

Administration and Service Planning – Food Law Code of Practice 2020

Consultation Summary Page

Date consultation launched:	Closing date for responses:
24 th August 2020	5 th October 2020

Who will this consultation be of most interest to?

Primarily this consultation will be of interest to Scottish Food Authorities. In addition it will be of interest to: Industry and relevant Trade Bodies

What is the subject of this consultation?

To inform stakeholders and seek their views on the Administration and Service Planning – Food Law Code of Practice (Scotland) 2020.

What is the purpose of this consultation?

To provide stakeholders with an opportunity to comment on the Administration and Service Planning – Food Law Code of Practice (Scotland) 2020.

Responses to this consultation should be sent to:

Name Sarah Coyle Regulatory Strategy Food Standards Scotland E-mail address: FoodLawCodeReview@fss.scot	Postal address: Food Standards Scotland Fourth Floor Pilgrim House Old Ford Road Aberdeen AB11 5RL
--	--

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

Yes

No See Annex A for reason.

If you would prefer to receive future FSS consultations by e-mail, or if you no longer wish to receive information on this subject please notify the named person in this consultation.

DETAIL OF CONSULTATION

Food Standards Scotland (FSS) welcomes your comments on the draft Administration and Service Planning - Food Law Code of Practice (Scotland) 2020 (See Annex B) and the Partial Business and Regulatory Impact Assessment (BRIA – see Annex C).

Introduction

The new Administration and Service Planning - Food Law Code of Practice (Scotland) 2020 (hereafter referred to as the Administration and Service Planning Code 2020) is being introduced as part of phase 3 of the Food Law Code of Practice review.

The Administration and Service Planning Code incorporates the following changes:

- Alignment with Food Standards Scotland's Regulatory Strategy.
- Alignment to reflect Food Standards Scotland's Strategy to 2021 and the Scottish Government's approach to Better Regulation as set out in the Scottish Regulators' Strategic Code of Practice.
- Official Controls Regulation (EU) 2017/625.

The Administration and Service Planning Code supersedes certain sections of the consolidated Food Law Code of Practice 2019 (please see Annex 5 of the Administration and Service Planning for further information). It is also part of a wider programme of work within our Regulatory Strategy to review the Food Law Code of Practice. A summary of the review is detailed below.

Phase One

The publication of the consolidated Food Law Code of Practice (Scotland) 2019 which updated the Food Law Code of Practice (Scotland) 2015 to reflect changes in legislation and practice since 2015 and to ensure it is in alignment with Food Standard Scotland's Regulatory Strategy. **This phase was completed on 31 January 2019.**

Phase Two

The Interventions Code is the first in a programme of work to publish a series of individual publications and introduces the Food Law Rating System (FLRS). The FLRS combines the rating systems for Food Hygiene and Food Standards into one Food Law Intervention scheme based upon a new food business performance model that will target resources on high to medium risk and non-compliant businesses. **This phase was completed on 1 July 2019.**

Phase Three

The key aim is to develop the process to simplify future updates by producing further individual Food Law Code of Practice publications. It is important that given the pace of legislative change Codes of Practices continually reflect current legislation, to ensure Food Authorities are accurately informed of the criteria they are required to have regard to when undertaking Official Controls. As part of Phase 3 Individual Codes of Practice publications are initially being considered for Approvals and Enforcement Sanctions. In addition all Codes of Practice have been updated to include the Official Controls Regulation (EU) 2017/625 and all future Codes of Practice will require to be updated in alignment any other legislative changes that arise from exiting the EU.

Consultation Process

A 6 week consultation is being launched to provide interested parties with the opportunity to comment on these proposals. The consultation will close on 5th October 2020.

As indicated above, the Food Law Code of Practice review has been ongoing since 2017. Throughout this period, there has been ongoing and regular updates (written and verbal) to Scottish Food Authorities, Industry and Trade Bodies. Prior to a full written 12 week consultation of the consolidated Food Law Code of Practice (Scotland) 2019 in 2018, discussions were held with both enforcement and industry stakeholders.

Following the consultation, there will be a review of the consultation outcomes and action taken, as necessary, to address those outcomes. We will summarise all comments received and the official response to each will be published on the FSS website within 3 months of the end of the consultation period.

Questions
1. Your views on Section 2 of the Code: Statutory and General Obligations on Food Authorities
2. Your views on Section 3 of the Code: Inter-Authority Matters
3. Your views on Section 4 of the Code: Qualifications and Competence
4. Your views on Section 5 of the Code: Conflicts of Interest
5. Your views on Section 6 of the Code: Communication
6. Your views on Section 7 of the Code: FSS and FSA Communications and Guidance
7. Your views on Section 8 of the Code: Food Business Establishment Records
8. Your views on Section 9 of the Code: Information to be supplied to FSS
9. Your views on Section 10 of the Code: Liaison with member states and of the EU and 3 rd Countries
10. Your views on Section 11 of the Code: Crown and Police Premises
11. Your views on Section 12 of the Code: Service Planning - Introduction

12. Your views on Section 13 of the Code: Monitoring of Inspections – Internal and FSS Monitoring of Interventions
13. Your views on Annex 2: Official Food Controls Service Plan Guidance
14. Your views on any other Sections of the Administration and Service Planning Code 2020

We are keen to hear from Local Authority Food Enforcement Officers on any aspect of the Administration and Service Planning Code 2020 changes, and any impact the changes may have on Local Authority Food Enforcement activities.

Responses

This is a shortened 6 week consultation and therefore responses are required by 5th October 2020.

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). **Please note, due to the current circumstance we will not be able to receive replies sent by post.**

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 FSS for participating in this public consultation.

Yours sincerely,

Sarah Coyle
Project Specialist
Regulatory Strategy
Food Standards Scotland

Enclosed

Annex A: Standard Consultation Information

Annex B: Draft Administration and Service Planning – Food Law Code of Practice (Scotland) 2020

Annex C: Business & Regulatory Impact Assessment

Annex D: List of interested parties

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

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

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 C. 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 because extensive consultation has taken place previously on the policy to centralise feed law functions.

15. The Code of Practice states that an Impact Assessment should normally be published alongside a formal consultation. Please see the Business & Regulatory Impact Assessment at Annex B.

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.