



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

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March 2016

**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

<b>Intended audience:</b>	<ul style="list-style-type: none"> <li>• Local authorities</li> <li>• Organisers of charity and community food provision</li> </ul>
<b>UK nations covered:</b>	England, Wales and Northern Ireland.
<b>Purpose:</b>	The document provides guidance on which charity and community food provision might need registration with the local authority.
<b>Legal status:</b>	The guidance helps to explain the law.
<b>Key words:</b>	<ul style="list-style-type: none"> <li>• Food law, monitoring and controls</li> <li>• Hygiene and food safety</li> </ul>
<b>Review date:</b>	The guidance will be reviewed in July 2019

## 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](mailto: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	February 2016	<p>To reflect the document's coverage of Wales and Northern Ireland.</p> <p>Improvements in textual clarity and correction of typographical errors.</p> <p>Addition of new examples to Part 2.</p> <p>Updated to reflect the new rules for labelling and food information.</p> <p>Revision of the attached hygiene advice Q&amp;A.</p>	David Gray and officials in Wales and Northern Ireland.

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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 ‘.*

Registration is with local authority environmental health departments.

2. It is not always clear whether community and charity food supply, which is often occasional or small-scale in nature, requires registration. 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 provision in the charity, community and village hall sector.
3. The nature, size and regularity of activities in the community and charity sector are varied and the examples try to reflect this. The examples given however 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.
4. 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.

5. A community hall kitchen will not need to be registered as a food business on its own, even if it used by several volunteer groups. Registration only applies to (e.g.) a group using the community hall kitchen if their food activities meet the description of an undertaking. Of course, groups using halls should ensure the kitchen areas are kept clean. The hall management should ensure it is structurally sound and meets any other relevant legislation.

## Intended audiences

6. The main intended audiences are local authority food safety officers and organisers of community and charity food provision.

## Purpose of guidance

7. The guidance should help local authority officers make pragmatic assessments about the registration of activities such as charity food sales, food banks, community dinners for elderly people and the sales of tea and biscuits in church halls.
8. The guidance should also help community and charity food organisers share a common understanding of the legal and public health considerations and implications.

Community food providers can find their local authority contact details for England, Wales and Northern Ireland on the FSA's web site at: [www.food.gov.uk/enforcement/yourarea](http://www.food.gov.uk/enforcement/yourarea)

## Legal status of guidance

9. Part 1 provides detail of the legal requirements of the relevant provisions of EU law including advice from the European Commission on the interpretation of EU law. 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

10. The guidance will be reviewed in July 2019 although the FSA welcomes feedback from users at any time, which can be sent via the [feedback questionnaire](#) or directly to the contact point for England, Wales or Northern Ireland (see below).

## Contacts

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

### England

[foodhygiene.policy@foodstandards.gsi.gov.uk](mailto:foodhygiene.policy@foodstandards.gsi.gov.uk)

If you are a local authority officer, please email:

[LAHygieneenquiries@foodstandards.gsi.gov.uk](mailto:LAHygieneenquiries@foodstandards.gsi.gov.uk)

or telephone:

Chris Rowswell: 0207 276 8180

### Wales

If you are a community group or a charity, please email:

[Food.Policy.Wales@foodstandards.gsi.gov.uk](mailto:Food.Policy.Wales@foodstandards.gsi.gov.uk)



If you are a local authority officer, please email:

lasupportwales@foodstandards.gsi.gov.uk

Northern Ireland

All enquiries:

Executive.Support@foodstandards.gsi.gov.uk

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

12. 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'.<sup>1</sup>
13. EU law also requires that certain operations ('undertakings') supplying food – again regardless of whether free or for profit value or not - are registered<sup>2</sup> as food business operators (FBOs) 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*'.<sup>3</sup> This guidance should assist decisions about which food operations meet these terms.
14. 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 in recital 9 of Regulation (EC) No 852/2004. The second sentence states that:

*'EU 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 EU hygiene legislation."<sup>4</sup>

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

<sup>2</sup> Regulation (EC) 852/2004, Article 6

<sup>3</sup> These terms are found in recital 9 of Regulation (EC) 852/2004. "...they [the EU regulations] should apply only to undertakings, the concept of which implies a certain continuity of activities and a certain degree of organisation." Registered food business operators must ensure that their establishment(s), meet certain standards required by food law including putting in place proportionate food safety procedures and keeping certain records as appropriate.

<sup>4</sup> In Box 1 the word 'Community' has been replaced by 'EU' twice.

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

- 15. 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.

In order for registration to be appropriate, a food operation must have both 'a certain continuity of activity' and a certain 'degree of organisation'.

- 16. As a starting point, the FSA suggests that provision of food on at least one occasion on an average monthly basis has 'a certain continuity of activities'. However, for more complex operations occurring less frequently than this, but where there is still some continuity of activity the FSA acknowledges that registration may be required in order that an appropriate degree of public health protection is in place. Local authority officers will need to assess these scenarios on a case-by-case basis and community food organisers should be aware that local authorities may consider some larger and more complex infrequent events to require registration.

<p><b><u>Box 2: The FSA's views on 'a certain continuity of activity and a certain degree of organisation'</u></b></p>
<p><b><u>A certain continuity of activity</u></b></p> <p>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.</p>
<p><b><u>A certain degree of organisation</u></b></p> <p>When deciding whether any food operation can be said to be 'organised,' consideration should be given to the overall nature of the organisation and the likely</p>

risks to consumer health. This includes the practices involved in the safe handling and preparation of the food, the risks posed by any food and the complexity of controls needed to mitigate those risks to an acceptable and safe level; the needs of consumers (i.e. consumers at risk, vulnerable groups); and, the nature of the event/food supply operation (e.g. size of event, types of foods, whether the event is open to all consumers or restricted to a defined group).

Most community events will include the provision of food to consumers considered vulnerable (i.e. persons over 65, infants under 5 years old, pregnant women or people with a weakened immune system such as those with certain serious illnesses). Food providers must consider the needs of such consumers, particularly in relation to certain high-risk foods, and put suitable controls in place. The FSA has provided advice about safe practices as well as sources of information in the accompanying Q&A.

Provision of food such as tea and biscuits, packaged dry goods, and foods which can be prepared simply, stored and kept safely at room temperature are all low-risk activities and do not require a significant degree of organisation to manage their safety.

In terms of the nature of the event, 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.

For regional or national organisations such as the Women's Institute (WI) or The Scouts, the term 'degree of organisation' should not refer to the wider organisation as a whole, 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.

**BOX 3**

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

**3A: Registration unlikely: The FSA suggests that food provision in the following situations is unlikely to require registration.**

1	<p><b>Situation:</b> A one-off event such as a church or school fete, or a street party.</p> <p><b>Reason:</b> Considered not to have ‘continuity’.</p> <p><i>Organisers of large community events should read the FSA’s Catering Q&amp;A for charity and community groups providing food Q&amp;A and / or contact the local authority for practical advice.</i></p>
2	<p><b>Situation:</b> Daily small-scale provision in the weekday afternoons of low-risk foods by community / charity volunteers, such as provision of tea and biscuits in a church hall.</p> <p><b>Reason:</b> Considered not to have a ‘degree of organisation’.</p> <p><i>This is because it is low-risk and small-scale provision. However, if complex food safety controls are in place or high-risk foods are served then registration would be required.</i></p>
3	<p><b>Situation:</b> 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><b>Reason:</b> 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>Note: 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><b>Situation:</b> 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><b>Reason:</b> Considered not to have ‘continuity’.</p>

	<p><i>As with Example 1, organisers of large community events, even if infrequent, should read the FSA's Catering Q&amp;A. The FSA also advises that organisers of such larger scale events contact the local authority for practical advice.</i></p>
5	<p><b>Situation:</b> 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 people.</p> <p>Reason: Considered not to have a 'degree of organisation'.</p> <p><i>The holding of such food is relatively low-risk.</i></p>
6	<p><b>Situation:</b> Scout or Guide camp lasting a few days at a time and cooking food.</p> <p><b>Reason:</b> Considered not have to 'continuity'.</p>
7	<p><b>Situation:</b> Infrequent provision of food by members of a club or society for their shared consumption at a private event.</p> <p><b>Reason:</b> Considered not to have a 'degree of organisation' (and may not have 'continuity').</p>
8	<p><b>Situation:</b> Amateur drama group serving packaged foods and soft drinks for audiences for limited periods.</p> <p><b>Reason:</b> Considered not to have 'degree of organisation' and possibly not 'continuity'.</p>
9	<p><b>Situation:</b> A church hall providing food made by volunteers for mourners after a funeral.</p> <p><b>Reason:</b> Considered not to have 'continuity' and may not have a 'degree of organisation' as a restricted event.</p>
10	<p><b>Situation:</b> A 'cooking club' where members bring in the food ingredients or pay the course leader to supply the ingredients. Those attending learn to cook using equipment in the hall and then all sit down to eat together or take food home.</p> <p><b>Reason:</b> Considered not to have a 'degree of organisation' (and may not have 'continuity').</p>

11	<p><b>Situation:</b> 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 held over weekends throughout the year and daily in July and August.</p> <p><b>Reason:</b> Considered not to have a 'degree of organisation'.</p>
<p><b>3B: Registration likely: 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</b></p>	
1	<p>Monthly provision of free hot food by a faith group in a hall to local people.</p> <p><i>The fact that the food is provided free does not affect the consideration in this case.</i></p>
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 is donated does not affect the consideration in this case.</i></p>
3	<p>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).</p>
4	<p>A charity volunteer operation organising the daily collection of sandwiches from supermarkets for distribution to homeless people.</p>
5	<p>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.</p>
6	<p>A volunteer-run operation providing hot soup and bread to homeless persons each evening.</p>

## 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/](http://www.food.gov.uk/business-industry/guidancenotes/hygguid/charity-community-groups/)