

DRAFT Guidance on scope

Introduction

1. The **scope** of the national six-tier SotD scheme **extends to establishments supplying food direct to consumers**. This includes restaurants, cafes, takeaways, sandwich shops and other places that people eat food prepared outside of the home, as well as food retailers. The aim is to provide information on hygiene standards to consumers in circumstances where they are making a choice about eating or purchasing food. Certain businesses are 'exempt' from the scheme.

2. Guidance (in question & answer - Q&A - format) is provided below to assist local authorities in determining if establishments should be scored under the scheme. Establishments fall into three broad categories:

- those that fall within the scope of the scheme;
- those that fall within the scope of the scheme but are **exempt** from it because specific circumstances apply; and
- those that fall outside the scope of the scheme and are therefore **excluded**.

3. The guidance on scope and exemptions will be kept under review and will be revised and updated as necessary to reflect the experience of local authorities operating the scheme.

4. A decision tree has also been developed to assist local authorities with scope and exemption issues and this follows the Q&A.

5. Local authorities may also get an initial steer on how to categorise food business establishments from the Agency's Local Authority Enforcement Monitoring System (LAEMS) guidance. This is available at:

<http://www.food.gov.uk/enforcement/auditandmonitoring/laems/definitions/>

Question and answer guidance

Q1. How is the scope of the national six-tier SotD scheme defined?

A1. The scope extends to all food establishments to which registration requirements apply and which supply food directly to consumers for consumption either on or off the premises.¹ Each registered food business establishment within the scope should receive a score under the scheme when they are inspected unless they are covered by certain 'exemptions' (see Q&A 13 to 15).

Approved establishments may have a retail element. Although this retail element does not require a separate registration, it will fall within the scope of the scheme and should receive a score when it is inspected unless it is covered by certain 'exemptions' (see Q&A 13 to 15).

Q2. What categories of food business establishments fall within the scope?

A2. The categories include caterers such as restaurants, cafes, takeaways, sandwich shops, mobile traders, and other places that people eat food prepared/cooked/served outside of the home. It also includes food retailers such as supermarkets. Establishments where public access is limited but where food is prepared, cooked, or handled and served to consumers, such as schools, nurseries and residential care homes, are also included. Within these categories, certain 'exemptions' may apply (see Q&A 13 to 15) - such that the establishment is not given a score.

Q3. What categories of food business establishment are outside the scope and therefore excluded from the scheme?

A3. Establishments that do not supply food direct to consumers are 'excluded' from the scope and should not be scored under the scheme. This includes primary producers, manufacturers and packers, importers and exporters, distributors (including wholesalers, and other inter-business suppliers) and transporters. Examples of the types of business included in these categories may be found at:

<http://www.food.gov.uk/enforcement/auditandmonitoring/laems/definitions/>

Where wholesalers, e.g. cash & carries, are supplying food direct to consumers as well as to other businesses, they fall within the definition of scope and should be scored.

Q4. How should local authorities deal with requests from food business operators of 'excluded' establishments (such as manufacturers) to opt into the scheme?

A4. The Agency's Board agreed that the possibility of extending the scope to all food businesses could be considered in the future.

In light of this, businesses that request to 'opt in' should be advised that they are outside of the scheme at present.

¹ Food business operators must register new food business establishments at least 28 days before food operations commence.

This differs from the approach that should be taken to requests to opt into the scheme from food business operators where their establishment falls within scope but where a specific 'exemption' applies (see Q&A 16).

Q5. Are mobile food units included within the scope and, if so, which food authority should be responsible for scoring them?

A5. Mobile food units (both retail and catering units) fall within the definition of scope and should, therefore be scored unless any of the 'exemptions' apply (see Q&A 13 to 15).

The responsibility for the food hygiene inspection and, therefore, the scoring under the SotD scheme will depend on the type of unit of which there are three main categories:

- those registered and operating within the same local authority;
- those registered in one local authority but trading in a different local authority area; and
- those registered in one local authority but trading in a number of different sites across a number of local authorities.

For the first category, the registering authority should undertake inspections, and score the unit for SotD. For the other two categories, the 'inspecting' authority should liaise with the 'registering' authority in order to avoid duplication of inspections and scoring. Local Food Liaison Groups may provide a suitable forum for such agreement to be made.

Q6. Are market stalls and occasional markets included within the scope and should they be scored?

A6. Such operators fall within the definition of scope and should, therefore, be scored where this is feasible and practical (it is acknowledged that because there is usually only short advance notice of occasional markets taking place, and that such events are usually of short duration, that it is not always feasible to inspect, score and issue a SotD certificate) unless any of the 'exemptions' apply (see Q&A 13 to 15).

Given the range in nature of these operators, arrangements for inspecting and scoring are best determined at the local level but the key point is that the 'inspecting' authority liaises with the 'registering' authority in order to avoid duplication of inspections and scoring. Again, local Food Liaison Groups may provide a suitable forum for discussion and agreement of arrangements.

Q7. Are public houses included within the scope of the scheme and should they be scored?

A7. Yes, public houses fall within the definition of scope and should, therefore, be scored.

Q8. Are bed and breakfast establishments, guest houses and hotels within the scope of the scheme and should they be scored?

A8. Unless any of the 'exemptions' apply (see Q&A 13 to 15), these are included within the scope of the scheme - even if only open for a few months a year.

Q9. Do Armed Forces, Police and Crown establishments fall within the scope of the scheme and should they be scored?

A9. Armed Forces, Police and Crown establishments are, like other food business establishments, subject to the requirements of food hygiene legislation and inspected in accordance with the *Food Law Code of Practice*. They also fall within the defined scope of the national SotD scheme.

The inherent security sensitivities, however, should be taken into account in deciding whether or not to score the establishment.

Where a decision is made not to score, but the operator requests it, a score and a corresponding certificate may still be issued.

The score must not, however, be published on the website unless specifically requested by the operator.

Q10. When should new establishments be scored?

A10. New establishments should receive an 'awaiting inspection' or a 'newly registered' certificate, when requested by the food business operator, when they register, and should be scored under the scheme at the first inspection unless any 'exemptions' apply (see Q&A 13 to 15). The aim is to ensure fairness to businesses and aid consumer understanding.

In cases of a change in food business operator, the establishment should be registered and treated as new, and a new score should be given at the first inspection. It is important that the score for the previous food business operator is removed from the website, and it is clear that the 'new' establishment is 'awaiting inspection'.

In cases where there is solely a change to the name of the establishment but the food business operator is the same, a new certificate should be issued in the new name but a new score should not be given.

In cases where the food business operator moves to new premises, the new establishments should be registered by the appropriate local authority and a new score given at the first inspection.

Q11. Where establishments falling within the scope comprise different units, should each unit be scored separately?

A11. Each registered food business establishment should receive a score. Thus, where the individual units are registered as a single food business establishment - e.g. a supermarket with an in-house bakery or butchers or in-house coffee shop or restaurant - a single score should be given. Local authorities, in line with the better regulation and Hampton principles (no inspection without a reason etc.) should wherever possible inspect and intervention-rate the establishment as a single entity rather than deal with different units separately providing that sufficient information is obtained by the officer to make a judgement on compliance. The authority may then focus on different areas/aspects when they carry out other interventions.

Where the units are registered as separate food business establishments - e.g. a supermarket with a coffee shop or restaurant under the control of a different food business operator - separate scores should be given.

Q12. Are establishments where legal action is in progress or being considered within the scope of the scheme, and should they be scored?

A12. If the establishment is supplying food directly to consumers for consumption either on or off the premises, it falls within the scope of the scheme unless it is covered by any of the 'exemptions' (see Q&A 13 to 15). Whether the establishment receives a score or not is, however, dependent on the nature of the action being taken:

- if the establishment has been closed because of an imminent risk to public health, it should not be scored whilst it remains closed, i.e. is not trading;
- if the establishment is still trading and still supplying food to the public, it should receive a score which should be published on the website.

Q13. What categories of establishment within the scope are 'exempt' from being scored?

A13. In line with the decisions made by the Agency's Board, the following establishments are 'exempt' from the scope of the scheme:

- 'low-risk' establishments which are not generally recognised by consumers as being food businesses (see Q&A 14); and
- certain establishments operating from private addresses (see Q&A 15).

The issue of exemptions will be kept under review and more definitive guidance provided once the scheme begins.

Q14. What types of businesses constitute 'low-risk' establishments which are not generally recognised by consumers as being food businesses?

A14. Some types of operations are required to register as food business establishments but their primary business or activity is not food-related and they are not seen as food businesses by consumers as the food activity is only a small element of the businesses in comparison with its main activity. This includes, for example:

- visitor centres and similar establishments selling tins of biscuits or other wrapped goods amongst a range of other goods;
- leisure centres with only food vending machines selling only drinks or low-risk foods;
- newsagents selling pre-packed confectionery; and
- chemist shops selling pre-packed confectionery and/or health foods.

Q15. What is meant by 'certain establishments operating from private addresses'?

A15. This exemption is mainly for childminders, but also covers other establishments where caring services are being provided in the home environment.

The 'exemption' does not cover home caterers. They should be given a score as consumers would very much expect them to be part of the SotD scheme. As regards publishing these scores on the national website, careful handling is required and full address details should not be published.

Q16. How should food authorities deal with requests to opt into the scheme from food business operators where their establishment is 'exempt'?

A16. If the food business operator considers that consumers perceive their establishment to be a food business, the local authority should agree to a request to score the establishment. This provides a safeguard to the operator where they consider that a lack of score is prejudicial to trade.

This issue will be kept under review and the guidance revised if appropriate to help ensure consistency in approach.

Q17. Should establishments that are exempt from the scheme be listed on the website as 'exempt'?

A17. The home page on the website will describe the types of businesses that are 'exempt' from the scheme to provide consumers with general information about this. Individual establishments that are subject to 'exemption' should also be listed as 'exempt' but detailed address information should not be displayed.

Decision tree for determining which types of establishments should receive a 'score on the door'

