

Title of Report:	Consultation on Local Authority and District Council Guidance on Grey Market goods in the UK
Committee Report Submitted To:	Environmental Services Committee
Date of Meeting:	14th October 2025
For Decision or For Information	For Decision
To be discussed In Committee	No

Linkage to Council Strategy (2021-25)	
Strategic Theme	Healthy, Active and Engaged Communities
Outcome	Provide a consultation response
Lead Officer	Head of Health & Built Environment

Estimated Timescale for Completion	
Date to be Completed	N/A

Budgetary Considerations	
Cost of Proposal	N/A
Included in Current Year Estimates	N/A
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

Legal Considerations	
Input of Legal Services Required	NO
Legal Opinion Obtained	NO

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

1.0 Purpose of Report

- 1.1 The purpose of this report is to provide a Causeway Coast and Glens Borough Council response to the consultation.

2.0 Background

- 2.1 The Food Standards Agency (FSA) have issued a consultation seeking stakeholders' views on enforcement guidance relating to Grey Market goods in the United Kingdom
- 2.2 The consultation seeks comments and feedback in relation to guidance produced by the FSA to support enforcement authorities identifying and taking action on food not intended for the UK market. These foods, also known as 'Grey Market goods', can contain unauthorised or excessive additives and/or ingredients which do not meet requirements set out in UK food safety legislation. They may also fail to identify allergens in the prescribed format.
- 2.3 The consultation, including the proposed guidance, can be found at:

<https://www.food.gov.uk/news-alerts/consultations/consultation-on-local-authority-and-district-council-guidance-on-grey-market-goods-in-the-united-kingdom>
- 2.4 Attached as Appendix 1 is a suggested response to the consultation.
- 2.5 The consultation closing date is 24th October 2025.

3.0 Recommendation

It is recommended that Committee approves the response for submission by the consultation closing date, subject to subsequent endorsement or amendment by full Council.

Draft Response to Consultation on Local Authority and District Council Guidance on Grey Market goods in the United Kingdom

- **Does the guidance clearly set out how authorities can use food law to enforce instances of non-compliant Grey Market goods?**

Causeway Coast and Glens Borough Council welcome the clarification on the enforcement tools that are available to local authorities to remove non-compliant products from the market or require Food Business Operators (FBOs) to carry out corrective action to bring products into compliance. The guidance details actions to deal with unauthorised additives and labelling offences. However, there is no information on dealing with Grey market goods that would be considered Novel Foods.

- **Is there anything missing from the guidance or that the guidance does not adequately cover?**

- Section 12. Consignments- summarises the use of Reg 31 under Official Feed and Food Controls Regulations, for the detention of goods either inland or at ports. However, the title of this section could make this clearer for officers by using the following suggested wording i.e. 'Detention of consignments either inland or at ports', as this would remind officers of the dual use of these regulations. This section could be expanded to explain that this regulation also facilitates other enforcement options i.e. destruction, special treatment, re-dispatch or other appropriate measures.
- Section 14.1 (a) refers to the unsafe food being seized. The Food Law Code of Practice states:

Food which fails to comply with food safety requirements:

If food does not satisfy food safety requirements for reasons other than hygiene, Article 8 of the Food Safety (Northern Ireland) Order 1991 should be used. Article 8 of the Order permits the service of a Detention of Food Notice to prevent the use of the food for human consumption and require it not to be removed or removed to some place as specified in the notice.

Could clarification be provided on the detention of food found to contain unauthorised ingredients?

Could clarification be provided on what factors and the limitations (considering appeals period) that an officer should consider when deciding to use either detention under OFFC or under the Food Safety Order?

- Causeway Coast and Glens Borough Council would welcome FSA guidance on actions that should be taken where a product is not labelled in English which contains allergens. Should the product be seized as it is a breach of Article 14b Reg 178/2002?

'In determining whether any food is unsafe, regard shall be had:

(b) to the information provided to the consumer, including information on the label, or other information generally available to the consumer concerning the avoidance of specific adverse health effects from a particular food or category of foods.'

- Section 14.1 (e) refers to an application to the magistrate's court for condemnation of food. This is not applicable in NI. Food seized must be presented to a Justice of the Peace (JP) for condemnation as detailed in Schedule 4 of the Justice (Northern Ireland) Act 2002. The guidance should be amended to reflect this.
- Section 14.1 (b) in the guidance has provided a link to a list of authorised ingredients for England and Wales. It would be useful to add a link to the EU list for NI local authorities.
- Section 14.3 (d) refers to non-food legislation. Clarification is sought as to which body enforces this legislation in NI. Similarly, in Section 14.5 it refers to consumer protection legislation. Is this the same legislation listed in Section 14.3 (d)?
- Section 15.3 refers to recording information on IDB. Councils in NI do not have access to IDB intelligence databases and therefore guidance should be provided on the mechanism for sharing intelligence between NI DCs and the FSA, UK authorities and other EU Countries including ports. Could the FSA also consider the merits of inland councils having limited access to TRACES NT to have insight to the types of imports?
- Section 16.6 should be moved to align with Section 10.
- Section 16.6 refers to withdrawals and recalls. The FSA has provided 'Guidance on Food Traceability, Withdrawals and Recalls in the UK Food Industry'. Reg 178/2002 states that a FBO "shall immediately initiate procedures to withdraw the food". However, there is no direction regarding the timeframes for an FBO to initiate a withdrawal or provide the Local Authority with traceability details such as a customer list or provision of a 'Point of Sale Notice'. Could the FSA provide a definition of "immediate"?
- Through experience with dealing with grey market importers Causeway Coast and Glens Borough Council are very concerned that the current enforcement tools available to local authorities are not effective to address importers and distributors who refuse or delay withdrawal or recall of products that present an imminent risk to the public.

A Permit to Trade requirement for Food Businesses if implemented, could provide local authorities the ability to remove the Permit to Trade until such time as the FBO implements an effective withdrawal or recall and cooperates with the local authority.

- Section 16.6 should be expanded to detail actions that are available to the FSA, such as the issue of a Food Alert For Action (FAFA), where a business has supplied food which is an imminent risk due to the presence of an allergen that is not in English and the business has not carried out a withdrawal or recall, or provided adequate details to enable traceability in a timely manner.
- The template letter for retailers provided in the guidance does facilitate some tailored options for case-by-case circumstances. However, it is suggested that an annex could be added, that outlines common unauthorised additives the FBO should be

aware of such as Mineral Oil, Southampton Colours warning and incorrect nutritional information.

- **Do you feel the enforcement options outlined (e.g., seizure, improvement notices, prosecution) are sufficient and proportionate? If not, what additional options should be considered?**

Although the use of Fixed Penalty Notices is not available as an enforcement tool to address the sale of non-compliant food, Causeway Coast and Glens Borough Council would welcome consideration by the FSA to introducing the availability of Fixed Penalty Notices for offences such as incorrect or non-compliant labelling offences.

- **Is the guidance on over-stickering and labelling breaches clear?**

Section 14.3 refers to bringing the FBO into compliance by using Improvement or Compliance Notices. It is suggested that this section is split into action that can be taken against a retailer who has been provided with overstickers and have failed to apply them and action that can be taken against an importer who has failed to provide overstickers.

Clarification would be welcome on Grey Market products being imported into the UK and sold to a distributor in NI.

Section 11.1 states that the label must include a UK or EU address. Is the name and address of the NI distributor also required on the label as it is the importer into the EU Market?

Clarification is sought on Section 16.7 as it was felt this section was unclear. Would the offence in this case be placing unsafe food on the market (EU Reg 178/2002) or misleading information under the Food Information Regulations (NI) 2014?

- **Are the provided specimen notices and example letters useful for your enforcement work? Would any other examples be useful?**

Causeway Coast and Glens Borough Council welcome the provision of template notices and wording. However, the wording that has been provided is not applicable to the offences commonly found with Grey market products. It is suggested that the example wording provided should be expanded to cover wording that should be used for a Seizure Notice and additional wording that could be used in Improvement Notices for these commonly found offences.

- **Does the guidance give you greater confidence to take enforcement action when non-compliant Grey Market goods are found?**

When clarification is provided on the points raised in the consultation then Causeway Coast and Glens Borough Council Food Safety Officers would be more confident taking enforcement action on non-compliant Grey Market goods.

➤ **Are there any gaps in the guidance regarding cross-border enforcement or coordination with port health authorities?**

Section 12.1 and 14.4 outlines powers at the border and refers to detention of food under Regulation 31 of the Official Feed and Food Controls Regs (NI) 2009. These Regulations provide for detention of food under Article 65, 66 or 67 of Regulation 2017/625 due to food that is non-compliant or presenting a risk which is defined in Article 1 (2) as

'food and food safety, integrity and wholesomeness at any stage of production, processing and distribution of food, including rules aimed at ensuring fair practices in trade and protecting consumer interests and information, and the manufacture and use of materials and articles intended to come into contact with food;

Could non-compliant labelled 3rd Country products at the port be deemed to meet this definition and as such be detained?

Causeway Coast and Glens Borough Council would welcome the inclusion of a link to the 'FSA Guidance on Food Traceability, Withdrawals and Recalls within the UK Food Industry', in section 16.6.

For future consideration, what additional training or resources would be helpful to support in connection with this guidance?

As previously stated, Causeway Coast and Glens Borough Council would welcome the FSA providing additional model wording that could be used in enforcement notices to ensure a level of consistency across local authorities.

When the final guidance is issued the Council would support a coordinated national or regional training initiative led by the FSA to address the non-compliance of Grey Market goods.