

**Title: Guidance on Food Traceability, Product Withdrawals and Recalls within
the UK Food industry**

Consultation Summary Page

Date consultation launched:	Closing date for responses:
07 January 2019	04 February 2019

Who will this consultation be of most interest to?

Food Enforcement Authorities
Food Business Operators
Trade Organisations
Consumer Organisations

What is the subject of this consultation?

This is a consultation on Guidance on Food Traceability, Withdrawals and Recalls in the UK Food Industry.

This newly developed guidance will assist food enforcement authorities and Food Business Operators (FBOs) in complying with food law and dealing with food withdrawals and recalls. The guidance outlines legal requirements and includes best practice advice.

What is the purpose of this consultation?

The purpose of this consultation is to seek views from stakeholders on newly developed Food Standards Agency/Food Standards Scotland Guidance on Food Traceability, Withdrawals and Recalls within the UK Food Industry. The guidance aims to promote clarity and consistency for FBOs and food enforcement authorities across the UK and will replace the Guidance Notes to Food Business Operators on Food Safety, Traceability, Product Withdrawals and Recalls, issued in 2007¹.

We welcome views on whether the guidance offers FBOs and food enforcement authorities' sufficient information and supporting tools to aid compliance with food law and advice on best practice in the event that a food safety issue is identified, and a withdrawal or recall required.

¹ <https://www.food.gov.uk/sites/default/files/media/document/fsa1782002guidance.pdf>

Responses to this consultation should be sent to:

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Old Ford Road
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Is a Business & Regulatory Impact Assessment (BRIA) included with this consultation?

Yes

No See Annex A for reason.

Guidance on Food Traceability, Product Withdrawals and Recalls within the UK Food industry

DETAIL OF CONSULTATION

Introduction

1. Food business operators (FBOs) are legally obliged under Regulation (EC) No. 178/2002 to ensure that food placed on the market is safe. In the event of a food safety incident FBOs must withdraw the affected food from the market and where it has reached the consumer, effectively and accurately inform them of the recall of the product already supplied. There is also a legal requirement for FBOs to notify the relevant authorities if unsafe food has been placed on the market. Requirements for food enforcement authorities, on handling food safety incidents, are set down in the Food Law Code of Practice and associated Practice Guidance.
2. A joint FSA/FSS project was initiated in 2016, following publication of the Lynn Faulds Wood review of the UK's systems for the recall of unsafe products, to review and better understand the food withdrawal and recall mechanisms operating within the UK food industry and make recommendations for improvement. Before this project, there was little evidence on the application or effectiveness of legal requirements for food businesses and food enforcement authorities against which to base decisions for change and improvement. In addition, there was no clear understanding of consumer awareness of recalls and behaviours in relation to the current food recall system.
3. The initial phase of the review (research and evidence gathering) was conducted in 2017 and looked to:
 - Gather information on how the current system works
 - Establish the challenges associated with the current system
 - Identify areas for improvement
 - Explore consumer awareness and behaviours to food recalls
 - Compare UK Central Competent Authority (CCA) guidance with that of other countries. An international comparison benchmarking exercise was carried out on CCA issued Guidance on Food Withdrawals and Recalls from UK, Ireland, Canada, America, Australia and New Zealand.
4. Whilst strengths of the existing system were recognised, the key findings of the research² revealed significant opportunities to strengthen and improve its overall effectiveness and resilience.
5. The review identified the following principles of an effective recalls system:
 - A withdrawal and recall system that is founded on a clear and distinct set of roles and responsibilities, agreed and commonly understood by all participants

² [https://webarchive.nationalarchives.gov.uk/20171207163607/https://www.food.gov.uk/sites/default/files/recalls-
efficacy-report.pdf](https://webarchive.nationalarchives.gov.uk/20171207163607/https://www.food.gov.uk/sites/default/files/recalls-
efficacy-report.pdf)

- Information to consumers is consistent and accessible, based on proven best practice and underpinned by cross-industry sharing of approaches and impact
 - The public are aware of the recall process and what actions they should take
 - Feedback loops and a philosophy of continuous improvement amongst all stakeholders underpins the withdrawal and recalls system
6. A programme of improvement was established and delivered by FSA and FSS in partnership with key stakeholders from the food industry, food enforcement authorities, consumer organisations and trade bodies.
 7. A number of key deliverables were identified for implementation ahead of 29 March 2019 and were delivered through multi-stakeholder working groups:
 - Workstream 1 - Development and publication of comprehensive UK guidance clarifying the roles and responsibilities of the key players involved in food safety withdrawals and recalls in the UK.
 - Workstream 2 – Development of best practice guidance to industry to help them to make their consumer recall notifications more consistent and accessible.
 - Workstream 3 – Development of best practice guidance to industry to help ensure consistent and more effective trade to trade communications.
 - Workstream 4 - Development and implementation of systematic root cause analysis (RCA) procedures to be used by industry in the event of food safety withdrawals and recalls.
 8. Workstreams 1, 2 and 4 were led by FSA/FSS. Workstream 3 was an industry-led workstream. Membership of each workstream included expert stakeholders in the relevant areas.
 9. A key element of Workstream 2 was research with food businesses to understand current practices, possible future practices, and challenges associated with communicating food recalls to consumers. This was followed by externally commissioned research with consumers to understand best practice on food recalls communication, from their perspective. The report of the consumer research is available on our [website](#).
 10. The outputs of Workstreams 2, 3 and 4 have been incorporated into this newly developed UK guidance. Further information and supporting tools are currently being developed by Workstream 4 and will be made publicly available in due course.
 11. The delivery and implementation of the identified improvements will aid in maintaining public confidence in food as the UK leaves the EU. The guidance will ensure that UK FBOs have advice on the development and implementation of a robust system for effectively removing unsafe food from the market.
 12. This consultation is seeking stakeholder views on newly developed UK guidance on Food Traceability, Product Withdrawals and Recalls within the UK Food Industry, developed jointly by FSS and FSA. This will replace existing Guidance Notes to Food Business Operators on Food Safety, Traceability, Product Withdrawals and Recalls that was produced in 2007.

13. The purpose of guidance is to assist food enforcement authorities and FBOs across the UK in dealing with food withdrawals and recalls as well as complying with food law. The guidance outlines legal requirements and includes best practice advice. The guidance has been developed by multi-stakeholder working groups, comprising of parties representing the food industry (both in terms of food businesses and trade associations across the size and production spectrum), Local Authorities and consumer representative organisations.
14. In addition to the guidance, FSS and FSA is considering developing a summary document that can be used as a quick reference guide for FBOs, which will highlight key information on food withdrawal and recall processes. FSS would be keen to get feedback from all stakeholders on what information they would like included and ideas on how it should be produced that would ease use.
15. The FSA will consult separately on this guidance with stakeholders in England, Wales and Northern Ireland. Responses from both public consultations will be considered together and will contribute to the final version of the joint guidance.

Proposals

Key proposal(s):

- **To update and publish UK guidance on Food Traceability, Product Withdrawals and Recalls within the UK Food Industry**

Consultation Process

16. A 4-week public consultation is being launched to provide stakeholders across the UK with an opportunity to comment on the new guidance and its associated impacts that have been assessed. The public consultation will run from 7th January 2019 until close of business on 4th February 2019. It is important to publish this guidance before the UK leaves the EU, which is why the consultation will run for four weeks.
17. FSS anticipates that the guidance will cause minimal impact to the food industry and food enforcement authorities. The main costs arising are likely to be one-off familiarisation costs and possible costs associated with sharing root cause analysis information. Therefore a Business and Regulatory Impact Assessment (BRIA) has not been produced at this stage.
18. However, if respondents feel the new guidance will generate any significant impacts please indicate this in your reply. FSS is particularly interested to hear from small and medium sized enterprises on the guidance and its likely impact.
19. Following the consultation, we will review the responses received and consider any changes that may be required alongside the impact feedback.
20. A summary of all comments received from this consultation will be published on our website within three months of the end of the consultation.

Questions asked in this consultation:

Q1: Does the guidance clearly distinguish between the legal requirements and best practice advice?

Please provide details.

Q2: What, if any, barriers do you foresee in implementing the guidance?

Please provide details.

Q3: What changes to your business will implementation of this guidance require you to make, if any?

Q4: What effect will this guidance have on your business' ability to deal with food withdrawals and recalls?

Q5: What are your views on the best practice advice and supporting templates provided in the guidance?

In particular, we welcome your views on:

- Is it reasonable for FBOs to keep traceability records of pre-packed foods for the shelf life of the product plus 12 months?
- Is the risk assessment advice and example helpful for businesses?
- Is the food business recall notice template helpful and easy to complete and will it accurately and effectively inform consumers. If not, please provide details and recommendations for improvement.
- Will you use the consumer recall notice template? If not, please explain why.
- Are the key principles for consumer recall notifications achievable?
- Are there any other factors that should be considered when communicating food recalls with consumers?
- Would you like to see two different consumer recall notice templates – one for food recalls and one for allergy alerts? If so, how would you like these distinguished?

Q6: What additional tools will assist you in effectively implementing the guidance?

Q7: Do you agree with our assessment that there will be minimal costs/impact to businesses associated with implementing the guidance?

Please provide details if you do not agree.

Q8: What information would you like to see in a 'Quick Reference Guide' summary document, which accompanies the guidance?

Q9: How would you like the 'Quick Reference Guide' summary document presented?

Q10: Will implementing this guidance provide greater assurances that UK businesses can effectively manage withdrawals and recalls?

Stakeholders are welcome to provide any other comments.

Responses

This is a shortened 4 week consultation and therefore responses are required by close **4 February 2019**.

Please state, in your response, whether you are responding as a private individual or on behalf of an organisation/company (including details of any stakeholders your organisation represents). If you are replying by post then please note our updated address details below.

We will summarise all comments received and the official response to each will be published on the FSS website within three months following the end of the consultation period.

Thank you on behalf of Food Standards Scotland for participating in this public consultation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ryan Bruce', with a long horizontal flourish extending to the right.

Ryan Bruce – Incidents Manager
Scottish Food Crime & Incidents Unit
Food Standards Scotland

Enclosed

Annex A: Standard Consultation Information

Annex B: UK Guidance on Food Traceability, Withdrawals and recalls within the UK

Annex C: Consultation Feedback Questionnaire [hard copy version only]

Annex D: Data Protection Form [hard copy version only]

Annex E: List of interested parties

Annex F: Product Recall Template

Annex G: Allergy Alert Template

Queries

1. If you have any queries relating to this consultation please contact the person named on page 1, who will be able to respond to your questions.

GDPR, Publication of personal data and confidentiality of responses

2. The European General Data Protection Regulation (GDPR) replaces the Data Protection Directive 95/46/EC and was developed to harmonize data privacy laws across Europe. The Data Protection Act (the DPA) 2018 applies GDPR standards and transposes the EU Data Protection Directive 2016/680 (Law Enforcement Directive) into domestic UK law. In accordance with the GDPR, we are required to provide a privacy notice in relation to this public consultation. Food Standards Scotland will be known as the “Controller” of the personal data provided to us. We need to collect this information to allow us to effectively carry out our official duties of policy development and for the purposes of record keeping. In responding to this consultation, you have consented to provide this information to us but are able to withdraw your consent at any time by getting in touch with us.
3. Personal information is stored on servers within the European Union and cloud based services have been procured and assessed against the national cyber security centre cloud security principles. Personal information will not be used for any purpose other than in relation to consultations. Personal information will be stored for as long as necessary to carry out the above functions and for five years from receipt in accordance with our retention policy. No third parties have access to your personal data unless the law allows them to do so.
4. You have a right to see the information we hold on you by making a request in writing to the email address below. If at any point you believe the information we process on you is incorrect you can request to have it corrected. If you wish to raise a complaint on how we have handled your personal data, you can contact our Data Protection Officer who will investigate the matter. If you are not satisfied with our response or believe we are processing your personal data not in accordance with the law you can complain to the Information Commissioner’s Office (ICO). Our Data Protection Officer in the FSS is the Head of Corporate Services who can be contacted at the following email address: dataprotection@fss.scot
5. In accordance with the principle of openness, our office in Pilgrim House in Aberdeen will hold a copy of the completed consultation as per our retention policy. FSS will not publish anything without your consent. If you have any queries please email: dataprotection@fss.scot. or return by post to the address given on page 1.
6. In accordance with the provisions of Freedom of Information Act (Scotland) 2002/Environmental Information (Scotland) Regulations 2004, all information contained in your response may be subject to publication or disclosure. If you consider that some of the information provided in your response should not be disclosed, you should indicate the information concerned, request that it is not disclosed and explain what harm you consider would result from disclosure. The final decision on whether the information should be withheld rests with FSS. However, we will take into account your views when making this decision.
7. Any automatic confidentiality disclaimer generated by your IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.

8. A detailed Privacy Policy is available on our [website](#), that explains how FSS will safeguard and process any personal identifiable information that we collect from you in relation to this consultation.

Further information

9. A list of interested parties to whom this letter is being sent appears in Annex D. Please feel free to pass this document to any other interested parties, or send us their full contact details and we will arrange for a copy to be sent to them direct.
10. Please contact us for alternative versions of the consultation documents in Braille or other languages.
11. Please let us know if you need paper copies of the consultation documents or of anything specified under 'Other relevant documents'.
12. This consultation has been prepared taking account of the Consultation Criteria.
13. The Consultation Criteria from that Code should be included in each consultation and they are listed below:

The Seven Consultation Criteria

Criterion 1 — When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2 — Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3 — Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4 — Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5 — The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6 — Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7 — Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

14. Criterion 2 states that *Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.* - This consultation is not being held for a full 12 weeks in order to achieve updated guidance in time for end of March 2019.

15. The Code of Practice states that an Impact Assessment should normally be published alongside a formal consultation. However, this consultation is concerned mainly with amendments to existing guidance with costs expected to be restricted to those for familiarisation. FSS does not propose producing a Business and Regulatory Impact Assessment at present but will revisit, depending on stakeholder feedback to this consultation.

Comments on the consultation process itself

16. We are interested in what you thought of this consultation and would therefore welcome your general feedback on both the consultation package and overall consultation process. If you would like to help us improve the quality of future consultations, please feel free to share your thoughts with us by sending an email to openness@fss.scot or return by post to the address given on page 1.