would be useful to assist with understanding and consistent implementation?
14. Are there any alternative approaches that could be considered for a modernised FHDM? If yes, please outline what these are.

## 9. Responses

Responses are required by **23:59 on 30 June 2023**. Please state, in your response, whether you are responding as a private individual or on behalf of an organisation / company. Please also include 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, provide evidence to support your feedback.

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

## 10. Further information

If you require a more accessible format of this document, please send details to the named contact for the return of responses, and your request will be considered.

This document has been prepared in accordance with HM Government consultation principles.

Thank you on behalf of the Food Standards Agency for participating in our consultation on the proposed developments for a modernised FHDM.

Yours faithfully,

Julie Benson  
Head of the Food Hygiene Delivery Model Team