



Chartered  
Institute of  
Environmental  
Health

# Consultation on the Food Law Code of Practice (England) Review

Response from the Chartered Institute of  
Environmental Health (CIEH)

9 February 2015

# The Chartered Institute of Environmental Health

As a **Royal Chartered professional body**, we set and enforce standards of professional practice and conduct for the protection of the public. We devise curricula, accredit courses and provide qualifications for the education of our professional members and other practitioners in the field of food safety and standards which is a core subject within the qualification and practice of environmental health.

As an **innovative organisation**, we have created under the auspices of our Royal Charter The Institute of Food Safety Integrity and Protection (TiFSiP) a membership organisation to provide up to date information, professional support and training opportunities for all those engaged in the food chain from "farm to fork" to improve cross sector intelligence and enhance good practice in food safety and standards. Further information can be found on: [www.tifsip.org](http://www.tifsip.org).

As a **knowledge centre**, we provide information, evidence and policy advice to local and national government, academia, environmental and public health practitioners, industry and other stakeholders. We publish books and magazines, provide training courses, conferences, educational events and commission and carry out research.

As an **awarding body**, we provide national OFQUAL accredited events, trainer and candidate support materials and e learning material on over 43 topics relevant to food safety, health, wellbeing and safety to develop workplace skills and best practice in volunteers, employees, business managers and business owners to ensure consumer safety.

As a **campaigning organisation**, we work to promote improvements in environmental health and public health policy and practice.

As a **coordinator** of the voice of professional Environmental Health communities we have established the National Environmental Health Board (NEHB), to facilitate the bringing together of all environmental health managers, manage special interest groups and focus activity and debate upon current issues of policy application and delivery.

We are a **registered charity** with over 10,000 members across England, Wales, Northern Ireland and Scotland.

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# 1. Introduction

- 1.1 The Chartered Institute of Environmental Health (CIEH) welcomes the opportunity to review and comment upon the draft Food Law Code of Practice (FLCOP) to ensure that it is fit for purpose to deliver effective official controls and maintain high standards of consumer protection. To this end the CIEH has sought to work closely with the Food Standards Agency (FSA) and local authorities throughout the preparatory work and review of the consultation document. Given the length of the consultation within the CIEH networks and with FSA we are grateful to the FSA in allowing and agreeing to a late submission.

# 2. Summary

- 2.1 The CIEH agrees with the FSA that the introduction of a competency-based approach to the authorisation of officers has the potential to raise standards. This view is based on the understanding that competence is a combination of knowledge, skills and behaviours. However, if the introduction of this new approach is not properly coordinated, managed and supported, there is a significant risk that it will lead to a reduction in the standards of official controls, and with it the very real possibility that health will be compromised.
- 2.2 In moving to a competency-based approach it is important for readers of the FLCOP, and particularly employers, to understand the fit with previous qualification and knowledge systems.
- 2.3 The CIEH was extremely concerned that the failure to place the two existing qualifications, - the Environmental Health Registration Board (EHRB) Certificate of Registration as an Environmental Health Practitioner (EHP) and the Higher Certificate in Food Control (HCFC), the chosen baseline qualification, in the draft FLCOP, alongside each other, would undermine existing systems and create confusion. We have had clarification from the FSA that the EHRB Certificate of Registration as an EHP would fully meet the equivalency criteria. As such, we would want to see these two qualifications included in the FLCOP and not split between the FLCOP and the Practice Guidance, as previously proposed. If this is implemented the CIEH will be satisfied that one of our primary concerns has been addressed and a suitable remedy found.
- 2.4 Robust and consistent assessment of knowledge and skills, together with an alignment of these to the duties carried out, will be essential. In our experience, the means to achieve this are complex and time-consuming, particularly when it comes to determining an individual officer's level of knowledge and skills. The CIEH believes that this will place a significant and additional burden on the Lead Officer and is likely to lead to inconsistencies both within and between local authorities. As part of the initial stakeholder consultation, the CIEH provided text to include in the Practice Guidance relating to restricting the activities of those that do not meet the baseline or equivalent qualifications and we recommend that the FSA adopts the text CIEH provided.
- 2.5 The discussions with the FSA, referred to earlier, have addressed some, but not all, of these issues. The CIEH is now satisfied that appropriate arrangements regarding equivalency assessments and qualification restrictions will be put in place, provided our suggested amendments to the wording of the FLCOP are made. To address these important issues in relation to equivalency assessments, the role of CIEH as the main professional body remains fundamental and so it should remain an integral part of the

formal assessment process under the new arrangements. The CIEH is happy to continue providing assistance to the FSA in assessing equivalency of those qualifications not detailed in the Code or Practice Guidance.

- 2.6 However, we feel that the FSA needs to acknowledge our fears, and those of many representatives of food authorities, that the process of assessment against the new competency framework may well present challenges and have significant consequences for some authorities. The danger of compromise and inconsistency will have to be addressed and the CIEH pledges its support to the FSA to assist in addressing these challenges.

### 3. Answers to the consultation questions

- 3.1 In responding to this consultation, the CIEH has focused specifically on the proposed amendments to competency and qualifications. This is because the CIEH has been engaged fully in the working groups leading up to the consultation and has extensive subject-specific expertise in setting standards and developing qualifications in all of the specialist and generalist fields that make up environmental health. In particular CIEH has key strengths in the design and delivery of training in food safety regulation and control.
- 3.2 Responses to the proposed amendments on the registration of establishments have not been provided because positions will vary at each local authority. We have seen a variety of responses from local authorities on this issue and believe that at the present time it is more appropriate for the FSA to consider how best to respond. We stand ready to assist in supporting the FSA following their deliberations. In particular the National Environmental Health Board (NEHB) under the Chairmanship of the former chairman of the FSA, Lord Rooker, and supported by the CIEH may be an appropriate and effective conduit to achieve consistency of practice on the ground in this area, once the FLCOP has been finalised.

***Question 6:*** *What impact do you think the introduction of a competency-based approach to the authorisation of officers will have on the delivery of official controls? Please give reasons to support your answer.*

- 3.3 The CIEH supports the introduction of a competency-based approach to the authorisation of officers and believes this has the potential to raise standards by ensuring the ongoing competence of officers post-qualification. This is based on the view that competence is a combination of knowledge, skills and behaviours. However, the move to a competency based approach will not be a quick or easy change to implement and will require a tangible resource commitment to ensure that the right skills will be developed and maintained in officers delivering official controls. Consistency here is essential and there is a danger that if this is not achieved, it could lead to a diminution of standards and consequently risks to consumers and public safety.
- 3.4 Resources for the public sector remain constrained and most local authorities are under significant financial pressure, with some forced to reduce their staffing capacity in the area of food hygiene and food safety.<sup>1</sup> Local authority staff budgets remain under

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<sup>1</sup> FSA Review of Delivery of Official Controls. Research with staff delivering official controls. 2013. [http://www.foodbase.org.uk/results.php?f\\_report\\_id=871](http://www.foodbase.org.uk/results.php?f_report_id=871)

review, not only in terms of initial employment but also for training and development of appropriate competencies<sup>2</sup>.

- 3.5 With the introduction of new requirements for assessment of competence (and any unforeseen need to develop new competencies) local authorities will need to find and apply new resources in order to achieve and maintain consistency. As a result the CIEH would expect such pressures to cause enforcement officers to have to carry out a wider range of duties and that these might exceed their knowledge and skill sets.
- 3.6 Robust and consistent assessment of knowledge and skills, together with an alignment of these to the duties carried out, will be essential. In our experience, the means to achieve this are complex and time-consuming, particularly when it comes to determining an individual officer's level of knowledge and skills. The CIEH considers that this will place a significant additional burden on the Lead Officer and is likely to lead to inconsistencies both within and between local authorities.
- 3.7 The mechanisms to be suggested to assess knowledge and skills and to develop new competencies, are not clear from the draft FLCOP. To provide confidence in the establishment of the new approach the checks and balances, along with the necessary support mechanisms, need to be identified at the outset. This might well be appropriate for the Practice Guidance, but without sight of that document it is difficult to judge whether or not the proposed changes will achieve the desired objective of ensuring that enforcement officers are suitably competent for the duties to which they are assigned. The Practice Guidance which underpins the FLCOP is a vital underpinning document which must be developed alongside the FLCOP. In attempting to understand how the FLCOP will in fact be implemented it would have been helpful for a draft of the Practice Guidance to be available at the same time. Whilst the intended Practice Guidance should assist the process and bring greater consistency and clarity than is currently the case with competency assessments, we believe the FSA should work with the CIEH to provide additional training and materials to facilitate the process for relevant officers, and provide greater clarity on relevant timescales.
- 3.8 As a general point when considering where to site specific content in the documentation the fundamental difference in status between the FLCOP and the Practice Guidance needs to be recognised. Food Authorities are required to have regard to the FLCOP but this is not the case for the Practice Guidance.
- 3.9 As previously stated the CIEH stands ready to support the FSA in ensuring that the Practice Guidance provides the clarifications needed to support the implementation of the new FLCOP.

**Question 7:** *Do the competency requirements adequately cover the key tasks lead officers, authorised officers and regulatory support officers would be expected to perform to deliver official controls and other regulatory tasks? If not, please specify any additional tasks.*

- 3.10 The CIEH believes that the competency requirements cover most key tasks and we are largely satisfied with the content of the framework. However, Competency Number 2 for Lead Officers concerning 'Legislation and centrally issued guidance' is also essential for Authorised Officers.

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<sup>2</sup> FSA Review of Delivery of Official Controls. Research with staff delivering official controls. 2013.  
[http://www.foodbase.org.uk/results.php?f\\_report\\_id=871](http://www.foodbase.org.uk/results.php?f_report_id=871)

- 3.11 Additionally, elements of wording need to be reviewed and revised in order to ensure that they reflect competencies and not just knowledge. For example, instead of simply understanding a concept officers should be able to apply their knowledge. The CIEH would be happy to provide additional drafting changes to help clarify this.
- 3.12 If there is no baseline qualification and underpinning knowledge requirement for Regulatory Support Officers (RSOs) then the competencies that apply to them need to be much more detailed. For example, RSOs will need to be able to identify microbial, chemical and physical food hazards, be familiar with the means by which food is handled, processed, stored and prepared ahead of consumption and understand the prerequisites of hygienic food handling.
- 3.13 Examples of current practice provided to CIEH by local authorities in response to the FSA consultation give concern that some local authorities are already utilising poorly qualified and trained staff to the detriment of accurate business advice and consumer protection.

**Question 8:** *What challenges will local authorities face in recruiting officers that meet the baseline qualification needed to carry out official controls? Please give reasons to support your answer.*

- 3.14 The FSA has confirmed that the proposals in the draft FLCOP will not require any up-skilling to the Higher Certificate in Food Control, where competencies are already met. Also, our understanding is that officers holding the Ordinary Certificate in Food Premises Inspection (OCFPI) and Higher Certificate in Food Premises Inspection (HCFPI) will remain able to carry out their current, restricted range of official control duties, without additional qualification requirements, in the new arrangements. However, we believe that this should be specifically clarified in the FLCOP, in addition to the Practice Guidance.
- 3.15 Whilst the draft FLCOP indicates that the HCFC qualification may be awarded by the Institute of Food Science and Technology (IFST) this is incorrect and has been acknowledged as such by the FSA in correspondence with CIEH. The IFST awarded the HCPFI between 1994 and 2005, but not the HCFC. Information on the IFST website confirms this to be the case:  
<http://www.ifst.org/professional-recognition/discontinued-qualifications>
- 3.16 The CIEH is grateful to the FSA for addressing the key concern about recognition of the award of the EHRB Certificate of Registration as an EHP and would propose that to clarify the situation the wording in Section 4.4 is amended to read:

The baseline qualification for officers undertaking official hygiene controls is: -

- The Higher Certificate in Food Control.

The Higher Certificate in Food Control may be awarded by either of the following:

- Environmental Health Registration Board (EHRB);
- The Scottish Food Safety Officers' Registration Board (SFSORB)

The Certificate of Registration as an EHP or the Diploma in Environmental Health (or historical equivalent) can be considered an equivalent qualification to that set out at

section 4.4 in the Code. It is accepted that investing in the training and development of professionally qualified officers, such as Environmental Health Practitioners, remains an important part of wider local authority Environmental Health service delivery.

The Certificate of Registration as an Environmental Health Practitioner may be awarded by the following:

- EHRB

The Diploma in Environmental Health (or historical equivalent) may be awarded by the following:

- EHRB;
- The Scottish Food Safety Officers' Registration Board (SFSORB)

3.17 In the correspondence with the FSA referred to above, the FSA has confirmed that professional bodies such as the CIEH and Trading Standards Institute will determine an appropriate mechanism for the assessment of 'equivalent qualifications' and carry out such assessments. The CIEH welcomes this commitment and offers to engage with the FSA and others in developing this mechanism at the earliest opportunity.

3.18 As referred to above the FSA has confirmed that details of restrictions to be placed on holders of the HCFPI and OCFPI will be included in the Practice Guidance. We are pleased to note the FSA's clarification of this point and suggest in the final paragraph of Section 4.5 wording along the lines of:

*"Where qualifications fail to encompass all of the underpinning knowledge areas, lead officers must restrict the officer's authorisation in accordance with the Practice Guidance."*

**Question 9:** *Do you consider that the new competency framework model will result in any financial costs or benefits or result in the use of more or less resources for the delivery of official controls?*

3.19 The introduction of a competency-based approach is likely to have additional financial and resource implications for local authorities. From the outset these are likely to arise through the need to train Lead Officers to assess competence and carry out competency assessments. Beyond this there will be resources required to address training gaps identified in such assessments and in the maintenance of ongoing competence.

3.20 In particular, the CIEH anticipates that an unspecified number of holders of qualifications such as the OCFPI and the HCFPI will seek to obtain the HCFC baseline qualification, which will result in training costs for local authorities. To illustrate the costs, there are currently 240 individuals who hold the OCFPI and 703 individuals who hold the HCFPI. Top-up routes for these qualifications exist. Holders of the OCFPI are required to pay a registration fee of £145 (2014), complete a cross over logbook at a cost of £160 (2014), complete a professional interview at a cost of £270 (2014), and take two, week long accredited top-up modules in food standards and practical food inspection. The cost of each module is around £600 (2014), similarly, holders of the HCFPI are required to complete the two top-up modules and pay a registration fee of £50 (2014).

3.21 See also the comments in Question 13. The key point is that the FSA needs to provide support to Lead Officers and the competency framework must be designed to be flexible but within a framework of consistency to assist the needs of local authorities. Existing competency assessments, wherever possible, should be incorporated into the proposed competency framework.

**Question 10:** *What are your views on the proposal to increase the CPD requirement to a total of 20 hours per year for authorised officers?*

3.22 The CIEH supports the proposals.

3.23 For background the proposed CPD requirements are compatible with the requirements placed on existing CIEH Voting members. The CIEH CPD scheme requires each Voting member to undertake 20 hours of appropriate CPD activity each calendar year, or an aggregate of 60 hours in any three consecutive years. At least 10 hours of CIEH CPD must be achieved through 'Core' activities which are professional and highly structured. This will include courses, conferences, seminars and workshops that cover topics within the recognised environmental health functions or are directly relevant to the provision of environmental health services. The remaining 10 hours can be made up from 'Supplementary' activities that might be considered indirectly relevant to development as an environmental health professional, such as improving IT skills, management and languages. It is appropriate for those EHPs that work in specialist areas of work like food control to concentrate their CPD requirement in that topic area.

3.24 The CIEH is looking to move from an hours-based CPD system to a points-based system in 2015. Part of the reason for this is to widen the range of activities that can be accepted as CPD. The new points based scheme will roughly equate to hours, therefore difficulties are not anticipated in making the transition, or complying with the CIEH or FSA CPD schemes.

**Question 11:** *Is the term 'other professional matters' sufficient for determining what training topics would be useful to authorised officers in understanding their CPD requirements, or should further clarification be provided?*

3.25 The CIEH has interpreted this as including 'Core' CPD activities in non-food areas, such as health and safety, and through activities which are classified as 'Supplementary' under the CIEH CPD scheme. If this interpretation is incorrect then further clarification will be required.

**Question 12:** *Do you envisage that there will be a training need for lead officers to ensure that they can properly assess the competence of officers? Please give details?*

3.26 The CIEH considers that there will be a need to train Lead Officers to ensure that they are able to make an assessment of competence and to ensure that there is consistency in such assessment between local authorities. The training should extend beyond a one-off session to include the need for refresher training. To ensure consistency of approach in competence assessment a mechanism such as peer review might be established in the future. CIEH offers its assistance to the FSA in developing this process.

**Question 13:** *We have calculated a total familiarisation cost of £61,915 for local authorities in England. Do you believe that this is a reasonable cost? Please supply evidence to support your answer.*



- 3.27 It is understood that the sum of £61,915 is to be divided between all English local authorities. On that basis the CIEH does not believe that this will cover the costs of the changes required to properly implement a new competency-based system.
- 3.28 The assessed costs, as stated, only take into account familiarisation with the proposed changes i.e. the time required to review and understand the new requirements.
- 3.29 To properly implement the entirety of the proposed changes Lead Officers will need not only to attend training sessions on competence assessment, but will also need to train their staff on the requirements of the competency framework and the assessment mechanisms.
- 3.30 Beyond this they will need to allocate time to carry out the competence assessments, which are likely to be more detailed and time-consuming than existing work reviews/appraisals.
- 3.31 As this will be a new way of working, review, update and refresher training for Lead Officers should also be built in to implementation planning. It is anticipated that this would need to be linked to any evaluation of the overall impacts of the changed approach to the delivery of official controls.
- 3.32 Systems will also need to be put in place to enable officers to develop their skills and knowledge to fill competency gaps that have been identified through the competency assessment.
- 3.33 There will also be additional costs associated with existing officers that deliver official controls seeking to obtain the baseline qualification (or equivalents), as illustrated in the response to Question 9.
- 3.34 It will be essential to introduce mechanisms to ensure that competence assessments are undertaken in a manner that is consistent across the range of English local authorities. This might perhaps be achieved as an element of the inter-authority audit process. This would also have ongoing resource and cost implications.
- 3.35 To illustrate the level of support needed for substantive change we would cite one of the great policy and implementation successes in public health in recent years - the introduction of smoke free workplaces. The policy was backed up by full estimates and provision of the cost of training and implementation by the Department of Health. CIEH assisted in the design and content of the training provided. Failure to have provided appropriate resources to support the changes envisaged would have seen the policy aims falter. We consider that the changes that the FSA is implementing through the FLCOP are far more complex than that under the smoke free programme and FSA must fully cost out the training need required. CIEH would be pleased to support the cost assessment process given our detailed knowledge and connections to the academic and training sector and access through the NEHB to all local authorities.

#### 4. Consultation in Northern Ireland and Wales

- 4.1 We note that the scope of this proposed FLCOP is England only and our comments reflect this. If there are any future consultations on proposals for Northern Ireland or Wales, as devolved regions within the UK, we will comment on those at that stage. There are some significantly different roles, arrangements, priorities and existing

protocols for those devolved regions and any future consultation draft would need to take cognisance of those.

## 5. Conclusion

- 5.1 The CIEH is grateful for the clarification provided by the FSA during the consultation and, subject to the wording amendments put forward by the FSA and further amendments suggested in this response, the CIEH remains supportive of the implementation of the draft FLCOP.
- 5.2 However, the CIEH does feel that the FSA needs to acknowledge that the process of the Lead Officer assessing competence against the new 'competency framework' is different from current practice, where the use of a documented framework is not involved. There is potential for inconsistency in terms of the assessment, which itself is likely to identify shortcomings in the knowledge, skills and behaviours of those presently engaged in Official Controls work. Together these may have very significant resource implications for local authorities and we pledge our support to the FSA to assist in addressing these challenges.
- 5.3 The Practice Guidance will be a critical document in providing further clarification to the contents of the FLCOP. In particular it will be important to ensure that appropriate restrictions are placed on holders of the HCFPI and OCFPI, which will allow them to continue to deliver certain official controls. The CIEH also welcomes the opportunity to engage with the FSA and others in developing a mechanism to assess the equivalency of other qualifications at the earliest opportunity.
- 5.4 It is our recommendation that all key stakeholders are rapidly engaged in the urgent preparation of the new Practice Guidance which will be required as an essential supplement to the new FLCOP.