

Regulatory Services: Guide for food businesses

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This guide focusses on food law and provides advice to help you achieve a higher food hygiene rating. It is ultimately your responsibility to ensure that you comply with the law relevant to your business.

You may need to contact other council departments or other agencies.

Information and references correct at time of publishing, September 2023.

Regulatory Services

Floor 2, Core 3
Civic Offices
Guildhall Square
Portsmouth
PO1 2AL

023 9283 4092

public.protection@portsmouthcc.gov.uk

Registration

Food businesses must register with their local council 28 days before trading starts (some primary producers may be exempt). If you require a paper registration form, please contact us. The fastest route to register your food business is online: www.portsmouth.gov.uk/food-safety.

General Guidance

The Food Standards Agency (FSA) has free resources: www.food.gov.uk/here-to-help.

The FSA has also published video guides: www.youtube.com/user/FoodStandardsAgency.

If you are a catering business (such as a restaurant, café or takeaway), we encourage you to read the free industry Catering Guide, as this clearly sets out legal requirements and good practices: www.ukhospitality.org.uk/CateringGuide2022.

Managing food safety

Food business operators (FBOs) must put in place documented procedures to ensure that food is produced safely. This is known as a food safety management system (FSMS). To help, the FSA has developed 'Safer food, better business' (SFBB). Make sure whichever system you use is always available to show an inspector, and staff know how to access and complete the checks.

- **Having an inadequate food safety management system can contribute to a lower food hygiene rating.**

SFBB is free to download and can be completed electronically if you prefer: www.food.gov.uk/sfbb

There are versions for caterers, retailers, Indian cuisine, Chinese cuisine in English, Chinese cuisine in Cantonese, childminders, and residential care homes.

Safe food handling for butchers: acss.food.gov.uk/sites/default/files/butchers-haccp.pdf

Location and layout

- Ensure the size and layout of your food preparation area is sufficient to avoid any food hygiene or health and safety issues.
- Durable construction materials and equipment should be used to avoid ongoing maintenance issues and costs.
- Ensure the layout of the food preparation area (and the materials used to construct it) facilitates effective cleaning.
- Store refuse in a way which will minimise attracting pests or causing odour problems.
- Toilet facilities for your staff and customers need to be sufficient.
- Use grease traps to help prevent blocked drains (see waste oil guidance below).
- Avoid nuisance to your neighbours caused by
 - odour or noise from extraction or ventilation systems
 - noise from food preparation, particularly late at night near residential properties
 - early morning deliveries to your business

The premises may require extensive alteration work and you should consider whether this work will comply with food hygiene laws relating to structure.

- **Design or layout which is likely to lead to compromising food safety may affect your food hygiene rating.**

Toilets

You may need to provide customer toilets (for example, if you provide seating). Guidance on the number of toilets needed can be found in the most recent British Standard on the Provision of Sanitary Facilities (BS 6465); it depends on the number of customers your premises accommodates. Staff must have access to toilets which meet the requirements set out in The Workplace (Health, Safety and Welfare) Regulations 1992 Approved Code of Practice.

Waste and recycling

You will need to arrange for food and waste / recycling from your business to be stored appropriately and removed regularly by a registered waste carrier. Waste cooking oil must be collected by an authorised collector and not poured down drains. Sufficient lidded refuse bins are needed to store all your waste until the contractor collects it. Keep bins clean. Further guidance: www.food.gov.uk/business-guidance/food-and-cooking-oil-waste.

Check the carrier is registered: www.gov.uk/environment-agency.

Ventilation

If cooking food, you may need to install a suitable ventilation system to remove heat and steam. These often comprise a canopy above the cooking area, linked to ducting which discharges outside the premises. These systems can cause odour and noise nuisance, so they need to be carefully designed.

Hand washing

Dedicated wash hand basins must usually be provided in areas open foods are handled. They must have hot and cold running water and be linked to the drainage system. A supply of soap (preferably anti-bacterial liquid soap), together with hand drying materials (e.g., paper towels) must be provided. Further guidance: www.food.gov.uk/business-guidance/personal-hygiene.

Training

All food handlers must be trained, instructed, or supervised in food hygiene matters appropriate to their activity. Those handling open food should complete 'Level 2' food hygiene training, especially if they are not being supervised.

Anyone responsible for the development and maintenance of the FSMS must have received adequate training in the application of HACCP principles (Hazard Analysis and Critical Control Points). This is often known as Level 3 food hygiene training.

Keep copies of relevant staff training at your premises and make them available to the inspector.

- **You may receive a lower hygiene rating if you cannot evidence appropriate training at the time of inspection.**

Only obtain training from accredited suppliers, such as CIEH: www.cieh.org/online-training.

Free online training is available from the FSA covering allergens, labelling, root cause analysis, traceability, and vacuum packing: www.food.gov.uk/business-guidance/online-food-safety-training.

Allergens

You must follow certain rules in relation to allergens, including:

- Providing allergen information to consumer for all food and drink
- Handling and managing food allergens effectively in food preparation
- Ingredient labelling foods which are packed prior to a customer order (see PPDS link)

The FSA has detailed information on allergens. Free allergen training and resources at:

- www.food.gov.uk/ppds
- www.food.gov.uk/allergy

Pest control

Pests are common in Portsmouth. You must ensure you have adequate procedures in place to control pests. Document findings and state corrective action taken. See SFBB guidance.

- **Failure to manage a pest infestation is likely to negatively affect your hygiene rating.**

Use a suitable pest control service to help you control an infestation. Advice about pest control is on our website, where you can also find information about our pest control service (other pest control services are available): www.portsmouth.gov.uk/pests or call 023 9283 4251.

Inspections of your business

Once trading, your business will be inspected in accordance with the Food Law Code of Practice. **We do not give notice of inspection** in most circumstances.

Inspections cover food hygiene and standards matters at the same time. Food standards matters include labelling, allergen information, composition, and food claims. You will receive an inspection report within 14 days. Inspectors may also cover other Regulatory Services functions such as Health and Safety, Environmental Protection or Trading Standards.

If non-compliances are found, the inspector will put in writing the action you need to take. If the problems are serious, the inspector may take more formal enforcement action in line with our enforcement policy: www.portsmouth.gov.uk/enforcement-policy.

Food Hygiene Rating Scheme (FHRS)

Most food businesses supplying the public directly are in scope of the scheme. Businesses are rated 0-5, scoring against national criteria **based on what we see at the time of the inspection**.

Whilst we may reinspect to check compliance, you will not receive a new rating at that time. You can appeal a rating (if you disagree with the outcome). If you rectify the matters, you can apply for a rescore revisit (for which there is a charge). Your rating could go up, down or remain the same.

Findings that commonly result in a lower rating include:

- **Inadequate or no documented food safety management system**
- **Failure to apply control measures to prevent cross-contamination**
- **Evidence of pest infestation**
- **Staff not being suitably supervised, instructed and/or trained**
- **Poor history of compliance**

More information: www.food.gov.uk/safety-hygiene/food-hygiene-rating-scheme

Food crime and the National Food Crime Unit (NFCU)

Food crime can be seriously harmful to consumers, your food business, and the wider food industry. Examples include the use of stolen food in the supply chain, unlawful slaughter, diversion of unsafe food, adulteration, substitution or misrepresentation of food, and document fraud. Consider food crime within your food safety management system.

The NFCU has developed a Food Fraud Resilience Self-Assessment Tool to support your business. It takes around 15 minutes to complete: www.food.gov.uk/nfcu.

Health & Safety

You will need to ensure the health and safety of your employees, customer and other people who may be affected by your business. For simple advice, see www.hse.gov.uk/simple-health-safety

Think about any risks and put controls in place to prevent or minimise these risks i.e. a risk assessment. If you have five or more employees, you must write your policy down.

You need a first aid kit. If you, your employees, or your customers have certain types of incidents, you must report them to the HSE. More information: www.hse.gov.uk/riddor.

Trade bodies & Primary Authority

Members of trade bodies including may be able to get additional advice, which may be assured through a Primary Authority: www.gov.uk/guidance/primary-authority-a-guide-for-businesses

Further considerations

Trading Standards

Be aware of consumer and business protection law. Trading Standards covers a wide range of legislation including consumer rights, product safety, environmental protection (e.g. single-use plastics) and weights & measures. Free online advice: www.businesscompanion.info. The Trading Standards team within Regulatory Services can be contacted by email:

trading.standards@portsmouthcc.gov.uk. Also see www.portsmouth.gov.uk/tradingstandards.

Licensing

Some activities require licensing including supplying alcohol; providing regulated entertainment; street trading; and selling hot food or between 11pm & 5am. Contact our Regulatory Services colleagues in Licensing for further advice by emailing licensing@portsmouthcc.gov.uk or calling 023 9283 4073. See www.portsmouth.gov.uk/licensing.

Planning consent

Check the premises has appropriate planning consent. See www.portsmouth.gov.uk/planning, email planning@portsmouthcc.gov.uk or call 023 9283 4334.

Building control

You may need approval to make alterations: www.portsmouth.gov.uk/building-control-services.

Sunday trading

Shops over 280m² have restricted opening hours: www.gov.uk/trading-hours-for-retailers-the-law.

Accessibility - reasonable adjustments

You may need to make reasonable adjustments to the premises to allow them to be accessible to all customers. For example, entrances and toilet facilities. Contact the Equality and Human Rights Commission on 0808 800 0082 or see www.equalityhumanrights.com/en/advice-and-guidance.

Legal notices

Existing premises may have had legal notices served, legally requiring work to be completed. If the works have not been completed by the previous owner, they may still need to be completed and could become your responsibility. Seek advice from a solicitor.

Mobile food premises

Street trading is prohibited in parts of the City Centre. Contact our Licensing team for information on trading in city parks, car parks, the seafront and at special events. Trading from the highway without the permission may result in enforcement action being taken by the police or highway authority for obstruction.