

**Title: The Food Law Code of Practice (Wales) Review 2018**

**CONSULTATION SUMMARY PAGE**

<b>Date launched:</b>	<b>11 January 2018</b>	<b>Closing date:</b>	<b>23 February 2018</b>
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**Who will this consultation be of most interest to?**  
Local Authorities, Professional Bodies with an interest in Food Law, Food Businesses and their Trade Associations

**What is the subject of this consultation?**  
The Food Law Code of Practice (Wales) (the Code) provides direction and guidance on the execution and enforcement of food. The Code is issued under section 40 of the Food Safety Act, and associated regulations and sets-out authoritative instructions and criteria to which Food Authorities must have regard. The Code requires periodic revision to ensure it reflects current enforcement practices and supports the delivery of food law enforcement services by Food Authorities, including obligation in respect of Official Controls. It aims to ensure enforcement activity is effective, consistent, risk-based and proportionate.

**What is the purpose of this consultation?**  
The FSA is inviting comments on proposed amendments to the Food Law Code of Practice (Wales) (the Code). In particular, the amendments aim to:

- address comments provided by stakeholders in response to a consultation in 2015. The consultation clarified arrangements for food business registration and the inspection of mobile food establishments, ships and aircraft in order to reduce unnecessary regulatory activity; and also revised the competency and qualification requirements for authorised officers involved in delivering Official Controls and other enforcement activities;
- update and provide additional guidance on food incidents and dealing with criminality i.e. food fraud and food crime; and,
- improve the presentation, structure and layout of the document and provide additional clarification on the execution and enforcement of food law to enhance consistency in delivery by Food Authorities in Wales.

**Responses to this consultation should be sent to:**

Local Authority Support and Audit Team Food Standards Agency Tel: 029 2067 8908	Food Standards Agency Wales 11 <sup>th</sup> Floor, Southgate House Wood St, Cardiff CF10 1EW Email: <a href="mailto:lasupportwales@food.gov.uk">lasupportwales@food.gov.uk</a>
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<b>Impact Assessment included?</b>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/> See below
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## The Food Law Code of Practice (Wales) Review 2018

### DETAIL OF CONSULTATION

#### Introduction

In Wales, local authorities (LAs) are responsible for the verification of compliance with food law in food establishments. Direction and guidance on the approach that LAs should take is provided in the statutory Food Law Code of Practice (Wales) (the Code). The Code sets-out instructions and criteria to which LAs must have regard when discharging their Official Control duties in respect of food law. The Code requires periodic revision to ensure it reflects current food law policies and practices to ensure Official Controls and enforcement activity is effective, consistent, risk-based and proportionate.

This update intends to introduce improvements to the Code by addressing comments provided by stakeholders in response to an earlier consultation in 2015, providing additional guidance in respect of food incidents and changing the structure, layout and presentation of the document. The updates to the Code should enhance consistency in the delivery of food law by LAs in Wales.

A summary of the responses received by the Food Standards Agency (FSA) to the earlier consultation, together with information on the action taken to address specific comments is available at Annex B.

Further, a summary and list of all the proposed changes can be found at Annex C.

The FSA is planning to introduce further changes to the Code in 2018.

#### Proposals

##### Key proposal(s):

- To streamline the Code, updating references to legislation, terminology, web-links etc;
- To revise and clarify arrangements for food business registration and the inspection of mobile establishments, ships and aircrafts in order to reduce unnecessary regulatory activity;
- To update competency and qualification requirements for local authority officers engaged in official controls and other regulatory activities to enable officer resources to be better targeted and ensure greater consistency;
- To provide additional guidance on communication of incidents and advice on food criminality;
- To enhance consistency of approach by authorised officers in delivering official controls. In particular, by updating advice and revising and clarifying

the risk descriptors used to assign risk scores under the intervention risk rating scheme.

The overall objective for this update is consistency of approach to food law enforcement in Wales and across the UK, ensuring the regulatory burden on business is minimised where necessary whilst maintaining a high level of public health protection. The specific objectives are:

1. Overall the Code is being restructured and revised to improve readability. References have also been updated where appropriate.
2. To clarify the instructions to LAs on the registration of food establishments, the inspection and reporting requirements for mobile food establishments and the inspection requirements for ships and aircrafts. The proposed change will aid consistency of approach, particularly in determining whether a business is subject to registration requirements and the frequency that official controls are required for such establishments.
3. To introduce a competency based authorisation system for officers undertaking official controls and other regulatory activities, to ensure a greater emphasis on the necessary behavioural skills and experience needed to undertake official control activities, as opposed to qualifications alone. Lead and authorised officers will continue to be required to hold one of the baseline qualifications (or an equivalent) while having to demonstrate that they have developed and maintained the necessary competencies. The Code will also introduce competency requirements for staff that support authorised officers in undertaking their official control responsibilities. The existing requirement for continued professional development has also been updated to reflect developments in other professional sectors.
4. New sections have been incorporated into Chapter 2 to provide further guidance on communication of incidents and dealing with food criminality.
5. The Code introduces clarifications that aim to improve and harmonise interpretation of existing descriptors set out in Annex V, and mitigate the level of inconsistencies in the application of intervention ratings.
  - Clarifying the intervention rating scheme's descriptors under "Level of (current) compliance" – the revised descriptors should focus the officers, in particular on when a score of 0, 5 and 10 would be appropriate for the 'Level of (current) compliance'. The proposed clarification aims to improve consistency of approach in awarding these scores for those businesses who have demonstrated the relevant level of compliance with

the hygiene legislation in ways other than through compliance with industry codes of practice/guides. It is anticipated the proposed arrangements may have a small positive impact on businesses and will provide more clarity for LAs risk rating such establishments.

- Clarifying the flexibility with regard to the implementation of the HACCP principles – the additional text aims to remind officers that the HACCP concept allows HACCP principles to be implemented with the required flexibility so as to ensure that it can be applied in all circumstances, particularly for small businesses which present only basic hygiene hazards.
- Realigning the intervention rating scheme’s descriptor score of 10 under ‘CIM/control procedures’ – the interpretation of when a score of 10 can be consecutively scored can vary between officers and LAs. The revised descriptors should focus officers on where a score 10 and 20 would be appropriate. This proposed clarification will improve consistency of approach in determining whether the score 10 can be awarded for more than one intervention cycle. It is anticipated the proposed arrangements may have a small positive impact on businesses and will provide greater clarity for LAs risk-rating such establishments. This clarification should ensure businesses are not subject to interventions at increased frequencies where this is not necessary. This will assist in ensuring effective risk rating by considering information that better reflects operational conditions.

## Engagement and Consultation Process

6. The FSA is consulting for a period of six weeks. The rationale for the shorter period is that the amendments are either cosmetic in nature or have already been the subject of a full consultation in 2015. At the end of the consultation period the FSA will analyse comments received from stakeholders and proposes to review and address consultation responses with representatives of LA food liaison groups in Wales.

7. The FSA will make any relevant changes to the Code and submit to relevant Minister(s) in Wales to lay before the National Assembly for Wales. Following Minister’s agreement, the FSA will publish the Code and publish its comments to the consultation responses on the FSA website.

8. The Code is supplemented by the Food Law Practice Guidance which provides general advice on the approach to enforcement of the law where its intention might need further clarification. Amendments to the Food Law Practice Guidance will be made in 2018 to reflect amendments to the Code.

**Questions asked in this consultation:**

- Q1: The FSA would welcome any new comments/views on the changes proposed in the 2015 consultation exercise in respect of:**
- the registration of establishments and inspection of moveable establishments; and
  - competency and qualification requirements for local authority officers.
- Q2: The FSA would welcome any comments on the intention to streamline and update references to the Code and the inclusion of new/revised guidance on communication of incidents and dealing with food criminality. Feedback on whether any additional clarification is necessary would be helpful? If so, what?**
- Q3. Are the revisions incorporated in Chapter 4 Qualifications and Experience sufficient and clear or should further clarification be provided? If so, what?**
- Q4. Do you think the proposed clarifications to the risk descriptors in Annex V are sufficient and/or will they result in any substantial changes in scoring? Do you think they will affect the consistency of scoring of food businesses by LA officers? If so, please provide comments.**
- Q5. What impact, financial or otherwise, do you think the revisions and updates proposed in this Code will have for officers and their LAs?**
- Q6. The FSA invites LA's to identify the number of hours they anticipate each officer will need to familiarise themselves with the updates and revision to this Code.**

**Other relevant documents**

9. None. An impact assessment has not been undertaken in relation to this consultation as the main proposed changes were previously subject to a consultation in 2015 at which time an impact assessment was carried out. Consultation responses from stakeholders that were received have since been considered and any necessary amendments incorporated into the latest version.

10. The additional changes proposed in this consultation relate to the provision of further guidance and improvements to the presentation and layout of the Code. The FSA has not considered it necessary to undertake an impact assessment, as the changes do not substantially alter previous advice or direction.

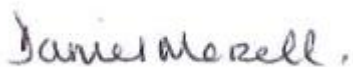
11. However, the FSA has requested that consultees identify any additional costs that may be incurred as a consequence of introducing the proposed changes. If the consultation responses indicate that there may be a sizeable impact, then this will be detailed in the FSA's advice when the Code is laid before the National Assembly for Wales.

## Responses

12. **Responses are required by close Friday 23<sup>rd</sup> February 2018.** Please state, in your response, whether you are responding as a private individual or on behalf of an organisation/company (including details of any stakeholders your organisation represents).

Thank you on behalf of the Food Standards Agency for participating in this public consultation.

Yours faithfully,



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## Enclosed

**Annex A: Standard Consultation Information**  
**Annex B: Summary of responses to Food Law Code of Practice consultation in 2015**  
**Annex C: Summary of changes**

## Publication of personal data and confidentiality of responses

In accordance with the FSA principle of openness we shall keep a copy of the completed consultation and responses, to be made available to the public on receipt of a request to the [FSA Consultation Coordinator](#) (020 7276 8308). The FSA will publish a summary of responses, which may include your full name. Disclosure of any other personal data would be made only upon request for the full consultation responses. If you do not want this information to be released, please complete and return the Publication of Personal Data form, which is on the website at <http://www.food.gov.uk/multimedia/worddocs/dataprotection.doc> Return of this form does not mean that we will treat your response to the consultation as confidential, just your personal data.

In accordance with the provisions of Freedom of Information Act 2000/Environmental Information Regulations 2004, all information contained in your response may be subject to publication or disclosure. If you consider that some of the information provided in your response should not be disclosed, you should indicate the information concerned, request that it is not disclosed and explain what harm you consider would result from disclosure. The final decision on whether the information should be withheld rests with the FSA. However, we will take into account your views when making this decision.

Any automatic confidentiality disclaimer generated by your IT system will not be considered, as such a request unless you specifically include a request, with an explanation, in the main text of your response.

### Further information

A list of interested parties to whom this letter is being sent appears in Annex D. Please feel free to pass this document to any other interested parties, or send us their full contact details and we will arrange for a copy to be sent to them direct.

A Welsh version of the consultation letter can be found at [www.food.gov.uk](http://www.food.gov.uk)

Please contact us if you require this consultation in an alternative format such as Braille or large print.

This consultation has been prepared in accordance with HM Government consultation principles<sup>1</sup>.

<sup>1</sup> <http://www.bis.gov.uk/policies/bre/consultation-guidance>

## **The Food Law Code of Practice (Wales) Review 2015** **SUMMARY REPORT OF STAKEHOLDERS RESPONSES**

**The Food Law Code of Practice (Wales) Review consultation was issued 27<sup>th</sup> March 2015 and closed on 19 June 2015. The Food Law Code of Practice (Wales) sets out instructions and criteria to which food authorities must have regard. The Code requires periodic revision to ensure it reflects current enforcement practices and supports local authority delivery of their official obligations.**

- 1 The FSA is grateful to those stakeholders who responded and a summary of those responses are set out in the table below.
- 2 The key proposals on which the consultation sought views were:
  - The revision and clarification of arrangements for food establishment registration and inspections of mobile food establishments, ships and aircrafts to remove unnecessary regulatory activity; and
  - The revision of competency and qualification requirements for local authority officers engaged in official controls and other regulatory activities to better target enforcement resources and ensure greater consistency.
- 3 The FSA reviewed respondent's comments to this consultation in September 2017. The FSA's considered responses, given in the last column of the table, reflect the position at that time and not in 2015.
- 4 A list of stakeholders who responded can be found at the end of the document.



## LIST OF QUESTIONS

1. Do you agree that clarifying the term 'undertaking' in relation to a food establishment will improve the consistency in its interpretation by local authorities?
2. The FSA would welcome stakeholder views on how the proposal to consider separate sites as a single establishment (and require one registration in limited cases) may impact on local authority resources?
3. The FSA would welcome stakeholder views on whether the proposed two-way communication mechanism between local authorities will ensure that mobile food businesses are intervention rated accurately?
4. Do you agree that clarifying the definitions, 'food business establishment' and 'food business operator' will help local authorities identify activities that require registration?
5. The FSA have estimated an annual reduction of 360 inspections of mobile establishments, do you believe that this estimation is correct?
6. What impact do you think of the introduction of a competency-based approach to the authorisation of officers will have on the delivery of official controls? Please give reasons to support your answer.
7. Do the competency requirements adequately cover the key tasks Lead Officers; authorised officers and regulatory support officers would be expected to perform to deliver official controls and other regulatory tasks? If not, please specify any additional tasks.
8. What challenges will local authorities face in recruiting officers that meet baseline qualification needed to carry out official controls? Please give reasons to support your answer.
9. Do you consider that the new competency frameworks model will result in any financial costs or benefits or result in the use of more or less resources for the delivery of official controls?
10. What are your views on the proposal to increase the CPD requirement to a total of 20 hours per year for authorised officers?
11. Is the term 'other professional matters' sufficient for determining what training topics would be useful to authorised officers in understanding their CPD requirements, or should further clarification be provided?
12. Do you envisage that there will be training need for Lead Officers to ensure that they can properly assess the competence of officers? Please give details?
13. We have calculated a total familiarisation cost of £9,805 for local authorities in Wales. Do you believe that this is a reasonable cost?

**SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – FOOD LAW CODE OF PRACTICE (WALES) REVIEW  
MAY 2015**

Respondent	Comment	Response
Wales Food Safety Expert Panel (EFSEP)	1. Yes. There could be a similar eligibility for registration criteria from the previous Food Premises (registration) Regulations 1991 incorporated into the practice guidance. This would help assist decision making on registration.	Noted. Will be considered when the Wales Practice Guidance is reviewed
	2. Do not believe it will have an impact on resources or reduce the number of inspections significantly. Suggest this proposal could give clarity to the mandatory FHRS and assist with driving up standards. However, for consistency, examples of circumstances where one registration would be acceptable should be provided. The model registration form should be amended which will place additional cost to LAs. Mentioned “close enough proximity” requires further clarification.	Noted. The FSA considers determining the meaning of close enough proximity is a matter for LAs taking account of local circumstances and individual business arrangements. The FSA has recently updated the FHRS Statutory Guidance in Wales to provide clarity on criteria for multiple premises and satellite operations constituting a single food establishment. The Practice Guidance will similarly be updated.
	3. Welcomes the proposal, and suggest that if a report has been provided to the business, this should also be provided to the registering LA to inform the food hygiene rating. Concerns regarding the short time scale of 7 days for exchanging routine information, and feel this should be extended to fall in line with the FHRS notification of 14 days or sooner if necessary. Identified a couple of issues regarding Para 3.2.7.3. These include a business potentially committing an offence in Wales to operate without a food hygiene rating, and it may be difficult to implement as new businesses may register and not trade within that area due to their nature. The LA where they	Noted. A consistent approach to the FHRS Statutory Guidance will be adopted in respect of the timescale for exchange of routine information. The CoP will be amended and confirm that, if on receipt of a registration form, its clear the establishment will operate outside of the registering authority they must forward the application to relevant competent authorities for information.



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	trade will not be informed of this business and it will not be part of their inspection programme.	
	4. The panel have not been clarified as they are taken from current legislation, but it does make it easier to locate them as they are signposted in the CoP. However, they feel this will not make a difference to the judgements LAs make concerning activities that require registration.	Noted. The legal definitions have been included in the Food Law Code of Practice for ease of reference and the additional clarification of the term “undertaking” should assist LAs in arriving at a decision relating to registration.
	5. The panel believe this reduction figure is ambitious. They suggest a passport type system should be introduced which would include the business having available their last inspection report and food hygiene rating on the vehicle. The panel is currently drafting Template mobile procedure for LAs.	Noted. The FSA is considering this as part of the ongoing work on enhanced registration under the Regulating our Future programme
	6. The panel feels the proposal in relation to competencies would undermine the objectives of the consultation. They feel the current system is already competency based which gets rigorously audited by the FSA. Introducing this will increase the financial pressure on LAs to find resources in order to achieve and maintain consistently high standards. The panel believe the failure to place the two qualifications alongside each other will cause confusion and undermine existing systems. Similarly, the panel feels it is unacceptable to state these qualifications will be listed in the Practice Guidance as it doesn't have the same statutory status. They also endorse any proposal that suggests that all such equivalent qualifications be approved by an independent expert panel. The Lead Officers in Wales on the Panel are of	Noted. The FSA considers the revised competency based approach to authorisation of officers should enable LAs to better target resources.  The Practice Guidance provides detailed guidance to assist local authorities in discharging their food law enforcement responsibilities. The Practice Guidance does not have the same statutory status as the Code, but it complements the advice and provides additional clarification on the approach to enforcement. Whilst the Practice Guidance does not have the same statutory status as the Code, it is



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	<p>the view this will place unacceptable and significant burden on them and it is likely to give rise to inconsistencies between LAs. Implementing the framework will be complex and time consuming in terms of determining an individual officer's level of knowledge and skills. The panel feel the proposal to remove the flexibility to authorise officers for certain activities will have a major impact on the current system, and will be a retrograde step – undermining existing flexibility in deploying competent staff resources yet adding no value. They ask the question of how the competence of the lead officer will be assessed if the proposed framework relies on their individual judgement, and share the view this is subjective rather than objective. Being over prescriptive on the competency framework will open up unnecessary questions of individual officer competency. The panel feels the new statement under page 46 of the consultation is at odds with the competency criteria in 4.7.3 which would be detrimental to the resilience of the service. They state the consultation is unclear of how often the competency is assessed / reviewed and will not enable newly appointed Lead Officers to meet the criteria for authorisation. The panel also expresses that Officers with Higher Certificate in Food Control (HCFC) will have narrower skill set in relation to infectious disease control compared to EHPs.</p>	<p>recognised as official guidance and should be taken into consideration by LAs.</p> <p>The Food Law Practice Guidance will be updated to provide detailed advice on the qualifications and experience required for officers undertaking official controls (food hygiene and food standards), including advice on assessing an officer's competency for delivering official controls. It is important local authorities are able to satisfy themselves through ongoing appraisals and assessment procedures that an officer can provide demonstrable evidence that they continue to meet the competency (knowledge and skills) requirements to perform their roles. The FSA will also offer training to LAs in Wales.</p>
	<p>7. The Panel believe the proposed competency requirements need amendment; this includes the opportunity for officers to be authorised for the duties that are demanded within the profile of the LA. They believe competency number 2 should also be essential for Authorised Officers (AO), and the 3 day HACCP</p>	<p>The Code clarifies authorised officers must be able to demonstrate they meet the <u>relevant</u> competencies from the list.</p> <p>Equivalent qualifications are a matter for an independent professional body to establish.</p>



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	<p>qualification should be included in the CoP to reduce additional burden on the Lead Officer to assess. The Panel believe it is not necessary for all authorised officers to demonstrate competency relating to all the Imports/Exports criteria as the majority of LAs do not have Border Inspection Posts (BIP). They feel the requirement for all AO to have RIPA training is unnecessary. The Panel feels the proposed code introduces a barrier for the authorisation of newly qualified officers, and the current system providing a graduated approach to their authorisation should be retained. They ask the question of how the Regulatory Support Officers requirement for understanding how to identify food hazards will be achieved without baseline qualification. The Panel feel there should be a list of equivalent qualification for the food lead or authorised food officers to possess in order to undertake Primary Production enforcement, as that would be proportionate to the risks involved.</p>	<p>If the FSA is made aware of equivalent qualifications these will be incorporated in the Practice Guidance as and when updated.</p>
	<p>8. The Panel think the draft CoP is unclear whether grandfather rights are granted to existing holders of the HCFPI and OCFPI to carry out activities they are currently authorised to undertake. If not, Lead Officers will not be able to authorise these officers when these changes are implemented. The Panel proposes that these proposals should be reconsidered as there is currently a lack of non EHPs with the baseline qualification so in the short term there will not be many officers available to undertake regulatory work until officers have retrained.</p>	<p>The revised CoP recognises that existing or prospective Food Authority officers may also have a range of additional training and experience that together indicate their competence to undertake specific enforcement activities identified in the Code. The competencies in the Code recognise that an officer's authorisation can be broadened as the person gains experience and develops new competencies.</p>



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	<p>9. The Panel feel this will have a financial implications and detrimental effects through an additional burden on the Lead Officer of competency assessment. They feel there is no justification for moving from an existing robust competency based system with recognised baseline qualifications. The Panel provides an alternative of retaining the existing baseline qualifications in the CoP, but allow non EHPs to be granted powers to issue emergency hygiene prohibition notices and remedial action notices if they can demonstrate competency e.g. by attending short courses such as enforcement sanctions and robust peer review.</p>	<p>The Food Law Practice Guidance will be updated to provide detailed advice on the qualifications and experience required for officers undertaking official controls (food hygiene and food standards), including advice on assessing an officer's competency for delivering official controls. It is important local authorities are able to satisfy themselves through ongoing appraisals and assessment procedures that an officer with the appropriate baseline qualification can demonstrate that they continue to meet the competency (knowledge and skills) requirements to perform their roles. The competencies in the Code recognise that an officer's authorisation can be broadened as the person gains experience and develops new competencies.</p>
	<p>10. The Panel believe the increase in the hours of required CPD will be an additional burden to LAs as not every officer is a member of the CIEH. They state it is difficult to source and fund courses, which causes capacity issues with the knock on effect of officers being away on training. They feel it will be difficult for those working reduced hours or part time hours. They ask the question of what would be the anticipated sanctions, and is there any scope for officers that are off work for instance maternity leave or long term sick.</p>	<p>Noted. While the revised CoP requires that lead food officers and authorised officers must obtain a minimum of 20 hours CPD per year, the FSA will consider whether further clarity can be provided for example where officers are off work for long periods during the review of the Practice Guidance.</p>
	<p>11. No. They feel it should be clarified to aid consistency for audit purposes.</p>	<p>Noted. The CoP/Practice Guidance will be amended to provide further clarity.</p>



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	<p>12. Yes. The Panel believes that Lead Officers will also require on-going training and support mechanisms to ensure consistency.</p>	<p>Noted. The FSA will consider provision of appropriate training as part of its on-going training programme for LA officers.</p>
	<p>13. No. The Panel feel the estimated two hours for the familiarisation of officers for the changes in the Code is an underestimate, this is because the document has been completely re-arranged and other changes made, but not consulted on. The Panel state the impact assessment has a few issues, including:-</p> <ul style="list-style-type: none"> <li>- Overestimating the cost for a mobile inspection due to the stated time to carry out an inspection.</li> <li>- The costs of re-writing policies and procedures relating to the authorisation of officers, internal monitoring etc. has not been considered.</li> <li>- Although the Impact Assessment allows for the 7 hours of training for the Lead Officer to assess competencies, the Panel believes that Lead Officers will require on-going training and support mechanisms to ensure consistency.</li> </ul>	<p>Noted. The FSA has taken the response into account when identifying the familiarisation costs for the 2018 review of the CoP.</p>



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Respondent	Comment	Response
Blaenau Gwent County Borough Council (BGCBC)	<p>5. BGCBC provide same comments as WFSEP but also state that they support the proposal that the risk rating should result from an intervention that has included observations of an operational business, however it has to be acknowledged that this now always possible even when arrangements exist to share information between LAs.</p> <p>7. BGCBC share the same view as WFSEP, but also state whilst officers are clear about the extent and limitations of their own authorisations, they do not need to have knowledge and understanding about the scheme of delegation in order to fulfil their role.</p>	<p>Noted.</p> <p>Noted.</p>
Merthyr Tydfil County Borough Council	3. MTCBC are of the same view of the WFSEP, but additionally state that registering LAs are often contacted by officers to determine the businesses' rating and general standards prior to a specific event going ahead.	Noted.
Flintshire County Council (FCC)	3. Share the same view as WFSEP but ask the question whether the registering LA will have to wait until another LA had inspected the vehicle trading before it could issue a risk rating and Food Hygiene Rating, and when would the Official Control be deemed to have been completed, and how this fits in with the requirement for mandatory display. They state consideration needs to be given to the right of appeal under Food Hygiene Rating and how this can be fairly done using communications from several other LAs that may cite different contraventions.	Noted. The FSA has recently updated the FHRS Statutory Guidance in Wales to provide clarity on criteria for mobile food businesses.



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Respondent	Comment	Response
	<p>5. FCC state they are unable to comment on this as they do not know the number of mobile food vehicles to which this change would effect as they do not know the number that are registered with one local authority but trade in several others. However, they state where a business trade within one LA but are registered within another are often included on the LA's database, but classed outside the intervention programme, ensuring that they are aware of them, that they will be inspected and findings reported back to the registering LA to issue a Food Hygiene Rating. Therefore, FCC believe in order for the registering LA to issue a Food Hygiene Rating based on observation during trading, the mobile food vehicles will still need to be inspected by at least 2 LAs.</p> <p>6.FCC share the same view as the WFSEP but also state determining an individual officer's level of knowledge and skills is usually something that is addressed during an officer's appraisal and does not need to be specified in such detail in the CoP. They believe this may open up unnecessary questioning regarding individual officer competency and challenge in the courts when undertaking enforcement action.</p>	<p>Noted.</p> <p>Noted.</p>



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## List of Respondents:

1. Wales Food Safety Expert Panel
2. Blaenau Gwent County Borough Council
3. Caerphilly County Borough Council
4. Merthyr Tydfil County Borough Council
5. Flintshire County Council
6. Vale Of Glamorgan County Council
7. Powys County Council
8. Denbighshire County Council
9. North Wales Food and Communicable Disease Technical Panel
10. Pembrokeshire County Council
11. City and County of Swansea
12. Rhondda Cynon Taff County Borough Council
13. Monmouthshire County Council

FOOD HYGIENE RATING

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# Code of Practice (Wales) Revision 2017

Section Change	Summary of Changes
Chapter 1 – Introduction	A paragraph relating to the statutory duties of enforcing food legislation on competent authorities has been extended for the concept of imported food.
Chapter 2 – Communications	<p><b>2.1</b> Inter Authority Communication – An extra example to include feed has been added to when Food Authorities may request information or assistance from other Food Authorities.</p> <p><b>2.1.2</b> Primary Authority Principles – the first paragraph has been amended to bring in line with ownership changes, i.e. Better Regulation Delivery Office is now Regulatory Delivery which oversees the primary authority principles.</p> <p><b>2.2</b> Managing Incidents and Alerts – A paragraph has been added to direct readers to annex 2 and 3 of the Code to highlight a process that should be followed when dealing with a food incident or hazard.</p> <p><b>2.2.2</b> Food Hazards <b>2.2.3</b> Food Alerts These sections have been restructured to improve the logical flow of information.</p> <p><b>2.3</b> Addressing Food Criminality – This whole section is new to provide more in-depth guidance to Food Authorities, including subheadings to define the role of the National Food Crime Unit and the role of Welsh Food Fraud Coordinating Unit (WFFCU), along with the actions for reporting suspicions of food fraud to the FSA.</p> <p><b>2.4.1.4</b> Notification of Food Hazards or Incidents Regarding Imported Food – This section has been amended to include information on the function of the Rapid Alert System for Food and Feed and what</p>

	<p>the FSA's role is.</p> <p><b>2.5</b> Enquiries to UK countries and other member states – this section has been expanded and further information on the requirements for communicating with other member states is laid out in this paragraph.</p> <p><b>2.5.4</b> Communication with Food Standards Scotland – This section has been added to inform the new arrangement of a food body in Scotland.</p>
Chapter 3 – Administration	<p><b>3.1.1.1</b> Avoidance of conflict of Interest – A paragraph has been inserted to ensure the Food Authority provides transparent separation between its regulatory functions where services such as training are provided by officers of the Food Authority.</p> <p><b>3.1.2.2</b> Powers of Entry under Food Safety Act 1990 – A paragraph relating to powers of entry for food standards issues has been reworded to simplify the content. Similarly the reference to crown establishments has been moved to its own subsection.</p> <p><b>3.1.2.5</b> Operating in another Competent Authority Area or Food Authority Area – The last paragraph has been added to include the rights of a Primary Authority operating in another Competent Authority's area.</p> <p><b>3.1.2.6</b> Powers of Search and Seizure under Police and Criminal Evidence Act 1984 (PACE) and Human Rights Act 1998 – An extra sentence has been added to explain an authorised officer has the powers under Section 32(6) of the Food Safety Act 1990 to seize and detain any records they think may be required as evidence in legal proceedings.</p> <p><b>3.2.2</b> Who is a Food Business Operator? – A sentence has been added to inform that further information regarding this subject can be found in the Practice guidance.</p> <p><b>3.2.5.1</b> Multiple premises constituting a single food business establishment – the examples of where multiple premises constituting a single food business establishment has been extended to provide clearer examples.</p> <p><b>3.2.7.1</b> Mobile food businesses with multiple establishments – A sentence has been added to inform that further information on the registration of other types of establishments can be found in the Food Law Practice guidance.</p> <p><b>3.2.9.3</b> Channels of registration – The last paragraph have been extended to include that a Model Application form for registering a food business establishment can be found at Annex 5 of the code.</p> <p><b>3.3.3</b> Exemptions from approval – Subsections for each exemption have been added for further information.</p>

	<p><b>3.3.4</b> A paragraph in relation to collection centres and tanneries supplying raw material for the production of gelatine or collagen intended for human consumption has been added.</p> <p><b>3.3.7</b> Updated website address for registration and approval application.</p> <p><b>3.3.8</b> A section on ‘handling’ an approval has been inserted.</p>
Section 4 – Qualifications and Experience	<p>This chapter has been restructured to improve readability / logical flow of information. A paragraph has been inserted at the beginning of this chapter to state a timeframe in which the competency requirements must be fully met by LAs.</p> <p><b>4.1.1</b> Authorisations – this section has been renamed from the 2015 consultation version which was ‘General Qualification and Experience Requirements’. It has inserted further information regarding the requirement for a documented procedure for the authorisation of officers and the criteria the food lead officer must take into account when authorising an officer for certain activities.</p> <p><b>4.1.2</b> Requirements for those delivering official controls – this section and subsequent sub sections have been restructured to reflect the England Food Law Code of Practice.</p> <p><b>4.1.3.1. &amp; 4.1.3.2</b> A sentence has been included to reassure LAs there are alternative qualifications that can be considered an equivalent qualification to those set out in this chapter.</p> <p><b>4.2.2.1.1</b> Inspection of Food Establishments – This section has been changed to reflect the England Food Law Code of Practice. The competency requirements have been broken down to provide clearer descriptions of what is expected.</p> <p><b>4.2.2.2</b> Use of Enforcement Sanctions – More in depth information has been supplied in the first two rows of the table.</p>
Chapter 5 - Organisation of Official Controls	<p><b>5.1.1</b> Requirement for a Written Service Plan – An additional paragraph has been added to the end of this section to highlight that the FSA may require Food Authorities to review their Plan as part of the Regulating our Future programme. This is to accommodate the work of approved feasibility studies, pilots or pathfinders.</p> <p><b>5.2</b> Delivery of Official Controls and Interventions – This section has been restructured to improve the presentation and readability. Food sampling has been taken from this section and put into a chapter on its own.</p> <p><b>5.2.3</b> Inspections - This section has been restructured.</p> <p><b>5.2.7.1.6</b> Primary Production Frequency – More examples have been added to provide more reasons</p>

	<p>LAs may consider when prioritising whether an inspection is necessary.</p> <p><b>5.2.12 PHAs/LAs at Points of Entry</b> – A paragraph has been inserted which advises LAs to inspect infrequent points of entry on a quarterly basis, which may include a visit or questionnaire being sent, liaison with port operators and manifest checks.</p>
Chapter 7 – Enforcement Sanctions and Penalties	<p><b>7.1.1 Proportionality and Consistency</b> – The section has been restructured to improve readability, and a link has been provided for the Code of Crown Prosecutors.</p> <p><b>7.1.3 Use of the Food Hygiene (Wales) Regulations 2006</b> for those who sell or supply food but are not ‘undertakings’ – this section provides examples of likely scenarios where enforcement action in respect of a one-off event in regards to those who sell or supply food but are not ‘undertakings’.</p> <p><b>7.3.5 When to use HEPNs</b> – the examples have been updated to provide more in-depth descriptions of what may render the use of a HEPN.</p>
Chapter 8 – Matters relating to Live Bivalve Molluscs (was Approvals)	<p>The structure of this chapter has been changed and updated. Information regarding approvals has been relocated to chapter 3 where further information on approvals is provided.</p>
Annexes	<p>Annex II – this annex has changed from containing guidance on ‘HACCP evaluation competencies’ to the Food Incident Flow Diagram.</p> <p>Annex III – this is now the food/feed incident report form for Food Authorities as the Food Incident Flow Diagram is annex II.</p> <p>Annex IV – this is now a model registration form for food businesses as the food/feed incident report form for Food Authorities is annex III.</p> <p>Annex V – some structure changes within tables for information to have a logical flow. Information has been added to the descriptors to provide further clarification and brings it in line with the England Code of Practice.</p>