



**Guidance on the
application of EU
food hygiene law to
community and
charity food
provision**

[] 2015

If you require the information in an alternative format such as audio, large print or Braille — please contact David Gray on 020 7276 8940.

For enquiries about the guidance content, see the contacts section below.

Summary

Intended audience:	<ul style="list-style-type: none"> • Local authorities • Organisers of charity and community food provision
UK nations covered:	England.
Purpose:	The document provides guidance on which charity and community food provision might need registration with the local authority.
Legal status:	The guidance helps to explain the law.
Key words:	<ul style="list-style-type: none"> • Food law, monitoring and controls • Hygiene and food safety
Review date:	The guidance will be reviewed in July 2018

Revision history

This guidance follows the Government [Code of Practice on Guidance](#). If you believe this guidance breaches the Code for any reason, please let us know by emailing betterregulation@foodstandards.gsi.gov.uk. If you have any comments on the guidance itself, please call us using the contact number on page 2 or complete our ongoing [Guidance survey](#): <https://www.surveymonkey.com/s/55QQDCG>

Revision No.	Revision date	Purpose of revision	Revised by
1	[] 2015	Improvements in textual clarity and correction of typographical errors. Addition of new examples to Part 2. Updated to reflect the new rules for labelling and food information. Additional questions added to the attached hygiene advice Q&A.	David Gray

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Introduction

1. EU food hygiene law requires the registration of those operations or activities where food is supplied - whether given away free or sold for some form of monetary or other return – which are deemed to be:

“..undertakings, the concept of which implies a certain continuity of activities and a certain degree of organisation ‘.

In England, registration is with local authority environmental health departments.

2. In this guidance document the Food Standards Agency (FSA) provides its view on what, ‘a certain continuity of activities and a certain degree of organisation’ (i.e. an ‘undertaking’) looks like in day-to-day terms and provides relevant examples - with a focus on food providers in the charity, community and village hall sector.
3. Accompanying the guidance document is a Q& A, *Catering advice for charity and community groups providing food* with links to advice about preparing food for large numbers of people, about good food hygiene, specific advice about certain foods, about labelling and provision of information about allergens and food intolerance. The FSA recommends that community and charity food providers read the Q&A.

Intended audience

4. The intended audience is local authority food safety officers and organisers of community and charity food provision.

Purpose of guidance

5. The guidance should help local authority officers make pragmatic assessments about the registration of activities such as charity food sales,

community dinners for elderly people and the sales of tea and biscuits in church halls.

6. The guidance should also help community and charity food organisers share a common understanding of the legal and public health considerations.

The nature, size and regularity of activities in the community and charity sector is varied and the examples try to reflect this. However, the examples given can never cover all 'real world' situations - if charity and community organisers cannot determine whether they should be registered from the advice and examples included in this guidance, the FSA strongly advises contacting the relevant local authority environmental health department food safety team to discuss the matter and the particular local circumstances.

Community food providers can find their local authority contact details on the FSA's web site at: www.food.gov.uk/enforcement/yourarea

Legal status of guidance

7. Part 1 provides detail of the legal requirements of the relevant provisions of EU law. Advice from the European Commission on the interpretation of EU law is also included. In part 2 we provide examples of community and charity food sales and food supply operations and the FSA's consideration of whether each would, or would not, require registration and why.

Review

8. The guidance will be reviewed in June 2018 although the FSA welcomes feedback from users at any time, which can be sent via the [feedback questionnaire](#) or directly to foodhygiene.policy@foodstandards.gsi.gov.uk

Contacts

9. If you are a community group or a charity and have any comments about the guidance, please email:

foodhygiene.policy@foodstandards.gsi.gov.uk

If you are a local authority officer, please email:

LAHygieneenquiries@foodstandards.gsi.gov.uk

or telephone:

Chris Rowswell: 0207 276 8180

Part 1: EU law and European Commission guidance on the law

10. Food supplied, sold or provided outside of the family / domestic setting is subject to EU food law and must be safe to eat. This is regardless of whether the operation supplying or selling the food is doing so to make a profit. Food must not be 'injurious to health' or 'unfit for human consumption'.¹
11. EU law also requires that certain operations ('undertakings') supplying food – again regardless of whether free or for profit value or not - are registered² as food businesses with the 'competent authorities' (in the UK these will be local authorities). An 'undertaking' must have '*a certain continuity of activities*' and '*a certain degree of organisation*'³. This guidance should assist decisions about which food operations meet these terms.
12. The European Commission has produced guidance, the relevant extract of which is set out in Box 1 below, 'on the implementation of certain provisions of Regulation (EC) No 852/2004 *on the hygiene of foodstuffs*.

Box 1: EU guidance - The occasional handling, preparation, storage and serving of food by private persons

Operations such as the occasional handling, preparation, storage and serving of food by private persons at events such as church, school or village fairs are not covered by the scope of the Regulation. This is made clear in recital 9 of Regulation (EC) No 852/2004. The second sentence states that:

'Community rules should only apply to undertakings, the concept of which implies a certain continuity of activities and a certain degree of organisation.'

The term 'undertaking' is integrated in the definition of a 'food business' (in accordance with Article 3(2) of the General Food Law (Regulation (EC) No 178/2002), a 'food business' must be an 'undertaking'). Somebody who handles, prepares, stores or serves food occasionally and on a small scale (e.g. a church, school or village fair and other situations such as organised charities comprising individual volunteers where the food is prepared occasionally) cannot be considered as an 'undertaking' and is therefore not subject to the requirements of Community hygiene legislation.

¹ Regulation (EC) 178/2002, Article 14.

² Regulation (EC) 852/2004, article 6

³ These terms are found in recital 9 of Regulation (EC) 852/2004. "...they [the Community regulations] should apply only to undertakings, the concept of which implies a certain continuity of activities and a certain degree of organisation." Such registered food businesses must meet certain standards for their premises and must put in place proportionate food safety procedures and have these written down.

Part 2: Principles on which registration of an operation are considered

13. The FSA's views on the terms 'a certain continuity of activity' and 'a certain degree of organisation' are set out in Box 2 below. Examples of food provision that the FSA considers either require or do not require registration are set out below in boxes 3A and 3B respectively.
14. The terms 'certain continuity of activity' and a 'certain 'degree of organisation' should both be considered when deciding whether an operation requires registration.
15. As a starting point, the FSA suggests that provision of food on at least one occasion on an average monthly basis is deemed to have 'a certain continuity of activities'. However, if the food supply is less frequent, guidance users should still weigh this against the provision's 'degree of organisation' - which could involve a number of factors. The FSA sets out its views on these factors below in Box 2.

<u>Box 2: The FSA's views on 'a certain continuity of activity and a certain degree of organisation'</u>	
<u>A certain continuity of activity</u> Generally, community or charity operations providing food on at least one occasion on an average monthly basis or more can be considered as having a continuity of activity ⁴ .	<u>A certain degree of organisation</u> When deciding how much any given operation can be said to be 'organised,' food providers should give consideration to the risk presented by the food itself, to the needs of consumers, the nature of the event and the consequent controls needed for safe food provision.

⁴ There may be occasions where provision of food is not at least one occasion on an average monthly basis but activities are still deemed to have continuity. Each scenario will need to be assessed on a case-by-case basis by the local authority

	<p>Where supply of food is to persons including <u>vulnerable consumers</u> (i.e. the elderly, infants under 5 years, pregnant women or people with a weakened immune system) food providers must put suitable controls in place especially with certain foodstuffs⁵ – for example, this might include provision of information about raw or low-temperature-cooked foods. Food providers must also be aware that certain foods may not be suitable for vulnerable people, such as pâtés or mould-ripened soft cheeses⁶. Such controls can increase the level of organisation required and especially so if there are larger numbers of vulnerable consumers. Information for persons with food allergies and food intolerance is also very important - again see the Q&A attached to this document for further information about the new rules for food information for consumers.</p> <p>Provision of food such as tea and biscuits, packaged dry goods, and foods which can be prepared simply and kept safely at room temperature are all low-risk activities and do not require a significant degree of organisation to manage their safety. However, it can be said that more organisation is needed where food safety controls are more complex, for example, where food needs thorough cooking to make it safe or where ready-to-eat foods need to be kept cool to remain safe. There is also a need to control the risk of cross-contamination between raw and ready-to-eat foods, which will require a greater level of organisation.</p>
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⁵ There is guidance on the Q&A including a link to the FSA's *Safer Food Better Business* catering guidance for preparing and cooking 'foods which need extra care'.

⁶ See link to NHS Choices web site on such foods provided in the Q&A.

	<p>In terms of the event's nature, infrequent large-scale community events, perhaps organised by the same community group where a wide range of consumers can walk in off the street are considered to require more organisation than events occurring to more restricted groups of consumers such as at private clubs or closed events.</p> <p>For regional or national organisations such as the Women's Institute (WI) or The Scouts, the term 'degree of organisation' should not be considered to refer to the wider body, only to those branches organising the event and/or handling or providing the food (e.g. a local branch of the WI). This consideration could change however if the wider body had some direct role in the organisation of the food supply or its safety controls.</p>
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BOX 3

Non-exhaustive examples of village hall and community food provision and how the EU food hygiene legislation might apply

<p>3A: The FSA suggests that food provision in the following situations is unlikely to require registration.</p>	
1	<p>A one-off event such as a church or school fete, or a street party.</p> <p>Considered not to have 'continuity'.</p> <p><i>Organisers of large community events should read the FSA's Catering advice for charity and community groups providing food Q&A and / or contact the local authority for practical advice. Where several large events might be organised within a year, especially with complex food safety controls, then a 'degree of organisation' could be involved.</i></p>
2	<p>Daily small-scale provision in the weekday afternoons of low-risk foods by community / charity volunteers such as provision of tea and biscuits in church halls.</p> <p>Considered not to have a 'degree of organisation'.</p> <p><i>This because it is low-risk and small-scale provision. However, if complex food safety</i></p>

	<i>controls are in place or high-risk foods are served then registration would be required.</i>
3	<p>School breakfast club where volunteers supply simple breakfast foods like toast and cereal and orange juice which is given to children and/or toddlers for two or three hours each day during term-time.</p> <p>Considered not to have a 'degree of organisation'.</p> <p><i>The food provided is low-risk (even though infants are the target consumer) and small-scale.</i></p> <p><i>School kitchens will already be registered with the LA as food businesses, so if breakfast food is supplied by the school kitchen's staff then this should be considered as part of the kitchen's business activity.</i></p>
4	<p>A village hall event held about six times per year where a two course hot meal is served to about sixty people including elderly persons. The food is cooked at home by volunteers and is reheated in the hall kitchen prior to consumption.</p> <p>Considered not to have 'continuity'.</p> <p><i>As with Example 1, organisers of large community events should read the FSA's Catering advice for charity and community groups providing food Q&A and / or contact the local authority for practical advice. Where several large events might be organised within a year, especially with complex food safety controls, then a 'degree of organisation' could be involved.</i></p>
5	<p>A small food bank operating for just an hour or two per day on an infrequent basis by volunteers collecting tinned and packaged foodstuffs not requiring temperature control donated by for distribution to local needy people.</p> <p>Considered not to have a 'degree of organisation'.</p> <p><i>The holding of such food is relatively low-risk. Food banks should ensure 'best before' dates are kept to and food is stored so that the packaging does not degrade. Further advice on 'use by' dates can be found in the Q &A.</i></p> <p><i>Food banks operating regularly collecting and distributing sandwiches or storing food requiring temperature control are likely to require registration.</i></p>
6	<p>Scout or Guide camp lasting a few days at a time and cooking food.</p> <p>Considered not have to 'continuity'.</p>
7	<p>Infrequent provision of food by members of a club or society for their shared consumption at a private event.</p>

	Considered not to have a 'degree of organisation' (and may not have 'continuity').
8	<p>Amateur drama group serving food for audiences for limited periods.</p> <p>Generally considered not to have 'degree of continuity'.</p> <p><i>However, amateur drama groups staging shows for longer periods, or on a monthly or more frequent basis where (e.g.) hot food is served should be considered as having 'continuity'.</i></p> <p><i>Organisers of infrequent community events involving large numbers of consumers may wish to contact the local authority for practical food hygiene advice.</i></p>
9	<p>A 'cooking club' where members bring in own food ingredients or pay the course leader to supply the foods. Those attending learn to cook using equipment in the hall and then all sit down to eat together or take food home.</p> <p>Considered not to have a 'degree of organisation' (and may not have 'continuity').</p>
10	<p>A 'foraging course/event' or similar where a group of people gather wild products (e.g. blackberries, mushrooms, wild garlic, nettles, rosehips for cordials, sloes for 'sloe gin') which are brought back to a hall and cooked or otherwise handled and eaten. Such courses may last a few hours and are held over weekends throughout the year and daily in July and August.</p> <p>Considered not to have a 'degree of organisation'.</p> <p><i>Also the gathering of 'primary products', such as gathered wild products, <u>for private domestic use</u>, fall outside the scope of the EU hygiene legislation.</i></p>
<p>3B: The FSA suggests that food provision in these situations does involve both continuity of activity (i.e. at least once per month in most cases) and a degree of organisation and would therefore require registration</p>	
1	Monthly provision of food requiring more complex safety control such as temperature control and / or cooking.
2	<p>A community café opening for three days per week on a pay-what-you-can basis offering food which has been donated by other businesses and by individuals.</p> <p><i>The fact that the food has been donated does not affect the consideration in this case.</i></p>
3	A sports club serving hot meals regularly during the season (e.g. an amateur

	football club serving food every other Saturday from September through to May to club members and visitors).
4	Volunteers serving hot soup and sandwiches on regular basis to homeless and other potentially vulnerable people.
5	A small community centre supplying approximately a dozen persons with free hot food for two lunchtimes per week. Some of the food has been prepared by volunteers at home.

Part 3: Guidance for charity and community groups providing food

Guidance for charity and community groups providing food is on the Food Standards Agency website at www.food.gov.uk/business-industry/guidancenotes/hygguid/charity-community-groups/