



National Audit Office

Report

by the Comptroller
and Auditor General

Food Standards Agency

Ensuring food safety and standards

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Food Standards Agency

Ensuring food safety and standards

Report by the Comptroller and Auditor General

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Gareth Davies
Comptroller and Auditor General
National Audit Office

7 June 2019

This report examines the effectiveness of the current regulatory arrangements to ensure that food is safe to eat and is what it says it is.

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Key facts

£1bn

Food Standards Agency (FSA) 2015 estimate of the total approximate annual cost of food-borne illness including the cost of the impact of illness on individual well-being, loss of earnings and hospital admissions

£164m

FSA estimate of the total cost of delivering official food controls in England in 2016-17

516,000

Approximate number of food businesses in England in 2017-18

- 90%** food businesses that achieved 'broad compliance' or better with hygiene requirements in 2017-18
- 13%** estimated decline in the number of food hygiene staff (per 1,000 food businesses) between 2012-13 and 2017-18
- 45%** estimated decline in the number of food standards staff (per 1,000 food businesses) between 2012-13 and 2017-18
- 37%** proportion of 'due' food standards interventions undertaken by local authorities in 2017-18 compared with 43% in 2012-13
- 50%** proportion of all food consumed in the UK that is produced outside the UK

Summary

1 Failures in food safety can have catastrophic consequences for human life, public confidence and the wider economy. People can fall ill if they eat food that has been contaminated by bacteria because of poor food hygiene, or if they eat food that is not what it says it is. Around 1 million people in the UK suffer a food-borne illness each year. It is estimated that the total cost of food-borne illness could be around £1 billion each year, including the impact of illness on individual well-being, loss of earnings and the cost of hospital admissions. A serious food safety incident can have a severe impact: in the 1990s, the bovine spongiform encephalopathy (BSE) crisis cost the UK an estimated £3.7 billion.

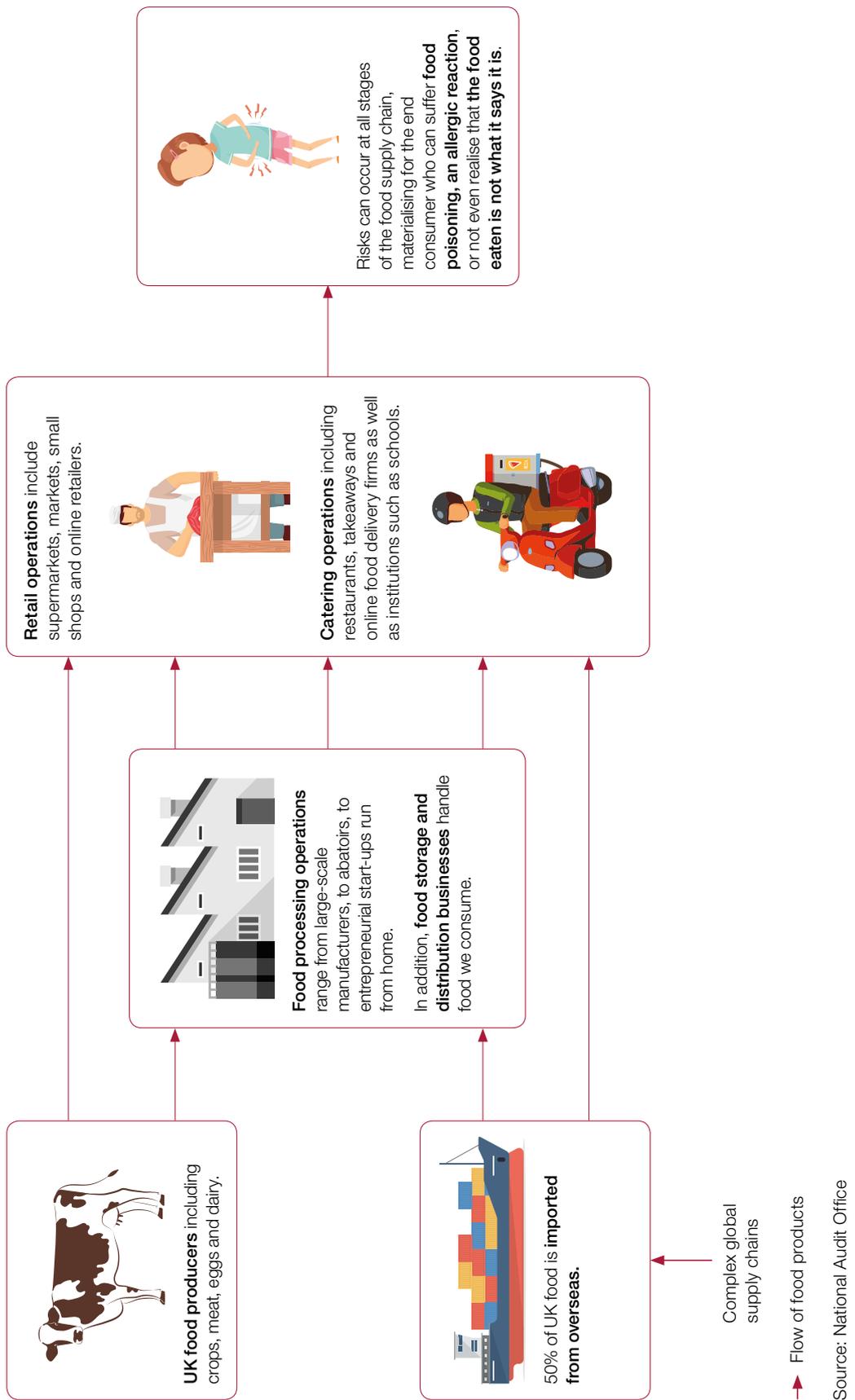
2 The food supply system is highly complex. It involves around 516,000 food businesses in England, including food producers, processors, retailers and caterers of varying sizes (**Figure 1** overleaf). Around half of our food is imported from the EU and other countries, often through complex global supply systems. Consumers want assurance that food is safe to eat; in 2018, 45% of consumers in England surveyed by the Food Standards Agency (FSA) reported that the safety of food served by UK restaurants and takeaways was a concern to them, and 42% were concerned about the safety of food sold in shops and supermarkets.

3 Under food regulations, food businesses are responsible for ensuring that their food is safe, that its quality is what consumers would expect, and that it is not labelled in a false or misleading way. Regulation is designed to help protect consumers from unacceptable risk. There are two main types of risk to the consumer from the food supply system: that they will be harmed, or that they will be misled:

- Food safety controls (including hygiene controls) mitigate risks from microbiological, chemical, physical, radiological or allergen contamination that could render the food unsafe for human consumption.
- Food standards controls (including safety, composition and nutrition standards) cover labelling on allergen content, food composition or the nutritional quality of food.

Figure 1
The food supply system

The food supply system is complex, involving multiple operations



4 Responsibility for food regulation policy in the UK is devolved. In England, the FSA has policy responsibility for food and feed safety controls (including hygiene) and food safety standards (for example, allergen labelling). The FSA is an independent non-ministerial government department that aims to ensure food is safe and what it says it is. The FSA is accountable to Parliament through the Secretary of State for Health and Social Care. Other parts of government have related policy responsibilities. The Department for Environment, Food & Rural Affairs (Defra) has policy responsibility for ensuring food meets composition standards (for example, minimum meat content) and food labelling other than safety and nutrition. The Department of Health & Social Care (DHSC) has policy responsibility for nutrition standards (including health claims and nutritional labelling) (Figure 2 on pages 17 and 18).

5 The FSA is directly responsible for food safety controls at producers of meat, dairy products and wine. In addition, it is responsible for ensuring that food controls are delivered by environmental health and trading standards officers within local authorities and port health authorities. In 2016-17, the FSA estimated that the total cost of delivering food controls in England was £164 million. Of these costs, 73% (£119 million), are met by local authorities (including county councils, district councils and unitary authorities), which determine how much of their local budgets to spend on delivering food controls.

6 Since we last reported on the food system in 2013 (*Food safety and authenticity in the processed meat supply chain*), new risks to food safety and standards have emerged.¹ In particular, as an EU member state, the great majority of the UK's food regulation legislation has been driven by EU law. Therefore, the UK's exit from the EU will have a significant impact on the regulatory system and could influence the origin of food consumed in the UK in the future.

¹ Comptroller and Auditor General, *Food safety and authenticity in the processed meat supply chain*, Session 2013-14, HC 685, National Audit Office, October 2013.

Scope of this report

7 This report focuses on the effectiveness of the current regulatory arrangements to ensure that food is safe to eat and is what it says it is. Specifically, we cover food safety controls and food safety standards (FSA policy responsibility) and food composition and labelling requirements (Defra policy responsibility). Any failure in the food regulatory system can impact on the safety of food, and therefore the ability of the FSA to meet its policy objectives, so we have also examined the coherence of the wider regulatory system, and its ability to respond to both emerging risks and future challenges. Further detail on the scope of the study is set out in Appendix One.

8 We examine:

- the extent to which the FSA and local authorities identify the areas of highest risk to food consumers and make effective use of resources (Part One);
- whether the FSA has evidence that the regulatory system is effective in achieving outcomes and driving performance improvements (Part Two); and
- whether the regulatory arrangements are coherent and sustainable in the context of emerging challenges (Part Three).

9 Further detail on our audit approach and evidence base is in Appendices One and Two.

Key findings

Use and prioritisation of resources

10 **The level of funding local authorities allocate to food controls has been declining for a number of years.** Funding for food controls has reduced since we last examined food regulation in 2013. Local authority expenditure data show that their spending on food hygiene fell by an estimated 19% between 2012-13 and 2017-18, from £125 million to £101 million. The reduction has been driven by significant funding pressures faced by local authorities coupled with increased demand for other services. Food hygiene staff numbers declined by an estimated 13% (per 1,000 food businesses) between 2012-13 and 2017-18, and the number of food standards staff fell by an estimated 45%. Our analysis shows that local authorities in England have fewer food officers per 1,000 food businesses than the devolved administrations (paragraphs 1.5–1.7).

11 Some local authorities are failing to meet statutory objectives to conduct interventions. Interventions (including inspections) are aimed at ensuring food businesses comply with food law. In each year since 2012-13, English local authorities failed to carry out all the hygiene and standards interventions of food businesses that were 'due' (as set down in the Food Law Code of Practice). The proportion of hygiene interventions due that were carried out rose between 2012-13 and 2017-18, from 82% to 86%. However, the number of food standards interventions due that were undertaken remained below 50% each year, with 37% carried out in 2017-18. Local authorities we spoke to attributed delays to staffing shortages and there is wide variation nationally, with some local authorities struggling significantly to keep on top of their workload (paragraphs 1.21–1.25).

12 The FSA is attempting to address deficiencies in the information available to assess and manage risks, but its new approach has yet to be tested. The FSA and local authorities use food sample testing as a source of intelligence, and to enhance their understanding of food risks, as well as the basis for enforcement action. Between 2012-13 and 2017-18, the level of sampling fell by 34%, and in 2017-18, 16 English local authorities did not carry out any sampling. In April 2019 the FSA started to introduce a new approach to assessing food risks, which aims to make better use of a broad range of data. It is also developing a strategy on the role of sampling within this, but has not yet set out detailed plans of its future approach or communicated this to local authorities (paragraphs 1.13–1.20).

13 The regulatory system lacks the full range of enforcement powers to ensure businesses supply safe food. An effective regulatory regime is underpinned by appropriate enforcement powers that enable food officers to take effective action when businesses fall short of legislative requirements. The FSA's National Food Crime Unit was given additional resources in 2018 to tackle food fraud. It has agreed arrangements to work with police forces because it currently lacks the full range of investigative powers it needs to operate independently. Legislation is required to provide access to additional powers. Local authorities also identified other areas where they felt their powers were limited (paragraphs 1.26–1.30).

Evidence of an effective regulatory system

14 FSA has gaps in evidence to demonstrate whether it is achieving its high-level objectives but is working to improve overall measures of effectiveness.

The FSA needs robust data to demonstrate whether the regulatory system is driving compliance by food businesses and to assess whether the FSA is achieving its objectives. It monitors levels of food-borne illnesses and compliance with food hygiene requirements but lacks measures for assessing whether food meets safety and composition standards, limiting its ability to track overall compliance levels and trends over time. The FSA has begun work to develop measures for assessing compliance with food standards. Despite challenges in establishing its impact, the FSA is further ahead in developing some aspects of its performance measurement than the regulators we reviewed in our recent report.² For example, it has clearly articulated success criteria for key performance indicators and has evidence that its food hygiene rating scheme is driving food business compliance and lowering the risk to consumers of food-borne illness (paragraphs 2.2–2.9).

15 Food businesses are meeting hygiene requirements, and levels of major food-borne illnesses have been broadly stable. Between 2013-14 and 2017-18, the number of food businesses that were at least 'broadly compliant' with food hygiene requirements in England increased (87% in 2013-14 to 90% in 2017-18), and as at March 2019, 70.1% of businesses achieved the top 'very good' compliance rating against a target of 70%. Laboratory-confirmed human cases of key food-borne diseases have been broadly stable since 2013 and are currently below levels that would trigger an FSA investigation (paragraphs 2.4, 2.10 and 2.11).

16 Consumers play an important role in driving improvements in food safety and standards but need better information to make well-informed choices. Consumers play a vital part in driving improvements in performance by making choices about what food to buy or services to use. They can only do this if they have good information on the quality and safety of the food they are eating. The FSA recognises the value of publishing information for consumers and has acted to reduce levels of campylobacter contamination in chicken by publishing industry data. However, consumers lack information in other areas. Although food hygiene ratings for all businesses are published online, in England only 52% of businesses display ratings in their premises, compared with 87% and 84% in Wales and Northern Ireland respectively, where display is mandatory. Consumers are also not clear what information food businesses should provide on whether food contains allergens (paragraphs 2.12–2.17).

² Comptroller and Auditor General, *Regulating to protect consumers in utilities, communications and financial services markets*, Session 2017–2019, HC 1992, National Audit Office, March 2019.

Responding to future challenges

17 Risks to food safety and standards are changing.

- **The food industry is becoming more diverse**, including the growth of online businesses, food delivery sales and complex global food chains. Indicatively, market analysts estimate that the food delivery market increased by 73% in the decade to 2018 with more growth forecast.
- **Food allergies are an increasing concern.** The FSA estimates that 5%–8% of UK children and 1%–2% of adults have food allergies.
- **Climate change and population growth are longer-term risks.** Commentators have warned that longer-term global challenges such as climate change, population growth or crop disease could lead to changes in where we import our food from, and increased food fraud (paragraph 3.2).

18 The FSA has recognised that it needs to respond to current and new challenges and has begun reforming the regulatory arrangements. The existing regulatory system has not kept pace with technological change or the changing environment, and is becoming increasingly unsustainable. In 2017 the FSA launched a change programme and consulted widely about how to create a more resilient system that will enable it to better direct resources according to risk. Proposals include:

- reforming how food businesses are registered and risk assessed;
- developing a data-led surveillance model and increased resources for the National Food Crime Unit to improve intelligence gathering;
- introducing national inspection strategies for multi-site food businesses and groups of businesses; and
- reforming the funding model on the principle that businesses bear the costs of regulation (paragraphs 3.3 and 3.4).

19 The FSA has had to re-prioritise its work programme to prepare for EU Exit.

The UK's exit from the EU will have a significant impact on the UK's regulatory system as some 90% of the UK's current food legislation reflect EU regulations. The FSA spent £6.2 million of its budget on EU Exit preparations and received £15 million of additional EU Exit funding across 2017-18 and 2018-19. Alongside its planning for a no-deal scenario it has prioritised aspects of its reform programme to prepare for EU Exit. These cover the use of data for market surveillance, establishing the new online business registration system, expanding the National Food Crime Unit, and updating the criteria used for risk-rating food businesses (paragraphs 3.5 and 3.6).

20 The FSA has found it difficult to progress the non-EU Exit elements of its reforms. The FSA informed us that this was primarily due to the need to prioritise EU Exit-related work and because it needed to take into account the impact on local authorities' resources of introducing additional changes at this time. Some local authority food officers and stakeholders we spoke to were concerned that the programme will not be successful in addressing the issues it aims to. Aspects of its reforms requiring legislative change may not be possible in the near term due to the impact of preparations for EU Exit on the Parliamentary programme (paragraph 3.7).

21 Coordination of the food regulation system remains complex in high-risk areas. Our 2013 report found that the regulatory arrangements were confused and poorly coordinated. Stakeholders have informed us that cross-departmental committees and regional coordination groups help ensure that there is coordination and consistency across the regulatory regime. However, with policy responsibility split across three government departments, and delivery of controls undertaken by 353 local authorities and the FSA, the complexity of the system remains challenging in some areas. For example, the FSA is responsible for allergen safety controls, Defra has legislative responsibility for allergen labelling and, in some areas of England, district councils are responsible for delivering allergen controls relating to food safety, while a separate county council team operates food standards allergen controls (paragraphs 3.8 and 3.9).

22 In addition to the existing pressures, new trading relationships after EU Exit could lead to higher volumes of imported food from countries with different regulatory regimes. The government has announced its intention to develop an independent trade policy after leaving the EU and to forge new trade relationships with partners including the US, Australia, New Zealand and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership. Trading partners may seek to access opportunities to export food to the UK. For example, in February 2019, the US published a summary of its objectives for a trade deal with the UK, including more open and equitable market access on food and agricultural goods. In 2017, UK imports of food, feed and drink were valued at £46.2 billion, of which 30% was imported from non-EU countries. This figure could rise after the UK leaves the EU (paragraphs 3.10 and 3.11).

23 New trading patterns could increase the risk of incidents involving food safety and standards, but the FSA has not yet assessed whether the current system has sufficient funding and agility to respond. In common with other departments, the FSA has stated publicly that UK food safety and standards will be maintained after the UK leaves the EU and has replaced EU processes for analysing food risks with UK mechanisms. The FSA has an important role to play in providing advice on food safety and is working with Defra, DHSC, the Department for International Trade (DIT) and other government departments to ensure that any mandate for negotiating trade agreements is informed by a robust assessment of the impact of trade deals on food safety and the regulatory system. The FSA does not feel there is enough certainty about EU Exit to assess the regulatory regime's capacity to handle longer-term consequences, including rising food imports from untried markets, controls on EU imports and new requirements for UK exporters (paragraphs 3.12 and 3.13).

24 Government does not have a coherent view on what a financially sustainable food regulation system should look like. The FSA has consulted on the principle of food businesses bearing the cost of regulation. While some stakeholders consider this a viable approach, others have raised concerns about cost burdens on business and local economies, and how charging for food regulation would fit with other regulatory charges paid by businesses. The FSA is concerned about challenges associated with securing the legislative change required. We have not seen evidence of joined-up strategic thinking about government's appetite for risk, the level of funding needed for a sustainable system that protects UK consumers from future food risks, and the balance between centralised and local funding (paragraphs 1.4–1.7, 1.21–1.25, 3.7–3.9 and 3.14–3.17).

Conclusion on value for money

25 Food-borne illness is estimated to cost the economy and individuals around £1 billion each year. The FSA has made progress in measuring whether regulation is working to protect consumers, while the majority of food businesses are meeting hygiene standards and levels of major food-borne illnesses are broadly stable. However, the food regulation system is complex, has come under increasing financial pressure and has elements that are outdated.

26 The FSA has embarked on a change programme to create a more modern regulatory system. While the need to prepare for EU Exit has allowed the FSA to accelerate some important elements of its reforms, such as introducing a new system for registering food businesses, unresolved issues remain including the future financial sustainability of the system. We have concerns about the ability of the current regulatory system to achieve value for money in response to uncertain circumstances ahead, including new trading scenarios following the UK's exit from the EU and other emerging risks to food safety.

Recommendations

27 We have identified recommendations for the FSA as it takes forward its plans to design a more flexible and risk-based regulatory system. More widely, there are areas where the FSA will need to work with ministerial departments to reach a government-wide view of how the regulatory system needs to respond to future challenges and inform future policy decisions.

Recommendations for the FSA

- a The FSA should establish the role that sampling plays in reducing risks to consumers.** As part of its work on developing a sampling strategy, it should assess what level of and approach to sampling is needed to provide assurance that food risks, including food fraud, are being managed effectively by food businesses.
- b The FSA should address gaps in outcome-based measures and targets for assessing compliance with food safety and composition standards.** It should press ahead with developing indicators for assessing the performance of local authorities in providing assurance that food businesses are compliant with food standards and measures of whether the National Food Crime Unit is having an impact in tackling food fraud. It should set a target for when it will establish a suite of indicators to measure whether the FSA is effective in providing assurance to consumers that food is what it says it is.
- c The FSA should press ahead with its ambition to introduce mandatory display of hygiene ratings in food businesses in England.** Recognising the requirement for legislation and current demands on Parliamentary time, the FSA should aim to do this within an achievable time period to improve information available to consumers.
- d The FSA should address gaps in the enforcement powers, including those available to the National Food Crime Unit.** Given the additional funding that has been directed towards the National Food Crime Unit, the FSA should make firm plans to provide the powers the National Food Crime Unit needs to work independently.

Recommendations for a regulatory system that can adapt to future challenges

- e **The organisations in the food regulation system should work together to assess government's appetite for risk and to take decisions on the level of funding required** to ensure that food is safe to eat and what it says it is. They should consider the advantages and risks of a range of funding distribution options to ensure a sustainable regulatory system. These could include recovering costs from businesses, centralised national systems of controls or a range of commissioning models.

- f **Within six months of the UK leaving the EU, the FSA should start to work closely with the other departments in the regulatory system to evaluate the medium- and longer-term impacts of EU Exit on the capacity of the food regulation system and potential shortfalls in resources and set a timescale for reporting.** It should identify what needs to be done to mitigate risks and make plans now to avoid food incidents, which could impact on future confidence and may affect trading relationships. This will require scenario-based analysis of potential future controls on imports, additional food safety and standards checks that may be required to support UK exports, and an assessment of the impact of increasing volumes of imports from new trading partners.

Part One

Use of resources in the food regulatory system

1.1 This part of the report:

- sets out roles and responsibilities for food regulation, and how the system is funded; and
- evaluates whether local authorities and the Food Standards Agency (FSA) have the resources and tools they need to assess risk, meet statutory objectives and mitigate the highest risks to food consumers.

The food regulatory system in England

1.2 Failures in food safety can have catastrophic consequences for human life, public confidence and the wider economy. People can fall ill if they eat food contaminated by bacteria because of poor food hygiene, or if they eat food that is not what it says it is. Around one million people in the UK suffer a food-borne illness each year. In 2015, the FSA estimated that the total cost of food-borne illness could be around £1 billion each year including the impact of illness on individual well-being, loss of earnings and the cost of hospital admissions. A serious food safety incident can have a severe impact; the 1990s bovine spongiform encephalopathy (BSE) crisis cost the UK an estimated £3.7 billion. Food safety and standards regulations aim to protect consumers from these risks, to ensure that food is safe and what it says it is.

1.3 Responsibility for food regulation policy in the UK is devolved. In England, the FSA has policy responsibility for food and feed safety controls (including hygiene) and food safety standards. It aims to ensure food is safe and what it says it is. It is also responsible for delivery of food hygiene controls in meat and dairy primary production and for monitoring and setting performance standards for food hygiene and standards controls delivered by environmental health and food standards officers within local authorities. Other parts of government have related policy responsibilities. The Department for Environment, Food & Rural Affairs (Defra) has policy responsibility for food composition standards and food labelling other than safety and nutrition, and the Department of Health & Social Care (DHSC) is responsible for food nutrition standards (**Figure 2** on pages 17 and 18).

Figure 2
The food regulatory system

The food regulatory system involves multiple bodies

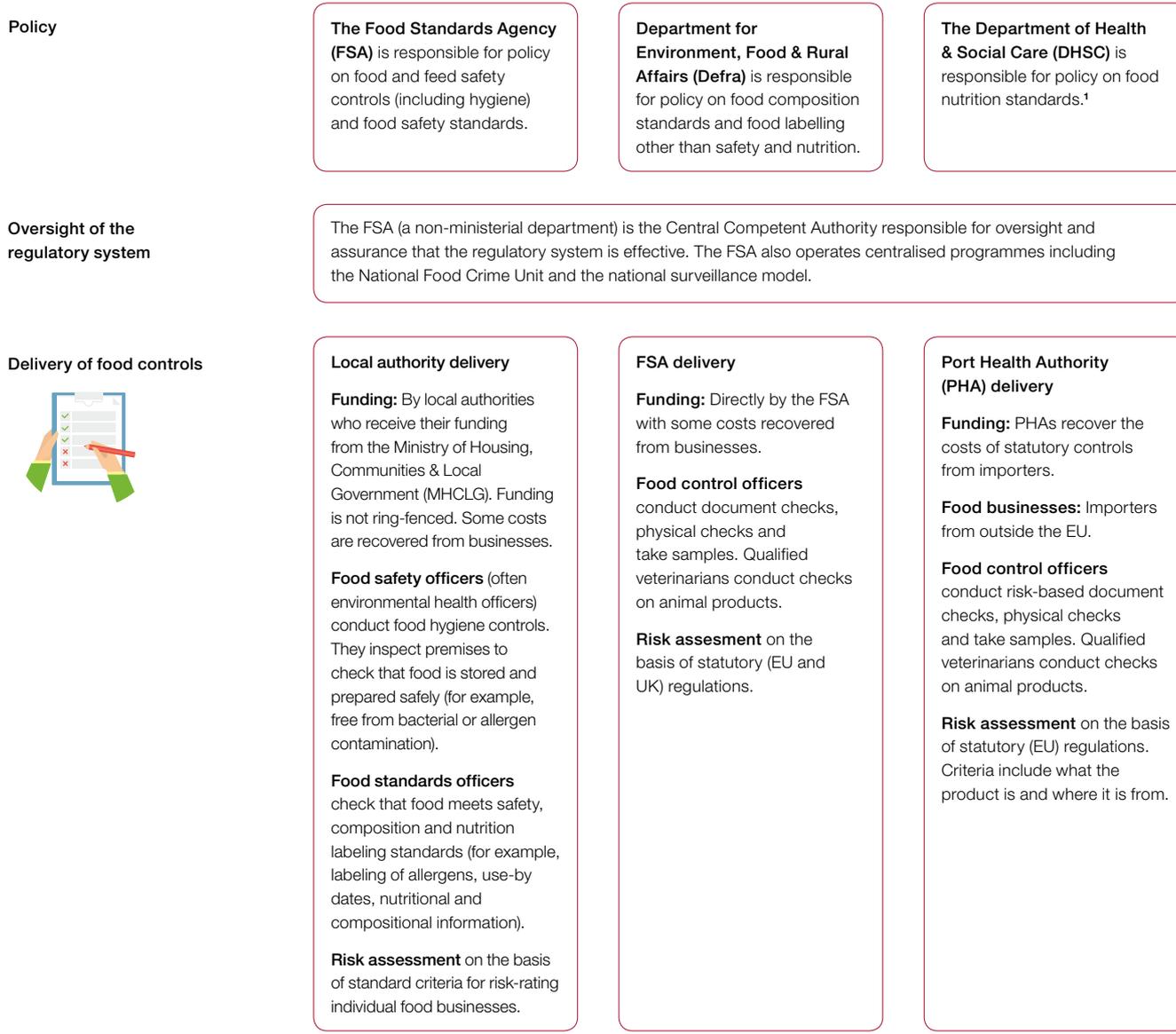


Figure 2 *continued*
The food regulatory system

Food businesses



Under UK food regulations, it is the responsibility of food businesses to ensure that their food is safe, that its quality is what consumers would expect and that it is not labeled in a false or misleading way.

Food businesses covered by local authorities include food producers, food processors, catering establishments, takeaway and food delivery, retailers and approved dairy establishments.

FSA is directly responsible for controls on approved producers of meat (including abattoirs and cutting plants) wine and shellfish² and 'on-farm' dairy establishments.

PHAs are responsible for food controls on importers from outside the EU.

Consumers



Consumers are responsible for the safe preparation of food in their home and for checking labeling to ensure that food is suitable for them to eat.

Notes

- 1 Food nutrition standards are out of scope of this report.
- 2 The FSA and local authorities share responsibility for delivery of shellfish official controls.
- 3 Egg production hygiene controls are enforced by the Animal and Plant Health Agency.

Source: National Audit Office review

Funding for food regulation

1.4 In England most of the costs of food regulation are met by the taxpayer, although some costs are recovered from business (for example, for hygiene controls in primary meat production, and to operate food import controls at ports):

- **FSA expenditure.** In 2017-18, the FSA spent £117 million, of which £35 million was recovered through charges to business and £82 million funded by the taxpayer.³ This expenditure included the cost of running the department (including accommodation and procurement), oversight of local authority enforcement and the cost of delivering food controls in areas where the FSA is directly responsible.
- **Local expenditure.** Local authorities and port health authorities determine how much of their local budgets to spend on delivering food controls. The FSA estimated that, in 2016-17, the cost of delivering food controls in England was £164 million, including £119 million (73%) by local authorities and port health authorities. The majority of food controls carried out by local authorities are not charged for; data on the exact amount recovered through charges to business are not available (**Figure 3**).

³ £117 million expenditure relates to FSA's Westminster budget, which includes all expenditure in England, and some corporate activity expenditure related to Wales and Northern Ireland.

Figure 3

Funding of food controls

The Food Standards Agency (FSA) estimated that delivery of food controls in England cost around £164 million in 2016-17

Food regulation enforcement	Delivery body	Funding source	Estimated cost in 2016-17 (FSA estimate) (£)
Local authority food controls (for example, hygiene and food standards in food businesses) ²	Local authorities	Taxpayer funded by local authorities.	118,906,000
Imported food controls	Port health authorities	Costs recovered from importers, with some taxpayer funding by local authorities.	
Hygiene – meat production ³	FSA	Approximately 50% cost recovered from meat producers, 50% taxpayer funded by FSA.	42,806,000
Shellfish controls	FSA/local authorities	Taxpayer funded by FSA.	1,152,000
Wine standards	FSA	Taxpayer funded by FSA.	411,000
Hygiene – dairy production	FSA	Taxpayer funded by FSA.	368,000
Raw drinking milk sampling	FSA	98% cost recovered from industry.	36,000
Hygiene – egg production	Animal and Plant Health Agency	Taxpayer funded by FSA.	32,000
Chemical safety	FSA	Taxpayer funded by FSA.	25,000
Total			163,736,000

Notes

- 1 Total estimated costs include taxpayer-funded controls and costs recovered through charges to businesses. These costs are for food control delivery only and exclude other aspects of the FSA's work. Some of the estimates are based on costs in 2018-19 (wine standards, chemical safety, egg hygiene, and shellfish controls) but are considered a fair estimate of the costs in 2016-17.
- 2 Local authority food controls include some dairy hygiene, raw drinking milk sampling (other than cows), shellfish, egg hygiene and meat hygiene controls.
- 3 Estimates for meat hygiene controls include the costs of delivering animal welfare official controls in slaughterhouses.
- 4 Estimates exclude costs of controls for radioactive discharges in food because data were only available for the whole of the UK (approximately £1.6 million with 70% of costs recovered).

Source: National Audit Office review of Food Standards Agency documentation

Decline in resources for local authority delivery of food controls

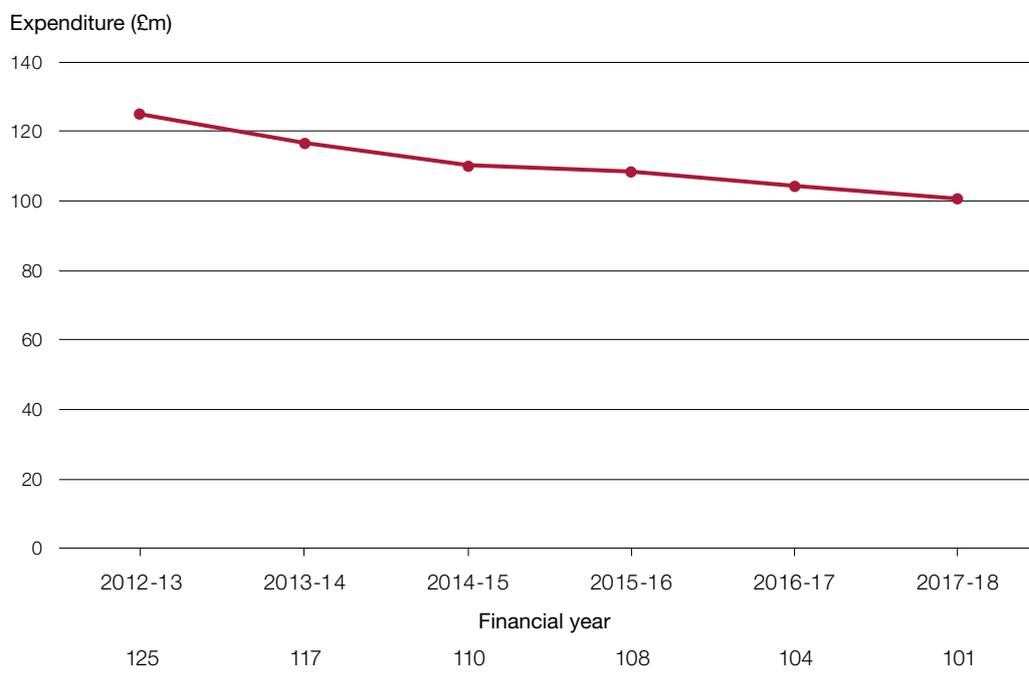
1.5 Since we previously examined food regulation in 2013, budgets for food regulation have reduced substantially. Between 2012-13 and 2017-18, local authority expenditure data show that their spending on food hygiene controls fell by an estimated 19% from £125 million to £101 million (**Figure 4**).

1.6 Local authority spending cuts have led to a reduction in the number of food control staff. We reported in 2018 on the significant funding pressures local authorities have faced (a 28.6% real-terms reduction in spending between 2010-11 and 2017-18), coupled with increased demand for their services, including social care.⁴ Prioritisation of services has led to food hygiene staff numbers declining by an estimated 13% between 2012-13 and 2017-18, and food standards staff falling by an estimated 45% (per 1,000 food businesses) (**Figure 5**). In addition, local authorities told us that they faced difficulties recruiting and retaining suitably qualified staff.

Figure 4

Local authority food hygiene expenditure in England, 2012-13 to 2017-18

Local authority spend on food hygiene controls has reduced by an estimated 19% between 2012-13 and 2017-18



Notes

- 1 Analysis of total expenditure on 'food safety' category as reported in local authority revenue outturn data (RO5).
- 2 Analysis excludes spending on food standards, which is a component of local authority trading standards services expenditure and cannot be disaggregated. Port health authority expenditure is also not included.
- 3 Expenditure is adjusted for inflation and shown in 2017-18 prices.

Source: National Audit Office analysis of local authority revenue expenditure and financing England outturn data, 2012-13 to 2017-18

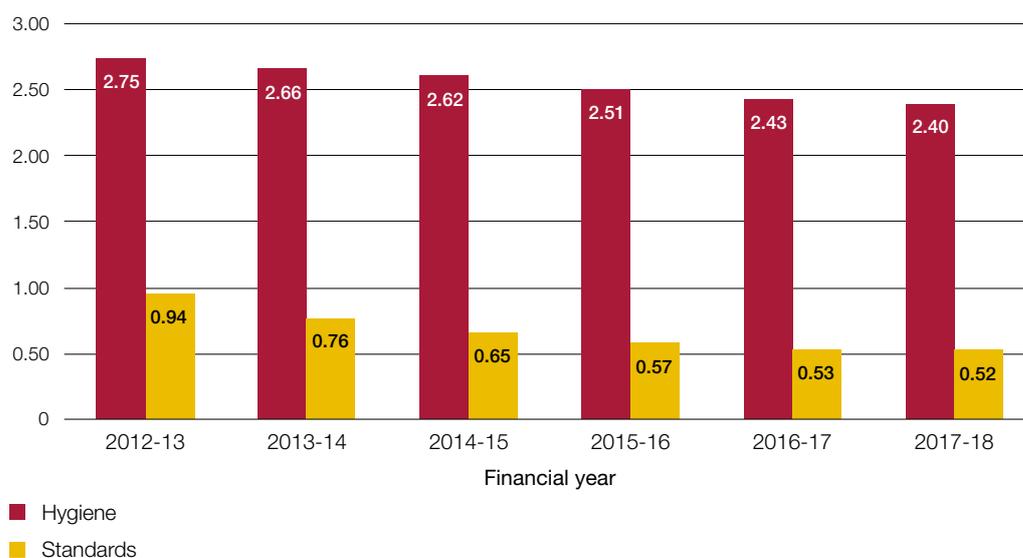
4 Comptroller and Auditor General, *Financial sustainability of local authorities 2018*, Session 2017-2019, HC 834, National Audit Office, March 2018.

Figure 5

Number of local authority food hygiene and standards staff per 1,000 food businesses in England 2012-13 to 2017-18

The number of staff per 1,000 food businesses delivering food hygiene and standards regulations in England declined between 2012-13 and 2017-18 by an estimated 13% and 45% respectively

Number of staff in post per 1,000 food businesses

**Notes**

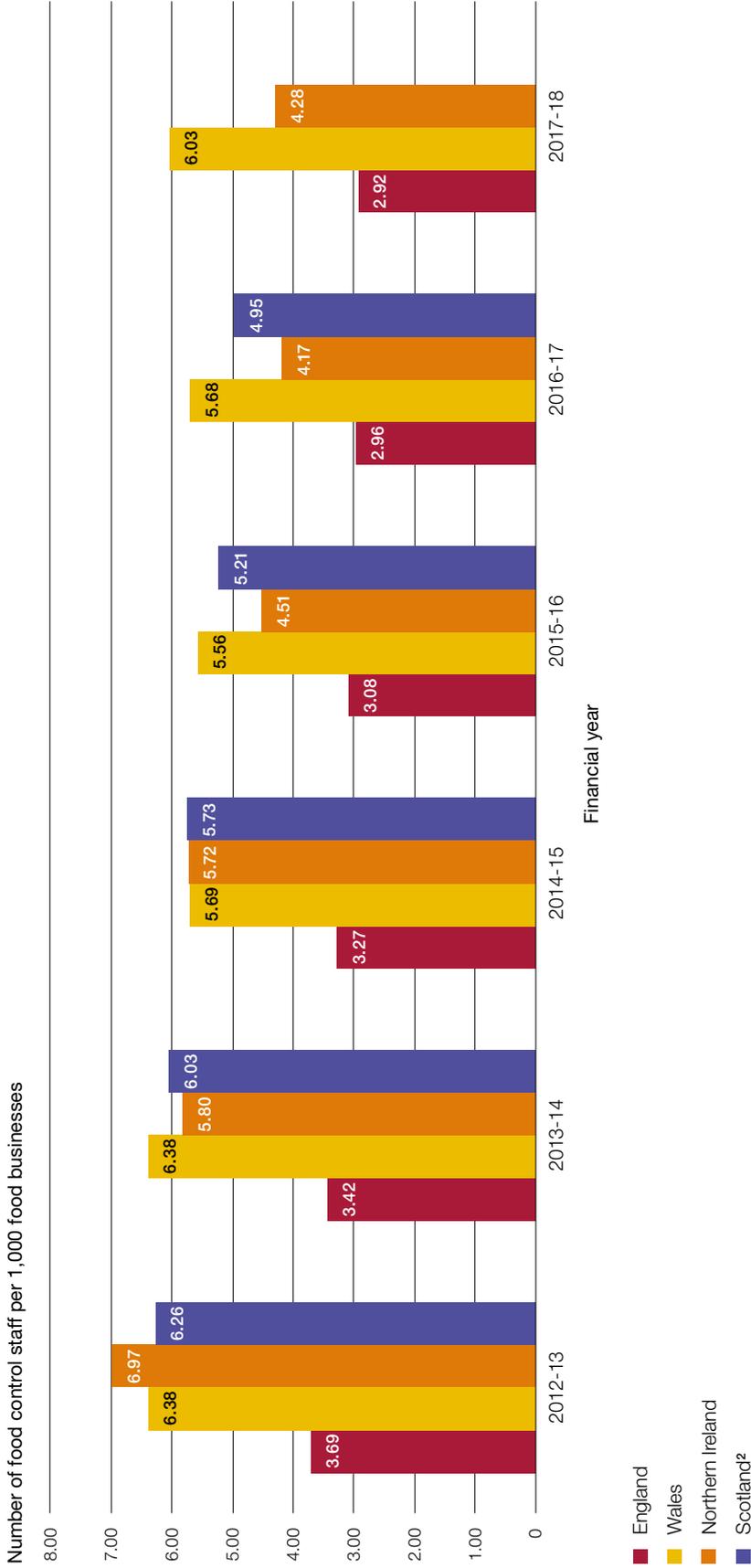
- 1 Analysis of food hygiene staff is based on 315 local authorities (12 excluded because of data quality issues or a lack of comparable data over the time period). Analysis of food standards staff is based on 136 local authorities (12 excluded because of data quality issues or a lack of comparable data over the time period). The total number of local authorities analysed does not sum to 353 because some local authorities are responsible for either food hygiene or food standards only, while other local authorities cover both.
- 2 Reported staff numbers are full-time equivalent.

Source: National Audit Office analysis of Local Authority Enforcement Monitoring System (LAEMS) data, 2012-13 to 2017-18

1.7 England allocates less funding to food controls than the devolved administrations. In 2017-18, English local authorities had less than half the number of food officers (per 1,000 food businesses) than local authorities in Wales, and 32% fewer than in Northern Ireland (**Figure 6** overleaf).

Figure 6 Number of local authority food control staff per 1,000 food businesses in England and the devolved administrations, 2012-13 to 2017-18

Local authorities in England have fewer food control staff per 1,000 food businesses than Northern Ireland, Scotland and Wales



Notes

- 1 Analysis of both food hygiene and standards staffing levels; 12 English local authorities and one Welsh local authority were excluded from the food hygiene full-time equivalent analysis because of data quality issues or a lack of comparable data over the time period and 12 English and two Welsh local authorities were excluded from the food standards analysis for the same reasons.
- 2 No data were reported for Scotland in 2017-18, as Scotland was no longer included in the Food Standards Agency's Local Authority Enforcement Monitoring System dataset after Food Standards Scotland started to collect and report its own data.
- 3 Reported staff numbers are full-time equivalent.

Source: National Audit Office analysis of Local Authority Enforcement Monitoring System data, 2012-13 to 2017-18

Information to support risk management

Local authority resources are directed on the basis of risk

1.8 To ensure that local authorities use resources efficiently, the FSA's Food Law Code of Practice requires them to take a risk-based approach to delivering food controls, targeting their resources at the food businesses that represent the highest risk to consumers.⁵ To do this, local authorities need to risk-assess new food businesses in good time and carry out effective market surveillance to identify emerging risks.

1.9 The current risk criteria for food standards require updating. Local authorities told us that the risk assessment criteria for food standards focus too heavily on individual premises and a more intelligence-led approach (drawing on local intelligence and national market surveillance) is needed to target enforcement where it is needed most. As part of its *Regulating our Future* programme, the FSA plans to review the risk assessment criteria for both food hygiene and standards, with the review of food standards being progressed as a priority.

Risk assessment of new businesses

1.10 Under EU food regulations, which are directly applicable in the UK, it is the responsibility of food businesses to ensure that their food is safe, that its quality is what consumers would expect, and that it is not labelled in a false or misleading way. New food businesses must register with their local authority and local authorities must carry out an initial inspection to assess the business's risk within 28 days.

1.11 In 2017-18, local authorities reported that 26,860 food businesses in England (approximately 5% of all food businesses) had not yet been assessed for food hygiene risks. There was wide variation in performance with local authorities in some areas struggling with a significant backlog of new businesses. For example, 37 local authorities reported that they had not yet rated 10% or more businesses.⁶

1.12 Local authorities we spoke to who had high numbers of unrated businesses attributed their performance to staffing shortfalls and high turnover in food businesses. We were also informed that some food businesses do not register with the local authority, either because they are unaware of the requirement, or to avoid regulation.

⁵ The Food Law Code of Practice is issued by the FSA. Under the Food Safety Act 1990, the Food Safety and Hygiene (England) Regulations 2013 and the Official Feed and Food Controls (England) Regulations 2009, local authorities must have regard to the code when discharging food law enforcement duties.

⁶ Figures are based on Local Authority Enforcement Monitoring System (LAEMS) data for 2017-18. These figures may over-report the number of overdue risk assessments because businesses that registered in the previous 28 days would be included, but not yet overdue for assessment.

Reduction in sampling

1.13 Food officers have statutory powers to take food samples to verify whether products are safe (microbiological contamination testing) and what they say they are (compositional testing). The Food Law Code of Practice states that routine food sampling is an essential part of a well-balanced enforcement service and can be used:

- for market surveillance to identify emerging risks;
- as part of routine monitoring of food businesses;
- providing advice to food businesses; and
- as evidence for prosecution in cases of food law breaches.

1.14 Local authorities are conducting less sampling. Between 2012-13 and 2017-18, local authority food sampling fell by 34%, and in 2017-18, 16 English local authorities did not carry out any sampling (**Figure 7**).

1.15 Local authorities attributed the decline in sampling to reduced resources. Local authorities we spoke to said that taking samples is time-consuming and they prioritised completing their inspection programme. In addition, the funding available for food sampling has reduced. While local authorities receive credits from Public Health England to fund the transportation and examination of microbiological samples, they bear any costs they incur for compositional sampling.

1.16 Between 2003-04 and 2016-17, the FSA provided funding for the national coordinated food standards sampling programme, investing approximately £9.5 million in the programme since 2011-12. The FSA discontinued the national sampling programme for food standards in 2017-18 because it was unable to collate a full picture of sampling activity and this limited its value as comprehensive surveillance data from which firm conclusions about food risk or new and emerging threats could be drawn.

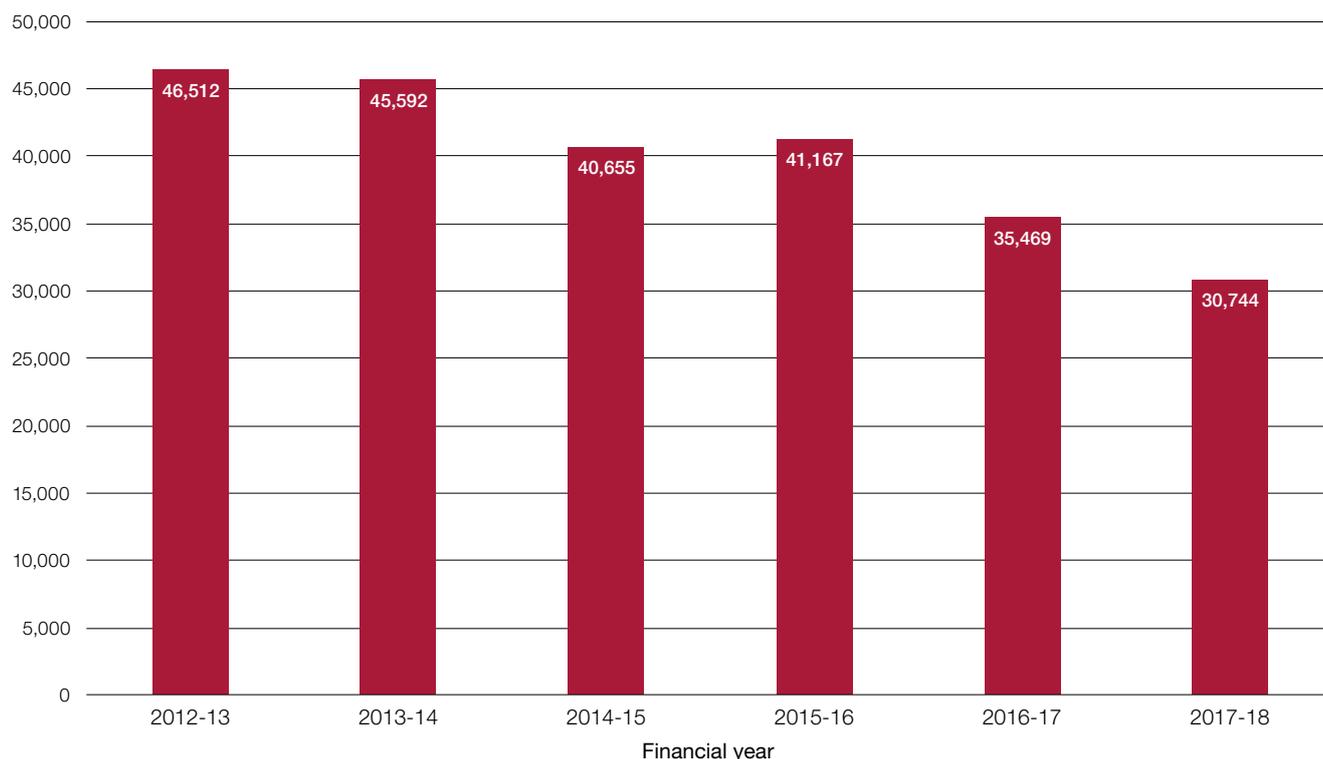
1.17 There is also variation in the level of sampling of food imports by port health authorities (PHAs). Sampling checks required for high-risk foods imports from outside the EU are set by the European Commission. Port health authorities can charge importers for these checks. However, PHAs can conduct additional surveillance sampling of other imports to identify new risks, but cannot charge importers for these discretionary checks. The level of surveillance sampling carried out by PHAs we spoke to varied. Some viewed identifying new risks as an important part of their role, while others rarely carried out surveillance sampling.

Figure 7

Levels of local authority food hygiene and standards sampling, 2012-13 to 2017-18

The number of food samples taken by English local authorities as part of their food law enforcement controls has fallen by 34% since 2012-13

Number of food samples

**Note**

1 Analysis based on data returns from 341 local authorities in England; 12 local authorities were excluded from analysis because of data quality issues or a lack of comparable data over the time period.

Source: National Audit Office analysis of Local Authority Enforcement Monitoring System data, 2012-13 to 2017-18

1.18 In 2013, we reported that the number of public analyst laboratories in England (which provide food standards analytical services to local authorities) had reduced from 13 to nine. This has now fallen to five. Some stakeholders were concerned that the decline in food sampling from local authorities had contributed to this reduction. They also raised concerns that this decline reduced competition in the market and choice for local authorities.

1.19 Local authorities can, on a voluntary basis, report their sampling results on the UK Food Surveillance System (UKFSS). In 2017, the FSA announced that it was replacing the system and the number of English local authorities reporting their sampling results on UKFSS fell to 52%. However, the FSA has not yet confirmed a timetable for replacing UKFSS.

1.20 The FSA is developing its future sampling strategy including its intention to use data from food sample testing as a source of intelligence, to check hypotheses concerning food risks, and as the basis for enforcement action. In April 2019 the FSA introduced a new data-led surveillance approach, which aims to make better use of a broad range of data to identify food risks facing the UK (for example, weather patterns in countries that grow and export food to the UK). However, it has not yet set out detailed plans for its future approach to sampling, including what part it will play in the new surveillance model, or communicated its approach to local authorities. The FSA informed us that it aims to address these points as it develops its strategic approach to future sampling which is due to be considered by the FSA's board on 19 June 2019.

Meeting statutory objectives

1.21 As set out in paragraph 1.8, when enforcing the regulations, local authorities must have regard to the Food Law Code of Practice. Local authorities must risk-assess all new food businesses and then carry out food control interventions at the frequency set down in the Code. For example, the Code specifies that a food business rated as 'category A' (the highest level of risk) for food hygiene, must have a full or partial inspection, or an audit, at least every six months.

1.22 Some local authorities are not meeting the enforcement responsibilities set out in the Food Law Code of Practice. While the proportion of 'due' food hygiene interventions carried out between 2012-13 and 2017-18 rose from 82% to 86%, local authorities carried out less than half the food standards interventions that were due in each year since 2012-13, with 37% carried out in 2017-18 (**Figure 8**).

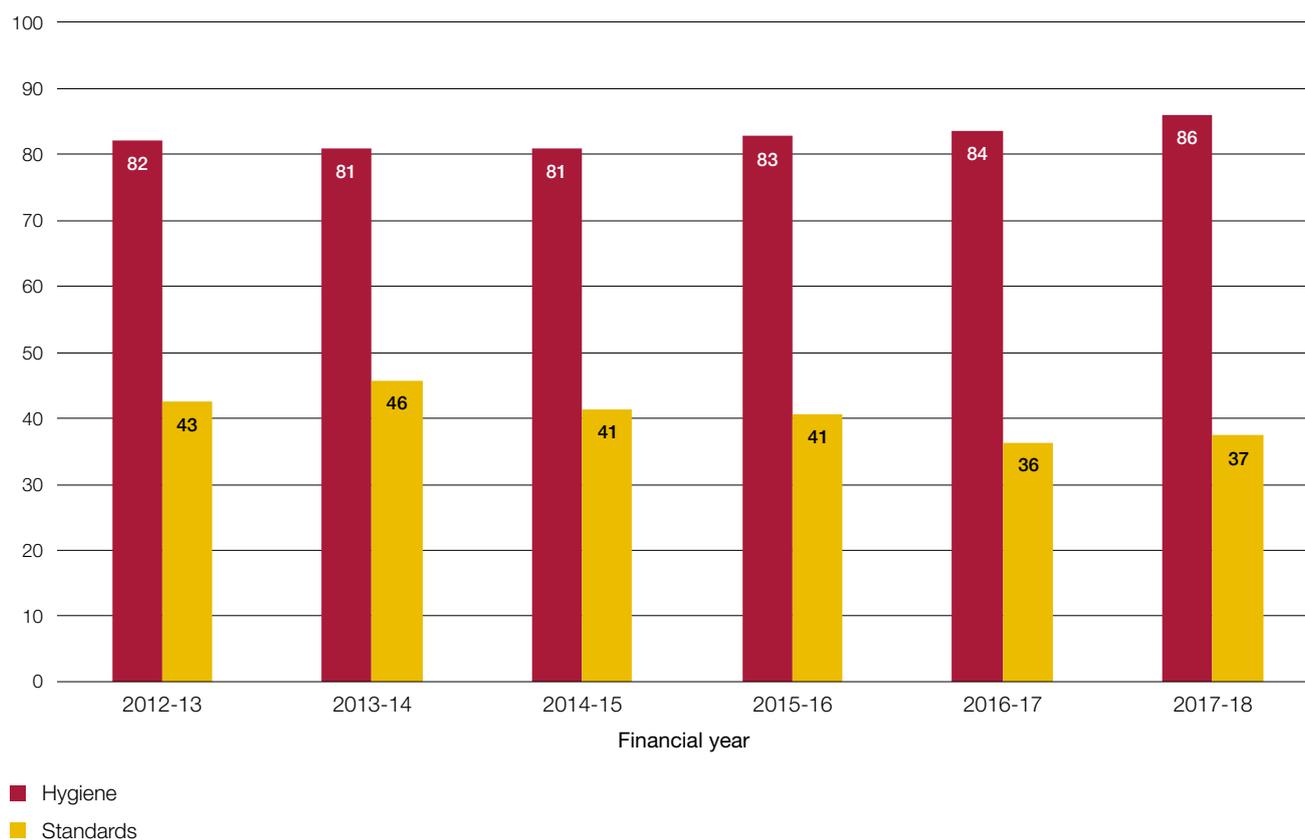
1.23 We also found wide variation in performance between local authorities and when comparing performance on food hygiene with performance on food standards (**Figure 9** on page 28). For example, in 2017-18, 24 out of 147 local authorities had carried out less than 10% of their due food standards interventions. Performance on food hygiene interventions was stronger, with only eight out of 326 local authorities carrying out less than 50% of due food hygiene interventions.

Figure 8

Due hygiene and standards interventions achieved by English local authorities, 2012-13 to 2017-18

In 2017-18, 37% of due food standards interventions were carried out

'Due' interventions achieved (%)

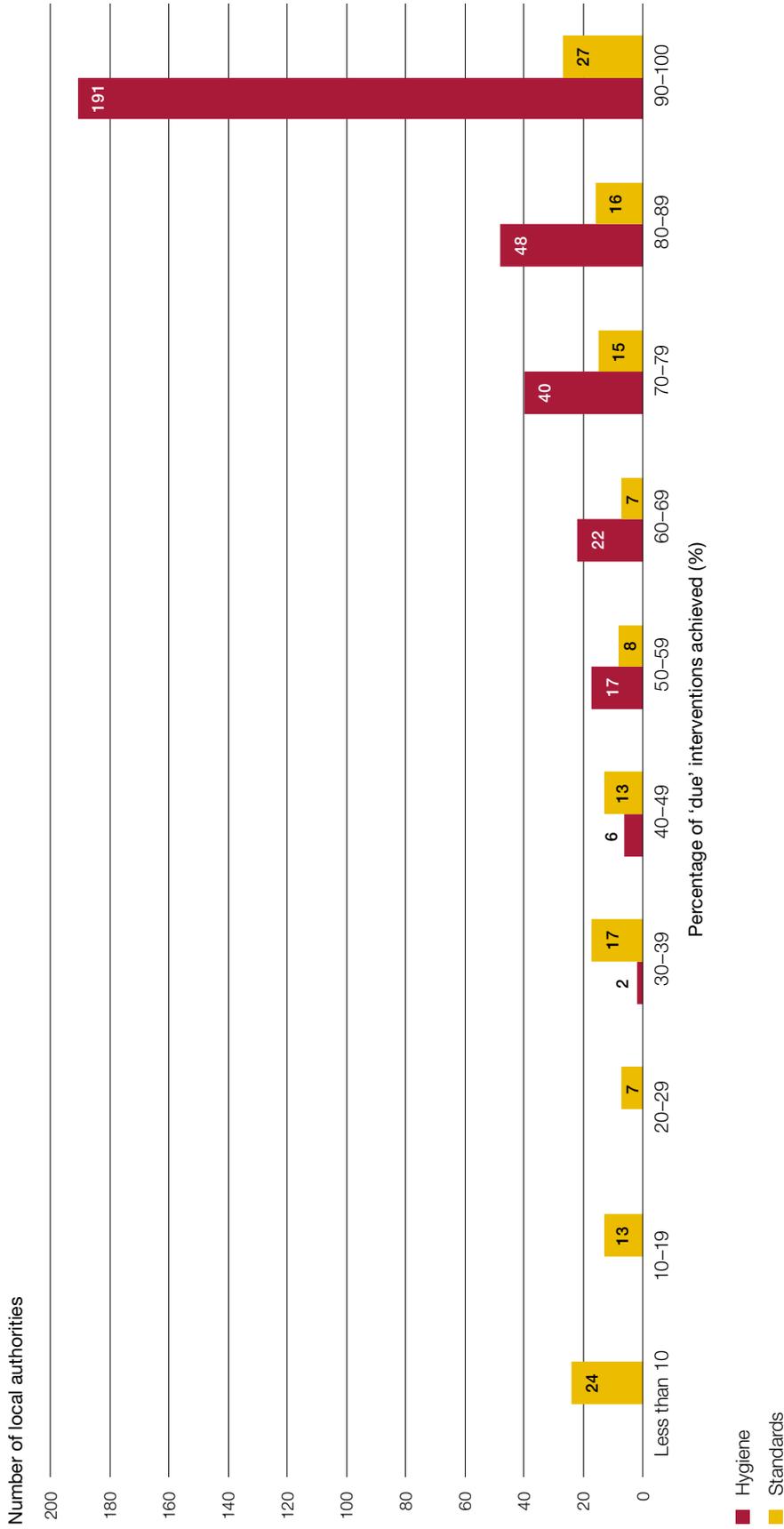
**Note**

- 1 Intervention frequencies at food establishments are determined on the basis of risk and are prescribed in the Food Law Code of Practice. A 'due' intervention refers to an intervention that is due to be carried out by a local authority to meet the requirements of the Code.

Source: Annual reports on local authority food law enforcement 2012-13 to 2017-18, Food Standards Agency

Figure 9 Distribution of local authorities achieving due interventions for food hygiene and standards in England, 2017-18

Twenty-four local authorities carried out less than 10% of the food standards interventions that were due in 2017-18



Notes

- 1 Intervention frequencies at food establishments are determined on the basis of risk and are prescribed in the Food Law Code of Practice. A 'due' intervention refers to an intervention that is due to be carried out by a local authority to meet the requirements of the Code.
- 2 The number of local authorities analysed does not sum to 353 because some local authorities are responsible for either food hygiene or food standards only, while other local authorities cover both.

Source: Local Authority Enforcement Monitoring System data 2017-18

1.24 Local authorities we spoke to that were failing to meet their intervention targets attributed their performance to staffing shortfalls, and expressed concerns about the impact on food safety, particularly in high-risk areas such as allergens. Local authorities informed us that they were:

- cutting back on other activities, including providing advice and guidance to businesses and sampling, in efforts to shorten inspection times;
- prioritising interventions at the highest-risk premises; and
- engaging third-party contractors to increase inspection capacity.

1.25 Some local authorities also told us that the low level of achieved 'due' interventions for food standards reflects, in part, their view that the current risk criteria that drive intervention frequency are not the best way to target their resources (as discussed in paragraph 1.9). Food standards officers were also concerned that delivery of food hygiene controls tended to get prioritised over food standards controls because the impact of food hygiene failures are more visible and may pose a more immediate risk to health.

Enforcement powers

1.26 An effective regulatory regime is underpinned by appropriate enforcement powers that enable enforcement officers to take proportionate and effective action when regulatory breaches are identified. We found some gaps and inconsistencies in the enforcement powers available in local and national parts of the regulatory regime.

1.27 Local authorities' enforcement powers include powers of entry and search; improvement notices; detention and seizure of food; and Hygiene Emergency Prohibition Notices, which enable them to close premises that pose an imminent risk of injury to health. There are also criminal sanctions for failure to comply with some regulations including certain allergen labelling requirements. The Food Law Code of Practice requires that local authorities use their enforcement powers in a proportionate and graduated way to achieve compliance, and written warnings are the most common form of enforcement action taken by local authorities.

1.28 Local authorities we spoke to identified additional enforcement powers that would help them protect consumers. Introducing these powers would require changes to existing secondary legislation and new primary legislation:

- **Remedial Action Notices (RANs)**

A RAN enables food officers to immediately prohibit or impose conditions on the use of a piece of equipment or process, until the food business has complied with food hygiene regulations. In England, RANs can only be used for approved establishments, whereas in the devolved nations, they can be used in any approved or registered food business.⁷

- **Fixed penalty notices**

Some local authorities we spoke to said they would like to have the option of issuing fixed penalty notices for breaches of food hygiene and standards as an alternative to prosecution for regulatory breaches, which is time-consuming and expensive.

- **Permit to trade**

Most food businesses can begin trading before an initial inspection by a local authority food enforcement officer, and can continue to trade even if they are found to require urgent or major improvement when inspected. Some local authorities informed us that they would welcome a licensing system that would require certain food hygiene requirements to be met before a food business could start trading.

1.29 The National Food Crime Unit (NFCU) was established by the FSA in 2014 to build expertise and capacity to tackle food crime, in response to an independent review into the Integrity and Assurance of Food Supply Networks.⁸ Its remit is to tackle serious fraud and related criminality within food supply chains. In the first three years of operation the NFCU cost £2.45 million and focused on intelligence-gathering, but in 2018 it received £2.08 million of additional funding to expand from 22 to 82 staff to develop an investigative capability by March 2019. The unit cost £2.7 million in 2018-19 and has a budget of £5.3 million for 2019-20. Local authorities emphasised that the way NFCU supports and complements the work of local authority food standards teams will be critical to its success. A memorandum of understanding has been agreed between the NFCU and the Association of Chief Trading Standards Officers (ACTSO) to establish how they will work together in the future.

1.30 The NFCU does not yet have the statutory enforcement powers it needs to investigate food crime such as powers of search and seizure. As an interim measure, it has agreed protocols to work with police forces, but to operate independently in the longer term it will need new powers conferred by Parliament. The FSA is aware of this limitation, but there is currently no timetable for legislation to be introduced to secure these powers.

⁷ Approved establishments are premises approved under Regulation (EC) No. 853/2004 for handling, preparing and/or producing products of animal origin.

⁸ HM Government, *Elliott Review into the Integrity and Assurance of Food Supply Networks – Final Report: A National Food Crime Prevention Framework*, PB14192, 2014.

Part Two

Evidence of an effective regulatory system

2.1 This part of the report examines:

- whether the Food Standards Agency (FSA) has evidence that allows it to measure if the regulatory system is effective in achieving objectives;
- current performance and trends in food hygiene; and
- whether customers have the information they need to make informed choices.

Evidence that the FSA is achieving outcomes

2.2 The Food Standards Act 1999 requires the FSA to “protect public health from risks which may arise in connection with the consumption of food (including risks caused by the way in which it is produced or supplied) and otherwise to protect the interests of consumers in relation to food”. In particular, the FSA aims to protect consumer interests by ensuring that food is safe and what it says it is. To achieve its objectives, it is important that the FSA:

- has a clear understanding of its aims and objectives, including any barriers to delivering its outcomes;
- has robust performance data to enable it to assess effectiveness and drive improvement; and
- reports on its performance in meeting its objectives so that stakeholders and consumers can hold it to account.

2.3 The FSA faces challenges in demonstrating that it is achieving its objectives of ensuring food is safe and what it says it is. In common with other regulators, the outcomes it seeks to achieve are affected by factors over which it has limited influence, including broader environmental, economic and demographic change. Reported food incidents rose by 48% between 2013-14 and 2017-18, but a range of factors including changes in legislation and the targeting of surveillance mean that trends in incident reporting are difficult to interpret and may reflect changes in reporting practice rather than changes in underlying levels of food risk.⁹

⁹ Local authorities and other agencies are required to notify the FSA of incidents where there are concerns about threats to the safety, quality or integrity of food.

2.4 The FSA uses a range of indicators to track the effectiveness of the regulatory regime on a quarterly basis at board level. It has made progress in establishing measures for tracking progress against the outcomes it aims to achieve and is further ahead in developing some aspects of its performance measurement framework than the regulators we reviewed in 2019.¹⁰ For example, it has clearly articulated success criteria for key performance indicators (**Figure 10**). In the case of food-borne illness, laboratory-confirmed human cases have been broadly stable since 2013 and are currently below levels that would trigger an FSA investigation.

2.5 The FSA carries out policy evaluation to research whether its activities are having an impact. For example, in 2017 it evaluated the effectiveness of the Food Hygiene Rating Scheme (FHRS), which provides consumers with information to enable them to make informed choices about where they choose to eat (**Figure 11** on page 34). The 2017 evaluation found that the scheme had improved food business compliance with food hygiene law. It also found that businesses that were at least “broadly compliant” with FHRS had a smaller chance of a food-borne disease outbreak than those that were not compliant.

Measuring the performance of local authorities

2.6 To monitor the effectiveness of food hygiene and standards controls delivered by local authorities, the FSA receives annual data returns from local authorities via the Local Authority Enforcement Monitoring System (LAEMS). The FSA uses these data to monitor and report various indicators, for example, the number of interventions local authorities achieve, the number and type of enforcement actions they take, and the level of food sampling.

2.7 The FSA aims to focus more on outcomes achieved by local authorities. It is developing a balanced scorecard in 2019-20, which will include additional data on the demands placed on individual local authorities and the effectiveness of local authorities in protecting consumers. The scorecard will include outcome indicators such as the effectiveness of enforcement actions, and data from the FSA's FHRS. It plans to continue to explore developing additional indicators.

¹⁰ Comptroller and Auditor General, *Regulating to protect consumers in utilities, communications and financial services markets*, Session 2017–2019, HC 1992, National Audit Office, March 2019.

Figure 10

Food Standards Agency (FSA) outcome measures reported to the FSA board

The FSA uses a range of indicators to track the effectiveness of the regulatory regime

Outcome	Measure	Ambition	Meeting ambition
Food is safe – fewer people get ill	Laboratory-confirmed human cases of food-borne diseases. <ul style="list-style-type: none"> ● Campylobacter ● Salmonella ● E. coli O157 ● Listeria. 	Increase in levels of food-borne disease above the baseline will trigger FSA investigation.	Yes: UK lab-confirmed cases for all four food-borne diseases below baseline (March 2018).
Food is safe – food businesses and consumers improve food safety	Measure 1: percentage of food businesses achieving equivalent to a Food Hygiene Rating Scheme (FHRS) rating of 5 ('very good').	70% or more of food businesses achieve a hygiene compliance rating of 5 by 31 March 2019.	Yes: 70.1% of businesses in England score 5 ('very good') (March 2019).
	Measure 2: percentage of food businesses achieving equivalent to FHRS rating lower than 3 ('satisfactory').	No more than 4% of food businesses achieve a hygiene compliance rating of 2 or lower by 31 March 2019.	No: 4.8% of businesses in England score 2 or lower (March 2019).
	Measure 3: percentage of meat food businesses rated satisfactory or above for compliance.	25% reduction in businesses requiring 'urgent improvement' and 'improvement necessary' in year 1 (against June 2017 baseline of 97.6% rated satisfactory) and a further 25% reduction in year 2.	Yes: 98.5% meat food businesses rated satisfactory in England (June 2018).
	Measure 4: people report following recommended food safety practices in their homes.	70% (baseline: 67% in October 2017).	Data not yet available.
Food is what it says it is	Measure 1: percentage of people who are confident that the food they buy or eat is what it says it is and accurately labelled.	86% (baseline: 86% in March 2017).	Data not yet available.

Note

- 1 In addition to the measures listed, the FSA has measures in place to monitor public trust in food and the FSA; public awareness of health and nutrition information; and staff turnover and satisfaction. It is also developing further measures to monitor performance on allergens, enforcement activity, incidents and recalls, and business confidence in the FSA.

Source: National Audit Office review of Food Standards Agency performance data

Figure 11

Food hygiene rating scheme (FHRS)

Broad compliance with food hygiene requirements is equivalent to an FHRS rating of 3

Food hygiene rating score	Definition
0	Urgent improvement is required.
1	Major improvement is necessary.
2	Some improvement is necessary.
3	Hygiene standards are generally satisfactory.
4	Hygiene standards are good.
5	Hygiene standards are very good.

Source: Food Standards Agency

Measuring performance in meeting food standards

2.8 The FSA lacks evidence of whether it is achieving its objective of ensuring that food standards are met, limiting its ability to track overall compliance levels or trends over time. Its quarterly reporting for measures of whether food is what it says it is are based on consumer confidence rather than objective evidence of food authenticity. Similarly, the FSA's new balanced scorecard for monitoring local authority performance does not yet include a food standards performance measure. The FSA has begun work to develop measures for assessing compliance with food standards.

2.9 Furthermore, food fraud and criminality are often hidden crimes and consumers may never be aware they have been a victim. The National Food Crime Unit (NFCU) has established a set of key performance indicators it will use to evaluate its performance as it moves from a primarily intelligence-gathering function to an investigative one. To monitor its effectiveness at responding to food crime, it will track the number of successful criminal prosecutions it achieves, as well as the value of confiscation orders it secures. However, it has no current plans to put in place targets for these measures. It has a performance dashboard to monitor progress but has not yet defined what 'good' looks like.

Hygiene compliance in food businesses

2.10 Food businesses' compliance with hygiene requirements is improving. As set out in Figure 10, the FSA uses a food hygiene compliance measure (equivalent to FHRS scores) to monitor whether food businesses are compliant with food hygiene regulations and as a high level indicator of food safety (Figure 11). Between 2013-14 and 2017-18 the proportion of food businesses that were at least 'broadly compliant' with food hygiene requirements (equivalent to an FHRS rating of 3 or higher) in England increased from 87% in 2013-14 to 90% in 2017-18 (**Figure 12**), and as at March 2019, 70.1% of businesses achieved the top 'very good' compliance rating against an FSA target of 70%. However, there remains variation across local authorities. When considering all food businesses (including those not yet rated):

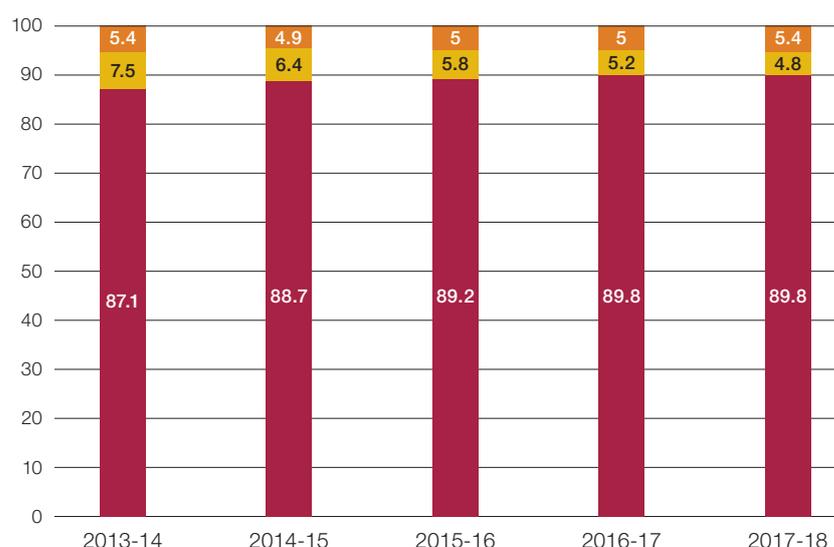
- in 13 local authorities the number of food businesses achieving broad compliance with hygiene requirements were below 80% (explained in part by high numbers of unrated businesses in those authorities); and
- in 102 local authorities, 95% or more food businesses achieved broad compliance with hygiene requirements.

Figure 12

Food establishment food hygiene compliance levels in England 2013-14 to 2017-18

Proportion of establishments that were at least 'broadly compliant' with food hygiene requirements increased from 87.1% to 89.8% between 2013-14 and 2017-18

Percentage of food establishments (%)



■ 'broadly compliant' or better ■ below 'broadly compliant' ■ not yet risk rated

Note

- 1 Local authorities assess food hygiene compliance in accordance with statutory guidance set out in the Food Law Code of Practice. An establishment assessed as 'broadly compliant' or better has achieved a rating equivalent to a Food Hygiene Rating Scheme (FHRS) rating of 3 (generally satisfactory) or above.

2.11 As set out in paragraphs 2.8 and 2.9 above, the FSA lacks an equivalent measure of compliance for food standards. This means it is not possible to assess businesses' performance in meeting food composition and labelling requirements.

Information for consumers

2.12 Consumers play a vital part in driving food hygiene and standards improvements by making choices about what food to buy and where to buy it from. The FSA's 2018 public attitudes survey found that 45% of respondents in England were concerned about the safety of food sold in UK restaurants, cafes, pubs and takeaways, while 42% were concerned about the safety of food sold in shops. However, consumers can only make informed choices and drive improvements if they have good information on the quality and safety of the food they are eating.

2.13 The FHRS provides clear information on hygiene compliance for businesses within the scope of the scheme. The FSA publishes all FHRS ratings on its website, but unlike in Wales and Northern Ireland, it is not mandatory in England for food businesses to display their food hygiene rating in their premises. In England only 52% of businesses display ratings in their premises, compared with 87% and 84% in Wales and Northern Ireland respectively. In October 2018, the FSA's FHRS tracker survey found that 85% of respondents in England were in favour of mandatory display. FSA research on the impact of the scheme in Wales showed a positive impact on business compliance with food hygiene law, and the local authorities we spoke to supported mandatory display.

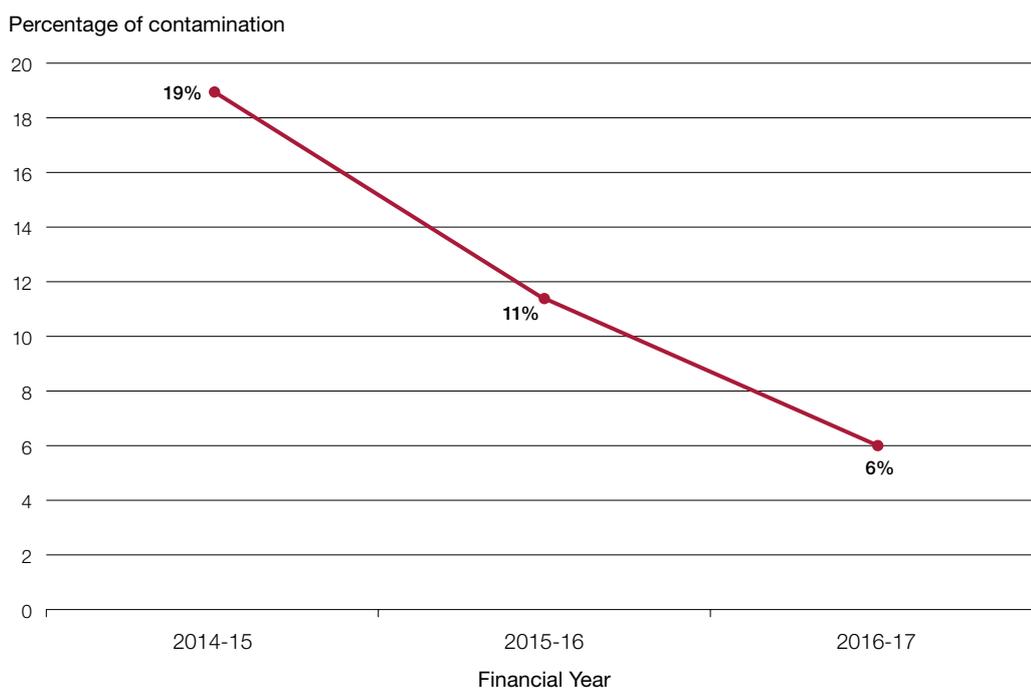
2.14 The FSA told us that mandatory display of hygiene ratings in England is a key priority and it has prepared an evidence case for ministerial consideration. A statutory scheme will require new primary legislation, so the FSA aims to identify a suitable Parliamentary bill in which it could secure the necessary provisions.

2.15 The FSA has successfully driven improvements by publishing information about campylobacter contamination of chicken, which has led to substantial drops in contamination across the UK (**Figure 13**).

Figure 13

Food Standards Agency (FSA) action to tackle campylobacter contamination

Publishing data has driven a reduction in campylobacter contamination in fresh whole retail chicken



— Campylobacter (>1,000 colony-forming units per gram) in whole fresh retail chicken

The problem

Campylobacter is the **most common cause of food poisoning** in the UK. The majority of people who get ill from campylobacter recover quickly but it can be more serious for some.

- The FSA estimates that campylobacter accounts for **around 280,000** cases of food-borne illness annually in the UK.
- In 2009, the European Food Safety Authority (EFSA) estimated that **between 50%–80%** of campylobacter cases may be attributed to contaminated raw poultry.

Action taken by the FSA

- In 2014, the FSA initiated a UK-wide survey of UK-produced fresh chicken. It found that **19% of chickens tested positive** for the highest level of contamination.
- As part of a wider campaign to tackle this issue, the FSA published the results of the survey including a league table on contamination levels of fresh chicken sold by **the top seven major supermarkets**.
- It repeated the survey and published the results annually.

Outcome

- Campylobacter contamination of fresh whole retail chicken in the UK dropped to **11% in 2015-16** and **6% in 2016-17**.
- Since September 2017, major retailers carry out their own sampling and publish the results under FSA protocols, allowing the FSA to focus its attention and resources on smaller retailers.

2.16 Consumers are not clear what the regulatory requirements are for food that contains allergens, including what information food businesses should provide. There can be serious consequences including fatalities if consumers with allergies are not made aware of allergens in food. In 2018, the FSA found that 45% of respondents it surveyed in England were not aware of rules on allergens and a further 32% were not sure.

2.17 In January 2019 the Department for Environment, Food & Rural Affairs, the FSA and Food Standards Scotland launched a joint consultation on strengthening allergen information for food products pre-packed for direct sale (PPDS), in light of fatalities caused by allergens in these products. Current legislation requires that all allergens in prepacked food are clearly labelled. In the case of non-prepacked food (including food prepared on the premises at the consumer's request and PPDS products) there is no requirement to label individual products, although the allergen information must be readily available if requested by the consumer. In May 2019, the FSA wrote to ministers supporting a move, in time, to mandate full ingredient listing on food pre-packed for direct sale. The FSA also intends to take forward further work on allergy research, support and education.

Part Three

Responding to future risks

3.1 This part of the report examines:

- action taken by the Food Standards Agency (FSA) to respond to current and emerging challenges;
- impact on the food regulatory system of new trading relationships after EU Exit; and
- the financial sustainability of the regulatory system.

Changing risks to food safety and standards

3.2 The food regulatory system faces emerging and new challenges, which could lead to risks increasing or decreasing. These include, for example, potential changes to where the UK imports food from in future, changes in how food is supplied and specific risks faced by growing numbers of consumers (**Figure 14** overleaf).

Reforms to the regulatory system

3.3 The FSA recognises that the existing regulatory system has not kept pace with technological change or the changing environment, and is becoming unsustainable. In 2017, it launched a change programme, *Regulating our Future*, to address these challenges. It consulted widely about how to create a more resilient system that would enable a better approach for directing resources according to risk.

Figure 14

New and emerging risks to food safety

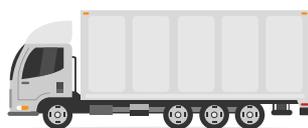
The food regulatory system faces emerging and new challenges, which could lead to risks increasing or decreasing



Where food comes from

Changes such as climate change, population growth or crop diseases could effect global food supply chains. This could effect what food the UK imports in the future and where from and potentially increase food fraud.

EU Exit is also expected to affect future imports.



How food is supplied

Over the past decade, substantial numbers of new players have entered the UK and global food business landscape. These have included online retailers and food delivery businesses. Indicatively, market analysts estimate that the UK food delivery market increased by 73% to £4.2 billion in the decade to 2018 and further growth is forecast by 2020.¹

The Royal Society for Public Health has highlighted food safety risks arising from unregistered 'dark kitchens' whereby meals are prepared in shipping containers or similar constructions for the food delivery market.²



Rising numbers of consumers with specific risks

Food regulators play an increasingly important role in helping allergy sufferers avoid key ingredients. Allergy sufferers require clear and accurate information on what is in the food they consume, and food businesses also need to ensure that food they prepare is not contaminated by allergens from other sources.

There is evidence that the number of people suffering from food allergies is rising. The Food Standards Agency estimates that 5%–8% of UK children and 1%–2% of adults have food allergies.³

Notes

- 1 NPD Group, *Rise in Food Delivery*, April 2018.
- 2 Royal Society for Public Health, *Health on the High Street*, 2018.
- 3 Food Standards Agency, March 2017.

Source: National Audit Office review

3.4 The *Regulating our Future* programme includes the following key elements:

- **Online business registration:** The FSA aims for digitally enabled registration of food businesses to provide local authorities with a clearer view of information obtained from food businesses and to give the FSA oversight and a comprehensive understanding of the food industry.
- **Risk segmentation of food businesses:** Currently, local authorities must inspect all food businesses within 28 days of registration to make an initial risk assessment. The FSA aims to develop a more data-driven risk segmentation approach, which will be used to categorise businesses and determine the frequency of interventions.
- **Primary Authority National Inspection Strategies:**¹¹ Under a national inspection strategy, one local authority – the primary authority – will work with a multi-site food business or group of businesses. The aim is to recognise compliant businesses and enable local authorities to direct their resources on new businesses and those businesses that are performing poorly.

3.5 The FSA has had to re-prioritise its reform programme to prepare for EU Exit. The UK's exit from the EU will have a significant impact on the UK's regulatory system as some 90% of the UK's current food legislation reflect EU regulations. Its preparations include replacing the food safety risk assessment and risk management functions that currently rely on EU institutions and mechanisms, and building its capacity to deal with food incidents if the UK loses access to EU systems and networks that support this function. The FSA spent £6.2 million of its budget on EU Exit preparations across 2017-18 and 2018-19 and received £15 million of additional EU Exit funding over the same period. It expects to commit a further £4.6 million of its budget to EU Exit in 2019-20, in addition to £16 million of additional funding.

3.6 Alongside the FSA's planning for a no-deal EU Exit scenario, it has prioritised key elements of its reforms. It has begun to introduce online business registration; by April 2019, 10 local authorities had tested the new system. The FSA expects it to be fully in place by April 2020 and has updated the criteria it uses for risk-assessing food businesses. It has also made progress in other areas, including development of a data-led surveillance model and expansion of the National Food Crime Unit (NFCU) to help it investigate food fraud.

¹¹ Primary authority is a legal partnership between a business and an individual local authority. Businesses receive assured and tailored advice on meeting environmental health, trading standards or fire safety regulations. The local authority may charge the business to cover its costs, but it cannot make a profit.

3.7 The FSA has faced challenges in progressing some elements of its reforms. The FSA indicated that this was primarily due to the need to prioritise EU Exit-related work and because it needed to take account of the impact on local authorities' resources of introducing additional changes at this time. Aspects requiring legislative change may not be possible in the near-term due to the impact of preparations for EU Exit on the Parliamentary programme. Some local authority food officers and stakeholders we spoke to were concerned that the programme will not be successful in addressing the issues it aims to.

Coordination of the regulatory system

3.8 In 2013, we reported that a split in responsibilities for food regulation had led to confusion among stakeholders, no obvious benefit to those implementing controls, and weak intelligence sharing between departments.¹² A subsequent independent review commissioned by the Department for Environment, Food & Rural Affairs (Defra) highlighted the need for a coordinated, joined-up approach across government departments.¹³

3.9 There is no single body responsible for the food regulatory system: policy responsibility is split across three government departments, and enforcement of regulations is undertaken by 353 local authorities and the FSA. Stakeholders informed us that cross-departmental committees help provide consistency across the regime, and that focus groups and regional groups bring together local authority food officers and provide an effective forum for sharing information and resolving issues. However, local authorities informed us that it is not always clear which body to approach for policy guidance. For example, allergens are a high-profile and complex area, requiring increasing resources and clarity about responsibilities:

- The FSA has policy responsibility for allergen safety controls while Defra has legislative responsibility for the labelling regulations that encompass allergen labelling.
- Enforcement of hygiene and safety standards in respect of allergens is shared between food standards officers (who provide assurance that food is labelled accurately) and food safety officers (who provide assurance that food businesses prepare food safely to avoid cross-contamination with allergens). In some areas of England, environmental health teams are based in district councils, while food standards officers are in county councils. Teams rely on local arrangements to work effectively together.

¹² Comptroller and Auditor General, *Food safety and authenticity in the processed meat supply chain*, Session 2013-14, HC 685, National Audit Office, October 2013.

¹³ HM Government, *Elliott Review into the Integrity and Assurance of Food Supply Networks – Final Report: A National Food Crime Prevention Framework*, PB14192, 2014.

Impact of new trading relationships after EU Exit

3.10 The UK is a significant food import market, creating potential new trading opportunities after the UK leaves the EU. Around 50% of the food consumed in the UK is produced outside the UK. In 2017, UK imports of food, feed and drink were valued at £46.2 billion, of which 30% was imported from non-EU countries. Depending on the UK's future trading relationship with the EU, food imports from third countries could rise after the UK leaves the EU.

3.11 The UK government has set out its intention to develop an independent trade policy after leaving the EU and to forge new trade relationships with partners around the world.¹⁴ In particular, in 2018 the Department for International Trade (DIT) consulted on proposed free trade agreements with the US, Australia, New Zealand and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership. Trading partners may seek to export food to the UK. For example, in February 2019, the US published a summary of its objectives for a trade deal with the UK, including “to obtain more open, equitable, and reciprocal market access” on food and agricultural goods.

3.12 The FSA will have a key role to play in advising on food safety and is working with other government departments, including DIT and Defra, to ensure that any mandate for negotiating new trade agreements is informed by a robust assessment of the impact of trade deals on food safety and the regulatory system. In common with other departments, the FSA has stated publicly that UK food safety and standards will be maintained after the UK leaves the EU and has worked with relevant departments to replace EU processes with UK mechanisms for analysing food risks. The FSA's role will include providing scientific advice on food safety to inform trade negotiations.

3.13 Defra informed us that analysing the impact of future trading patterns on food standards and the regulatory system is challenging while a range of potential future trading scenarios exist. The FSA also considers that the potential longer-term impacts are difficult to assess because of a lack of information on what food is currently imported from the EU and in light of wide-ranging future scenarios. For example:

- a reduction in UK import tariffs could lead to a rise in imports from new markets, a need for additional safety checks on unfamiliar products and increased workload for food officers at UK ports;
- the UK imported an estimated £32 billion of food, feed and drink from the EU in 2017. At present, this is not subject to controls by port health authorities. Depending on the eventual UK–EU trading relationship, and future UK bio-security policy, border checks on EU imports may be required in future; and
- the UK exported an estimated £13 billion of food, feed and drink to the EU in 2017. At present, the EU does not require export certificates but, depending on the eventual UK–EU trading relationship, export certificates may be required in future, placing additional demands on local authority food control officers.

¹⁴ Department for International Trade, *Preparing for our future UK trade*, Cm 9470, October 2017.

Financial sustainability of the food regulation system

3.14 As we set out in Part One of this report, resources for food regulation have declined since we previously reported in 2013, particularly within local authorities where there have been substantial drops in the number of food standards staff. While FSA and Defra are responsible for food hygiene, safety, labelling and composition standards policy, they have limited levers for maintaining funding for food regulation at the local level.

3.15 In 2017, the FSA consulted on an alternative funding model as part of its wider *Regulating our Future* programme, whereby businesses would bear the cost of regulation, in line with government policy. At present, businesses pay for some statutory controls (in whole or in part) such as statutory inspections at approved meat establishments and statutory border checks on imports from non-EU countries. The FSA proposed introducing charging across the regulatory system, and that the businesses that require the most intervention from government would bear the highest costs.

3.16 Some stakeholders we spoke to agreed there would be benefits to charging businesses. Others raised concerns which included:

- businesses' appetite for making regulatory payments in addition to charges they already incur, such as business rates; and
- businesses that are less compliant are often small businesses that will be less able to make significant financial contributions. Concerns were also raised about the potential impact of the proposal on other policy areas such as local economic growth.

3.17 In October 2018, the FSA wrote to the Cabinet Office re-affirming its ambition to introduce a funding model where businesses bear the cost of regulation, but suggesting that a cross-government centrally driven approach would be more effective than the FSA acting on its own.¹⁵ The FSA expressed concerns that:

- introducing the changes would require primary legislation that would be difficult to secure, given demands on Parliamentary time as a result of EU Exit; and
- changes to the way regulatory activities are funded will require significant political support and are likely to be controversial.

¹⁵ The Cabinet Office coordinates the government's implementation of the Regulatory Futures Review, which seeks to identify operational efficiency improvements by sharing good regulatory practice.

Appendix One

Our audit approach

- 1 This study examines the effectiveness of the current regulatory arrangements to ensure that food is safe to eat and is what it says it is.
- 2 To do this, we examined:
 - the extent to which the Food Standards Agency (FSA) and local authorities identify the areas of highest risk to food consumers and are making effective use of resources;
 - whether FSA has evidence that the regulatory system is effective in achieving outcomes and driving performance improvements; and
 - whether the regulatory arrangements are coherent and sustainable in the context of emerging challenges.

Scope of the report

3 This report focuses on the effectiveness of the current regulatory arrangements to ensure that food is safe to eat and is what it says it is. Specifically, we cover food safety controls and food safety standards (FSA policy responsibility) and food composition and labelling requirements (the Department for Environment, Food & Rural Affairs (Defra) policy responsibility). Any failure in the food regulatory system can impact on the safety of food, and therefore the ability of the FSA to meet its policy objectives, so we have also examined the coherence of the wider regulatory system, and its ability to respond to both emerging risks and future challenges.

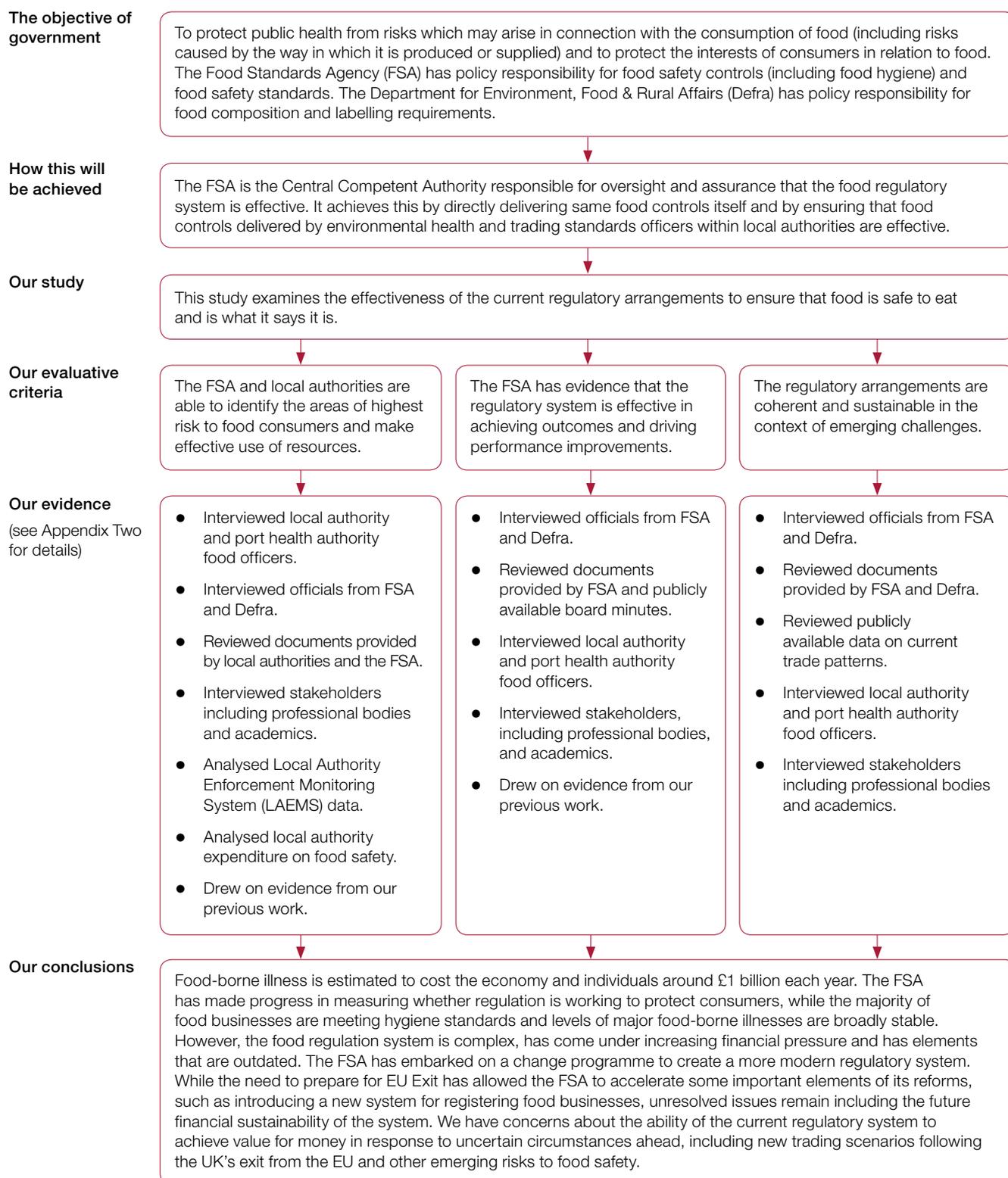
4 The report considers how the regulatory landscape may change after the UK leaves the EU and the impact this may have on the capacity of the system, particularly in respect of future free trade agreements. It does not evaluate in detail FSA's and other government departments' preparations for a 'no deal' exit from the EU although the preparations are an important contextual factor.

5 The primary focus of the report is FSA's oversight of food controls delivered by local authorities. It covers food hygiene, allergens and food fraud but does not examine in detail other safety risks such as physical, chemical or radiological contaminants. The report does not cover FSA's responsibilities for the regulation of animal feed, although in some cases the data we report may relate to feed as well as food regulation. We also do not cover Defra's responsibility for primary food production including animal welfare and plant health, or the enforcement of nutritional food standards (the responsibility of the Department of Health & Social Care (DHSC)). The report covers food regulation in England only. The evidence and data relates to England only except where disaggregated data is not available.

Our approach

6 We applied an analytical framework with evaluative criteria. Our audit approach is summarised in **Figure 15**. Our evidence base is described in Appendix Two.

Figure 15
Our audit approach



Appendix Two

Our evidence base

- 1** We reached our independent conclusions on the value for money of food safety and standards regulation by analysing evidence collected between October 2018 and April 2019.
- 2** We applied an analytical framework with evaluative criteria to our analysis, which considered the extent to which the regulatory regime identifies the areas of highest risk to food consumers and makes effective use of resources; the extent to which the regulatory system is effective in achieving outcomes; and whether it is coherent and sustainable in the context of emerging challenges. Our approach is outlined in Appendix One.
- 3** We used a range of study methods to reach our conclusion on value for money, described below.
- 4** We carried out case study visits and semi-structured interviews with environmental health and trading standards officers from 11 local authorities and four port health authorities to provide insights into their role in delivering food hygiene and standards controls. Local authorities were sampled to include both unitary and two-tier authorities, as well as diversity in terms of region and capacity (based on the number of full-time equivalent food control staff per 1,000 food businesses):
 - Barnsley Metropolitan Borough Council
 - Crawley Borough Council (including port health services)
 - Horsham District Council
 - Liverpool City Council
 - London Port Health Authority
 - Mersey Port Health Authority
 - Nottinghamshire County Council
 - Preston City Council
 - Southampton City Council Port Health Services
 - Staffordshire County Council
 - Tower Hamlets Council

- West Sussex County Council
- Wolverhampton Council
- Wycombe District Council.

5 We reviewed local authority spending data to analyse trends in expenditure across the regulatory regime. We also examined the Food Standards Agency's (FSA's) Local Authority Enforcement Monitoring System (LAEMS) data to analyse:

- variation across local authorities in terms of food law enforcement capacity;
- trends in staffing levels between 2012-13 and 2017-18, including comparisons with other parts of the United Kingdom; and
- trends in food sampling levels between 2012-13 and 2017-18.

6 Our analysis of local authority expenditure on food hygiene is based on publicly available data reported under the food safety category of the Ministry of Housing, Communities & Local Government's (MHCLG's) local authority revenue outturn data for cultural, environmental, regulatory and planning services (RO5). We have not carried out an independent validation of this published data. It was not possible to analyse expenditure on food standards because this spend is included within a broader category of trading standards expenditure and could not be disaggregated.

7 Our analysis of trends in local authority food hygiene and standards staffing levels is based on LAEMS returns, reported to the Food Standards Agency by local authorities on an annual basis. We have not carried out an independent validation of this published data. The FSA advise local authorities that the numbers of full-time equivalent (FTE) posts provided should reflect the actual proportion of time spent by professional and administrative staff on food hygiene and/or food standard issues. However, there is no prescriptive guidance given on how that time should be determined and local authorities calculate the proportion of time using a variety of different methods. We therefore used the data to look at broad trends over time, rather than to make direct local authority to local authority comparisons.

8 Our analysis of LAEMS data was based on 353 local authorities that have responsibility for food controls. In some cases, a small number of local authorities were excluded from the analysis because of data quality issues or a lack of comparable data over the time period analysed. Specific details of numbers of exclusions are given in the notes for each chart. Where we have analysed data on food hygiene and food standards separately, the number of local authorities analysed do not sum to 353 because some local authorities are responsible for either food hygiene or food standards only, while other local authorities cover both.

9 We conducted semi-structured interviews with officials from FSA and the Department for Environment, Food & Rural Affairs (Defra) to understand their perspective on:

- risk assessment and resource levels in the current regime;
- performance measurement;
- the current funding model for the regulatory regime and options for the future;
- progress of the *Regulating our Future* programme; and
- preparations for possible changes in trading patterns post-EU Exit, including contributing to future trade negotiations.

10 We reviewed a range of FSA documentation across all aspects of its role. Documents included FSA's board papers and minutes, the Food Law Code of Practice and associated documents, strategy papers, audit papers, research papers and consumer survey reports.

11 We drew on evidence from our previous reports on:

- *Financial sustainability of local authorities;*
- *Food safety and authenticity in the processed meat supply chain;* and
- *Regulating to protect consumers in utilities, communications and financial services markets.*

12 We conducted semi-structured interviews with wider stakeholders including academics, representative bodies for trading standards and environmental health, representatives from the food industry, consumer groups, a public analyst and Public Health England. We also examined documents published by wider stakeholders.

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