



ORKNEY
ISLANDS COUNCIL

Food Law Guidance

Cakemakers



Food Law Guidance for Cakemakers

Who is this Guidance for?

This guidance is intended for anyone who is thinking about running a food business from home making low risk cakes and bakes only. This might include preparing food to sell in shops, at a market, or selling to other businesses or consumers.

Food Standards Scotland (FSS) have produced a publication called *Advice for New Businesses* which you may wish to read in conjunction with this document and it can be found at:

www.foodstandards.gov.scot

What is Low Risk?

Low risk would include sponge cakes, traybakes, biscuits and generally anything that is ambient stable(ie does not require refrigeration to keep it safe). It does not include cheesecakes, cream cakes, products containing meat such as sausage rolls or pies etc. These types of products would be considered high risk and would require additional controls to ensure safety. Please contact Environmental Health for more information.



Before you get started make sure you have considered the following:

REGISTRATION

Your home will need to be registered with the Council as a food business. This is free, and there is only one simple form to fill in, but it is a legal requirement and you can be prosecuted if you do not register before starting.

Please visit www.orkney.gov.uk to download an application form or phone on 01856 873 535 ext 2081.

PLANNING PERMISSION

You may need planning permission to run a business from home and/or erect an honesty box, so take advice from the planning department of the Council. Contact them at planning@orkney.gov.uk.

BUSINESS RATES

You may have to pay increased rates if you use part of your property for a business. Contact the business rates on 01856 873 535 ext 2133.

INSURANCE

Just in case things go wrong, we strongly recommend you to take out insurance to cover claims against you in the same way as any other business. You should consult your solicitor or insurance agent about this.

RESTRICTIVE COVENANTS

Especially in older properties, you may find that the deeds contain clauses that prevent you from carrying out certain activities, and running a food business may be one of them. You should consult your own solicitor about this.

MORTGAGE RESTRICTIONS

If you have a mortgage on your property you should contact your lender and talk to them about your intentions.

FOOD SAFETY LAW

The laws on food safety apply in the same way to a business run from home as they do to all other commercial premises.

You will be liable to inspections by officers from the Council's environmental health team, and you may face legal action if you are found to be breaking food law. This also applies if you use a kitchen somewhere else to prepare food, for example a village or community hall kitchen.

In addition, you must also meet the requirements of the Food Information Regulations 2014. These regulations state that all pre-packed foods for direct sale or otherwise must be labelled with certain information relating to ingredients, name of producer, use by dates, allergens etc.

FURTHER INFORMATION

Further information on these requirements can be found on the Food Standards Scotland website at: www.foodstandards.gov.scot, or by visiting the environmental health section on the Council's website.

THE INSPECTION

The key regulations that catering from home falls under are the Food Hygiene (Scotland) Regulations 2006, Regulation (EC) No 852/2004, No 178/2002, No 1169/2011 all as retained law.

These Regulations lay down the requirements relating to persons engaged in the handling of food, the methods and practices used in food businesses and structural matters in food premises.

This is broken down into the following:

1. Management
2. Hygiene
3. Structure
4. Composition and labelling

The standards you will have to meet depend upon a number of factors, such as the type and quantity of food you intend to prepare, and what else the kitchen is used for. The following has been produced as a guide on what is expected in most cases to meet the requirements of food law.

FOOD HYGIENE INFORMATION SCHEME

This is a national scheme which rates a business based on compliance in the areas stated above.

Once registered and prior to inspection, you will be allocated a *Awaiting Inspec-*

tion rating.



This rating changes once you have had your food law inspection and, depending on how the inspection went, you will receive either a *Pass* or *Improvement Required* rating and certificate.

Passing the food law inspection is a great achievement and you can show it off as such! You will receive your *Pass* certificate and a window sticker which are a great advertising tool for your business, as it shows you have put in the hard work and your business now complies with the relevant food laws which, in turn, will give your customers confidence in you and your business.



If you receive a *Improvement Required* rating, you will be given clear and detailed information on what you must do, how to do it and a time scale to complete this by before a revisit takes place. Remember that you can contact the Environmental Health Team anytime for help, advice or to have your revisit brought forward.



Your rating will be automatically published on Food Standards Scotland's Food Hygiene Information Scheme's website: [Food Hygiene Information Scheme | Food Standards Scotland | Food Standards Scotland](#)

1. MANAGEMENT

TRAINING

The law requires you to have suitable and sufficient knowledge to ensure that you prepare food safely. A good way to achieve this is to undertake a food hygiene training course.

You can also undertake free online allergen training available on Food Standards Scotland's website: [Online Allergy Training | Food Standards Scotland \(wsdev.org\)](https://www.foodstandards.gov.uk/training/allergen)

All courses can be done online or in person, for instance at Orkney College [Short Courses - Hospitality \(uhi.ac.uk\)](https://www.orkney.ac.uk/short-courses), but it is strongly advised that you choose your course carefully, ensuring it is the right course for you and your needs.

FOOD SAFETY MANAGEMENT SYSTEM

All food businesses are required to think about how they will prevent the food that they prepare from being contaminated and ensure it is safe to eat. Contamination falls into four categories:

1. Chemical
2. Microbiological
3. Physical and
4. Allergen

HAZARD	EXAMPLE
Chemical Contamination	Using cleaning materials that are not 'food safe' / storing chemicals around food.
Microbiological Contamination	Not cooking food properly / leaving high risk food (such as fresh cream) out at room temperature / storing baked goods below raw foods causing cross contamination.
Physical Contamination	Items falling into bakes (hair/nail varnish) / poor structure of the kitchen (peeling paint/damaged sink seals) / pest control.
Allergen	Not fully understanding your ingredients and the ingredients within them can lead to you mislabelling a product and unintentionally causing illness or even death to your customer.

You are required to have a simple written system in place which shows how you will control these problems. This system must be based on Hazard Analysis and Critical Control Point (HACCP), which basically means that you document how you ensure that the foods you are making are kept safe at all stages of production from purchase of ingredients to storage, cooking, packaging, labelling and selling.

As this can seem like quite a daunting task, the Food Safety Team have produced a generic bespoke HACCP for low risk cakemakers which you can use to meet these requirements. Please contact the team for more information.

2. HYGIENE

TRACEABILITY

You need to make sure that you can show where all of your ingredients have come from and where your cakes have gone to. Keep a record of your supplier details for ingredients and keep a record of your customers and dates sold.

USE BY/BEST BEFORE DATES

Use by dates are about safety. They are applied to higher risk foods which can support the growth of food poisoning organisms. These foods should not be eaten, cooked or frozen past these dates.

Best before dates are about quality not safety and are generally applied to lower risk foods. These will be safe to eat after this date but may not be of good quality.

Both types of dates will only be accurate if the food is stored according to the instructions on the packaging.

Cakes and biscuits sold in supermarkets are often full of preservatives and may have special packaging to allow the products to have an extended shelf life.

Use by/best before dates can only be established by microbiological testing of a product. As this is something which is costly, we suggest a short shelf life erring on the side of caution.

Whilst most cakes and bakes are generally a low risk product, there could be mould growth and loss of quality. As a general rule, we would recommend that products are given a shelf life of day of production +2 days.

HYGIENE, SINKS AND HAND WASHING

Even though you may not have a separate wash hand basin in your kitchen, you still must ensure that you have “adequate facilities for the cleaning of foods, utensils and maintaining adequate personal hygiene”. If you are fortunate enough to be having a new kitchen or sink fitted, we recommend that you install a 1½ or double sink unit. One of these units can then be designated solely for hand washing.



If you only have one sink, you need to consider how you can meet this requirement. One option may be time separation between tasks. For instance, disinfect your sink first, use it as a food prep sink for washing any fruit and veg that you are using, then disinfect again and use as a handwash basin, putting dirty utensils to one side. After cooking, disinfect and use as a washup sink.

As you will be using your sink in your household's day to day activities, you must ensure before you start undertaking any baking that you thoroughly clean and disinfect the sink, taps and surrounding area. It can then be used for hand washing whilst you bake. If utensils are washed in the sink, you must ensure that again the procedures for cleaning and sanitising the sink after use are implemented.

Whatever system and method you decide on, you should document it in your food safety management system.

NOROVIRUS AND FITNESS TO WORK

You do not want to be the cause of an outbreak of norovirus or food poisoning (sickness and diarrhoea illness). If you suffer from sickness and/or diarrhoea, you must ensure that you are symptom free (no sickness and/ or diarrhoea) for 48 hours before you undertake any baking or cake preparation. Take the time to consider now what you would do if you had a large order to fulfil and came down ill.

FRIDGE

Any items being kept in the fridge must be stored in a way which does not cause contamination. Ideally, you should keep the food for your business fully separate from your personal foods.

You must ensure that your fridge is well organised and running at a temperature of 8°C or below. Use a fridge thermometer to check the temperature regularly.

Don't overload your fridge. The efficiency of the fridge will suffer if the cooling air circulating within it cannot flow freely.

If you prepare a large amount of food that needs to be kept in the fridge, you may need a separate fridge which is only used for your business.



E. COLI

Making cakes is a low risk activity, however if you prepare raw meat and unwashed salad and vegetables in your home you could be causing an E. coli risk. You must take care when preparing your food at home to reduce the risk of cross contamination.

You must make sure before you begin work that your kitchen is prepared to be your "working kitchen". This will generally mean removing anything not required in the kitchen and thoroughly cleaning and sanitising the surfaces.

E. coli bacteria and other food poisoning bacteria can grow on the smallest food source on a dirty work surface. Proper cleaning and sanitising should also remove all the bacteria from surfaces and equipment involved in food preparation.

CLEANING CHEMICALS

You must ensure that you have appropriate cleaning chemicals to keep the kitchen clean and sanitise surfaces and equipment. Antibacterial sprays and sanitisers should meet a certain British Standard (BS EN: 1276 or 13697). There is also a British Standard for antiviral sprays (BS EN 14476) and you can get disinfectant sprays which have both properties. If antibacterial and antiviral claims are being made, the chemical should have the BS EN number(s) printed on the label or on the manufacturer's website.



Different types of disinfectants require different dilutions and contact times. These are specified and validated by the manufacturer and you must follow the manufacturer’s instructions for dilution and contact time to ensure the product is effective. These are usually stated on the label.



3. STRUCTURE

YOUR KITCHEN

You must ensure that the structure of your kitchen is kept clean and maintained in good repair and condition so as to avoid the risk of contamination.

Walls	need to be a smooth impervious finish (for example tiled or smooth plaster painted with a gloss or silk vinyl paint).
Floors	need to be smooth, impervious, non-absorbent, washable and of non-toxic material (for example sealed vinyl or sealed floor tiles with water proof joints).
Ceilings	needs to be smooth, impervious, non-absorbent, washable and of non-toxic material.

Domestic equipment and any personal items and normal kitchen clutter on work surfaces should be removed and the area disinfected before you start baking.

TOILETS

Toilets should not open directly into your kitchen. However, in some houses the toilet leads straight from the kitchen and cannot be avoided. In these situations, you must ensure that the toilet is well ventilated and the door to the toilet kept shut. You should rewash your hands in your allocated hand wash basin after going to the toilet. People should not use the toilet whilst you are baking.

VENTILATION

You must ensure that you have adequate ventilation in place in the kitchen to prevent condensation, mould growth, and damage to decoration – but make sure open windows don’t create a problem with flies and pests!

EQUIPMENT

All equipment must be in good condition and not be a potential source of contamination due to its condition or cleanliness. All equipment should be carefully cleaned, sanitised and stored. You must regularly check equipment and repair/replace anything damaged.

4. COMPOSITION AND LABELLING

PEST CONTROL

You must ensure that your kitchen is always pest free. This can be achieved with regular checking of the kitchen for evidence of pests (droppings/nibbled food). Making sure that no food is left out and that the kitchen is kept in a clean condition at all times. Any signs of pest activity should be treated straight away. It is a good idea to record any problems you have and what you did about the problem.

STORAGE

You need to ensure that at all stages of storage, production and delivery the cakes that you produce are free from microbiological, chemical and physical contamination.

Storing equipment, tins and ingredients should be kept separately from your day to day items wherever possible. Lidded containers are useful for preventing contaminants falling into baking tins/ equipment whilst it is being stored.

Food in the fridge should be wrapped/covered to prevent items falling/dripping onto others. If space is available, it is a good idea to have separate storage cupboards or shelves for foods and utensils.

TRANSPORT

When transporting food, it is important that it is protected from the risk of contamination e.g. pet hair, dust and dirt, insects. If the cakes contain high risk ingredients, eg fresh cream, they should be transported in cool boxes to maintain the temperature at 8°C or below.

LABELLING

Labelling requirements can be quite technical as there are different rules depending on how you sell your cakes and bakes, for instance, from your own home or honesty box, online, pre-order etc and to whom, ie, direct to the final consumer or to another business such as a retail shop or cafe.

If you are selling your cakes and bakes prepacked for direct sale to the final consumer, such as from your own honesty box on your own land, you must follow the prepacked for direct sale (PPDS) labelling rules. Further information and a comprehensive guide on how to label PPDS foods can be found on Food Standards Scotland's website: [Prepacked for direct sale allergen labelling | Food Standards Scotland | Food Standards Scotland](#).

If you sell your cakes and bakes to other businesses, online or in any other way, please contact Environmental Health for advice and guidance.

ALLERGENS

All food businesses must inform the customer if any products they provide contain any of the 14 allergens as an ingredient. The methods to convey this information vary depending on various factors as mentioned earlier.

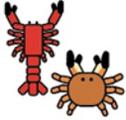
The 14 Allergens:



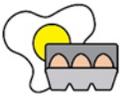
Celery



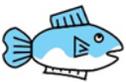
**Cereals
Containing
Gluten**



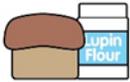
Crustaceans



Eggs



Fish



Lupins



Milk



Molluscs



Mustard



Nuts



Peanuts



**Sesame
Seeds**



Soya



**Sulphur
Dioxide**

Hidden Allergens

When labelling your cakes and bakes it is important to have regard to all the ingredients that you use. This includes the ingredients within the main ingredients as these can also contain hidden allergens, also known as compound ingredients. For instance, Worcestershire Sauce contains fish; glacé cherries and dried fruit may contain sulphur dioxide etc.

You must therefore be fully aware of all of the ingredients in your goods and be able to communicate this information accordingly.

Precautionary allergen labelling

These include “*may contain traces of...*” or “*made in a factory handling...*” or “*made in a kitchen which uses...*” They warn the consumer of the possible presence of an allergen which has not been added as an ingredient.

It is not best practice to use these statements and they should not be used as a blanket disclaimer on food products.

These statements should only be used after a meaningful risk assessment has been performed and there is considered to be a significant and real risk to customers with allergens.

Precautionary allergen statements should not be used as a substitute for good hygiene and safety practices. If you would like more information on this, Food Drink Europe (FDE) have produced a best practice guidance.

[Guidance on Food Allergen Management for Food Manufacturers - FoodDrinkEurope : FoodDrinkEurope](#)

Free-from Claims

Gluten Free and Very Low Gluten Claims are specifically controlled and can only be used if the final cake or bake contains:

Max 20 mg (Micrograms) per kg
of gluten for gluten free claims
or
Max 100 mg per kg of gluten for
very low gluten claims

In order to make a gluten free or very low gluten claim, you must be able to guarantee that your product contains less than the maximum permitted level of gluten, as above. In order to achieve this, you will need to put management procedures in place to prevent cross contaminating with gluten and to conduct regular testing to prove that your products contain less than the 20 mg per kg of gluten.

Labelling a product as “*gluten free*” is misleading unless you have followed the above and can prove the levels of gluten in the product are at the set levels.

Allergen Free and Vegan Claims are two different claims providing different information and are aimed at different consumer groups. It is important not to interchange these, as some allergy sufferers have hypersensitivity to ingredients which may be present in trace amounts. Only name a product as being free from a certain allergen if you can prove the claim. Remember, your label must not mislead the consumer.

Currently there is no UK legal definition covering the terms “Vegan” and “Plant Based”. Vegan consumers choose not to consume products that intentionally use ingredients of animal origin (e.g meat, fish, crustaceans, molluscs, milk, eggs, and honey). If you are making these claims on your cakes and bakes, you must not use any ingredients or foods from an animal origin, remembering to check hidden ingredients. For instance, marshmallows and sweets can contain beef or pork gelatine.

Packaging

As you are packaging food yourself, you must ensure that the packaging used is suitable for food use. Suitable packaging will be marked “for food contact” or have a symbol on it that looks like a wine glass and a fork. If it does not, you should ask the business supplying you with the packaging to supply written evidence that the materials comply with the relevant requirements. If they cannot do this, then it is unlikely that the packaging is safe and suitable for food use and you must find a compliant alternative.



DECORATIONS, GLITTERS, DUSTS AND COLOURINGS

Decorations

You should ensure that no decorations, edible or non-edible, are a choking hazard.

It is advisable that only edible decorations are used.

Any non-edible decorations must be capable of being removed from the product before it is eaten. You must advise your customers of this. It is good practice to provide written instructions for non-edible decorations and, if necessary, include a plan of where they are located in the product eg cake dowel rods.

Prepacked for direct sale (PPDS) products, should have the warning on the label. If you sell to order, for instance celebration cakes, then advise every customer accordingly.

Glitters and Dusts

Some glitters and dusts that are used to decorate confectionery products are safe to use whilst others are not and could be a health hazard. It is therefore important that you use the correct product.

Glitters and dusts must be edible and suitable for food use. This must be stated on the product packaging. Always double check the label when buying and if there is any doubt, do not buy them.

You should keep details of the glitters and decorations you are using in the form of the original packaging, as this is proof that the products are labelled as edible. This infor-

mation may be requested by an Enforcement Officer when they carry out a routine visit or if there is an investigation following an incident or complaint.

Colourings

Some decorations or ingredients contain colours that are associated with hyperactivity in children.

The colours to check for are:

- E102 :Tartrazine
- E104 :Quinoline yellow
- E110 :Sunset Yellow
- E122 :Carmoisine
- E124 :Ponceau 4R
- E129: Allura Red

If your products are sold PPDS, there is no legal obligation to display a warning that the foods contain colours which may cause hyperactivity in children. However, you may wish to declare this voluntarily, especially if you are baking for a child's birthday or a family celebration. Other methods of selling may require you to display the warning.



The warning required is:

“may have an adverse effect on activity and attention in children”.

Regardless of how you are selling your goods, any colourings and any other additives must be included in the list of ingredients, where one is required.

Please note that some additives, including food colourings, may not be permitted in the UK but allowed in other countries such as EU states, Australia, the USA etc. You can check if the additive is permitted in the UK online on the Food Standards Agency website: [Approved additives and E numbers | Food Standards Agency](#)

OTHER CONSIDERATIONS

PETS

Having pets is absolutely fine! However, you must consider this as part of how you prevent any animal hair etc from ending up in the food you prepare. Pets must not be allowed in the kitchen when you are preparing food. All surfaces/equipment that they may have come into contact with must be thoroughly cleaned and sanitised prior to you beginning a baking session.

WASHING MACHINES

A common query is that of having a washing machine in the kitchen. We understand that washing machines are generally in domestic kitchens, you therefore need to consider this and ensure that no washing is undertaken at the same time as you prepare food for the business.

EGGS

Some cake makers prefer to use eggs that are at room temperature. However, it is best to keep eggs in the fridge and to get them out a few hours prior to baking, to bring them up to room temperature. Leaving eggs out at room temperature in your kitchen exposes the eggs to lots of changes in temperature, keeping them in the fridge keeps them at a constant temperature. Keeping eggs at a

constant temperature is important as the shell on an egg is porous; fluctuations in temperature can cause condensation to form which can be absorbed into the shell and through to the egg inside, carrying bacteria etc with it.



You must also be aware that, as a commercial business, you should only be using Class A eggs, ie eggs which have come from a registered and approved egg packing centre, such as those found in retail shops.

MY NOTES