

# A FRESH LOOK AT FOOD HYGIENE



A guide for businesses that produce,  
serve and sell food



**NFU Mutual**  
BUSINESS INSURANCE



## Contents

- 02 Introduction: Food hygiene now
- 03 Food hygiene: A snapshot
  
- NFU Mutual and partner perspectives:**
- 08 Food production and hospitality perspective
- 09 Retail perspective
- 11 Campden BRI
- 12 British Frozen Food Federation
  
- NFU Mutual research:**
- 13 Current attitudes
- 15 Public support
- 16 Reputational impact
  
- Expert advice:**
- 19 General guidance: food safety
- 23 Campden BRI: creating a food safety culture
- 25 DAC Beachcroft: a legal perspective
  
- 30 About NFU Mutual

# Introduction: food hygiene now

---

**At NFU Mutual we're uniquely placed to understand the food market from 'field to fork'. We insure three quarters of the UK's farms, and thousands of production, retail and hospitality businesses that get the food onto our plates.**

Hygiene affects every business in the food industry. In February 2017 we published our first Food Hygiene Ratings Report, which was an analysis of what food hygiene ratings mean for the public and UK businesses – their importance and their impact on the bottom line. The report was well received and became an invaluable source of information for companies trying to navigate the ever-changing regulatory landscape.

To provide businesses with ongoing guidance, this brand-new research reveals how the picture has changed since then, and also asks some of our expert partners in hospitality, retail and food manufacturing to give their views.

Our findings show that today, much is still in flux. Even though new legislation to make rating stickers mandatory in England hasn't yet made it through, food hygiene now looms larger than ever in the public consciousness.

# Food hygiene: a snapshot

---

**According to the National Audit Office, around one million people in the UK suffer a food-related illness each year, potentially causing up to £1bn in loss of earnings for businesses.**

Recent news stories, such as the fatal listeria outbreak at several hospitals and the cross-contamination tragedies at Byron Burger and Pret a Manger, have raised public awareness and mistrust, with Google searches for 'food hygiene' increasing steadily over the past 5 years.

**Questions are also being asked about the consistency between different inspectors and regions, with a number of businesses reporting significant discrepancies leading to unfair ratings.**

## **IN THE NEWS: FOOD STANDARDS AGENCY HYGIENE RATINGS**

The strategic aim of the Food Standards Agency is to extend mandatory display of food hygiene ratings to food outlets across England by 2020. The consultation has been delayed, along with an unpopular new funding model to outsource inspections to private companies. These delays have bought businesses precious time to get their ratings right, and focus on other challenges within the Food Standards Agency's remit and the wider economic and political landscape.

However, the picture around ratings is still complex. Local authorities are now responsible for their own hygiene ratings and systems, and funding has been cut by 19% between 2012-13 and 2017-18, which is said to have seen staff numbers reduced and fewer checks taking place. This means that if a business is not happy with a rating, they have less opportunity to rectify it. Questions are also being asked about the consistency between different inspectors and regions, with a number of businesses reporting significant discrepancies leading to unfair ratings. Some local authorities charge to re-score, which means that they have to re-score quicker. The fees are inconsistent, however this has been criticised for being unfair to some businesses when looking at the regional picture.

Nearly  
**1 in 50**  
people

wouldn't be influenced by a food hygiene rating displayed in a window.

This response is in contrast to the results of our 2017 research when 1 in 20 said they wouldn't be affected by window displays. The increase in influence shows more trust being placed in the scheme.



# Food hygiene ratings: key facts

---

We assessed the Food Standards Agency’s (FSA) online food hygiene ratings tool for all businesses which are registered in England, Wales and Northern Ireland (Scotland uses a different scheme). There are 480,350\* registered businesses in total and of those, 90% have been given a rating. Any businesses which are registered but don’t have a rating are either exempt from the scheme or awaiting inspection, for instance if they are new (a total of 10%).

Hygiene is scored on a 6 point rating by a Food Safety Officer from the local council, 5 being very good, 0 requiring urgent improvement.

64% have a hygiene score of 5

15% have a score of 4

7% have a score of 3

4% have a score of 2 or below

10% are exempt from the scheme or awaiting inspection

## FOOD HYGIENE RATINGS BY REGION

Region	% rated 5	% rated 4	% rated 3	% rated 2 and below	% exempt or awaiting inspection
East Midlands	71%	12%	6%	3%	8%
Northern Ireland	71%	14%	4%	1%	9%
South East	69%	14%	5%	3%	9%
South West	68%	12%	4%	2%	13%
East of England	67%	13%	5%	3%	12%
North East	66%	14%	6%	3%	11%
Yorkshire & Humberside	66%	16%	6%	4%	8%
North West	64%	15%	8%	5%	8%
Wales	64%	18%	7%	3%	7%
West Midlands	60%	16%	8%	5%	11%
London	50%	20%	11%	9%	10%
<b>TOTAL</b>	<b>64%</b>	<b>15%</b>	<b>7%</b>	<b>4%</b>	<b>10%</b>

\*As of July 2019

## AVERAGE RATING BY TYPE OF BUSINESS

Type of customer-facing business	Total	%5	%4	%3	%2	%1
Restaurant/café/canteen	105,132	68%	18%	9%	3%	2%
Retailers - other	74,951	63%	21%	9%	3%	3%
Takeaway/sandwich shop	47,374	50%	22%	17%	5%	5%
Pub/bar/nightclub	47,323	65%	22%	9%	2%	2%
Other catering premises	41,246	84%	12%	3%	1%	1%
Mobile caterer	18,445	82%	12%	4%	1%	1%
Hotel/B&Bs/guesthouse	15,459	78%	16%	4%	1%	1%
Retailers - supermarkets/ hypermarkets	11,954	86%	10%	2%	1%	1%
<b>TOTAL</b>	<b>361,884</b>	<b>68%</b>	<b>18%</b>	<b>9%</b>	<b>2%</b>	<b>3%</b>

Excludes care homes, schools, farms and distributors. Percentage of businesses rated 0 was negligible.

We then assessed some of these findings alongside our own research in this report to find out the potential impact hygiene ratings are having on custom and takings.



## POTENTIAL LOSS OF CUSTOMERS

According to research it's no surprise that customers wouldn't turn away from 5 star rated premises; however, a third of people would if a business was rated 3.

FSA Rating	Would turn away at this number (or below)	Number of UK businesses with rating (excl. Scotland)
5	n/a	308,611
4	7%	73,404
3	34%	32,428
2	81%	9,449
1	91%	9,316
0	98%	811
NFU Mutual research		FSA 11/07/19

## POTENTIAL LOSS OF TAKINGS

As part of our research we asked customers how much money they would be willing to spend on one adult meal based on the rating, providing a demonstration of the potential impact upon takings.

According to research conducted by Fourth Analytics published in The Caterer in 2015, the average weekly restaurant takings are £18,000. When applying this to our research findings, this means a business with a 3 star rating would need to cook 2,006 meals to bring in this amount of turnover, while a business with a 5 star rating would only need to provide 1,040 meals.

FSA Rating	Average amount consumers are willing to spend on one meal based on hygiene rating	Number of UK businesses with rating (excl. Scotland)	Potential total takings across the UK per meal	No. meals needed for one business to reach av. weekly takings of £18k
5	£17.31	308,611	£5,342,056	1,040
4	£14.50	73,404	£1,064,358	1,241
3	£8.97	32,428	£290,879	2,006
2	£2.26	9,449	£21,355	7,965
1	£0.87	9,316	£8,105	20,689
0	£0.62	811	£503	29,032
NFU Mutual research		FSA 11/07/19		

The fact that customers are willing to spend almost double the amount of money (+93%) in a 5 star rated business than a 3 star one, demonstrates the high regard consumers place upon ratings and potential impact on trade.



# Food production and hospitality perspective

---

**Darren Seward,**  
Hospitality and Food & Drink  
Manufacturing Specialist at NFU Mutual



It's an exciting time for the food service and food manufacturing industries; change is in the air and with that comes many challenges. Customers are crying out for innovation, seeking appealing environments and unusual experiences when they dine. The desire for provenance and using top ingredients is becoming more important, and ensuring food served is ethically sourced, safely stored and hygienically handled can leave a company's reputation at tipping point.

When even the biggest food businesses in the UK are struggling with allergens and labelling, the pressure is on for companies of all sizes to make safety and hygiene a priority.

Those in the industry know that the topic of food hygiene may trigger a number of concerns. It's been highlighted that there are questions around consistency in the way that local authorities carry out inspections across the UK, and the issue of funding cuts to contend with. Receiving a lower hygiene rating can prove disastrous for a business, so there is pressure for both the industry and the regulatory body to get it right.

What jumps out at me from the research is the strong link between the effect that a rating has on customers, and how this impacts profit. Your hygiene rating can directly improve or hinder your financial performance in what is a very competitive marketplace. With margins being so tight, there is little doubt that maintaining or building your hygiene rating should be at the top of your agenda.

# Retail perspective

---

**Frank Woods,**  
Retail Sector Specialist at NFU Mutual



**Retail is changing. The traditional high street is in decline. Businesses are torn between retaining staff or investing in online solutions. Amid the chaos, it's key not to get complacent about important everyday jobs like hygiene. Judged by the court of public opinion, even the smallest lapse in standards can make or break a reputation overnight.**

There is no shortage of bad news about food hygiene and how it can impact consumers. While the reality may be less severe than the headlines would have you believe, there is no question that the public are becoming more concerned about how their food is sourced, handled and stored. Trust is so hard to build and can very quickly be lost. So it is crucial that food retailers are clear about how they address their processes and practices.

While consumers are becoming more familiar with the green food hygiene ratings stickers in the windows of cafés and restaurants, it is less well known that food retailers also receive the same ratings. So while the absence of a food hygiene rating on the front of a shop doesn't currently raise an eyebrow, this may change, with the subsequent impact upon retailers likely to be pronounced. The findings of this report are a must-read for any food retailer.



...even the smallest  
lapse in standards can  
make or break a  
reputation overnight.



Frank Woods,  
Retail Sector Specialist at NFU Mutual



# Partner's perspective: Campden BRI

---

**Professor Steven Walker,**  
Chief Executive at Campden BRI



To support the production of safe food we work with many organisations on an on-going basis. So, naturally we embrace NFU Mutual's initiative to promote good hygiene as a key part of food safety.

As a member-based organisation, we regularly consult with industry to find out what it needs from science and technology. In all these consultations, product safety is paramount – as is the commitment of food and drink companies to assuring it. Discussions range from such specific hazards as bacteria and allergens – and how to learn from these types of incidents – to controls to prevent these hazards from causing problems in the first place, such as good hygiene, hazard analysis and critical control points.

Hygiene itself is multi-faceted. As my colleagues Nigel Blitz and Bertrand Emond explain on page 23, good hygiene is both a 'philosophy' and a coordinated set of practical activities. It requires careful planning, diligent execution and, perhaps above all, a culture that recognises that everyone involved in food and drink production plays a role in ensuring that product safety is not compromised.

By working with partners from industry, academia and government, we provide food and drink companies with the knowledge and technical tools they need to deliver safe products. Recent successes have included spearheading research into the control of foodborne viruses in food manufacturing, and extending guidance on the cleaning and disinfection of food factories. Through these developments we deliver practical support such as training, consultancy and a tool for businesses to measure and improve their 'food safety culture'.



# Partner's perspective: British Frozen Food Federation

---

**Denise Rion,**  
Head of Technical at the British Frozen Food Federation



The British Frozen Food Federation (BFFF) welcomes this latest report from NFU Mutual and its continued support in raising awareness of the importance of hygiene across the food industry.

Our members are at the heart of our federation, and over the years, we have worked tirelessly to support them through research, education and the development of best practice guidance and advice. Add to this the opportunity to join our well established and coordinated Primary Authority scheme, and our members are well set to weather any storm.

With consumers increasingly demanding better-quality foods at the lowest possible price, the pressure is on for the industry. We need to ensure that food not only reaches the customer's plate in the very best condition, but that it is also safe to eat.

Of course, this requires careful attention not just in the factory but throughout the entire supply chain. From the design and layout of the equipment, to selecting the right cleaning chemicals on the shop floor, adherence to proper hygiene standards is essential.

Consumer recognition of the Food Hygiene Ratings System continues to rise, so it is in the best interests of business to achieve the best score possible. The higher the score, the greater the reassurance that the food being served has been produced in a clean and safe environment – and happy customers make for happy businesses.



# NFU Mutual research

---

We worked with Populus, a leading research and strategy consultancy specialising in political, reputation, stakeholder and customer behaviour to survey a demographically representative sample of 2,111 people across the United Kingdom between the 9th and the 10th of September 2019.

## CURRENT ATTITUDES

Consumers were asked about their attitudes to and awareness of food hygiene ratings, how often they use them, and how ratings would influence their spending patterns.

**Which types of business would you expect to be required by law to hold a food hygiene rating?**

Restaurants, pubs, cafés	77%
Takeaway, fast food	76%
Hotels, B&Bs	72%
Bakeries, butchers, delis, grocers	63%
Food producers	57%
Supermarkets	46%
Distributors, transporters	38%
Farmers, growers	24%
Importers, exporters	21%
Newsagents, convenience stores	19%

There is a strong association in the public's mind between food hygiene and the hospitality sector, while there is still very little expectation for retailers and producers. The potential impact for English retail businesses is that if the display of food hygiene ratings becomes law, and they have a low rating, they could suddenly find their standards exposed and lose consumer trust.

There is also a growing trend for manufacturers and producers to sell directly to the public. Across the UK only 66% of manufacturers/packers have a rating of 5, yet only a very small proportion of our survey's respondents say they would check ratings at these outlets. In Wales, producers are already forced to have a food hygiene rating on display even if they don't sell to the public, so it's possible the rest of the UK could follow suit.

---

# 69%

 of people check the food hygiene ratings of the establishments they use.

---

Which type of food establishments do you actively check food hygiene ratings for?

Takeaways	55%	Supermarkets	11%
Restaurants	54%	Public services, e.g. schools	9%
Cafés	43%	Food manufacturers	7%
Pubs	37%	Food distributors	5%
Hotels/B&Bs	27%	Farmers' markets	5%
Mobile caterer	20%	Farmers/growers	4%
Food retailers, e.g. butchers	18%		

---

Which ratings would you find unacceptable, and would make you turn away?

**98%**  
would turn  
away at  
0

**91%**  
would turn  
away at  
1 or less

**81%**  
would turn  
away at  
2 or less

**34%**  
would turn  
away at  
3 or less

**7%**  
would turn  
away at  
4 or less

---

**!** The response is unwelcome news for those businesses with a low rating, particularly if displays are made mandatory. There are currently around 52,000 rated UK businesses (excluding Scotland) with a 3 star rating or below, so the impact of legislation would be considerable.

---

## PUBLIC SUPPORT

Consumers were asked for their views on whether the law in England should be brought into line with that of the rest of the UK, where companies are compelled to publically display their food hygiene rating.

## CHANGING THE LAW

The vast majority of those who answered (91%) are in favour of a new law in England to make displaying food hygiene ratings compulsory. This compares with 88% in 2017 and shows the strong groundswell of support for the system. Although the move towards such legislation has experienced a number of delays, it seems inevitable, given such backing. Therefore it is important that businesses of every size should make preparations now, so they can adapt and succeed in any new regulatory environment.

## AN APPETITE FOR KNOWLEDGE

When asked if they would like more information available online about specific food hygiene inspections and ratings given, 63% of respondents stated they would. Such a resource would give them the opportunity to make their own informed decision about a particular establishment based on the reasons they were marked up or down.

This could work in a business's favour, especially if they feel they have been treated unfairly by the system as they would have a place to explain the circumstances.





## REPUTATIONAL IMPACT

Consumers were asked about their awareness of hygiene issues and the impact upon a company's reputation, and whether this would affect their purchasing behaviour.

What do you immediately assume a business is guilty of if they are in the media for poor hygiene?

Dirty workspace	37%
Bacteria	21%
Pests	15%
Food stored incorrectly	12%
Unwashed hands	4%
Mouldy food	4%
Food past its use-by date	3%
Poor paperwork	1%
Workspace layout	0%

The public invariably think the worst when a food hygiene issue arises in the media – whether that is a producer, retailer, eatery or other business. Such perceptions can cause serious damage to reputation and revenue, particularly if they are unfair assumptions. Even the cleanest of sites can fail inspections due to mismanaged paperwork or incorrect workspace layout, which can be underrepresented in the media.

How would you feel about eating food from a business where the food hygiene rating had rapidly changed?

---

**57%**

of people would eat at an establishment that previously held a poor rating but which had now changed to a good one.

**83%**

of people would not eat at an establishment that had previously held a good rating but which had rapidly changed to a poor one.

---

## Which of the following food-related illnesses, if any, are you aware of being an issue for food producers?

Salmonella	90%
E. coli	86%
Listeria	68%
Norovirus	44%
Campylobacter	31%
Hepatitis A	20%
Scromboid fish poisoning	16%
Hepatitis E	13%
Toxoplasma Gondii	10%
Yersinia	4%

Interestingly, only 6% of respondents didn't identify any illness at all, despite levels of major foodborne illnesses being broadly stable. As product recalls suffered by producers are becoming more of an issue with traceability of food becoming trickier to manage, this message seems to be making its way to consumers through the media, and they are becoming more aware of the potential dangers of food.

Outbreaks and product recalls are very expensive and damaging for companies; and as public awareness grows, the consequences can impact the reputation of any business.

Clearly, food hygiene has a significant influence on reputation. This response, while not unexpected, shows just how difficult it can be to regain public trust after a hygiene issue, with a potential catastrophic loss to trade.

What has made this potentially worse for businesses in recent years are the cuts to local authorities' food hygiene budgets. Should your business suffer a low rating, and even if you take immediate steps to rectify the situation, you may still have to wait a long time before your business is reassessed. So it's important to get it right first time – particularly if stickers are to become mandatory.

**Outbreaks and product recalls are very expensive and damaging for companies.**

## CHANGE IN BUYING BEHAVIOUR

When consumers were asked if they had changed the way they buy food because of hearing about hygiene and recall issues, the results were significantly different depending on the sector.

---

**41%**

said hygiene and recall issues suffered by producers have affected how they buy food from retailers, with 22% now taking more time to look at the labels on packaging.

**55%**

said food hygiene and recall issues have affected the way they buy food from hospitality businesses such as restaurants, with 28% now taking longer to look at the menu.

---

The findings underline the very strong link the public makes between food hygiene and the hospitality sector – but when it comes to major recall issues – producers and retailers are far from immune.



# General guidance: food safety

---

Hygiene ratings have huge significance for food businesses of all sizes. The higher your score, the more competitive and resilient your business will be.

## BUSINESS BENEFITS

Public safety, customer satisfaction and a good business reputation are just a few of the benefits of a high rating. Others include:

- **Good business practice.** A clean, comfortable workspace where employees are encouraged to take pride in their environment, leads to a lower staff turnover and happier customers.
- **Environmental health relationship.** A good track record on hygiene will result in a better working relationship with the Environmental Health Officer (EHO) or Food Safety Inspector, with less frequent inspections.
- **Legal footing.** Good food hygiene not only decreases the likelihood of a food poisoning complaint, but will also give you the legal evidence to refute any such claim should one be made.
- **Financial sense.** It doesn't cost much to get your systems and training right. Yet a small investment today could help to prevent expensive fines and the risk of harm to your customers.



## HOW TO ACHIEVE A BETTER FOOD HYGIENE RATING

When an inspector or officer calls they will look at three areas – hygiene, structure and confidence in management. Even if only one area is poor, it'll affect your whole rating, so it's very important to keep on top of every aspect of food management, including the paperwork.

1. Assess your premises – the layout, condition, cleanliness and lighting. If the layout is tired or hard to change, make the most of it by thoroughly cleaning and improving the flow of product.
2. When setting up any new business, seek advice and request an advisory visit. Be sure to register your business with your local authority in good time for an initial inspection.
3. Make sure employees are suitably trained. Log everything and keep on-going records as proof for the inspector. Train key staff to keep records so they can share the load.
4. Keep records up to date, legible and accessible, including cooking and temperature control, pest control, training records and the Food Standards Agency's "Safer Food, Better Business" packs.
5. Remember, raw food isn't just raw meat or raw fish, but unwashed veg too. If you don't consider or apply correct separation procedures, or have the correct British Standard chemical and its correct usage, you'll likely get a food hygiene rating of 2.
6. Make sure that you or a manager accompany the EHO on their visit and ask them to summarise their findings at the end. You'll be assessed on compliance (confidence in management) so respond quickly and update the officer as soon as you have made any changes, rather than waiting until the next visit.
7. Be clear about the difference between the Food Establishment Intervention Rating Schemes and the Food Hygiene Ratings Scheme (FHRS). The first is used by the EHO to give your business a score that determines the risk and frequency of inspection. The lower the score the better. This is then used to determine your FHRS, a higher score being desirable.

Currently in England it's up to you if you display this result for customers to see. In Wales and Northern Ireland you're legally required to display your score in a prominent place. In Scotland the Food Safety Information Scheme simply gives you a Pass or Fail.

8. If you're a member of NCASS (Nationwide Caterers Association), be aware of their Primary Authority Partnership, and tell the EHO when they visit as you may be included in their 'Due Diligence System'.

This partnership scheme only covers England and Wales and may be taken account of in Scotland, but has no legal standing. Larger companies may also have a Primary Authority Partnership with a particular local authority that all EHOs must take into account. The partnership helps improve consistency across businesses. The scoring schemes provide lots of guidance for the EHO to follow, but are still open to interpretation depending upon the officer or local authority.

9. If you think you've been unfairly rated, speak to the EHO as you have the 'right to reply'. This is different from an appeal, and allows you to tell potential customers how your business has improved hygiene standards since the visit, or to declare unusual circumstances at the time of the inspection.

This right to reply is published online by the local authority along with your business's hygiene rating. Use the right to reply after you've requested a re-score. It may take between three and six months after the original visit to re-score, so you may be stuck with the original rating for a while, even if you've made improvements. If you're still unhappy, look at the local authority's appeal process.

**Once you have made any improvements that you feel would change your position, you can request a revisit and get a new rating – you don't have to wait until the next inspection.**

You'll find more useful advice regarding the Food Hygiene Ratings Scheme on the Food Standards Agency website [food.gov.uk](https://www.food.gov.uk)



# Campden BRI: creating a food safety culture

---


**Nigel Blitz, Food Hygiene Specialist, Campden BRI**

**Bertrand Emond, Head of Membership and Training, Campden BRI.**

**Quite simply, good hygiene starts with good design, a principle that applies to both food equipment and food premises.**

The flow of raw materials, ingredients, packaging, people and utilities through a food area can greatly reduce or increase the risks of product contamination. For example, the finish on surfaces such as walls and ceilings influences cleanability, whilst good air management, such as filtration and controlled directional movement, can eliminate cross-contamination.

The ease with which equipment can be accessed and cleaned has a major impact on how effective operatives and cleaning materials are in removing contamination. Guidance from the European Hygienic Engineering and Design Group (EHEDG) encourages designs that make cleaning effective and efficient, reducing the risk of problems with hazards (e.g. bacteria, viruses and allergens).

 **The ‘people factor’ also opens the wider area of culture in food safety...** 

When to clean, how to clean and what chemicals to use are also critical decisions. Detergents are used to remove food residue or ‘soil’. It’s important to consider the type of soil you wish to remove when choosing a detergent, and how you want to assess the effectiveness. Disinfectants, on the other hand, are used to kill microorganisms. You must consider how well different disinfectants target such key micro-organisms as Listeria, Salmonella and E. coli.

A fresh pair of eyes will often spot issues that are missed by those who work in an environment every day. It’s often simple things, like the position of equipment in relation to entrances or vents, which can cause big problems.



An external hygiene specialist who understands food and drink production can be used as an auditor to prevent problems or as a trouble-shooter to solve them. Using specialist techniques like advanced microbial DNA profiling, they can trace and then eliminate sources of contamination.

People themselves are both a source and carrier of contamination. The right protective clothing, including footwear and hairnets, is essential – as is the design of the changing, sanitation and hand washing facilities for maintaining the integrity of flow between low- and high-risk areas. Hand hygiene must not be neglected, even in a pressured production environment – both the disinfectant and the hand washing technique are critical.

The ‘people factor’ also opens the wider area of culture in food safety: the way that different groups behave in relation to hygiene and food safety. The Global Food Safety Initiative defines food safety culture as “shared values, beliefs and norms that affect mind-set and behaviour toward food safety in, across and throughout an organisation”. Food safety is a shared responsibility and all employees have a role to play. Just as an organisation’s culture can be measured, so can improvements in its food safety culture. We have worked with Taylor Shannon International to develop a culture excellence programme that quantifies behaviour and attitude in an accurate, meaningful and easy-to-understand way.

Highlighting strengths and risks enables targeted, focused improvements in culture – maximising the return on the use of precious time and resources.



# DAC Beachcroft: a legal perspective

---

**Colin Moore,**  
Regulatory Team partner at DAC Beachcroft



No food business sets out to break the hygiene laws. But through circumstances or inaction, things can deteriorate quickly. This overview aims to help companies better understand their legal obligations regarding food hygiene and how the law operates.

All food hygiene law in England stems from The Food Regulations Act of 2013. This gives local authorities and the Food Standards Agency the power of enforcement. They're responsible for everything from issuing improvement notices to emergency closures and prosecution. Food hygiene offences can be tried in either the Magistrates' or Crown Courts, and unlike health and safety offences, there are strict time limits to prosecute. This can be an important consideration given the time it can take local authorities to investigate and prepare cases for trial.

## **A SIGNIFICANT PENALTY**

The sentences for offending organisations and individuals can be severe, underlining the seriousness of the offence and just how important it is to avoid such situations in the first place. Under the sentencing guidelines, companies can be fined from between £100 and £3 million, while individuals can face custodial sentences of up to 18 months. An impact assessment shows that the average fine for such offences over the past three years has increased by around £5,000 according to the Sentencing Council.

# HOURS



# Closed

“ ..the extent and likelihood of enforcement action are difficult to predict...” ”

## ENFORCEMENT APPROACHES

The enforcement of food hygiene legislation generally rests with local authorities who have differing policies and resources available. This means that the extent and likelihood of enforcement action are difficult to predict, even where there's strong evidence of non-compliance.

For example, a recent client of ours was a food business with a cockroach infestation. They couldn't demonstrate they had taken effective control measures. So, voluntarily, they immediately closed their premises and took remedial action. As a result they weren't prosecuted, despite the evidence of a breach of the Regulations.

Conversely, in other cases, we've seen relatively minor discrepancies in Hazard Analysis and Critical Control Point (HACCP) record-keeping for frozen food form part of the prosecution case.

## THE RIGHT PAPERWORK

Food hygiene offences are subject to a “due diligence” defence, so it is vital for any food business to have evidence both of the quality and extent of its HACCP procedures, and that they are being followed and checked properly.

There’s also a defence available to an accused who did not prepare the food in question or import it into the United Kingdom. For this defence the accused must show that they carried out sufficient checks of the food in question, or could reasonably rely on checks carried out by the supplier. We’ve seen this situation arise for organisations which import products and combine them for onward supply (pre-prepared salads and sandwiches being a classic example).

In a recent case, a foreign body was found by a consumer in a salad supplied by our client. The client was able to demonstrate that, even for its suppliers overseas, it required a high level of checking processes and evidence of audit, meaning that the defence was available to it and the local authority was persuaded not to prosecute.

“ While enforcement action in this area may remain less well organised than for other regulatory offences, levels of fines will continue to increase. ”

While enforcement action in this area may remain less well organised than for other regulatory offences, levels of fines will continue to increase. It is vital, therefore, for food businesses to ensure they have adequate systems and procedures for themselves and their supply chain, so that they can demonstrate a viable defence if they are prosecuted.







# About NFU Mutual

---

**Mutual. It's a small word but it means a great deal. It means we're different. Different because our customers influence the development of our products and services. Decisions are made with your best interests at heart as we don't have any shareholders or investors to satisfy. Our nationwide network of NFU Mutual agencies in over 300 offices around the UK enjoys a close and lasting relationship with many UK businesses large and small.**

Whichever business you're in, from bed & breakfast to artisan producer, large scale food manufacturer to high street seller, with over 100 years of insurance knowledge and expertise we know the industry inside and out.

**With over 100 years of insurance knowledge and expertise we know the industry inside and out.**

This understanding and experience in our network can prove invaluable. We can meet face to face as little or as often as required. This personal approach is crucial to the success of both your business and ours.

As well as ensuring everything insurance-related is in place, we can offer access to a range of additional services that make us stand out from other insurance companies. Experts at NFU Mutual Risk Management Services Limited are committed to providing you with a high level of guidance and advice on risk management and health and safety, including the resources you need to help ensure you meet any legal or regulatory requirements.

As your business develops we continue to be involved and are on hand to advise and support. Our philosophy is to work with you to minimise your exposure to the uncertain things that may affect the smooth running of your business, and importantly, its reputation.

# The next step

To find out more about your local NFU Mutual agency and the insurance products and services we offer, **visit [nfumutual.co.uk/business](https://nfumutual.co.uk/business)**



Find us on **LinkedIn: NFU Mutual**



Follow us on **Twitter: @NFUM**



Follow us on **Facebook: NFU Mutual**



**NFU Mutual**

**If you'd like this document in large print, braille or audio, just contact us.**

For a digital copy of this report, visit [nfumutual.co.uk/foodhygiene](https://nfumutual.co.uk/foodhygiene)

To find out more about how we use your personal information and your rights, please go to [nfumutual.co.uk/privacy](https://nfumutual.co.uk/privacy)

To stop us contacting you for marketing write to Marketing Department (Do Not Contact Me), NFU Mutual, Tiddington Road, Stratford upon Avon, Warwickshire CV37 7BJ or contact your local agency.

The National Farmers Union Mutual Insurance Society Limited (No.111982). Registered in England. Registered Office: Tiddington Road, Stratford upon Avon, Warwickshire CV37 7BJ. A member of the Association of British Insurers.

For security and training purposes, telephone calls may be recorded and monitored.