

30 June 2010

Reference: ENF/S/10/019

Dear Colleague,

LOCAL AUTHORITY ENFORCEMENT OF CHILDMINDERS

At the SFELC meeting of December 2009, a proportionate approach to enforcement of childminders was agreed, which comprised of guidance and a registration form/prioritisation tool. Following on from this, at the SFELC meeting of April 2010, the channels of distribution for this information were agreed. A further meeting has now taken place between FSAS, SFELC Childminder Working Group, the Care Commission, the Scottish Childminder Association and a Scottish Government Childcare Policy representative and all parties have agreed the following way forward:

Scope -This approach is **not** intended for nannies or care operating from non-domestic premises such as nurseries, care homes and schools.

Exclusion - If the childminder provides no more than the following levels of food service as part of normal business, they are **not** required to register as a food business operator.

- a. Provision of mains drinking water
- b. Provision of crockery and cutlery for use by children to eat their own packed lunches
- c. Provision of chilled storage for packed lunches that belong to the children
- d. Occasional assistance to children with cutting up their own food in response to individual need rather than an established service
- e. Occasional provision of food that is not part of the normal service (e.g. a cake to celebrate a child's birthday or provision of food where a parent/guardian has been delayed).
- f. Operating in the child's own home and serving food that belongs to the child's parent/guardian e.g. nannies or home child carers.



Existing Childminders - Over the coming months, local authorities are asked to send out a registration form/prioritisation tool and an explanatory letter (both attached at the end of this letter) to childminders in their area. Lists of these childminders are already being sent to local authorities from the Care Commission.

Childminders are then expected to return these registration forms to local authority (Environmental Health departments). Local authorities are asked to do a desktop exercise to prioritise visits. Childminders categorised as high priority should be visited as soon as possible within the first year following registration. Childminders categorised as low priority should be visited when resources permit and within three years of registration.

New Childminders – As part of the Care Commission registration process new childminders will be sent the registration form and guidance and asked to return the registration form to their local authority. The Care Commission website will also host these documents. The approach to prioritisation is intended to address a recognised inspection backlog that arose when existing small-scale childminders fell within the inspection programme. Clearly, new businesses will continue to register while the backlog is being addressed and the prioritisation tool can be used for new businesses until the backlog is fully addressed. In recognition of the Food Law Code of Practice, nothing in this protocol should lead local authorities to inspect lower risk establishments ahead of higher risk programmed inspections.

Review FSAS and SFELC will review this regime after it has been in place for one year.

The previously agreed guidance letter and registration form/prioritisation tool are attached at the end of this letter.

We thank you for your input to the development of this approach

Yours sincerely



Peter Midgley

Branch Head

Enforcement Branch, Scotland.

Legal Requirements for Registered Childminders in Domestic Premises Operating as a Food Business

The following guidance has been prepared by Food Standards Agency (FSA) and the Scottish Food Enforcement Liaison Committee for registered Childminders in domestic premises providing a food service to those in their care. The guidance has been produced in response to questions raised over whether childminders should register as food business operators. This guidance is aimed solely at registered childminders in domestic premises and is not intended for nannies and home child carers or care operating from non-domestic premises such as nurseries, care homes and schools.

I don't provide any food services. Am I required to register as a food business operator?

If you provide no more than the following levels of food service as part of your normal business, you are not required to register as a food business operator.

- a. Provision of mains drinking water
- b. Provision of crockery and cutlery for use by children to eat their own packed lunches
- c. Provision of chilled storage for packed lunches that belong to the children
- d. Occasional assistance to children with cutting up their own food in response to individual need rather than an established service
- e. Occasional provision of food that is not part of the normal service (e.g. a cake to celebrate a child's birthday or provision of food where a parent/guardian has been delayed).
- f. Operating in the child's own home and serving food that belongs to the child's parent/guardian e.g. nannies or home child carers.

If I do need to register as a food business operator, how should I do it?

To register as a food business operator you will need to inform your local authority - the authority where your 'business' is based. Registering as a food business operator is free of charge. You should complete the simple registration form attached and return it to your local Environmental Health department. Your local Environmental Health department will be based in the Council to whom you pay Council Tax. To find the contact details of your nearest local authority please see the Food Standards Agency website at <http://www.food.gov.uk/enforcement/enforceessential/yourarea/>

What happens once I have registered as a food business operator?

Once you have registered as a food business operator with your local authority, an enforcement officer will contact you to arrange a suitable time to visit. The enforcement officer will carry out an initial inspection of your 'premises' and will discuss general food hygiene practices to ensure food is being prepared safely.

Will my domestic situation be taken into account?

You have a general duty, in addition to the welfare requirements to ensure that food you provide is safe. However, your local authority enforcement officer will take your domestic environment into consideration and will help you put in place practical and proportionate measures to ensure food

safety. The legislation concerning food hygiene has a specific section relating to domestic property used as a food business and Appendix 1 explains the legal requirements.

When will my initial inspection take place?

When you return the enclosed registration form to your local Environmental Health department, your business will be prioritised based on the nature of food activity you carry out. The Environmental Health department will visit the higher priority food businesses first and the initial inspection should take place during the same year that you register. Lower priority food businesses will receive their initial inspection as soon as resources permit. Further information on your initial inspection can be obtained from your local Environmental Health department.

Where can I get further advice?

Further advice for childminders operating as a food business will be made available shortly at www.food.gov.uk/enforcement/enforceessential/startingup/childminders/. In the meantime some more general advice is available on the FSA Website at www.eatwell.gov.uk . Registered childminders can also discuss these matters and other concerns with their local authority.

Appendix 1

Relevant Hygiene Requirements

Where domestic houses are used to regularly prepare food as part of a business the premises must be positioned, designed, constructed and kept clean and maintained in good repair and in a condition that avoids the risk of contamination, particularly from animals and pests, as far as reasonably practical.

What the law says:

Where necessary:

- > You must have appropriate facilities to maintain adequate personal hygiene, including facilities to wash and dry hands hygienically, hygienic toilet facilities and changing facilities.
- > Surfaces that are touched by food must be in a sound condition and be easy to clean and, where necessary, to disinfect. This means that they need to be made of materials that are smooth, washable, corrosion-resistant and non-toxic, unless you can satisfy your local authority that other materials are appropriate.
- > You must have adequate facilities for the cleaning and, where necessary, disinfecting of working utensils and equipment.
- > If you wash or clean foods as part of your business, then you must have adequate facilities to do this hygienically.
- > You must have an adequate supply of hot and/or cold water that is 'potable' (drinking quality).
- > You must have adequate arrangements and/or facilities to store and dispose of hygienically any hazardous and/or inedible substances, and waste (whether liquid or solid).
- > You must have adequate facilities and/or arrangements for keeping food at suitable temperatures and monitoring these.
- > You must place foods in a way that avoids the risk of contamination as far as reasonably practical.

Well maintained domestic kitchens are capable of meeting these legal requirements, generally without modification. Some steps will need to be taken to minimise the risk of contamination arising from normal domestic activities. Specifically:-

Pets should be kept out of kitchen when food is being prepared due to the risk of cross-contamination – when harmful bacteria are spread onto food from other food surfaces, hands or equipment. You should be able to demonstrate therefore that where pets can gain access to food preparation areas, procedures are in place to adequately wash and disinfect work surfaces and cooking utensils before any food handling or preparation takes place.

Baby changing facilities should be kept away from food preparation areas.

Laundry should not be carried out at the same time as food preparation and measures are in place to ensure that detergents and soiled clothing etc do not come into direct contact with work surfaces or cooking utensils.

In addition to these specific requirements for domestic property there are other legal requirements that all food businesses must comply with.

Food safety management procedures

All food business operators, including childminders, must put in place food safety procedures based on the principles of Hazard Analysis and Critical Control Point (HACCP). Food business operators must establish documents and records commensurate with the nature and size of their business to demonstrate the effective application of their food safety procedures.

The Food Standards Agency has developed a pack to support compliance with this requirement called "Safer Food Better Business for Childminders". The pack is available free of charge from the Food Standards Agency. It is recognised that this pack is not the only means of securing compliance with this requirement and childminders may choose to implement, maintain and document their food safety procedures in an alternative format. Irrespective of the format used, enforcement officers will be looking to see that procedures adopted are effective and clearly understood by the childminder. Where deficiencies are noted the enforcement officer may suggest changes to procedures or records to ensure food safety is secured and effective operation of procedures is demonstrated.

Food hygiene training

Food handlers engaged in any food business are required to be trained in food hygiene matters commensurate with their work activities. The training needed will relate to the type of food that is being handled. 'High risk' food handlers will require more training than those who handle 'low risk' foods. There is no requirement for food handlers to attend formal courses or to acquire food hygiene qualifications. However it is important that food handlers have sufficient knowledge to prepare and supply food that is safe to eat.

There are various agencies that provide food hygiene training courses. There are also internet and electronic courses and resources. Further details of food hygiene training providers can be obtained from your nearest local authority.

FOOD BUSINESS REGISTRATION

FOR CHILDMINDERS OPERATING FROM DOMESTIC PREMISES

(Regulation (EC) No. 852/2004 on the Hygiene of Foodstuffs, Article 6(2))

INSTRUCTIONS FOR COMPLETION OF THE FORM

Consider if your food activities are limited to those included in SECTION A if they are you are not required to register as a food business with your local authority **Please do nothing more.**

Childminders with more extensive food activities should complete **SECTION B**, sign the bottom of the form and then send it to your local authority (contact details can be found on <http://www.food.gov.uk/enforcement/enforceessential/yourarea>).

SECTION A IF YOUR FOOD ACTIVITIES ARE LIMITED TO THIS LIST - YOU DO NOT NEED TO REGISTER AS A FOOD BUSINESS, DO NOT COMPLETE THIS FORM OR SEND IT TO YOUR LOCAL AUTHORITY			
<p>a. Provision of mains drinking water.</p> <p>b. Provision of crockery and cutlery for use by children to eat their own packed lunches.</p> <p>c. Provision of chilled storage for packed lunches that belong to the children.</p> <p>d. Occasional assistance to children with cutting up their own food in response to individual need rather than as an established service.</p> <p>e. Occasional provision of food that is not part of the normal service (e.g. a cake to celebrate a child's birthday or provision of food where a parent/guardian has been delayed).</p> <p>f. Operating in the child's own home and serving food that belongs to the child's parent/guardian e.g. nannies and home child carers.</p>			

SECTION B TO BE COMPLETED BY CHILDMINDERS WITH MORE EXTENSIVE FOOD ACTIVITIES			
Name of the food business operator (owner)			
Address of the food business			
Post code			
Telephone number			
E-mail address (if applicable)			
How many children do you look after?	Average per day	Maximum at one time	
What is the age range of the children?			
Which type of water supply do you have?	MAINS	PRIVATE	
Do you provide drinks and snacks only?	YES	NO	
Additional information			
Do you prepare or provide meals?	YES	NO	
Have you received food hygiene training?	YES	NO	
Please circle any of the following foods you either prepare or provide: <ul style="list-style-type: none"> • Formula Milk • Sandwiches • Dairy Products • Salads 	<ul style="list-style-type: none"> • Cooked Meats • Raw Meat/poultry • Eggs Other foods (please specify).....		
PLEASE NOW SIGN THE BOTTOM OF THIS FORM AND SEND IT TO YOUR LOCAL AUTHORITY			

Signature of the food business operator (Owner)..... Date.....

Name (BLOCK CAPITALS).....