

Project Summary Document
Food Law Code of Practice Review

Version 1.0

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1.0 Document Information

File Reference	Owner
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Table 1: File Reference

1.1 Revision History

Version	Date	Author (s)	Reason for Amendment	Summary of key changes	Reviewed by
1.0	09.10.2017	Jacque Sutton		First draft	Bryan Campbell
2.0	25.10.2017	Jacque Sutton		Publication	Bryan Campbell

Table 2: Revision History

2.0 Introduction

2.1 Purpose

The purpose of this Project Summary Document is to provide an overview of the plans to review the Food Law Code of Practice (Scotland) ('the Code'). It describes the aims of the project, and details how we propose to achieve those aims.

2.2 Background

The Food Law Code of Practice sets out instructions, processes and criteria to which the 32 unitary Local Authorities in Scotland must have regard when they carry out Official Food Controls in their role as Food Authorities.

The Code is issued under section 40 of the Food Safety Act 1990, Regulation 24 of the Food Hygiene (Scotland) Regulations 2006, and Regulation 6 of the Official Feed and Food Controls (Scotland) Regulations 2009. Scottish Ministers are empowered to issue Codes of Practice concerning the execution and enforcement of Food Law by Food Authorities. In turn, Food Authorities are required to have regard to the Code when discharging their duties, and must follow and implement the provisions of the Code that apply to them.

The Food Law Code of Practice and any accompanying Food Law Practice guidance should reflect and help to enable the framework set out in Food Standards Scotland's Strategy to 2021, in particular Outcome 4 – Responsible Food Businesses Flourish. The Code should also reflect the Scottish Government's approach to Better Regulation as set out in the Scottish Regulator's Strategic Code of Practice.

The current version of the Code was published in April 2015 following the creation of Food Standards Scotland on 1st April 2015. It now needs to be reviewed and updated to reflect changes in legislation and practice since 2015 and to ensure it is in alignment with Food Standard Scotland's Regulatory Strategy.

The Code change requirements are expected to originate from three different broad sources:

1. The FSS Branch structure; particularly Enforcement Delivery Branch, Audit Branch, Regulatory Policy Branch, Scottish Food Crime and Incidents Unit (SFCIU), and Food Protection Science and Surveillance Branch.
2. Stakeholder engagement and consultation with Local Authorities, Professional Bodies, Industry and Consumers.
3. The outputs from the work directed by FSS and the SFELC (Scottish Food Enforcement Liaison Committee) Food Standards and Food Safety Sub-Committees and respective Working Groups, and outputs from projects directed by the Regulatory Strategy Programme. In particular this will include the outputs from the Annex 5 Review Project, the SFELC Approved Establishments Working Group, the SFELC Interventions Working Group, the SFELC Risky Foods Working Group, the Scottish National Database Development Group, the National Food Crime Advisory Group, and others.

This project will be delivered as part of the FSS Regulatory Strategy Programme, under *Regulatory Outcome 4: Food and Feed Official Control Systems are Sustainable, Responsive and Robust*. The project sits within the Future Delivery and Assurance Work stream.

3.0 Project Definition

3.1 Aims

The review of the Food Law Code of Practice is expected to encompass changes to the Code that can be broadly categorised into the following groups:

1. New legislation introduced since 2015.
2. Modifications to existing legislation introduced since 2015.
3. Modifications to ensure the code reflects the aims of the FSS Regulatory Strategy and Strategic Plan.
4. Modifications to take account of the legal requirements introduced by the Scottish Regulators' Strategic Code of Practice.
5. Modifications to encompass the new Food Law Intervention system replacing the current Annex 5 of the Code, and incorporating the conflation of Food Safety and Food Standards intervention schemes. (Outcomes of the Food Law Code of Practice, Annex 5 Review Project.)
6. Modification arising from outcomes of the SFELC Interventions Working Group.
7. Modifications to ensure alignment between the Food Law Code of Practice, and the Scottish National Database.
8. Consideration of the outcomes arising from the SFELC Approved Establishments working group.
9. Implementation of a process that will simplify future updates to the Food Law Code of Practice, and deliver improvements that will assist each Food Authority in their use of the Code, particularly portability and navigation.
10. Modifications to the Code that may arise from the EU exit process.

The aim of this project is to implement the required changes to the Code, arising from categories 1-10 above. The current plan splits the implementation

of categories 1-9 into three successive project phases. Any Code changes that may arise from the EU exit process will be considered at a later stage.

Phase One

The main aims of Phase One of the project are:

- To identify and log key changes required to the Code arising from categories 1 – 4 above, and map those changes to the Code, thus identifying key areas that require review.
- To prepare required changes and take them forward for stakeholder consultation.

An internal Cross Office Working Group will be set up within FSS to bring focus to the review, enabling proposed changes to be identified and progressed, and to promote collaborative working on the review.

An initial Stakeholder event will be held in November 2017 to begin the consultation phase and take the views of Food Law professionals to further inform the review of the Code.

This phase will start in 2017 and is expected to finish during 2018.

Phase Two

This phase is expected to start during 2018 and its main aim is to assess the changes required to the Code arising from the implementation of the Annex 5 Review Project. (Category 5 above.)

The Annex 5 Review Project will introduce a conflation of Food Safety and Food Standards into one Food Law Intervention scheme based upon a new Food Business Performance Ladder Model and Compliance Matrix that will target resources on high-medium risk and non-compliant businesses. This change will have a significant impact on the Code, effectively removing the

current Annex 5, and any references to separate Food Safety and Food Standards inspections.

It is currently envisaged that Phase 2 of the Food Law Code of Practice Review project will result in the production and publication of a new Interventions Code. Stakeholder feedback will be gathered to determine the most appropriate format for publication of the Interventions Code.

Feedback and input from the SFELC Interventions Working Group, and outcomes from this group, will also be taken into account during this project phase.

This phase may also encompass:

- A further review of the Code to ensure alignment between it and the outcomes of the Scottish National Database project.

This phase is expected to start in 2018 and finish during 2019.

Phase Three

Aims of the third phase of the project are:

1. To develop a process to simplify future updates to, and re-publications of, the Food Law Code of Practice. It is important that the Code continually reflects current legislation as it sets out the instructions and criteria that Food Authorities follow in their delivery of Official Food Controls. It would therefore be beneficial to find a platform on which the processes of agreeing and approving updates to the Code can be simplified and incorporated into Food Standards Scotland's 'business as usual' operational duties.
2. To deliver a Code that is both portable and easily navigable for Food Authority use.

The first priority of this phase of the project will be to gather Local Authority feedback on possible methods of achieving both of the above aims. This engagement process will begin at the initial project Stakeholder Event in November 2017. An option currently under discussion is the re-publication of the Code in a number of smaller, subject-specific volumes containing the Code, the Practice Guidance, and Model Notices. If this method of publication is selected then consideration needs to be given to the retention of the legal status of the Code, and non-legal status of the guidance and notices. Consideration must also be given to future electronic use of the Code, the guidance, and the notices.

This phase is currently scheduled to start during 2019 following Phase 2.

EU Exit and future categories of change

While we are aware that Code changes relating to EU Exit are likely to arise over the course of the project, plans for their review and implementation into the Code are still to be considered.

This project's phases and their scope will be regularly reviewed alongside the emergence of EU changes, or other categories of changes that may develop between now and the end of the project.

3.2 Project Outcomes

The Food Law Code of Practice Review Project will deliver the following high level project outcomes:

Phase One

The outcome of Phase One of the project will be the delivery of a new publication of the consolidated Food Law Code of Practice, updated to include changes delivered from categories 1-4 in section 3.1 above.

Specific deliverables are:

1. A draft revision of the updated Food Law Code of Practice for stakeholder consultation.
2. An agreed updated Food Law Code of Practice for approval by Ministers and publication.

Phase Two

This phase of the project will introduce a new Interventions Code reflecting the changes in practice emerging from the outcomes of the Annex 5 Implementation Project.

Where possible, this project phase will also produce:

- Updates to the Code arising from outcomes from the SFELC Interventions Working Group.
- Updates to the Scottish National Database following changes to the Code.

Where possible, this phase will take into account the feedback from Local Authorities about new methods of publishing the Code to simplify the process of future Code updates, and make it easier to use.

As in Phase One, deliverables of this phase will be produced initially for stakeholder consultation. Once agreed the deliverables will be communicated to Ministers for approval and publication.

Project outcomes will be reviewed and revised as necessary as the Project evolves.

Phase Three

The outcomes of this phase are dependent upon joint FSS and Local Authority discussion and analysis on the two aims of this phase:

- Simplifying future updates to, and publication of, the Food Law Code of Practice.
- Production of a Code that is portable and easily navigable.

An option under consideration to achieve this outcome is the de-construction of the Code into smaller, subject-specific volumes that could contain the Code, the Practice Guidance, and the Model Notices. Publication in electronic form will also be considered.

As for Phase 1 and 2, updates to the Code will be produced firstly in draft form for stakeholder consultation, and then as agreed publications for communication to Ministers and publication.

Food Standards Scotland

Inbhe Bìdh Alba

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