

## **Introduction to FSA's Statement of Compliance with the Regulators' Compliance Code**

The FSA is committed to better regulation as we see this as a means to enhance consumer protection. Our approach to regulatory decision making, risk and our strategic focus are set out in key published documents that inform the way in which we develop policy and deliver consumer protection.

On better regulation in particular our Strategic Plan states that:

**'We will seek to ensure that our actions are proportionate, risk-based and outcome-focused, in line with the principles of good regulation; that we foster improvements and reward good practice, whilst seeking firm action against those who persistently fail to meet acceptable standards. We want our actions to be practical and deliverable.'**<sup>1</sup>

This also reflects well our strategic alignment with the new statutory Regulators' Compliance Code which comes into force in England<sup>2</sup> on 6 April 2008. The Code is based on the seven Hampton Principles of:

1. Economic Progress;
2. Risk Assessment;
3. Advice and Guidance;
4. Inspections and other Visits;
5. Information requirements;
6. Compliance and Enforcement Actions; and
7. Accountability.

Officials must have regard to the Code when determining general policies or principles about how we exercise our regulatory functions and when we set standards or give general guidance, however, the Code does not apply at the individual regulatory decision-making level. This is important as it ensures that inspectors and enforcement staff are able to respond effectively to urgent issues, within the FSA's broader regulatory framework.

Another important aspect of the Code is that the requirement to have regard to the Code is also subject to any other legal requirement affecting the exercise of the FSA's regulatory function, including EC law obligations. It also acknowledges that there will be circumstances in which its provisions will not apply as they may be not relevant or outweighed by other relevant considerations.

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<sup>1</sup> FSA Strategic Plan to 2010, p9

<sup>2</sup> Arrangements in the devolved administrations will continue to need to meet the requirements of the existing voluntary Enforcement Concordat (which remains in place alongside the Compliance Code), and any requirements the devolved Governments should put in place in respect of regulatory practice.

## FSA Statement of Compliance with the Regulators' Compliance Code

Hampton Principle	FSA Approach	Key Documents
<p style="text-align: center;"><b>ECONOMIC PROGRESS</b></p> <p><b>Regulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection.</b></p>	<ul style="list-style-type: none"> <li>• Our aim is to be a proportionate regulator, intervening to protect consumers where the benefits justify the action.</li> <li>• Whilst we work with stakeholders to maintain the right conditions for consumer protection we seek ways to allow responsible food businesses of all sizes to flourish</li> <li>• We have a statutory duty to take costs and benefits into account when considering whether and how to exercise any of our powers.</li> <li>• We develop Impact Assessments for our regulatory policy and consider the costs and benefits of policy options in a number of areas including business (these include a specific consideration of the impact on SMEs).</li> <li>• We seek to simplify our regulations where possible to facilitate greater compliance as we believe that increased compliance</li> </ul>	<p>Strategic Plan to 2010</p> <p>A Framework of Regulatory Decision Making in the FSA</p>

Hampton Principle	FSA Approach	Key Documents
	<p>improves consumer protection.</p> <ul style="list-style-type: none"> <li>We are working to reduce the administrative burdens of FSA regulations by £136 million by 2010.</li> </ul>	FSA Simplification Plan 2007
	<p><b>Circumstances where the Code’s provisions are either not relevant or outweighed by other relevant considerations:</b></p> <p>We have an overriding statutory objective to protect public health and consumers’ other interests in relation to food and drink<sup>3</sup>, so whilst we take steps to act in a proportionate manner we will always take appropriate action to ensure that we meet our statutory objective.</p>	
<p><b>RISK ASSESSMENT</b></p> <p><b>Regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources in the areas that need them most.</b></p>	<ul style="list-style-type: none"> <li>We work with our partners to deliver a risk-based, targeted regulatory inspection service that promotes a light touch approach to businesses where there is evidence of compliance. We have, and use, a range of tools for intervention in businesses where there is persistent or serious non-compliance.</li> </ul>	Strategic Plan to 2010

<sup>3</sup> The definition of ‘Food’ is found in section 1(1) of the Food Safety Act 1990

Hampton Principle	FSA Approach	Key Documents
	<ul style="list-style-type: none"> <li>• We have published our approach to risk that sets out the need to act decisively in view of the risks identified.</li> <li>• Our decisions are based on the best available evidence, and where there is uncertainty in the evidence we explain these and take them into account.</li> <li>• When deciding whether to intervene we assess the risk to public health and balance the risk, costs and benefits to everyone concerned – including the risks associated with inaction.</li> <li>• We have piloted schemes of promoting compliance and encouraging best practice in a number of Local Authorities by way of the Scores on the Doors initiative.</li> <li>• Risk assessments are carried out in Impact Assessments at policy development stage and input from stakeholders is sought during the consultation and policy development process.</li> <li>• We have also initiated a review of our enforcement policy that looks at how food law enforcement can be better aligned with the Hampton principles. The Changes to Local Authority Enforcement (CLAE) project provides LAs with greater flexibility in enforcement and allows them to target resources where the risks are greater.</li> </ul>	<p>A Framework for Regulatory Decision Making in the FSA</p> <p>FSA Simplification Plan 2007</p>

Hampton Principle	FSA Approach	Key Documents
	<p><b>Circumstances where the Code’s provisions are either not relevant or outweighed by other relevant considerations:</b></p> <p>Where there is serious risk to public health we take the precautionary approach by acting quickly to implement appropriate measures to reduce health risks.</p>	<p>FSA Statement of General Objectives and Practices</p>
<p><b>ADVICE AND GUIDANCE</b></p> <p><b>Regulators should provide authoritative, accessible advice easily and cheaply.</b></p>	<ul style="list-style-type: none"> <li>• In line with our statutory objectives we consult on guidance developed to assist business and enforcers. All of our guidance is made available on our website.</li> <li>• We are committed to providing clear, practical advice, information and other forms of assistance to all stakeholders.</li> <li>• A recent study conducted by BOMEL Ltd confirmed that our guidance was easy to obtain and understand.</li> <li>• Another outcome of the study is that our guidance to business will be even clearer in distinguishing between legal requirements and best practice. It also includes standard paragraphs drafted to promote consistency and clarity in our guidance about its scope and</li> </ul>	<p>Food Standards Act 1999</p> <p>FSA Statement of General Objectives and Practices</p> <p>Review of Food Standards Agency Guidance to Business, FSA</p>

Hampton Principle	FSA Approach	Key Documents
	<p>whether it refers to legal requirements or best practice.</p> <ul style="list-style-type: none"> <li>• We also have a general helpline that is being reviewed to improve the level of service to all stakeholders including business. There is also a dedicated Imported Foods Helpline that answers queries in this wide ranging area of regulation.</li> <li>• Where possible we seek to develop additional guidance material that delivers compliance better – eg the Safer Food Better Business initiative is highly successful in facilitating compliance with the food hygiene regulations and welcomed by SMEs. We also facilitate the production of Industry Guides for specific sectors to enable them to understand and implement food law better.</li> </ul>	<p>Nov 2007</p> <p>Safer Food Better Business</p>
<p><b>INSPECTIONS AND OTHER VISITS</b></p> <p><b>No inspection should take place without a reason.</b></p>	<ul style="list-style-type: none"> <li>• We seek to work with other regulators to minimise the burdens on businesses, eg through joint inspections and data sharing, where this does not jeopardise regulatory outcomes.</li> <li>• Following a review of our inspections we are improving the system of inspections carried out by the Meat Hygiene Service to make them more risk-based. This is done by working to ensure</li> </ul>	<p>A Framework for Regulatory Decision Making in the FSA</p> <p>Effective Inspection and</p>

Hampton Principle	FSA Approach	Key Documents
	<p>that official controls under the current EU legislation are risk-based and proportionate by using any flexibilities that the current law provides, and by seeking to negotiate changes to EU law in the longer term to make the EU legal requirements more risk-based and proportionate.</p> <ul style="list-style-type: none"> <li>• Food Safety and Food Standards are enforced through Local Authorities and the recent Changes to Local Authority Enforcement (CLAE) project seeks to focus resources on high risk businesses.</li> <li>• Where there are multiple inspectors we look to ensure that consumer protection can be achieved by imposing minimum burdens (eg our participation in the retail enforcement pilot scheme).</li> <li>• We also seek to give due weight to third party accreditation when setting inspection frequencies. A good example of this has been in food and farm assurance schemes such as the 'Red Tractor' mark run by the Assured Food Standards organisation. 25% of business are inspected if they are not a part of that scheme whereas only 2% are inspected if they opt to join the scheme – a significant reduction of inspections is therefore achieved without compromising consumer protection.</li> <li>• We have sought to encourage on farm inspection to consider,</li> </ul>	<p>Enforcement: implementing the Hampton vision in the FSA (2008)</p> <p>FSA Simplification Plan 2007</p>

Hampton Principle	FSA Approach	Key Documents
	<p>where possible, food hygiene, feed hygiene and animal health and welfare requirements at the same time. We have also encouraged Local Authorities to form links with other on-farm enforcement bodies.</p>	
<p><b>INFORMATION REQUIREMENTS</b></p> <p><b>Businesses should not have to give unnecessary information or give the same piece of information twice.</b></p>	<ul style="list-style-type: none"> <li>• We have few data requests that we make directly from business.</li> <li>• For those areas where information is requested we have undertaken a review of its forms and identified 16 that businesses are required to complete as mandatory. A number of these forms have been simplified by reducing the information businesses are required to provide or by making the forms more accessible or easy to use –thereby further reducing burdens on business.</li> <li>• We have also established a forms gatekeeper to ensure that forms are designed in line with the Hampton Report’s recommendations.</li> <li>• We seek to share data or source data from other sources where possible and feasible eg it used the Rural Payments Agency’s database of farmers to establish a list of registered farmers rather than requiring farmers to register with their local authority.</li> </ul>	<p>FSA Simplification Plan 2007</p>



**COMPLIANCE AND ENFORCEMENT ACTIONS**

**The few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions.**

- We foster improvements and reward good practice, whilst seeking firm action against those who persistently fail to meet acceptable standards.
- We work to have lighter touch inspection where there is clear evidence of compliance, balanced by strong powers to intervene, including revoking operating licenses, in case of serious non-compliance.
- Where businesses comply with voluntary schemes (such as food and farm assurance schemes) we promote light touch inspections by reducing the frequency of food hygiene inspections.
- We work with enforcement bodies to help responsible businesses comply and to penalise those that are wilfully and repeatedly non-compliant, or seriously negligent with respect to consumer safety
- We have developed Codes of Practice that also seek to promote consistency in our approach to enforcement. They require food authorities to have an up to date enforcement policy and to ensure that enforcement action taken by their officers is reasonable, proportionate and consistent with good practice. This helps officers to consider a wide range of actions from education and advice to prohibition and prosecution procedures as necessary.
- As a part of the Changes to Local Authority Enforcement project

Strategic Plan to 2010

FSA Simplification Plan 2007

A Framework for Regulatory Decision Making in the FSA

FSA Simplification

	<p>The Agency is committed to reviewing the Framework agreement between the Agency and Local Authorities (LAs) to align the Agency's enforcement policy with the Hampton principles and help LAs focus their resources.</p>	<p>Plan 2007</p>
<p style="text-align: center;"><b>ACCOUNTABILITY</b></p> <p><b>Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take.</b></p>	<ul style="list-style-type: none"> <li>• We are accountable to the public via Parliamentary scrutiny. This includes accountability to the UK Parliament, Scottish Parliament and the Welsh and Northern Ireland assemblies through Health Ministers and accountability to Parliament through our Chief Executive as Accounting officer for the proper use of public money.</li> <li>• We are fully accountable to the public and have procedures in place that ensure that all our stakeholders are able to see and comment on the way in which we conduct our business (eg open Board meetings)</li> <li>• We have Industry and Consumer fora that are chaired by the Chief Executive and allow consumer groups and industry trade associations to raise issues directly with the Chief Executive. These are valuable in promoting dialogue and underlining the openness of the Agency.</li> <li>• We have ten Citizens Forums across the UK consisting of individual consumers. It meets three times a year to elicit consumer views on FSA's work.</li> <li>• We have undertaken an annual reputation audit from 2003-2006</li> </ul>	<p>FSA Statement of General Objectives and Practices</p>

	<p>inclusive. The survey, which consisted of an annual telephone survey with more than 200 stakeholders, sought to capture perceptions of the Agency and an annual tracking of opinion. The results of the audit were presented to the Board and helped to inform the Agency's strategic and business planning process. The Agency intends to resume the audit from 2008.</p> <ul style="list-style-type: none"> <li>• We also work through third sector networks to tap into 'seldom heard voices' to get their feedback on FSA's regulatory work.</li> <li>• We have also set up an Advisory Committee on Consumer Engagement that is reviewing the process of FSA's consumer engagement. It is due to report in December 2008.</li> <li>• Our Better Regulation Advisory Group established in 2006 (featuring business, consumers and local authority representatives) provides an independent challenge to our better regulation work.</li> <li>• We are committed to transparency as acknowledged by The Hampton Implementation Review Report, which concluded that, '...the FSA is a very transparent and accountable regulator.'</li> <li>• In line with our statutory requirements we consult widely and effectively as acknowledged by the Hampton Implementation Review Report.</li> <li>• We ensure that all relevant parties are given the opportunity and, wherever possible, the time to make their views known.</li> <li>• We also carry out audits on Local Authorities to ensure that our objectives are met and that food law enforcement is carried out in a proportionate and effective manner.</li> </ul>	<p>Effective Inspection and Enforcement: implementing the Hampton vision in the FSA (2008) / FSA Statement of General Objectives and Practices</p>
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	<ul style="list-style-type: none"> <li>• We set out our key targets, including those on food safety and public health, in our Strategic Plan and these are kept under review.</li> <li>• We produce an annual Simplification Plan that details our proposals to reduce regulatory burdens, and we monitor our ongoing commitment to reduce the administrative burden of food regulations by 25% by 2010.</li> <li>• We seek to resolve all complaints in a timely and professional manner and our complaints procedure is published on our website. We aim to provide a full reply to complaints received within 20 working days. If the reply is not satisfactory then a request can be made for the complaint to be referred to the Chief Executive. If that does not resolve the complaint then a request can be made to have the complaint heard by the UK Parliamentary Commissioner for Administration via a Member of Parliament.</li> </ul>	<p>FSA Strategic Plan to 2010</p> <p>FSA Simplification Plan 2007</p>
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