

9 August 2017

Food Law Code of Practice (England) - Review SUMMARY REPORT OF STAKEHOLDERS' RESPONSES

The Food Law Code of Practice (England) – Review consultation was issued on 15 December 2016 and closed on 2 February 2017.

Direction and guidance on the approach that local authority food law regulatory services should take is given in a statutory Code of Practice (Code). The Code sets out instructions and criteria to which food authorities must have regard. The Code requires periodic revision to ensure that it reflects current enforcement practices and supports delivery by local authorities of their official control obligations. It aims to ensure that enforcement is effective, consistent, risk-based and proportionate.

- 1 The FSA is grateful to those stakeholders who responded to the consultation and sets out in the table below responses in order of the issues considered.

- 2 The key proposals on which the consultation sought views were:
 - Clarifications and updates on the intervention rating scheme including the descriptors, to improve consistency on how authorised officers allocate risk rate scoring at food establishments;
 - Updates and new guidance on food incidents and addressing food criminality; and
 - Clarification of text where necessary to facilitate consistent interpretation and approach by authorised officers.

Q1 Welcomed any views or comments on the new/revised guidance on:

- a) 2.1.2.2 Composition, chemical contamination, adulteration and labelling with regards to division of responsibilities
- b) 2.2.1 Food incidents
- c) 2.3 addressing food criminality
- d) 2.4 Communication between Competent Authorities

Respondent	Comment	Response
ALEHM/ London Food Coordinating Group	2.2.1.6 It is unlikely that root causes can be identified so early in an incident. Officers and business might wait to notify the FSA of an incident if this paragraph is interpreted too literally	Text in 2.2.1.6 makes it clear assessment must be carried out 'immediately.'
ALEHM/ London Food Coordinating Group, East of England Trading Standards Association Limited, Medway Council	2.3 The attempt to identify a difference between food fraud and food crime is not helpful. If there is a need to have a more serious category above food fraud then it should be called something else such as serious food fraud	The use of 'food crime' here is not a legal definition, but one used to identify the remit of the FSA's National Food Crime Unit (NFCU). This terminology was laid out in Professor Elliot's Review which led to the set-up of the NFCU.
Bristol City Council	2.3.1 and 2 Should be substantially streamlined to add clarity Do you consider any additional clarification is necessary? If so, what?	Text changed and streamlined. NFCU believe the content is of the right detail and amount. Current text considered sufficiently clear.

	<p>2.4 Possibly, local experience of breakdowns in communication have in fact been between branches of the FSA and food authorities and the lack of communication about the actual impact of reorganisation at the FSA</p> <p>The use of “and” seems a little confusing and would be clarified by the use of “or” unless the intention is for the all of the conditions to be met prior to notification.</p>	
Cannock Chase Council	Welcomed.	Noted.
Central England Food coordinating group	<p>2.1.2.2 paragraph 6 should read: County Council Competent Authorities must investigate and take enforcement action in cases that involve adulteration, composition, advertisement, presentation and labelling of food, apart from:</p> <ul style="list-style-type: none"> • The identification marking requirements at Annex II of regulation (EC) No 853/2004 which are enforced by the District Council Competent Authorities. <p>Where food is found to be on the market after its use by date, it is automatically deemed to be unsafe within the meaning of article 14.</p>	Amended.
Derby City Council	No further clarification necessary	Noted.
East of England Trading Standards Association Limited	One respondent noted that 2.1.1.1 amends the responsibility for primary production premises from a default position of it being the responsibility of the county council within two tier authorities on the basis that they already inspect farms under other legislative areas to ‘agreement at local level’, presumably to enable EHOs to inspect. Whilst this may add flexibilities within regulatory bodies, it needs to take into account the move to reduce the number of inspections of farms and the Farm Regulators Charter, which was recently published	Section amended with reference to the need to have regard to the Farm Regulators’ Charter with a referenced foot note to the document.

	<p>2.2.1.8 The additional text for non-hazardous food incidents appears to me to be widening the matters which the FSA wish to be notified about, Is this the intention? We find breaches of food law all the time so this would become extremely onerous</p>	<p>Code says significant food incidents that are not food hazards should be reported to the FSA. In determining significance, the Code has set out factors that should be considered.</p>
<p>London Borough of Hackney</p>	<p>Paragraph 2.2.1.3 - a Competent Authority should seek the advice of the FSA if it is in doubt as to whether a food incident amounts to a food hazard. It would be beneficial to add the contact details or signpost the team that needs to be contacted</p> <p>At the paragraph 2.2.1.6 – in the list “The assessment should include the following...” add geographical spread of the hazard.</p> <p>At the paragraph 2.4.1.1 suggest a reference to earlier section (2.2.1) for definition of hazards in the list.</p>	<p>Noted. Contact details for Food incidents are noted later in this section of the Code.</p> <p>‘Geographical spread’ added.</p> <p>Not considered necessary.</p>
<p>Hull City Council</p>	<p>A) No problem with this text and detail. Happy with how strong this all is on USE BY dates. Especially after the Food Alert for Action 1/2017. However, how does this sit with the scenarios in the letter dated 19th Nov 2015 from the FSA and some of the scenarios described?</p> <p>B) Our documented procedures on food incidents, like many LAs, would need review.</p> <p>C) Fully support this focus on food fraud and food crime. Will “assurance partners” be able to offer this service in the future as part of the FSA’s review of the delivery of official controls?</p>	<p>No conflict between the ENF letter and the text in the Code: <i>‘Where food is found to be on the market after its use-by date, it is automatically deemed to be unsafe within the meaning of Article 14 of Regulation (EC) 178/2002’</i>. However the ENF letter provides scenarios where the labelling can be amended. So if food with an amended date is found in a freezer, as long as the appropriate systems are in place to record when the food was frozen, we do not see that this is in conflict with the text.</p> <p>Noted.</p> <p>Not relevant for this Code review.</p>

<p>National Food Hygiene Focus Group</p>	<p>2.1.2.2 We did not find the explanation particularly clear. The revised Code reads that County Councils are in general responsible for presentation/labelling except for identification number marking and when food is found on the market after its use by date. However, the next paragraph then states that the responsibility to deal with use by date contraventions (in that the food then fails the food safety requirement) falls to both Counties and Districts. the wording of the last paragraph to this section could be improved.</p> <p>This section includes EC 1169/2011, but presumably does not apply to allergen enforcement given the title of the section? It would be useful to make this clear and possibly also have some clarification on allergen enforcement.</p> <p>The revised definition of an incident does not make clear who it is who holds concerns “about actual or suspected threats”. In addition, the word “threats” is used but the term “risk” is completely missing. Should the words “at any point in time” appear in the definition?</p> <p>The definition of a “food hazard” would benefit from refinement as per below: “a food-related incident involving (or suspected to involve) a biological, chemical and/or physical agent in food, or the</p>	<p>It is the responsibility of both counties and districts to enforce any breaches found of use-by dates found, although in general a county council has responsibility for day-to-day labelling enforcement</p> <p>Noted. Section 2.1.2.2 covers Composition, chemical contamination, adulteration and labelling. This includes allergen labelling. The section especially highlights situations where the presence of chemical contaminants might pose an imminent risk to public health which could include food allergens. Both DC and CC should liaise in these instances however, ultimately responsibility falls to whoever finds the breach which could include carrying out an investigation or highlighting to the relevant Environmental Health team. More advice about allergen enforcement can be considered for the Practice Guidance.</p> <p>‘There are concerns’ relates to concerns by authorised officers. ‘Threats’ is a sufficient word here. No need for the words ‘at any point in time’.</p> <p>Amended as suggested.</p>
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	<p>condition of any food...”</p> <p>Paragraph 2.2.1.2 does not actually state what a Local Authority procedure put in place for the purposes should actually cover. An appropriate level of detail here would be beneficial.</p> <p>We found the requirement to notify the FSA of non-hazardous food incidents unclear and some examples here would be beneficial.</p> <p>The final sentence in paragraph 2.2.1.6 would benefit from refinement by specifically mentioning the use of email as a means by which the FSA and a Competent Authority can communicate.</p> <p>In paragraph 2.4.1.4, is it intended that inland Competent Authorities (this needs capitalising in the Code) who have obtained an adverse result on an imported product which has already been released by a Port Health Authority should report that adverse result to the FSA? If so, the aforementioned underlined concept should be reflected in revised wording to create greater clarity.</p> <p>In paragraph 2.4.2.3, we would encourage removing the word “equivocation” and replace with “Misleading use of terms”.</p>	<p>It is not appropriate for the FSA to state what procedures a LA should put in place</p> <p>Wording has been amended – now the definition provided clearly states the types of examples: <i>“Non Hazardous Incidents which may impact on the food supply chain. These may include issues of quality, provenance, authenticity, composition and labelling”.</i></p> <p>It is implicit that ‘writing’ includes e-mail.</p> <p>Not considered that further clarification necessary.</p> <p>Equivocation considered an appropriate word</p>
<p>North Somerset Council, Port Health and Public Protection Service, Rother and</p>	<p>No additional clarification necessary</p>	<p>All comments noted</p>

Wealden Environmental Health Service		
Slough Borough Council	The requirement to notify the FSA of non-hazardous Food Incidents was unclear- some examples may be beneficial.	Examples are provided. Wording has been redrafted.
Telford & Wrekin Council	<p>We are a unitary authority therefore have dual responsibilities for both remits. It makes sense for Officers to carry out dual inspections for food standards and food hygiene. Being authorised under other legislation, such as the Consumer Act to enforce food standards legislation.</p> <p>NFCU database should be available to all LAs. In the Central England area we use IDB and our regional intelligence office then feeds into FSA but IDB allows LA to put together intelligence packets on their own. A criticism of the NCFU is that information flow is only one way – with nothing coming back to LAs.</p> <p>2.3.3 should address need for a better intelligence database. A national Intelligence database is required that all LAs use as described for 2.3 above. Intelligence has got to be available in real time not just by submitting requests to FSA and has to be two way</p> <p>Further advice is required on VACCP in food businesses.</p> <p>2.4 FSA should acknowledge that in times of reduced government funding to local authorities that formalised out of hours services do not exist outside of emergency planning requirements.</p>	<p>The intelligence database used by the NFCU is fit for purpose, and the NFCU shares intelligence as appropriate with partners. At present it is not possible to share access to the NFCU intelligence database.</p> <p>Advice on VACCP to be considered whether appropriate for Practice Guidance.</p> <p>Text is sufficiently clear that out of hours services are for emergencies.</p>
Trading Standards	The group felt that although the home authority principle might still	There are still a limited number of situations where the home

<p>South East Ltd</p>	<p>exist in theory, it doesn't exist in practice.</p> <p>Non-hazardous food incidents - This paragraph contains an instruction to 'discuss with the FSA' but it is not clear which section of the FSA needs to be contacted. More clarity was needed on this point.</p> <p>A definition of food crime and stating what the scope of the food crime unit would be more beneficial. There may be food frauds which do not seriously impact on individual consumers, but may provide considerable benefit to the fraudster,</p> <p>Paragraph 2.4.1.1 seems to be requiring enforcement officers to contact the FSA as soon as they become aware of suspected cases of food fraud and non-hazardous incidents. Given the broad definition of what food fraud is, (2.3.1 <i>The FSA defines food fraud as a dishonest act or omission, relating to the production or supply of food, which is intended for personal gain or to cause loss to another party</i>) this could mean a report to the FSA after a high percentage of inspections.</p> <p>The group felt that clarification was needed on whether the 5x5x5 system is what is the best way of reporting this. If the 'notification' is something other than a 5x5x5 this should be stated.</p>	<p>authority principle is used.</p> <p>Incidents team's contact details are given earlier in the paragraph.</p> <p>Definition of food crime given. Some details are given about the NFCU's role in paras. 2.3.2 and 2.3.3 and consideration will be given as to whether more should be included in the Practice Guidance.</p> <p>Only 'significant' non-hazardous incidents need to be reported.</p> <p>Reporting should be submitted as required. Notification should be via 5x5x5. Code has been amended to reflect this.</p>
<p>West Yorkshire Trading Standards</p>	<p>Competent Authorities should share with the NFCU all of the intelligence they become aware of in relation to known or suspected cases of food fraud, including historic cases"</p> <p>What would constitute a historic case? How far back? Is this reasonable or necessary for CAs to provide intel on historic cases?</p>	<p>A historic case would be a closed enquiry which predates 2015 (the formation of the NFCU) – we would ask for historic case intelligence to be shared if relevant to other current reporting being submitted by the CA. It is reasonable and necessary to ask for this if the historic case brings further context to the current intelligence</p>

Q2: With regards to the revisions incorporated in Chapter 4 Qualifications and Experience:

- a) Under 4.3.3 Regulatory Support Officers:
- Is the revised wording sufficient for clarifying what activities regulatory support officers can carry out?
 - Or should further clarification be provided? If so what?
- b) Under 4.8 Authorised officers' competencies –
- Is the revised wording clearer in describing the competency requirements?
 - Do they adequately cover the key tasks expected of authorised officers?
- c) Under 4.11 Primary production – equivalent qualifications will be listed in the Practice Guidance.
- What are your views on the updates to this section?

Respondent	Comment	Response
ALEHM/ London Food Coordinating group, London Borough of Hackney, Port Health and Public Protection Service	4.3.3 Concern over suggestion that RSOs could undertake official controls depending on future formal action considerations. Potential need to amend the qualifications matrix. 4.11 Update will clarify what a primary production intervention should consist of.	Noted. Text further amended to clarify what RSOs can do, which does not include official controls work. Noted.
Bristol City Council	Is the idea that the qualifications listed under 4.11 will be	Additional qualifications to those listed will be in the PG.

	removed to be listed in the PG? It is not clear that the competency requirements for AOs in 4.8 also apply to officers authorised for food hygiene enforcement at primary production	Competency requirements for AOs in 4.8 also apply for food hygiene enforcement at primary production.
Cannock Chase Council	Suggested rewording for 4.3.3 provided Suggest 4.8.1 or 4.8.2 should include competence referencing powers of entry and authorisation. Should also reference application of brand standard competence information 4.8.3 should reference current national guidance	Wording simplified in final version. No new competencies added. Section is broken down to make them more concise Now included in 4.8.1.
Central England Food Coordinating Group, Chichester District Council, Derby City Council, Erewash Borough Council, Lewes District Council, North Somerset Council, Peterborough City Council, Rother and Wealden EHS and others	Revision in these areas provides better clarity on these issues.	Noted.
CTSI- Chartered Trading Standards Institute	There is a reference in 4.12 to 4.6.1 which is incorrect Does the FSA regard the 'year' as the calendar or financial year?	Reference corrected to 4.6 Flexibility for either, as long as there is a clear plan to complete within the 12 month timeframe.
East of England Trading Standards Association Limited	Two new competencies added to the list under 4.8 Number system should include 4.1a or 4.4i rather than	No new competencies added, section is broken down to make them more concise. Equal weight should be given to all competency statements.

	<p>renumbering</p> <p>Removal of agriculture and animal health and welfare certificates of competence as sufficient qualifications to undertake food hygiene at primary production will have a significant impact on the number of officers being able to carry out inspections.</p> <p>The requirement for officers to have authorisations listing all food standards legislation is impractical and constantly changing</p> <p>The addition of the 'for which the officer is authorised' phrasing whilst describing CPD delivery of official control requirements will limit officer numbers who can maintain competency due to training restrictions and will reduce resilience of a service to react to future incidents. Please remove this</p>	<p>This was removed in 2015 version. To be considered for Practice Guidance.</p> <p>Any equivalency issues can be discussed on a case-by-case basis with FSA/CTSI.</p> <p>Requirement was in previous versions. Appreciated that compiling this list of standards legislation can be onerous, but it is useful for food businesses to remain informed about which legislation Authorised Officers are authorised to act under.</p> <p>This change is to ensure that CPD is obtained in areas that will be beneficial to the officer in undertaking their duties. There must be a link between core CPD hours and the work for which the officer is authorised. (Further explanation in PG).</p>
Hull City Council	<p>RSOs may be a very important part of LA and/or assurance partner work following the FSA review of delivery of official controls. The services of advice and business support may well be the most suitable for cost recovery activities</p>	<p>Noted.</p>
Medway Council	<p>Am I right in my interpretation of the CoP that no work carried out by a RSO can be declared as an official control under LAEMS?</p>	<p>RSOs may be permitted to undertake alternative interventions, which are not official controls</p>
National Food Hygiene Focus Group	<p>Additional phrasing around anticipation in the use of formal enforcement measures is welcomed as it provides suitable direction to ensure RSOs' roles are supportive but do not</p>	<p>Wording has been revised following consultation. RSOs are not currently permitted to undertake official controls.</p>

	<p>become prohibitively restrictive.</p> <p>An issue around RSO sampling being inadmissible in court as it was not collected by an AO and therefore not an official control. Further clarification concerning how formal actions can be taken on the basis of an RSO's sample are required</p> <p>Competence strand 4.3 is worded too generally</p> <p>Strand 5.2 does not state what appeals would be against e.g. against service of a HIN. A clarification or examples needed</p> <p>Strand 6.2 may not be needed as an AO unfamiliar with national sampling priorities is still able to execute duties outlined within a LA sampling plan which covers national priorities</p> <p>Competence strands 8.1 and 5.4 could be merged to reduce overall number of competence strands.</p> <p>Certain underpinning skills such as the ability to undertake research are not covered and the RDNA tool is not mentioned.</p>	<p>Amendment made to competency wording.</p> <p>This applies to all appeals against enforcement measures.</p> <p>It is important that an AO is aware of national sampling priorities whether they are specifically included in a local sampling plan or not.</p> <p>Reiterated as these types of competence cover both investigations and issuing of notices.</p> <p>These not included, as considered that these skills are encompassed within the use of 'legal framework' in 5.4. RDNA is referenced in the Practice Guidance</p>
Slough Borough Council	<p>Useful to have clarity on whether someone delivering alternative enforcement strategies for low risk premises needs to be authorised as an RSO</p> <p>The use of formal and informal wording before sampling</p>	<p>Overall competency for the role of RSO should be determined by Lead Food Officer.</p> <p>Noted. Made clear that RSO samples cannot be formal</p>

	<p>has been removed which could cause misunderstandings of what sampling actually refers to in both cases and its impact on RSO activities – examples required?</p> <p>4.8 Not clearer, but easier to document.</p> <p>4.3: Perhaps re-wording 4.3 from “Understands the principles of risk assessment related to food types; processing methods and products” to “Can assess the different levels of risk posed by different food types and different food processing methods.”</p> <p>4.11 - without knowing content of the training modules, not possible to give an opinion as to whether or not they would be suitable. However, clear what the acceptable qualifications are for officers carrying out enforcement for primary production</p>	<p>samples.</p> <p>Noted</p> <p>Text amended to ‘Understands how and why risks posed by different food types, processing methods, and finished products need to be subject to ways of assessing risks posed to consumers’.</p> <p>Noted.</p>
Telford & Wrekin Council	In the sampling section need to distinguish between food hygiene sampling and food standards. Food crime competencies for VACCP training should be incorporated	Competences in sampling section will be relevant to whatever type of sampling is carried out. VACCP considered too specialist for these competencies, though advice on VACCP will be considered for the Practice Guidance. .
Trading Standards South East Ltd	<p>Suggestion for rewording of comprehensive knowledge of HACCP for food standards officers requirement</p> <p>Section 4.4 covers similar content to 4.5 around EU legislation</p>	<p>Understanding necessary as well as knowledge.</p> <p>4.4 and 2.1 now in line with 4.5</p>
West Yorkshire Trading	4.8: tasks listed did not include primary authority / assured	4.8.2 Competency 5.4 refers tp primary authority work. The

Standards	advice work. Our AOs suggest the FLCoP and PG should be consolidated to become more user friendly.	CoP primarily describes legal and policy requirements and the PG best practice. To reduce confusion, documents are separated.
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Q3 Is the amended wording in Chapter 5.2.1 dealing with what constitutes an official control clears to you? Should further clarification be provided? If so on what?

Respondent	Comment	Response
Cannock Chase Council	Suggested rewording of 5.2.1 with emphasis on enabling CAs, the relevant stages of production and applicable food law	Noted and some alterations made
Erewash Borough Council	Is exception reporting suitable as this was the recommended approach given in guidance to completing the recent approved premises inspection draft template forms?	Officers need to record detail in inspection forms fully.
Bristol City Council, Chichester District Council, CTSI, Derby City Council, East of England Trading Standards Association. London Borough of Hackney, North Norfolk District Council, North Somerset Council, Peterborough Council, Rother and Wealden EHS	Official and non-official controls are clearly stated and understood	Noted
Hull City Council	Where are the definitions for interventions now located?	5.2 contains information on interventions and the glossary of the CoP

Medway Council	Examples of official control types and differences would be useful. This would aid LAEMS reporting consistency and could be placed in annex A alongside existing LAEMS practical examples of existing control types.	Noted
National Food Hygiene Focus Group (NFHFG)	<p>Sample analysis cannot be used to distinguish between whether or not a sample will be classified as formal or informal and issues arise around RSOs and AOs. A flow diagram would be helpful.</p> <p>Further clarity on the status of a sample as a result of who has taken it and not the need for analysis/examination or the purpose of the sample being taken would fit as additional material in 5.2.1.</p>	<p>Noted.</p> <p>This is being considered for the PG.</p>
Telford & Wrekin Council	CoP should make reference to the FHRS brand standard when applying partial or official controls that are not full inspections or audits.	The basis for the FHRS is the 'food hygiene intervention rating scheme' set out in the Food Law Code. The Code describes the relevant interventions for each category.
Trading Standards South East England	<p>5.2: Last sentence states 'appropriately resourced' which is ambiguous and potentially unachievable</p> <p>More clarification is needed on formal and informal sampling classification and scope</p> <p>An official form for food hygiene inspections at the level of primary production has not been proposed by the agency, although authorities may develop their own aide memoirs</p>	<p>In line with 882/2004 wording has changed to 'adequately resourced'.</p> <p>See reply to NFHFG above.</p> <p>Erroneous footnote removed from code</p>

- a) Q4: Do you agree with the amendments to the wording for Chapter 5.6.1 Part 2 with regard to relevant codes and industry guides and the scorings of 10, 5 and 0?
- b) If not, what further amendments would be helpful? Further views on this descriptor are welcome.
- c) Would you interpret 'industry guides' as referring to: i) the section in them on legal compliance only e.g. 'guide to compliance'; 'how to comply with the law' or ii) the section in them on legal compliance and the section on 'best practice'?

Respondent	Comment	Response
ALEHM/ London Food Coordinating Group, Erewash Borough Council	Officers should only take regard of the legal compliance sections of industry guides to prevent gold plating of the regulations	The importance of avoiding unnecessary gold plating is noted. But considered that some reference to best practice recommendations in guides is important.
Bristol City Council, Central England Coordinating Group, Hull City Council, Lewes District Council	Additional clarifications are useful; particularly with regards the practices in the industry guides	Noted
Cannock Chase Council	<p>'High' standard of compliance; suggestion of 'very good'. There is scope for inconsistency if inspectors are applying their own judgement on what constitutes good practices.</p> <p>Potential future issues around mandatory display legislation and consistency of enforcement. Brand standard recognises this so would contradict if legislation changes</p> <p>Is it the intention of the FLCoP that to score zero a business must demonstrate conforming to industry</p>	<p>Current wording is considered satisfactory.</p> <p>The basis for the FHRS is the 'food hygiene intervention rating scheme' set out in the Food Law Code of Practice</p> <p>Higher ratings can include good practice elements when available</p>

	accepted best practice in the trade?	
Chichester District Council Peterborough City Council Port Health and Public Protection Ltd NSF International Rother and Wealdon EHS	We interpret the industry guide as both legal compliance and best practice; however there is no legal requirement to achieve best practice but acts as a guide and is a benefit to businesses. Industry guides being referred to should reflect practical applications and examples of how to achieve compliance Score descriptors within level of current compliance 10,5 & 0 could conflict with paragraph regarding interpretation of industry guides	Noted.
Derby City Council	Further clarification on precisely which sections of the industry guides are relevant in the assessment of compliance should be stipulated for consistency purposes. Issues surrounding conflicting advice in guides for industry	The guidance in the industry guides relating to the law is the most relevant but authorised officers should also consider any best practice recommendations followed by the food business.
East of England Trading Standards Association Limited	Can appear wordy and repetitive in parts as the phrase (where appropriate a relevant code/ industry guide has been published) appears three times.	Wording has been amended
London Borough of Hackney	Industry guides stipulated here will future proof this provision. Further clarification is required within 5.6.1 to allow for 'other ways to secure compliance'	Wording has been amended
Medway Council	Why are there descriptors for both FLCoP and Brand Standard for FHRS? Is the FSA considering adopting an approved code of	The basis for the FHRS is the 'food hygiene intervention rating scheme' set out in the Code – FHRS does not include all factors of the Code's intervention rating scheme. However it is noted that having two sets of descriptors might not be helpful and the FSA will consider this issue further. The FSA is currently not producing this type of guidance.

	practice style guidance format for business to follow and guidance to supplement?	
National Food Hygiene Focus Group	<p>Propose removal of 'significant' from score of 20 to strengthen 'poor' for score of 30.</p> <p>Using the term 'minor' is open to interpretation and guidance would be required to aid consistency. Similarly 'standards are being maintained' in part a) causes similar issues. As progression in the level of compliance achieved by the business is considered under Part 3 (Confidence in Management), this appears to be an area of overlap and greater clarity could be achieved here. CoP should be more decisive in order to differentiate premises.</p>	Wording for this section has been amended
North Norfolk District Council	Changes should be cross referenced against brand standards guidance to ensure no contradictions or areas of confusion occur.	The basis for the FHRS is the 'food hygiene intervention rating scheme' set out in the Code, as the code is the statutory document.
North Somerset Council	FBO compliance is not being assessed purely on compliance with industry best practice guides. Guidance on what is intended by a first principles / risk / outcome based consideration of compliance would be useful to less experienced officers.	Examples are available in Chapter 5.3 of the Practice Guidance
Slough Borough Council	Descriptors in line with brand standard could aid consistency in CoP with scoring of 25,20,15,10,5 & 0	The Brand Standard will be updated as appropriate to reflect any amendments to the Code.
Telford & Wrekin Council	Potential change in good manufacturing practice score and add a score of 15 in management section of risk rating	Score of 15 was previously considered and deemed not suitable.

Q5 We would welcome your views on the additional paragraph on documentation and record-keeping for small businesses (Chapter 5.6.1, Part 3).

- a) Do you consider any further clarification is necessary?
- b) Do you think this will affect the consistency of scoring of food businesses by LA officers?

Respondent	Comment	FSA Response
ALEHM/ London Food Coordinating Group, Port Health and Public Protection Service	This should reference Commission notice on HACCP and flexibilities 2016/C/278/01	This Commission notice is now referred to in CoP
Bristol City Council	Many businesses may interpret best practice guidance as requirements. Not using SFBB could lead to 20s when in fact hazard and risk would merit full use of flexibility	Noted. Making it clearer that in some cases documentation is not needed may make it less likely that unsuitable scores are given.
Cannock Chase Council	Suggested rewording to be more cautious when implying that hazard or risk is linked to size of the business	Reference to SANCO/1955/2005 document added and reworded to allow for flexibility around necessity for documentation and record keeping where appropriate
Central England Food Coordinating Group	Examples are needed to prevent inconsistency of interpretation of terms such as 'small business', 'basic hygiene hazard' and 'guide to good hygiene practice'. Minor phrasing changes suggested to clarify meaning	Examples to be considered for PG. Guide to good hygiene practice now omitted. It is now stated that 'documentation and record keeping may not be necessary under the flexibility afforded by Article 5 of Reg (EC) 852/2004.'
Chichester District Council, Telford & Wrekin Council	Clarification around this area with examples is useful, however it is a diverse industry and	Noted

	some businesses don't fit the scoring easily	
Derby City Council, East of England Trading Standards Association Ltd, Peterborough City Council	Additional information is helpful in clarifying that documented systems are not always required and will reduce inconsistencies in applying the relevant score	Noted
Erewash Borough Council	Concerns regarding sufficiency of guides for good hygiene practice and their application being too literal. A better approach would be to focus on FBOs' understanding and applying good practice principles In the scoring table - the focus on access to technical guidance in the 10, 5 and 0 descriptors makes application to a small business less straightforward. Changes to this could make this aspect more relevant to high risk premises and link better with the new paragraph above the table.	CIM paragraph immediately prior to scoring amended for clarification. 'Technical advice' amended to 'food safety advice'. It is made clear in the wording for the scoring that obtaining a lower score for access to and use of food safety advice is commensurate to the size of the business.
Hull City Council	Could as a consequence of Brexit lead to the removal of SFBB/DFSMS for small businesses, takeaways, small retailers and restaurants?	Not considered for this Code of Practice. .
Medway Council	It may be necessary to update guidance in 5.3.1.2 to clear up especially low-risk food businesses with basic hygiene hazards and contradictory messages in PG Further guidance on flexibility should be issued on businesses involved in handling high-risk foods, where the decisions become more difficult and there is greater uncertainty as to whether flexibility can be taken or not	Noted. Advice in Practice Guidance to be considered. If the businesses are handling high-risk foods, they should have a documented system.

National Food Hygiene Focus Group	Could be mentioned that local policies that move decisions away from a national consistent approach should only be adopted when specific issues arise. More alignment between brand standard and CoP suggested	Agreed that a national approach is necessary, but not considered necessary to discuss when local policies are appropriate.
North Norfolk District Council	Clearer explanation of 'guide to good hygiene practice' needed.	Guide to good Practice not specifically defined, because these are often FSA approved Industry Guides but may otherwise differ between types of business.
North Somerset Council	Inconsistency in scoring application around multiple intervention cycles	Amendment made to clarify; text now states 'a score of 10 can only be awarded for more than one intervention cycle if...'
Rother and Wealden EHS	What is the definition of 'basic hygiene hazards'?	Examples of these are not appropriate for the Code but can be expanded further in the Practice Guidance
Slough Borough Council	Would flexibility apply to retailers selling wrapped high risk foods? Controls could include temperature monitoring and stock rotation etc. Considerations around simple HACCP plans do not match up with a lack of records flexibility. Potential inconsistency issues.	Officers will need to use their judgement based on complexity of operations and nature of product etc. on a case by case basis to determine whether a business requires documentation and record-keeping.

Q6: Do you think the proposed clarification on 10 and 20 scores on Confidence in Management/Control Procedures will result in any substantial changes in scoring? (Chapter 5.6, Part 3) If so:

- a) What is the number of businesses in your Council area that would be likely to stay as a 10 rather than switching to 20 as a result?
- b) What percentage of businesses in your area that would currently get a 10 score does that represent?

Respondent	Comment	Response
London Food Coordinating Group, Port Health and Public Protection Ltd	The code and brand standard should say the same as they relate to the same scheme and LAs will use both for interpretation	Amendment of the brand standard will be considered following any amendments to the code
Bristol City Council	No I think this is a better reflection of how the current code is being implemented	Noted
Cannock Chase Council	Suggested rewording of 20 and 10 score descriptors. If allowing a score of 10 to be awarded for more than one intervention cycle, it must fall to the business to satisfy the officer that progress is being made	It is for the business to demonstrate it is making satisfactory progress. The wording used is to remind officers of this point.
Central England Food Coordinating group	Clarification could significantly impact scoring and FHRS rating as previous FBOs awarded 20 for CIM could more appropriately be awarded a 10 instead. Circumstances when this could happen are clear. Estimates of around 1% of FBOs benefiting	Noted
Chichester District Council, Derby City Council, London	Around 1% of local businesses have a 20 with many not changing due to score alteration so	Noted

Borough of Hackney	low impact Not envisaged to have significant change in the scoring	
East of England Trading Standards Association Limited	Previous code wording indicated score of 10 cannot be applied twice after consecutive inspections leading to score of 20 being applied in many cases. New wording clarifies 10 scoring can be used twice with examples.	Noted
Erewash Borough Council	The proposed wording is much clearer in applying the score of 10	Noted
Hull City Council	10 or 20 scores have a significant impact on FHRS. When in doubt we choose the higher score but this still raises consistency questions. We welcome training scenarios and exercises to improve work practice	Noted
Lewes District Council	No significant impact as 90% of 10s will stay the same and only 10% of our local businesses have 10 scores	Noted
Medway Council	Food safety management of a business should have improved since the last inspection to be given a 10 otherwise a 20 is appropriate. Increased clarity should improve consistency. Suggested extra 20 scoring stipulations	Wording for descriptors 20 and 10 added regarding progress to improve consistency. Noted.
National Food Hygiene Focus Group	Greater clarity may be needed regarding minor non-compliance issues. Interpreted that when one minor issue is rectified if a new minor issue is found a 10 can still be awarded	Code now reads: 'A score of 10 can be awarded for more than one intervention cycle if: the previous non-compliances have been addressed but different non-compliances have arisen; and the overall risk has not increased'
North Norfolk District Council	Clarity is welcomed to aid decision making; particularly for less experienced officers.	Noted and change agreed to 'critical to food safety'.

	Wording for 'control points' should be changed for consistency	
North Somerset Council	<p>The inconsistency in application may arise from the criteria for '10' including references to both 'satisfactory record of compliance' and "making progress" towards compliance'. An inference may be drawn that it is not appropriate to apply 10 for more than one cycle.</p> <p>Very limited impact of CIM scoring as less than 5 businesses in the area have a 10 score</p>	<p>Text amended to make the criteria for the application of the 10 score more consistent and clarify when 10 can be awarded twice consecutively.</p> <p>Noted</p>
Peterborough City Council	Number of businesses likely to stay as a 10 rather than change to a 20 under new wording would be around 20 FBOs which is 1.3% of the local sample area	Noted
Rother and Wealden EHS	A likely decrease in 'compliance scores' as officers will confidently repeat scores of 10. In reality officers have repeated 10 scores when observing appropriate practices and standards alongside minor deficiencies	Noted
Slough Borough Council	If things are not satisfactory with the food safety management arrangements or if a lack of progress is observed a score of 20 for CIM is appropriate. A lack of progress phrase might result in a 20 being given more often.	The wording for the 20 score mirrors that of the 10 score so should not result in a considerable difference.
Telford and Wrekin Council	It should be made clear that if a business requires a documented food management system it should be used. Businesses that move between 10 and 20 CIM scores will be affected by this as more FBOs remain with a 20 after a lack of observed progress	<p>Clarification not considered necessary.</p> <p>The revised descriptors should focus the officers on when a score of 10 and 20 would be appropriate. The additional wording in score of 10 describes situations where the score of 10 can be awarded for more than one intervention cycle.</p>

EHO from Unitary Authority	Allows officers to make more of a judgement on management of the business as a whole whilst not penalising inconsistent record keeping so less 20 scores will be applied	Noted
London Borough of Hackney	"A score <i>of 10</i> be awarded for more than one intervention cycle if..." the word 'can' is needed.	Wording amended

Q7 Do you think that the amendments to the descriptors in 5.6 will affect the consistency of scoring of food businesses by LA officers? Please provide comments.

Are there any additional clarifications that should be added to the descriptors? If so which factor needs additional material and why?

Respondent	Comment	Response
Bristol City Council	Vast majority of businesses are broadly compliant and guidance comments should not be swayed by rare occurrences. AOs should use professional judgement	Noted
Central England Food Coordinating Group	<p>More explanation required for 'other ways' phrase with examples required.</p> <p>CIM reference to SANCO/1955/2005 document useful in reference to FBO size and activity considerations</p> <p>Score 0 – Unclear why only the manager should be knowledgeable and competent.</p>	<p>Term removed following consultation exercise.</p> <p>Reference added</p> <p>'FBO' has also been added to score of 0.</p>

	Home authority exclusion should be addressed	Wording amended to include home authorities.
Chichester District Council	CIM 0 & 5 explanations mention documented systems. A statement relating to flexibility in these using scores would provide greater clarity	Noted. Phrase 'commensurate with type of business' gives sufficient clarification
Derby City Council	Revised wording should help clarify what is considered to be making satisfactory progress	Noted
East of England Trading Standards Association, Peterborough City Council	Amendments will improve consistency, especially in part 3	Noted
Erewash Borough Council	The changes are a reflection of what has been discussed and agreed at previous team meetings	Noted
London Borough of Hackney	Descriptors provide clarification but due to their non-prescriptive nature are open to interpretation which could lead to inconsistency between LAs. Further guidance would be helpful	Noted.
Hull City Council	Reminder that officers regularly do not carry CoP or brand standard when out on-site although issued to AOs. Support for further consistency exercises	Noted
Lewes District Council	Current monitoring in place to reiterate consistency of officers is dependent on size and nature of the business.	Noted
Medway Council	Issues surrounding inconsistencies of descriptors provided in both the FLCoP and FHRS brand standard cause issues for AOs. Could there be only one set of descriptors?	Noted. The basis for the FHRS is the 'food hygiene intervention rating scheme' set out in the Code – FHRS does not include all factors of the Code's intervention rating scheme.
National Food Hygiene Focus	Further clarification required on scoring 22	Many businesses produce food consumed by vulnerable risk groups

<p>Group</p>	<p>additionally when dealing with the supply to vulnerable risk groups. Is this applicable even if it only makes up a small part of an FBOs business regardless of the diversity of their customer base?</p> <p>Primary authority assessments of FBOs to provide CIM scoring based on HACCP procedures should also include measures including history and staff training. The Primary Authority handbook does not state this duty.</p>	<p>but a greater focus should be placed on FBOs specifically specialising in this or if the majority of the food business clients consists of vulnerable groups/is a significant part of the business.</p> <p>Amendment made to text to reflect that primary authorities to provide guidance to assist with CIM scoring.</p>
<p>NSF International</p>	<p>Further guidance is recommended on what constitutes 'properly completed checks' as some officers are permitting some flexibility causing inconsistent assessment scores</p> <p>Individual sites that cannot present officers with a fully documented HACCP procedure with all decision making processes detailed do not by default not have a HACCP as it may be held at corporate level and should be acquired from the appropriate source</p> <p>'Requirements for businesses to retain records also needs to be flexible in order to avoid undue burdens for very small businesses' needs further clarity</p> <p>The engagement of independent third parties does not appear specifically within the scoring table as a factor to consider when assessing</p>	<p>Phrase 'properly completed checks' is not referred to in the revised code.</p> <p>Noted.</p> <p>This text has not changed from the previous Code. As a general rule, the need for HACCP-related record keeping should be well-balanced and can be limited to what is essential with regard to food safety.</p> <p>Access to an assurance scheme, commensurate to type of business, is part of the descriptors for the scores 10, 5 & 0.</p>

	<p>FSMSs</p> <p>We would assume that allegations of food poisoning will not be considered under 5.6.2 Part 3 unless proven to be as a direct result of food consumed at the food business in question. How are complaints measured/proven?</p>	<p>Justified complaints are complaints proven to be as a result of poor food safety management practices.</p>
North Norfolk District Council	<p>Statements around the 'access to relevant technical advice' should read 'food safety advice'.</p> <p>References to primary authority should include a local authority consideration as many LAs provide free advice for FBOs to support business</p>	<p>Noted. Both 'food safety advice' and 'technical advice' now included.</p> <p>All FBOs should have access to food safety advice from a local authority so this will not be stated explicitly</p>
North Somerset Council	<p>Satisfactory documented FSMS within many food businesses is subjective. Many do not use SFBB packs and there is often no further development beyond absolute basics</p>	<p>Officers will need to use their judgement based on complexity of operations and nature of product etc. on a case by case basis to determine whether a business requires documentation and record-keeping.</p>
Rother and Wealden EHS	<p>It is envisaged that officers will be more confident issuing the appropriate scores which will lead to greater consistency.</p> <p>"Has implemented satisfactory food safety management procedures commensurate with type of business' . . . "This would suggest compliance and contradicts 'progressing towards'.</p> <p>There is no mention of record keeping or</p>	<p>Noted</p> <p>The wording includes "Has implemented satisfactory food safety management procedures or is making satisfactory progress.."</p> <p>'Documented food safety management procedures commensurate with</p>

	<p>documentation in any of the 0, 5 or 10 descriptors which is relevant for FBOs outside of the basic hygiene hazards category</p> <p>Access to technical advice is referred to in 0 and 5 scoring but is not a requirement for its application within a business; no mention in 10, 20 or 30 scoring</p> <p>Should 10 or 20 make reference to any in-house checks or audits which could take place?</p>	<p>type of business' is mentioned in the descriptors.</p> <p>'Access to and use of' is included in the overall wording for 5 and 0.</p> <p>These references have not been included.</p>
Slough Borough Council	<p>Does the statement relating to technical advice require access to advice or require evidence of implementation?</p> <p>Helpful to confirm if officers are expected to use the last rating intervention or the last intervention to the premises as their reference point. As many premises fluctuate short/long term improvement sustainability can be a significant concern.</p> <p>Highlighting/making bold the 'and' so that it is clear all 3 statements must apply in a 10 score</p>	<p>Evidence of implementation may show in record of compliance and progress towards procedures. 'Access to and use of' is included in the overall wording for 5 and 0.</p> <p>Information from previous interventions at the food business establishment could be considered. There should be a sufficient record to show whether and if so, how the business complied with food law, including information on which decisions were based when determining the previous risk rating</p> <p>Noted and amendment made</p>
Trading Standards South East Ltd	<p>20 Score for CIM should be reworded to say 'may have varying record of compliance'</p> <p>The standards section could be amended to have clearer examples regarding FBO head offices, food brokers and internet sellers who</p>	<p>Reference to this could bring inconsistency.</p> <p>Noted. This may be considered in future reviews and will require further consultation. FSA broker guidance includes an example of risk rating for a food broker.</p>

	<p>could potentially not manufacture, import, pack or handle their own products</p> <p>More clarity required on what a manufacturing butcher should score – 20 as a manufacturer of products subject to compositional standards or 10 as a local small scale business. More clarity is needed on scoring a manufacturer of foods that are not 30 high value or 20 subject to compositional standards</p> <p>Part B appears to say if you are a food manufacturer or processor no matter what size you score 30 as do importers handling a wide range of products. So someone making cakes and supplying one shop is a 30? But prepacked for direct sale is a 10 – even though they are a manufacturer?</p> <p>Part C: Same issue with butchers and bakers – surely they are manufacturers so have to score 30 or 20 but then they appear as retailers applying descriptions.</p> <p>Part D: If someone has a web site and sells via the internet as well as from their local site does that make the score 30 distributed nationally/internationally or as small scale local manufacturer do they score 20?</p>	<p>5.3.1.2 notes that “Establishments that fall into more than one scoring category for a scoring factor should be allocated the highest score of those that are applicable”.</p> <p>Part A considers the risk to consumers and/or businesses, and Part B considers the extent to which the activities of the business affect any hazard. The RoF programme will consider the new regulatory model (including standards interventions).</p> <p>LA officers need to make a judgement to look at whether the company is meeting the definition of a manufacturer. The butcher could be manufacturing to supply their shop or selling to other shops (latter would make them officially a manufacturer)</p> <p>There is no score of 30. We consider the food business should be scored based on the population at risk – this is what the factor considers (‘the number of consumers likely to be at risk if the business fails’). If the food business is supplying their product nationally/internationally then the score should reflect this.</p>
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Q8 We would welcome views on any other amendments to the Code that haven't already been mentioned.

Respondent	Code Location (at time of consultation)	Comment	FSA Response
ALEHM/ London Food Coordinating Group	Section 7.2.4 Section 4.9	Removal of the 'health risks' listed for HEPOs into the PG has caused difficulties when giving evidence in court as the code has more status Clarity is required with respect to competency and functions undertaken by RSOs with respect to official controls where no enforcement is considered. Assessing risk should regard measures beyond legal requirements. The CoP and PG should take regard for best practice and encourage compliance beyond the scope of minimum standards set by regulation	The examples are not prescriptive. Examples have in general been moved to the PG as the Code concentrates on the most important legal and policy requirements. Noted. The section on RSOs has been revised. Material in various code sections including descriptors for the food hygiene intervention scheme in paragraph 5.6 and detailed information in the PG takes account of best practice.
Cannock Chase Council	Section 3.1.2.7	Greater clarity is required regarding PACE code B notices. Need to address that there is no requirement to serve PACE notices when carrying out enforcement. Currently each LA clarifies stance. Food hygiene	3.1.2.7 states there is no requirement to issue Code B notices except in the case of directed searches.

		inspections and examinations are conducted by virtue of statutory powers, not consent so PACE B does not apply	
Central England Food Coordinating Group	Section 3.1.2.5	Suggestion to add the words 'in advance of the visit' when covering PA's visit to another CA's work area to obtain evidence of contraventions.	Section updated.
	Section 5.2.2.1	Suggested addition of phrasing to highlight areas not inspected or assessed and recorded on inspection forms	Section updated

Chartered Trading Standards Institute	<p>Various</p> <p>Section 3.2.1</p>	<p>TSI Trading standards institute should be edited to CTSI</p> <p>Who is a food business definition should include offices of companies where food may not be on the premises but decisions are made on aspects of the FBO such as food labelling.</p> <p>Approach to standards regulation too heavily based on physical inspection. Greater recognition should be awarded towards PA work. Interventions and RA framework should better reflect food standards market framework i.e. advice to national companies can have a greater impact than many physical inspections to smaller FBOs.</p>	<p>Amended</p> <p>Definition in the code is taken from legislation. Further clarification given in PG</p> <p>Noted and the new regulatory model to be considered within the ROF programme</p>
Contracting EHO	Chapter 4	<p>Many contractors' qualifications and professional development activities are not recognised now.</p> <p>Latest COP compounds this problem and means the sector is heading towards a breakdown because Councils cannot afford to employ permanent staff. Many contractors have now been rendered as</p>	<p>Qualifications requirements set out in the Code and Practice guidance are applicable to all authorised officers. The Practice Guidance contains guidance on how to evidence competencies.</p>

		officially incompetent by the code of practice. No confidence in abilities of FSA to manage safety of food in England.	
East of England Trading Standards Association Limited	Section 7.2.12 Section 3.1.2.5 Annex I	The use of RANs should be extended within England so that their use is not restricted to businesses approved under 853/2004 Fails to recognise AOs may be a business's PA giving advice. Glossary of terms uses 'should' instead of 'shall'. Needs amendment to align with legal use. Model food registration form needs larger tick boxes	Use of RANs in England has not been considered for this Code review. There is a paragraph at the end of this section about PAs acting in another competent authority's area. It is made clear here what 'should' means in this context. The form is a model form and LAs can amend formatting of their own form as appropriate.
EESTA (Norfolk Trading Standards)	Section 4.11 and 4.4	A number of TS officers have qualifications/competencies under the feed code of practice which are not sufficient for the proposed baseline qualification for food hygiene at primary production. This could lead to deferred inspections and will only be able to look at the narrow food hygiene aspects of inspection.	Guidance to be considered within the PG about this matter.
Erewash Borough Council	Section 5.6	Premises that specifically target consumers of a vulnerable risk group are viewed differently to premises such as pubs that serve high numbers of meals to vulnerable groups as a consequence of meal deals that appeal to older customers. Should they receive the additional 22 score for	If the majority of clients consists of vulnerable groups/is a significant part of the business then a score of 22 would be appropriate. E.g. where a manufacturer has a large contract supplying hospitals. Not practical to apply this score to every business whose customer base <i>may</i> include vulnerable groups.

		vulnerable risk groups in line with the 'precautionary principle'?	
Hull City Council	Section 4.13.1 Section 7.2	How is an officer's 20+ hours of CPD recognised if it is a mix of food training and other professional topics? Prohibition orders should only be recorded where they do not originate from a HEPN. Only include premises subject to a prohibition order, not persons. Are LAs recording this correctly?	Further guidance on this is provided in sections 4.8.2 and 4.8.3 and 4.8.5 of the PG (currently October 2015 version). The Practice Guidance gives full details of prohibition procedures.
Hull & Goole Port Health Authority	Section 5.5	The requirement to register ships which meet the definition of a food business establishment needs more clarity. It would be better only to require registration for ships which fall within FHRS. New businesses should not be notified to APHA as this is not necessary or practical. Local contact and liaison with MCA is (and is required as below) established regardless of the MoU which is out of date.	Ships should be registered if possible if they are British or have their home port in the UK and qualify as a food business. It is appreciated this may cause practical difficulties as ships move between ports. Notification to APHA is not necessary. This has been amended. The MoU still exists and will be updated.
Medway Council	Section 3.1.1.1	Does this state that officers should not provide training in their own time as part of a training course organised by their own authority? Where advice and training are provided by the CA it must be clear where these end and where their regulation duties begin. This must be a clear and transparent process.	No, 3.1.1.1 does not preclude this. This clause's aim is to reiterate the avoidance of conflicts of interest e.g. private consultancy work This means the CA can promote their own services but also make users aware other services may be available from alternative providers to avoid conflict of interest.

	Section 4.9.1	RSOs can visit premises to record basic FBO details. Do they have to meet requirements outlined in 9.2, 9.3 & 9.4 or just 9.3 during a visit?	These sections give a broad overview of the competencies expected of an RSO. Any of these competencies may be used to support EHOs during a visit to an FBO.
	Section 4.13.1	Does the “10 hours on other professional matters” relate to food, or can it be anything professional?	See answer to Hull question above. It can be anything professional but should be relevant to their work, and relevant training should be attended for food.
National Food Hygiene Focus Group	Sections 2.2.1.3, 2.2.1.7 3.2.2 3.2.5.1 4.7.2 5.2.1 Annex 2 / 3	Numerous rewording suggestions made to improve consistency and clarification of statements. Annex 2 incident flow chart needs an arrow between yes diamond and nature of distribution question. Annex 3 should include internet sales	The suggestions have been noted and some amendments relating to consistency of information presentation and wording applied. The Annex 2 incidents flow chart has an arrow added for greater clarity and internet sales has been included in annex 3 section 12
NSF International	Section 5.6	The lower number of consumers is inconsistent within various scoring areas including caterers supplying not more than 10 meals per day or businesses supplying less than 30 consumers per day. This could mean incorrect score selection by AOs Does the CoP envisage that with more IT solutions utilised by enforcement bodies that it should be a requirement for software that can highlight scoring errors be implemented?	The number of consumers is related to the particular score or process in question. It is the enforcement bodies decision to determine what software will suit their requirements.

		Where PA partnership exists CAs should attempt to resolve non-compliance by liaising with the PA where appropriate – Could this become a mandatory requirement?	Not relevant for this Code review.
	Section 7.1.2	On Section 7.1.2, should the CoP specify acceptable means of making the written policy available to FBOs and consumers i.e. on a website	Each Competent Authority should have an up-to-date, documented Food Law Enforcement Policy which is readily available to food business operators and consumers. No specific requirement to be on a website.
	Section 5.6	Are intervention rating scores fixed or are intermediate scores available?	The intervention rating is based on the scoring system in chapter 5.6 and must only be revised at the conclusion of an inspection, partial inspection or audit. There are no intermediate scores.
	Section 5.6	Why is the 22 rating score not a number ending in 0 or 5 like all the others	The score of 22 is not new. Scores were calculated based on risk, and these scored were deemed most appropriate
	Section 4.13.1	Should CoP stipulate that officer CPD training is recorded formally by employing authority?	In the Practice Guidance it states that the CPD record is countersigned.
	Section 5.6	Definition of a high street store could be open to local interpretation and may be better linked to Sunday trading square footage (less than 280 square meters) definitions.	The 5 score which refers to a high street score is appropriate for a wide range of premises.
Slough Borough Council	Section 3.2.5.1	Unclear what 'establishments exist which supply food to one or more closely linked retail units or comprise closely related stages and operations prior to supply to the	PG has noted that the FSA accepts that with some businesses the 'controlling mind' may be more than one person. The FSA does not consider that this could extend to operations where, although being one enterprise, different individuals manage different sites

	Section 3.2.5	<p>consumer, closely linked under the same ownership' means.</p> <p>Can responsibilities fall onto one person across multiple sites? New statement referring to a controlling mind does not differentiate between one person and a team. Would separate site managers fit this definition?</p> <p>Suggestion to use the definition used in approvals guidance for clarity</p>	<p>as separate legal entities.</p> <p>Section has been reworded to reflect this.</p>
Telford & Wrekin Council		It would be beneficial if there was some guidance similar to the voluntary and community food guidance on domestic caterers such as cake makers or pre packed low risk retail scenarios	Noted.
EHO in a unitary authority)		The code does not allow flexibility for registration and initial inspection of very low risk premises which can prove a waste of LA time and resources. Could they use desk top initial inspections – especially at well-known high street retailers with consistent low risk retail activity?	Noted and the ROF programme will be considering the new regulatory model.
Trading Standards South East Ltd	Section 3.2	The Code needs to be clear on whether the registration of primary production premises is with Environmental Health or Trading Standards in two tier authorities. It also needs to clarify; which businesses should register as primary producers; whether these premises should be included in the	Code makes it clear that enforcement of primary production premises is primarily carried out by Environmental Health, who register primary production premises. All primary production premises should register. Primary production will be further considered in the practice guidance.

	<p>Section 5.2.3</p> <p>Section 3.2.1</p>	<p>inspection plan.</p> <p>It would appear that all farms animal, arable, fruit and vegetables businesses should register, as they are food businesses as defined, but there are some exemptions from registering:</p> <ul style="list-style-type: none"> The advice previously received by one local authority from the FSA was that animal / arable farms should not be listed on the Trading Standards LAEMS return as Primary Producers. Clarification is needed on this point. <p>The Code retains the requirement for initial visits to be done within 28 days of registration. The group felt this needed clarifying as to whether it applies to hygiene and standards. If the intention was to apply the 28 days to standards, the group felt this was unrealistic, especially where there are 2 tier authorities, where communication of food registrations can be intermittent.</p> <p>The group felt that the definition of a food business establishment should include offices of companies where food may not be on the premises but where decisions are</p>	<p>Animal and arable farms are primary producers. Section 5.2.2.2 explains information that should be passed onto county councils (standards) if relevant. More guidance is planned for the Practice Guidance in future.</p> <p>As stated in para. 5.3.1.2 initial inspections should normally take place within 28 days of registration or from when the authority becomes aware that the establishment is in operation. The requirement to undertake initial inspections within 28 days may in some circumstances present a conflict for resources to complete other higher priority activities, in such circumstances prioritisation of interventions within the authority's programme should be undertaken in a risk based manner.</p> <p>The definition does include such establishments. See the relevant section of the Practice guidance on registration.</p>
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	Section 7.2.4	made on relevant aspects of the food business, such as food labelling. Voluntary procedures and destruction or disposal of food: The group felt it would be helpful to advise officers to check carefully who the owner of the food is and to take all reasonable steps to consult with the manufacturer/importer before the food is destroyed. There have been instances where retailers have destroyed food without notifying the importer or distributor, so they had no opportunity to question why the food was being destroyed or surrendered	To be considered for Practice Guidance.
Winchester City Council	Section 2.1.1.1	Division of responsibilities is still unclear regarding the latest code revision. Conversations around EH, TS and NTS have contributed to a need for clarity on primary production considerations; especially following the 2015 FVO audit which identified ready to eat PP products as a concern	Sentence added that it is anticipated that most of this work will be undertaken at County level by Officers. In such cases, it should be agreed at a local level as to which Competent Authority takes responsibility, having regard to the principles of the Farm Regulators' Charter.