

## Responses to Public Consultation on draft FSA Guidance Notes for Regulation (EC) 178/2002

Respondent	Response	Agency Comment
<b>General Comments</b>		
1.	Gin & Vodka Association  1. The guidelines, as written, are sound and make good common sense. They are succinct and clear. 2. Suggests guidance should deal with the issues of counterfeit food and illegal producers.	1. Noted. 2. The legislation itself does not specifically deal with these issues. Products in breach of specific food safety legislation are dealt with in the section on Article 14.
2.	Bestway Cash & Carry Ltd  1. Wholesalers rely on suppliers in relation to all applicable rules and regulations (safety and labelling). For own brand items external consultants are employed to ensure compliance. In practice there are no further checks. 2. While Bestway Cash and Carry can identify customers to whom a particular product was sold this is a labour intensive process Bestway wish to avoid at all costs. We feel that providing such sales information for product traceability purposes should only be mandatory / required when it is reasonable and proportionate to undertake the work, i.e. it is unlikely to be effective or worthwhile recalling a product that was sold a long time ago. 3. Believe that all obligations for compliance should be placed on the manufactures of products. 4. Welcome more succinct guidance and ease of regulatory burden. Consider that guidance could have gone further.	1. Wholesalers as food business operators have the same responsibility for safety and traceability as other food business operators. 2. Identifying food business customers for traceability purposes is a legal requirement. It is unlikely that it will suddenly be discovered that a product which was sold a long time ago is unsafe. 3. The legislation itself places obligations on all food business operators, including wholesalers and retailers. 4. Noted.
3.	Automatic Vending Association  Agree with the amendments proposed and congratulate the drafting team on their work to date.	Noted.
4.	East Ayrshire Council  Welcome draft FSA Guidance Notes which further strengthen the advice to the local Authorities and Food Trade. Provide a more user-friendly interface than the EC	Noted.

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		Guidance.	
5.	National Farmers Union and National Pig Association	<p>National Farmer's Union members would not read and use the notes in their current form.</p> <p>Believe advice must be specific to food industry sectors and consider it ridiculous that the same guidance is given to a major retailer as to a farmer with no full time employees.</p> <p>The language used throughout the guidance is incomprehensible, confusing and legalistic.</p> <p>References to other legislation are not helpful to producers.</p> <p>The NFU and NPA believe the notes as drafted are unacceptable and should be redrafted.</p>	<p>Some simplification of language has been undertaken and a "summary for small businesses" produced with a view to helping smaller businesses in particular.</p> <p>Less legalistic language used, but not agreed that the notes are unacceptable.</p> <p>Leaflets aimed at particular sectors will be produced later.</p>
6.	Angus Council (Environmental and Consumer Protection Dept)	<p>1. The Guidance will be of assistance to Food Business Operators and Enforcement officers in clarifying quite a complicated area of legislation. We therefore support this guidance.</p> <p>2. The Guidance may be more effective if the legal references throughout the document were highlighted in bold.</p> <p>3. It may be advantageous if the text in the Guidance providing instructions to the Food Business Operators was in bold.</p> <p>4. The references to the Food Safety Act 1990 should include an indication that the Act has now been amended.</p> <p>Commend Agency for producing concise and clear guidance.</p>	<p>1 Noted.</p> <p>2 Noted, but not agreed.</p> <p>3 Noted, but not agreed.</p> <p>4 Done.</p>
7.	Foodaware	<p>1. Understand industry's desire to limit guidance to legal requirements, and not to promote best practice, so there is no possibility of confusion and Guidance does not become unwieldy. Believe Agency must continue to promote good practice and urge the FSA to use all</p>	<p>Best practice recommendations have not been included, as there was criticism of the EC guidance for mixing best practice recommendations, which would be costly to food businesses, and legal</p>

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		<p>opportunities to encourage dissemination of the best practice.</p> <p>2.Consider the guidance too technical to be of use to those who produce food on an occasional basis.</p> <p>3. The document would benefit from the inclusion of some sample flow diagrams indicating the questions which suppliers should ask of themselves and the actions which would follow in a given set of circumstances, e.g. contamination incident resulting in recall.</p>	<p>requirements in the same document.</p> <p>Simplification carried out and an executive summary produced for smaller food businesses.</p> <p>Flow diagrams are not considered necessary.</p>
8.	Haemolytic Uraemic Syndrome Help	<p>Wish to see Option I being adopted (do nothing). The current EC Guidance would therefore remain as the primary advice on compliance with the legal requirements.</p> <p>State Guidance notes do not give best practice. Believe that the EC guidance is far clearer in relation to how long traceability records should be kept.</p> <p>Whilst the industry costs will increase we are sure that such cost will be passed on to the consumer.</p> <p>We note that the Agency has come up with costs to the industry without coming up with costs such as how full implementation including the guidance could save the nation in reducing food borne illness etc.</p> <p>Would not wish to see unnecessary burdens being placed on the food industry, better regulation should also apply by providing better protection for the consumer.</p>	<p>Please see comment on 7 regarding best practice guidance. It is considered that businesses should have more discretion with regard to traceability.</p>
9.	Trading Standards South East	<p>We welcome clearer guidance notes and the separation of legal requirements and good practice, however we have concerns in relation to the following points.</p> <p>Consider that some points regarding feeding stuffs have been omitted. Art 20 requires that feed not satisfying the</p>	<p>Feed guidance is now being produced separately. The guidance mentions that internal traceability may be necessary under more specific legislation, e.g. beef labelling. For other</p>

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		<p>feed safety requirement and the rest of the batch, lot or consignment that fails, shall be destroyed, unless the competent authority is otherwise satisfied. Guidance does not mention this provision. The guidance also fails to point out that users have to be informed of the reason for withdrawal, a point which has previously been included in the food withdrawal/recall guidance. If the Regulation provide for these responsibilities, then surely they should be included in the guidance.</p> <p>Consider that it would be useful if more practical information could be given on how business can comply; e.g. there could be a risk to businesses by not having a degree of internal traceability and they may need an internal traceability system to satisfy other requirements, e.g. beef labelling.</p>	<p>comments on best practice recommendations such as internal traceability, see the response to 8.</p>
10.	Food & Drink Federation	Welcomes guidance	Noted.
11.	British Retail Consortium	Consider the document is an improvement on previous EU guidance and we particularly welcome the pragmatic approach. It is essential the guidance note accurately reflects the legislation and is not an attempt to re-interpret it.	Noted.
12.	Food Law Group	Consider the Notes are helpful and would assist in practical situations. Would be helpful if the texts of Articles 14-16 and 18-20 were reproduced in the Notes.	Noted. Not agreed that Articles themselves should be published in the Notes.
13.	Northern Ireland Food Law Group	Welcomes the production of the guidance on traceability and withdrawals. Believes that the guidance is too long, complicated, and the language too legalistic. It would be useful for enforcement authorities to be provided with guidance on offences and when it is	Some simplification has been carried out – see 5. Guidance on enforcement issues in relation to Regulation (EC) 178/2002 will be given in the next edition of the Food Law (Practice Guidance) and Code of Practice.

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		<p>appropriate to use them. For example whether article 16 or section 15 of the food safety Order should be used, or is appropriate to use both?</p> <p>Enforcement issues are not specifically addressed in this guidance and it is clear that there is a need for guidance on the specific issues above. NIFLG would suggest the FSA develop guidance for enforcing authorities to ensure a consistent approach to traceability.</p>	
14.	Local Authorities Co-ordinators of Regulatory Services (LACORS)	<p>Welcome guidance. Consider it too long and the language too legalistic. Suggest title is not appropriate. Suggest separate guidance for food and feed businesses Suggest case studies</p> <p>Separate guidance should be provided for food and feed businesses. There should be some case study examples. More guidance should be given on timescales. There should be guidance on how long records will need to be kept in businesses which operate across the EU. There is no guidance on whether records have to be made available in a language which is understood by the inspector. There should be guidance to enforcement authorities on when it is appropriate to use which offence, e.g. Article 16 or section 15 of the Food Safety Act 1990. The guidance could include a need to risk assess or quantify problems. There should be research on how section 8(2) (c) of the Food Safety Act 1990 was used in practice, as there is a continuum between quality issues, fitness issues and safety issues.</p>	<p>Language simplified and made less legalistic. Title changed. Separate guidance given for food and feed businesses. More examples given. Separate guidance is now being produced for food and feed businesses. More examples have been provided. We consider it is for food businesses to use their discretion to decide how long to keep the product, bearing in mind its nature. It is intended that FSA Guidance Notes will be applicable in the UK for businesses which operate across the EU. Records should naturally be comprehensible by the inspector. The need for separate guidance for enforcement authorities will be addressed by changes to the Food Law Code of Practice and Practice guidance. The importance of risk assessment is noted in the guidance. It is unnecessary to research use of the Food Safety Act 1990 for the purposes of this guidance.</p>

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15.	Forum of Private Business	<p>1. Product correction and/or scrapping do not seem to have been covered.</p> <p>2. No mention of Regulation 1935/2004 which demands full traceability for packaging materials</p> <p>3. Some clarification could have been given to the terms “intended use” and “destination of the food”.</p> <p>4. Too many references to superseded UK Acts and EC Documents.</p> <p>5. Do not consider the guidance to be clear. Too many references to other acts. Too complex and wordy and too long for simple reference.</p>	<p>1. These do not form part of Regulation 178/2002.</p> <p>2. This guidance just covers the General Food Law Regulation (EC) 178/2002, so guidance on traceability for packaging materials would be inappropriate.</p> <p>3. Not considered necessary.</p> <p>4. References to other legislation have been reduced.</p> <p>5. See comments on 5.</p>
16.	Northants Council	There should be a requirement on the Enforcement Officer to carry out a detailed analysis if they receive a complaint. Guidance should be given as to what an Enforcement officer should do when the Food Standards Agency disagrees with the food business operator.	This guidance is aimed at food businesses rather than enforcement officers. Guidance will be made available to enforcement officers through usual channels
17.	Elior	Content of guidance notes is clear and understandable, more user friendly than EC guidance, no further guidance would be required, additional administrative costs would be minimal.	Noted.
18.	Royal Environmental Health Institute of Scotland	Guidance is clear and helpful. Clarification noted and hope that reduction in administrative burden will allow businesses to develop safe working practices.	Noted.
<b>Paragraph 3</b>			
19.	Forum of Private Business	Refers to five other documents which “should be read in conjunction” with this paper. Consider this confusing to small businesses who may not have access to these.	It is important that food businesses are aware of all relevant regulations.
<b>Paragraph 6</b>			
20.	Forum of Private Business	Suggest adding free movement of food as a purpose of legislation. Consider paragraph difficult to read.	Sentence on free movement added to paragraph 5. Language simplified.

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<b>Paragraph 7</b>			
21.	Forum of Private Business	Suggest this should be an Annex.	Agreed.
<b>Paragraphs 9 &amp; 10</b>			
22.	West Yorks Analytical Serv.	The offence is created by Regulation 4(a) not 4(b) as stated.	The amended Regulation is Regulation 4(b).
23.	Local Authorities Coördinators of Regulatory Services	Para 9 - Avoiding being too prescriptive here on issues of unfitness here is preferable to the approach in the EC guidance.	Noted.
24.	Forum of Private Business	Consider paragraph 9 and 10 irrelevant.	These have been simplified. It is important to emphasise in particular that the offences in Article 8 of the Food Safety Act 1990 no longer exist.
<b>Paragraphs 11-13</b>			
25.	Trading Standards South East	Considered that Paragraph 13 could be open to misinterpretation re allergenic ingredients. Considered that it would be beneficial to include how Regulations fit with the allergenic ingredients already confirmed to be allergenic in other legislation. Products may be withdrawn due to the accidental or intended inclusion of such allergens without them being declared on the label, would be beneficial to clarify the situation re this.	This would be too detailed for this guidance.
26.	Forum of Private Business	Suggest quoting the text of the regulation here, including Art 6	See reply to 12. Not considered necessary to quote sections of the Regulation.

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27.	LACORS	1. The phrase “the general requirement not to market unsafe food is not breached simply because” could be phrased as “the general requirement to market safe food”. 2. This may be too simplistic. The requirement could be breached if a food was not labelled in relation to a recognised allergen or another widely recognised matter even if the issue affected a small percentage of the population.	1. Not agreed. The words “not unsafe” are those used in the Regulation and will be legally binding. 2. The phrase “when correctly labelled” has been inserted.
<b>Paragraphs 14 – 15</b>			
28.	Forum of Private Business	Consider these to be tautologous and that paragraph 14 adds nothing to paragraph 15.	It is important to emphasise, as paragraph 14 does, that not all hazards are covered by specific legislation.
29.	LACORS	The last sentence should be in capitals and in bold.	Although the importance of this provision is noted, it is not necessary to highlight it to this extent.
<b>Paragraph 16</b>			
30.	Angus Council	Consider it may be useful to provide a list of expert organisations.	Indication of type of expert organisations provided.
<b>Paragraph 17</b>			
31.	Scottish Meat Wholesalers Association	‘Unacceptable’ taste or odour in relation to unacceptability is vague and greater clarification would be helpful.	Noted. Not accepted.
32.	Forum of Private Business	States this and para 18 unnecessarily complicated Wants detail on illegal substances in food in the light of the Sudan dye incident and allergens	Not agreed that unnecessarily complicated or that more information needed here on allergens. It would be inappropriate here to include further detail here on illegal substances in food, as the guidance relates to safety.
33.	British Retail Consortium	First sentence should be removed, as it makes a confused section of the guidance worse.	Not agreed.
34.	LACORS	Leaving things at “can be rendered unfit by” is sensible.	Noted.
<b>Paragraph 18</b>			

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35.	Food and Drink Federation	Welcomes clarification provided of this risk-based approach, following an initial presumption of a food being “unsafe”.	Noted.
36.	Meat And Livestock Commission (and para 13)	There may be benefit in saying that offences are committed by anyone who places on the market food which does not meet the requirements of other food legislation.	Not needed. It should be obvious to all food business operators that there is more specific legislation on foodstuffs to which they have to adhere.
<b>Paragraph 19</b>			
37.	Foodaware (and Paras to 24)	There should be dedicated guidance on Article 15 for farmers.	There will now be separate guidance on animal feed, and a leaflet for farmers and growers will be published later.
38.	Food and Drink Federation	Inclusion of all aspects of “unfit” within Article 14 inappropriate, including unacceptable taste or odour.	Not agreed. This is guidance on the legislation, in which unfitness of food is included. If food has an unacceptable taste or odour, it is clearly unfit.
<b>Paragraph 20</b>			
39.	Forum of Private Business	Suggest this should refer to Art 14 (2-20) not just (2)	Guidance on feed is now being given separately.
<b>Paragraph 23</b>			
40.	Forum of Private Business	States this and 24 could be misleading as different feeds produced for different animals	Guidance on feed is now being given separately.
<b>Paragraph 25</b>			
41.	Forum of Private Business	Consider that Art 16 is not an additional measure	The labelling sections of the Trade Descriptions Act and the Food Safety Act have not been repealed, so for the UK it is an additional measure to these.
42.	Northants Council	Unlike Section 15, Article 16 applies in case of a one-off supply free of charge, subject to the exemption in Article 1(3) for private domestic use” appears to be incorrect.	Amended.
<b>Paragraph 27</b>			
43.	Forum of Private	Consider the issue controversial and not suitable for	Not considered that the example is too

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	Business	guidance, but content to leave the point in.	controversial, small amendment made.
44.	British Retail Consortium	Example is not helpful. Guidance should make it clear that the legislation in terms of the setting in which the food is displayed does not prevent the usual commercial presentation of food in a store.	Small change made to example. It is not considered that the impression is given that the legislation prevents the usual commercial presentation of food in a store.
<b>Paragraph 28</b>			
45.	Foodaware	Consider traceability to be important requirement for consumer protection and that consumers prepared to pay for this. Consider the GN section on traceability vague and unlikely to be helpful to small business and farmers who may be unaware of the requirements and need to comply. Leaving the length of time traceability records should be kept to the discretion of the suppliers is also unhelpful to consumers. Suggests that this is an area where more precise examples and good practice guidance req'd.	Please see comment on 7 regarding best practice guidance. Sectoral guides will be produced in due course to help representatives of particular sectors. It is considered that businesses should have more discretion with regard to traceability.
46.	Meat and Livestock commission	Suggest addition of 'or expected to go' into this paragraph.	This is part of the legislation. The words "expected to be incorporated" have been added.
47.	Forum of Private Business	28 To 30 Consider these cover the main issues. Would like to see imports covered separately and reason for traceability stated. Example of seeds being subject to traceability requirement only if these go into a final product is at odds with Recital 29.	Imports are dealt with in the EC guidance, with which the FSA is content. More detail given on the reason for traceability.
<b>Paragraph 31</b>			
48.	Food and Drink Federation	2 <sup>nd</sup> line – should "need" be "ability"? 5 <sup>th</sup> line – it would be helpful to cite the relevant recitals (7 28 29) for reference.	Word 'need' is not present. completed
49.	Haemolytic Uraemic Syndrome Help	Consider it important that batch number and a more detailed description are kept in order to have effective and	Please see comment on 7 regarding best practice guidance. We consider it better

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		workable traceability.	that businesses have more discretion with regard to traceability.
50.	Forum of Private Business	(and 32 and 33) Reason for traceability should be clear Suggest accounting rather than invoicing	Accounting substituted for invoicing. See 47.
51.	British Retail Consortium	This should be deleted, as it is not for the FSA to rewrite the European legislation according to its purpose.	Not agreed. EC legislation is interpreted in the light of the recitals.
52.	Meat And Livestock Commission	It is not clear that only suppliers that are businesses need to be identified. Article 18 of the Regulation refers to identification of any supplying person unlike the case of ongoing supply, which refers to businesses.	Amended.
<b>Paragraph 33</b>			
53.	Haemolytic Uraemic Syndrome Help	Believe changing the need for immediate production of traceability records in certain cases to a need to produce these within “ a short timescale” may cause confusion	Production “within a short timescale” is considered a more realistic requirement.
54.	Northern Ireland Food Labelling Group	1) How long will records need to be kept for businesses which operate cross EU, assuming that other member states will continue to ask for records to be kept for the maximum length of time? 2) Do records have to be made available in a language which is understood by the inspector? 3) Guidelines on the length of storage of records beyond product life should be provided. 4) What timescales would be considered appropriate for a business to provide appropriate records to an enforcing authority as part of its normal inspection routine? (i.e. outside a withdrawal/recall situation)	1. It is recommended that records kept in the UK comply with the FSA Guidance Notes, even if the businesses operate across the EU. 2. Inspector will be from the country where the records are kept. This will require records to be kept in English (and Welsh in Wales Gaelic in Scotland and Ireland) 3. We did not consider this to be appropriate. This should be at the food businesses’ discretion, and they should use their own objective judgment. 4. Again, records should be made available within a short timescale.
55.	Meat Hygiene Service	The purpose of traceability is not just so as to assist with withdrawals and recalls – it is used to support many other	As far as Regulation 178/2002 is concerned, the purpose of the traceability

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		pieces of legislation.	provision is to assist in withdrawals and recalls. Traceability records can be used for other purposes in other legislation.
<b>Paragraph 34</b>			
56.	British Retail Consortium	Consider it would be more appropriate in terms of the legislation and operation of food businesses to change the phrase in the third sentence from 'bearing in mind' to 'proportionate to'. This would be a clearer indication of what is expected of a food business.	Bear in mind considered more appropriate.
57.	Forum of Private Business	Do not agree that business should decide timescale for record keeping. Advise shelf life plus 6 months.	Not appropriate to give specific rules on record keeping as additional to legal requirements.
<b>Paragraph 35</b>			
58.	British Retail Consortium	We need to understand the practicalities of the food industry in terms of a retailer supplying another food business. It is one thing to expect records where a retailer supplies a regular consignment of food to a known food business but it is completely another situation when the local café owner buys a couple of pints of milk in his local store to top up for that day. The paragraph would have more credence if it accepted the practicality of the situation.	It is for the food business operator to work with enforcers to achieve a proportionate solution.
59.	Scottish Meat Wholesalers Association	Section 35 - The third sentence states that 'where a retailer knows that it is supplying another food business ..... traceability requirements should be adhered to'. Would, in fact, a retailer necessarily know that it is supplying domestic or small business caterers in which case is it committing an offence?	It is for the food business operator to work with enforcers to achieve a proportionate solution.
60.	Forum of Private Business	Consider it impractical for a retailer to know they are supplying another food business.	It is for the food business operator to work with enforcers to achieve a proportionate solution. The due

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			diligence defence in the General Food Regulations may apply in circumstances where a food business does not know it is supplying to another food business.
<b>Paragraph 36</b>			
61.	British Retail Consortium	Records are kept in a variety of ways by different retailers and to reflect this we would ask that the sentence on commercial documentation be changed to add electronic records, which could be stored centrally.	Agreed and change to wording made to reflect this.
62.	Forum of Private Business	Should refer to guidance on other legislation	All relevant legislation will be published in the Food Law Guide, to be published shortly.
<b>Paragraph 37</b>			
63.	Trading Standards South East	This is factually correct, however, it would be useful to indicate that business may need to have an internal traceability system to satisfy other legal requirements (i.e. beef labelling).	Amended.
64.	Scottish Meat Wholesalers Assoc	This states that Article 18 does not require internal traceability but we feel the interpretation of Article 18 expects traceability at all stages of production processing and distribution. Most businesses of any scale would keep batch records and perhaps more clarity is required on this point.	Agreed that internal traceability may be helpful for businesses and enforcers, but please see comment on 7 regarding best practice guidance.
65.	Forum of Private Business	Suggests internal traceability is helpful	Please see comment on 7 regarding best practice guidance.
66.	Meat And Livestock Commission	There may be merit in observing specifically as guidance only that internal traceability records may be helpful in the event of a withdrawal or recall to speed up the process or reduce the scope of the recall or withdrawal.	To do so would be a “good practice” recommendation whereas this guidance concentrates on the requirements of the legislation itself.
<b>Paragraph 39</b>			
67.	Trading Standards South East	Paragraph 39 uses the term “Home Authority” and this should be defined in the Guidance.	Definitions are now in annex 1

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68.	Forum of Private Business	Suggest that definitions at 45 are moved to 39. Point 43 is a repeat of 40.	Not agreed. The definitions are not in the Article itself.
<b>Paragraph 40</b>			
69.	Northern Ireland Food Labelling Group	What timescales will be considered appropriate when notifying competent authorities hours or days?	Guidance Notes state this must be done within a short timescale in the case of Article 19(1), immediately under Article 19(3).
<b>Paragraph 41</b>			
70.	Northants Council	It is wrong to say that the test as to whether food is unsafe is an objective one.	Not agreed. The guidance makes it clear that the food business operator should carry out a risk assessment and from this it should be possible to make an objective assessment.
<b>Paragraph 43</b>			
71.	Trading Standards South East	The Guidance does not indicate which food business operators should be responsible for notifying the Agency, the Home Authority for the company at the top of the supply chain, or to other home authorities of businesses in the supply chain. The Partnership felt it is important that businesses and local authorities know whose responsibility it is to notify these people, especially where the supply chain is long.	The obligation is on the food business operator who has placed the food on the market.
<b>Paragraph 45</b>			
72.	Meat Hygiene Service	Have one issue re enforcement of Art 7, 2 of the Microbiological Criteria Reg's. Where a foodstuff failed the "food safety criteria" under these Regulations, the FBO is required to withdraw or recalled the product in accordance with Art 19 of EC 178/2002. In terms of the microbiological hazard attached to the meat (in this case) it would depend on the nature of the product which would determine whether products would be withdrawn or recalled.	If food is on the market and injurious to health, it must be withdrawn and the FSA notified. A retailer would always have to withdraw unsafe food. In some cases a manufacturer would be able to take certain measures to render its safe, but if there was no possible treatment, he/she would have to destroy it. The "other measures" referred to in Article 19(1)

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	<p>In the draft guide you suggest that withdraw only applies to the point prior to the food reaching the consumer. Recall is described as the process where consumers are asked to return the food. Likes this simple differentiation, but it does seem to conflict with Art 19 and with advice we have received on microbiological issues.</p> <p>That is, the wording of Art 19 states “where the product may have reached the consumer, the operator shall effectively and accurately inform the consumer of the reason for its withdrawal, and if necessary recall from consumers products already supplied to them when other measures are not sufficient to achieve a high level of health protection.</p> <p>This suggests that withdrawal of recall can take place when the food has already reached the consumer, which is contrary to the definitions contained on page 11 of the guidance which suggests that it would be recall only.</p> <p>In addition where the food stuff has reached the consumer regulation suggests that the decision to withdraw or recall will depend on whether “other measures are not sufficient to achieve a high level of health protection”. So getting back to the Micro Reg’s, the discussion was centred on whether there was an extra step that would render the meat safe or not.</p> <p>If the meat cooked and ready to eat, then where the food safety criteria were breached, the product should be recalled as there is no extra step before the consumer eats the product, but if the meat were raw mince for example and it were cooked correctly, then may still be an extra step. In which case it should be withdraw and not recalled. Understands that some believe the expressions can be used interchangeably, but has been asked by vets</p>	<p>would be more likely to be measures in relation to informing the consumer that the food had been withdrawn , which in certain cases might be sufficient to stop unsafe food being eaten, rather than needing to recall the food, as opposed to food treatment measures.</p>
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		whether withdrawal or recall was suitable depending on the cooked or uncooked nature of the product and any potential extra steps that may reduce the risk.	
73.	Angus Council (Environment & Consumer Protection Dept)	To clarify the text relating to withdrawal/recall process it may be advantageous to include a flow diagram of this process in the Annex to the Guidance.	Flow diagrams are not considered necessary.
<b>Paragraph 46</b>			
74.	Forum of Private Business	States this paragraph is unnecessary	It is important to emphasise that businesses must comply by withdrawing and recalling food where necessary.
<b>Paragraph 47</b>			
75.	Food and Drink Federation	We suggest that this be re-drafted as follows: “The duty of withdrawal of food from the market and notification of the competent authorities may take place applies at any step along the food chain and not only at the time of delivery to the end consumer. This obligation to withdraw from the market applies when the following two cumulative criteria are met:”	Notification of the competent authorities now included.
76.	Forum of Private Business	Should be placed before Paragraph 37	Not agreed. Paragraphs 36-37 concern traceability.
<b>Paragraph 48</b>			
77.	British Meat Processors Assoc	Considers emphasis should be on products in public domain	Wording added to clarify rules on this.
<b>Paragraph 49</b>			
78.	Food and Drink Federation	Question the appropriateness of including this “good practice” advice paragraph. If, however, the paragraph is retained, it would be helpful if the change of status and of stage in the supply chain from the foregoing paragraph were expressed more clearly, for example, by re-wording the first sentence as follows (added words in bold). The second sentence (which includes “should inform”) should	Sentence has been reworded as stated

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		then be deleted. “Whilst this is not a stated obligation in the Regulation, we consider that it is the responsibility of any ethical business to let its suppliers know of any problems concerning items it has received from them, in order to protect human health. The supplier will then have reason to consider or to believe.....”	
79.	Forum of Private Business	Do not understand reference to ethical business	Wording changed to show this is not a stated obligation in the Regulation.
80.	Meat And Livestock Commission	There is no obligation on the supplier to withdraw the food if it disagrees with the assessment of its customer and this should be indicated.	Not considered necessary to include.
81.	Northants Council	There should be an amendment to the law to reflect the situation where a food business operator receives a consignment of unsafe food, then immediately sends it back. In this situation he/she will not have “placed it on the market” and will not have any notification obligation.	Supplier will be aware that food is unsafe and must notify competent authorities.
<b>Paragraph 50</b>			
82.	Food and drink federation	Should be re-written to express the actual sense of 19.2., which appears to envisage shared responsibility between retailer and brand owner, as appropriate, depending upon the circumstances.	The main responsibility falls on the manufacturer/ importer (or brand owner if they have responsibility for the product). However, the retailer is required to co-operate as necessary.
83.	Food Law Group	The guidance states “Where retailers sell a branded product, the brand owners will be responsible for notification and withdrawal/recall, but the retailer is required to co-operate as necessary under Article 19(2).” This wording departs from the wording of the legislation, as a brand owner may not be a food business operator but may have licensed the brand to a food business operator who then produces or markets the food.	Wording changed, however the wording is guidance on and not the text of the law.
84.	Trading Standards	Where there is an international element to the supply	Additional wording provided

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	South East	chain, some clarification on responsibilities is also needed in the guidance, in particular; Where the product originates from or has been supplied to countries outside the EC (i.e. It has clearly been imported) and Where the product originated from another EC country and for example, the “brand owner” (see paragraph 50) is a manufacturer in another EC member state and as the goods were dispatched to the UK.	
<b>Paragraph 52</b>			
85.	Meat And Livestock Commission	Authorities must, not should be informed and this should be done immediately.	Amended.
<b>Paragraph 53</b>			
86.	Food and drink federation	Welcomes this clear statement of the provision.	Noted.
<b>Paragraph 54</b>			
87.	Food and Drink Federation.	Some guidance is needed here in view of the wide definition of “place on the market”, which includes “holding food for the purpose of sale”. FDF does not believe that 19.3 should, for practical purposes, include food which is under the immediate control of the food business operator.	Food under the immediate control of the Food business operator should be included under Article 19(3).
<b>Paragraph 55</b>			
88.	Trading Standards South East	The link to the web page is incorrect.	Corrected.
89.	Forum of Private Business	52-55 should be simplified to define who must be notified in the event of a potential withdrawal/ recall.	The competent authorities are defined in Paragraph 27 and Annex 1.
<b>Paragraph 56</b>			
90.	Trading Standards South East	The first sentence on page 13 refers back to paragraph 17. We considered that this sentence should refer to paragraph 19.	Feed references deleted.
91.	Forum of Private Business	(And paragraphs 57 and 58.) States that these paragraphs are unnecessary.	Feed references deleted.

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<b>Paragraph 60-63</b>			
92.	Forum of Private Business	Considers these should be in an annex in tabular form.	Noted. Not agreed.
<b>Annex Paragraph 6</b>			
93.	Meat And Livestock Commission	This could helpfully conclude by indicating that other live animals may be caught under the Regulation as food-producing animals.	Not considered necessary.
<b>Annex Paragraph 9</b>			
94.	Food and Drink Federation.	This could remind non-food-business suppliers that they are still obliged to place only safe food on the market. Last line. We suggest that “their Home Authority” should read “your local authority”.	This is noted in the main body of the guidance on Article 14. Corrected. Definitions now in annex 1.