

Hertfordshire and Bedfordshire Environmental Group

Food Topic Group

Guidance on Registration of Occasional/Minor Food Business Establishments

The following guidance has been produced to ensure the consistency of approach to the registration of certain food business within the Herts & Beds authorities.

Introduction

It would appear that there are some uncertainties amongst authorities when deciding if certain food businesses require registration and therefore inspecting.

In order to achieve consistency in registering businesses amongst the 14 authorities within Herts & Beds, the Food Group developed a task group to produce this guidance.

This guidance is the task group's interpretation of the law and definitions and is considered to reflect good practise.

Scope

Regulation (EC) No: 852/2004 requires food business operators (FBO) to register their establishments (i.e. each separate unit of their food businesses) with the appropriate competent authority, except establishments which:

- are subject to approval under the Regulation 853/2004, or
- fall outside the scope of the Regulation 852/2004.

In order to determine if a food business establishment (FBE) falls within the scope of Regulation 852/2004, we must first look at the legal guidance and definitions.

Legislation, Guidance & Definitions

EC Regulation 178/2002 states that a 'food business' means any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of production, processing and distribution of food; (Article 3, Para. 2)

It also states that a 'food business operator' means the natural or legal persons responsible for ensuring that the requirements of food law are met within the food business under their control (Article 3, Para. 3)

The exemptions that apply are as follows:

- Primary production for private domestic use
- Preparation, handling or storage of food for private domestic use
- Direct sale by the producer of small quantities of primary products to the final consumer, or to local retailers supplying the final consumer

EC Regulation 852/2004 states that community rules should not apply either to primary production for private domestic use, or to the domestic preparation, handling or storage of food for private domestic consumption. Moreover, they The following guidance has been produced to ensure the consistency of approach to the registration of certain food business within the Herts & Beds authorities.

should apply only to undertakings, the concept of which implies a certain continuity of activities and a certain degree of organisation (Para. 9)

EC Guidance Document - Implementation of certain provisions of Regulations (EC) No 852/2004 on the hygiene of foodstuff, paragraph 3.8: states '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 regulations'.

Unfortunately neither regulation defines the term 'occasional' therefore for the purpose of this guidance, the task group has decided to continue the use of the definition provided by the Food Premises (Registration) Regulations 1991 i.e. 'If the food business is run for 5 days or more in any 5 consecutive weeks'.

The group decided that the following types of premises presented the most problems when deciding whether they required registering:

- Childminders
- Breakfast & After School Clubs
- Members Clubs i.e. Girl Guides & Scouts, Sports Clubs, Women's Institute etc.
- Community Centres/Village Halls
- Care Homes
- Fire Stations etc.

Each type of premises was looked at in details and where possible grouped with other like premises.

Guidance on the registration and inspection of Childminders/ Breakfast/ After School Club and Children Clubs i.e. Girl Guides, Scouts etc

1. Childminders

LACORS published an update on inspection of childminders on its website Feb 2007:

<http://www.lacors.gov.uk/lacors/ContentDetails.aspx?authCode=87F721&id=15608>

In summary, Childminders:

- Will require registering if they fall within the scope of EC178 Article 3.
- Where there is little food served i.e. fruits and toast, or if parents provide food, then a childminder may not be required to register or be inspected (see advice 3.8 & 6.1 of Regulation EC 852).
- If a premises is not registered but still deals with some foods, EC 178 Article 14 would still apply (food safety requirements).

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Childminders basically fit into 3 categories: -

- a. Offer low risk foods such as toast, drinks, fruit and biscuits
- b. Parents supply food for the children i.e. pack lunch
- c. High risk food prepared and served to children

Those that fall into the categories 1 & 2 would not require inspection, but offer general advice and target on Alternative Enforcement Strategy. Category 3 would require being included on programmed inspections.

Groups Decision

- Registration for all childminders as caterers regardless;
- Target with questionnaires to ascertain the scope of the food operation
- Risk assess and inspect if required or target with Alternative Enforcement Strategy.

The group considers childminders should all be registered as they could be contacted in the event of Food Alerts (Salmonella in Cadburys chocolate) and provided with legislation updates if required.

2. Breakfast/After School Clubs and Children's Clubs i.e. Girl Guides and Scouts

The group felt that breakfast; after school and children's clubs would all tend to fall into the same three categories as those for childminders.

Groups Decision

- Registration required for each individual activity
- Target with questionnaires to ascertain the scope of the food operation
- Risk assess and inspect if required or target with Alternative Enforcement Strategy

Childminders guidance applies

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Guidance on the registration and inspection of Adult Care Homes & Fire Stations.

1. Adult Care Homes

Example of business/operation being considered:

- Often CSCI registered care home for persons with learning or behavioural difficulties (e.g. Autism, Prada Willi Syndrome).
- They are invariably operated privately and often on a charitable basis (not County Council operated, so no food safety input from this perspective)
- There is 24/7-staff/carer presence and it is the on-shift carer preparing and producing the food for the clients/residents.
- The residents involvement is minimal – e.g. laying table, buttering bread etc)

Group Decision

This type of business should be registered and inspected (*In principle what is occurring is similar to a small care home for the elderly or a childminder producing hot/ready to eat food (although there is no vulnerable group at risk).* As discussed for childminders/clubs etc their inspection requirements can be based on a sliding scale.

- All registered for a complete database.
- Those where meals are prepared etc and where the numbers catered for are greater than 5 they should form part of the inspection programme and 'light touch inspections carried out.
- Those where there are less than 5 clients or where the clients/residents do their own cooking (and it is the carers giving a small degree of assistance only) then they could fall under an alternative enforcement scheme.

Given that it is quite likely that the 'type of food handled' will be open high risk for less than 10 people per day (score = 10) and unlike care homes for the elderly, the vulnerable group score will be 0, depending on the scoring for hygiene, structure and confidence there is the scope for them to score as an AES.

For info: The guidance issued by the FSA correspondence reference ENF/E/06/038 re adult placements in domestic premises, is not applicable for the above. This guidance is designed to exempt 'Adult Placement Carer Homes' – ie the carers domestic home – text constantly refers to the 'habitual residence of the Adult Placement Carer. (there is also specific reference to a maximum of 3 adults at these homes)

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2. Fire Stations

Group Decision

Where fire-fighter/person on watch buys/prepares food for themselves or other in the station – registration is not required.

Where there is a dedicated cook employed then the premises should be registered and depending on scope considered for inspection or AES.

Guidance on the registration and inspection of Private Members/Sports Clubs.

Group Decision

- Sports clubs:

For sports clubs that are supplying food and or drink, none of these exemptions will apply and the business will need to be registered. In the case of commercial sports clubs the 'food business operator' will typically be the owner or manager of the business. For private sports clubs, the 'food business operator' will be the chairman or the secretary of the club committee.

- Private Members Clubs

The legislation makes no distinction that the undertaking is private. Therefore the group takes the view that private members clubs need to be registered. However, if the club does not meet regularly then the 'occasional preparation by individuals or groups for gatherings' exemptions may apply.

Both types of establishment should be considered for inspection.

- Further registration

For both types of activity, food can be provided by private individuals at their own homes (for example sandwiches for a 'tennis tea' or a dessert for a private members club social evening). In these situations the groups feels that further registration of the individual is not necessary, and that provision of safe food overall would be the food business proprietor of the main club.

If however the private individual is preparing food on a more than occasional basis then a separate registration would be needed.

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Guidance on the registration and inspection of Community Facilities, Church and Parish Halls etc.

The food activities carried out in community facilities, church and parish halls etc. vary greatly in size and types of food handled. Operations range from providing only drinks and light refreshments to preparing and serving or distributing full meals. In turn the facilities required will vary accordingly in order to ensure such activities can be carried out safely and in compliance with legal requirements.

Depending on the frequency of use and degree of organisation, some halls will require to be registered while others may be exempt. Where a number of food businesses use the hall for food activities, the responsibility for registration lies with the person that allows the premises to be used for that purpose.

Groups Decision

The following activities are considered to fall within the definition of a food business and therefore require registration:

- Halls providing regular funeral lunches and lunches for elderly
- Halls holding weekly entertainment night serving food
- Halls where a crèche meets daily/weekly

Activities that fall outside of the scope of Regulation 178/2002 Article 3:

- Tea and coffee mornings for parishioners
- Halls holding a fund raising night and serving food
- Local community group meetings which provided food occasionally (less than 5 times in 5 consecutive weeks)

Guidance on the registration and inspection of Women's Institute Events

The National Federation of Women's Institute advise their members that where a WI is producing teas and lunches on a regular basis, they will almost certainly require registration and to comply with the traceability requirements of Regulation 178/2002.

Group Decision

As with halls depending on the frequency and degree of organisation some WI will require registration. Where registration is required, the responsibility lies with the person who chairs or leads the group.

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