

Food Standards Agency

Regulating our Future: Small Food Business Operators' Report

TNS BMRB Research

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TNS BMRB

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Executive Summary

The Food Standards Agency (FSA) is an independent Government department set up to protect the public's health and interests in relation to food. As part of this, the FSA also holds responsibility for regulating food businesses: to ensure food businesses produce food which is safe to eat, is what it says it is and that businesses comply with the UK's laws surrounding food hygiene.

For many years the UK has had an inspection model that includes sending local authority inspectors to look at how businesses are providing assurance to consumers in relation to food standards and hygiene. The FSA considers this to be a resource intensive way of maintaining confidence that food is safe and what it says it is and we believe there are other options also worth exploring as a means of ensuring consumer protection. Crucially, the current system takes a one size fits all approach which may not fully take into account food businesses' different needs, risks, or attitudes towards food safety.

With this in mind the FSA is seeking to develop a new model for regulation and has developed five principles (validated with key stakeholders, including industry, large food businesses, consumers, and government). These principles are:

1. Businesses are responsible for producing food that is safe and what it says it is, and should be able to demonstrate that they do so. Consumers have **a right to information** to help them make informed choices about the food they buy – businesses have **a responsibility to be transparent** and honest in their provision of that information.
2. Businesses should **meet the costs of regulation**, which should be no more than they need to be.
3. Businesses **doing the right thing for consumers should be recognised; action will be taken** against those that do not
4. FSA and regulatory partners' decisions should be **tailored, proportionate** and **based on a clear picture** of UK food businesses
5. The regulator should **take into account all available sources of information**.

In order to better understand small food businesses' response to this, and their particular priorities for the regulatory model governing food businesses in the UK, the FSA commissioned TNS BMRB to conduct qualitative research with small food business operators (FBOs). 24 depth interviews with small FBOs were conducted in London, Manchester, Cardiff, and Bangor (NI). The overall aims of the research were to understand how small FBOs would a) react to the idea of changing the system, b) respond to the five key principles that will inform the design of the future model, and c) anticipate how the new regulatory model may look in practice.

Specifically, the research aimed to understand:

- How the current system is working for small FBOs

- What the current relationship between small FBOs and the regulators looks like and how this might change in the future
- How the implementation of principles may impact upon small FBOs' businesses.

Key Findings

How the current system is working for FBOs

Small FBOs saw the need for effective regulation of their sector and were generally content with the system as it stands. They felt the current system adequately protects the public without being overly burdensome on their businesses. Whilst small FBOs by no means thought the system was perfect, improvements that were suggested were typically adjustments or refinements of the current system as opposed to suggestions for wholesale change.

However, several causes of frustration and areas for improvement were common throughout the research. Keeping up to date with changes to regulation after initially setting up their business was seen as more difficult than first understanding the system. Small FBOs were typically time poor, with few employees, and did not want to spend their time continually checking for changes in regulation; they expressed their desire for the regulator to be more proactive in updating them to save them time and avoid being caught out by new regulation.

Another common pain point for small FBOs was the system of recording daily checks that was required to achieve a high FHRS rating (e.g. cleaning schedules, fridge temperatures, opening checks, closing checks). Again, this was seen as time consuming for already time-poor food business owners, and it was commonly viewed as excessive for businesses of their size to carry these checks out daily. Some also expressed concern that inspectors paid too much attention to ensuring these checks had been recorded correctly instead of assessing the hygiene conditions of the premises.

The relationship between small FBOs and the regulator

The Local Authority (LA) was typically front-of-mind for small FBOs when discussing 'the regulator'. Environmental Health Officers (EHOs) are employed by LAs and as these were the main interaction small FBOs had with the regulator this was the body that came to mind. Small FBOs typically did not have strong views of the FSA, which was regarded as a more distant (but competent) body.

Small FBOs' relationships with their regulators varied across the research. Whilst some described a collaborative and positive relationship, others viewed their local council as apathetic or confrontational. However, the main determinant of a small FBOs' opinions on the matter was their interaction with the Environmental Health Officer(s) (EHO) that had carried out inspections on their business. Small FBOs reported that some EHOs saw their role more as an enforcer than as an advisor, which in turn affected FBOs likelihood to go to the regulator for guidance.

How proposed changes might impact upon small FBOs' business

Of the ideas which were explored with FBOs, respondents identified a range of potential negative consequences. Small FBOs were particularly concerned about the impact that charging might directly have on their business, with some anticipating they would need to a) pass on the costs to their customers or b) that they would need to close down. Some also challenged the fairness of introducing charges.

Small FBOs not only considered how regulatory changes might affect their business, but also raised concerns about possible impacts on consumer safety. For example, small FBOs objected

strongly to the proposal that businesses might be able to self-certificate through data submissions even though this was seen as less burdensome than inspections. Instead, they objected largely on the grounds of that it would be open to abuse and therefore put consumer safety at risk.

Conclusions

Respondents did not currently see the need for a radical overhaul of the regulatory system. They did not see the system as perfect and a variety of improvements within the broad framework of the current system were suggested. However, on the whole respondents believed the current system provided good protection for consumers without being overly burdensome on businesses.

The view that the system is largely functioning well drove respondents' feedback on the FSA's five principles for change. Those principles that suggested minor changes to the system or were seen as already captured in the current system (e.g. penalties and rewards, businesses being responsible etc.) were met with less resistance. Respondents were wary of principles seen as a more radical departure from the current system (e.g. self-certification, businesses meeting the costs of regulation etc.) As the need for change was not apparent to them, respondents were risk averse and significant changes were viewed as an unnecessary risk.

Respondents were also particularly averse to changes that placed additional burdens on them, with small businesses viewed as already being 'squeezed' in lots of ways. For instance, the principle of businesses paying directly for regulation was seen as a significant change from the current system that would also unfairly disadvantage small businesses. Respondents also expressed concern around replacing on-site inspections with data submissions for fear that this would impact on consumer safety, despite the fact it would in all likelihood reduce the regulatory burden on businesses.

The inherent tension throughout the research was that small FBOs sometimes found regulation (and inspections in particular) burdensome and stressful but also did not want to see standards drop due to concerns about consumer safety. FBOs took their responsibility for safety seriously and any changes which could put consumers at greater risk are likely to be challenged by the industry.

1. Introduction

1.1 Background to the research

The Food Standards Agency (FSA) is an independent government department set up to protect the public's health and consumer interests in relation to food. It supports consumers to make informed choices about the food they eat and, crucially, ensures their safety in making these choices. As well as playing a vital role in guaranteeing the health of consumers, the FSA promotes confidence among consumers that the food they are purchasing is safe to eat. They achieve this through a variety of mechanisms, one being the way in which they regulate food businesses.

Part of the FSA's remit is to oversee the delivery of food regulation in the UK. Through site visits and face-to-face inspections, LAs (LA) ensure that food businesses comply with the UK's laws surrounding food safety and hygiene. Following an inspection, businesses are awarded a Food Hygiene Rating Scheme (FHRS) Score and, as necessary, provided with advice on how scores can be improved or maintained. If standards are deemed unacceptable, LA officers can take 'enforcement action' which, if not complied with, can result in prosecution, fines or imprisonment.

The current regulatory model in the UK has not changed in the last 30 years. Food business regulation is delivered primarily through face-to-face inspections, administered by LAs (LAs) and enforced through a system of penalties and rewards (FHRS ratings, fines, prosecutions etc.). While it is considered rigorous and has proved an effective way of ensuring public safety, inspections are time consuming, expensive for LAs to administer and do not capitalise on technological innovations. Financial pressures mean food businesses are not inspected in a consistent way across different LAs and the time between inspections can vary. Crucially, the current system takes a one size fits all approach which may not fully take into account food businesses' different needs, risks, or attitudes towards food safety.

With this in mind, the FSA is now seeking to shape new models for the future of regulation. The objective of the future model is to encourage all food businesses to step up to their responsibility to ensure food is safe and what it says it is. The FSA has identified five principles to develop the future model, in order to create a regulatory model which "is an effective, robust and proportionate system".¹ The five principles have been validated with key stakeholders, including industry, large food businesses, consumers, and government, and are:

1. Businesses are responsible for producing food that is safe and what it says it is, and should be able to demonstrate that they do so. Consumers have **a right to information** to help them make informed choices about the food they buy – businesses have **a responsibility to be transparent** and honest in their provision of that information.

¹ FSA, Board Meeting, (18 May 2016). Regulating Our Future – Developing The FSA's New Approach To Regulating Food Businesses. <http://www.food.gov.uk/sites/default/files/fsa-150104.pdf>

2. Businesses should **meet the costs of regulation**, which should be no more than they need to be.
3. Businesses **doing the right thing for consumers should be recognised; action will be taken** against those that do not
4. FSA and regulatory partners' decisions should be **tailored, proportionate** and **based on a clear picture** of UK food businesses
5. The regulator should **take into account all available sources of information**.

The development of the future regulatory model is still in an early phase as of September 2016 and, while some stakeholders have been engaged as part of the early validation process, the FSA also wished to test the principles with members of the public and small food businesses.²

1.2 Aim and Objectives

The overall aims of the research were to understand how consumers and small FBOs would a) react to the idea of changing the system, b) respond to the five key principles that will inform the design of the future model, and c) anticipate how the new regulatory model may look in practice. Specifically, the research sought to understand:

- How small FBOs experience the current system
- What the current relationship between small FBOs and the regulators looks like and how this might change in the future
- How proposed changes might impact upon small FBOs' businesses

1.3 Methodology

In order to achieve these aims and objectives, TNS BMRB undertook a series of depth interviews with 24 small FBOs. Each interview lasted 90-minutes and took place in the respondent's home or business premises. To ensure a broad range of experiences were reflected in the research, respondents were recruited from four locations across the UK reflect and from a range of business types (see 1.4 Sample).

Small FBOs were engaged via depth interviews, rather than other qualitative means (e.g. focus groups, online communities etc.) in order that a fully rounded picture of each respondent's personal and business circumstances could be developed. Depth interviews enabled full explorations of FBOs' individual contexts, as well as removing the practical difficulties of convening numerous business owners together at the same time.

Interview content and structure is outlined below:

- **Context setting:** Respondents introduced their business, their professional background and the economic climate in their area.
- **Experience of current regulatory model:** Respondents described their experiences engaging and staying up to date with regulation, including their relationship with regulators.
- **Introduction to the rationale for change:** Respondents were introduced to the FSA's rationale for change, and asked whether or not they identified a need for change.

² TNS BMRB conducted two research projects on the behalf of the FSA: one with small food businesses and one with the general public. These ran in parallel to one another and are reported on separately.

- **Feedback on the FSA's key principles:** Respondents were presented with the FSA's five key principles for change and asked for feedback.

Fieldwork took place between Monday 6th June 2016 and Monday 11th July 2016. Interviews were audio recorded and analysed through a matrix mapping approach. Matrix mapping is a tried and tested analytical approach to qualitative data, where data is charted into a matrix according to key themes and objectives of the research. This method synthesises large amounts of qualitative data, and allows it to be compared across different sub-groups. A complete set of all the research materials used in this research can be found in the Appendices.

1.4 Sample

Respondents were recruited through face-to-face, telephone, and database recruitment methods. Recruitment was centred on four locations throughout England, Wales and Northern Ireland that covered urban and non-urban locations: London, Bangor (NI), Manchester, and Cardiff.

In total, 24 depth interviews were conducted with small FBO owners and managers who were responsible for food hygiene within their business. These were conducted across a range of locations, business types, and FHRS ratings.

Experience within the food industry varied greatly across the sample with some respondents having had over 30 years' experience in the food industry. Some had prior experience from previously working in the catering and hospitality industry, whilst others had inherited family businesses and took a lot of their food hygiene knowledge from having previously worked under other family members there. However, some respondents were relatively new to the food industry, including some whose current business was their first in the catering industry and had only been in the industry a matter of months.

Table 1.4.1 Small FBO sample breakdown

Business Type	Total	Location	Total
Takeaway	6	London	6
Food stall	6	Bangor	3
Café/Restaurant	6	Manchester	9
Food Retailer	6	Cardiff	6

1.5 Structure of the report

For ease of reference, the remainder of this report is structured as follows:

- Chapter two: Experience of the current regulatory model
- Chapter three: Reactions to changing the system
- Chapter four: Overall conclusions
- Chapter five: Appendices

All quotations are verbatim, drawn from audio recordings of the interviews.

2. Experience of the current regulatory model

In this section, we will explore small FBOs' current relationships with regulators and their current practices in regards to finding information about and complying with regulation. Before introducing small FBOs to the FSA's rationale for change and five guiding principles for change, we explored their current opinion of the regulatory system and any spontaneous suggestions for change.

We began by asking small FBOs how they initially found out about food regulation, how they kept their knowledge up-to-date, and the practical steps they took to comply with this regulation. We then explored small FBOs attitudes towards the current system as a whole and the regulators in charge of enforcing it.

Key findings:

- When first setting up a food business, information is seen as accessible and legislative requirements relatively simple to understand
- However, keeping up to date with changes to legislation after set-up was seen as more burdensome. Respondents expressed a desire for regulators to be more proactive in keeping FBOs abreast of changes
- FBOs saw the need for regulation and were generally keen to comply. However, some perceived the current system to be too focused on time-consuming and unnecessary record keeping as opposed to testing the hygiene of premises at inspection (e.g. swabbing surfaces)
- Overall there was little appetite for changing the system; whilst most small FBOs had suggestions for small improvements, they did not see the need for a more radical overhaul and saw the current system as fair on businesses and consumers
- Inspections were seen as the most effective way of ensuring food safety
- FBOs' relationship with and perception of the regulatory system overall was predominantly affected by their interactions with LA EHO officers. Inconsistent advice between inspections was the most commonly referenced cause of frustration for businesses.

Although previous research suggested small FBOs wanted the regulators to be more pro-active in informing them about food safety regulation³, there was a strong status quo bias in favour of maintaining the current system among participants engaged in this research. When asked about potential changes to the existing regulatory model, respondents did not typically make suggestions that would radically change current regulatory practices. Instead, suggestions for improvements focused on making smaller adjustments that would facilitate improvements and efficiencies. Whilst respondents may find elements of the current regulatory model irritating, they do not have a great deal of difficulty getting started with and complying with food regulation. They do not see the system as being unfair on businesses or unsafe for the consumer and therefore have no great appetite to change it to any great degree.

³ TNS BMRB, (2015). FSA: Business Information Needs – TNS BMRB Qualitative Research with Businesses.

2.1 Setting up a small food business

Respondents found food hygiene regulations straightforward and felt information on standards and how to comply was both accessible and available. Both those with and without prior industry experience saw regulations as “common sense” and things they would do when preparing food in their own homes anyway.

Approaches to initially understanding and complying with regulation differed depending on the owner’s route into becoming an FBO. Those with previous experience of working in another food business (e.g. working in catering or hospitality as employees) applied their existing knowledge from previous work. Amongst the few respondents in our sample who had previous experience working for large chains, there was surprise at how checks appeared to be less stringent for small businesses.

“I was incredibly surprised how relaxed it was... anyone can set up a food business.” – Mobile Premises, London

For small food business owners who were relatively new to the food industry, the LA was a key source of information, with some LAs holding compulsory training sessions for new FBOs. Business owners were generally positive about the support they received from their LA when first starting out in their business. However, some FBOs were less positive about their ongoing relationship with LAs. This is explored in the following section.

2.2 Keeping up with changes in regulation

Whilst businesses typically had few issues when initially learning about and complying with regulation, keeping up to date with changes was more troublesome. Respondents reported having numerous pressures on their time, making keeping up with changes to regulations challenging. Some also found it difficult to understand which changes were immediately relevant to their specific business or working environment and what they needed to do to comply with changes in their business. As a result, businesses participating in this research wanted greater support from either their LA or the FSA to help them keep up-to-date with changes to the food hygiene regulatory system. This would thereby help them avoid unexpected breaches of regulation when they are inspected.

There was a desire for the regulators to be more pro-active in providing information to FBOs about how to comply with food hygiene regulations. For some, this was driven by a belief that to ask for advice would result in them being treated as a risky business, meaning they may become more frequently inspected by the regulator.

“Considering that everyone is registered with [the regulator] and has to be able to trade, [informing traders] is something that they should be doing. They should keep people far more informed.” – Mobile Catering Company, London

Some LAs were seen as slow to introduce legislation that had been cascaded down by the FSA, with some suggesting they would rather see the FSA implement regulation directly in order to “cut out the middle man” (e.g. LAs delaying implementing the FSA’s policy on rare burgers). Regardless of how this works in practice, the clear message from businesses was that regulators need to play a more active role in keeping business up-to-date with changes to regulation.

2.3 Complying with regulation

Small FBOs in the research reported a desire to comply with regulation and ensure consumers were safe. On the whole, they think their current activities are sufficient to ensure their food is safe to eat with a view that hygiene practices were largely common sense. However, respondents did raise some issues with the current system. They believed too much effort was spent on form-filling (which they perceived as easily falsifiable) as opposed to checking the actual hygiene conditions of their premises when they were inspected. Others who had been exposed to larger food businesses and processes thought other small food businesses were not doing enough to ensure consumer safety even if they were technically complying with regulations.

2.3.1 Views on daily record keeping

Respondents mostly referred to the daily checks they would carry out to comply with regulation including fridge temperature checks, stock checks, and cleaning to a set rota which is recorded. Whilst some respondents saw this as part of their responsibilities as a food business, others thought daily checks were excessive, particularly those that had a lower FHRs rating. Respondents commonly suggested daily record-keeping was at best an inconvenience, and at worst as overly focused on 'box-ticking' than actually ensuring food safety. Some believed that EHOs prioritised the keeping of accurate records over actually checking the conditions of the premises. There were also concerns that it would be very easy for an FBO to fabricate records without actually carrying out the procedures they were recording in their daily log.

"It's a waste of time ... it's the same information day in and day out" – Food retailer, Manchester

"There's pointless things... there's just a load of rubbish in there to be honest" – Mobile Premises, Cardiff

"I think it's stupid. You know, if you have your house you know you are going to turn off your gas, cooker and electric. We do this on a daily basis 7 days a week. So you don't need to write down 'I switched my lights off'. It's a waste of my time. It's just for them to look at it." – Corner shop, Manchester

2.3.2 'Common sense' hygiene measures in a small working environment

Beyond the daily checking, other good practice compliance activity was largely viewed as common sense by respondents and things that they would have done in their own home when preparing food anyway. Some suggested that they thought the daily recording of data was more relevant to larger business where things could be missed, whereas small FBOs often had one person responsible for overseeing everything personally. As a result, some respondents felt weekly checks would be sufficient.

"You know when the fridge isn't working - why do you need to record the temperature? Maybe it applies to bigger businesses than mine." – Café in a park, London

2.3.3 Prior experience affected attitudes towards current compliance requirements

There was also a divide in attitudes between those who had previously worked for larger caterers or hospitality chains and those who had only worked in small FBOs. Those who had only worked in small FBOs were more likely to see record keeping and EHO checks as sufficient, whereas those with wider experience were more likely to consider these controls lax compared to the testing and probing of food that often occurred in their previous work.

"The folders we had to do were more extensive but the actual probing and checking of food was a lot less [than when I worked for a large food business chain]... A bigger focus on cleaning schedules... less focus on 'do you probe your food [to check internal temperatures] daily?'" – Café in a park, London

"What I find a bit OTT is that you're sticking a thermometer in pies." – Bakery, Manchester

2.4 Small FBOs overall views of the current regulatory system

In general, respondents were happy with how the system was set up; it was unusual for respondents to suggest there was a need for either laxer or stricter measures. Those advocating for tighter regulation commonly had previous experience working in large chain food businesses where there are standardised, rigorous processes. The key change that was called for was a greater focus on inspections and less focus on paperwork and form-filling.

2.4.1 The need for regulation

Respondents saw a clear need for regulation, both to ensure the public are protected and that dangerous FBOs are shut down. Respondents did not call for more lenient regulation. When discussed in interviews, these issues were approached as much from a wider social perspective as from the perspective of their own business's need, with small FBOs expressing their concerns about the impact of regulation on public safety beyond their own customers and business (i.e. they wanted to ensure that they as consumers could buy food confident in the knowledge that it is safe to eat). There was also recognition that it was important for the food sector as a whole that consumers felt safe when purchasing food.

"The rules are there for a reason because there are bad people out there." – Mobile Premises, Cardiff

"They're there to do a job and we're here to make sure we do our bit" – Workman's Café, Cardiff

2.4.2 Views on the efficacy of the FHRS

Amongst businesses that had not achieved the highest FHRS ratings, some saw achieving a four or five star rating as largely dependent on technicalities that would not actually impact upon the safety of their customers. In some instances this was accepted with little complaint. Others thought it was unfair if this was due to something they were unable to change about their business (e.g. being in an old building that was rented) or a perception that the demands on a sole trader were too much to reach five stars. It also exacerbated the view held by some that one of the main problems with the current system was an overemphasis on 'box-ticking' that didn't have any impact on the actual risk posed to a consumer by a business.

"For me anything above a 3 is fine – it's probably just paperwork." – Café, Cardiff

"It's pretty much impossible for a one man band to pick up everything they want you to do" – Mobile Premises, Cardiff

"Health and safety always want you to have the standard of a [large] supermarket, but they get money and support from the council and money from the bank. All the small shops are struggling because of rent, electrics, employers." – Small supermarket, Manchester

2.4.3 The importance of inspections

Overall there was satisfaction with the current system (even if paperwork and requirements for a four or five star rating were seen as irritants by some). One aspect of the current controls raised as particularly important was the spot check inspection system. Some spontaneously mentioned that they were inspected less frequently after receiving a good inspection but were against formalising this (see section 3.1.4 for further detail). Unannounced inspections were seen as crucial for ensuring standards did not drop between inspections. Awareness amongst small businesses that they could be subject to an inspection at any time meant they aimed to ensure they were consistently maintaining high standards.

"The surprise visit means that you're always on it." – Small café in a park, London

2.5 Current Relationship with regulators

Small FBO's relationship with the regulators was largely framed by and experienced through their relationship with their LA. Individual inspectors play a crucial role as the face of the regulator. Their attitude and consistency are what plays the largest part in small FBOs' views of their LA, though small FBOs did not link the behaviour of EHOs back to the FSA (that sets the overall framework within which inspectors operate). As small FBOs don't typically engage directly with the FSA, there were few strong views for or against the FSA as the overall regulator of the market. The FSA was generally viewed favourably but was also largely seen as distant from the process on the ground as it stands. Most FBOs had no direct contact with the FSA but were not against the FSA being more involved in food regulation as a result. For those with experience of engaging with the FSA, this was mostly limited to accessing advice through the FSA's website or contacting them for very specific queries (e.g. the importing of potentially banned foodstuffs).

2.5.1 Relationship with LA

There was clear variation in the kind of relationship that small FBOs had with their LA. Whilst some businesses spoke about a collaborative relationship, others described the approach from their local council as apathetic or confrontational. Although some had contacted the council directly, perceptions of LAs were largely driven by the kind of relationship they'd had with the EHO that had conducted their most recent inspections. There was also evidence that FBOs' opinions of LAs would change when the attitude of inspectors changed.

"[The] attitude they came in with was totally wrong. They came looking for something to mark you down on... Past few years...it's a lot more logical" – Restaurant, Cardiff

"I became grateful because there was some stuff I was missing and some stuff I didn't know. She's been very helpful since... I want her to come back now so I can show her what I've done" – Café, Cardiff

The attitude of inspectors affected small FBOs' propensity to seek information and guidance from the regulator. The concern that such an action might trigger an inspection was particularly high amongst those FBOs whose EHOs reportedly saw their role more in terms of an enforcer than an advisor. This concern was prevalent even among those FBOs that currently had good hygiene ratings and standards, with an additional inspection generally regarded as an unnecessary hassle. FBOs understand the need for inspections but see them as a 'necessary evil'. They view them as a requirement for keeping consumers safe but as the process could lead to a fine or the closure of their business it is daunting, even for those with exemplary hygiene practices.

"I think a lot of people are too scared to get support because they believe that should they ask for this advice, they've done something wrong." – Small café in a park, London

2.5.2 Relationship with inspectors/EHOs

Another common issue with inspectors was a lack of consistency. The desire for consistency was twofold; in the first instance, FBOs generally wanted to have the same inspector each time so they were able to build up a working relationship with them. However, more important than this was that guidance given by different inspectors should be consistent. FBOs found it very frustrating when they were given directly contradictory guidance by different inspectors with one suggesting this was due to an observed increase in the use of contractors who were not attached to any particular borough. Inconsistent guidance led to FBOs questioning whether some aspects of regulation were strictly necessary (particularly where this did not fit with a 'common sense' understanding of food hygiene).

"The difference between a four and a five [star rating] is nothing. We don't know why it was a four when it could have been a five... It's these minor things which you know would never give you food poisoning but you just accept it, but you don't - you use your own judgement... You're thinking, why would they say that? Maybe they're trying to find something? They're looking for a problem instead of saying 'great job, well done'." – Small café in a park, London

"They need to focus on getting the correct teams of people. Is the contractor's accountability to the borough correct?" – Mobile Premises, London

2.6 Overall experience of the current regulatory system

Small FBOs were broadly happy with obtaining information on regulation and with the system as it stood, with most only suggesting minor changes for how it could be improved. Whilst elements of the system were seen as more burdensome (particularly keeping up to date with changes in regulation and form-filling), the implication was that these were inconveniences that could be improved within the overall framework of the current system.

The next section focuses on what suggestions for change small FBOs spontaneously suggested when asked directly, their reaction to the FSA's rationale for change, their feedback on the FSA's five guiding principles for change, and an exploration of small FBO's views on third party involvement in food regulation.

3. Reactions to changing the system

This section explores small FBOs' reactions to changing the system, including their spontaneous reactions to the idea of change and their reactions to the FSA's rationale for change. We then consider small FBOs' feedback on the FSA's five principles for change and their aspirations for a future regulatory model having reflected on the five principles.

As part of our research, we first of all tested respondents' spontaneous reasons for change (or no change) and what changes they would or wouldn't like to see. We also introduced them to some of the FSA's reasons for change to see how respondents responded to these. We then introduced respondents to the FSA's five guiding principles for change, with each principle explored in turn. Having discussed the potential implications of these principles, we then discussed with respondents their preferences for the delivery of future regulatory controls.

Key findings:

- Spontaneously, respondents were far more likely to mention one or two areas for improvement than a wholesale overhaul of the current system
- All five components of the FSA's rationale for change were met with mixed views from small FBOs. In some instances, a number of FBOs considered factors the FSA considered as reasons for change as reasons to keep the system the same (e.g. all businesses being regulated in the same way being seen as equitable treatment)
- The FSA's five guiding principles for change were met with a variety of responses. In many instances, small FBOs would agree with some implications of a principle and not others, leading to a range of views
- Whilst many respondents had no strong preference for who delivered regulatory controls so long as the job was done well, others were against private company involvement for fear of inconsistencies, unnecessary 'middle-man' complications, and companies being more concerned with profit than the regulation itself.

3.1 Respondents' views on changing the current regulatory model

On the whole, respondents tended to consider the current system to be working well. The current checks were viewed as sufficient to ensure that the majority of food businesses provided food safely; respondents cited examples of those that had behaved irresponsibly being shut down. Whilst respondents were often able to identify areas for improvement, only one respondent spontaneously raised the need for large scale change. Small FBOs saw a clear need for regulation and were generally relaxed with how it is currently structured. Inspections were seen as stressful, but respondents did not want to lose them from the current system as they were seen as essential for ensuring consumer safety.

3.1.1 Status quo bias and minor adjustments

Respondents were resistant to changing the current regulatory model, in part, because they had invested time familiarising themselves and developing processes / habits to comply with

existing requirements. One common objection to changing the system from FBOs was that they had developed effective daily routines. Given that they did not see any need for a radical overhaul of the system, they did not see any large benefits that could be gained for them or the consumer that would offset the inconvenience of having to learn a new system.

"I'm settled now!" – Small café in a park, London

While many respondents were resistant to change, there were some individuals who were open to the idea of changing the current regulatory system. This subset of individuals expressed this in largely generalist terms (i.e. change being ok, as long as it would bring benefits). Often, however, even the food businesses that were open to the idea of change, did not go into specifics.

"[They] need to take into account the other external pressure and maybe streamline the system better." – Small café, Bangor

Where respondents did give more specific suggestions, these involved tweaks or improvements to the current system as opposed to wholesale reform. These included:

- Businesses having an assigned EHO for inspections and guidance to improve consistency of guidance across inspections
- More regular inspections as these were seen as the most effective way of ensuring consumer safety and food business compliance
- Better provision of information from the regulators to businesses so they were better able to keep up-to-date with the latest regulation and avoid accidental infringements

"Considering that everyone is registered with [the regulator] and has to be able to trade, [informing traders] is something that they should be doing. They should keep people far more informed." – Mobile Catering Company, London

"I guess if people got a shoddy rating they should go back within six months." – Small café in a park, London

3.1.2 Optimising the current regulatory system

Respondents also suggested better use of the current system as it stands, including the use of the FHRS rating system (e.g. making its display in premises mandatory and better guidance for FBOs and consumers on what the different ratings mean). Suggestions for changes to the daily checks FBOs were required to carry out and document (e.g. fridge temperature checks, stock checks, cleaning to a set rota) were common and varied. These included:

- Shifting completion from daily to weekly
- Moving it online
- Improving the template of what to fill in
- Scrapping it altogether.

Spontaneous recommendations from respondents tended to revolve around increasing inspections for failing businesses and reducing the amount of data recorded and submitted – in the case of the latter point, the opposite of the FSA's current trajectory for future regulation. This was driven by the view that inspections were a more effective method of ensuring compliance than data submissions and also by the view that the regulator should come down hard on irresponsible businesses.

3.1.3 Use of technology

Utilising new technology as part of food safety regulation was met with approval by some respondents, who noted that it was outdated for inspections to still be recorded and conducted on pen and paper. Most saw a shift to electronic and/or online record keeping as inevitable, if not welcome. Some respondents were already at a stage of recording their daily checks electronically. Others went so far as to suggest that all record keeping and checks should be conducted through an online FSA account that could be logged into.

"Everything is easier online so maybe move to technology" – Café, Cardiff

However, some respondents were very averse to the introduction of new technology. For some this was due to them not being confident in their use of the internet, particularly amongst older respondents. For others, the issue was more particular to accessing the internet in their place of work. There was concern amongst these respondents that having to access the internet at home to complete regulatory checks would unnecessarily add hours to their working day. In some instances, there concerns around FBOs in particular sectors not being confident with the internet, most specifically the mobile catering industry.

"Unfortunately a lot of the guys that work markets are not up there with the internet..." – Mobile Catering Company, London

There was a tension through the research between those that were comfortable using the internet and technology and those that were not. For those who were comfortable, completing daily checks electronically and/or online was the kind of minor change within the current framework that would reduce the burden on them. For those not comfortable with technology, the opposite was true and there was a strong status quo bias towards keeping checks on pen and paper as this was already working well for them.

3.1.4 Preserving inspections

Respondents regarded face-to-face inspections as a critical safeguarding mechanism. Though inspections can be a difficult and stressful time for any food business, FBOs did not want to lose them and saw them as essential to ensuring the system functions effectively.

On the issue of how often businesses should be inspected, there was widespread agreement that anything over 2 years between inspections was far too long for any business, regardless of how low risk or highly rated they were. Respondents pointed to how standards could become far slacker over that period and also pointed to changes over such a time period that could affect food safety, such as staff turnover or menu changes. Respondents suggested that frequency of inspection would typically be related to the outcome of the previous inspection, even if this approach was not formalised.

"They might walk in, see the premises, and think they need to come back in a month's time" – Mobile Premises, London

Within our sample of small businesses, some were newly established and had not yet been inspected. Others had been operating for a number of years and had been inspected on a number of occasions. Multiple respondents reported experiencing gaps longer than 2-3 years between inspections, and were dissatisfied with this. It was also reported by a number of highly rated businesses we spoke to that they had not been inspected for over 3 years. Some had even been operating for years without ever having had an inspection.

In some instances, respondents reported that they had contacted the regulator and invited them to do another inspection after a period of time had passed as they wanted to be able to display an up to date FHRS rating on their premises. This behaviour was particularly common amongst businesses with higher FHRS scores, who were less likely to be daunted by the prospect of an inspection.

"We've been on one of our markets for 12 years and we've never had a visit." – Mobile Catering Company, London

"I didn't want to flaunt my five star award that I got four years earlier." – Mobile Premises, London

When it was suggested to respondents that businesses are currently all regulated in the same way and that this was a reason for change, some respondents suggested that 'tailoring' was already happening informally. Respondents that had prior experience working in large FBOs suggested that by comparison small FBOs were regulated far more leniently. A business' prior FHRS rating was also assumed to be taken into account by regulators. In respondents' experience, businesses with higher ratings generally had a longer period without re-inspection than those with low ratings. Many FBOs who had observed this often thought this was a common sense approach given the limited resources LAs had to work with.

However, even FBOs with high FHRS ratings were typically against formalising a system whereby highly rated businesses were not inspected for longer. Small FBOs suggested the element of surprise kept them "on their toes" at all times which ensured standards remained high. Respondents suggested that setting a fixed period of time for re-inspection on the basis of a food business's last inspection risked FBOs becoming more lax in the intervening period.

"Sometimes the large businesses are used as trophies [and inspected more thoroughly whereas] I got my 5 rating for my [small food] business from a quick chat." – Mobile Premises, London*

"They do tend to leave the good ones alone." – Small café in a park, London

Most saw a uniform approach as something to preserve (on the basis of fairness) or something that should be left for LA to interpret flexibly (for the sake of simplicity and efficiency).

However, there was support from some respondents for having a more defined approach to treating different businesses differently at inspection. This was typically framed around some small FBOs feeling they were unable to reach the same standards as large FBOs (e.g. those in mobile premises). Some spontaneously suggested the type of tailored approach that the FSA is considering as they felt they were being penalised for not reaching standards they saw as more appropriate for larger businesses.

"I definitely think a different approach should be used... I'm not the same as a supermarket" – Café, Cardiff

"It's definitely not practical to deal with a small business and a big business on the same basis, but to say that would cause an outcry." – Take away, Manchester

Whilst there were differences of opinion in how inspections should function and how inspectors should treat different businesses, all respondents agreed that inspections were an essential part of the system. Whilst no FBO suggested that inspections were something that they enjoyed, they were seen as essential to protecting consumer safety and removing businesses that put consumer safety at risk from the market.

3.1.5 LA Funding Pressures

Respondents were also divided on whether LAs need more funding or fewer responsibilities when it comes to food regulation. Although some respondents had not noticed a difference in the level or quality of regulation in recent years, those that had were split on whether they put this down more to a lack of LA funding or poor LA performance.

There was variation in how much FBOs had noticed the funding pressures that LA were experiencing. Some have put less frequent inspections and greater difficulty contacting the council down to cuts, whereas others have not noticed any discernible difference. For those that had experienced a poorer service or fewer inspections, there was disagreement over whether this was best solved by increasing LA funding or by changing the system so that LAs played a lesser role in food hygiene regulation. The attitude and efficiency of the LA was also questioned by some respondents.

"If they're not able to implement the standards that are set out there then there's some sort of reason to change, isn't it?" – Italian Restaurant, Cardiff

"They've got to get more funding from somewhere." – Golf club caterer, Cardiff

"To be fair, an inspection takes 15 minutes - I could do 20 inspections in a day... You go to one area and they'll put more effort in than another." – Mobile Catering Company, London

What was common across responses to funding pressures was the need for funding or efficiencies to be found to ensure inspections continued to go ahead. Where the regularity or standard of inspection had fallen, small FBOs were concerned about this and wanted to ensure that the current standards of the system were maintained.

3.1.6 Overall views on current regulatory model

Respondents' attachment to the current regulatory system was strong, as they believed it provided effective protection. The FSA's rationale for change was not agreed with by all respondents. In some instances, issues the FSA had identified as reasons for changing the system were in fact held up as indicative of the systems' fairness.

3.2 Reactions to the five principles for change

After exploring respondents' spontaneous reactions to changing the system and their thoughts on the FSA's rationale for change, small FBOs were introduced to each of the FSA's five principles for change in turn. Respondents gave their initial views on the principles overall before exploring in further depth what putting these principles into practice might look like.

3.2.1 Businesses responsible and transparent

Businesses are responsible for producing food that is safe and what it says it is, and should be able to demonstrate that they do so...businesses have a responsibility to be transparent and honest in their provision of that information.

Within this principle, the idea that FBOs would be required to provide evidence of compliance to FSA/LA (e.g. at registration, annual self-certification, in event of complaint or if consistently non-compliant), that inspections may not take place, that data would be submitted to central database, and that there may be multiple private regulators (approved by FSA) were all discussed.

Overall, businesses were in agreement that they needed to be responsible and transparent. There was widespread agreement across the sample on this and for some it was seen as self-evident. However, respondents varied in how far they thought the onus should be on them to provide information upfront and how far the onus should be on the consumer to request information. For example, some suggested it was unrealistic for small food businesses to have comprehensive allergen information for every dish printed on their menu and that the consumer should request this information from the business when ordering.

On the issue of data submission, respondents were generally happy to provide data directly to the regulator, particularly those who had high confidence with technology and were already recording their daily checks electronically on a laptop or tablet. However, some were concerned about this moving entirely online due to a lack of confidence with technology, an inability to access the internet from their place of work, or both. The issue of internet access was of particular concern to some mobile caterers who did not know whether they would have internet access from job to job and did not want to add hours to the working day by having to submit this information at home.

Respondents were uniformly against data submissions replacing inspections entirely. As well as concerns over irresponsible businesses submitting fraudulent reports, others saw unique benefits to having inspections that even honest data submissions couldn't replace. Perceived benefits of inspections included the ability of a trained inspector to spot problems before they arose, the ability for an inspector to work in partnership with a small FBO to improve their performance, and the unpredictable nature of spot inspections keeping food businesses on their toes.

Responsibility and transparency

On the overall issue of food businesses acting responsibly and being transparent with consumers about their product, there was widespread agreement across the sample.

"Business should be able to demonstrate that we're making a product. You know what's in the product and you can say to the customers what it is." – Takeaway, Manchester

"Is that not a given anyway?" – Mobile Premises, London

Practical steps to inform consumers

When prompted on more specific measures for ensuring responsibility and transparency, respondents suggested providing ingredients and allergen sheets as concrete ways of being honest and transparent about the food they sold. However, some suggested there was a limit to how much information they could provide, with providing calorie information seen as being more onerous on small FBOs than large ones. Small FBOs with prior experience working in national chain food businesses suggested it was unrealistic to expect their menu items to be laboratory tested for calorie content in the way they had done in their previous work. However, one had utilised a smartphone app that provided rough calorie estimates on the basis of the recipe for the dishes provided.

Allergen sheets were another area where some suggested there needed to be a balance of responsibility between a small food business and the consumer. Some respondents suggested that small food businesses should have allergen information available but that the onus should be on the customer to ask about these.

"There's more people with allergies these days and you've got to be aware of that. It's part of your responsibility as a food provider." – Mobile catering company, London

"Customers have a right to information but sometimes it's not practical... I've got 50 things on my menu – where the hell am I going to put that information?" – Snack Bar, Cardiff

Direct provision of compliance data

When respondents were introduced to the idea of providing data directly to the FSA or a LA to demonstrate compliance, there was partial acceptance of the idea. It was broadly accepted that direct data provision could replace the paper diary system of recording hygiene checks that FBOs currently have to complete. However, respondents were averse to having to complete any more checks or provide any more data than they already provided as the time burden of completing daily checks was one of the main pain points within the current system.

By contrast, respondents were strongly against 'self-certification' and data submission replacing the inspections system for a range of reasons. The most common objection was around quality control and the ability of dishonest FBOs to submit fraudulent data; there was concern this system would penalise responsible businesses and be exploited by irresponsible businesses. The loss of a trained inspector being able to give guidance was another concern. As well some small FBOs working with their EHO to improve their food safety practices, EHOs were also credited by some with pre-empting problems by being able to spot issues that if left unattended to would become problematic. Small FBOs were unable to see how these benefits could be provided through data submission.

"I could fib. Obviously I don't but there is the potential to do this." – Café, Cardiff

"There's nothing better than turning up and being able to turn up and walk into a restaurant and a cold room without announcing you're going to be there. That's the best of the lot" – Italian Restaurant, Cardiff

Method and frequency of recording and submitting data

There was no consensus on the issue of how to record data and how often to send it. Some saw an online method or account as the best way to record and submit information, particularly in London and amongst those who were already recording their compliance data electronically. Others suggested this would be problematic for those who were not confident using the internet and for businesses without internet access in their premises, the latter concern being particularly common amongst mobile caterers. There was also a wide range of suggestions of how often data should be submitted, ranging from daily to yearly.

"I presume we'd have an FSA log in. We'd go in and get prompted to update certain things at certain points in time." – Mobile Premises, London

"When you start having to come home after working an 80 hour week and sitting on your laptop and messing around with stuff like that it's adding more work to something which is already part of your work day... 90% of the mobile catering industry are showmen and you're not going to get on and you'll end up with missing data." – Mobile catering company, London

Who data should be provided to

Respondents were also asked about their preferences on the kind of organisation(s) compliance data could be submitted to.⁴ Most were indifferent to whether this was directly to the FSA, the LA, or an authorised third party. Those that were wary of third parties for data submission were generally concerned about them being an expensive middleman (whereas the

⁴ This was separate from asking respondents about their preferences for who should deliver regulatory controls such as inspections – see section 4.4

idea of outsourcing inspections led to greater suspicion of the motives of third parties – see section 4.4).

"It doesn't matter as long as that information gets to the right people. I'm not really fussed how it gets there." – Small café in a park, London

3.2.2 Businesses should meet the cost of regulation

Businesses should meet the costs of regulation, which should be no more than they need to be... Industry should meet that cost, with those requiring the greatest regulatory intervention/attention contributing the most.

Within this principle, the potential impacts of charging were discussed, whether or not there should be any variations by business type and if there should be a transition period for small businesses.

Businesses were generally against being charged for regulation for a range of reasons. These included concerns about the personal costs to them as well as the wider implications, such as people being deterred from starting a business and fewer new businesses registering with the regulator. The idea of paying for regular inspection was met with particularly strong resistance and, in some instances, anger.

If a system of charging were to be introduced, respondents were more open to a system that charged businesses that failed inspections for re-inspections and/or a system that charged an initial start-up fee (preferences are explained in further detail below). The suggested acceptable start-up charge varied even amongst small FBOs, as did views on whether this fee should vary by business or be a flat fee.

Initial response to charging

Respondents were generally averse to the initial idea of charging business to fund the regulatory system. Objections were usually from a principled perspective as a matter of fairness. Respondents objected to paying for regulation when they were already paying taxes on their business and saw charging for inspection as adding to a trend of small businesses in general being squeezed out by large businesses.

There were also more practical concerns raised around an introduction of charging for businesses. Some were concerned that any more costs could put them out of business. There was also concern that charging could lead to an increase in businesses opting not to register and trading illegally, thereby putting the public at risk.

"There's already corporation tax, high VAT, if they want us to pay that will flatten the system. Our businesses are down and any more pain will be hard." – Takeaway, Bangor

"I totally disagree with that. Number 1, we pay enough money for a licence as it is for a piece of paper I could make at home. Secondly, why should we contribute to Trading Standards when then have a budget they can use. Business is struggling as it is" – Corner shop, Manchester

Charging a start-up fee

When respondents were presented with the option of paying a start-up fee when registering the business, opinion was divided. Whilst some suggested that this would be the perfect time to pay as there are a whole host of one off start-up costs that are paid anyway, others suggested this as the reason not to pay at this point due to concern that this may deter people even further from starting their own business. Paying a start-up fee was typically seen as the

most acceptable option if this also gave them access to a service, such as a course introducing new food businesses to the regulation system, and was not priced too highly.

"I suppose that would work because you have so much to pay out at the time that one extra fee isn't going to harm is it." – Small café in a park, London

"That would disillusion people from starting new businesses... The costs are large enough when starting a new business." – Mobile catering company, London

Respondents in favour of a start-up fee were divided as to whether this should be tailored to businesses or not, with those in favour of tapering suggesting a range of criteria that this could be based on including revenue, size, business type, and number of outlets. Those in favour of a flat fee thought that a tapered system dependent on each individual business's circumstances would be too complicated to administer, though a flat fee approach also tended to be suggested by those for whom business was going well. An acceptable amount for a start-up fee for business differed a great deal amongst respondents, with suggestions ranging from £30 to £1000.

"You're in trouble before you start if they're going to charge me the same amount as Tesco." – Italian Restaurant, Cardiff

Charging for inspections

When respondents were introduced to the three possible options for charging (i.e. charging a start-up fee, charging for each inspection, charging for any necessary repeat inspections due to poor performance), there was widespread rejection of charging for regular inspections. Respondents saw it as unfair that businesses who complied with the regulation to a high standard would have to pay for inspections that found no issues with their food safety practices.

"[Fees for regular inspections] means all businesses. That means the ones that are complying." – Caribbean Restaurant and Bar, London

Amongst those that didn't reject the idea of paying for regulation outright, paying for reinspection was favoured by some, with this seen as a way of punishing businesses that were not sufficiently ensuring customer safety. However, some raised concerns that such a system should only charge for reinspections triggered as the result of a previous failed inspection. Customer complaints were seen as too ill-informed and open to abuse to trigger to warrant an inspection to be triggered, particular if such an inspection resulted in no transgressions being found.

"I'd be really angry - I'd be furious... It might be slanderous. I don't want to pay because [a customer's] being an idiot... If I got a low rating and they had to come back to check then yeah, I guess." – Small café in a park, London

3.2.3 Penalties and rewards

Businesses doing the right thing for consumers should be recognised; action will be taken against those that do not.

Within this principle, the idea that new rewards for compliance (including less frequent inspections) would be introduced for compliant FBOs was discussed.

On the issue of penalties and rewards for businesses, ensuring a system of penalties was structured correctly was seen as the priority. Rewards for good performance were seen either as unnecessary or as something that regulators could include to incentivise excellence but

were not essential for effective regulation. Ensuring penalties for non-compliance were proportionate and effective was viewed by small FBOs as essential for a fair, well-functioning system.

The FHRS rating was seen as a reward or punishment in its own right and FBOs were in favour of it being better explained to the public and making its display compulsory. FBOs also saw a need for a clear structure of staggered penalties for infringements, with the most serious transgressions resulting in closure.

Rewards

In general, respondents were of the opinion that “a job well done was its own reward” and that the current FHRS rating captured this effectively. Most businesses simply saw ensuring high standards of food hygiene as part of their everyday job and did not think it was appropriate to reward businesses for this.

Those businesses that were more open to rewards typically wanted greater recognition for their achievements. Some suggested that the regulator could drive promotion of the highest performing businesses through official social media channels, with one respondent also suggesting this could extend to FSA branded and paid for advertising of exceptional businesses. Others suggested special achievement awards for exceptionally high standards (e.g. achieving a five star rating three inspections in a row) that could be displayed in their premises. One respondent had received such an award from their LA for achieving a perfect score in their inspection.

A minority of small FBOs suggested financial rewards such as lower insurance premiums. However, no businesses thought the removal of inspections entirely would be appropriate no matter how compliant a business was. Inspections were seen as essential to maintaining high standards and respondents suggested these could become more lax if they knew they would no longer be inspected.

“The hygiene rating is reward in itself... it gives you satisfaction. The customer can see that you have a 5 and they can be confident.” – Food Stall, Manchester

“Maybe they could do more social media [promotion] - so and so's got a five star rating.” – Small Café in a Park, London

Penalties

All small FBOs were in favour of penalties of some description for businesses that failed to comply with regulations. Whilst respondents all considered themselves to be responsible businesses, many were forthcoming with ‘horror stories’ about the conditions in other businesses. It was commonly held that there were businesses which would cut corners or worse if sufficient punishments weren’t in place for those that flouted regulations.

There was general agreement that there should be penalties up to and including closure for businesses that put consumer safety at risk. However, some also raised concerns that FBOs that had one business shut down may restart elsewhere. A distinction was made between honest mistakes where businesses needed support and negligence which should be punished more severely. Some respondents suggested a ‘yellow card’ or ‘three strikes’ system initially for minor infringements.

“Local councils should be working more with the businesses to encourage them to do better for themselves. When a business is clean and hygienic, you will have a better turnover and more customers coming in.” – Small café, Bangor

"You would need to quantify what they are doing and not doing in terms of the real risk that would mean for the public. If they are putting the consumer at immediate risk there has to be a sanction immediately. It could be closure or a suspension" – Food van, Bangor

Overall, small FBOs wanted punishments to correct and guide the behaviour of those who had made honest mistakes and come down hard on those who were inadvertently or wilfully negligent. Proportionality was important, though small FBOs wanted the regulator to have a range of punishments option up to and including closure.

3.2.4 A tailored, segmented approach

FSA and regulatory partners' decisions should be tailored, proportionate and based on a clear picture of UK food businesses. There is enormous variation in food businesses... They will need different levels of support, and different levels of scrutiny.

Within this principle, the practicalities of how a segmentation of businesses could work were discussed.

The principle of tailoring provoked a range of responses, with respondents generally building on remarks made to the suggestion that the current uniform / one-size-fits-all approach was a driver to changing the system.

In addition to the above (see section 3.2.1), respondents commented extensively on the practical problems of developing a formalised segmentation. For instance, the practicalities of segmenting businesses and keeping segmentations up to date was seen as complicated, costly, and open to contestation. Some small FBOs noted that these would need constant revision as businesses evolved and could end up costing the regulator a lot of time and money to get correct.

Others expressed concern about the risks and costs associated with catering staff moving between different businesses with different systems of regulation. Catering was identified as an area with a particularly high 'churn' of staff and one of the benefits of a uniform approach was that employees could carry their food safety knowledge from one food business to the next. By contrast, multiple regulatory frameworks would result in increased training costs for food businesses bringing in new staff. There was also concern that staff moving between different types of food business could become confused by the different systems, potentially increasing consumer risk.

"They should be tailored but does anyone know what that means?" – Small Café, London

"People go in and out catering jobs all the time so sometimes they're in small businesses; sometimes they're in large businesses." – Mobile premises, London

Opposition to segmentation

Others were opposed to any form of segmentation and suggested that all food businesses should be regulated in the same way to ensure consumer safety and a level playing field between different types and sizes of FBOs. This was largely driven by a view that a uniform system would inherently be fairer because it would result in equitable treatment. There was concern that segmentation would lead to lower standards and these respondents were less willing to engage with the idea of segmentation at all.

"I don't think the size of the business matters. I think it should be the same for all... Or in the type of food." – Caribbean Restaurant, London

"We should all have the same rule book and that's what you should do regardless if you're a shopping magnate or a small corner shop." – Butcher, Manchester

3.2.5 Using different information sources

The regulator should take into account all available sources of information

Within this principle, the idea of using third party data and consumer feedback was explored.

Independent audits of large FBOs were seen as a credible data source for regulators to consider, particularly amongst those that had previously worked in large food businesses. A common suggestion here was that the more credible information that could be obtained, the better. However, audit data was not seen as replacement for governmental oversight.

By contrast, respondents were very wary of online reviews being considered by regulators. Unlike independent audits, online reviews and social media posts were based on the opinions of non-experts and were open to abuse. There was real concern that erroneous complaints about food hygiene posted online would be taken at face value by the regulator should it become part of the regulatory system.

Use of online customer feedback

Respondents were very wary of any move to source information on their business from online review sites or from social media. Some had personal experience of poor feedback they felt was unjustified, whereas others could perceive problems such as non-expert opinions being taken at face value. One respondent gave an example where a customer had complained his chicken was pink and therefore raw; it had in fact only been dyed pink by the chorizo that was also included in the dish. There was concern that genuine but ill-informed mistakes like this could be picked up by regulators online and taken at face value if they began trawling social media and review sites for data.

"Hypothetically, can you imagine them trying to source information from TripAdvisor... that's people's opinions. They don't know the facts... If the FSA read that would they take it verbatim?" – Small café in a park, London

"What it takes is someone professional who works in the food business rather than someone who isn't qualified... To review food standards it needs a professional body" – Small Café, Bangor

Use of large FBO internal data

Those respondents that had prior experience in larger FBOs were open to the regulator taking into account data from their own internal audits. More data that was credible for the regulator to review was seen as beneficial, though the use of audit data was framed as additional data for the regulator to consider as opposed to a replacement for regulatory checks. Those who had not had experience elsewhere had few opinions on this matter, though those that did have opinions were not averse to the regulator using this data as one source of information.

"With big companies the more information the better because so much can get lost along the way." – Mobile premises, London

3.3 Preferences for who delivers regulatory controls

Opinion was divided on whether it mattered who delivered regulatory controls. Many did not have a strong preference for whether their LA, the FSA, or an approved third party delivered

controls. Their concern was more with the standard and fairness of inspections and regulations and they had no prior opinion of which party would be best suited to deliver this having only ever experienced the LA delivered approach in the past.

"They'd all be doing the same job for the benefit of customers" – Café, Cardiff

However, some respondents did express strong opinions against private companies playing a role in food regulations for a number of reasons. Trust in the current regulator to deliver was one key driver of this view, with a shift in who delivers regulations seen as an unnecessary risk. Given that small FBOs did not see the current system as in need of radical change, switching who provides inspections was seen as an unnecessary 'experiment'.

Others were concerned about involving an unnecessary middleman that might lead to complications and inconsistencies. This was a common view amongst those who noted inconsistencies between how LAs delivered controls, with some who held this view believing the FSA should centralise inspections and bring them in house.

Other objections were more specifically around private companies delivering inspections. Some expressed concern that private inspection providers would be driven more by profit than by delivering regulatory checks safely and fairly. There was also concern that private inspection providers would be more open to bribery and corruption than a regulator not seeking to make a profit, as they would be under more pressure to meet targets and ensure profit.

At a more granular level, some raised the issue of what payment structure might be implemented for private companies delivering controls. There was concern that perverse incentives might lead to private providers being unduly strict or lenient on businesses and fundamentally affecting the relationship a FBO could have with a regulator.

"[The FSA] need to run it as a business [centrally]... I'm sick of this outsourcing... it'll be another interpretation of the information provided. They'll be doing it for a financial gain as opposed to the right things. It needs to be kept in house." – Café in a park, London

"You're then looking at the telesales thing where you're getting people who have been approved by a company to go and sell their product and they don't have a clue what they're doing. That would depend on who the companies were that were involved... You've got different companies with different agendas." – Mobile Catering Company, London

4. Conclusions

Participants in this research did not recognise a need for a radical overhaul of the system, influencing some of their responses to the five principles for change. For the most part, participants did not see the benefits that change would bring for them or the public – which may need to be emphasised once change is instituted along with a persuasive account of the failings of the current system.

There was also a mixed reaction to some of the regulatory changes implied by the FSA's five principles to guide the future of food regulation. In particular, respondents were against what were seen as the two largest departures from the current system of regulation - businesses funding regulation and self-certification through data submission.

The key drivers of small businesses' objections to paying for their own regulation were both principled and practical. Some businesses saw the principle of paying for regulation on top of taxation as wrong and indicative of a general unfair squeeze on smaller businesses. Practical considerations focused around whether they would be able to stay in business with additional charges, making the changes a matter for financial survival for them.

However, small FBOs were less resistant to charging for regulation when they could see a clear benefit to their business. The most notable example of this was on the principle of businesses paying for regulation, where a start-up fee that paid for an introductory food safety course was much more preferred to charging for regular inspections.

Opposition to self-certification through data submission also had more than one driver. The most common objection was that the system was open to abuse by dishonest FBOs, which in turn could put consumers at risk. However, there was also concern about losing the expertise of an EHO to advise FBOs and pick up on potential hazards that could not be assessed by data submissions alone.

Finally, one of the overarching themes emerging from the research was respondents' acceptance of the need for regulation and their responsibilities as food providers to ensuring public safety. Coupled with this was the view that inspections bring benefits for their business as well and that unscrupulous FBOs would cut corners without them or a similarly tough system of regulation. When changes were proposed that may have benefited FBOs from a purely business perspective but may also have increased consumer risk (e.g. lighter touch regulation), these were typically rejected as irresponsible. Participants did not treat food safety regulation purely as something that had to be complied with for its own sake and FBOs expressed genuine concern about the safety of their consumers and the wider public. Any proposed changes to the regulatory framework that are perceived to be increasing consumer risk may therefore be rejected by the industry.

5. Appendices

Small FBOs Depth Interviews topic guide

Topic Guide FSA – Regulating our Future

Depth interviews with small food businesses: 90 mins

Aims and Objectives for small business interviews:

- Determine the aspects of the current system of delivery that work well, and those that are less well suited to the individual business or small food businesses more generally
- Understand attitudes towards the principle of food businesses taking more responsibility for demonstrating compliance, and views of the other principles
- Understand attitudes towards the relationships between food businesses, LAs, and central government, and how these might change in the future – including any expected opportunities, or concerns businesses have
- Understanding responses to different examples and other successful models for delivery – to understand the benefits and drawbacks associated with each and the reasons for views, i.e. to understand what makes certain models successful, and why
- Explore attitudes towards changing the system of penalties for non-compliance and rewards for responsible behaviour, including sanctions / reputational recognition.

■ Introduction (5 mins)

- Facilitator introduce self and purpose of research – to understand small businesses' views on changes to the way food is regulated. The research will be used, alongside views from the public, to help inform a future regulatory model.
- TNS BMRB independent research agency, work on behalf of Food Standards Agency
- Research is anonymous and voluntary, they will not be identified to FSA or anyone else
- Request consent for audio recording
- Length of interview
- Any questions?

■ Background (5 mins)

- Overview of business
 - Introduce themselves
 - How long they have worked there/owned the business
 - Their role – what they are personally responsible for
 - Their background, i.e. what they did before, whether in the food industry

- What training they have had in relation to foods safety/hygiene
 - What they see as their strengths vs. areas that they may find more challenging
 - Who else works there i.e. number of employees, whether it is family run
 - Hiring practices (e.g. where from, skills required vs. on the job training, etc)
 - What training do they require their staff to have
 - What training they provide
 - Frequency of staff churn
 - Current business conditions
 - Recent trends/changes
 - The best things about running a food business
 - Key challenges facing their business

▪ Current business and food regulation system (25 mins)

Researcher to explain we want to talk a bit more about the legal requirements of setting up and running a food business, relating to food safety and hygiene (i.e. not about tax, employment, etc.)

- Setting up a business
 - What they remember about first getting to grips with the laws surrounding food safety requirements for businesses
 - How easy/difficult it was to find information about legal requirements
 - How easy/difficult it was to put requirements into practice
 - Where they looked for information
 - Any formal support/advice they sought (i.e. from LA/FSA)
 - Any informal support/advice they sought (i.e. from colleagues, social network, online)
 - How useful
 - What was the most challenging/burdensome aspect relating to food hygiene and safety
 - With hindsight, what they wish they had known
 - E.g. can they think of any examples of things they wish they knew / did proactively/preventatively, rather than correctively
 - Overall – what they think of the current information and support available for businesses like them
 - How they would improve this
- Could they briefly describe what they do in order to comply with food laws in their businesses
 - Who takes responsibility for this within the business
 - How they find this overall
 - Any areas they find particularly challenging / burdensome
 - How frequently they are inspected
 - How they find this process
- What information they have/record about their compliance
 - How frequently this is recorded, by whom
 - Method (e.g. on paper version SFBB/electronic diary on SFBB/something else)
 - Perceived level of burden
 - What, if anything, could make this easier
 - What, if anything, could make this more accurate, or useful (e.g. different data, different collection/recording methods)
- Their current FHRs rating
 - Roughly when they had their last inspection
 - Their views on the rating, and any advice/actions from the EHO
 - Whether this has changed recently
 - If so explore how this happened
 - What steps have they taken to increase their rating
- What they think of the rules around running a small food business (*researcher note – this is about food laws only*)
 - How well they think they understand the current regulation system
 - What they think works well for their business

- Why
 - What they think works less well for their business
 - Why
 - Whether there is anything that they think is not appropriate to their business
 - What and why - probe in detail
 - What is the most difficult aspect to comply with, in terms of:
 - time burden / financial cost / comprehension
 - anything else
 - Thoughts on current relationship with regulators
 - How they would characterise...
 - Current relationship with LA (*direct towards food regulation if other aspects of relationship begin being discussed at length*)
 - Current relationship with FSA (*introduce FSA and role it plays if respondent not clear*)
 - What is currently working well
 - What is working less well
 - How this could be improved
- **Overall**, how well they think the current system works for small businesses like them
- Spontaneous responses to the idea of changing the system

Changing the system (5 mins)

Briefly, if not already covered:

- If the system is set to change, what key things do they think need to be prioritised

Moderator to introduce the changes to the current system. Explain that the FSA is reviewing the ways in which food businesses are regulated in the UK. There are a number of factors driving this change. Introduce STIMULUS A (Context – why change the system?) from public groups.

- Explore spontaneous responses to each point

▪ Exploring the principles and blueprints for change (45 mins)

*Moderator to explain that the FSA has identified **five principles** to develop a future model for regulation, developed with key stakeholders including industry, consumers, and government. Explain that we would like to understand small business perspectives on these. We also would like to share some of the early ideas for what a new model would look like. Please note these are not yet 'set in stone' but are at early stages of development. Throughout, we want them to think through what makes most sense for their business and businesses like them – how best a new system could work.*

Use STIMULUS B (listing each of the 5 principles as below – on separate cards)

Businesses responsible and transparent

Businesses are responsible for producing food that is safe and what it says it is, and should be able to demonstrate that they do so. Consumers have a right to information to help them make informed choices about the food they buy – businesses have a responsibility to be transparent and honest in their provision of that information.

- Initial response
- How they help consumers make informed choices now
 - Any way they think this could improve (e.g. what kinds of different information)

In a future system, small businesses may be asked to provide evidence to the FSA/LA to demonstrate their food safety compliance. This would be at several points in time:

- *At point of registering a new business*

- To prove ongoing compliance, e.g. annual self-certification
- To prove compliance in the event of an incident, consumer complaint, or if persistently non-compliant
- How would this best work for them, in terms of:
 - What information they could easily provide
 - What might be more difficult to provide
(if struggling, refer to their SFBB/information they already collect)
 - What format that would be easiest
 - for example, if there was an online system to submit all information
 - frequency of submission
 - whether more suitable for their business to submit little and often, or less frequent/more info
 - suggest most appropriate frequency
- What do they perceive to be benefits/disadvantages of directly providing this information
 - Prompt **only if needed**: data security, understanding of how to complete correctly / fear of being registered as non-compliant if make errors, fear of additional scrutiny when being transparent
- Whether it matters who they submit this information to (FSA, LA, 3rd party) and why

Tailored, segmented approach

FSA and regulatory partners' decisions should be tailored, proportionate and based on a clear picture of UK food businesses. There is enormous variation in food businesses, in their size, the type of food they produce, the processes they use and their attitude to food safety and authenticity. They will need different levels of support, and different levels of scrutiny. One size will not fit all so we will be considering how to segment businesses – and to do that, we will need good quality, up to date information about them.

- What they think FSA needs to bear in mind when designing a system specifically for small food businesses
 - What are their specific needs/pressures as a small business
 - (Refer back to challenges mentioned previously – how could these be addressed)
- How much variation they think there is amongst small businesses / SMEs
- If FSA were to develop different categories/segments, what characteristics would they want included in their segment (i.e. how specific it needs to be, what should it be based on – activity, food stuff, size, something else?)

Penalties and rewards

Businesses doing the right thing for consumers should be recognised; action will be taken against those that do not. Many businesses want to produce food that is safe and what it says it is, and do so. They know that consumer confidence in the whole industry is crucial, so are as keen as we are to drive out those who put that confidence at risk. Businesses who put consumers at risk, either deliberately or negligently, need to know that there will be consequences, while businesses who demonstrate to us that they are transparent and prioritise food safety and authenticity will benefit from reduced regulator scrutiny. We are open to using a range of tools to encourage business behaviour change, including reputational recognition and sanctions.

- Views on what penalties/sanctions should look like:
 - For persistent non-compliance, i.e. the 'bad businesses' who are negligent
 - For failing to submit compliance data (periodically/consistently)
 - For businesses that get something wrong, but who have been otherwise compliant and transparent.

Spontaneous, then probe if needed:

- Spot fines, name and shame, closure, sentences, anything else?
- What should rewards be based on (transparency, compliance, good track record, FHRS 5)
- Views on what rewards/incentives should look like for responsible businesses

Spontaneous, then probe:

- o 'Lighter touch' interventions (what does this mean to them)
- o Insurance premiums reduced if FHRS 5

Meeting the costs of regulation

Businesses should meet the costs of regulation, which should be no more than they need to be. UK food is some of the safest in the world, and UK businesses benefit from consumers (in home and domestic markets) trusting the food they produce. The industry tells us they value a strong, independent regulator. We believe that the regulatory regime should be as cost-effective as possible, for example by working with others and using a range of sources of information. Industry should meet that cost, with those requiring the greatest regulatory intervention/attention contributing the most.

Moderator to explain that charges could be: a fee to register a new business; fees for regular inspections, fees for any additional inspections needed (e.g. if an incident occurs).

- o Initial response to idea of charging
- o Response to idea that non-compliant businesses would need to pay more (as they would be required to pay for each intervention)
- o Expectation for registration fee:
 - o Whether expect flat fee for all businesses, or based on business type
 - o Roughly what they would expect this to be
- o Expectation for intervention costs – roughly what they would expect this to be
- o Likely impact on their business – SPONTANEOUS, THEN -
 - o What changes would they need to make to be able to cover these costs
 - o Whether they expect to pass this cost on to consumers
- o Any other views on how they think this should work

Researcher note: this principle has been moved to the end, as it is less directly relevant to small businesses and thus less of a priority. Please cover briefly, if time.

Using different information sources

5. The regulator should take into account all available sources of information

Moderator to explain that this is about regulators using data that they industry collects about itself from its own audits and checks, and information from other sources, such as consumers and other regulators. This primarily relates to larger businesses.

- Is there any information they hold/collect that they could submit
- Views on consumers submitting information about their business
- Views on large businesses submitting information they are collecting through auditors/third parties

Ask all:

- Whether they perceive differences/have preferences for WHO delivers the controls (in terms of who conducts the inspections, for example)
 - o Views on this being FSA, LA, or FSA-approved third party
 - Reasons for views
 - o Impact on existing relationship with FSA/LA, if any

▪ Summary

- o Any other ideas or suggestions for changing the system not already covered
- o Overall – their views now about the changes to the system
 - o What they perceive to present potential **challenges** or risks and why
 - What are they most worried about
 - o What they perceive to be the biggest **opportunities** and why

- If one element changes in the new system, what would they want it to be
- Any questions/comments

Thank and close

Printed stimulus material from small FBO depth interviews

Why change the system?

We currently take the same approach to all food businesses, no matter how big or small they are



Local authorities are under severe pressure



TNS

A

1

Why change the system? (2)

The frequency of inspection currently averages 6 months to 2-3 years

OUT OF DATE

We're not utilising new technology



The system is currently funded through local authorities with pressures resulting in inconsistency



TNS

A

2

Businesses responsible and transparent (1)

Businesses are responsible for producing food that is safe and what it says it is, and should be able to demonstrate that they do so. Consumers have a right to information to help them make informed choices about the food they buy – businesses have a responsibility to be transparent and honest in their provision of that information.

TNS

3

Businesses responsible and transparent (2)

In a future system, small businesses may be asked to provide evidence to the FSA/LA to demonstrate their food safety compliance. This would be at several points in time:

- *At point of registering a new business*
- *To prove ongoing compliance, e.g. annual self-certification*
- *To prove compliance in the event of an incident, consumer complaint, or if persistently non-compliant*

TNS

4

Tailored, segmented approach

FSA and regulatory partners' decisions should be tailored, proportionate and based on a clear picture of UK food businesses.

There is enormous variation in food businesses, in their size, the type of food they produce, the processes they use and their attitude to food safety and authenticity. They will need different levels of support, and different levels of scrutiny. One size will not fit all so we will be considering how to segment businesses – and to do that, we will need good quality, up to date information about them.

TNS

5

Penalties and rewards

Businesses doing the right thing for consumers should be recognised; action will be taken against those that do not.

Many businesses want to produce food that is safe and what it says it is, and do so. They know that consumer confidence in the whole industry is crucial, so are as keen as we are to drive out those who put that confidence at risk. Businesses who put consumers at risk, either deliberately or negligently, need to know that there will be consequences, while businesses who demonstrate to us that they are transparent and prioritise food safety and authenticity will benefit from reduced regulator scrutiny. We are open to using a range of tools to encourage business behaviour change, including reputational recognition and sanctions.

TNS

6

Meeting the costs of regulation

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TNS

7

Using different information sources

The regulator should take into account all available sources of information

TNS

8

Creating a new regulation system for: **A Family Run Restaurant**



Which elements from the current system do you want to keep? And which do you want to change?

Which elements from the potential scenarios do you want to introduce?

Which elements from the potential scenarios do you want to avoid?

What else needs to be taken into consideration?