



## FSA De Minimis Self-Certification Template

<b>Title of measure:</b>	<b>Changes to the Food Law Code of Practice (England)</b>	
<b>Published consultation</b>	<a href="#">Food Law Code of Practice and Practice Guidance Consultation - England   Food Standards Agency</a>	
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### 1. Short description of problem under consideration and rationale for intervention

The Food Law Code of Practice, England (the Code) requires regular review and revision to ensure that it reflects current priorities, policy and legislative requirements so that Local Authorities (LAs) and Port Health Authorities (PHAs) delivery of food control activities remains effective, consistent, and proportionate.

The food landscape and consumer habits have changed significantly since the previous food Code was issued. These changes come amid declining LA and PHA resources and challenges in recruiting and retaining skilled officers. The FSA has been working to address these challenges, and the revised Code aims to help LAs target resources more effectively, ensuring interventions are proportionate, add value, and support compliance.

Developed through a two-year engagement with LAs across the three nations, the revisions enable a more risk-based approach to official controls. Key changes include prioritising high-risk establishments, removing unnecessary delivery barriers, widening the pool of professionals to undertake certain activities, and enabling greater flexibilities such as the use of remote controls where appropriate. These changes will improve consistency, safeguard public health, and uphold consumer confidence, and form part of the commitments that the FSA have outlined in the Chancellors Regulations Action Plan. The following proposals were consulted on:

1. an updated risk-based approach to the prioritisation and timescales for undertaking initial food hygiene official controls of new food establishments
2. enabling, in certain circumstances, an establishment's food hygiene intervention risk rating to be amended following a wider range of official control methods and techniques, including those undertaken remotely

3. extending the activities that officers, who do not hold an ‘appropriate qualification’ for food hygiene or food standards can, if competent, undertake
4. a clarification in approach to interventions at food business establishments that fall into risk category E for food hygiene
5. removal of a prescriptive number of hours required for CPD (this proposal is no longer going ahead)
6. other amendments which do not amend policy, to provide clarity, improve consistency and keep pace with current practices

## 2. Analysis of alternatives for regulation

**Do nothing:** The Code must be reviewed regularly to ensure it remains aligned with current legislation, policy, and operational needs. With an ever-changing food landscape and consumer behaviour, regular updates are necessary to ensure that guidance and provisions of the Code remain responsive and effective, especially when LAs and PHAs are experiencing ongoing resourcing challenges. A static Code would fail to address current priorities and new challenges, and risk outdated practices being applied, therefore potentially compromising consumer protection. LAs and PHAs rely on the Code to guide official controls and enforcement activities. Without updates, inconsistencies and inefficiencies may arise, undermining the effectiveness of official food controls across regions.

**Providing FSA guidance:** Similarly, the option of updating alternative, non-statutory FSA guidance is not a viable option. The Code is a statutory document, issued under powers in the Food Safety Act 1990, the Official Feed and Food Controls (England) Regulations 2009 and The Food Safety and Hygiene (England) Regulations 2013. LAs and PHAs are required to have regard to the Code when delivering official food controls. Non-statutory guidance, such as the Practice Guidance, does not carry the same legal weight, therefore relying solely on non-statutory FSA guidance/updates risks poor uptake by LAs and PHAs and potentially bring about inconsistencies in the way businesses receive official and non-official controls. This would undermine confidence in the food regulatory system.

Stakeholders, including food businesses, local authorities, and consumers expect clarity, consistency, and relevance in regulatory guidance. The alternative options described above would not effectively deliver the identified flexibilities and benefits and are therefore considered unviable.

## 3. Analysis of any relevant past evaluation (including PIRs)

There is no relevant past evaluation for the policy proposals. The FSA assessed the challenges with the food hygiene delivery model in the Code, and consulted on potential changes to the model in 2023. Responses from the consultation and engagement events suggested broad support for the policy proposals, and these were further refined on the basis of the feedback received.

The FSA held a 12-week public consultation which completed on 19<sup>th</sup> May 2025. Consideration has been given to the views expressed and where appropriate, proposals have been amended and are reflected in the revised Code.

4. **Assessment of direct business impacts (EANDCB) justifying the application of de minimis**

We have not identified any direct impacts arising from the review of the Food Law Code of Practice.

5. **Assessment of impact on Small and Micro Businesses as well as Medium Enterprises.**

We have not identified any direct impacts. The proposals primarily introduce flexibilities for LAs and PHAs. Decisions about whether to implement these flexibilities will rest with individual LAs. See answer to question 6.

6. **Short qualitative summary of the wider impacts on the new regulatory scorecard**  
Overall and stakeholder impacts:

For consumers, the proposals are anticipated to improve consistency of food control activities and ensure LA and PHA resources are being used effectively, as well as prioritising resources on the highest risk establishments. This means that consumers will benefit from enhanced consumer protection through more efficient allocation of resources as more non-compliances are expected to be identified faster, maximising the effectiveness of consumer protection provided by these controls. This, in turn would foster greater public health.

For businesses, we have not identified any direct impacts. For proposals 1 to 3, LAs will have the choice to implement the flexibilities. Therefore, decisions about whether and when to implement the flexibilities lie with the LA.

**Proposal 1:** If LAs decide to use the flexibility in relation to the updated risk-based approach to the prioritisation and timescales for undertaking initial official controls, it may mean that some lower-risk establishments do not receive an initial official control, and therefore a Food Hygiene Rating Scheme (FHRS) rating, for up to 3 months, compared to 28 days previously. But the longer timeframe will not legally prevent these establishments from trading. Based on analysis of FHRS data between April 2023 and March 2024, the average waiting time for an initial FHRS rating across England was just over 2.5 months.

**Proposal 2:** Similarly, the flexibility to decide what methods and techniques of official controls to use, including those undertaken remotely is also not anticipated to have an impact on businesses, as LAs and PHAs already have flexibility to determine the type of intervention to undertake at low-risk establishments. Note that since the consultation on the proposals, the proposed

approach has been amended by limiting the use of remote official controls to amend food hygiene intervention risk ratings to E-rated establishments only (and continuing to exclude those establishments which are subject to approval and/or within scope of the Food Hygiene Rating Scheme)

**Proposal 3:** the proposal to extend activities for non-qualified but competent officers affects LA resource allocation, and will provide LAs with additional flexibility to determine whether to utilise such officers for the added activities (e.g. sampling, initial desktop assessment, official controls at low-risk establishments that do not use high-risk processes, etc). Such officers, as previously, are required to be assessed, deemed competent and appropriately supervised when carrying out interventions. Overall, this should improve efficiency in delivering interventions at food businesses.

**Proposal 4:** Clarification for Category E interventions. The proposed approach to Category E (low risk) establishments whereby the lowest risk establishments would receive an intervention every three years, which alternates between an official control and a non-official control, is not anticipated to have an impact on businesses. Under the previous Code, these low-risk establishments already received an intervention every three years, and were still required to be subject to official controls.

**Proposal 5:** The proposal to remove CPD hours is not proceeding, so no impact.

**Proposal 6:** Minor policy clarifications – the amendments aim to improve clarity and consistency without changing substantive requirements.

#### **Impacts on wider government priorities:**

The proposals do not impact on the ease of doing business in the UK. Non-compliances may be identified faster than currently at higher risk establishments, which could also help to create more of a level playing field for compliant businesses. The proposals do not impact on international trade.

In terms of environmental impact, the proposed flexibility to undertake certain official food hygiene controls remotely, in certain circumstances, could help authorities save time and travel costs, leading to more effective use of resources, as in some instances they may not need to travel to the business premises to undertake the official control. Due to less travelling, we anticipate an environmental benefit due to a reduction in fuel use/carbon dioxide emissions.

#### **7. Assessment of impacts under statutory Environmental Principles Duty, Growth Duty, Public Sector Equality Duty**

**Environmental Principles Duty:** The changes to the Code are expected to have positive environmental effects, primarily through reduced fuel use/emissions resulting from increased use of remote inspections instead of physical inspections, if the LA chooses to utilise the flexibility. The policy supports the

prevention principle by reducing the need for travel by officers, thereby lowering CO<sub>2</sub> emissions where applicable.

**Growth Duty:** We consider that our proposals align with the Growth Duty by promoting proportionate regulation and operational efficiency without compromising food safety.

**Public Sector Equality Duty:** No adverse equality impacts have been identified. Any changes to the Food Delivery model apply uniformly to all food businesses.