

Relevant Legislation

Food Safety Act 1990 as amended

Regulation (EC) No. 852/2004 (Hygiene of Foodstuffs)

Regulation (EC) No. 2073/2005 (Microbial criteria for foodstuffs)

Regulation (EC) No. 2075/2005 (Official controls for Trichinella in meat)

The Food Safety and Hygiene (England) Regulations 2013

The Food Imitations (Safety) Regulations 1989

General

The legislation is wide-ranging and applies to the manufacturing, wholesale, retail and catering sectors of the food industry, as well as to those organisations which supply food during the course of their business, such as schools and residential establishments.

This section of the manual gives a practical interpretation of the main legal requirements relating to County Council activities. This information will be available in greater detail in the operational instructions of those directly involved in providing such services.

As a starting point, anyone who intends to operate a food business must register with their local authority 28 days before opening. Any subsequent changes, for example, a change of food business operator, a change to the food operations, closure of an existing establishment must also be notified to the Local Authority. This requirement includes mobile vans which may attend events organised by the County Council (in this case only services which have been awarded a Food Hygiene Rating System score of 4 or above are recommended for use). Once registered, it is the responsibility of the managers in control of the food production to make sure that all the regulations are complied with. However, there is a need to maintain a close link with the Property Services Division as some of the legal requirements relate to the design and maintenance of buildings.

The County Council is involved with the production of food for its own employees and also for users of its services. It is important to note that some of these users, such as children and older people, are extremely vulnerable to the effects of food poisoning. Any incident involving such groups is quite likely to have very severe consequences.

Enforcement of Food Safety Law

Environmental Health Practitioners (EHPs) employed within Northumberland are responsible for the enforcement of food safety law. They have a number of powers to allow them to exercise this duty. These powers include:

- the ability to demand immediate closure of premises which pose an imminent risk to health.
- the right to inspect premises at any reasonable time.
- powers to seize food which is suspected of being harmful.
- the ability to serve prohibition orders and improvement notices, requiring physical improvements or improvements to be made to management systems.

In some cases, if there has been a breach of the regulations, offences committed will warrant prosecution.

Food Safety cases are heard both in the magistrates' and crown courts. In certain cases fines may be unlimited and a prison sentence may also be imposed if the situation is particularly grave. It is usually the owner of a food business or company who is prosecuted for food hygiene offences. However, it is possible for individual managers or employees to be prosecuted if they have acted negligently or contributed to an offence. Additionally what are termed "simple cautions" (previously known as formal cautions) can be issued. These cautions are kept on record and can be raised during any future prosecutions.

In addition to their enforcement function, the EHP has a role as an advisor and educator in food hygiene matters. Their involvement in the planning stages of new projects is often valuable. Most EHPs will also offer advice and guidance in areas where there is no strict enforcement role, such as in the teaching of food preparation in schools.

Principles of Food Safety Management

Regulation (EC) No. 852/2004 is the principal set of regulations that set out how this must be achieved. In addition, the Food Safety and Hygiene (England) Regulations 2013 provide for the execution and enforcement of Community instruments as well as temperature control requirements. There is a general obligation on food business operators to "ensure that all stages of production, processing and distribution of food under their control satisfy the relevant hygiene requirements laid down in this Regulation" (Regulation (EC) No. 852/2004 Chapter II Article 3).

General Requirements for Food Premises

1. Food premises must be kept clean and maintained in good repair and condition.
2. The layout, design, construction, siting and size of food premises must:

- (a) permit adequate maintenance, cleaning and/or disinfection, avoid or minimise air-borne contamination, and provide adequate working space to allow for the hygienic performance of all operations;
 - (b) protect against the accumulation of dirt, contact with toxic materials, the shedding of particles into food and the formation of condensation or mould on surfaces;
 - (c) permit good food hygiene practices, including protection against contamination and, in particular, pest control; and
 - (d) where necessary, provide suitable temperature-controlled handling and storage conditions of sufficient capacity for keeping foodstuffs at appropriate temperatures, designed to allow those temperatures to be monitored and, where necessary, recorded.
3. An adequate number of flush lavatories must be available and connected to an effective drainage system. Lavatories must not open directly into rooms in which food is handled.
 4. An adequate number of washbasins must be available, suitably located and designated for cleaning hands. Washbasins for cleaning hands must be provided with hot and cold running water, materials for cleaning hands and for hygienic drying. The facilities for washing food are to be separate from the hand-washing facility. Contingency hand washing arrangements should be put into place for outdoor events. Portable equipment is available for this purpose.
 5. There must be suitable and sufficient means of natural or mechanical ventilation. Ventilation systems must be constructed to enable filters and other parts requiring cleaning or replacement to be readily accessible.
 6. Sanitary conveniences must have adequate natural or mechanical ventilation.
 7. Members of staff engaged in food preparation are required to wear protective clothing over their normal attire. There should be a suitable place provided to keep this clothing and it should not be worn outside the food area so as to avoid cross-contamination. Hats should be worn to prevent hairs and dandruff falling into food and to restrict the habit of head scratching which may transfer harmful bacteria onto the fingers. The mode of dressing should be from the head downwards.
 8. When it is essential for non-catering staff to enter a food facility then a local procedure should be developed to include such things as times of arrival and attire.
 9. Smoking is prohibited in any substantially enclosed premises.
 10. Glass items are is not recommended for use in food areas.

Hazard Analysis

The main change to existing law was in the introduction of a requirement to carry out an analysis of food safety hazards. This is regarded as the most important part of food safety management. Hazard Analysis and Critical Control Points (HACCP) is a type of hazard analysis and is a term often used in the food safety field. The basic steps are as follows:

- (a) Identification of hazards that must be prevented, eliminated or reduced to acceptable levels.
- (b) identifying the critical control points.
- (c) establishing critical limits at critical control points.
- (d) establishing and implementing effective monitoring procedures.
- (e) establishing corrective actions.
- (f) establishing procedures to verify that the measures are working effectively; and
- (g) establishing documents and records.

Example

One hazard is the contamination of raw meat with food poisoning bacteria, for example raw chicken, which is likely to carry the salmonella organism. An example of a management control measure to reduce the risks associated with this hazard is to ensure that meat supplies have been refrigerated at a safe temperature during transport before deliveries are accepted.

*Management controls become **critical control points** when they are **essential** to the food safety of the final product. A critical control point in this example is the achievement of adequately high temperatures (in the food during cooking) to kill the salmonella organism before the meat is eaten. Please note that where an establishment has opted for a HACCP system, it is a requirement to monitor CCPs and record them. If a different management system is in use, for example, SFBB, then this is not a requirement; however, it is recommended that this is undertaken to demonstrate best practice.*

In order to check that the control was effective it is possible to monitor the critical control point by using a probe thermometer to test the centre of the product to make sure that it had reached the desired temperature. The time the food remained at this temperature would also have to be correct and this would also require monitoring.

Depending on the nature and size of the operation documents and records may need to be kept. However, it is accepted that the availability of some documentation may allow businesses to demonstrate that they have adopted procedures of this sort.

If a food-related complaint or food poisoning incident were to occur, then it is possible for the legal defence of **due diligence** to mitigate the penalty not avoid conviction.. This allows a person charged with an offence to argue that they took all reasonable precautions to avoid the breach of the regulations. It is very difficult to prove that due diligence has been taken if there are no written records in existence.

It is, therefore, good practice for businesses to record the way they monitor compliance with all the management controls, whether they are critical control points or not, in order to be able to demonstrate due diligence. Useful documentation of this nature would include, for example, cleaning schedules, temperature control records and staff training records.

Temperature Control

When examining food safety risks, the single, most important control measure is correct temperature control. The main provisions of the legislation are as follows:

- Food held in frozen storage should be kept at a temperature of -18°C.
- Chilled foods must be kept at 8°C or cooler if they would become unsafe at a temperature above this. It is generally accepted that the preferred temperature for refrigeration is 5°C.
- Cold food for service or display can be kept above 8°C for a maximum of four hours.
- Hot food must be kept above 63°C. An exemption of two hours applies to service and display.
- All food is required to be kept under temperature control if this is necessary to maintain its safety.
- Food must be cooled quickly if it is to be stored after heating or preparation.

It is apparent that the provisions allow for foods to be kept for limited periods without refrigeration. Buffets are a prime example of this. However, it will be necessary for steps to be taken to ensure that these time limits are not exceeded.

Training

It is a requirement that supervision, instruction and/or training with respect to food safety “commensurate with the work activity” shall be undertaken by food handlers. This means that people handling low risk foods or food which is not “open” do not have to receive the same level of training as, for example, chefs involved with the preparation of high risk food. Similarly, the size and nature of the food production affects the level of training expected. In general, the manager of a food operation would be expected to obtain a higher level of training than a basic grade food handler.

A number of organisations certify training; the two commonly used are the Chartered Institute of Environmental Health and the Royal Society of Public Health. There are a range of sector specific qualifications available from Level 1 to Level 4. Any person involved with handling unwrapped food for the County Council should have successfully completed training certified to at least the Level 2. It is good practice for managers of catering functions to be trained to the Level 3 or 4.

Managers who wish to commission training should contact the local colleges which offer a programme of such courses. Northumberland College is one such provider and the training is available via Catering Services.

Fitness to Work

Food can act as a vehicle for infection. Some very serious outbreaks of food poisoning have occurred as a result of members of staff who are unwell cross-contaminating food, either via the faecal-oral route or via direct contact from infections on the skin.

As a general rule, members of staff who experience symptoms of diarrhoea or vomiting should be immediately excluded from work and they should not then return to food handling duties until **48 hours** after the symptoms have cleared. Members of staff who have skin conditions which cannot be protected by a waterproof dressing should adopt the same standard. In food areas, blue dressings are recommended for visibility in the event that one should fall into the food.

Some infections have more stringent exclusion criteria and advice concerning the management of staff who have gastro-enteritis should be sought from the local EHP and the Occupational Health Unit.

There is a legal requirement for food handlers to report to their manager any infection which may be transmitted through food, such as skin infections. In order to manage this effectively, the County Council has adopted its own ‘**Fitness to Work Procedure**’. This involves managers filling in an FH1 form in a variety of situations. Guidance regarding management action which should be taken following the report of illness is also provided in the accompanying procedure.

Food Poisoning

All cases of food poisoning are notifiable to the Public Health Authorities. The notification is completed by the General Practitioner (GP) when individuals visit their GP to report symptoms.

If any manager suspects that a food poisoning outbreak has occurred involving employees or service users, then the persons affected should be advised to visit their GP and the following contacts should be notified:

- Public Health England, North East Unit (Tel 0300 303 8596 option 1)
- The Environmental Health Service within the County Council (Tel 01670 623870)
- The Occupational Health Unit (Tel 01670 529213)
- The Corporate Health and Safety Team (Tel 01670 623854)

In order to assist with any investigation, the following details should be obtained from the individual(s) concerned:

- name, address and telephone number of the affected persons
- date, time and place the meal was consumed
- number in party and number affected
- details of the symptoms
- exact food consumed
- the date and time symptoms commenced
- the duration of the illness.

Further Considerations

Using County Council Premises for Private Functions

When individuals not associated with the County Council hire out rooms for catering functions then the facilities which will be provided should be explicitly identified in the conditions of hire. If this does not include any facilities for the re-heating or refrigeration of food, then this should also be stated in the conditions.

When deciding to hire out a room it should be borne in mind that, should a food poisoning incident arise from the negligence of a private individual, the County Council may receive adverse publicity despite the fact that it was not responsible for the failing. Additionally if a claim, as a result of the hire, is made against the organiser's insurance and the organiser does not hold sufficient cover the claim may fall against the County Council's insurers for the balance of the claim. It is therefore vital that the organiser has adequate public liability insurance.

Imitation Food

A specific set of regulations covers the supply of goods which are not food but which:

"Having a form, order, colour, appearance, packaging, labelling, volume or size which is likely to cause persons, in particular children, to confuse them with food and in consequence to place them in their mouths or suck or swallow them, and as a result be at risk of death or personal injury"

There are limited exemptions in respect of marbles and bona-fide products intended to represent food in a dolls' house or other model scene or setting.