

Food Standards Agency Consultation

Review of the Food Law Code of Practice, Food Law Practice Guidance, and implementation of the Competency Framework

Belfast City Council Response

Consultation subject/purpose

To seek stakeholder views on the FSA proposals to update and simplify the Food Law Code of Practice (Northern Ireland) (the Code) and the Food Law Practice Guidance (Northern Ireland) (the Practice Guidance)

Belfast City Council welcomes the opportunity to comment on the review of the Food Law Code of Practice, Food Law Practice Guidance, and implementation of the Competency Framework. Belfast City Council do recognise that the proposed changes to the code in terms of proposed suitable qualification of Environmental health and technical officers have assisted in the recruitment of staff in the port health unit. However the very short 4 week formal consultation period allotted to consider the proposed competency framework is of concern. This consultation has been released at a time when Belfast City Council are operating in unprecedented times with significant pressure on resources. This is in addition to the preparatory work that is ongoing in relation to EU Exit. The proposed competency framework is complex and resource intensive.

Following correspondence received by EHNI on 25th November 2020 from Maria Jennings, FSA NI, regarding an extension on the date of the final submission of Council responses to 31st January 2021, this is a draft submission which will be submitted by the requested date of 10th Dec 2020. It will be followed up by a formal Council response by 31st January 2021

Consultation Questions:

- 1. Does the layout/presentation and clarified text of the proposed Code and the Practice Guidance make the documents easier to use, improve readability, and facilitate consistent interpretation? If not, how could they be improved?**

Belfast City Council agree that the layout/ presentation and clarified text make the document easier to use.

Belfast City Council have concerns that the current level of detail provided in the proposed Competency Framework which will pose a burden on already stretched food safety resources and Lead Food Officers. It may also not facilitate consistency without significant training and further supporting guidance.

Belfast City Council would seek clarification on the legal basis of Section 5.2.5- Practice Guidance and boundaries of application. Currently there are difficulties getting businesses to return a risk cause analysis.

- 2. Do you agree that the proposed suitable qualification requirements provide DCs with the ability to deploy current resources more efficiently by, allowing a wider cohort of professionals to undertake food control activities, which the Code restricts? If not, why not? (Please specify any additional flexibility you would wish to see, and why).**

While it is agreed that the proposed suitable qualification requirements allow for a wider cohort of professionals to undertake food control activities, the NI Protocol and the need for significant SPS checks on GB-NI trade requires consideration be given to reviewing the qualifications and competencies required to complete documentary checks. Suitably trained and competent non-qualified officers should perhaps be able to complete simple documentary checks and record results. Only qualified officers should be authorized to fail a documentary check, reject a consignment or take enforcement action.

The current delivery model for SPS checks considers utilising non-qualified but trained and competent contractors to carrying out and record simple ID seal checks in GB Ports. The qualifications and competencies of the COP should be reviewed to allow this approach. Only qualified officers should be authorised to fail a documentary check, reject a consignment or take enforcement action.

Belfast City Council do not agree with the need to introduce the proposed complex competency framework for officers who hold the EHRB qualification and who are fully competent under the current Code. These officers should be exempt from the need to migrate to the proposed competency framework. There needs to be recognition of the qualifications obtained by these officers and the competency assessment that they have already undertaken.

Officers who hold the EHRB qualification but who are not fully competent in Food Control should be capable of a fast track method to achieve competency without the need to complete the full proposed Competency Framework. Recognition of these officer's existing competencies must be reflected in any proposed Competency Framework.

Belfast City Council also recognises the benefits of using the competency framework for staff who may carry out limited food safety duties and are not required to complete all of the assessment sections. However it limits the

usefulness of these staff. Belfast City Council require EHO's that have a wider range of skills and competencies available. This allows for the development and movement of staff with an EH qualification between functions in the wider Environmental Health Service.

It also enables a more holistic EH approach across a number of key areas to maximise the outcomes from any inspection, investigation or contact with business.

The proposed complex and resource intensive Competency Framework will be prohibitive to building resilience into the Environmental Health Service by hindering or restricting the movement of officers into the Food Control function from other core functions when the need to redeploy resources arises.

3. Does the Competency Framework include:

- a. all the relevant activities for the delivery of front-line official food and feed controls, other official activities and other activities related to these, whether carried out by DCs and FSA delivery partners?**
- b. all the relevant activities for those working in the private sector who undertake assurance activities that are formally recognised to inform targeting/frequency of official controls?**
- c. the relevant competencies (knowledge and skills) for each activity and sub-activity?**

If not, what changes would you wish to see, and why?

- a. The competency framework is too detailed and prescriptive. This level of detail lends itself to the requirement for regular updating as new and emerging activities and processes emerge. Belfast City Council are concerned that the prescriptive detail of the Specialist and High Risk Activities could leave the competency status of food officers open to legal challenge. A more generic non-exhaustive listing of activities would reduce the burden of completion and recognise the wider skills of EHO's. This would also mitigate against legal challenge of an officer's competency. Belfast City Council would expect that the FSA will provide no cost training in all the currently prescribed Specialist and High risk activities if these are to be retained within the Competency Framework.
- b. Belfast City Council are unable to comment on the relevant activities for those working in the private sector. It is recognised though that those in the private sector in these roles should meet the same competency standards as an EHO.
- c. Refer to comments in a.
The FSA must recognise that NI Councils enforce both Food Hygiene and Food Standards legislation. It is therefore duplicitous to require officers to complete

certain sections common to both Food Hygiene and Food Standards when the applicable skills are transferable.

- 4. Do you agree that by defining competency by activity rather than taking a role or profession-based approach this provides DCs and FSA delivery partners with greater flexibility in the utilisation of resources? If not, why not?**

Competency by individual sub activity fails to recognise the skills of an EHO. There are aspects of a competency assessment that could facilitate the use of resources from other functions within the Environmental Health Service, however officer activities may have to be restricted due to qualifications and would limit their usefulness to a particular activity. To address Belfast City Council's concerns, the FSA should carry out a competency mapping exercise for officers who meet the baseline qualification in order to expedite the completion of the proposed Competency Framework.

- 5. Do you agree that by setting a standard that will apply to all individuals undertaking food and feed control activities, including assurance activities that are formally recognised, will improve the quality and consistency of delivery across the public and private sector? If not, why not?**

It is difficult to answer whether this will improve quality and consistency of delivery across the public sector. While the EHRB provided a consistent qualification that all candidates had to complete, under the new proposals each individual will be submitting different evidence for assessment and assessed by differing Lead Food Officers. The EHRB was a useful qualification for both the profession and employers in that it provided a recognised independent level of consistency and removed the burden from the employer to carry out assessments.

It is difficult to comment whether setting such a standard will achieve the desired outcome as the assessment methodology has not been fully developed at the time of issue of this consultation.

To ensure that the proposals achieve the aim of improving quality and consistency of delivery, comprehensive training, guidance and support must be provided by the FSA.

- 6. Do you foresee any problems with the provision to allow the FSA to be more responsive in issuing instructions, whereby DCs may legitimately depart from the Code, in limited circumstances? If yes, what, if any safeguards or conflicts should we consider?**

Belfast City Council do not foresee any problems with the provision.

- 7. Do you agree that the key aspects of the OCR that have applied since the 14th December 2019 have been reflected, within the proposed Code and the Practice Guidance?**

Belfast City Council agree with this statement.

8. Do you agree with our assessment of the impacts on DCs, FSA approved assurance schemes, private sector assurance bodies, FSA delivery partners, and consumers, resulting from the proposed changes to the Code, the Practice Guidance, and implementation of the Competency Framework? Do you have any additional evidence to better understand the identified impacts? In particular, please indicate:

a. if you agree with our assumptions on familiarisation and dissemination time?

b. how long it currently takes to assess the competency of a newly appointed member of staff and the ongoing assessment of a member of staff already in post?

c. whether you foresee any changes in the assessment time, from the implementation of the Competency Framework?

d. how many new members of staff do you appoint every year?

e. whether you foresee changes to the number of new staff that need to be appointed every year?

a. The timeframe for familiarisation and dissemination time has been grossly under-estimated.

To date the Lead Food Officer in Belfast City Council involved in the response to the consultation has spent significantly more time than the allotted time of '3 hours to read and 2 hours to prepare and disseminate' suggested in the consultation. The Lead food officer has had to familiarise themselves with the competency framework spreadsheets and guidance that accompanies the framework. This officer would suggest that more than 25 hours has been spent on research, analysis, meetings, webinars and drafting the consultation response to date.

To prepare and disseminate this information requires significantly more time than the proposed time of 2 hours stated in the consultation. It would require more than 2 hours for officers to familiarise themselves with the spreadsheets alone. From previous experience in disseminating the 2016 Competency Framework it took in excess of a full working day to disseminate the information to officers.

This does not take into account the time that would be required for the Lead Food Officer to provide ongoing guidance, advice and assistance to both new and fully authorised staff to complete their individual assessments.

b. Belfast City Council would question the FSA's assumption that there would be 'no significant additional burden' to local authorities to introduce the new competency framework. Belfast City Council believes that significant time will need to be taken to complete the proposed Competency Framework. This assumption is based on the experience of the implementation of the current Competency Framework and would conclude that the new Competency Framework is a more complex and time consuming process. Lead Officer experience would indicate that it took at least 5 days for officers to complete the existing Competency Framework document as prescribed in the current Code.

Significant time is required by the Lead Food Officer to assess the proposed Competency Framework and complete the necessary administrative duties. Belfast City Council would predict that it will take 10 days per officer and 4 days per assessment for the lead officer to complete the proposed competency framework.

To mitigate against this significant time spend Belfast City Council propose that current fully authorised officers retain their current Competency Framework now and into the future and are not required to transition to the proposed Competency Framework.

The impact on the proposed competency assessment on the Lead Food Officer in port is still to be assessed. There are currently 23 newly recruited officers, with a further 6 posts to be filled, in the port health unit and they are being assessed under the current competency framework. The majority of these staff may have to migrate to the proposed competency framework if the FSA introduce as planned. This will be a duplication of time spent for both the individual officers and the Lead Food Officer. Currently we have a senior EHO assisting the Lead Officer in port health with the completion of the current competency frameworks due to the volume of new staff that are undergoing training. Currently it is estimated that these staff are taking the time as indicated above to complete the current assessment. The senior EHO has spent to date 5 days collating authorisation and competency information to assist the lead food officer with the competency assessment.

c. Experience would suggest that ongoing competency review, which in Belfast City Council takes place annually, under the current competency assessment takes at least 2 days for each officer and a day per assessment review for the Lead Food Officer.

d. Staff recruitment and retention can be unpredictable.

Inland recruitment	EHO's	TO's	Retained
2020	2 temporary	1 permanent	0
2019	6 temporary		2 EHO

	2 permanent		
2018	3 temporary		0
Port recruitment			
2020	15	8	
2019	0	0	
2018	0	0	

Although this question is limited to new staff, the FSA must consider the redeployment of existing staff into the food function, temporary cover requirements such as maternity or carer leave and the need to employ agency staff.

- d. Belfast City Council cannot fully predict the number of staff required as the Council will have to address the out-workings of food related work at the end of the Transition Period and the implementation of the NI Protocol. In the current working environment there has been an extensive recruitment campaign for the port health function, however inland the fall out of working under covid procedures has resulted in difficulties recruiting and retaining staff inland.

Additional resources will be required to address the current Council backlog of inspections due to the Covid pandemic. The FSA proposal on how to address the businesses which were inspected outside the Mandatory FHRS is welcomed as to inspect these premises again would have put another significant burden on the food safety team. Dealing with these priority issues will necessitate additional resources to address the Competency Framework and officers authorisations.

Costs to FSA approved assurance

9. Do you foresee any other impacts from the implementation of the main proposals detailed in paragraph 13, beyond what we have identified? Where possible, please explain your views and provide quantifiable evidence (for example, costs associated with updating existing templates, the benefits of greater flexibility to allocate staff to activities)

Councils are currently in the midst of covid operating procedures as well as preparing for EU exit under the NI protocol. Belfast in particular is one of the main port authorities impacted by the implementation of the NI protocol.

There is a backlog of inspections in Belfast City Council and across all District Councils due to the Covid19 pandemic which the FSA are aware of. Belfast City Council will require direction from the FSA on how best to utilise current

resources, as the completion of the new Competency Framework for existing authorised officers would impact on our ability to complete the FSA priorities on Official Controls as directed by FSA communication dated 30th September 2020.

Lead Food Officers presently have significant monitoring duties to complete in order to fulfil the requirements of the food service delivery plan and required procedures. The proposed competency framework would pose a further burden onto the current competency assessment monitoring. The employment of temporary and agency staff would further increase the burden on lead food officers. A further complication for short term contract staff would be the need to have an agreed system for the sharing of competency assessments between local authorities.

The completion of the competency assessment is an onerous task at present and is seen by officers as a deterrent to entering the food safety role. The proposed competency framework is significantly more onerous and can only increase the pressure on food units to recruit and retain staff.

Additional resources will also have to be deployed to review and amend certain internal policies and procedures to comply with the changes in the COP and Practice Guidance.