



Subject:	Consultation on Proposed Amendments to the Statutory Food Law Code of Practice (NI) 2018
Date:	4 th September, 2018
Reporting Officer:	Nigel Grimshaw, Strategic Director, City and Neighbourhood Services, ext 3260
Contact Officer:	Damian Connolly; Environmental Health Manager, City Services, ext 3361

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of Main Issues
1.1	The Statutory Food Law Code of Practice instructs local authorities how to plan and deliver their regulatory activities. The Council must follow its requirements. The Food Standards Agency have recently published and are consulting on a number of proposed changes to the Code aimed to improve the process of food business registration and the application of the food hygiene intervention scheme. In part these changes are intended to reduce the level of intervention required by Local Authorities in recognition that severe funding cuts to English authorities are preventing increasing numbers from complying with the current requirements. Therefore whilst it is not the FSA intention the proposals may result in an overall reduction in service in Northern Ireland if applied. This report aims to inform Members of these proposals and presents a draft response, as attached, for consideration. The consultation period ends on 27 th September 2018, extended to 11 th October 2018.

2.0	Recommendation
2.1	The Committee is asked to consider and agree the consultation response.
3.0	Main Report
	<p>The Food Standards Agency (FSA) is proposing changes to the Food Law Code of Practice (Code) for NI and has launched a public consultation seeking comments and views from stakeholders. The consultation package including the draft code of practice is available at https://www.food.gov.uk/news-alerts/consultations/regulating-our-future-amendments-to-the-food-law-code-of-practice-northern-ireland</p> <p>Key proposals include:</p> <ol style="list-style-type: none"> 1. <i>Enhanced Registration</i> <ul style="list-style-type: none"> ▪ Food businesses are currently required to be registered with their Local Authority at least 28 days before commencing trading and this is considered important to allow Councils to plan their regulatory activities. Each Council currently operates its own independent registration system. Whilst many Councils including Belfast City Council have on line electronic forms available the majority of registrations continue to be made on paper and the information is not shared with the Food Standards Agency. The FSA is proposing amendments to enable the introduction of a new digital centralised registration system to replace the individual local systems. It is anticipated this will make it easier for business to register and access tailored information, it will improve the information collected which the FSA will pass on to Councils to help plan their activities. For the first time the FSA shall have real time access to information on all food businesses in England, Northern Ireland and Wales and it is their intention to use this data to develop a new centralised risk assessment engine that may determine interventions required for new businesses. The FSA plan to develop and launch the new web based system in April 2019. <p>The draft Council response supports the increasing use of technology to access and deliver services and recognises the potential benefits to users of a central online registration system. There is little information available as to the likely specification of the system therefore it is difficult to predict how well it will operate. The draft response outlines potential barriers to use including, lack of awareness, computer skills, literacy issues etc and suggests that alternative options including paper should be available. It also emphasises the need to continue to consult with Councils and businesses as the system is developed to ensure it is user friendly and fit</p>

for purpose. Currently officers often assist food businesses in completing paper registration forms on site and it will important to ensure that our own officers have mobile devices and technology provided to continue do so on line.

- Many new food businesses fail to comply with the requirement to register before opening and only register at the Councils intervention. The FSA is considering how to increase the numbers of businesses proactively registering as this will help ensure they are visited by the Council and in compliance before they open. They are considering adding an additional score that may affect a premises Food Hygiene Rating if it is found on inspection not to be registered.

The draft response confirms that the Council believes it is important to introduce new measures to incentivise registration and/or penalise noncompliance. However, it does not agree that non registration should lower the Food Hygiene (compliance) Rating as this will confuse consumers as to the hygienic conditions observed on the premises and may increase the level of intervention required in the future when no additional risk exists. The response suggests alternatives that could be considered including use of fixed penalty notices, introducing charges for registration, working with insurance companies and sharing data with HRMC and other third parties dealing with businesses to encourage registration.

2. Revisions to the food hygiene intervention rating scheme

The food hygiene intervention rating scheme within the Code outlines how local authorities must assess and score the food safety risk from a specific food establishment and use that score to determine the nature and frequency of future interventions required for that establishment. Part of that score relates to the levels of compliance observed at inspection and it is this part of the score that is used to determine the published Food Hygiene Rating which must be displayed at the entrance to the premises. The FSA is proposing a number of changes to the risk scoring scheme aimed at reducing the levels of interventions required, in-particular for business showing full compliance over a sustained period of time. It is anticipated by the FSA these changes will reduce the regulatory burden on better businesses and allow local authorities to divert resources to more effectively target higher risk activities. Specific changes include:

- 2.1. Defining and recognising “full and sustained compliance” by applying a risk score reduction which will increase the time between inspections in such premises.

The draft response confirms that Council supports the principle of recognition for full sustained compliance to reduce the frequency and/or nature of future regulatory interventions. It does not support recognition resulting in the removal of establishments handling open high risk food completely from the inspection programme as this would affect Councils ability, over the longer term, to:

- (a) detect changes in businesses that could affect consumer safety, and
- (b) to refresh food hygiene ratings thereby negatively impacting in the integrity of the Food Hygiene Rating Scheme as scoring will become more and more outdated.

The Council believes that the current proposals will remove many premises handling open high risk food from the inspection programme and therefore does not support the current proposals. Consideration should be given to the development of a more innovative approach to achieve the same global reduction in the overall regulatory burden whilst maintaining a minimum level of inspection in all premises handling open high risk food. In the absence of revised proposals to that effect the Councils preference is a smaller reduction (-5) with additional safeguards to prevent establishments handling open high risk food falling to category “E” which would remove them from the inspection programme.

- 2.2. Currently premises, such as care establishments, catering for vulnerable groups including the very young, the very old and the sick, receive an additional score to raise their inspection frequency as such premises were considered to be higher risk. The FSA is proposing to remove this additional score reducing these premises to a level where less frequent and less thorough interventions would replace inspections.

The draft response confirms Councils opinion that premises serving vulnerable groups should be subject to a periodical inspection and risk assessment and therefore it does not support the removal of the additional score. The response recognises the very serious consequences that food poisoning can have on such vulnerable groups including risk of death and also the resultant loss of public confidence in our care institutions. There are many documented incidents of outbreaks in care establishments including some within Northern Ireland Trusts.

The proposals also fail to recognise the value of periodic inspections to the care establishment operators in offering advice and guidance to improve food safety.

- 2.3. The current scheme allows the application of an additional risk score in exceptional circumstances where the officer has concern over high levels of microbiological risk from an establishment. The FSA is concerned that the additional risk score is being incorrectly applied as 24% of premises in England Wales and Northern Ireland have been awarded the additional score. The FSA are therefore proposing to remove the significant risk score from the Code.

In Belfast City Council currently, only one premises has an additional score applied, equating to 0.0003 % of premises, thus demonstrating unlike England its use is exceptional and rare. Whilst its removal would have little impact overall, on an individual premises basis officers do find it useful in exceptional circumstances to move the next inspection forward. Therefore the draft response confirms the Council would like to see the retention of the additional score to be used in **exceptional** circumstances to move forward next inspection. We would like consideration to be given to greater flexibility of its use beyond micro biological risks for example for significant allergen risk, food fraud, or chemical contamination.

The full draft response to the consultation paper is attached, including answers to all the questions asked.

Finance and Resource Implications

There may be some initial resources required to integrate the Councils back office system with the new registration system and to implement changes to the risk scoring scheme. It is not possible to estimate what these are at this stage but it is expected that these will be absorbed with existing budgets if the FSA do not cover the costs.

Human Resources

There are no human resource implications.

Equality or Good Relations Implications/ Rural Needs Assessment

There are no equality or good relations implications, there is no requirement for rural needs assessment

4.0 Document Attached

Draft response