

Food Safety: Guidance on Food Traceability, Withdrawals and Recalls within the UK Food Industry

On 12 March 2019, the Food Standards Agency (“FSA”) published new Guidance intended for food business operators (“FBOs”) and UK food enforcement authorities in connection with withdrawing or recalling unsafe food.

This guidance sets out the legal requirements of Regulation (EC) No.178/2002 and associated food legislation. The guidance also includes best practice.

Summary

The new guidance has been designed to help food businesses carry out food safety **withdrawals and recalls** with greater ease and effectiveness:

Our new guidance has been designed to help food businesses carry out food safety withdrawals and recalls with greater ease and effectiveness...

When food placed on the market is considered to be unsafe or incorrectly labelled, it is the food business’s responsibility to withdraw or recall the product. Our new UK guidance, developed in partnership with stakeholders and the FSA, has been designed to help food businesses carry out food safety withdrawals and recalls more effectively.

Please see our ‘Guidance on Food Traceability, Withdrawals and Recalls within the UK Food Industry’ which explains what the law requires and how to comply, as well as information on:

- traceability systems
- making a decision on carrying out a withdrawal or recall
- roles and responsibilities
- the key principles to effectively inform consumers of a food recall

This project has been delivered in partnership with representatives from the food industry, enforcement authorities and consumer, allergy/ patient support organisations. It is also a key outcome from our joint review of the current withdrawal and recall system with the Food Standards Agency.

Further information

A withdrawal is the process by which unsafe food is removed from the supply chain, where the food has not reached the consumer.

A recall is the process by which food that may be unsafe is removed from the supply chain and consumers are advised to take appropriate action, for example to return or dispose of the unsafe food.

Traceability is the ability to trace food and its’ ingredients through all stages of production.

Root cause analysis is a method that can be used to determine how and why the food safety incident happened, the initial cause and the identification of corrective actions to prevent future incidents occurring.

Intention

The intention behind the guidance is for FBOs to have **adequate traceability and food withdrawal/recall systems in place**. The aim is to clarify and, where appropriate, standardise **procedures to identify and remove unsafe food** from the market:

FBOs should therefore have adequate traceability and food withdrawal/recall systems in place as part of their Food Safety Management System to fulfil these requirements. FBOs may wish to seek advice from the enforcement authority with whom they are registered or approved, and/or their Primary/Home authority for assurance that any system developed for this purpose is appropriate and compliant.

The guidance outlines food law requirements and clarifies the **roles, responsibilities and expectations** of the key stakeholders involved in the withdrawal/recall of unsafe food in the UK.

Legal Status

The guidance sets out the **legal requirements** and **how to comply** along with **good practice**:

'The law' – this quotes the relevant specific legal requirements. It is detailed at the start of the relevant section

'How to comply with the law' – this outlines FSA and FSS guidance on how to comply with the law. Businesses may take a different approach to achieve compliance with the law, but it is advisable to discuss any alternative approach with enforcement authorities in advance

'Best practice' – this outlines examples of good practices that businesses may want to implement. Businesses are not required by law to follow best practice. All guidance on best practice is identified in boxes with a heading of Best Practice

Definitions

'**Enforcement authority**' – the authority which is responsible for enforcing food law. For registered businesses this will be the local or port health authority where the establishment is registered. For approved businesses it will be the authority that granted the approval 'food'*** or ('foodstuff') – any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans.

'**Food**' includes drink, chewing gum and any substance, including water, intentionally incorporated into the food during its manufacture, preparation or treatment... 'Food' does not include: (a) feed (b) live animals unless they are prepared for placing on the market for human consumption (c) plants prior to harvesting (d) medicinal products ...

'**Prepacked food**' – food and the packaging into which it was put before being offered for sale, whether such packaging encloses the food completely or only partially, but in any event in such a way that the contents cannot be altered without opening or changing the packaging

'**Recall**' – the process by which unsafe food is removed from the supply chain and consumers are advised to take appropriate action, for example to return or dispose of the unsafe food

'**Risk assessment**' – a scientifically based process consisting of four steps: hazard identification, hazard characterisation, exposure assessment and risk characterisation 'risk management'

'**Traceability**' – the ability to trace and follow a food, feed, food-producing animal or substance intended to be, or expected to be incorporated into a food or feed, through all stages of production, processing and distribution

'**Unsafe food**' – food that is considered to be injurious to health or unfit for human consumption

'**Withdrawal**' – the process by which unsafe food is removed from the supply chain, where unsafe food has not yet reached the consumer

• Traceability

The legal requirements for traceability are set out in: Article 18 of Regulation (EC) No. 178/2002:

<p>Legal requirements: Article 18 of Regulation (EC) No. 178/2002</p>	<ul style="list-style-type: none"> ● The traceability of food, ...food-producing animals, and any other substance intended to be, or expected to be, incorporated into a food ...shall be established at all stages of production, processing and distribution. ● Food ...business operators shall be able to identify any person from whom they have been supplied with a food... ● Food ...business operators shall have in place systems and procedures to identify the other businesses to which their products have been supplied. ● Food ...which is placed on the market or is likely to be placed on the market in the Community shall be adequately labelled or identified to facilitate its traceability...
<p>How to comply with the law</p>	<ul style="list-style-type: none"> ● Each segment of the supply chain must be able to trace all the foods received by them and supplied by them... ● In relation to food law, food retailers, including caterers, are not required to keep traceability information relating to sales to the final consumer. .. ● ...Effective traceability allows for effective and efficient corrective actions to be taken should a food safety incident occur. It enables FBOs to target any withdrawals and/or recalls, to give information to enforcement authorities and can help minimise the level of disruption and scale of the withdrawal/recall to the business.

❖ **Four Key steps in developing food traceability systems**

- **Step 1.** The system The FBO's system must be able to trace food purchased from suppliers and sold to business customers (this does not include food that is sold directly to the consumer).
- **Step 2.** Defining batches of food
- **Step 3.** Traceability information

The guidance lays out specific traceability information that should be available:

... all FBOs that handle products of animal origin (POAO) or sprouted seeds must also comply with more specific food traceability requirements

- **Step 4.** Record keeping

To ensure that an effective withdrawal/recall can be implemented in the event of a food safety incident, FBOs must have systems in place which allows traceability information to be made available.

❖ **Four Areas of Best Practice**

➤ **The system**

It is recommended that FBOs confirm that the suppliers that they trade with also have effective traceability systems and procedures in place

➤ **Traceability information**

... quickly identifying how raw materials and ingredients are stored, used and handled once on site.

➤ **Record keeping**

Unless there are legal requirements on the minimum period traceability information must be kept, it is best practice to maintain traceability information on pre-packed foods for the shelf life of the food plus 12 months as a minimum.

➤ **Review of traceability systems**

Periodic review of business practices...

● **Making a decision to withdraw or recall food**

The legal requirements for traceability are set in Articles 14 and 19 of Regulation (EC) No. 178/2002:

<p>Legal requirements: Articles 14 and 19 of Regulation (EC) No. 178/2002</p>	<ul style="list-style-type: none">● Food shall not be placed on the market if it is unsafe.● In determining whether any food is unsafe, regard shall be had: (a) to the normal conditions of use of the food by the consumer and at each stage of production, processing and distribution, and (b) to the information provided to the consumer, including information on the label, or other information generally available to the consumer concerning the avoidance of specific adverse health effects from a particular food or category of foods.● In determining whether any food is injurious to health, regard shall be had: (a) not only to the probable immediate and/or short-term and/ or long-term effects of that food on the health of a person consuming it, but also on subsequent generations; (b) to the probable cumulative toxic effects; (c) to the particular health sensitivities of a specific category of consumers where the food is intended for that category of consumers.● In determining whether any food is unfit for human consumption, regard shall be had to whether the food is unacceptable for human consumption according to its intended use, for reasons of contamination, whether by extraneous matter or otherwise, or through putrefaction, deterioration or decay.● If a food business operator considers or has reason to believe that a food which it has imported, produced, processed, manufactured or distributed is not in compliance with the food safety
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	<p>requirements, it shall immediately initiate procedures to withdraw the food in question from the market where the food has left the immediate control of that initial food business operator and inform the competent authorities thereof. Where the product may have reached the consumer, the operator shall effectively and accurately inform the consumers of the reason for its withdrawal..</p>
<p>How to comply with the law</p>	<ul style="list-style-type: none"> ● In the event of a food incident, where the food has left the immediate control of the business, FBOs are required to determine if the food is unsafe and whether a withdrawal and/or recall is necessary. ..

❖ **Performing a risk assessment**

A risk assessment is essential to identify hazards and technical expertise may be required in carrying out a risk assessment to understand the hazards involved and the adverse effects that can arise if unsafe food is consumed:

...once a hazard of any kind has been identified in food, FBOs should assess the risk it presents to consumers.

❖ **Best Practice**

➤ **Risk assessment**

FBOs have to record the outcomes from a risk assessment, the decisions made, and actions taken along with supporting information.

● **Notifications**

FBOs are required to have notification procedures in place:

Consumer, allergy and patient support organisations maintain contact details for vulnerable individuals (e.g. people with a food allergy, intolerance or sensitivity) and can contact these consumers to notify them of recall information. For incidents where food is being recalled due to allergen issues, FBOs should notify the relevant consumer, allergy and patient support organisations, as appropriate.

● **Enforcement authorities**

Enforcement authorities are responsible for protecting public health and verifying FBO compliance with food law.

Enforcement authorities are responsible for taking the appropriate enforcement action if FBOs are not complying with food law. ... The authority also has the power to detain, seize and dispose of food deemed unsafe.

● **Product of animal origin (POAO) or sprouted seeds - Specific food traceability requirements**

There are specific requirements for POAO:

In addition to the mandatory traceability requirements as outlined in Regulation (EC) No. 178/2002, all FBOs that handle product of animal origin (POAO) or sprouted seeds must make the following information available to the enforcement authority on demand...

Please visit our website for any advice on [Food Law](#) or you may contact us by email enquiries@rtcooperssolicitors.com.

Contact us.

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