

Teitl: Adolygu Cod Ymarfer Cyfraith Bwyd (Cymru) 2018

Tudalen grynodedb yr ymgynghoriad

Dyddiad lansio:	11 Ionawr 2018	Dyddiad cau:	23 Chwefror 2018
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Pwy fydd â diddordeb yn yr ymgynghoriad hwn?

Awdurdodau Lleol, Cyrff Proffesiynol sydd â diddordeb mewn Cyfraith Bwyd, Busnesau Bwyd a'u Cymdeithasau Masnach

Beth yw testun yr ymgynghoriad hwn?

Mae Cod Ymarfer Cyfraith Bwyd (Cymru) (y Cod) yn darparu cyfarwyddiadau a chanllawiau ar gyfer gweithredu a gorfodi cyfraith bwyd. Mae'r Cod wedi'i gyhoeddi dan adran 40 y Ddeddf Diogelwch Bwyd a rheoliadau cysylltiedig, ac mae'n gosod cyfarwyddiadau a meini prawf awdurdodol y mae'n rhaid i Awdurdodau Bwyd roi sylw dyledus iddynt. O bryd i'w gilydd, mae gofyn adolygu'r Cod er mwyn sicrhau ei fod yn adlewyrchu arferion gorfodi cyfredol a'i fod yn cefnogi Awdurdodau Bwyd wrth iddynt gyflawni gwasanaethau gorfodi cyfraith bwyd, gan gynnwys eu rhywmedigaethau mewn perthynas â Rheolaethau Swyddogol. Ei nod yw sicrhau bod gweithgarwch gorfodi yn effeithiol, yn gyson, yn seiliedig ar risg ac yn gymesur.

Beth yw diben yr ymgynghoriad hwn?

Mae'r Asiantaeth Safonau Bwyd (ASB) yn ceisio sylwadau ar ddiwygiadau arfaethedig i God Ymarfer Cyfraith Bwyd (Cymru) (y Cod). Yn benodol, nod y diwygiadau yw:

- mynd i'r afael â sylwadau a ddaeth i law gan randdeiliaid mewn ymateb i ymgynghoriad a gynhaliwyd yn 2015. Roedd yr ymgynghoriad yn egluro trefniadau ynghylch cofrestru busnesau bwyd ac arolygu sefydliadau bwyd symudol, llongau ac awyrennau er mwyn lleihau gweithgarwch rheoleiddio di-angen; Roedd hefyd yn adolygu gofynion cymwyseddau a chymwysterau ar gyfer swyddogion awdurdodedig sy'n cyflawni Rheolaethau Swyddogol a gweithgarwch gorfodi arall;
- diweddarau a darparu canllawiau ychwanegol ar ddigwyddiadau bwyd a mynd i'r afael â throseddau, e.e. twyll bwyd a throseddau bwyd;
- gwella strwythur, dyluniad a diwyg y ddogfen, a darparu gwell esboniad o'r broses ar gyfer gweithredu a gorfodi cyfraith bwyd er mwyn sicrhau bod cysondeb yn y modd y mae Awdurdodau Bwyd yng Nghymru yn ei chyflawni.

Dylid anfon ymatebion i'r ymgynghoriad hwn at:

Tîm Cefnogi ac Archwilio Awdurdodau Lleol
Yr Asiantaeth Safonau Bwyd
Ffôn:029 2067 8908

Asiantaeth Safonau Bwyd Cymru
Llawr 11, Tŷ Southgate
Wood St, Caerdydd
CF10 1EW
E-bost: lasupportwales@food.gov.uk

A oes Aseiad Effaith ynghlwm?

Oes

Na Gweler isod

Adolygu Cod Ymarfer Cyfraith Bwyd (Cymru) 2017

Manylion yr Ymgynghoriad

Cyflwyniad

Yng Nghymru, mae awdurdodau lleol yn gyfrifol am wirio bod sefydliadau bwyd yn cydymffurfio â chyfraith bwyd. Mae cyfarwyddiadau a chanllawiau ar y dull y dylai Awdurdodau Lleol ei ddilyn wedi'u darparu yng Nghod Ymarfer Cyfraith Bwyd statudol (Cymru) (y Cod). Mae'r Cod yn gosod cyfarwyddiadau a meini prawf y mae'n rhaid i awdurdodau lleol roi sylw dyledus iddynt wrth gyflawni eu rhwymedigaethau mewn perthynas â chyfraith bwyd. Mae gofyn adolygu'r Cod o bryd i'w gilydd er mwyn sicrhau ei fod yn adlewyrchu polisiau ac arferion cyfraith bwyd cyfredol er mwyn sicrhau bod gweithgarwch Rheolaethau Swyddogol a gorfodi yn effeithiol, yn gyson, yn seiliedig ar risg ac yn gymesur.

Nod y diweddariad hwn yw cyflwyno gwelliannau i'r Cod wrth fynd i'r afael â sylwadau a ddaeth i law gan randdeiliaid mewn ymateb i ymgynghoriad blaenorol a gynhaliwyd yn 2015, darparu canllawiau ychwanegol ar ddigwyddiadau bwyd, a newid strwythur, dyluniad a diwyg y ddogfen. Dylai'r diweddariadau i'r Cod wella cysondeb ar draws awdurdodau lleol yng Nghymru wrth iddynt weithredu cyfraith bwyd.

Ceir crynodeb o'r ymatebion i'r ymgynghoriad blaenorol a ddaeth i law yr ASB, ynghyd â gwybodaeth am y camau a gymerwyd i fynd i'r afael â sylwadau penodol yn Atodiad B.

Ymhellach, ceir crynodeb a rhestr o'r holl newidiadau arfaethedig yn Atodiad C.

Mae'r ASB yn bwriadu cyflwyno rhagor o newidiadau i'r Cod yn 2018.

Cynigion

Y prif gynnig/gynigion:

- Symleiddio'r Cod, diweddaru cyfeiriadau at ddeddfwriaeth, terminoleg, dolenni gwe ac ati;
- Adolygu ac esbonio trefniadau ar gyfer cofrestru busnesau bwyd ac arolygu sefydliadau bwyd symudol, llongau ac awyrennau er mwyn lleihau gweithgarwch rheoleiddio di-angen;
- Diweddaru gofynion cymwyseddau a chymwysterau ar gyfer swyddogion awdurdodau lleol sy'n cyflawni Rheolaethau Swyddogol a gweithgarwch rheoleiddio arall er mwyn gallu targedu adnoddau swyddogion yn well a sicrhau gwell cysondeb;

- Darparu canllawiau ychwanegol mewn perthynas â chyfathrebu digwyddiadau a chyngor ar droseddau bwyd;
- Gwella cysondeb o ran y dull y mae swyddogion awdurdodedig yn ei ddefnyddio wrth gyflawni rheolaethau swyddogol. Yn benodol, drwy ddiweddarau cyngor ac adolygu ac esbonio'r disgrifyddion risg a ddefnyddir i bennu sgoriau risg o dan y cynllun sgorio ymyriadau risg.

Nod cyffredinol y diweddariad hwn yw sicrhau cysondeb o ran y dull a ddefnyddir i orfodi cyfraith bwyd yng Nghymru ac ar draws y Deyrnas Unedig, gan sicrhau bod y baich rheoleiddio ar fusnesau yn cael ei leihau lle bo angen, gan barhau i ddiogelu iechyd y cyhoedd yn y modd gorau posibl. Yr amcanion penodol yw:

1. Ailstrwythuro ac adolygu'r Cod yn gyffredinol er mwyn ei wneud yn haws i'w ddefnyddio. Diweddarau cyfeiriadau lle'n briodol.
2. Egluro'r cyfarwyddiadau yn well i awdurdodau lleol mewn perthynas â chofrestru sefydliadau bwyd, y gofynion arolygu ac adrodd ar gyfer sefydliadau bwyd symudol, a'r gofynion arolygu ar gyfer llongau ac awyrennau. Bydd y newid arfaethedig yn helpu i sicrhau dull cyson, yn arbennig wrth benderfynu p'un a yw busnes yn destun gofynion cofrestru a'r amlderau gofynnol ar gyfer cynnal Rheolaethau Swyddogol yn y sefydliadau hynny.
3. Cyflwyno system awdurdodi sy'n seiliedig ar gymwyseddau ar gyfer swyddogion sy'n cyflawni Rheolaethau Swyddogol a gweithgarwch rheoleiddio arall, er mwyn sicrhau bod mwy o bwyslais yn cael ei roi ar y sgiliau a'r profiad ymddygiadol gofynnol sydd eu hangen er mwyn cynnal gweithgarwch Rheolaethau Swyddogol, o'i gymharu â chymwysterau yn unig. Bydd yn ofynnol i swyddogion arweiniol a swyddogion awdurdodedig barhau i feddu ar un o'r cymwysterau sylfaenol (neu gymhwyster cyfatebol) yn ogystal ag arddangos eu bod wedi datblygu a chynnal y cymwyseddau gofynnol. Bydd y Cod hefyd yn cyflwyno gofynion cymwyseddau ar gyfer staff sy'n cefnogi swyddogion awdurdodedig wrth gynnal eu gwaith ar Rheolaethau Swyddogol. Mae'r gofyniad presennol ar gyfer datblygiad proffesiynol parhaus hefyd wedi'i ddiweddarau er mwyn adlewyrchu datblygiadau mewn sectorau proffesiynol eraill.
4. Mae adrannau newydd wedi'u cynnwys ym Mhennod 2 er mwyn darparu canllawiau pellach ar gyfathrebu digwyddiadau (*incidents*) a mynd i'r afael â throeddau bwyd.
5. Mae'r Cod yn cyflwyno eglurhad i geisio gwella a chysoni sut caiff y disgrifyddion presennol a nodir yn Atodiad V eu dehongli, ac er mwyn ceisio lleihau lefel yr anghysondebau a geir wrth roi sgoriau ymyrryd.

- Egluro disgrifyddion y cynllun sgorio ymyriadau o dan 'Lefelau cydymffurfio (cyfredol)' – dylai'r disgrifyddion diwygiedig roi ffocws i'r swyddogion, yn benodol ar bryd fyddai sgôr o 0, 5 neu 10 yn briodol ar gyfer y 'Lefel gydymffurfio (cyfredol)'. Nod yr eglurhad diwygiedig yw gwella cysondeb o ran y dull a ddefnyddir i bennu'r sgoriau hyn ar gyfer y busnesau hynny sydd wedi arddangos y lefel gydymffurfio berthnasol â'r ddeddfwriaeth hylendid drwy ddulliau cydymffurfio nad ydynt yn godau ymarfer/canllawiau'r diwydiant. Mae disgwyl i'r trefniadau arfaethedig gael ychydig o effaith gadarnhaol ar fusnesau, a byddant yn helpu awdurdodau lleol wrth bennu sgoriau risg ar gyfer y sefydliadau hynny.
- Egluro'r hyblygrwydd mewn perthynas â gweithredu egwyddorion Dadansoddi Peryglon a Phwyntiau Rheoli Critigol (HACCP) – nod y testun ychwanegol yw atgoffa swyddogion bod y cysyniad HACCP yn caniatáu gweithredu egwyddorion HACCP gyda'r hyblygrwydd gofynnol er mwyn sicrhau y gellir ei weithredu o dan unrhyw amgylchiadau, yn arbennig ar gyfer busnesau bach sy'n peri peryglon hylendid sylfaenol yn unig.
- Alinio sgôr disgrifydd '10' y cynllun sgorio ymyriadau o dan 'Hyder mewn rheolwyr/gweithdrefnau rheoli' – mae'r dehongliad o bryd y gellir dyfarnu sgôr o 10 yn olynol yn gallu amrywio rhwng swyddogion ac awdurdodau lleol. Dylai'r disgrifyddion diwygiedig roi ffocws i swyddogion o ran lle byddai sgôr o 10 ac 20 yn briodol. Bydd yr eglurhad diwygiedig yn gwella cysondeb o ran y dull a ddefnyddir i bennu p'un a ellir dyfarnu'r sgôr o 10 ar gyfer mwy nag un cylchred ymyrryd. Mae disgwyl i'r trefniadau arfaethedig gael ychydig o effaith gadarnhaol ar fusnesau, a byddant yn helpu awdurdodau lleol wrth bennu sgoriau risg ar gyfer y sefydliadau hynny. Dylai'r eglurhad hwn sicrhau nad yw busnesau yn destun ymyriadau ar amlderau cynyddol lle nad ydynt yn ofynnol. Bydd hyn yn helpu i sicrhau sgoriau risg effeithiol drwy ystyried gwybodaeth sy'n adlewyrchu amodau gweithredol yn well.

Y Broses Ymgysylltu ac Ymgynghori

6. Rydym ni'n ymgynghori am gyfnod o chwe wythnos. Rydym ni'n ymgynghori am gyfnod byrrach gan fod y diwygiadau un ai yn rhai cosmetig eu natur, neu maent eisoes wedi bod yn destun ymgynghoriad llawn yn 2015. Ar ddiwedd y broses ymgynghori, bydd yr ASB yn dadansoddi sylwadau a ddaw i law gan randdeiliaid a'i bwriad yw adolygu a mynd i'r afael ag ymatebion yr ymgynghoriad â chynrychiolwyr grwpiau cyswllt bwyd awdurdodau lleol yng Nghymru.
7. Bydd yr ASB yn gwneud unrhyw newidiadau perthnasol i'r Cod ac yn ei gyflwyno i Weinidog(ion) perthnasol yng Nghymru cyn ei osod ger bron Cynulliad Cenedlaethol Cymru. Ar ôl i'r Gweinidog gytuno, bydd yr ASB yn cyhoeddi'r Cod a'i sylwadau ar yr ymatebion i'r ymgynghoriad ar wefan yr ASB.

8. Mae'r Canllawiau Ymarfer Cyfraith Bwyd yn ategu'r Cod, sy'n darparu cyngor cyffredinol ar ddull gorfodi'r gyfraith lle y mae'n bosibl bod angen egluro'i fwriad ymhellach. Bydd y Canllawiau Ymarfer Cyfraith Bwyd yn cael eu diwygio yn 2018 er mwyn adlewyrchu'r diwygiadau i'r Cod.

Cwestiynau a ofynnir yn yr ymgynghoriad hwn:

C1: Byddai'r ASB yn croesawu unrhyw sylwadau/safbwyntiau newydd ar y newidiadau a gynigwyd yn yr ymgynghoriad yn 2015 mewn perthynas â:

- cofrestru sefydliadau ac arolygu sefydliadau symudol;
- gofynion cymwyseddu a chymwysterau ar gyfer swyddogion awdurdodau lleol.

C2: Byddai'r ASB yn croesawu unrhyw sylwadau ar y bwriad i symleiddio a diweddarau cyfeiriadau i'r Cod a chynnwys canllawiau newydd/diwygiedig ar gyfathrebu digwyddiadau a mynd i'r afael â throseddau bwyd. Byddai adborth ar b'un a oes angen eglurhad pellach o gymorth. Os felly, beth yw'ch adborth?

C3. A yw'r diwygiadau a gaiff eu hymgorffori ym Mhennod 4 ('Cymwysterau a Phrofiad') yn ddigonol ac yn eglur, neu a ddylid darparu eglurhad pellach? Os felly, beth?

C4: A ydych yn meddwl bod yr eglurhad arfaethedig i'r disgrifyddion risg yn Atodiad V yn ddigonol ac/neu a fyddant yn arwain at unrhyw newidiadau sgorio sylweddol? A ydych yn meddwl y bydd yr eglurhad yn effeithio ar sgoriau a roddir i fusnesau bwyd gan swyddogion awdurdodau lleol? Os felly, rhowch sylwadau.

C5. Pa effaith, ariannol neu fel arall, a ydych yn meddwl y bydd y diwygiadau a'r diweddariadau arfaethedig i'r Cod hwn yn ei chael ar swyddogion a'u hawdurdodau lleol?

C6. Mae'r ASB yn gwahodd awdurdodau lleol i nodi nifer yr oriau y maent yn rhagweld y bydd eu hangen ar swyddogion i ymgyfarwyddo'u hunain â'r diweddariadau a'r diwygiadau i'r Cod hwn.

Dogfennau perthnasol eraill

9. Dim. Nid oes asesiad effaith wedi'i gynnal mewn perthynas â'r ymgynghoriad hwn gan fod y prif newidiadau arfaethedig wedi bod yn destun ymgynghoriad yn 2015. Cynhaliwyd asesiad effaith bryd hynny. Mae ymatebion i'r ymgynghoriad hwnnw a

ddaeth i law gan randdeiliaid bellach wedi'u hystyried ac mae unrhyw ddiwygiadau gofynnol wedi'u hymgorffori yn y fersiwn ddiweddaraf.

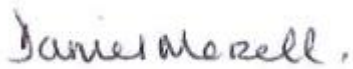
- 10 Mae'r newidiadau ychwanegol a gynigir yn yr ymgynghoriad hwn yn ymwneud â darpariaeth canllawiau pellach a gwelliannau i ddiwyg a dyluniad y Cod. Nid yw'r ASB yn ystyried ei bod yn angenrheidiol cynnal asesiad effaith, gan nad yw'r newidiadau yn newid cyngor neu gyfarwyddyd blaenorol yn sylweddol.
- 11 Fodd bynnag, mae'r ASB wedi gofyn bod y rheiny sy'n cymryd rhan yn yr ymgynghoriad yn nodi unrhyw gostau ychwanegol a allai godi o ganlyniad i gyflwyno'r newidiadau arfaethedig. Os yw ymatebion i'r ymgynghoriad yn nodi y gallai fod effaith sylweddol, yna caiff hyn ei nodi'n fanwl yng nghyngor yr ASB pan gaiff y Cod ei osod ger bron Cynulliad Cenedlaethol Cymru.

Ymatebion

- 12 **Gofynnir i ymatebion ddod i law erbyn diwedd y dydd, dydd Gwener 23 Chwefror 2018.** Yn eich ymateb, nodwch a ydych yn ymateb fel unigolyn neu ar ran sefydliad neu gwmni (gan gynnwys manylion unrhyw randdeiliaid y mae'ch sefydliad yn eu cynrychioli).

Ar ran yr Asiantaeth Safonau Bwyd, hoffwn ddiolch yn fawr i chi am gymryd rhan yn yr ymgynghoriad cyhoeddus hwn.

Yn gywir,



Daniel Morelli
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Atodiadau

Atodiad A: Gwybodaeth safonol am yr ymgynghoriad

Atodiad B: Crynodeb i'r ymatebion i'r ymgynghoriad ar y Cod Ymarfer Cyfraith Bwyd yn 2015 (Saesneg yn unig)

Atodiad C: Crynodeb o newidiadau (Saesneg yn unig)

Cyhoeddi data personol a chyfrinachedd ymatebion

Yn unol ag egwyddor yr ASB o fod yn agored, byddwn yn cadw copi o'r ymgynghoriad terfynol a'r ymatebion, a fydd ar gael i'r cyhoedd drwy gais i [Gydlynnydd Ymgynghori'r ASB](#) (020 7276 8308). Bydd yr ASB yn cyhoeddi crynodeb o'r ymatebion, a allai gynnwys eich enw llawn. Dim ond yn sgil cais i weld yr ymatebion llawn i'r ymgynghoriad y byddwn yn rhyddhau unrhyw ddata personol arall. Os nad ydych am i'r wybodaeth hon gael ei rhyddhau, dylech lenwi a dychwelyd y Ffurflen Cyhoeddi Data Personol, sydd ar gael ar y wefan drwy <http://www.food.gov.uk/multimedia/worddocs/dataprotection.doc>. Nid yw llenwi'r ffurflen hon yn golygu y byddwn yn trin eich ymatebion i'r ymgynghoriad yn gyfrinachol, dim ond eich data personol.

Yn unol â darpariaethau Deddf Rhyddid Gwybodaeth 2000/Rheoliadau Gwybodaeth Amgylcheddol 2004, dylech nodi ei bod yn bosibl y bydd yr holl wybodaeth sy'n cael ei chynnwys yn eich ymateb yn cael ei chyhoeddi neu ei datgelu. Os ydych o'r farn na ddylid datgelu peth o'r wybodaeth a ddarparwyd yn eich ymateb, dylech nodi'r wybodaeth dan sylw, gofyn am beidio â'i datgelu ac egluro pa niwed posibl a all ddeillio o'i datgelu yn eich barn chi. Yr ASB fydd yn penderfynu'n derfynol a ddylid dal yr wybodaeth yn ôl. Fodd bynnag, byddwn yn ystyried eich barn wrth wneud y penderfyniad hwn.

Ni fydd unrhyw ymwadiad cyfrinachedd awtomatig a gynhyrchir gan eich system TG yn cael ei ystyried yn gais o'r fath oni bai eich bod yn cynnwys cais penodol, ynghyd ag eglurhad, ym mhrif destun eich ymateb.

Rhagor o wybodaeth

Mae rhestr o bawb sydd â diddordeb ac sy'n cael copi o'r llythyr hwn i'w gweld yn Atodiad D. Mae croeso i chi anfon y ddogfen hon ymlaen at unrhyw un arall sydd â diddordeb yn y pwnc, neu anfon eu manylion llawn atom er mwyn i ni drefnu bod copi'n cael ei anfon yn uniongyrchol atynt.

Cysylltwch â ni os oes angen yr ymgynghoriad hwn mewn fformat arall megis Braille neu brint bras.

Mae'r ymgynghoriad hwn wedi'i baratoi yn unol ag egwyddorion ymgynghori Llywodraeth Ei Mawrhydi¹.

¹ <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 27th 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	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.



	<p>within that area due to their nature. The LA where they trade will not be informed of this business and it will not be part of their inspection programme.</p>	
	<p>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.</p>	<p>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.</p>
	<p>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.</p>	<p>Noted. The FSA is considering this as part of the ongoing work on enhanced registration under the Regulating our Future programme</p>
	<p>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</p>	<p>Noted. The FSA considers the revised competency based approach to authorisation of officers should enable LAs to better target resources.</p> <p>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</p>

	<p>qualifications be approved by an independent expert panel. The Lead Officers in Wales on the Panel are of 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>Practice Guidance does not have the same statutory status as the Code, it is 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</p>	<p>The Code clarifies authorised officers must be able to demonstrate they meet the <u>relevant</u> competencies from the list.</p>



	<p>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 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>Equivalent qualifications are a matter for an independent professional body to establish. 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</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</p>



	<p>officers available to undertake regulatory work until officers have retrained.</p>	<p>experience and develops new competencies.</p>
	<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</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>



	would be the anticipated sanctions, and is there any scope for officers that are off work for instance maternity leave or long term sick.	
	11.No. They feel it should be clarified to aid consistency for audit purposes.	Noted. The CoP/Practice Guidance will be amended to provide further clarity.
	12.Yes. The Panel believes that Lead Officers will also require on-going training and support mechanisms to ensure consistency.	Noted. The FSA will consider provision of appropriate training as part of its on-going training programme for LA officers.
	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:- <ul style="list-style-type: none"> - Overestimating the cost for a mobile inspection due to the stated time to carry out an inspection. - The costs of re-writing policies and procedures relating to the authorisation of officers, internal monitoring etc. has not been considered. - 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. 	Noted. The FSA has taken the response into account when identifying the familiarisation costs for the 2018 review of the CoP.



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.

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>



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



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>2.1 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>2.1.2 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>2.2 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>2.2.2 Food Hazards 2.2.3 Food Alerts These sections have been restructured to improve the logical flow of information.</p> <p>2.3 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</p>

	<p>Welsh Food Fraud Coordinating Unit (WFFCU), along with the actions for reporting suspicions of food fraud to the FSA.</p> <p>2.4.1.4 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 the FSA’s role is.</p> <p>2.5 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>2.5.4 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>3.1.1.1 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>3.1.2.2 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>3.1.2.5 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>3.1.2.6 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>3.2.2 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>3.2.5.1 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</p>



	<p>clearer examples.</p> <p>3.2.7.1 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>3.2.9.3 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>3.3.3 Exemptions from approval – Subsections for each exemption have been added for further information.</p> <p>3.3.4 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>3.3.7 Updated website address for registration and approval application.</p> <p>3.3.8 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>4.1.1 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>4.1.2 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>4.1.3.1. & 4.1.3.2 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>4.2.2.1.1 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>

	4.2.2.2 Use of Enforcement Sanctions – More in depth information has been supplied in the first two rows of the table.
Chapter 5 - Organisation of Official Controls	5.1.1 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.
	5.2 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.
	5.2.3 Inspections - This section has been restructured.
	5.2.7.1.6 Primary Production Frequency – More examples have been added to provide more reasons LAs may consider when prioritising whether an inspection is necessary.
	5.2.12 PHAs/LAs at Points of Entry – 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.
Chapter 7 – Enforcement Sanctions and Penalties	7.1.1 Proportionality and Consistency – The section has been restructured to improve readability, and a link has been provided for the Code of Crown Prosecutors.
	7.1.3 Use of the Food Hygiene (Wales) Regulations 2006 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’.
	7.3.5 When to use HEPNs – the examples have been updated to provide more in-depth descriptions of what may render the use of a HEPN.
Chapter 8 – Matters relating to Live Bivalve	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.

Molluscs (was Approvals)	
Annexes	Annex II – this annex has changed from containing guidance on ‘HACCP evaluation competencies’ to the Food Incident Flow Diagram.
	Annex III – this is now the food/feed incident report form for Food Authorities as the Food Incident Flow Diagram is annex II.
	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.
	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.



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