

# Response template for consultation on developing a modernised food hygiene delivery model (FHDM)



Responses to this consultation are required by **23:59 on Friday 30 June 2023**. Completed consultation response forms should be emailed to [hygienemodelreview@food.gov.uk](mailto:hygienemodelreview@food.gov.uk)

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**Country:** Choose an item.

## Proposed development 1

### Question 1. What are your views on the proposed development for a modernised food hygiene intervention rating scheme, including the frequencies for official controls?

CIEH members were broadly supportive of the proposed development for a modernised hygiene intervention rating scheme and believe the use of the inherent risk and compliance assessment of a food business is sound. The inclusion of guides to good practice, Primary Authority and assurance schemes' when assessing Confidence in Management is welcome. Effective communication clear, objective guidance and training will be required on how Local Authorities can use this information when assessing Confidence in Management and culture. This inclusion is welcome. All members felt more information is required in respect of this aspect to ensure a consist approach to scoring.

Environmental health professionals working in industry, feel there is significant opportunity from working with recognised assurance schemes and Primary Authority Partnerships in the modernised food hygiene rating scheme as vital sources of intelligence that could feed into how a food business is scored in terms of its overall rating.

CIEH members expressed concerns on both sides of the spectrum with respect to the Decision Matrix which identifies the minimum frequency of official controls for the highest risk premises as being 2 months while the lowest risk premises being 60 months, citing concerns regarding local authority resourcing, and concerns about low risk businesses being subject to official controls too infrequently having an impact on public confidence.

CIEH members working in industry expressed the view that for low-risk businesses subject to infrequent controls, there may be the potential to use alternative sources of intelligence such as participation in third party assurance schemes, Primary Authority Partnership etc., to ensure such businesses are subject to continuous improvements and that any changes in business practices which impact their hygiene intervention rating is recorded and shared with the relevant local authorities.

CIEH members working in local authorities feel the current arrangements are sound and it was important to build on the current system which has, in general, been effective.

**Question 2. What are your views on the identified benefits and impacts for a modernised intervention rating scheme? Are there any further benefits and/or impacts that the proposed development could have? If yes, please outline what these are.**

CIEH members within local authorities expressed concerns that without a dedicated mapping exercise of relevant organisations within their jurisdiction, it will be difficult to accurately assess the impact these frequencies may have on their resources to deliver these changes. Some local authorities are likely to have a high concentration of high-risk, low compliance businesses necessitating more frequent official controls than under the previous arrangements. Conversely some local authorities will have a high concentration of low-risk, high compliance businesses requiring less frequent official controls. While the updated Decision Matrix for frequencies of official controls enables local authorities to allocate resources to the highest risk food businesses, for local authorities tasked with carrying out more frequent official controls, this is likely to have a significant impact on their resources, and without increased resources, these reforms may in fact see the burden on their resources increase further. Work to understand how resourcing will be affected is crucial.

Some CIEH members also expressed concerns about having an overly prescriptive decision matrix for frequencies of official controls, fearing that rather than affording local authorities more autonomy, that it may in fact have the opposite impact. Local authorities understand their communities and are keen to ensure they can deliver based on specific needs.

CIEH members across the board expressed misgivings with respect to food businesses rated as the highest risk and lowest compliance. Some CIEH members expressed a desire for such businesses to be subject to enforcement action rather than continuously being subject to more frequent revisits amounting to free consultancy. Some CIEH members expressed that such premises should not be allowed to trade at all, such is the risk they pose to public health.

CIEH members across the board also expressed concerns about food businesses who will be subject to the least frequent official controls of 60 months, expressing concerns that public confidence in such businesses may be harmed if there was public awareness as to how infrequently they were inspected. Furthermore, CIEH members expressed concerns about these businesses' ability to continuously improve if subject to such infrequent controls. Furthermore, given how business practices can change considerably over time, which may have an impact on a business' food hygiene intervention rating, what measures are in place to capture this to ensure that such businesses would be subject to more frequent official controls as a result?

CIEH members working in industry feel alternative sources of intelligence, such as participation in third party assurance schemes, internal and external audits, Primary Authority Partnerships etc., are highly beneficial and could be used more. This will ensure businesses are subject to continuous improvements and that any changes in business practices which impact their food hygiene intervention rating is recorded and shared with the relevant local authorities. Local authority members will need their own assurance of how this will operate impartially if this is considered.

While these proposals recognise the role of assurance schemes in assessing Confidence in Management and culture, it falls short of utilising assurance schemes fully to best direct Local Authority resource. A food premises following guides to good practice is commendable, but only

shows the standard at the time of the inspection, Primary Authority Partnerships shows a commitment to food safety and consistency in standards prescribed from centrally but lacks intelligence on performance at a local level. Attainment of an independent food safety standard which is then audited annually demonstrates a business' commitment to the highest standards of food safety and also information on the ongoing food safety performance of each location. CIEH members working in industry have suggested that the role and potential of assurance schemes could be further explored by the FSA as part of the modernised FHDM. This will also allow local authorities to assign their resources to where they are most needed.

**Question 3. Do you foresee any challenges if the proposed development for a modernised food hygiene intervention rating scheme were to be implemented? If yes, please outline what these challenges are and what, if any, solutions we should consider?**

Members expressed a view that there may be challenges for local authorities in the assessment of food safety culture which could then lead to inconsistent scoring and, in turn, varying visit frequency. Detailed training and consistency exercises will need to be run to help Officers assess food safety culture. Furthermore, the Competency Framework will require updating as it currently does not reference culture. More information in respect of this was requested by all.

The consultation gives two examples of the scoring applied to hypothetical food businesses. In order to assess if the scoring is proportionate, it is suggested that further scenarios are modelled and then sense checked.

Some CIEH members referenced the possibility of piloting these proposals to more accurately assess whether these proposals do in fact enable local authorities to redirect their resources more readily to the highest-risk premises. This would then provide real case studies. Some CIEH members suggested the FSA could conduct a more detailed mapping exercise to assess the impact these reforms would have on local authorities more accurately.

As previously referenced, there is the potential of watering down of public confidence in food hygiene regulation if public became aware of certain food premises not being subject to official controls for up to 5 years. Members expressed significant concerns in this regard.

## **Proposed development 2**

**Question 4. What are your views on the proposed development for an updated risk-based approach to the timescales for initial and due official controls, including the proposed frequencies?**

Some CIEH members were supportive of a more formalised triaging process, though felt that these proposals merely formalised the fact that many local authorities already conduct a risk-based approach with respect to timescales for initial and due official controls. They work within their communities and have a clear understanding of how to ensure a risk-based approach is tailored to need.

There are several concerns from CIEH members across the board, that a move from a visit within 28 days of registration up to 4 months (and even longer for low risk food businesses), does not support the FSA policy objectives of maintaining consumer confidence nor driving continuous improvement. This means new, and unknown, food businesses could be trading unsafely.

Public believe there is more control over new food businesses starting than the current reality, with many expecting all food businesses to be approved or licensed before trading. It is our belief that there may be a negative impact on public confidence in a model of official controls that allows a food business to trade for 4 months before a visit is required.

CIEH members welcome the concept of a 'permit to trade' where food premises would require a license before they would be allowed to commence trading. Such a license would be subject to the food premises meeting certain minimum standards and evidence this during any permit application process.

The proposal identifies several sources of information which could be used to determine the anticipated inherent risk and the timescale to undertake the initial official control. Primary Authority Partnerships and membership of assurance scheme have not been listed as sources of information. Suggest that if initial official controls are going to be based on triage, then these valuable sources of information could be added to support this process.

It is recognised that the average time for an initial visit between 2016 and 2022 was 7 months, despite the requirement to be 28 days. Should FHRs become mandatory in England, there is a risk that new food businesses, particularly those rated as having a low inherent risk profile, may have to wait several months before obtaining their FHRs rating, which may in turn have consequences in consumer confidence in that premises.

**Question 5. What are your views on the identified benefits and impacts for an updated risk-based approach to the timescales for initial and due official controls? Are there any further benefits and/or impacts that the proposed development could have? If yes, please outline what these are.**

As highlighted above, identified benefits are limited, though some CIEH members working in local authorities expressed that they welcomed the approach from the FSA in putting in specified timeframes for triaging new food businesses following registration. However, while this risk-based approach will allow resources to be prioritised, the amount of work remains the same, in that all food businesses will require an initial official control at some point.

If the displaying of the FHRs results becomes mandatory in England, then it would be assumed public interest in the scheme will increase. This means that the delay in the initial visit will have a greater impact on businesses than is currently the case, as the public will be seeking out the food hygiene rating. The mandatory display of ratings could also raise the public's interest in businesses 'awaiting assessment' and highlight that businesses are not inspected prior to opening and in turn may reduce the public's confidence in the official controls.

**Question 6. Do you foresee any challenges if the proposed development for an updated risk-based approach to the timescales for initial and due official controls were to be implemented? If yes, please outline what these challenges are and what, if any, solutions we should consider?**

The biggest challenge will be the public acceptance that food businesses can trade for 4 months and potentially longer without an official control visit.

One of the main challenges presented by CIEH members working in local authorities is that some local authorities receive numerous registrations of new food businesses on a monthly basis. Each one will need to be triaged by an experienced Food Officer to accurately determine its risk profile to determine when it must be subject to an official control. While these proposals specify timescales with which this process should be carried out, the volume of new food businesses registered in some local authorities place a significant resource and capacity burden on some local authority food safety teams which needs to be highlighted and addressed.

CIEH members working within local authorities suggested, as a possible solution, for the FSA to consider a 'permit to trade' or trade licensing process whereby food operators would need to obtain a licence or permit from their local authority before they are legally allowed to trade.

CIEH members feel that greater clarity is needed on what information can be used to calculate the anticipated inherent risk and what confidence can be placed on differing information. If this approach is adopted, CIEH suggests the use of ongoing monitoring to compare the anticipated inherent risk and the actual inherent risk once an official control is completed, as this will verify the accuracy of the approach. Some CIEH members have mooted the possibility of deploying innovative technologies, such as Artificial Intelligence (AI) to support this and encourage the FSA to explore this further.

CIEH feels the FSA should explore how other sources of data and intelligence, such as participation in assurance schemes and Primary Authority Partnership could be recognised when identifying inherent risk. The FSA should explore how such intelligence could be shared with local authorities to support accurate and up-to-date information on food premises' inherent risk profile.

### **Proposed development 3**

#### **Question 7. What are your views on the proposed development for introducing flexibilities as to the methods and techniques of official controls and the use of remote official controls, including factors to consider?**

Generally, CIEH members across the board welcomed the creative approach of utilising remote official controls and the greater use of technology to assess food businesses. However, some CIEH members sought greater clarification and explicit mention on what remote assessments could and should be.

CIEH members working in local authorities expressed concerns that some local authorities, particularly those struggling for resource, may more regularly resort to conducting remote official controls and that this may become the norm. How consistency of approach is established is important.

CIEH members working in industry suggested that the list of factors that may be considered as to whether the use of remote official controls is effective and appropriate could be expanded to include membership of an assurance scheme, a Primary Authority Partnership or an agreed Inspection Plan. This to be a missed opportunity and suggest that if the use of remote Official Controls is considered further then these aforementioned sources of evidence could be included in the list of factors to be considered as to whether it is effective or appropriate for a local authority to conduct remote visits. This will allow local authorities to target their resources.

Local authorities felt that premises should not be rescored if the control has been remote as it is not possible to adequately assess basic prerequisite programmes such as structure, cleanliness and pest controls which can only be understood via an inspection. In addition, desk top inspections are undertaken with the organisation which is able to tailor a response. These premises could therefore be perceived to be at an advantage compared to other premises inspected in person.

**Question 8. What are your views on the identified benefits and impacts for introducing flexibilities as to the methods and techniques of official controls and the use of remote official controls? Are there any further benefits and/or impacts that the proposed development could have? If yes, please outline what these are.**

The use of remote visits will be limited in scope because of the need for remote official controls to be announced. Independent evaluation of the use of remote assessment for the FHRS requested re-visits in England will be published soon and we look forward to reviewing the findings.

**Question 9. Do you foresee any challenges if the proposed development for introducing flexibilities as to the methods and techniques of official controls, including the use of remote official controls were to be implemented? If yes, please outline what these challenges are and what, if any, solutions we should consider?**

The approach is dependent on both parties having reliable technology to complete the visit and for there to be Wi-Fi or cell signal in the parts of the business to be assessed.

The use of remote audits would reduce travel time, expenses and the impact on the environment and logically would be of greatest benefit for authorities with large travel distances. For authorities with a high density of food businesses, in-person visits may remain more efficient as several premises can be visited on the same day and without the organisational time required to book appointments.

A minor concern is if officers are heavily reliant on completing remote visits, they may miss the intelligence which is gathered from inspecting the district, for example identifying new businesses that have started trading or environmental issues which could impact food safety.

While it is beneficial that it is left for the local authority itself to determine whether flexible methods or techniques are used, this will undoubtedly lead to inconsistent approaches across local authorities depending on resource capacity.

## **Proposed development 4**

**Question 10. What are your views on the proposed development for introducing flexibilities as to who can undertake official controls and other official activities?**

CIEH are concerned that this proposal represents a dilution of the environmental health profession and a potential 'race to the bottom' and that there may be wider environmental health issues that may be missed by a technical officer that an Environmental Health Officer, with their broader range of knowledge, would be able to pick up on.



CIEH are also concerned that the use of officers who do not hold a 'suitable qualification' will have a negative impact on food safety standards, as well as possibly harming public confidence if the public were to become aware that official controls were being carried out by officers without a 'suitable qualification'.

Several CIEH members suggested that it may be appropriate to utilise such technical officers in instances where they are currently going through their training/academic preparation en route to obtaining a 'suitable qualification'.

If these proposals were to go ahead, CIEH members suggest that this should not apply to an initial visit, as this is an opportunity to introduce the FBO to the EHP role and for the EHP to coach/signpost, which would be more appropriately done by an EHP. Furthermore, an EHP is better suited to identify if a premises is not low risk and would be able to adapt thereby giving better service to the premises. It also give a more professional impression of the EH profession, as rather than having to have an Officer admit they are not authorised to conduct the official control and would need to return with a more suitably qualified colleague, which could be professionally embarrassing.

CIEH feel that these proposals seek to grasp the challenge being presented by resource pressures within local authorities but that there are more effective ways to free up local authority resources and ensure that suitably qualified EHPs are carrying out official controls.

For example, some CIEH members have queried whether the use of technical innovation, such as AI, could be deployed to support triaging and risk rating premises. Other members have suggested the FSA grant greater acknowledgement of assurance schemes and Primary Authority Partnerships and to explore mechanisms by which the intelligence generated via these arrangements can be more readily shared with local authorities.

**Question 11. What are your views on the identified benefits and impacts for introducing flexibilities as to who can undertake official controls and other official activities? Are there any further benefits and/or impacts that the proposed development could have? If yes, please outline what these are.**

While CIEH can see the intentions behind this proposal and can see potential merit in this being conducted on premises currently deemed to be low-risk and highly compliant, we feel that this does result in a dilution of the environmental health profession.

As a result of resource and capacity pressures, some local authorities currently engage in the use of contractors to inspect lower risk premises, with visits charged per inspection. A consequence of this model is that it encourages the inspector to be onsite for a shorter period and to therefore not undertake as rigorous an official control visit as a local authority inspector would do. A potential further unintended consequence of this proposal is that contractors, who do not hold a 'suitable qualification', will then be used to complete lower risk premises inspections and official controls in this sector quickly becomes a 'race to the bottom', with inspections being completed as cheaply as possible. This will undermine the public confidence in food safety and result in a reduction in standards.

**Question 12. Do you foresee any challenges if the proposed development for introducing flexibilities as to who can undertake official controls and other official activities were to be implemented? If yes, please outline what these challenges are and what, if any, solutions we should consider?**

CIEH remain concerned that this proposal will lead to dilution in the profession and could potentially damage the professional profile of EHPs.

CIEH are also concerned that local authorities may redirect their scarce resources to recruiting officers who are not suitably qualified as opposed to recruiting fully qualified EHPs, which again will have significant consequences for environmental health as a profession.

However, CIEH recognise the benefit of enabling officers who do not yet hold a suitable qualification, but are on a route to becoming fully qualified, to undertake certain activities. CIEH suggest that rather than enabling officers who do not yet hold a suitable qualification be able to undertake official controls of low-risk establishments, that this be confined to officers who are on a pathway to becoming fully qualified EHPs. Such an approach would enable local authorities to deploy a wider array of officers to conduct official controls, while also improving the pipeline of officers becoming fully qualified EHPs.

## **General questions on the proposed developments**

**Question 13. If the proposed developments were to be implemented, what guidance and/or examples would be useful to assist with understanding and consistent implementation?**

CIEH feel that having workable 'real examples and case studies are key to consistent implementation of the modernised FHDM. It remains unclear what businesses are likely to fall into each category of the decision matrix.

Developing examples of businesses likely to be within each category will be of benefit for further consultation and allow interested parties to sense check the proposal. suggest that a 'typical' business is identified and then the extreme of the range, identifying what the highest and lowest risk could be within the frequency of official controls.

There also need to be clear guidance on the use of flexible methods and techniques, in particularly the use of remote official controls. Clear guidance will be needed to determine whether flexible techniques are 'effective and appropriate'. If new skills will be required to conduct remote official controls, the FSA's Competency Framework will need to be updated to reflect this.

**Question 14. Are there any alternative approaches that could be considered for a modernised FHDM? If yes, please outline what these are.**

It would be remiss of CIEH not to mention that while these proposals seek to redress the issue of resource scarcity within local authorities to enable them to redirect their resources to the highest risk food premises, these proposals do not get to the core of the issue: lack of appropriate local authority resources in the first instance.

With respect to alternative approaches that could be considered for a modernised FHDM, CIEH feels that there is scope to unlock the potential of the entire CIEH membership community working



in food safety to maximise the potential of a modernised FHDM through the use of recognised assurance schemes and Primary Authority Partnerships which have not been fully explored in this consultation. Such schemes must be able to demonstrate robust governance and standards with audits carried out by food safety practitioners holding an equivalent 'suitable qualification' to their Local Authority colleagues, and with effective intelligence sharing mechanisms, could support local authorities maintain up-to-date intelligence on the risk posed by food premises in their jurisdictions.

Assurance schemes can provide information on the compliance and confidence in management and help inform the future minimum frequency of official controls. The combination of a recognised assurance scheme and an agreed Primary Authority Inspection Plan has the potential to significantly reduce the burden on Local Authorities and allow resources to be focused on higher risk food businesses. This approach is already within the scope of section 8 of the Primary Authority Statutory Guidance and can deliver the benefits of improved allocation of resources, eliminating local checks in clearly defined areas, addressing inefficiencies and remove duplication of effort.

Thank you on behalf of the Food Standards Agency for participating in our consultation on the proposed developments for a modernised food hygiene delivery model.