

Food Law

Code of Practice (Wales)

(Issued XXXX 2025)

Food Standards Agency

DRAFT

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Chapter 1 Introduction

In Wales, the Food Law Code of Practice (the Code) is issued under section 40(1) of the Food Safety Act 1990, regulation 6(1) of the Official Feed and Food Controls (Wales) Regulations 2009 and regulation 24 (1) of the Food Hygiene (Wales) Regulations 2006, which empower Welsh Ministers to issue Codes of Practice concerning the execution and enforcement of that legislation by Food Authorities.

The Code:

- is written by the Food Standards Agency (FSA) and issued by the Welsh Ministers
- is directed at Competent Authorities (local authorities and port health authorities) responsible for delivering official controls, other official activities, and any other activities related to these, such as non – official controls
- outlines how Competent Authorities can ensure the quality, consistency, effectiveness and appropriateness of official controls and other official activities, and any other activities related to these

Competent Authorities have a statutory duty to:

- enforce the requirements of food law
- have regard to the Code¹
- discharge their statutory duties as effectively as possible, using means that are most appropriate to the circumstances

Competent Authorities should equally apply the Code to the work of all authorised officers, whether contract, permanent or temporary, who are engaged in official controls, other official activities, other activities related to these.

All references to legislation in the Code should be considered as potentially subject to amendment or revocation and unless stated otherwise regulatory references refer to assimilated law.

It is the Competent Authorities' responsibility to ensure that they correctly refer to the current versions of relevant legislation when carrying out official controls, other official activities, and any other activities related to these.

If Competent Authorities fail to consider the relevant provisions of the Code, their decisions or actions could be subject to successful legal challenge After consulting the Welsh Ministers, the FSA may issue a direction requiring a Competent Authority to take any necessary steps to comply with the Code.

¹ Section 40(2)(a) of the Food Safety Act 1990, Regulation 6(3)(a) of the Official Feed and Food Control (Wales) Regulations 2009, and Regulation 26(3)(a) of the Food Hygiene (Wales) Regulations 2006

Unless stated otherwise, references to chapters and sections in the Code are to the relevant parts of the Code. Additionally, there is a glossary with definitions of terms and abbreviations used throughout the Code.

The FSA issues a Practice Guidance document, which contains non-statutory guidance on the requirements of the Code and other information that Competent Authorities may find useful.

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Chapter 2 Administration, liaison, and co-ordination

2.1 Introduction

Chapter 2 deals with:

- the organisation of official controls, other official activities, and any other activities related to these, such as non-official controls
- the administrative arrangements, including designation of Competent Authorities, registration, and approval of food business establishments
- liaison arrangements to ensure the:
 - efficient and effective co-ordination between Competent Authorities, delegated bodies, and other government departments responsible for official controls, other official activities and any other activities related to these
 - consistency and effectiveness of official controls and other official activities across the United Kingdom (UK)
- avoidance of conflict of interest
- control verification procedures

2.2 General requirements

Competent Authorities must:

- provide to the FSA, such information, or datasets as it may request² in respect of:
 - the execution and enforcement of the Food Safety Act 1990 or any regulations made under it
 - the execution and enforcement of the Food Hygiene Rating (Wales) Act 2013 for the purpose of assisting the FSA to evaluate the Food Hygiene Rating Scheme (FHRS) as required by section 14
 - the functions conferred on Competent Authorities by or under Regulation (EU) 2017/625 and the execution and enforcement of Part 3 of the Official Feed and Food Controls (Wales) Regulations 2009

2.3 Requirements relating to documented procedures, policies, plans and programmes

Competent Authorities must:

² Section 41(1) of the Food Safety Act 1990

- have procedures and/or arrangements in place to ensure the effectiveness, appropriateness, impartiality, quality and consistency of official controls and other official activities³
- perform official controls in accordance with documented procedures that include instructions for authorised officers undertaking official controls⁴
- take corrective action in all cases where control verification procedures identify shortcomings⁵
- update documented procedures as appropriate⁶

Competent Authorities should ensure:

- their procedures and arrangements:
 - consider relevant legislation and the Code
 - cover all areas within a Competent Authority’s legislative responsibility, including, where appropriate, imported food, food hygiene (including at the level of primary production), and food standards
 - cover referral arrangements to other Competent Authorities, including, where applicable, those with responsibility for imported food at a UK point of entry
 - are developed in consultation with relevant stakeholders
 - are updated, when necessary, in accordance with the Competent Authority’s own processes and that superseded documents are removed from use
- up to date copies of appropriate documentation, including legislation and guidance, are available at all relevant locations and to all relevant staff
- deviations from procedures, policies, plans, programmes and strategies are discussed and agreed upon with relevant persons beforehand, and reasons for deviating are recorded in writing

2.3.1 Documented procedures

Type	Purpose
Approval (Competent Authority procedure for food business operators (FBOs))	Competent Authorities must have a procedure for ⁷ . The procedure should provide a template for the application of approval that is readily available to FBOs and requires them to provide: <ul style="list-style-type: none"> • details of the responsible FBO

³ Article 5 (1)(a) and 5(1)(b) of Regulation (EU) 2017/625

⁴ Article 12 (1) of Regulation (EU) 2017/625

⁵ Article 12 (3)(a) of Regulation (EU) 2017/625

⁶ Article 12 (3)(b) of Regulation (EU) 2017/625

⁷ Article 148(1) of Regulation (EU) 2017/625

Type	Purpose
	<ul style="list-style-type: none"> • accurate details of the premises they intend to operate from • all approvable activities they intend to undertake
<p>Approval (procedure for Competent Authority)</p>	<p>Competent Authorities should have a procedure that:</p> <ul style="list-style-type: none"> • includes details of the actions to be taken on receipt of completed approval forms, including notifying other Competent Authorities where activities fall outside the receiving Competent Authority's enforcement remit or jurisdiction • includes details on how the Competent Authority will obtain information omitted from an application for approval • includes details on how approvals are to be determined, including allocation of approval numbers and notification
<p>Control verification (internal monitoring)</p>	<p>Competent Authorities must have control verification procedures in place⁸.</p> <p>These should:</p> <ul style="list-style-type: none"> • ensure that official controls and other official activities are carried out consistently and effectively • be risk-based • provide for the planned official control programme being maintained and carried out competently • provide details of the necessary steps to be taken to address any performance which does not meet expected standards • demonstrate appropriate and consistent application of the risk-rating systems detailed in the Code, including where changes are made to an establishments risk-rating score <p>The procedure and/or arrangements should include monitoring of:</p>

⁸ Article 12(2) of Regulation (EU) 2017/625

Type	Purpose
	<ul style="list-style-type: none"> • service delivery to verify conformance with legal duties, the Code and their own procedures, policies, plans and programmes • official control delivery by authorised officers and associated records to ensure that they are sufficiently detailed, accurate and retrievable • follow-up checks and enforcement to ensure these are appropriate and instances of non-compliance are acted upon in a timely and effective manner • management information systems to ensure it is complete, up-to-date, accurate, reliable and that changes of business use and ownership, closures and new businesses can be tracked <p>All relevant activities should be subject to proportionate and routine quantitative and qualitative monitoring.</p> <p>Appropriate and proportionate records should be maintained to verify management oversight of key service activities and actions, and measures are taken to address any identified problems.</p>
Conflict of interest	Competent Authorities must have a procedure and/or arrangements in place to ensure that authorised officers performing ⁹ .
Official controls and other official activities	<p>Competent Authorities must have a procedure in place to ensure official controls and other official activities are delivered in an impartial and consistent manner¹⁰. This should:</p> <ul style="list-style-type: none"> • include details of official controls and other official activities, including those carried out on imported food • lead to risk-based controls being undertaken • provide sufficient detail to facilitate effective and appropriate official controls
Information	Competent Authorities must have a procedure to ensure that any inaccuracies in published information are appropriately rectified ¹¹ .

⁹ Article 5(1)(c) of Regulation (EU) 2017/625

¹⁰ Article 5 1 (b) of Regulation (EU) 2017/625

¹¹ Article 11(2) of Regulation (EU) 2017/625

Type	Purpose
Registration	Competent Authorities should have a procedure to ensure a clear and consistent process for FBOs to follow when registering food business establishments.
Food business establishment database	<p>Competent Authorities should have a procedure to ensure their database of food business establishments is accurate, reliable, and up-to-date. This should:</p> <ul style="list-style-type: none"> • set out how their list of food business establishments, whether registered or approved, is maintained • detail the action taken on receipt of new food business establishment registrations and notifications of changes to food establishment operations, and how, where appropriate, these changes are made to the database.
Food incidents and alerts	<p>Competent Authorities should have a procedure to ensure that food incidents and alerts are dealt with effectively and within a timely manner. This should include:</p> <ul style="list-style-type: none"> • the initiation and effective response to Food Alerts issued by the FSA • the effective response to contact by the FSA • details, including contact details, of the lead food officer for such matters • liaison arrangements between county council and district council officers in two-tier Competent Authority areas • any arrangements for out-of-hours reception and response to alerts and emergencies • arrangements to ensure that Food Alerts and updates are brought to the attention of an officer within the authority to initiate appropriate action without undue delay • arrangements for the liaison with other relevant bodies and Competent Authorities, both within and outside normal office hours, including provisions to: <ul style="list-style-type: none"> - call appropriate agencies together at short notice - implement urgent control measures whenever they are required - identify a lead authority, where necessary

Type	Purpose
	<ul style="list-style-type: none"> • arrangements to provide adequate staff resources to allow effective response to alerts • arrangements to provide adequate equipment, including out-of-hours access, to allow an effective response to be made
Authorisation	<p>Competent Authorities should have a procedure to ensure that officers (including the lead food officer(s)) engaged in official controls and other official activities are appropriately authorised in accordance with the Code and appropriate records are maintained.</p> <p>The procedure applies equally to officers who are directly employed, agency staff, temporary staff, and to those employed by or as contractors. The procedure should include:</p> <ul style="list-style-type: none"> • the roles and responsibilities of staff in the authorisation process • any delegation of authority to approve legal proceedings and/ or issue approvals • the process for authorising new appointments, newly qualified officers and those returning to food law enforcement • how the Competent Authority ensures its lead food officer(s) and authorised officers are authorised in accordance with chapter 3 of the Code • the process to be followed in assessing the competence of the officer to undertake, official controls, other official activities, and/or any other activities related to these, prior to their authorisation.
Corporate Complaints	<p>Competent authorities should have a procedure to ensure that complaints about the Competent Authority are investigated, dealt with effectively and recorded including any actions taken.</p>
Food complaints	<p>Competent Authorities should have a procedure to ensure complaints about food and food business establishments are investigated, dealt with effectively and recorded. This should:</p> <ul style="list-style-type: none"> • cover complaints about food originating from inside and outside of the UK, and food business establishments • include procedures for any referral arrangements to other Competent Authorities, including inland

Type	Purpose
	<p>authorities, and authorities with responsibility for import food controls at the point of entry</p> <ul style="list-style-type: none"> • lead to complaints received being investigated in accordance with the Code, guidance and the Competent Authority's policies and procedures • include procedures for receipt of complaints and their follow-up, including notification of complaint to persons/business in question
Sampling	<p>Competent Authorities should have a procedure to ensure that samples are taken in accordance with applicable legislation and guidance, and that where unsatisfactory results are received, appropriate action is taken. The procedure should:</p> <ul style="list-style-type: none"> • include measures for the procurement of samples, including those offered for sale by distance communications • set out how continuity of evidence is maintained • include action to be taken regarding unsatisfactory sample results • include measures to prevent the deterioration or damage to samples whilst under control of the Competent Authority, including how the samples are transported
Equipment	<p>Competent Authorities should have a procedure to ensure that equipment is properly identified, maintained, calibrated, and is removed from service when found to be defective. It should include measures to demonstrate the results of any checks and the action taken where results are unsatisfactory.</p>
Enforcement	<p>Competent Authorities should have a procedure which covers the process for all available enforcement options.</p>
Control and investigation of cases and outbreaks of food related infectious disease	<p>Competent Authorities should have a procedure to ensure the control and investigation of notified and suspected cases and outbreaks of food related infectious disease.</p>
IT security	<p>Competent Authorities should have a procedure to ensure that effective IT security measures are in place to</p>

Type	Purpose
	prevent access and amendment by unauthorised persons and appropriate back-up systems, minimising the risk of corruption or loss of information.

2.3.1 Documented policies

Type	Purpose
Sampling	Competent Authorities should have a policy to set out their approach to food sampling including unsatisfactory samples. It should commit the Competent Authority to providing the resources necessary to carry out their food sampling programme.
Enforcement	Competent Authorities should have a policy to set out their approach to enforcement, including criteria for using all available enforcement options. The policy should: <ul style="list-style-type: none"> • be approved by the relevant Competent Authority member forum or, where approval and management of service delivery plans has been delegated to senior officers, by the relevant senior officer • detail the arrangements for ensuring compliance with food law in establishments where the Competent Authority is itself the FBO • ensure that the action taken is reasonable, proportionate, risk based and consistent
Complaints	Competent Authorities should have a policy to set out how complaints received about food and food business establishments are received, assessed, and investigated, and covers complaints about food originating from inside and outside the UK.

2.3.2 Documented plans, programmes, and strategies

Type	Purpose
Contingency	Competent Authorities must have a plan in place to set out what they would do in the event of an emergency ¹² .

¹² Article 5(1)(i) of Regulation (EU) 2017/625

<p>Training</p>	<p>Authorised officers performing official controls and other official activities must¹³:</p> <ul style="list-style-type: none"> • receive, for their area of competence, appropriate training enabling them to undertake their duties competently and to perform official controls and other official activities in a consistent manner • keep up to date in their area of competence and receive regular additional training as necessary <p>Competent Authorities should put in place a programme that ensures authorised officers undertaking official controls and other official activities receive appropriate training based on their individual needs and the activities they are authorised to undertake.</p>
<p>Service plan</p>	<p>Competent Authorities should have a plan that sets out how they intend to resource and deliver official controls, other official activities, and activities related to these, such as non-official controls, in relation to all areas of food law that they have a duty to enforce.</p> <p>The service plan should include details of the:</p> <ul style="list-style-type: none"> • council's services and committee structure • scope of the food service, including where services are provided by other organisations, and other services delivered alongside the food service • demands on the food service including: <ul style="list-style-type: none"> – the establishment profile – any specific local requirements (for example, specialist or complex processes) – liaison with other organisations – internal management functions (for example, control verification) – other factors which may impact on their service • service delivery, including a forecast of: <ul style="list-style-type: none"> – any work that remains outstanding from previous years – the number of planned official and non-official controls and other official activities, including inspections, audits, and sampling – reactive work (for example, complaints and incident handling) – follow-up action, (for example, re-visits and enforcement) – targeted official control activity (for example, national or local priorities)

¹³ Article 5(4) of Regulation (EU) 2017/625

	<ul style="list-style-type: none"> - food safety and standards promotional work - control and investigation of outbreaks and food related infectious disease • resource demands and allocation including: <ul style="list-style-type: none"> - an estimation of the staff necessary (full time equivalent) to deliver the service, distinguishing authorised officers from support staff - staff allocated (full time equivalent) to deliver the service, distinguishing authorised officers from support staff - full time equivalents occupied and available to deliver the food service, distinguishing authorised officers from support staff - arrangements for accessing expertise for specialist activities - any shortfall in resources (for example, financial and staffing - including out of hours capacity and provision) and how this will be managed • The service plan should: <ul style="list-style-type: none"> - clearly state the period of time during which the plan has effect - be submitted for approval, whether that is at member, member forum or suitably delegated senior officer level, with records to show it has received appropriate approval - detail the arrangements for the regular review and updating of the plan, any variances in meeting the plan from previous years, and how this is proposed to be addressed
Official controls	<p>Competent Authorities should have a programme in place to set out their risk-based delivery of official controls (in accordance with chapter 4), which includes all food business establishments for which the Competent Authority has responsibility</p>
Sampling	<p>Competent Authorities should have a programme to set out the details of their risk-based food sampling priorities and activities including imported foods.</p> <p>The programme should consider, as a minimum:</p> <ul style="list-style-type: none"> • the number, type, size, and intervention ratings of food business establishments in their area

	<ul style="list-style-type: none"> • the type of food produced in the area, and whether any of their food premises deal in specialised processes
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2.4 Delegation of official controls and other official activities

Competent Authorities can delegate official controls and/or other official activities to one or more delegated bodies or natural persons¹⁴. Where Competent other official activities, they must do so in accordance with articles 29 to 33 of Regulation (EU) 2017/625. Such delegations must be in writing¹⁵.

Competent Authorities should:

- provide the FSA with details of:
 - the delegated body or natural person
 - the specific tasks delegated to them
 - any subsequent withdrawal or change in the tasks delegated
 - ensure the delegate body and/or natural person carries out official controls with regard to the Code

2.5 Local, regional, and national liaison

Competent Authorities must ensure efficient and effective coordination between authorities in its area¹⁶.

2.5.1 Liaison arrangements

Competent Authorities should:

- put in place liaison arrangements, where relevant, with neighbouring Competent Authorities, delegated bodies, government agencies and any other appropriate bodies
- share information about compliance, and fraudulent or deceptive practices of food business establishments with other relevant Competent Authorities and the FSA, in accordance with relevant legislation
- respond, as appropriate, to any reasonable communication from other Competent Authorities and the FSA, requesting information or assistance
- liaise with those Competent Authorities that are responsible for keeping registers of feed business establishments under article 9 of Regulation (EC) No 1831/2003 laying down requirements for feed hygiene

¹⁴ Article 28(1) of Regulation (EU) 2017/625

¹⁵ Articles 29 and 30 of Regulation (EU) 2017/625

¹⁶ Article 4(2) of Regulation (EU) 2017/625

- acknowledge and respond, as appropriate, to Competent Authorities responsible for points of entry, in respect of inland referrals (with regards to imported food matters) to confirm the action taken
- share information they receive, at the earliest opportunity, with other relevant Competent Authorities and government agencies, as appropriate, that indicate:
 - a change in the operations or ownership of a food business establishment
 - any withdrawal, suspension, or reinstatement of an establishment's approval

2.5.2 Liaison with the FSA

Competent Authorities with food business establishments in their area that are subject to approval by the FSA, should liaise with FSA officials at those establishments, as appropriate, to:

- identify any risks and concerns about the establishment
- promote understanding of each other's roles within the establishment
- facilitate enforcement activities to make effective use of resources

To ensure effective liaison Competent Authorities should:

- proactively communicate with FSA officials, on an informal basis, when Competent Authority officers are attending FSA approved establishments
- maintain ongoing discussions with FSA officials in relation to referrals or areas of common interest
- invite FSA staff to local or regional meetings, where appropriate
- consider possible joint local training opportunities, and sharing of information
- respond to referrals at the earliest opportunity or advise when and how they will be able to respond

2.5.2.1 Competent Authority communication

Food Authorities should notify the FSA of:

- their email address to which communications can be sent
- any changes to these details, as soon as practicable

2.5.3 Liaison at points of entry

Competent Authorities with a point of entry for food imported into the UK, external temporary storage facilities (ETSFs), or international rail terminal should establish routine local liaison and communication with relevant local organisations, to exchange information on food imports, and for the effective handling of incidents or suspected food crime.

2.5.4 Liaison in two tier Competent Authority areas

It should be noted that in parts of the UK where there are two tiers of local government and both are Competent Authorities, the FSA has not specified whether

investigations and enforcement action in relation to specific functions for example food hygiene at the level of primary production, are undertaken at District or County level. In Wales, all local authorities are Unitary Authorities and the distinctions between District and County Councils do not apply.

2.5.4.1 Regional and local liaison groups

Competent Authorities from all areas, should be represented at relevant regional and local liaison groups, by an officer with an appropriate level of experience.

2.6 Facilities and equipment

Competent Authorities must have appropriate and properly maintained facilities and equipment available to ensure that authorised officers can perform official controls and other official activities efficiently and effectively¹⁷.

Competent Authorities should provide officers with the equipment and facilities necessary to enable them to carry out the full range of food controls. Facilities and equipment may be shared with other Competent Authorities, provided they will be readily available for use and do not impede the effective delivery of official controls.

Competent Authorities should set-up, maintain and implement an appropriately configured database or other record management system that is accurate, reliable, and capable of:

- implementing the relevant food hygiene and/or, food standards rating schemes as set out in chapter 4
- recording the full range of activities, including:
 - official controls
 - complaint investigations
 - incidents and alerts
 - enforcement actions
 - controls at points of entry
- recording and retrieving the details of approved, or conditionally approved and registered food business establishments, including all food business activities undertaken
- providing information requested by the FSA
- receiving Food Alerts

2.6.1 Appointment of a Public Analyst

Competent Authorities must:

- have, or have access to, an adequate laboratory capacity for analysis, testing and diagnosis¹⁸

¹⁷ Article 5(1)(f) of Regulation (EU) 2017/625

¹⁸ Article 5(1)(d) of Regulation (EU) 2017/625

- appoint one or more Public Analysts who meet the minimum qualifications set out in The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013¹⁹.

Competent Authorities should ensure the appointed analyst(s) have the capacity for testing the range of samples and analytes required by the Competent Authority, or have in place arrangements to have such testing carried out under their supervision as permitted by section 30 of the Food Safety Act 1990.

2.6.2 Food establishment lists

Competent Authorities must draw up and keep up to date a list of FBOs within their area²⁰.

Competent Authorities should ensure that this list includes:

- all food business establishments that are either registered, approved or conditionally approved by the Competent Authority.
- the following information about each food business establishment:
 - name of the FBO
 - name(s) of the food establishment
 - address of the food establishment
 - nature of the food business

2.6.3 Establishment record files

Competent Authorities should have establishment record files for each food establishment registered or approved with them, which include:

- information on the size and scale of the business including distribution
- the type of food activities undertaken by the business
- all documented procedures and or processes
- all documentation associated with approval applications or registration
- all correspondence with the food establishment including notification of approval decisions or registration
- information on sampling and results

It is important that establishment record files, which may be computer-based, are updated after each official control so they remain up to date.

Competent Authorities should ensure records relating to food business establishments, including those that have ceased trading, are retained for at least six years, unless they are required for longer retention.

2.6.4 Registered establishment details

Competent Authorities should:

¹⁹ Section 27 of the Food Safety Act 1990

²⁰ Article 10(2) of Regulation (EU) 2017/625

- update registered establishment details upon receipt of notification of a change to a food establishment operation or FBO
- supply the FSA, when requested, with a complete list of registered food business establishments

2.6.4.1 Approved establishment details

Competent Authorities should:

- provide the FSA, when requested, with a copy of the FBO's application form and approval issued by the Competent Authority
- for the purposes of approval listing, notify the FSA:
 - when an establishment has been approved or conditionally approved
 - where an approved establishment ceases activities that are the subject of the approval or conditional approval
 - where an approval or conditional approval has been withdrawn or suspended
- supply the FSA, when requested, with a complete list of approved food business establishments

2.7 Approvals process

2.7.1 Applications

Competent Authorities must establish procedures for FBOs to follow when applying for approval of their establishment ²¹.

Competent Authorities should:

- take into consideration all activities carried out in the food business establishment
- ensure all exemptions have been considered
- where they become aware of businesses engaged in activities that require approval, but which are not approved, inform the FBO in writing, of the need for approval, and consider appropriate enforcement action

2.7.2 Determination of applications for approval

Competent Authorities must, before reaching a decision on an application, make an on-site visit²².

Competent Authorities should:

- ensure the on-site visit is in the form of an inspection
- verify whether the FBO complies with the relevant requirements of food law, and whether approval or conditional approval can be granted

²¹ Article 148(1) of Regulation (EU) 2017/625

²² Article 148(2) of Regulation (EU) 2017/625

2.7.3 Conditional and full approval

Competent Authorities must:

- only approve an establishment, for the activities concerned, if the FBO has demonstrated that it complies with the relevant requirements of food law²³
- keep the approval of establishments under review when carrying out official controls²⁴
- only give conditional approval where the establishment meets all infrastructure and equipment requirements²⁵
- where conditional approval has been given, undertake a new official control within three months to verify whether the establishment meets the other relevant requirements of food law²⁴
- where conditional approval has been given, and clear progress has been made, but the establishment still does not meet all of the relevant requirements, consider prolonging the conditional approval. Conditional approval is never to exceed a total of six months (except in the case of factory and freezer vessels flying the flag for the UK, for which such conditional approval must not exceed a total of 12 months)²⁴

Competent Authorities should:

- determine, based on professional judgement, whether to grant conditional approval, or extend conditional approval, on a case-by-case basis and ensure it is not given if non-compliance could lead to foods adversely affecting public health
- consider granting full approval, without the need for conditional approval, on limited occasions, in establishments that are fully compliant. This might include where there is a change of ownerships, but where all other aspects of the business remain the same and the LA has seen the Hazard Analysis and Critical Control Points (HACCP) based approach in operation already
- provide a unique identification mark (including approval code) to each food business establishment it approves or conditionally approves
- notify the FBO, in writing when approval or conditional approval is granted, which includes:
 - the nature and scope of the approval
 - any conditions or limitations that apply
 - the approval code, or where approval is granted following conditional approval, confirmation that the approval code allocated to them can continue to be used

²³ Article 148(3) of Regulation (EU) 2017/625

²⁴ Article 148(5) of Regulation (EU) 2017/625

²⁵ Article 148(4) of Regulation (EU) 2017/625

- where it has been decided to refuse an application for approval, notify the applicant in writing of the decision at the earliest opportunity, and include:
 - the reasons for refusal
 - the matters necessary to satisfy requirements of the regulation(s)
 - make clear that activities requiring approval cannot be undertaken unless approval or conditional approval is granted
 - details of their right of appeal against the decision and address of the Magistrates Court where an appeal can be made
- retain a copy of any written notification(s)

DRAFT

Chapter 3 Authorisation, qualifications, and competency

3.1 Introduction

Chapter 3 deals with:

- the qualifications and competency of authorised officers undertaking official controls, other official activities, and any other activities related to these, such as non-official controls
- provisions relating to officers' training in official controls and other official activities

Chapter 3 does not apply to those:

- with only indirect managerial responsibility for the Competent Authority's food law enforcement service, such as Chief Executives, Directors, or Chief Officers
- in support roles such as administrative and legal staff

3.2 Appointment of officers

Competent Authorities must:

- have, or have access to, a sufficient number of suitably qualified and experienced officers so that official controls and other official activities can be performed efficiently and effectively²⁶
- authorise officers in writing either generally or specially²⁷
- ensure officers receive appropriate training, based on the activities they are authorised to undertake, which enables them to undertake their role competently and deliver official controls and other official activities consistently²⁸

3.2.1 Lead food officers

Competent Authorities should appoint one or more, appropriately qualified and competent lead food officers, who are responsible for the operational management of food law matters.

3.2.2 Authorisation of officers

Before Competent Authorities authorise or extend an officer's duties, the lead food officer should ensure the officer:

- holds one or more of the appropriate qualifications, listed in sections 3.2.3.1, 3.2.3.2 and 3.2.3.3, relevant to their role and the activities they will be

²⁶ Article 5(1)(e) of Regulation (EU) 2017/625

²⁷ Section 5(6) of the Food Safety Act 1990 and regulation 2(1) of The Food Hygiene (Wales) Regulations 2006

²⁸ Article 5(4)(a) of Regulation (EU) 2017/625

authorised to undertake, unless the officer only performs the activities listed in section 3.2.3

- can demonstrate that they are competent to undertake the activities relevant to their authorisation
- has their authorisation of legal powers and duties restricted, until they can demonstrate that they are competent to undertake the activities relevant to their authorisation

Competent Authorities should also ensure:

- officer's authorisations clearly indicate, where appropriate, any restrictions
- that officers, based on the activities they undertake, are specifically authorised under all relevant legislation
- officers have appropriate supervision, based on their experience, competency and qualifications
- they keep documented and retrievable records of their officer's:
 - qualifications (where relevant)
 - competency assessment
 - training and continuing professional development (CPD)
- that, if they need to engage expertise, any expert is suitably qualified and experienced in the area for which the expertise is required

3.2.3 Qualifications

Taking account of section 3.2.2, Competent Authorities should ensure that officers hold one or more appropriate qualifications, unless they only undertake the following activities:

- official controls or certain tasks related to other official activities on products of animal origin (POAO) at Border Control Posts (BCPs)
- sampling

non-official controls, including:

- education, advice, and coaching
- information gathering, including the initial desktop assessment of new food business establishments
- gathering, processing, and sharing intelligence
- shellfish environmental monitoring
- due official food hygiene controls at broadly compliant category D risk rated establishments and category E risk rated establishments which are:
 - not subject to approval under Regulation No (EC) 853/2004 or the requirements of Regulation (EU) No 210/2013 on the approval of establishments producing sprouts
 - rated 10 or less for 'type of food and method of handling'
 - rated 0 for 'method of processing'

- initial official food hygiene controls at establishments, other than those operating at the level of primary production, which:
 - from the initial desktop assessment are, in accordance with section 4.2.4.2, not subject to initial official controls within 28 days
 - are not subject to approval under Regulation (EC) No 853/2004 or the requirements of Regulation (EU) No 210/2013 on the approval of establishments producing sprouts
- due official food standards controls at establishments which have an inherent risk score of at least 4 and a compliance assessment score of at least 3
- initial official food standards controls at establishments which from the initial desktop assessment, are anticipated to have an inherent risk score of 5

Where officers not holding an appropriate qualification are authorised to undertake one or more of the above activities, Competent Authorities should ensure that:

- the officers are subject to appropriate supervision
- if the risk-rating category (food hygiene), inherent risk (food standards) and/or level of compliance at an establishment has changed, such that it does not meet the above criteria in relation to initial and due official controls, an official control is undertaken as soon as practicable by an officer holding an appropriate qualification who is competent to carry out official controls at that type of establishment
- where an official control has been undertaken, and informal action is appropriate, the officer is competent to undertake the informal action. In these circumstances informal action does not include:
 - voluntary prohibitions and closures
 - voluntary surrender of foods
- if formal enforcement action is required, it is undertaken by an officer holding an appropriate qualification and who is competent to undertake the formal enforcement action

3.2.3.1 Appropriate qualifications for food hygiene

The appropriate qualifications for food hygiene, as recognised by the FSA, are those listed below (or their antecedents):

- Higher Certificate in Food Control awarded by the Environmental Health Registration Board (EHRB) or the Chartered Institute of Environmental Health (CIEH)
- Higher Certificate in Official Control awarded by the Scottish Food Safety Officers Registration Board (SFSORB)
- Certificate of Registration awarded by the EHRB to practice as an Environmental Health Practitioner
- Diploma in Environmental Health awarded by the EHRB or the Royal Environmental Health Institute of Scotland (REHIS)

- Advanced Professional Certificate (APC) in Food Hygiene and Standards Control awarded by CIEH
- Degree in Environmental Health
- Master's Degree in Environmental Health
- Environmental Health Practitioner (Integrated Degree) Apprenticeship
- Degree in Environmental Health awarded by the Dublin Institute of Technology (awarded from June 2012 onwards)
- Degree in Environmental Health awarded by the Technological University Dublin

3.2.3.2 Appropriate qualifications for food standards

The appropriate qualifications for food standards, as recognised by the FSA, are those listed below (or their antecedents):

- Chartered Trading Standards Institute (CTSI) Trading Standards Practitioner Certificate with the Food Standards unit from the Trading Standards Practitioner Diploma
- Trading Standards Qualification Framework (TSQF) Diploma in Consumer Affairs and Trading Standards (DCATS) with the Food Standards Service Delivery Module
- TSQF Higher Diploma in Consumer Affairs and Trading Standards (HDCATS) with the Food Standards Service Delivery Module
- Diploma in Trading Standards
- Diploma in Consumer Affairs (DCA Part II) provided it includes the Food and Agriculture paper
- TSQF Certificate of Competence in Food Standards service delivery module
- TSQF Core Skills Certificate in Consumer Affairs and Trading Standards (CSCATS) with the Food Standards Service Delivery Module
- Diploma in Consumer Affairs Certificate of Competence in Food and Agriculture
- Trading Standards Professional Apprenticeship with the Food Module
- Higher Certificate in Food Control awarded by EHRB or CIEH
- Higher Certificate in Official Control awarded by SFSORB
- APC in Food Hygiene and Standards Control awarded by CIEH
- Certificate of Registration awarded by the EHRB to practice as an Environmental Health Practitioner
- Diploma in Environmental Health awarded by the EHRB or the REHIS
- Degree in Environmental Health
- Master's Degree in Environmental Health

- Higher Certificate in Food Premises Inspection awarded by the EHRB, the Institute of Food Science and Technology (IFST) or the SFSORB with the Food Standards Endorsement
- The Higher Certificate in Food Standards Inspection awarded by the SFSORB
- Environmental Health Practitioner (Integrated Degree) Apprenticeship
- Degree in Environmental Health awarded by the Dublin Institute of Technology (awarded from June 2012 onwards)
- Degree in Environmental Health awarded by the Technological University Dublin

3.2.3.3 Appropriate qualifications for food hygiene at the level of primary production

The appropriate qualifications for food hygiene at the level of primary production, with the exception of establishments subject to Regulation (EU) No 210/2013, as recognised by the FSA, are those listed below (or their antecedents):

- the appropriate qualifications for food hygiene and food standards enforcement listed in sections 3.2.3.1 and 3.2.3.2
- CTSI Trading Standards Practitioner Certificate with the Feed unit from the Trading Standards Practitioner Diploma
- TSQF HDCATS with the Animal Health Service Delivery Module
- TSQF DCATS with the Animal Health Service Delivery Module
- TSQF DCATS with the Agriculture Service Delivery Module
- TSQF Certificate of Competence in Agriculture
- TSQF Certificate of Competence in Animal Health
- TSQF CSCATS with the Agriculture Service Delivery Module
- Trading Standards Professional Apprenticeship with the Animal Feed Module

For officers undertaking official controls at food business establishments subject to the requirements of Regulation (EU) No 210/2013 on the approval of establishments producing sprouts, the appropriate qualifications are those listed in section 3.2.3.1.

3.2.3.4 Qualifications with restrictions

Competent Authorities should ensure that, where an officer only holds a qualification, set out below, the authorisation of that officer to exercise legal powers and duties is restricted until the officer can demonstrate they are competent to undertake the relevant restricted activities.

In relation to food hygiene, the qualifications with restrictions, as awarded by the EHRB, IFST or the SFSORB, and the restricted activities, are set out in the table below.

Qualification	Activities which are restricted until an officer is deemed competent
Higher Certificate in Food Premises Inspection	<ul style="list-style-type: none"> • undertake inspection of food to determine fitness • seize and detain food • undertake import control functions for fishery products
Higher Certificate in Food Premises Inspection with the Food Standards Endorsement	<ul style="list-style-type: none"> • undertake inspection of food to determine fitness • seize and detain food • undertake import control functions for fishery products
Higher Certificate in Food Premises Inspection with the Food Inspection Endorsement	<ul style="list-style-type: none"> • undertake inspection of food to determine fitness • seize and detain food • undertake import control functions for fishery products
Ordinary Certificate in Food Premises Inspection	<ul style="list-style-type: none"> • undertake inspection of food to determine fitness • seize and detain food • serve remedial action notices • serve hygiene emergency prohibition notices

3.2.3.5 Equivalency of qualifications

In addition to the appropriate qualifications, recognised by the FSA, existing or prospective officers may have a range of other qualifications, training and experience, including those obtained from non-UK countries, which demonstrate their competence to undertake official controls, other official activities and/or activities related to these.

In these circumstances, Competent Authorities should, before authorising the officer, ensure that the qualification is equivalent to the relevant appropriate qualification listed in sections 3.2.3.1, 3.2.3.2 and/or 3.2.3.3.

3.2.3.6 Notification of new qualifications between Code reviews

Where a new qualification is recommended for inclusion in the Code, the FSA will notify Competent Authorities and explain how the qualification should be considered in relation to this chapter of the Code.

3.2.4 Competency

Competency is a combination of the knowledge, skills and experience required to effectively deliver official control activities, other official activities, and any other activities relating to these.

Competent Authorities should ensure that:

- officers and lead food officers can, through appropriate assessment, demonstrate that they are competent for the activities relevant to their role and those they will be authorised to undertake
- the competency of officers and lead food officers is reviewed on an ongoing basis, for example, as part of a Competent Authority's appraisal process

Competent Authorities should also ensure:

- officers returning to deliver official controls, other official activities and/or activities related to these, such as non-official controls, after a period of absence, are subject to an appropriate competency assessment, which is proportionate to the length of the absence and relevant to the activities they will undertake
- officers who move from one Competent Authority to another are subject to an appropriate competency assessment, which considers their previous experience, and assessments, and is relevant to the activities they will undertake
- officers receive the necessary learning and development to address any deficiencies highlighted in their competency assessment

3.2.4.1 Competency assessment

To undertake an appropriate competency assessment Competent Authorities should:

- verify the educational background, certifications and/or qualifications held by the officer
- identify the activities and sub-activities relevant to the officer's role and activities they will be authorised to undertake
- assess whether the officer can demonstrate competency against a defined and documented competency standard for each activity or sub-activity they will undertake
- identify the officer's learning and development needs related to their competence which can be used to inform their personal development plan as well as training and other CPD priorities
- implement necessary training programs and provide access to necessary learning and development opportunities, supervised by a lead food officer or another competent officer, to address any deficiencies highlighted in the competency assessment

Competent Authorities should also:

- use the competency assessment to determine, restrict and/or amend an officer's authorisation
- include an appropriate competency assessment in a regular cycle of performance review or appraisal

3.3 Training and other Continuing Professional Development

Competent Authorities must ensure that officers, including lead food officers:

- keep up to date their competency for the activities they are authorised to undertake, and receive regular additional training, as necessary²⁹
- receive training on subject matters set out in chapter I of annex II of Regulation (EU) 2017/625 and on the obligations of the Competent Authority resulting from this regulation, relevant to the activities they undertake³⁰

Competent Authorities should ensure that:

- training and other CPD is informed by:
 - an officer's competency assessment, and addresses any areas identified where competence falls short of that required to perform their current role or to extend their authorisation to include new activities
 - the role and the activities that the officer is authorised to undertake
 - the Competent Authorities training programme
- the amount of training and CPD officers and lead officers receive is:
 - proportionate to their role and the activities they are authorised to undertake
 - informed by their competency assessment
 - reviewed and updated on an annual basis

3.4 Officers undertaking import controls at Border Control Posts

3.4.1 Import controls on products of animal origin at BCPs

3.4.1.1 Official Fish Inspectors

If the approval for the BCP permits the importation of any fishery products, aquatic invertebrates, live bivalve molluscs, live echinoderms, live tunicates, and live marine gastropods intended for human consumption, the Competent Authority can appoint the following to be official fish inspectors for that post in relation to such products:

- suitably trained environmental health officers
- other persons who are appropriately trained to perform official controls or certain tasks related to other official activities

²⁹ Article 5(4)(b) of Regulation (EU) 2017/625

³⁰ Article 5(4)(c) of Regulation (EU) 2017/625

Before appointing an officer as an official fish inspector, Competent Authorities should ensure the officer can demonstrate that they are competent to undertake the activities relevant to their authorisation.

3.4.1.2 Documentary checks and identity checks

Competent Authorities can authorise officers to undertake documentary and identity checks on animals, POAO, germinal products, or animal by-products.

Before authorising an officer to undertake these documentary and identity checks, Competent Authorities should ensure the officer can demonstrate that they are competent to undertake the activities relevant to their authorisation.

3.4.1.3 Physical checks

Competent Authorities may designate officers to undertake physical checks on³¹:

- aquatic animals
- other POAO (except meat and edible meat offal)
- germinal products
- animal by-products

Competent Authorities may also designate officers to assist official veterinarians with physical checks on³²:

- animals (other than those aquatic animals listed above)
- meat and edible meat offal

Before designating an officer to undertake these physical checks, Competent Authorities should ensure the officer can demonstrate that they are competent to undertake the activities relevant to their authorisation.

3.4.1.4 Decisions on consignments of products of animal origin

Competent Authorities must ensure that decisions on consignments of animals, POAO, germinal products or animal by-products are taken by an official veterinarian³³.

Decisions on fishery products, aquatic invertebrates, live bivalve molluscs, live echinoderms, live tunicates, and live marine gastropods intended for human consumption can be taken by an official fish inspector³⁴.

³¹ Article 49(2)(b) of Regulation (EU) 2017/625

³² Article 49(2)(a) of Regulation (EU) 2017/625

³³ Article 55(2)(a) Regulation (EU) 2017/625

³⁴ Article 55(3) of Regulation (EU) 2017/625

3.4.2 Officers undertaking import controls on products not of animal origin at BCPs

Competent Authorities should ensure officers undertaking official controls (or certain tasks related to other official activities) at BCPs on the following imported products not of animal origin meet the authorisation provisions in section 3.2.2:

- high-risk food not of animal origin
- goods subject to an emergency measure
- specified conditions or measures
- high-risk food contact materials

3.4.3 Training programme for officers undertaking or assisting with physical checks on products of animal origin at BCPs

Where officers are designated to undertake or assist with physical checks on imported POAO at BCPs, Competent Authorities must:

- ensure the officers have successfully completed a programme of training provided for in article 3 of Commission Delegated Regulation (EU) 2019/1081³⁵
- develop and arrange the training programme to³⁶:
- ensure physical checks are performed with the necessary level of technical competence and expertise
- be both theoretical and practical¹¹
- keep records of the training programme for each officer, including the dates, duration, programme description, and, where appropriate, certificates evidencing successful completion of the training programme³⁷

When developing the training programme Competent Authorities must ensure that the content of the programme:

- is determined according to the animals and goods for which the BCPs are designated and the tasks and responsibilities to which the officers are assigned³⁸
- covers the following subjects³⁹, as appropriate:
 - applicable law concerning the entry into Great Britain (GB) of animals and goods, including procedures and activities to be carried out during and after physical checks
 - general principles of examination of animals

³⁵ Article 2(1) of Commission Delegated Regulation (EU) 2019/1081

³⁶ Article 2(2) of Commission Delegated Regulation (EU) 2019/1081

³⁷ Article 2(3) of Commission Delegated Regulation (EU) 2019/1081

³⁸ Article 3(1) of Commission Delegated Regulation (EU) 2019/1081

³⁹ Article 3 of Commission Delegated Regulation (EU) 2019/1081

- examination of the fitness to travel of animals
- practical aspects of the handling of animals in line with applicable law, including arrangements to prevent or reduce delays at BCPs and, where necessary, to feed, water, unload and accommodate the animals
- sensorial examination of goods
- examination of the means of transport and the transport conditions, including the management of temperature-sensitive goods (cold chain) and the transport of animals
- identification of animal species, including, when appropriate, identification of invasive alien species introduced via animals and goods
- control procedures, concerning the use of equipment, the implementation of monitoring plans and sampling procedures and laboratory analysis, about animals and animal and public health aspects
- methods for the interpretation of laboratory test results and related decisions in accordance with the requirements of applicable law
- risk assessment, including data gathering in relation to animal and public health in order to carry out appropriately targeted physical checks
- prevention of cross-contamination and compliance with relevant biosecurity standards
- labelling requirements for POAO
- investigations and control techniques aimed at detecting fraudulent or deceptive practices in trade

Chapter 4 Delivery of Official Controls

4.1 Introduction

Chapter 4 deals with:

- the delivery of official controls, other official activities and activities related to these, such as non-official controls

4.2 Frequency of official controls

Competent Authorities must ensure they perform official controls on all operators regularly, on a risk basis and with appropriate frequency, taking account of⁴⁰:

- identified risks associated with:
 - animals and goods
 - the activities under the control of operators
 - the location of the activities or operations of operators
 - the use of products, processes, materials, or substances that may influence food safety, integrity and wholesomeness, or feed safety, animal health or animal welfare, plant health or, in the case of genetically modified organisms (GMOs) and plant protection products, that may also have an adverse impact on the environment
- any information indicating the likelihood that consumers might be misled, in particular as to the nature, identity, properties, composition, quantity, durability, country of origin or place of provenance, method of manufacture or production of food
- operators' past record as regards the outcome of official controls performed on them and their compliance with applicable food law
- the reliability and results of own controls that have been performed by the operators, or by a third party at their request, including, where appropriate, private quality assurance schemes, for the purpose of ascertaining compliance with applicable food law
- any information that might indicate non-compliance with applicable food law

4.2.1 Food hygiene

This section does not apply to establishments operating at the level of primary production (which are covered at section 4.2.3) but does apply to food business establishments subject to the requirements of Regulation No (EU) 210/2013 on the approval of establishments producing sprouts.

Competent Authorities should ensure that:

⁴⁰ Article 9(1) of Regulation (EU) 2017/625

- the minimum frequency of official controls for food business establishments in their area is determined using the food hygiene intervention rating scheme (Annex 1)
- where a food business establishment falls into more than one scoring category for a scoring factor, they are allocated the highest score of those that are applicable

4.2.2 Food standards

Competent Authorities should ensure that:

- the minimum frequency of official controls for food business establishments in their area is determined using the food standards intervention rating scheme (annex 1)
- where a food business establishment falls into more than one scoring category for a scoring factor, they are allocated the lowest score of those that are applicable

4.2.3 Primary Production

In determining the frequency of official controls at establishments operating at the level of primary production, Competent Authorities should prioritise official controls by making best use of any information or intelligence that might indicate:

- consumers are being misled
- non-compliance with relevant food law

4.2.4 Initial official controls

This section, and sub-sections 4.2.4.1, 4.2.4.2 and 4.2.4.3, apply:

- to new food business establishments that come to the attention of the Competent Authority for the first time
- to food business establishments that have no historical risk-rating
- where there is a change in FBO

This section, and sub-sections 4.2.4.1, 4.2.4.2 and 4.2.4.3, do not apply to establishments:

- subject to approval under Regulation (EC) No 853/2004 or the requirements of Regulation (EU) No 210/2013 on the approval of establishments producing sprouts, which should receive an initial on-site visit as soon as practicable
- operating at the level of primary production

4.2.4.1 Initial desktop assessment

Competent Authorities should:

- within 28 days of registration of a new food business establishment, or from when the Competent Authority becomes aware that the establishment is in operation, whichever is the sooner, undertake, as appropriate, an initial desktop assessment of the:

- potential hazard (from part 1 of the food hygiene scoring system in annex 1)
- inherent risk (from the food standards scoring system in annex 1)
- use information supplied by the FBO when registering their food business establishment, and any other information deemed relevant, to determine the potential hazard (food hygiene) and/or the likely level of inherent risk (food standards) associated with the business
- prioritise initial official controls of new food business establishments, so that those at establishments with a lower potential hazard (food hygiene) and/or lower inherent risk (food standards) do not cause undue delays to the delivery of initial or due official controls at higher risk and/or non-compliant establishments

4.2.4.2 Food hygiene

Competent Authorities should, based on the initial desktop assessment of an establishment's potential hazard, ensure that initial official controls are undertaken within the frequencies set out in the table below:

Potential hazard score	Timescales to undertake initial official control	Appropriate methods and techniques of official controls
30 – 97	Initial official control undertaken within 28 days of the establishment commencing operations, or from the initial desktop assessment being carried out, whichever is the sooner	A physical inspection or audit (whether full or partial)
5 – 29	Initial official control undertaken, on a risk basis, within 3 months of the establishment commencing operations, or from the initial desktop assessment being carried out, whichever is the sooner	Any method and technique of official control (individually or a combination thereof), provided for in article 14 of Regulation (EU) 2017/625, whether undertaken physically or remotely, as long as they: <ul style="list-style-type: none"> • are effective and appropriate in the circumstances • verify compliance with relevant food law • enable validation of the desktop assessment Official controls should not be conducted remotely where a competent authority is

Potential hazard score	Timescales to undertake initial official control	Appropriate methods and techniques of official controls
		legally required to provide a food hygiene rating to an establishment.

Where Competent Authorities become aware that a business is trading, but not registered, an initial official control should be undertaken within the above timescales, starting from the date they became aware of the establishment.

4.2.5 Due official controls

Competent Authorities should ensure that:

- based on the frequencies in the food hygiene and food standards scoring systems, set out in annex 1, official controls and non-official controls of existing businesses are undertaken within 28 days of their due date
- official controls at higher risk and/or non-compliant businesses, or those that are likely to be high-risk, take priority over official controls at those which are lower risk and/or compliant
- where information or intelligence suggests the nature of an FBO's activities, or the level of compliance has changed, they reconsider the appropriateness of the next due official control for that establishment, and determine whether it is appropriate to undertake an official control sooner

4.2.6 Revision of intervention ratings

Competent Authorities should ensure that their officers:

- only revise the intervention rating of a food business establishment in the following circumstances:
 - for food hygiene - at the conclusion of an official control where appropriate and effective methods and techniques have been used, taking into account sections 4.2.4.2, 4.3 and 4.3.1
 - for food standards - at the conclusion of an official control where appropriate and effective methods and techniques have been used, taking into account sections 4.2.4.3, 4.3 and 4.3.2
- have gathered sufficient information to justify the revision of the intervention rating
- when determining the food hygiene and/or food standards intervention rating:
 - use the full range of scores available within the relevant intervention rating scheme
 - consider information and intelligence supplied by third parties
- record the intervention rating and justification for its revision

4.3 Methods and techniques of official controls

When determining the appropriate and effective methods and techniques of official control⁴¹ to use, Competent Authorities must ensure the methods can verify compliance⁴² and identify non-compliance with relevant legislation⁴³.

Competent Authorities should also consider:

- the provisions of section 4.3.1 and/or 4.3.2
- the purpose of the official control
- which methods and techniques would be most effective and appropriate, in the circumstances
- the methods and techniques used previously, including whether undertaken physically or remotely
- whether officers are familiar with the establishment
- the track record of the establishment and any data, information or intelligence received about the establishment since the last official control
- whether the FBO is capable of receiving an official control remotely
- whether the technology used during an official control ensures confidentiality and security of business data

4.3.1 Food hygiene

This section does not apply to establishments:

- subject to approval under Regulation (EC) No 853/2004 or the requirements of Regulation (EU) No 210/2013 on the approval of establishments producing sprouts, which should receive a physical inspection or audit (whether full or partial) irrespective of the intervention rating
- operating at the level of primary production

Competent Authorities should ensure that officers, when undertaking due official controls in relation to food hygiene, take into account the table below:

Existing intervention rating for food hygiene	Appropriate methods and techniques of official controls
A or B	<ul style="list-style-type: none">• physical inspection or audit (whether full or partial)
C	<ul style="list-style-type: none">• non-broadly compliant establishments<ul style="list-style-type: none">– physical inspection or audit (whether full or partial)• broadly compliant establishments:

⁴¹ Article 14 of Regulation (EU) 2017/625

⁴² Article 2(1) of Regulation (EU) 2017/625

⁴³ Article 9(2) of Regulation (EU) 2017/625

Existing intervention rating for food hygiene	Appropriate methods and techniques of official controls
	<ul style="list-style-type: none"> - physical inspection or audit (whether full or partial) <p>Competent Authorities can, on an alternating basis, use any method and technique of official control (individually or a combination thereof), provided for in article 14 of Regulation (EU) 2017/625, whether undertaken physically or remotely</p>
D	<ul style="list-style-type: none"> • establishments scoring 30 or 40 for type of food and method of handling: <ul style="list-style-type: none"> - physical inspection or audit (whether full or partial) <p>Competent Authorities can, on an alternating basis, either use any method and technique of official control (individually or a combination thereof), provided for in article 14 of Regulation (EU) 2017/625, whether undertaken physically or remotely; or a non-official control, which can be undertaken physically or remotely</p> • establishments scoring 5 or 10 for type of food and method of handling: <ul style="list-style-type: none"> - any method and technique of official control (individually or a combination thereof), provided for in article 14 of Regulation (EU) 2017/625, whether undertaken physically or remotely <p>Competent Authorities can, on an alternating basis, use a non-official control, which can be undertaken physically or remotely</p>
E	<ul style="list-style-type: none"> • any method and technique of official control (individually or a combination thereof), provided for in article 14 of Regulation (EU) 2017/625, whether undertaken physically or remotely <p>Competent Authorities can, on an alternating basis, use a non-official control, which can be undertaken physically or remotely</p>

4.3.2 Food standards

Competent Authorities should ensure that officers, when undertaking due official controls in relation to food standards, use effective and appropriate methods and techniques, as set out in the table below:

Intervention rating for food standards	Appropriate methods and techniques of official controls
Priority intervention	<ul style="list-style-type: none"> physical inspection or audit (whether full or partial)
All other establishments	<ul style="list-style-type: none"> any method and techniques of official control (individually or a combination thereof), provided for in article 14 of Regulation (EU) 2017/625, whether undertaken physically or remotely

4.3.3 Sampling, analysis and examination

This section applies to food samples procured under regulation 12 of The Food Hygiene (Wales) Regulations 2006 or section 29 of the Food Safety Act 1990, and the associated requirements of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013.

This section does not apply to samples of food:

- that are the subject of a complaint and are brought to the Competent Authority by consumers or other agencies
- that are submitted to the Public Analyst for monitoring or surveillance purposes alone, where there is no intention at the time of sampling that any formal enforcement action will ensue from the result
- procured in accordance with food law, but are not taken for analysis or examination, for example, samples submitted for the opinion of other experts such as pest identification
- that are taken as evidence

4.3.3.1 Procurement of samples

All samples that are taken by authorised officers and sent to an official laboratory constitute official control samples.

Competent Authorities may procure samples either by ‘purchasing’ or ‘taking’ them⁴⁴.

When procuring samples, Competent Authorities must:

- as soon as reasonably practicable, give the owner notice that the sample will be analysed or examined⁴⁵
- when they are in possession of a sample ordered by means of distance communication (such as on-line), where they have not identified themselves, take all steps to ensure the FBO from whom the samples have been ordered

⁴⁴ Section 29 of the Food Safety Act 1990 and regulation 12 of The Food Hygiene (Wales) Regulations 2006

⁴⁵ Regulation 7(3)(c) and 9(c)(ii) of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013

are informed the sample has been taken and, where appropriate, that it is to be analysed or tested⁴⁶

- ensure FBOs whose animals or goods are subject to sampling, analysis, test, or diagnosis, in the context of official controls, have the right to a second expert opinion, at the FBOs own expense⁴⁷

Competent Authorities should:

- assess whether to purchase or take samples, and consider what to sample, particularly in food manufacturing, packing and catering businesses
- prevent contamination of samples
- maintain, and record, continuity of evidence and traceability of samples at all stages, including the handling, storage and transport of the sample to the laboratory
- record the method of despatch to the laboratory, and if posted, retain proof of posting
- notify other interested parties (such as the manufacturer, packer, importer or agent) in writing of the sample being procured, unless their identity is not available, or their address is outside the UK
- meet all reasonable requests from manufacturers or importers to provide information on:
 - the selection of the sample
 - the sampling method
 - the method of microbiological examination or chemical analysis

4.3.3.2 Samples for analysis

Where samples have been procured under section 29 of the Food Safety Act 1990, which an authorised officer considers should be analysed, Competent Authorities must ensure that:

- the samples are submitted to an appointed Public Analyst⁴⁸
- the samples are divided into three parts, unless the⁴⁹:
 - sample consists of sealed containers and opening them would, in the opinion of the officer, impede a proper analysis
 - officer is of the opinion that division of the parts is not reasonably practicable or likely to impede a proper analysis

⁴⁶ Article 36(2)(a) of Regulation (EU) 2017/625

⁴⁷ Article 36(2)(b) of Regulation (EU) 2017/625

⁴⁸ Section 30(1) of the Food Safety Act 1990

⁴⁹ Regulation 7(1), 7(2) and 7(4) of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013

- each part of the sample is, if necessary, placed in a suitable container and each container sealed⁵⁰
- each part or container is marked or labelled⁵¹
- where the sample has been divided into three parts one part⁵²:
 - of the sample is given to the owner as soon as reasonably practicable
 - is submitted for analysis
 - is retained
- the certificate of analysis is in the format set out in schedule 3 of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013, but this can be adapted as circumstances reasonably require⁵³
- the owner of the food sampled is, on request, supplied with a copy of the certificate of analysis⁵⁴

Competent Authorities should ensure that:

- the laboratory of the Public Analyst is accredited for the purposes of analysis and is an official laboratory
- samples taken for analysis are divided into three representative parts, as soon as possible, unless the sample meets the criteria for submission for analysis without division
- the procedure for taking samples without dividing into representative parts is used with caution, as there would be no part for the seller/owner, or a part retained
- where practicable, the division is carried out in the establishment of the FBO, and if the FBO is present, they are given the opportunity to observe the sampling and division before being invited to choose one of the parts for retention
- the nature and quantity of a sample taken for analysis is such that, after division into three parts, it would still be sufficient to enable the required analysis to be undertaken
- national sampling protocols are considered, where they exist
- the parts of the sample are sealed in such a way that they cannot be tampered with and that tamper-evident seals are used
- the parts of the sample are labelled with the:

⁵⁰ Regulation 7(3)(a) of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013

⁵¹ Regulation 7(3)(b) of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013

⁵² Regulation 7(3)(c), 7(3)(d) and 7(3)(e) of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013

⁵³ Regulation 10(2) of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013

⁵⁴ Regulation 10(1) of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013

- type of food sample
 - name of the officer
 - exhibit identification number
 - date, place and time of sampling
- a copy of the food label (if available) and any other relevant details are submitted to the Public Analyst when submitting the sample
 - the parts of the sample are stored and transported appropriately to ensure their integrity, and the relevant part is submitted to the Public Analyst as soon as practicable after sampling
 - where, following receipt of the results, it is suspected that an offence is related to the manufacturer, they are informed of the results as soon as possible, through the most effective means, along with other relevant Competent Authorities. However, the release of the certificate can be delayed where its release might compromise the investigation

4.3.3.3 Samples for examination

Where samples have been procured under regulation 12 of The Food Hygiene (Wales) Regulations 2006, which an authorised officer considers should be examined, Competent Authorities must ensure that the:

- samples are submitted to a Food Examiner⁵⁵ as soon as reasonably practicable⁵⁶
- sample is, if necessary, placed in a suitable container and each container sealed⁵⁷
- sample or container is marked or labelled⁵⁸
- certificate of examination is in the format set out in schedule 3 of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013, but this can be adapted as circumstances reasonably require⁵⁹
- owner of the food sampled is, on request, supplied with a copy of the certificate of examination⁶⁰

Competent Authorities should ensure that:

- the laboratory of the Food Examiner is accredited for the purposes of examination and is an official laboratory

⁵⁵ Regulation 13(1)(b) of The Food Hygiene (Wales) Regulations 2006

⁵⁶ Regulation 9(c)(i) of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013

⁵⁷ Regulation 9(a) of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013

⁵⁸ Regulation 9(b) of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013

⁵⁹ Regulation 10(2) of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013

⁶⁰ Regulation 10(1) of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013

- the quantity of any sample procured is such to enable a satisfactory examination to be made
- the sample is sealed in such a way that it cannot be tampered with and that tamper-evident seals are used
- the sample is not contaminated by the sampling officer
- the parts of the sample are labelled with the:
 - name of the food
 - name of the officer
 - name of the Competent Authority
 - place of sampling
 - date and time of sampling
 - identification number
- a copy of the food label (if available) and any other relevant details are submitted to the Food Examiner when submitting the sample
- the sample is handled, stored and transported appropriately to ensure:
 - its integrity
 - that, as far as possible, it reaches the laboratory in a condition microbiologically unchanged from that existing when the sample was taken
 - the sample is not contaminated, and microbial growth or death is avoided
- the temperature of transport is monitored and recorded, with a calibrated thermometer or similar device being used for monitoring
- where, following receipt of the results, it is suspected that an offence is related to the manufacturer, they are informed of the results as soon as possible, through the most effective means, along with other relevant Competent Authorities. However, the release of the certificate can be delayed where its release might compromise the investigation
- when investigating reported or suspected cases of foodborne illness and obtaining faecal specimens, the specimens are collected and transported to the laboratory as soon as possible after the onset of symptoms, with relevant individual's details included on the container and on any accompanying documentation

4.4 Delivery of official controls and other official activities

Competent Authorities must ensure:

- they perform official controls regularly, with appropriate frequencies determined on a risk basis, to identify possible intentional violations of applicable food law, perpetrated through fraudulent or deceptive practices, and taking into account information regarding such violations shared by other Competent Authorities and any other information pointing to the possibility of such violations⁶¹

⁶¹ Article 9(2) of Regulation (EU) 2017/625

- official controls are performed without prior notice, except where notice is necessary and duly justified for the control to be undertaken⁶²
- official controls are performed, as much as possible, in such a manner that the administrative burden and operational disruption for FBOs are kept to the minimum necessary, but without negatively affecting the effectiveness of controls⁶³
- that officers, when performing their duties in the context of official controls and other official activities, comply with the confidentiality obligations in article 8 of Regulation (EU) 2017/625
- they perform official controls in the same manner, while taking account of the need to adapt the controls to the specific situation, irrespective of whether the animals and goods concerned are being imported, exported, or placed on the market in GB ⁶⁴
- official controls are performed with a high level of transparency⁶⁵
- that where they suspect an establishment is non-compliant, they perform an investigation in order to confirm or to eliminate that suspicion⁶⁶

When undertaking official controls, Competent Authorities should ensure that their officers:

- plan for the official control by reviewing information held on record by the Competent Authority in relation to the relevant food business establishment
- establish all of the food related activities undertaken by the business and the relevant food law that applies to the operations taking place, including any relevant changes since the last official control
- identify any areas of the establishment used for the preparation, production, storage and transport of foodstuffs, and any processes used, including the staff involved
- ensure the FBO (or representative) is aware of the purpose of the official control and what the officer intends to do
- assess hazards posed by the activities undertaken by the business and the risk of the business failing to meet the requirements of food law
- use professional judgement to determine what activities, at a food business establishment, are examined during an official control, to provide assurances that the relevant requirements of food law are being met
- assess, where relevant, the food safety management system and its implementation
- gather and record information from:
 - observations, examinations, and discussions with the FBO and/or their employees, to enable compliance with relevant food law to be verified

⁶² Article 9(4) of Regulation (EU) 2017/625

⁶³ Article 9(5) of Regulation (EU) 2017/625

⁶⁴ Article 9(6) of Regulation (EU) 2017/625

⁶⁵ Article 11(1) of Regulation (EU) 2017/625

⁶⁶ Article 137(2) of Regulation (EU) 2017/625

- observation of practices, procedures and processes, including, where relevant, procedures based on HACCP principles
- question staff, who have been given specific responsibilities for ensuring compliance with relevant legal requirements, in order to verify they understand their duties and are carrying them out effectively
- offer advice, where it is appropriate or is requested, and encourage FBOs through an educative approach to adopt good practice
- consider cross-contamination, including any allergen-related contamination identified in preparing food specifically for consumers with a food allergy or intolerance and ensure it complies with relevant allergen management legislation
- consider imported food controls when undertaking official controls at inland establishments, including whether they comply with relevant imported food requirements
- identify any actual or potential breaches of food law, determine the action to take, including, where necessary, enforcement action and, if appropriate, gather and preserve evidence of non-compliance
- discuss any non-compliances identified with the FBO (or representative) including:
 - any corrective action necessary
 - the timescale for corrective action
 - any further action the officer intends to take
 - any recommendations of good practice that the officer considers appropriate

4.4.1 Delivery of official controls on ships and aircraft

This section applies to official controls delivered on ships and aircraft. It does not apply to:

- fishing vessels operating at the level of primary production
- vessels which are subject to approval under Regulation (EC) No 853/2004

4.4.1.1 General

When undertaking official controls of ships and aircraft, in addition to considering section 4.4, Competent Authorities should ensure that:

- officers obtain appropriate security clearance prior to official controls taking place
- officers consider the origin of the food on board, including water and other drinks, as well as how they are transported and loaded
- when serving notices, officers contact the management company or the handling/shipping agent, and if considered necessary in relation to ships, the maritime and coastguard
- they adopt a strategy for frequency of official controls, based on knowledge about different types of craft, their origin and history

- officers obtain all relevant information from the other relevant parties, such as, the shipping operator, airline, or shipping agent, as appropriate, prior to the official control taking place
- only military aircraft used for 'air trooping' are included in the official control programme

4.4.1.2 Official controls of ships

When undertaking official controls of ships, in addition to considering sections 4.4 and 4.4.1.1, Competent Authorities should ensure that:

- the decision to undertake an official control of a ship for food safety purposes, and the frequency, is based upon the following criteria:
 - whether the food operation serves members of the public (whether paying or not)
 - whether the vessel has its home port in the UK
- account is taken of any available data-sharing facility with reference to historical evidence of non-compliance
- officers consider the range and variety of vessels when planning official controls
- where an official control is undertaken at the same time as controls for ship sanitation purposes, the authorised officer:
 - is clear where the separate requirements begin and end
 - clearly differentiates the findings from each to the master of the vessel
- officers determine the scope of the food business activities taking place on the vessel and use professional judgement to determine what activities are examined during an official control, to provide assurances that the relevant requirements of food law are being met
- the ship's master (or appropriate officer in control):
 - is aware of the purpose of the official control
 - has been involved with discussions as to the findings of the official control and given an indication of expected timescales for any corrective actions
 - is provided an inspection certificate before the officer leaves the vessel, or if not possible before the ships departure, forward the documents on
- the ship's owner, as well as other relevant Competent Authorities and agencies are notified in writing of the outcome of the official control including, where appropriate:
 - Welsh Government
 - the port health authority at the next intended port of call, if in UK
 - the relevant home Competent Authority, if designated, where any non-compliances are identified

4.4.1.3 Official controls of aircraft

When undertaking official controls of aircraft, in addition to considering sections 4.4 and 4.4.1.1, Competent Authorities should ensure that:

- they obtain relevant information about the airline and aircraft to determine whether to undertake an official control
- liaise with the airline and/or other relevant Competent Authorities to gain an understanding of how food safety controls are operated on aircraft and enable officers to verify food safety systems
- where documentary checks on the information provided causes any concerns, or if there is any uncertainty as to the information provided by cabin staff, the relevant head office and/or relevant Competent Authority are notified, and, where appropriate, increased surveillance is considered
- the decision to undertake an official control of an aircraft takes into account:
 - any information provided by the airline
 - confirmation of the authenticity of the information
 - the receipt of any food or food hygiene related complaints from passengers or crew
 - whether there have been reported outbreaks of foodborne illness affecting the crew of the aircraft
- based on the information provided, official controls of aircraft providing high-risk meals take place every 18 months to two years, unless there are compelling reasons to undertake them sooner
- where an official control is undertaken on board an aircraft, officers use professional judgement to determine what activities are examined, to provide assurances that the relevant requirements of food law are being met
- if flights are in transit, official controls are only undertaken if absolutely necessary
- the airline and, where appropriate, other relevant Competent Authorities are notified in writing:
 - of the outcome of the official control
 - about any non-compliances identified, including details on type of aircraft and flight number, to enable any necessary follow-up action to be taken

4.5 Non-official controls

Competent Authorities must ensure that where they suspect an establishment is non-compliant, they perform an investigation in order to confirm or to eliminate that suspicion⁶⁷.

⁶⁷ Article 137(2) Regulation (EU) 2017/625

When undertaking non-official controls (such as: providing advice, education or training; or information and intelligence gathering), and significant non-compliances are identified that present a risk to public health, Competent Authorities should:

- undertake an official control using, in the circumstances, the most effective and appropriate methods and techniques to verify compliance with relevant food law
- where necessary, take appropriate enforcement action in line with the Competent Authority's enforcement policy

4.6 Records of official controls and non-official controls

Competent Authorities must draw up written records of every official control that they undertake. Those records may be on paper or in electronic form and must contain⁶⁸:

- a description of the purpose of the official control
- the method and techniques of official control undertaken
- the outcome of the official control
- where appropriate, the action that the Competent Authority requires the FBO to take as a result of the official control

Competent Authorities must⁶⁹:

- promptly inform the FBO in writing of any case of non-compliance identified through the official control
- when requested, provide a copy of the written record to the FBO, except where:
 - enforcement action or court proceedings require otherwise
 - an official certificate or official attestation has been issued

Competent Authorities should ensure that their officers:

- clearly differentiate between action required to comply with legal requirements and recommendations of good practice
- draw up written records of every non-official control that they undertake, which may be on paper or in electronic form
- use relevant template forms, where adopted, and complete in full
- record sufficient information to indicate:
 - what was (and was not) examined/assessed
 - how compliance with relevant food law is achieved at the food business establishment
 - any non-compliances identified, corrective action necessary and timescales for this

⁶⁸ Article 13(1) of Regulation (EU) 2017/625

⁶⁹ Article 13(2) of Regulation (EU) 2017/625

- the details that were used to determine the risk-rating
- the rationale for any action taken and/or for not taking action
- the rationale for the methods and techniques used
- ensure the records of official controls include:
 - details of the officer undertaking the official control
 - Competent Authority details
 - food business details
 - details of the official control undertaken
 - administrative details
- provide a copy of the written record to the FBO following an official control
- update management information systems as soon as practicable following an official control or a non-official control
- when leaving documentation with on-site personnel (or sending it electronically), also send a copy to the relevant head office, or other address, unless the head office indicates otherwise

4.7 Import controls

4.7.1 Imported food procedures

Competent Authorities must have procedures and/or arrangements in place to ensure the effectiveness and appropriateness of official controls and other official activities⁷⁰.

Competent authorities should:

- set up, implement and maintain arrangements to effectively deal with illegally introduced POAO and ensure that:
 - officers are properly authorised
 - template notices are available
 - effective mechanisms for sampling or examination are in place
 - arrangements are in place for transport, storage and destruction of POAO by high temperature incineration
- ensure the official control programme:
 - includes imported food and considers all food businesses within their area that routinely import or sell food from outside GB
 - is informed by Food Alerts and food business establishments compliance history

⁷⁰ Article 5(1)(a) of Regulation 2017/625

- identify all food business in their area which import food and record the following details on their management information system:
 - the relevant activities undertaken
 - the type of foods imported
 - the origin of foods imported

Where a Competent Authority oversees a point of entry such as seaports, airports, ETSFs and/or international rail terminals they should:

- set up, implement, and maintain documented procedures on the arrangements in place to identify imported food
- be aware of the volume and nature of foods entering through the point of entry
- maintain up to date information about points of entry in their area
- where appropriate, put arrangements in place to obtain/gain access to airline manifest documents that are then checked frequently
- in relation to seaports, where enquiries with the port operator indicate food is imported:
 - check 100% of ships' manifests for imported food until shown no food imported for a continuous period of three months and further imports not reasonably foreseeable
 - check status of food imports at least once every three months

4.7.2 Monitoring of consignments

4.7.2.1 Animals and goods subject to official controls at border control posts

Competent Authorities must:

- ensure official controls on consignments of the categories of animals and goods referred to in article 47 of Regulation (EU) 2017/625 upon the goods entering GB in accordance with articles 47 to 64 of Regulation (EU) 2017/625⁷¹
- ensure the official controls include documentary checks, identity checks and physical checks⁷²
- in the event of suspicion of non-compliance, and of non-compliance, of animals and goods entering GB⁷³:
 - perform official controls to confirm or to eliminate that suspicion
 - take appropriate measures and follow-up decisions in cases of non-compliant consignments

⁷¹ Article 43 of Regulation (EU) 2017/625

⁷² Articles 49 and 54 of Regulation (EU) 2017/625

⁷³ Articles 65 to 72 of Regulation (EU) 2017/625

- collect fees for official controls undertaken on imported food not of animal origin listed in points (d), (e) and (f) of article 47(1) of Regulation (EU) 2017/625, in accordance with articles 81 and 82 of those regulations⁷⁴.

Competent Authorities should:

- ensure that, where available, information relating to the number and type of food consignments is maintained, together with relevant information on the checks made to determine compliance with legal requirements
- retain the following for up to three years:
 - records of sampling checks
 - records relating to emergency controls
 - the common health entry document (CHED)
 - the original of each non-GB country's health certificate or any document required to accompany a consignment and is subject to checking, for example results of analysis
- retain submission forms for samples sent to laboratories for examination/analysis for a period of one year
- in addition to the reference sample required by The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013, give the owner, importer, or importer's agent a receipt for, or a record of, all samples taken and a copy of the results in the case of non-compliance

Where the BCP is designated for certain higher risk commodities, Competent Authorities should also:

- have access to facilities where imported food inspection can be carried out and arrangements for storage of detained/seized goods
- maintain equipment for carrying out inspections and sampling of imported food
- maintain details of appointed and specialist laboratories for analysis and/or examination of samples, who are able to provide an appropriate service

4.7.2.2 Animals and goods other than those subject to official controls at BCPs

Competent Authorities must:

- perform official controls regularly, on a risk basis, and with appropriate frequency, on animals and goods entering GB to which article 47 of Regulation (EU) 2017/625 does not apply⁷⁵
- ensure that, where risk-based official controls are undertaken, they:

⁷⁴ Article 79 of Regulation (EU) 2017/625

⁷⁵ Article 44(1) of Regulation (EU) 2017/625

- always include a documentary check⁷⁶
- include identity checks and physical checks depending on the risk to human, animal or plant health, animal welfare or, as regards GMOs and plant protection products, also to the environment⁷⁷
- ensure they carry out physical checks under appropriate conditions allowing investigations to be conducted properly⁷⁸
- ensure official controls are performed at an appropriate place within the UK, including⁷⁹:
 - the point of entry into GB
 - a BCP
 - the point of release for free circulation in GB
 - the warehouses and the premises of the operator responsible for the consignment
 - the place of destination
- ensure where documentary checks, identity checks or physical checks show that animals and goods do not comply with the rules referred to in article 1(2) of Regulation (EU) 2017/625, they take enforcement action in accordance with articles 66 to 70, 71, 72, 137 and 138 of Regulation (EU) 2017/625⁸⁰
- in the event of suspicion of non-compliance, and of non-compliance, of animals and goods entering GB, perform official controls to confirm or to eliminate that suspicion, and take appropriate measures and follow-up decisions in cases of non-compliant consignments⁸¹

Competent Authorities must also ensure the appropriate frequency of the official controls is determined, taking into account⁸²:

- the risks to human, animal or plant health, animal welfare or, as regards GMOs and plant protection products, also to the environment, associated with different types of animals and goods
- any information indicating the likelihood that consumers might be misled, in particular as to the nature, identity, properties, composition, quantity, durability, country of origin or place of provenance, method of manufacture or production of goods
- the history of compliance of the:

⁷⁶ Article 45(1)(a) of Regulation (EU) 2017/625

⁷⁷ Article 45(1)(b) of Regulation (EU) 2017/625

⁷⁸ Article 45(2) of Regulation (EU) 2017/625

⁷⁹ Article 44(3) of Regulation (EU) 2017/625

⁸⁰ Article 45(3) of Regulation (EU) 2017/625

⁸¹ Articles 65 to 72 of Regulation (EU) 2017/625

⁸² Article 44(2) of Regulation (EU) 2017/625

- third country and establishment of origin or place of production, as appropriate
- exporter
- operator responsible for the consignment
- the controls that have already been performed on the animals and goods concerned
- the guarantees that the Competent Authorities of the third country of origin have given, with regard to compliance of the animals and goods with the requirements established by the rules referred to in article 1(2) of Regulation (EU) 2017/625 or with requirements recognised to be at least equivalent thereto

Competent Authorities should, when considering frequency of official controls, put risk-based planned arrangements in place, and review and analyse information gathered, including consideration of:

- the quantity of consignments entering the port (particularly if material has not been seen before or only infrequently)
- any issues regarding the reliability of any checks that may have already been carried out
- FSA sampling priorities
- previous knowledge of the product

Where there is no permanent Competent Authority presence, and it is not considered to be a point of entry for food, Competent Authorities should carry out checks, at least once every three months, on any food imported, to enable risk-based judgements to be made on the targeting of enforcement action and to ensure that emergency controls or restrictions on certain higher risk foods are being enforced.

4.7.2.3 Samples taken of animals and goods other than those subject to official controls at BCPs

Where samples on animals and goods are taken, Competent Authorities must⁸³:

- inform the operators concerned and, where appropriate, the customs authorities
- decide whether the animals or goods need to be detained pending the results of the analysis, test or diagnosis carried out, or whether they can be released provided that the traceability of the animals or goods is ensured

⁸³ Article 46 of Regulation (EU) 2017/625

4.7.3 Official controls on means of transport and packaging

Competent Authorities at BCPs and other points of entry into GB must perform official controls on the following whenever they have reason to believe that their entry may pose a risk to human or plant health, animal welfare, or as regards GMOs and plant protection products, also to the environment⁸⁴

- means of transport, including where empty
- packaging, including pallets

4.7.4 Liaison/referrals

When a Competent Authority becomes aware of a non-compliance, which may have implications for another Competent Authority, they must notify such information to that other Competent Authority without undue delay.⁸⁵ This would include inland Competent Authorities informing relevant Competent Authorities at points of entry where they identify issues with imported food, which are likely to be found in other imported consignments.

The Competent Authority receiving such notification must⁸⁶:

- acknowledge receipt of the notification without undue delay
- where notifying Competent Authority specifies, indicate within 10 working days from the date of receipt of the notification what investigations they intend to carry out, or the reasons why they consider no investigations are necessary
- where investigations are considered necessary, investigate the matter and inform the notifying Competent Authority without delay of the results and, where appropriate, of any action taken

Referrals to relevant inland Competent Authorities should be made where:

- points of entry identify situations where inland supervision of consignments is necessary and where checks at the point of entry reveal food safety or food standards concerns
- where the FSA receive information about illegally imported POAO

Competent Authorities making and receiving referrals should also maintain records of the referrals and details of any action taken.

⁸⁴ Article 44(4) of Regulation (EU) 2017/625

⁸⁵ Article 105(1) of Regulation (EU) 2017/625

⁸⁶ Article 105(2) of Regulation (EU) 2017/625

Chapter 5 Incidents, alerts, and food crime

5.1 Introduction

Chapter 5 deals with:

- food incidents, food hazards and Food Alerts
- how Competent Authorities are expected to respond and liaise, as appropriate, with other Competent Authorities, government departments, delegated bodies, FBOs, the FSA, other relevant agencies and countries outside the UK
- FSA's National Food Crime Unit (NFCU) and reporting food criminality

5.2 Food incidents and food hazards

5.2.1 Food Incidents

A 'food incident' is defined by the FSA as any event where, based on the information available, there are concerns about actual or suspected threats to the safety, quality or integrity of food that could require intervention to protect consumers' interests. Quality is considered to include food standards, authenticity, and composition.

Food incidents are split into two categories, which may overlap:

- hazardous incidents are incidents involving (or suspected to involve) a food hazard, or the condition of any food, with the potential to cause an adverse effect on the health or safety of consumers (including outbreaks of foodborne disease, infectious intestinal disease, and/or zoonotic diseases)
- non-hazardous incidents are incidents which do not have the potential to cause an adverse effect on the health or safety of consumers and/or animals, but may impact on the food or feed supply chain. These can include issues of quality, provenance, authenticity, composition, and the provision of food information.

Within each of these categories there may be elements of dishonest intent, which therefore indicate the potential presence of food/feed fraud or, when present at a greater scale, food crime.

5.2.2 Food hazards

A 'food hazard' is defined by the FSA as anything present in food with the potential to harm the consumer, either by causing illness or injury; these can be a biological, chemical, and/or physical agent.

Competent Authorities should categorise food hazards and notify the FSA where necessary, according to the following criteria:

- **Localised food hazard** – one in which the affected food is not distributed beyond the boundaries of the Competent Authority and is not deemed to be a serious localised food hazard. These should be dealt with locally by the Food

Authority, in conjunction with other relevant agencies and not be reported to the FSA by the Food Authority.

- **Serious localised food hazard** – one in which the affected food is not distributed beyond the boundaries of the Food Authority, but involves or may involve:
 - undeclared allergens, a serious anaphylaxis reaction requiring medical intervention as a result of allergens in food, hospitalisation, or death as a result of allergens in food
 - E. coli O157 or other Verocytotoxin-producing Escherichia coli (VTEC)
 - Clostridium botulinum
 - Salmonella typhimurium, Salmonella paratyphi, Salmonella enteritidis
 - Listeria monocytogenes
 - hazards that the Competent Authority considers significant because of, for example, an Incident Management Team/Outbreak Control Team has been established associated with the food, the vulnerability of the population likely to be affected, the numbers involved, the severity of the illness (hospitalisation) or any deaths associated with the incident

These should be notified by the Competent Authority to the FSA Incidents Team and other relevant agencies at the earliest opportunity, by the quickest available means and confirmed in writing on the [incident report form](#).

- **Non-localised food hazard** – one in which the affected food is distributed beyond the boundaries of the Food Authority. These should be notified by the Competent Authority to the FSA Incidents Team and other relevant agencies at the earliest opportunity, by the quickest available means, and confirmed in writing on the incident report form

Competent Authorities should seek the advice of the FSA if it is in doubt as to whether a food incident amounts to a food hazard.

5.3 Action by the Food Authority

5.3.1 Responses to pre-incident contact by the FSA

If the FSA's horizon-scanning functions identify a food safety issue which might impact the UK, the FSA may need to verify this by contacting the FBO directly to confirm if they have received any implicated product(s) or ingredients. Before contacting the business, the FSA will email the relevant Competent Authority to ask if they are content that contact is made.

5.3.2 Incidents involving more than one Food Authority

In accordance with the Food Authority's documented procedure(s) for food incidents and Food Alerts, Competent Authorities should discuss and agree a lead Competent Authority to take the lead for the investigation of incidents that require involvement of more than one Food Authority.

5.3.3 Food hazards assessment

5.3.3.1 General requirements

Once a food hazard has been identified, Competent Authorities should:

- immediately carry out an assessment to determine the likely scale, extent, and severity of the risk to public health or safety of the hazard, involving other agencies as appropriate
- appropriately categorise the food hazard(s) as a localised, serious localised or non-localised food hazard(s)
- if in doubt, contact the FSA Incidents Team to seek advice as to whether a food incident should be notified to the FSA

The assessment should include the following:

- the nature of the hazard
- the toxicity of the contaminant, the allergenicity of an undeclared ingredient/constituent, or the virulence and pathogenicity of the organism
- the type of injury which might be caused by a physical contaminant
- the population likely to be affected and its vulnerability
- the geographical spread of the hazard
- the likely quantity and distribution of the affected food in the food chain up to the point of consumption
- the ability and willingness of the producer or distributor to implement an effective withdrawal of the product
- the ability to identify accurately the affected batch(es) or lot(s)
- the accuracy and extent of records held by the producer or distributor
- the likely effectiveness of any trade withdrawal at all stages of the food chain
- the likely effectiveness of any consumer recall
- the stage(s) at which the fault is likely to have occurred (for example in processing, packaging, handling, storage, or distribution) and its likely significance to the problem
- whether other products produced in the same establishment may have been affected
- whether the affected food has been imported
- whether any of the affected food has been exported
- whether there are wider implications for others in the same industry or for establishments using similar processes in other food industries

- the possibility that a malicious or fraudulent act has caused the complaint or problem
- whether the root cause of the incident or hazard is known, and corrective action taken to avoid recurrence.

When a Competent Authority becomes aware of a food hazard, it should take action to protect public health and safety at the earliest opportunity, and notify the FSA via the FSA Incidents Team, and other relevant agencies, by the quickest available means, if an FBO in their area has withdrawn or recalled food from the market in accordance with article 19 of Regulation (EC) No 178/2002 due to non-compliance with the food safety requirements of that Regulation. The Competent Authority should, if necessary:

- detain or seize the food concerned if it is located within the Food Authority's area
- consider the use of other powers as appropriate, relevant to the circumstances involved
- in the event of a localised food hazard, issuing appropriate media messages, or responding to local press statements as appropriate, to alert the public to the hazard. In doing so the following should occur:
 - the relevant FBOs should be consulted before the identity of a named business or branded food is discussed with, or released to, the media
 - such media releases should be sent to the FSA Incidents Team without delay
 - the Competent Authority should notify the FSA immediately if the FBO raises objections to the release of such information

Responsibility for action at a local level remains with the Competent Authority unless and until the FSA, in writing, notifies the Competent Authority otherwise.

5.3.4 Root Cause Analysis

Where Competent Authorities become aware that an FBO has withdrawn or recalled food from the market in accordance with article 19 of Assimilated Regulation (EC) No 178/2002, due to non-compliance with the food safety requirements of that Regulation, they should:

- request that the FBO undertake a root cause analysis to determine the reason(s) the withdrawal or recall occurred
- identify corrective actions which will mitigate reoccurrence
- where permitted, forward the results of the food business' assessment to the FSA for further analysis, to enable long-term preventative actions to be identified and best practices to be applied across the food industry

5.3.5 Deliberate contamination and malicious tampering

Food may be contaminated deliberately. If such an incident occurs, Competent Authorities should follow the arrangements in this chapter, except where the deliberate contamination is thought to be due to malicious tampering.

Arrangements for dealing with malicious tampering incidents have been established between the FSA, Food Standards Scotland (FSS), the police forces throughout the UK and, if necessary, the National Crime Agency will be involved in the investigation.

When malicious tampering is suspected, Competent Authorities should:

- contact the FSA Incidents Team at the earliest opportunity
- hand over responsibility for dealing with such incidents to the police if requested by them to do so
- co-operate fully with police investigations into such incidents
- respect police requests for confidentiality, whenever possible
- if the occasion rises when the need to alert consumers to the existence of a food hazard outweighs the need to maintain confidentiality, notify the FSA Incidents Team before undertaking such action

5.3.6 Food Hazards Associated with Outbreaks of Foodborne Illness

If a food hazard has resulted in an outbreak of food-borne illness, the Competent Authority should consider, with their Consultant in Communicable Disease Control (CCDC), Consultant in Public Health Medicine (Communicable Disease/ Environmental Health), the activation of their Outbreak Control Plan.

Non-localised, serious localised or emergency incidents involving foodborne illness should immediately be notified to the FSA Incidents Team and the relevant public health body.

Competent Authorities should arrange with their Public Analyst and Food Examiner to be notified promptly if they identify a food hazard during the course of the analysis or examination of a food sample.

5.3.7 Non-hazardous food incidents

Non-hazardous food incidents are incidents where there are contraventions of food law, but these do not involve food hazards.

These should normally be resolved by the Competent Authority and the FBO, through liaison with other relevant Competent Authorities, as appropriate, and in line with each Food Authority's enforcement policy.

However, significant food incidents, even if they do not involve food hazards, should be reported to the FSA immediately.

In determining significance, consideration should be given to the following factors:

- breaches of food law

- requirement for a co-ordinated response
- the disadvantage to consumers
- disproportionate impact on a sector of the population
- distribution beyond the UK
- reputational damage to Wales (or the UK)
- public concern
- likelihood of media interest
- likelihood of fraudulent or deceptive practices

Where a Competent Authority is in doubt about whether a ‘non-hazardous’ food incident requires to be reported to the FSA, the issue should be discussed with the FSA for clarification.

5.3.8 Access to information

To facilitate the investigation of a foodborne illness or outbreak, a food hazard or other food-related emergency or criminal investigation, Competent Authorities should provide details of relevant food business establishment records, if requested by:

- CCDC
- Public Health Wales
- The FSA
- The relevant authority responsible for public health protection
- Other similar enforcement or surveillance body

5.4 Food Alerts

5.4.1 Definitions

- **Food Alert for Action (FAFA)** – is a communication of risks from the FSA to a Competent Authority concerning a food hazard or other food incident, where specific actions/responses are required to be undertaken by the Competent Authority or the FSA in its capacity as the Authority. A ‘Food Alert Update’ should be read and acted on accordingly. Similar action and messaging may also lead to a consumer, food business or other stakeholder focussed FAFA. The alert to consumers, and other stakeholders and the alert to Competent Authorities will not necessarily include the same information or require the same action
- **Product Recall Information Notice** – advises of recall of a food, where no specific action is required to be undertaken by the Food Authority. Recall relates to the recall of food from the consumer, when undertaken by the food business
- **Allergy Alert** – is issued by the FSA to quickly communicate allergen risks directly to the consumer. Competent Authorities receive copies of these Allergy Alerts for information purposes only

5.4.2 Facilities for receiving Food Alerts and updates

Competent Authorities should:

- have facilities to receive Food Alerts and updates from the FSA by an electronic mail system that is acceptable to the FSA
- advise the FSA of their electronic mail address and of any changes to these details at the earliest opportunity

5.4.3 Action by Competent Authorities on receiving Food Alerts

Competent Authorities should ensure that:

- systems are in place to ensure that Food Alerts can be responded to immediately, including outside normal working hours. This includes obtaining and providing information to enable Food Alerts to be issued out of hours
- any action specified by the FSA necessary to reduce food safety risks or protect public health in a Food Alert for Action is undertaken promptly and in accordance with any risk management advice/assessment provided by the FSA
- if they propose to take alternative actions, this is agreed with the FSA before implementing them
- where they anticipate difficulties in complying with a request for action given in an Alert or to develop risk assessment or risk management advice, they should contact the FSA's Incidents Team immediately
- they document their response to the outcome of each Food Alert.

5.4.4 Media relations - Food Alerts

Competent Authorities wishing to enhance local publicity can, where permitted by the FSA, use a press release/media statement issued by the FSA as a basis for a local press release. In such cases, the Competent Authority should ensure that the local statement is accurate, relevant, and consistent with the FSA statement.

If Competent Authorities wish to display Food Alerts on their website, they should ensure that:

- any material from FSA Food Alerts or press/media releases is edited to specify what local action has been taken in response to the Alert
- the website includes local contact information

5.5 Communication and liaison between Competent Authorities and countries outside the UK

5.5.1 Notification of trans-border matters

Trans-border matters that may have policy implications, matters relating to food hazards and incidents are dealt with by the FSA.

5.5.2 Liaison and communications with countries outside the UK

All communications with countries outside the UK regarding incidents will be via the FSA, as the UK's International Food Safety Authorities Network Emergency Contact Point.

Competent Authorities with Port Health and/or BCPs should notify the FSA Incidents Team if they identify an incident posing potential food safety risk, relating to an imported product(s) at the point of entry.

Inland Competent Authorities should notify the FSA Incidents Team if they identify an incident relating to an imported product(s) in their area, posing potential food safety risk, which has been released by Port Health and/or BCPs.

Imports with non-compliance issues that do not pose potential food safety risk, that has been released inland by Port Health and/or BCPs should continue to be managed via the business handling the goods and the associated importers as part of usual enforcement activities, to achieve compliance.

Competent Authorities should notify the FSA Incidents Team where there is persistent non-compliance, widespread non-compliance or non-compliance presenting, to enable the FSA to collect information, exercise vigilance and provide evaluation on potential emerging risks with a view to their prevention or development of policy.

Subsequent communications to enquiries other than incidents that pose potential food safety risk, from countries outside the UK should be sent to the FSA.

5.5.3 Communication with Food Standards Scotland

A Memorandum of Understanding is in place between the FSA and FSS to ensure liaison arrangements continue to deliver a coordinated incident handling response across Wales, Scotland, England and Northern Ireland.

5.6 Out of hours service

Competent Authorities should:

- put in place procedures to ensure that responsible officers can be contacted in the case of emergency for example, serious hazard incidents
- advise the FSA of emergency telephone number(s) to enable contact to be made outside the Food Authority's normal office hours
- ensure information on out-of-hours/emergency contacts (the name(s), telephone number(s) and email address(es)) are provided in the manner and at the frequency required by the FSA
- proactively notify the FSA of any changes to these details as soon as practicable via the FSA's communications platform

5.7 Reporting suspicions of food crime to the FSA's NFCU

The FSA's NFCU works with partners to protect consumers from serious food/feed fraud and related criminality within the food and feed supply chain and defines food crime as serious fraud and related criminality in food supply chains. This remit also includes drink and animal feed.

Competent Authorities should share with the FSA's NFCU any incidents concerning, or potentially concerning fraudulent or deceptive practices affecting the safety or authenticity of food.

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Chapter 6 Enforcement

6.1 Introduction

Chapter 6 deals with:

- powers of entry
- actions available to Competent Authorities when dealing with suspected or established non-compliance
- approach to enforcement when dealing with established non-compliance

6.2 Powers of entry

When exercising powers of entry, authorised officers must adhere to the legal requirements stipulated in the relevant legislation⁸⁷.

Along with powers of entry to premises within the Competent Authority's area, an authorised officer can enter any business premises or any premises in other Competent Authority areas to ascertain whether there is evidence of non-compliance in that Competent Authority area. In such circumstances, authorised officers can only use powers associated with their powers of entry, unless they have been duly authorised for other specific powers, by the Competent Authority in which the premises is located.

The Competent Authority should ensure its authorised officers:

- liaise with relevant Competent Authorities in advance, but where it is not possible to give prior notice, for example, in an emergency, the relevant Competent Authorities should be notified as soon as practicable
- do not give advice or recommend changes to an FBO's systems or procedures. Such matters should be passed to the Competent Authority for the area in which the premises is based for appropriate action
- inform the relevant Competent Authorities of the outcome of any visit, as appropriate

6.3 Enforcement action

6.3.1 Suspected non-compliance

Where Competent Authorities suspect non-compliance, they must carry out an investigation in order to confirm or to eliminate that suspicion and where necessary⁸⁸:

- perform intensified official controls for an appropriate period

⁸⁷ Section 32 of the Food Safety Act 1990, regulation 14 of The Food Hygiene (Wales) Regulations 2006 and regulation 18 of The Official Feed and Food Control (Wales) Regulations 2009

⁸⁸ Article 137(2) and 137(3) of Regulation (EU) 2017/625

- detain food and any unauthorised substances or products, as appropriate

6.3.2 Established non-compliance

Where non-compliances are established, Competent Authorities must⁸⁹:

- take any action necessary to determine the origin and extent of the non-compliance and to establish the operator's responsibilities
- take appropriate action to ensure the FBO remedies the non-compliance and prevents further occurrences of the non-compliance
- when deciding what action to utilise, take account of the nature of the non-compliance and the FBO's past record regarding compliance

6.3.3 Prioritisation

Competent Authorities must prioritise action that eliminates or contains risks to⁹⁰:

- human health
- animal health
- plant health
- animal welfare
- the environment (with regards to GMOs and plant protection products)

6.3.4 Hierarchy of enforcement

Competent Authorities should:

- take a hierarchy of enforcement approach, beginning with a graduated and educative approach, only moving to formal action where informal action is unlikely to, or does not, achieve the desired effect, except where circumstances indicate:
 - a significant risk to health
 - fraudulent practices
 - deceptive practices
- ensure enforcement action is reasonable, proportionate, risk-based and consistent
- take an approach that results in the timely remedy of non-compliance with food law, as appropriate, and proportionate to the risk
- take account of the full range of enforcement options available to them when deciding on appropriate action(s)
- take account of the Competent Authority's enforcement policy and, as appropriate, document the justification for any deviation
- ensure that, as appropriate, non-compliances have been resolved before deciding that no further action is required

⁸⁹ Article 138 of Regulation (EU) 2017/625

⁹⁰ Article 137(1) of Regulation (EU) 2017/625

6.3.5 Notification of enforcement action

Where action is needed to secure compliance, Competent Authorities must provide the FBO, or its representative, with written notification of⁹¹:

- their decision concerning the action or measure to be taken
- the reason for that decision
- information on any rights of appeal, any applicable procedure, and time limits with respect to such rights of appeal

The Competent Authority should include information concerning:

- what the non-compliance is and clearly distinguish statutory and other legal requirements from recommended good practice
- the action needed to secure compliance
- the timescale for achieving compliance

Competent Authorities should also keep documented and retrievable records of the action(s) taken.

6.4 Enforcement action and service of notices

Competent Authorities must take appropriate measures to ensure that the FBO remedies the non-compliance and prevents further occurrences of the non-compliance⁹².

When taking enforcement action, Competent Authorities should ensure that:

- the action is in line with the Competent Authority's enforcement policy and considered as part of the hierarchy of enforcement approach
- relevant procedures have been followed
- evidence of the non-compliance is obtained and recorded
- continuity of evidence and proof of service of notice is maintained

Authorised officers should ensure they are using the correct notice for the non-compliance, and that they consider and follow the requirements of each, as set out in the relevant legislation, including:

- time limits
- appeals
- withdrawal of action
- use of prescribed forms
- compensation
- monitoring of compliance
- appropriately addressed and served

⁹¹ Article 138(3) of Regulation (EU) 2017/625

⁹² Article 138 of Regulation (EU) 2017/625

- being signed as appropriate, by the officer who observed the non-compliance

6.4.1 Follow-up checks

Follow-up checks should focus on the non-compliances previously identified and whenever practicable, undertaken by the officer who undertook the original intervention.

6.4.1.1 Follow-up checks – food hygiene

Competent Authorities should carry out food hygiene follow-up checks at food business establishments which have the following scores, as set out in the intervention rating scheme in annex 1 of the Code:

- a compliance score of 15 or higher for hygiene and/or structure
- a confidence in management/control procedures score of 20 or higher

The type and timing of follow-up checks should be determined by the nature and severity of the non-compliance(s) identified, risk to public health, the remedial action required, and the nature of the enforcement action taken.

6.4.1.2 Follow-up checks - food standards (priority interventions)

Competent Authorities should consider whether to carry out follow-up checks for food standards at food business establishments assessed as requiring a priority intervention, taking into account the nature of the non-compliance(s) and the date of the next due official control. Competent Authorities may also bring forward the date of the priority intervention depending on the nature and/or scale of the non-compliances found.

6.4.1.3 Follow-up checks – food standards (other interventions)

Competent Authorities should undertake food standards follow-up checks at food business establishments that are not subject to priority intervention, but where non-compliances are identified, to ensure that issues have been addressed and no further action is required.

6.4.2 Checks on compliance with formal enforcement action

Competent Authorities should ensure that authorised officers:

- implement a risk based and proportionate approach to monitoring compliance with notices and orders
- check remedial work as soon as possible after notification has been received that work has been completed, or after expiry of a notice
- consider further formal action when notices or orders have not been complied with

Chapter 7 Matters relating to live bivalve molluscs (LBMs or shellfish)

7.1 Introduction

Chapter 7 deals with:

- registration of shellfish gatherers
- production and relaying areas
- shellfish liaison groups
- registration document for the movement of live bivalve molluscs (LBMs) and Exemptions
- action following non-compliant official control sampling
- LBMs and other shellfish which fail to satisfy requirements
- imported LBMs

7.2 Registration of shellfish gatherers

Competent Authorities must draw up and keep up-to-date a list of operators⁹³.

Competent Authorities should ensure the list of operators includes gatherers/harvesters of shellfish, who are classed as primary producers and are required to be registered as an FBO under Regulation (EC) No 852/2004.

7.3 Production and relaying areas

7.3.1 Classification and monitoring production and relaying areas

It is the responsibility of the FSA to classify LBMs production and relaying areas from which the harvesting LBMs is authorised.

Competent Authorities must undertake periodic monitoring of classified production and relaying areas⁹⁴. This should be undertaken in accordance with the findings of the sanitary survey and sampling plan, to ensure that the classification status awarded by the FSA is compliant with the classification criteria.

LBMs harvested from classified production and relaying areas must be treated in accordance with the (A, B or C) classification awarded prior to placing on the market⁹⁵.

For Scallop (Pectinidae), non-filter feeding gastropods and *Holothuroidea*, which have been harvested from outside of classified production areas, Competent Authorities must verify compliance with the health standards and specific requirements⁹⁶.

7.4 Shellfish liaison arrangements

Competent Authorities must periodically monitor production and relaying areas in order to check that there is no malpractice with regard to the origin, provenance and

⁹³ Article 10(2) of Regulation (EU) 2017/625

⁹⁴ Article 59 of Commission Implementing Regulation (EU) 2019/627

⁹⁵ Articles 52, 53, 54 and 55 of Commission Implementing Regulation (EU) 2019/627

⁹⁶ Article 11 of Commission Delegated Regulation (EU) 2019/624

destination of molluscs⁹⁷. Competent Authorities must communicate information with interested parties⁹⁸ and immediately notify them of any changes affecting classified production areas⁹⁹.

Competent Authorities should:

- establish and maintain a shellfish liaison group in areas where there are commercial shellfish activities
- ensure the group comprise of representatives from relevant bodies
- ensure the timely exchange of information, with contributing data used to support decisions on appropriate measures that protect public health

7.5 Registration document for the movement of LBMs and exemptions

7.5.1 Registration documents for the movement of LBMs

Competent Authorities must set up a control system to ensure that POAO harmful to human health are not placed on the market¹⁰⁰.

Competent Authorities should:

- issue registration documents for the movement of LBMs to gatherers, including fishing vessels that harvest LBMs
- use a unique number on the document issued to enable the registration documentation for the movement of LBMs to be monitored and the unique number be given to the harvester or gatherer before they carry out harvesting
- provide registration documents for the movement of LBMs on demand, and not unreasonably refuse to issue the documents to a gatherer
- retain a record of all registration documents for the movement of LBMs that have been issued by them for at least 12 months. The record should include:
 - the unique number(s)
 - the details of the harvesters to whom they have been issued
 - the production areas for which the harvester requires the registration documents
- issue registration documents for the movement of LBMs to gatherers who are harvesting within the area of another Competent Authority only with the agreement of that other Competent Authority
- ensure that each gatherer of LBM (including Pectinidae and non-filter feeding marine gastropods and *Holothuroidea*) provide a registration document for the

⁹⁷ Article 59(a) of Commission Implementing Regulation (EU) 2019/627

⁹⁸ Article 66(a) of Commission Implementing Regulation (EU) 2019/627

⁹⁹ Article 66(b) of Commission Implementing Regulation (EU) 2019/627

¹⁰⁰ Article 64 of Commission Implementing Regulation (EU) 2019/627

movement of LBMs identifying each batch that they harvest, unless the Competent Authority permits registration documents are not required

7.5.2 Exemption from use of registration documents

If the gatherer of LBMs also operates including the dispatch centre, purification centre, relaying area or processing establishment receiving the LBMs, and all establishments are within a single Competent Authority area, then the Competent Authority may determine that registration documents for the movement of LBMs are not necessary¹⁰¹.

In such cases, Competent Authorities should ensure that FBO's have appropriate traceability arrangements in place for the movement of LBMs. When considering whether an FBO does not require registration documents for the movement of LBMs, Competent Authorities should:

- identify whether all the establishments are operated by the same gatherer
- identify whether all the establishments operated by the gatherer are located within the jurisdiction of the single Competent Authority
- consider the history of the operator's compliance with relevant food safety legislation
- consider the operator's application of management control procedures

Where the Competent Authority is not satisfied with the operators' compliance with food safety legislation, it should withdraw its permit for the FBO to be exempt from the use of Registration Documents.

7.5.3 Examination of registration documents

Competent Authorities must perform official controls on all FBOs regularly, on a risk basis and with appropriate frequency¹⁰².

The examination of registration documents for the movement of LBMs, traceability records and other records which may be relevant to the assessment of compliance, and any verification sampling, can be carried out as part of an official control of dispatch, purification centres or processing establishments. However, this activity may be carried out at any stage during the supply of LBMs.

Competent Authorities should:

- carry out regular examinations of registration documents for the movement of LBMs to verify accuracy
- when batches of LBMs are received from outside their local area, contact the issuing Competent Authority when examining registration documents for the movement of LBMs to verify authenticity

¹⁰¹ Annex III, section VII, chapter I, para 7 of Regulation (EC) No 853/2004

¹⁰²Article 9(1) of Regulation (EU) 2017/625

7.6 Action following non-compliant official control sampling

Where sampling results show that health standards for LBMs (E.coli, marine biotoxins or chemical contaminants) have not been met or that there may otherwise be a risk to human health, the Competent Authority must act promptly to temporarily close or downgrade the classified production or relaying area concerned¹⁰³ and they must immediately inform interested parties¹⁰⁴.

7.6.1 Liaison arrangements following non-compliant official control sampling

Liaison with the FSA should include consideration of:

- whether any action should be taken to withdraw any LBMs from sale that have already been distributed locally or nationally
- the taking of additional samples to determine when the temporary harvesting restrictions can be lifted

Competent Authorities with a shared jurisdiction should also be advised of any action taken, who are then to fulfil their responsibility by informing FBOs affected by the temporary closure or downgrade within their own area.

When the closure of a production area is required, a Notice of Temporary Closure of Production Area (Closure Notice) should be issued quickly and used as the means to inform interested parties that no harvesting is to take place during the closure period. Competent Authorities should carry out monitoring of harvesting areas to ensure that illegal gathering does not occur.

7.7 Live bivalve molluscs and other shellfish which fail to satisfy requirements

Where a Competent Authority has certified that LBMs or other shellfish, has not been produced, processed or distributed in accordance with the hygiene regulations, the Competent Authority must treat the LBMs or other shellfish for the purposes of section 9 of the Food Safety Act 1990 as failing to comply with food safety requirements¹⁰⁵. In these circumstances, the Competent Authority can, where appropriate, detain or seize the LBMs or other shellfish.

7.8 Imported live bivalve molluscs

Imported LBMs for human consumption or processing require pre-import notification and official controls. This is to ensure that they are safe for human consumption.

Competent Authorities should ensure that:

¹⁰³ Article 62(1) and article 65(1) of Commission Implementing Regulation (EU) 2019/627

¹⁰⁴ Article 66(b) of Commission Implementing Regulation (EU) 2019/627

¹⁰⁵ Regulation 29 of The Food Hygiene (Wales) Regulations 2006

- imported LBMs have been subject to official controls at a BCP¹⁰⁶
- consignments of LBMs for human consumption or processing are accompanied by a CHED and appropriate health certification

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¹⁰⁶ Due to current transitional arrangements there are no BCPs in Wales.

Glossary

Animals

Has the meaning as defined in article 3(9) of Regulation (EU) 2017/625 when read with article 4(1) of Regulation (EU) 2016/429 meaning vertebrates and invertebrate animals.

Approved establishment

An establishment that has been approved pursuant to article 4 of Regulation (EC) No 853/2004 for handling, preparing, and/or producing products of animal origin.

Audit

Has the meaning as defined by article 3(30) of Regulation (EU) 2017/625 to mean a systematic and independent examination to determine whether activities and related results comply with planned arrangements and whether these arrangements are implemented effectively, by the FBO, and are suitable to achieve objectives.

This includes planned partial or full audits:

- a 'full audit', is an examination of planned arrangements and whether they are implemented effectively and will consider all aspects of an FBO's operations
- a 'partial audit', is an audit that covers only certain aspects of an FBO's operation

Aquatic animals

Has the meaning as defined in article 4(3) of Regulation 2016/429 to mean animals of the following species, at all life stages, including eggs, sperm and gametes:

- fish belonging to the superclass *Agnatha* and to the classes *Chondrichthyes*, *Sarcopterygii* and *Actinopterygii*
- aquatic molluscs belonging to the phylum *Mollusca*
- aquatic crustaceans belonging to the subphylum *Crustacea*

Authorised officer

Means a person (whether or not an officer of the enforcement authority) who is authorised by the Competent Authority, either generally or specifically, to act in relation to matters arising under food law.

Border Control Post (BCP)

Has the meaning defined in article 3(38) of Regulation (EU) 2017/625 to mean a place, and the facilities belonging to it, designated for the performance of official controls provided for in article 47(1) of Regulation (EU) 2017/625.

Broadly compliant (Food hygiene)

An establishment that has an intervention rating score of not more than ten points under each of the following parts of annex 1: Food hygiene scoring system Part 2:

Level of (Current) Compliance - Hygiene and Level of (Current) Compliance – Structure; and Part 3: Confidence in Management.

Broadly compliant (Food standards)

An establishment that has an intervention rating score of 3, 4 or 5 for all four Compliance Assessment risk factors.

Chartered Institute of Environmental Health (CIEH)

A membership and awarding body for the environmental health sector.

Chartered Trading Standards Institute (CTSI)

CTSI is a membership and awarding body that represents Trading Standards professionals working in the UK and overseas - in local authorities, business and consumer sectors and central government.

Common Health Entry Document (CHED)

The Common Health Entry Document is used for food and feed of non-animal origin subject at their entry into the UK to any of the measures or conditions provided for in points (d), (e), or (f) of article 47(1) of Regulation (EU) 2017/625.

Competent Authority

Has the meaning as defined in article 3(3) of Regulation (EU) 2017/625 to mean the Competent Authority responsible for the performance of official controls and of other official activities, in accordance with that Regulation and the rules referred to in article 1(2).

Compliant

Conforming with the requirements of the law.

Conditional approval

Approval granted by a Competent Authority pursuant to article 148(4) of Regulation (EU) 2017/625 if it appears to a Competent Authority that an establishment meets all the infrastructure and equipment requirements. Conditional approval must not exceed a total of six months, with the exception of factory and freezer vessels, conditional approval must not exceed 12 months.

Confidence in Management (CIM)

The Confidence in Management score is part 3 of the Hygiene Rating Intervention Rating Scheme and is one of the risk factors considered under the Compliance Assessment for food standards. The Competent Authority assesses the business' food safety management/control procedures using their judgement on the likelihood of satisfactory compliance being maintained in the future. Factors that influence the Competent Authority's judgement include: the previous record of compliance with the FBO; knowledge on food safety and standards; attitude towards food standards and hygiene compliance and satisfactory food safety management procedures.

Consignment

Has the meaning as defined in article 3(37) of Regulation (EU) 2017/625 to mean a number of animals or quantity of goods covered by the same official certificate, official attestation, or any other document, conveyed by the same means of transport and coming from the same territory or a country outside the UK, and, except for goods subject to the rules referred to in point (g) of article 1(2) of Regulation (EU) 2017/625, being of the same type, class or description.

Consultant in Communicable Disease Control (CCDC)

A senior role within the health protection team who provides leadership, management, and oversight of the health protection function, including the response to incidents and outbreaks.

Consultant in Public Health Medicine (CPHM)

The role of the CPHM in the case of a food poisoning outbreak is to determine if there is a true outbreak and initiate and coordinate any necessary action including the use of the local outbreak control plan. They also advise the person in charge of any immediate actions necessary to control the outbreak.

Continuing Professional Development (CPD)

How members of a profession maintain, improve, or broaden their knowledge and skills and develop the qualities required in their professional lives.

Control verification procedures

More commonly referred to as internal monitoring procedures, has the meaning as defined in article 3(6) of Regulation (EU) 2017/625 to mean the arrangements put in place and actions performed by the Competent Authorities for the purpose of ensuring that official controls and other official activities are consistent and effective.

Could

Is generally used to indicate those provisions which are for guidance only.

Delegated body

Has the meaning as defined in article 3(5) of Regulation (EU) 2017/625 to mean a separate legal person to which the Competent Authorities have delegated certain official control tasks or certain tasks related to other official activities.

Documentary check

Has the meaning as defined in article 3(41) of Regulation (EU) 2017/625 to mean the examination of the official certificates, official attestations and other documents including documents of a commercial nature, which are required to accompany the consignment as provided for by the rules referred to in article 1(2), by article 56(1) or by implementing acts adopted in accordance with articles 77(3), 126(3), 128(1) and 129(1).

Enforcement Authority

Has the meaning as defined by regulation 2(1) of The Food Hygiene (Wales) Regulations 2006 to mean the authority which is responsible for executing and enforcing the Hygiene Regulations.

Environmental Health Registration Board (EHRB)

An awarding body in the UK which issued certificates of registration to those who had successfully completed an approved course of study in the subject of environmental health that included an accredited course, work based learning and professional examinations.

Escherichia coli O157 (E.Coli O157)

A VTEC strain that can cause illness in humans. Symptoms can range from mild gastroenteritis to severe bloody diarrhoea, and kidney damage.

Establishment

Has the meaning as defined by article 2(1)(c) of Regulation (EC) No 852/2004 to mean any unit of a food business.

Evidence

Information or items which provide proof of an allegation.

Export

The action of sending or transporting a commodity outside of a relevant territory.

Food Alert

Communication from the FSA to a Competent Authority concerning a food hazard or other food incident, where specific actions/responses are required to be undertaken by the Competent Authority. A 'Food Alert Update' should be read accordingly.

Food business

Has the meaning as defined by article 3(2) of Regulation (EC) No 178/2002 to mean any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of production, processing, and distribution of food.

Food business operator (FBO)

Has the meaning as defined by article 3(3) of Regulation (EC) No 178/2002 to mean the natural or legal persons responsible for ensuring that the requirements of food law are met within the food business under their control.

A **natural person** is a human being, as opposed to an artificial, legal, or juristic person.

A **legal person** has a legal name and has rights, protections, privileges, responsibilities, and liabilities under law, just as natural persons (humans) do. Legal personality allows one or more natural persons to act as a single entity (such as a

limited company - considered under law separately from its individual members or shareholders) for legal purposes.

Food business establishment

Article 2(1)(c) of Regulation (EC) No 852/2004 defines 'establishment' as any unit of a food business.

A 'food business' as defined in article 3(2) of Regulation (EC) No 178/2002 means any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of production, processing, and distribution of food.

A food business establishment may include units where food may not be handled, but where decisions are made on relevant aspects of the food business such as the food's movement/transportation and/or labelling.

Food crime

Serious fraud and related criminality within food supply chains (this also includes drink and animal feed).

Food examiner

Any person who possesses the requisite qualifications to carry out examinations.

Food hazard

A biological, chemical, or physical agent in food capable of causing adverse effect to public health.

Food hygiene

The measures and conditions necessary to control hazards and to ensure fitness for human consumption of a foodstuff, taking into account its intended use as set out in Regulation (EC) No 852/2004.

Food Standards Agency (FSA)

An independent, non-ministerial department, working across England, Wales and Northern Ireland, whose objectives are to protect public health from risks arising from the consumption of food and to protect the interests of consumers in relation to food.

Food Standards Scotland (FSS)

A public sector food body for Scotland whose objectives are: to protect the public from risks to health which may arise in connection with the consumption of food; to improve the extent to which members of the public have diets which are conducive to good health; and to protect the other interests of consumers in relation to food.

Formal action

The taking of action against a food business operator as set out in the legislation including the service of a statutory notice to remedy non-compliance with legal

requirements, and the institution of legal proceedings for breaches of legal requirements.

Full approval

Approval granted by a Competent Authority pursuant to article 148 (3) or article 148(4) of Regulation (EU) 2017/625 if it appears to a Competent Authority that an establishment meets all of the relevant requirement of food law.

Goods

Has the meaning as defined in, article 3(11) of Regulation (EU) 2017/625 as: 'goods means all that is subject to one or more of the rules referred to in article 1(2), excluding animals'

Article 1(2) of Regulation (EU) 2017/625 states: 'This Regulation shall apply to the official controls performed for the verification of compliance with the rules in the areas of:

- a) food and food safety, integrity and wholesomeness at any stage of production, processing and distribution of food, including rules aimed at ensuring fair practices in trade and protecting consumer interests and information, and the manufacture and use of materials and articles intended to come into contact with food
- b) deliberate release into the environment of Genetically Modified Organisms (GMOs) for the purpose of food and feed production
- c) feed and feed safety at any stage of production, processing and distribution of feed and the use of feed, including rules aimed at ensuring fair practices in trade and protecting consumer health, interests and information
- d) animal health requirements
- e) prevention and minimisation of risks to human and animal health arising from animal by-products and derived products
- f) welfare requirements for animal
- g) protective measures against pests of plants
- h) requirements for the placing on the market and use of plant protection products and the sustainable use of pesticides, with the exception of pesticides application equipment
- i) organic production and labelling of organic products
- j) use and labelling of protected designations of origin, protected geographical indications and traditional specialities guaranteed'

Goods subject to an emergency measure

Has the meaning as defined in article 47(1)(e) of Regulation (EU) 2017/625 to mean animals and goods which are subject to measures provided for in acts adopted in accordance with article 53 of Regulation (EC) No 178/2002, article 249 of Regulation (EU) 2016/429, or articles 28(1), 30(1), 40(3), 41(3), 49(1), 53(3) and 54(3) of Regulation (EU) 2016/2031 requiring consignments of those animals or goods to be subject to official controls at their entry into Great Britain.

Hazard

Has the meaning as defined by article 3(14) of Regulation (EC) No 178/2002 to mean a biological, chemical, or physical agent in, or condition of, food or feed with the potential to cause an adverse health effect.

Hazard Analysis Critical Control Points (HACCP)

HACCP is a systematic preventive approach to food and feed safety from biological, chemical, and physical hazards in production processes, that can cause the finished product to be unsafe, and designs measurement to reduce these risks to a safe level.

High-risk food contact materials

Has the meaning of the definition of 'relevant product' in regulation 2(1) of The Plastic Kitchenware (Conditions on Imports from China) (Wales) Regulations 2011 to mean plastic kitchenware originating in or consigned from the People's Republic of China and Hong Kong Special Administrative Region, China.

High-risk food not of animal origin

Has a meaning similar to the description of the category in article 47(1)(d) of Regulation (EU) 2017/625 being goods from certain third countries for which a measure requiring a temporary increase of official controls at their entry into Great Britain is necessary due to a known or emerging risk or because there is evidence that widespread serious non-compliance might be taking place.

Home Authority

Means the authority where the relevant decision-making base of an enterprise is located.

Hygiene

The measures and conditions necessary to control hazards and to ensure fitness for human consumption of a foodstuff considering its intended use.

Hygiene Emergency Prohibition Notice (HEPN)

A notice served by the authorised officer where there is an imminent risk of injury to health which prohibits the use of a process, treatment, premises, or equipment, as appropriate, as specified in regulation 8 of The Food Hygiene (Wales) Regulations 2006.

Hygiene Regulations

As defined by regulation 2 of The Food Hygiene (Wales) Regulations 2006.

Identity check

Has the meaning as defined in article 3(42) of Regulation (EU) 2017/625 to mean a visual inspection to verify that the content and the labelling of a consignment,

including the marks on animals, seals and means of transport, correspond to the information provided in the official certificates, official attestations and other documents accompanying it.

Import

The action of bringing in goods and/or services from another country outside of Great Britain.

Informal action

Bringing to the attention of a food business operator and giving advice on non-compliances with food safety law in order that any non-compliance can be quickly remedied.

Inspection

To mean the examination of any aspect of feed, food, animal health and animal welfare in order to verify that such aspect(s) comply with the legal requirements of feed and food law and animal health and welfare rules. This includes partial or full inspections:

- a 'full inspection', is a check on compliance with legal requirements and will consider all aspects of an FBO's operations
- a 'partial inspection', which is an inspection that covers only certain aspects of an FBO's operations

Institute of Food Science and Technology (IFST)

A professional body concerned with all aspects of food science and technology.

Intelligence

Information that has been evaluated to assess its relevance and reliability and verified where possible.

Intervention

Regulatory actions taken by a government in order to affect or interfere with decisions made by individuals, groups, or organisations regarding social and economic matters. Interventions include official controls and other interventions such as education, advice and coaching, information and intelligence gathering (including sampling where the analysis is not to be carried out by an Official Laboratory).

Investigation

The action taken by the Competent Authority to gather evidence where non-compliance is suspected.

Lead Food Officer (LFO)

The authorised lead food officer(s), appointed by the Competent Authority in relation to food, who demonstrates the relevant competencies.

Live bivalve molluscs (LBMs)

References to live bivalve molluscs also include live echinoderms, live tunicates, and live marine gastropods, in line with annex I, paragraph 2 of Regulation (EC) No 853/2004 laying down specific hygiene rules for food of animal origin (Regulation (EC) No 853/2004), except for parts of the Code which deal with purification of live bivalve molluscs.

Local Authority (LA)

Has the meaning as defined in section 270 of the Local Government Act 1972 to mean a county council, a county borough council, or community council.

Malicious tampering

For the purposes of the Code, means the deliberate contamination of food by terrorist activity, or with a view to blackmail or extortion.

May

On its own indicates an optional exercise of a power or function.

May not

Indicates a prohibition.

Memorandum of Understanding (MoU)

A written agreement on the exchange of information between two or more parties.

Monitoring

To mean conducting a planned sequence of observations or measurements with a view to obtaining an overview of the state of compliance with food law.

Monitoring of Service Delivery

This includes monitoring of official controls, follow up action and enforcement and management information systems.

Must

Is used to confirm a legal obligation.

National Food Crime Unit (NFCU)

The National Food Crime Unit provides a nationwide focus on enforcement against serious fraud and related criminality in food and feed supply chains.

Non-compliance

A failure to comply with one or more requirements of a food law.

Non-official control

Any activity, which is not an official control or another official activity undertaken by the Competent Authority, that does not verify compliance. The intention of the activity is to maintain contact with a food business establishment.

Non-UK country

A country which is outside the UK.

Official attestation

Has the meaning as defined by article 3(28) of Regulation (EU) 2017/625 to mean any label, mark or other form of attestation issued by the operators under the supervision, through dedicated official controls, of the Competent Authorities or by the Competent Authorities themselves, and providing assurance concerning compliance with one or more requirements laid down in this regulation or in the rules referred to in article 1(2) of Regulation (EU) 2017/625.

Official certificate

Has the meaning as defined by article 3(27) of Regulation (EU) 2017/625 to mean a paper or electronic document signed by the certifying officer and providing assurance concerning compliance with one or more requirements laid down in the rules referred to in article 1(2) of Regulation (EU) 2017/625.

Official control methods and techniques

Are those control methods and techniques described in article 14 of Regulation (EU) 2017/625.

Official control

Has the meaning as defined by article 2(1) of Regulation (EU) 2017/625 to mean activities performed by the Competent Authorities, or by the delegated bodies or the natural persons to which certain official control tasks have been delegated in accordance with Regulation (EU) 2017/625 in order to verify compliance by the operators and that animals or goods meet the requirements laid down in the rules referred to in article 1(2) of Regulation (EU) 2017/625, including for the issuance of an official certificate or official attestation.

Official fish inspector

The interpretation of the definition provided by regulation 12(4) of The Trade in Animals and Related Products Regulations (Wales) 2011 means suitably trained Environmental Health Officers or other persons who are appropriately trained to perform official controls or certain tasks related to other official activities at BCPs on imported fishery products, aquatic invertebrates, live bivalve molluscs, live echinoderms, live tunicates and live marine gastropods intended for human consumption. Any such official fish inspector has all the powers of an official veterinary surgeon in relation to those products.

Official laboratory

A laboratory accredited for the purposes of analysis, and which appears on the list of official control laboratories.

Official Veterinarian

Article 3(32) of Regulation (EU) 2017/625 states a Competent Authority can appoint a veterinarian either as staff or otherwise, and appropriately qualified to perform official controls and other official activities in accordance with this Regulation and the relevant rules referred to in article 1(2) of Regulation (EU) 2017/625.

Other official activities

Activities, other than official controls, which are performed by the Competent Authorities, or by the delegated bodies or the natural persons to which certain other official activities have been delegated in accordance with Regulation (EU) 2017/625. Including activities aimed at verifying the presence of animal diseases or pests of plants, preventing, or containing the spread of such animal diseases or pests of plants, eradicating those animal diseases or pests of plants, granting authorisations or approvals, and issuing official certificates or official attestations.

Outbreak

An incident in which two or more people experiencing a similar illness are linked in time or place, usually a foodborne disease and or infectious intestinal disease.

Physical check

Has the meaning as defined in article 3(43) of Regulation (EU) 2017/625 to mean a check on animals or goods and, as appropriate, checks on packaging, the means of transport, labelling and temperature, the sampling for analysis, testing or diagnosis and any other check necessary to verify compliance with the rules referred to in article 1(2) of Regulation (EU) 2017/625.

Port Health Authority

Has the meaning as set out in section 2 (2)(a) of the Public Health (Control of Diseases) Act 1984 to mean in relation to a port or part of a port any local authority whose district, or any part of whose district, forms part of, or abuts on, that port or part of a port, and any conservators, commissioners or other persons having authority in, over or within that port or part of a port.

Premises

Premises means any fixed or moveable structure used for the purposes of a food business operation.

Primary Authority

As provided for in section 23A of the Regulatory Enforcement Sanctions Act 2008, a competent authority that has formed a partnership with a business or co-ordinator and is nominated by the Secretary of State to exercise certain functions through that partnership.

Primary Production (Food)

Has the meaning as defined in article 3(17) of Regulation (EC) No 178/2002. The production, rearing or growing of primary products including harvesting, milking, and farmed animal production prior to slaughter. It also includes hunting and fishing and harvesting of wild products.

Public Analyst

Scientists that ensure the safety and correct description of food by testing for compliance with legislation as specified in section 27 of the Food Safety Act 1990 and regulation 4 of The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013.

Records

Means information preserved in writing or electronically/digitally.

Risk

The chance or probability that a person will be harmed or experience an adverse health effect if exposed to a hazard.

Royal Environmental Health Institute of Scotland (REHIS)

A membership and awarding body for the environmental health sector.

Safety

The quality of averting or not causing injury, danger, or loss.

Sampling

To mean taking feed or food or any other substance (including from the environment) relevant to the production, processing and distribution of feed or food or to the health of animals, in order to verify through analysis compliance with feed or food law or animal health rules.

Scottish Food Safety Officers Registration Board (SFSORB)

A committee of the Royal Environmental Health Institute of Scotland, who determine the pre-registration academic standard to be attained by persons applying for the award of the Higher Certificate in Food Premises Inspection, the Ordinary Certificate in Food Premises Inspection, and the Higher Certificate in Food Standards Inspection qualifications.

Shellfish environmental monitoring

The collection of shellfish and water official control samples from designated sampling points as part of the Shellfish Official Control Monitoring Programmes, in accordance with article 57 and chapter II of title V of Commission Implementing Regulation (EU) 2019/627.

Should

Is used to indicate statutory guidance.

Specified conditions or measures

Has the meaning as defined in article 47(1)(f) of Regulation (EU) 2017/625 to mean official controls in relation to animals and goods in relation to whose conditions or measures have been established by acts adopted in accordance with article 126 or 128 respectively, or with the rules referred to in article 1(2), which require that compliance with those conditions or measures to be ascertained at the entry of the animals or goods into Great Britain.

Standards

Rules or principles defined in food safety law that are used as the basis for judgment against.

Surveillance

To mean a careful observation of one or more food businesses, or FBOs or their activities, in order to gather information.

Verification

To mean the checking, by examination and the consideration of objective evidence, whether specified requirements have been fulfilled.

Verocytotoxin-producing Escherichia coli (VTEC)

They are zoonotic pathogens associated with food and waterborne illness which cause a potentially fatal illness which symptoms include, diarrhoea and haemorrhagic colitis, and the haemolytic uraemic syndrome (HUS).

Vulnerable risk groups

Vulnerable risk groups are those that include people likely to be more susceptible to the effects of poor food hygiene such as those who are under 5 or over 65, people who are sick or immuno-compromised.

Welsh Local Government Association (WLGA)

The WLGA are the national voice of local government, working with councils to support, promote and improve local government services.

Writing

Has the meaning as defined by schedule 1 of the Interpretation Act 1978 and schedule 1 of the Legislation (Wales) Act 2019 to mean typing, printing, lithography, photography, and other modes of representing or reproducing words in a visible form, and expressions referring to writing are construed accordingly.

DRAFT

Annex 1 Food Establishment Intervention Rating Schemes

This annex deals with the food hygiene and food standards intervention ratings, and minimum frequencies for interventions at all food establishments. This does not apply to:

- establishments operating at the level of primary production, with the exception of food business establishments subject to the requirements of Regulation (EU) No 210/2013 on the approval of establishments producing sprouts
- animal feed establishments

A1.1 Food hygiene scoring system

Part 1: The potential hazard - Three factors determine the potential hazard:

Type of food and method of handling

Score	Guidance on the scoring system
40	Manufacturers of high-risk food, wholesalers, and packers who re-wrap or re-pack high-risk foods. In this context, high-risk foods may be regarded as foods which support the growth of micro-organisms and are ready to eat without further treatment that would destroy pathogenic micro-organisms or their toxins.
30	Preparation, cooking, or handling of open high-risk foods by caterers and retailers, except caterers that prepare typically less than 20 meals a day (see below).
10	Preparation, cooking, or handling by small caterers of open high-risk foods but serve less than 20 meals on a single day. Handling of pre-packed high-risk foods. Other wholesalers and distributors not included in the categories above; Manufacture or packing of foods other than high-risk. Establishments involved in the filleting, salting of fish for retail sale to final consumer.
5	Retail handling of foods other than high-risk, and other ambient shelf stable products. Any other businesses not included in the categories above.

Score:	
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Method of processing

Establishments that undertake a specific method of processing (including those that extend the shelf life of the product) that has the potential to increase the risk to public health beyond that of the normal cooking or storage, should be given an additional score under this section. However, it should only be allocated once, i.e. the maximum score under this section is 20.

Score	Guidance on the scoring system
20	<p>The overriding principle to assess is whether the process itself creates an increased risk and/or the intention is to increase the shelf life of the product by applying it.</p> <p>Below is a non-exhaustive list of processing types that should be allocated an additional score of 20. Authorised officers will need to make a judgement regarding additional processing types not listed below:</p> <ul style="list-style-type: none">• canning or other aseptic packing of low-acid foods• vacuum packing• sous-vide cooking• manufacture of cook/chill food, for example, cooked and prepared meals or foods which may be eaten cold or after reheating (the simple reheating of cook-chill meals is excluded from the scope of this paragraph)• fermentation of meats, for example, to produce salamis and other fermented sausages• air drying, for example, dried hams, biltong or jerky• freeze drying• addition of salt and/or other preserving agents• the cooking and cooling of meat products prior to service, for example, production of hams by retailers, including butchers; this is not intended to be applied to simple catering operations where foods may often be pre-prepared and subsequently re-heated• establishments that manufacture, prepare, or serve high risk uncooked or lightly cooked ready to eat food of animal origin whose nature poses a residual microbiological food safety hazard. This is intended to include caterers/manufacturers producing foods such as steak tartare and other raw meat dishes, fish and meat carpaccio, types of sushi or sashimi, ceviche, and burgers less than thoroughly cooked
0	Any other case not included above.

Score:

Consumers at risk

This factor is intended to reflect the number of consumers likely to be at risk and the potential geographical extent of any incident if there is a failure of food hygiene and safety procedures.

Score	Guidance on the scoring system
15	Food businesses involved in either the manufacture, distribution, packing or wrapping operations of food which is distributed nationally or internationally.
10	Businesses serving a substantial number of customers, including a significant proportion from outside the local area, for example, superstore, airport caterer, motorway service area caterer. Manufacturers not included in the category above.
5	Businesses, most of whose customers are likely to be living, staying, or working in the local area, for example, supermarket or shop, local convenience store or high street or local restaurant.
0	Businesses typically supplying less than 20 consumers each day.

Score:	
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PLUS

An **additional** score of 22 (in addition to the score above) should be included for establishments involved in the production or service of high-risk foods **intended specifically** for consumption by consumers which are likely to include a vulnerable risk group of more than 20 persons.

In this context, vulnerable risk groups are those that include people likely to be more susceptible to the effects of poor food hygiene such as those who are under 5 or over 65, people who are sick or immuno-compromised.

Score	Guidance on the scoring system
22	Production and/or service of high-risk foods in establishments where the ultimate consumers of the product produced include a vulnerable risk group of more than 20 persons.
0	Any other case not included above.

Score:	
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Part 2: Level of (current) compliance

Level of current compliance should consider food hygiene and safety procedures and the structure of the establishment. These should be assessed separately using the scoring system below.

Food hygiene and safety procedures includes consideration of:

- food handling practices and procedures
- control of cross-contamination
- temperature control

Structure of the establishment includes consideration of:

- cleanliness
- layout
- condition of structure
- lighting
- ventilation
- facilities

The score should reflect compliance observed during the inspection according to the guidance set out below.

In circumstances where the failure to comply involves both elements of the establishment's structure and procedures, this non-compliance should be reflected in the scores awarded for both the 'hygiene' and 'structural' factors.

Score	Guidance on the scoring system
25	Almost total non-compliance with statutory obligations.
20	General failure to satisfy statutory obligations – standards generally low.
15	Some major non-compliance with statutory obligations – more work required to prevent fall in standards.
10	Some non-compliance with statutory obligations and industry codes of recommended practice* that are not considered significant in terms of risk (but may become significant if not addressed). Standards are being maintained or improved.
5	Good standard of compliance with statutory obligations and industry codes of recommended practice* with only minor contraventions.
0	High standard of compliance with statutory obligations and industry codes of recommended practice*; conforms to accepted good practices in the trade.

*Where a relevant code/industry guide has been published.

Score – Hygiene	
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Score – Structure	
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Part 3: Confidence in management/control procedures

Scope

The confidence in management score should assess whether a business' food safety management/control procedures are appropriate, with the identification of the correct hazards and controls, whilst the assessment of the level of current compliance achieved as a result of practices being carried out should be considered as part of the compliance with food hygiene and safety procedures element in Part 2.

Where management has an effective food safety management system in place, which has been implemented, and is well understood by the workforce, they should achieve a good standard in Part 2, and consequently a low score for that risk factor.

Confidence in management is not meant to reconsider this aspect. It is to elicit a judgement on the likelihood of satisfactory compliance being maintained in the future.

Assessment of 'management'

Assessment of 'management' may include two elements; corporate management (any company-wide systems and processes for food controls) and local management (implementation by local management of corporate systems and separate branch or 'in store' systems and processes).

Where the establishment has a primary authority, the primary authority may provide guidance via an inspection plan to assist with scoring for confidence in management based on corporate management systems being properly implemented where this is the case. Officers should not attempt to reassess the corporate management element but should consider the score based upon the degree of local implementation by local management.

Officers should also reflect the level of reassurance provided by checks undertaken on the food safety management systems directly at an individual establishment via an independent third party as part of an assurance scheme which address applicable legislation.

Factors to consider

The confidence in management/control procedures score is not solely about documented procedures and their implementation. Factors that will influence the officer's judgement include:

- the 'track record' of the business, and the complaint history
- the businesses willingness to act on previous advice and enforcement
- the attitude of the present management towards hygiene and food safety
- hygiene and food safety knowledge, including hazard analysis/HACCP and the control of critical points
- satisfactory food safety management-based procedures

HACCP based procedures

In determining 'satisfactory' in respect of HACCP based procedures, officers should

consider, based on the principle of proportionality, the need for a permanent procedure or procedures based on HACCP principles, i.e. commensurate with the nature and size of the food business. In some food businesses there are not critical control points, and, in some cases, good hygiene practices can replace the monitoring of critical control points. The requirement for businesses to retain records also needs to be flexible in order to avoid undue burdens for very small businesses.

For small businesses which present only basic hygiene hazards, it may be sufficient that the business has in place good hygiene practices and understands and applies it i.e. meets the prerequisites. The requirement for records needs to be balanced with the nature and size of the business. Documentation and record keeping may not be necessary under the flexibility afforded by article 5 of Regulation (EC) No 852/2004. Officers should consider guidance in relation to the application of article 5 in order to make a judgement on whether the business requires documented food safety management procedures, and if so on the level of documentation required. The level of documentation will vary between businesses depending on the types and complexity of operations being undertaken and on the level of controls being implemented.

However, article 5 of Regulation (EC) No 852/2004 does not apply to food business establishments subject to the requirements of Regulation (EU) No 210/2013, on the approval of establishments producing sprouts, as they operate at the level of primary production.

Score	Guidance on the scoring system
30	<ul style="list-style-type: none"> • poor track record of compliance • little or no food safety knowledge and understanding • little or no appreciation of hazards, risks, or quality control • no food safety management procedures • does not recognise or accept the need for food safety and hygiene controls
20	<ul style="list-style-type: none"> • significantly varying record of compliance • insufficient food safety knowledge and understanding • poor appreciation of hazards and control measures • no food safety management procedures or unsatisfactory progress in terms of developing, documenting, and implementing food safety management procedures, commensurate with the type of business since the last intervention rating • some reluctance in recognising or accepting the need for food safety and hygiene control procedures

Score	Guidance on the scoring system
10	<ul style="list-style-type: none"> • satisfactory record of compliance • access to relevant food safety advice source and/or Guides to Good Practice or assurance schemes commensurate with type of business • understanding of significant hazards and control measures in place • has implemented satisfactory food safety management procedures or is making satisfactory progress towards documented food safety management procedures, commensurate with type of food business • officers will need to ensure that a business is demonstrating it is actually 'making satisfactory progress' towards food safety management procedures. A score of 10 can be awarded for more than one intervention cycle if the: <ul style="list-style-type: none"> – previous non-compliances have been addressed but different non-compliances have arisen – overall risk has not increased
5	<ul style="list-style-type: none"> • good record of compliance • food safety advice available in-house or access to, and use of, technical advice from a Primary or Home Authority, trade associations and/or from Guides to Good Practice or assurance scheme commensurate with type of business • effective management control of hazards • having effective self-checks with satisfactory documented food safety management procedures commensurate with type of business • audit by Competent Authority confirms general compliance with procedures with minor non-conformities not identified as critical to food safety
0	<ul style="list-style-type: none"> • excellent record of compliance • food safety advice available in-house or access to, and use of, technical advice from a Primary Authority or Home Authority, trade associations and/or from Guides to Good Practice or assurance schemes commensurate with type of business. • food Business Operator/Manager knowledgeable and competent • has effective self-checks with satisfactory documented food safety management procedures commensurate with type of business and may have external audit processes in place • audit by Competent Authority confirms good compliance with food safety procedures

Score:	
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PLUS

An **additional** score of 20 (in addition to the score above) should be included where there is a significant risk of:

- food being contaminated with *Clostridium botulinum* and the micro-organism surviving any processing and multiplying
- ready-to-eat food being or becoming contaminated with micro-organisms or their toxins that are pathogenic to humans, for example, *E. coli* O157 or other VTEC, *Salmonella* sp.; *Bacillus cereus*

In this context, significant risk means the probability that an incident is likely to occur. The following matters should be considered when assessing this factor:

- the potential for contamination or cross-contamination by the specified micro-organisms
- the likelihood of survival and growth of the specified micro-organisms
- the existence of procedures based on HACCP principles and confidence in their implementation, including documentation and records of monitoring of controls
- the extent and relevance of training undertaken by managers, supervisors and food handlers
- whether intervention by the Competent Authority is necessary to reduce the probability of an incident occurring

The additional score should only be applied on a case-by-case basis, and not be applied generically to whole categories of food business establishments. The additional score should be removed at the next inspection if the significant risk no longer exists.

The additional score should also be consistent with the baseline assessment of confidence in management/control procedures. If confidence in management is assessed as 0 or 5, and there is also assessed to be a significant risk of contamination of food with one of the specified micro-organisms, then one of the assessments cannot be correct, and each should be reviewed. Establishments should not pose a significant risk if there is high or moderate confidence in management/control procedures.

Score	Guidance on the scoring system
20	Significant risk of food being contaminated with <i>Cl. botulinum</i> , and the organism surviving any processing and multiplying; or Significant risk of ready-to-eat food being contaminated with micro-organisms or their toxins that are pathogenic to humans.
0	Any other case not included above.

Score:	
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Inspection Ratings:										Total:	
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Part 4: Food hygiene intervention frequencies

Category	Score	Minimum intervention frequency
A	92 or higher	At least every 6 months
B	72 to 91	At least every 12 months
C	42 to 71	At least every 18 months
D	31 to 41	At least every 24 months
E	0 to 30	At least every 36 months

A1.2 Food Standards scoring system

Food Standards Risk Assessment

The Risk Profile for an establishment is based on two separate risk elements: the Inherent Risk Profile and Compliance Assessment:

- the Inherent Risk Profile considers the inherent risks associated with the business, such as the scale of supply and the potential for product harm
- the Compliance Assessment considers the FBO's performance and track record

Each risk sub-category for Inherent Risk Profile (Table 1) and Compliance Assessment (table 2) has a score of 1-5.

An establishment should be risk assessed against each sub-category within the Inherent Risk Profile and Compliance Assessment elements of Tables 1 and 2.