

# Help Shape Our Policies

## Responses to the 2015 consultation on the community and charity food provision guidance

The FSA would like to thank all those who took the time to respond. In all there were nine responses from stakeholders in England and Northern Ireland.

**Respondents' comments** – please note these are a summary of the comments provided by respondents and not the exact text of the response.

The FSA has responded to comments asking questions about the proposed guidance, which are critical of it or suggest an alternative or new approach. In each case the FSA has provided its views in the right-hand column. Respondents' questions / comments and the FSA's replies have been numbered in each row so it is easier to match them. Comments from respondents which were wholly supportive of the proposed document have simply been acknowledged.

Full copies of respondents' comments can be made available if required

No.	Respondent	Respondents' comments	FSA's reply
1	<b>Derbyshire Food Liaison Group.</b>	i) Asked for clarity to be given regarding the example in part 3.B (point 5) on P.15 as to whether the volunteers' homes where some of the food is prepared for a small community centre requires to be registered.	i) The FSA's advice to local authorities is that registration of volunteers' kitchens is to be avoided where possible. Registration, if appropriate for a community or charity food operation, should be of the central assembly area (which might be the village hall or church hall for example). As part of the original risk rating assessment and in subsequent inspections, local authorities may of course ask organisations to provide evidence about

		<p>ii) Asked the FSA whether the consideration chart on P.24 of the Food Law Practice Guidance document clarifying which activities require to be registered would be a useful reference to include in the charity and community food provision guide.</p>	<p>volunteers' hygiene practices. Likewise charities or community organisations providing food prepared in volunteers' kitchens should make every effort to ensure volunteers are aware of the importance of good hygiene practices. Volunteers should familiarise themselves with the FSA's hygiene advice or take the advice of local authority officers.</p> <p>ii) iThe FSA thanks the respondent for this suggestion but the decision tree in the Food Law Practice Guidance (FLPG) is largely intended to help local authority officers determine the nature of commercial food supply operations (and how the food hygiene regulations might apply to them) and is unlikely to be of use to intended users of the community and charity guidance document, many of which will be local volunteers. However officers may wish to refer to the community and charity guidance following use of the decision tree and so a link to it is given in the FLPG.</p>
2	<b>James Smith</b>	Supports the guidance.	
3	<b>North Northumberland Village Halls Consortium</b>	<p>i) Notes that the example number 4 in 3a is clear that it does not have the level of "continuity" required but is unclear about "the degree of organisation" with the</p>	<p>i) By suggesting that food supply operations occurring fewer than twelve times in twelve months did not have 'continuity', the FSA's view was that this would largely cover occasional smaller-scale, low-risk operations.</p>

		<p>statement “Where several large events might be organised within a year, especially with complex food safety controls, then a ‘degree of organisation’ could be involved” ”</p> <p>ii) Raises concern with paragraph 6: “.. <i>if charity and community organisers cannot determine whether they should be registered from the advice and examples included in this guidance, the FSA strongly advises contacting the relevant local authority environmental health department</i></p>	<p>However, it is recognised that some occasional operations will involve higher-risk activities and large numbers of people and so the ‘degree of organisation’, could in some cases mean it is considered an ‘undertaking’ and registration required. The FSA has a duty to protect consumers and cannot offer advice that contradicts EU law, so such community and charity operations which occur on average fewer than twelve times in twelve months but are likely to be high-risk are advised to seek advice from the local authority to ensure public health is properly protected and the law complied with.</p> <p>The FSA recognises this issue was not clear for stakeholders and has clarified that local authorities can register operations where, in their judgement based on local knowledge, it is required, to comply with the law and ensure the necessary level of public health protection is in place (i.e. that the registered FBO (Food Business Operator) is known and recognised, that routine inspections will be carried out at suitable intervals and the FBO is on the local authority’s ‘radar’ for provision of food safety information such as food recalls if necessary).</p> <p>ii) Day-to-day decisions regarding the application of food hygiene law are devolved to local authorities (this is laid down in Regulation 4 of <i>The Food Safety and Hygiene (England) Regulations 2013</i> and the equivalent legislation in Wales and Northern Ireland. That being said, local authorities in England, Wales and Northern Ireland must enforce in line with the ‘Food Law Code of Practice’</p>
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4	<b>Belfast City Council</b>	<p>i) Suggests that since EU (European Union) legislation makes no distinction between undertakings that are community/charity or others that are not it may be preferable to have more wide ranging guidance on registration. This would allow other areas to be clarified/reinforced such as fire stations, food brokers/agents, childminders, multisite businesses with a single controlling mind, mobiles, markets etc.</p> <p>ii) Notes that 'continuity' has been clearly defined but the 'degree of organisation' is quite a difficult concept to grasp and we would welcome guidance to ensure</p>	<p>i) The FSA does not consider that widening the range of operations would be appropriate for this guidance. Advice for local authorities on a number of the scenarios mentioned can be found in the Food Law Practice Guidance or in Approvals Guidance.</p> <p>FSA officials will however look at providing guidance specifically for local authorities in regard to the registration of public bodies like fire stations and schools.</p> <p>ii) The term 'degree of organisation' potentially covers many aspects of food business organisation and the document has been revised to try to cover these as far as possible in the context of the community and charity</p>

	<p>consistency etc.</p> <p>iii) Notes that the examples that are exempt due to lack of organisation are mostly based on their being low risk rather than degree of organisation; one might wonder why other activities of similar low risk and potentially less organisation required that are not charities have to be registered.</p> <p>iv) It would appear that the charitable status is the defining aspect in some cases rather than the definition of undertaking. Respondent asks whether, for example, a chemist shop selling small amounts of low-risk pre packed food, an off license or a pre packed confectionary shop presents any more risk or any more organisation from a food safety perspective than a food bank, or a school breakfast club? Considers that a food bank for example would potentially require greater organisation as the food may be supplied from a range of sources without food safety systems and handled by a greater number of people. It appears that the distinction being made in the guidance is not always the degree of organisation <i>per se</i> but rather the fact they are charitable.</p>	<p>sector. (See also response 3 i).</p> <p>iii &amp; iv) The FSA notes the respondent's views but would emphasise that the community and charity guidance was specifically produced to ensure registration was not being applied disproportionately to the community and charity food sector. By providing views on what 'continuity of activity' and 'degree of organisation' might look like, in line with a pragmatic view on registration, the FSA hoped that local authorities could then more easily reach a view on whether community food provision might require registration (i.e. whether it is an 'undertaking').</p> <p>The FSA recognises that even some simple, low-risk not-for-profit operations can be similar and even more complex in nature (including the food safety) compared to some commercial operations. However, low-risk retailers such as sweet shops, which might sell only low-risk packaged foods are still more likely to meet the term 'undertaking' because a larger degree of commercial organisation will probably support the supply of food and they can expand or change their food business activities much more readily than most charitable food supplies. When taken with the fact that the European Commission has not suggested in its advice that such low-risk commercial food businesses should be exempted from the hygiene regulations, means that direct comparisons with the charity sector cannot really be made.</p> <p>In terms of food banks, the FSA, in its example at 3A5 is</p>
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		v) Does not agree with the FSA's view that the example scenario given in section 3A4 should not be registered.	quite specific that this food bank operates limited hours and handles low-risk foods.  v) The FSA notes the respondent's view and would again draw attention to our response at 3i above.
5	<b>Derry Strabane Council</b>	<p>i) Does not agree with the FSA's view that the example scenario given in section 3A4 should not be registered.</p> <p>ii) In Section 3A, considers another situation could be added: a church hall providing meals for elderly and other people after a funeral, which occurs regularly. The food is made either by (a) volunteers in their own home and brought into the hall kitchen or (b) volunteers in the hall kitchen</p>	<p>i) The FSA notes the respondent's view and would draw attention to our response at 3i above.</p> <p>ii) The FSA thanks the respondent for the suggestion and an example has been provided.</p>
6	<b>Antrim Newtonabbey Council</b>	i) Considers that the school breakfast club scenario at 3A3 should be registered as it does have a "degree of organisation"	i) The FSA has looked again at this scenario in the light of these comments but does not consider, on balance, that such an operation merits registration. Of course, where local authorities feel school breakfast clubs require registration they are free to take that approach but should bear in mind that such operations will be able to access this guidance.

		<p>(ii) Considers scenario 3A3 conflicts with the Food Hygiene Ratings Scheme guidance document issued to enforcement authorities in October 2015 in Northern Ireland.</p> <p>iii) Considers that the village hall event scenario at 3A4 should be registered as this could be high risk food being re-heated and served to pensioners, prepared by volunteers – and would expect that this would be registered; the fact it only happens 6 times per year considered to have a degree of continuity. Respondent also feels this contradicts examples given in Paras 2 &amp; 3 in Section 3B</p> <p>iv) Considers that the scenario at 3A5 has a degree of organisation should be registered, unless it is part of (e.g. a church) facility which is already registered.</p>	<p>ii) Information provided by FSA Northern Ireland has confirmed that the advice concerned relates to the registration of different activities at a school and not specifically to the registration of school breakfast clubs. The document referred to was only a draft but it will be amended in line with the advice in the community and charity guidance seeing as it applies to Northern Ireland for the first time.</p> <p>iii) The FSA notes the respondent's view and would draw attention to our response at 3i above.</p> <p>In terms of comparisons with scenarios 3B2 and 3B3 (which the FSA suggests should be registered), both of those are much more regular in occurrence and so when seen against the degree of organisation, it is considered that they merit registration.</p> <p>iv) The FSA notes the respondent's view but in terms of food banks, the FSA, in its example at 3A5, is quite specific that this food bank operates limited hours and handles low-risk foods. Of course a bigger, more regular food bank operation especially if (e.g.) handling foods requiring chilling, might well require registration.</p>
7	<b>Home Economics</b>	i) Raises concerns that the guidance may be confusing for community food providers.	i) The FSA notes the respondent's concern that there appears to be an inconsistency in approach between

	<b>Adviser NFWI Unit, Denman College</b>	<p>Considers that definitions of ‘several’ and ‘degree of organisation’ are unclear.</p> <p>Regarding the scenarios provided, considers that if organisations consider the risk of food poisoning to the public and consumers then the degree of organisation required to provide a safe food event appears to more closely match the need for registration, but stating as in 3B2 a community café will require registration and a village event providing a 2 course hot meal will not in 3A4 appears too simplistic.</p>	<p>scenarios which appear lower-risk but occur frequently and those which occur less frequently but appear to have higher food safety risks.</p> <p>The EU Regulation advises that registration of food businesses is required and appropriate if there is both continuity and a degree of organisation. The FSA accepts that a line cannot always be drawn easily between operations which meet both these descriptions and those that do not and advises community food providers to consult their local environmental health officers in such cases. The FSA’s advice should help stakeholders come to a position that is risk-based and proportionate.</p> <p>Also the FSA has clarified the information in Box 2 as to what constitutes a degree of organisation.</p>
8	<b>Riversway Elim Church</b>	Supports the guidance	
9	<b>Chairman Brown Edge Village Hall</b>	<p>i) Notes that it should be made clearer to local authorities that it is the supplier of food that is responsible for safe food provision and not (e.g.) the village hall or community building (unless the management committee were supplying food for example)</p>	<p>i) The FSA can confirm that while EU law asks for registration of food business ‘establishments’, this is when it is any unit of a food business, which must be an ‘undertaking’. So a village hall, for example, would not need to be registered simply because it is occasionally used in connection with the supply of food and the FSA has made that clear in its advice for local authorities. Misunderstandings may have resulted from a previous version of other FSA guidance that has now been corrected.</p> <p>Further information on registration is available in chapter</p>

		<p>ii) Asks whether “food” includes alcoholic drink and whether this would impact on the ‘degree of organisation’.</p>	<p>3 of the FLPG: <a href="https://www.food.gov.uk/enforcement/codes-of-practice/food-law-code-of-practice-2015/3-2-registration-of-food-business-establishments">https://www.food.gov.uk/enforcement/codes-of-practice/food-law-code-of-practice-2015/3-2-registration-of-food-business-establishments</a></p> <p>ii) The definition of ‘food’ in the EU legislation includes drink and therefore alcoholic drinks. Alcohol which has not been contaminated should not pose any obvious food safety concern as long as it is served to suitable consumers. The FSA cannot comment on the circumstances when a license may be required for the provision of alcohol – food providers should contact local authorities for advice.</p>
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