



WELCOME HAMPERS FOR GUESTS

Making a great first impression to your guests as they arrive at your property sets the tone for the guest experience and subsequent reviews. One way of doing this is by providing a Welcome Hamper and most often this includes food items – showcasing local producers, home made specialities or luxury items.

As with all things to do with Furnished Holiday Lettings, there are laws that apply to the provision of food and drink hampers in relation to both food hygiene, labelling, allergens etc.

There are several things to bear in mind when you read this advice:

1. Legislation is imperfect. It rarely gives definitive “thou shalt do” type instructions.
2. Running your business and abiding by the rules shouldn’t be a race to the bottom. It should be about achieving the highest possible standards.
3. Public Liability Insurance is highly recommended by PASC UK under all letting circumstances.

WHAT MAKES THIS A DIFFICULT SUBJECT TO ADVISE ON?

Whilst the laws in relation to this are made nationally as Acts of Parliament, different local councils carry out their own “risk assessment” of the stock in their areas. They look at the number of available staff and have to target high risk activities first.

Therefore, interpretation and enforcement is not uniform countrywide. Whilst we can argue that this shouldn’t be the case, it is. So, the important thing is for owners to understand the legal requirements and also know the views of Environmental Health Officers in their particular area. Of paramount importance is that owners protect themselves from incidents that can arise due to poor hygiene practices or failure to provide allergen information and not rely on the fact that enforcement in their area is unlikely.

ALCOHOL

If you buy alcohol or you make an alcoholic drink (sloe gin, home brew beer etc) which you then leave for your guest FREE OF CHARGE as part of a welcome Hamper then you need to be licensed **SO,**

THIS LEGISLATION APPLIES TO YOU.

BUT some Councils will tell you that this is not necessary for the “odd bottle of wine for guests”. Do not take this to mean that should there be an issue that they wouldn’t enforce the law, because they would. So, best practice is to err on the side of caution and stick to the law.

THE LICENCING ACT 2003 – IN BRIEF.

The Pink Book covers this in greater detail as will your Local Authority.

Each local council area will have its own bespoke application forms and takes a different amount of time to deal with applications. Speaking to them as early in the process as possible is the best way forward. You will need to apply for:

1. A premises licence – a few hundred pounds last a year
2. A personal licence. – around £50 lasts for ever.

Personal licence application forms are straightforward. The personal licence holder is not required to be on the premises to provide the alcohol.

The granting of these licences is not a formality but more are granted than not. All licences come with conditions which you will be expected to keep. Once you have the licence, providing you don’t breach conditions you only need pay for annual renewal of the premises licence.

Why is leaving a bottle of wine for a guest different from taking a bottle to a friend’s party?

The difference is that you are a business. These people are your clients and they have paid for their accommodation. The provision of the alcohol can be seen as an “incentive to purchase” so someone might book your accommodation rather than a similar cottage up the road because you provide this. Also, the guests only get the alcohol when they stay which means in effect they have paid for the alcohol within the price of their holiday.

BUT NO ONE EVER GETS PROSECUTED FOR THIS DO THEY? – The lack and likelihood of enforcement does not change what the law says. If you do this you risk enforcement and should this happen, legally you wouldn’t have a defence.

HOW CAN I PROVIDE ALCOHOL FOR GUESTS WITHOUT THE NEED FOR A LICENCE?

- Vouchers for use in a local Farm shop. Develop a synergistic relationship with your neighbouring businesses.
- Ask guests to organise a food home delivery.
- Give guests information on local suppliers. They buy direct and it is delivered to the property. You can see the delivery in, arrange on the table etc.

TEMPORARY EVENT NOTICES

If you don’t have a personal and premises licence then if you want to carry out any of the following licensable activities on a one-off or occasional basis you will need to serve a Temporary Event Notice (TEN):

- **Sell alcohol** by retail
- **Supply hot food or hot drink** after 23:00 or before 05:00 on any day. This includes takeaways, cafés, mobile hot food vans and any other venue providing hot food or hot drink
- **Provide regulated entertainment** such as performance of a play, exhibition of a film, indoor sporting events, boxing and wrestling, live or recorded music (or similar) and performance of dance (or similar)

You will also need a TEN if you intend to hold an event where tickets are sold stating alcohol is "free" (e.g. "a free glass of wine on entry"). TENs may also be used by licensed premises who want to increase the scope of their licence for a one-off event (e.g. allowing an extra hour for the supply of alcohol on a special occasion).

You still need a TEN even if the activities are for charity.

Large scale events which are likely to attract over 500 people will require a Premises Licence instead of a TEN. Each premises can apply for up to 5 TEN's per year.

When might I use a TEN at my cottage (s)

Many single cottage owners and groups of cottages might find themselves in the position of being approached to host a group party or wedding. If the proposed changes to outdoor ceremonies goes ahead and if you have a property in a particular location or with large garden area/grounds you may be asked about this. If guests want to hold a wedding with a reception and bar or a party where alcohol is charged for.

IS IT WORTH IT? No one can answer this. It depends how important alcohol is to your customer base and how often you will be gifting it. The process isn't unduly lengthy or difficult and costs are minimal (typically a couple of hundred pounds) and really if this is something you want to do regularly.

What you might consider is either no longer giving alcohol in your hampers, how would we know what's someone's tipples was, a Chilean Chardonnay or a blushing Provence Rose? Instead spend the budget on making the hamper look more generous, £5 spent on a bottle of plonk goes a long way on local crisps, biscuits, fudge etc.

Alternatively, think about a voucher to tempt the guests to that fabulous local deli or farm shop, they can then choose what they like and there are no licensing issues. You would also only have to reimburse those vouchers that the guests redeemed.

FOOD AND DRINK LEGISLATION

- the **Food Safety Act 1990**, which provides the framework for food legislation, creates offences in relation to safety, quality and labelling
- the **General Food Law Regulation (EC) No 178/2002**, which creates general principles and requirements of food law (this EU regulation has been transferred into UK law)

- the **Food Safety and Hygiene (England) Regulations 2013**, which revoke and re-enact with some minor changes to the Food Hygiene (England) Regulations 2006 and certain provisions of the General Food Regulations.
- From 1st October the UK Food Information Amendment – Natashas Law (separate section on this below)

WHAT IS THE BASIC POINT OF THESE REGULATIONS?

Regulation (EC) 178/2002 covers the placing of unsafe or unfit food on the market. You should not place food on the market (that is to sell or supply food, or hold it with intent to supply) which is:

- unsafe (i.e. injurious to health)
- unfit for human consumption, e.g. food that is rotten, 'gone off' or has been subject to considerable contamination would be unfit.

WHAT IS COVERED BY THE LEGISLATION?

All food and all drink – so a packet of biscuits, a home-made cake, a cream tea, a breakfast pack etc. Food can be raw or cooked, in a packet straight from the supermarket, in a bottle or jar, locally sourced, grown in your garden or from a supermarket.

If you leave a welcome hamper with any item that can be consumed in it then the legislation applies to you.

THE REALITY.

This is a can of worms – excuse the pun – because whilst the laws are National ones, not local regulations, different councils take a different view in relation to risk and enforcement. Every council will look at its area, look at the number of staff it has and decide what is and is not a priority to them. In some areas they will enforce the laws rigorously and in others the only time that you will hear from Environmental Health is when something goes wrong. So, the advice here is based on the law.

The easiest way to work through the legislation is with examples. We can't cover everyone's specific Welcome Hamper in this paper but hopefully you will spot the best fit to what you are providing.

I PROVIDE BISCUITS AND CAKE FROM THE LOCAL SHOP, TEA, COFFEE AND MILK.

This is the lowest level of risk. The food is pre-packaged and will be labelled clearly with the allergens in it. Your responsibility is to make sure that only correctly labelled and in date food is left. Any half-eaten produce is removed at the end of each letting and that you store the food in between buying it and putting it out for guests in a safe and pest – free environment. So not on a floor where it could get eaten by vermin or near chemicals and stored at the right temperature – milk in the fridge.

As you provide the food you are responsible for its condition. Should anything go wrong it will be your responsibility to show that you were aware of what the Food Act says and the importance of safe storage.

The best way to demonstrate your knowledge is through:

1. A food hygiene qualification
2. Record keeping.
3. A Risk Assessment

THE LAW DOES NOT TELL YOU THAT YOU HAVE TO HAVE A FOOD HYGIENE CERTIFICATE.

Even your local EHO might tell you not to bother! However, you are responsible for the health safety and welfare of your guests and you have to show due diligence when providing your accommodation and everything in it. The best way to do this is by having a basic Food Hygiene qualification.

Level 2 Food Hygiene Certificates can be done online. They take a couple of hours to do and cost around £15. They last for 3 years.

RECORD KEEPING

The regulation also covers traceability. You should keep records of businesses which have supplied food to you. The Food Standards Agency (FSA) guidance says this should include:

- address of customer or supplier
- nature and quantity of products
- date of transaction and delivery.

This is to help when a food manufacturer needs to co-ordinate a withdrawal of unsafe food. If you have staff who do this for you or are involved in this then the same applies to them in relation to training and record keeping.

THIS IS ABOUT YOU PROTECTING YOURSELF AND YOUR BUSINESS!

I PROVIDE A HOME MADE CAKE, BREAD, BISCUITS, HOME MADE JAMS AND CHUTNEYS.

The easiest way to look at this is that once you provide food or drink that is not bought from a recognised supplier – supermarket, farm shop, local producer – then you become in essence a food business and the rules that apply to bed and breakfasts, hotels and restaurants now apply, proportionately, to you. It does not matter if you only provide one cake a week, you need to have due regard to

- The legislation
- The views of your local EHO

BY THE ACT OF MAKING FOOD IN YOUR OWN KITCHEN TO PROVIDE TO OTHERS AS PART OF YOUR BUSINESS YOU BECOME A FOOD BUSINESS.

As a minimum, you need to have your level 2 Food Hygiene Certificate. You also need to have due regard as to where you prepare the food as well as where and how you store it.

Your local EHO may well want to come and inspect where you prepare the food and also to look at the written records that you keep in terms of Hazard Awareness.

Anything that they ask you to do will be proportional to the amount of food you produce and the risk that that represents. Its better to be safe than sorry and if you do provide this to guests then inform your local council in writing and leave it to them to decide whether to inspect or not.

The legislation and requirements are covered in full in the Pink Book and rather than re-write all of the information here is the link:

<https://www.visitbritain.org/business-advice/food-safety-and-hygiene>

My EHO doesn't care and has told me to just get on with it?

Ask for this confirmation in writing so its clear that you approached them. However, if you provided 6 guests with something home made that later was found to have caused them food poisoning, then they would "forget" the previous advice. It is important that if you are going to provide home made goods of any sort that you understand the legislation, you understand how to safely prepare and store food, you understand how to clean the area you cook in before and after use.

This is overkill isn't it for a dozen scones and a bit of home-made jam?

Not really. The law is there to protect not only your guests but also you and your business. Follow it, do the right thing and even if something does happen or you accused of something you at least have a defence. You need to satisfy yourself that you have shown due diligence.

I don't have to do this if the food is free and they don't know about it before they book?

Yes, you do. You are providing members of the public with food and/or drink that you have made and they have a right to assume that it is safe.

THE UK FOOD INFORMATION AMENDMENT - NATASHA'S LAW

Over 2 million people in the UK have recognised food allergies. This is on top of those that have food intolerances – gluten etc. Every year around 10 people die due to these allergies.

This comes into effect on the 1st October 2021 and will require food businesses to provide full ingredient lists and allergen labelling of foods pre-packaged for direct sale on the premises.

But, I am giving my home made food away as a gift to guests in a hamper, surely this doesn't apply to me?

Yes it does. In the same way that a restaurant can give out free courses or tasters as part of a meal but not paid for as part of that meal and the laws still apply to them.

In addition, as on the previous page if you make the food yourself in your own kitchen you are a food business even though the food is not sold.

The legislation is being introduced to protect allergy sufferers and to prevent them from accidentally eating something which contains a food to which they are allergic and suffering what could be catastrophic consequences.

THIS IS ABOUT PROTECTING YOU AND YOUR BUSINESS.

In the case of the basic shop bought items in the hamper mentioned above, the labelling responsibilities rest with the supplier.

HOWEVER – hospitality businesses often use small micro providers and even though they have a duty to make sure they label their foods properly you as the end supplier also need to make sure that what you provide to your guests complies. So, start working with your suppliers and ask questions so that you are reassured that they understand what is expected of them in relation to labelling. You can only do this if you yourself understand what the law requires so if you provide any sort of food item in a hamper:

READ THE NEW LEGISLATION

What does this mean in practice?

It means if you are making food in your own kitchen that you are aware of and take steps to prevent cross contamination between the goods you are preparing and other foods within the kitchen.

EXAMPLE - If you make yourself a peanut butter sandwich for lunch you need to thoroughly wash your hands, clean the surface it was prepared upon and anything that might have come into contact with the surfaces or you (like an apron for example) before preparing food for your hamper.

It also means that you need to label the foods clearly that you provide for your guest hampers if you make it yourself:

- Full list of ingredients
- Bold type of any of the 14 allergens. These allergens are:

celery

cereals containing gluten (such as barley and oats),

crustaceans (such as prawns, crabs and lobsters),

eggs

fish

lupin

milk

molluscs (such as mussels and oysters)

mustard

peanuts

sesame

soybeans

sulphur dioxide and sulphites (at a concentration of more than ten parts per million)

tree nuts (such as almonds, hazelnuts, walnuts, brazil nuts, cashews, pecans, pistachios and macadamia nuts).

Once you start reading up on this, you will see that this is not straightforward and there are instances where the information can be displayed on the premises rather than on the individual food item or the information can be given verbally.

Our strong advice to you is **DO NOT RELY ON THIS AS AN OPTION.**

Why do we say this? As owners we leave the welcome baskets for guests for when they arrive. They often don't know it's there and unless you can be 100% certain that every single time you welcome a guest in, before they touch the welcome hamper you will be on hand to tell them what the allergens are, then there is a risk.

So, protect yourself and your business and label the foods in accordance with the regulations.

If someone knows that they have allergies then they should just avoid eating the food if they think it might have something in it?

For many people with severe allergies it isn't just about eating the food. If you touch it and then come into contact with something that you then eat micro amounts of the allergen can be transferred and still cause allergic reactions. So even the very act of scraping the chocolate cake that you have lovingly provided into the bin can give rise to an allergic reaction. Also, sometimes, cooks add in "surprising" ingredients that you would not anticipate being in a food – like adding eggs to scones (real life family example of this happening to someone with an egg allergy!)

I ask guests in advance if they have any allergies.

Good for you, that's a great start. However, groups of friends rarely know what allergies each other has and this cannot be relied upon as giving 100% accurate information 100% of the time.

Well, I have read the law and it doesn't specifically say that self-catering welcome baskets with home made food in come under this provision, so I am not going to do it!

No the law does not specifically mention welcome hampers. But, in truth, most legislation can't cover every single example of how and when and where food may be provided to someone. But you are required to show due diligence when protecting the Health, Safety and Welfare of your guests. You should know that providing food brings with it requirements in relation to fitness, contamination, storage and allergies. Failure to take account of the legislation and causing someone injury could land you in court or worse. And remember, ignorance is no defence of the law – as an owner of a business you are expected to know what applies to that business and implement what is necessary.

Food allergies are quite rightly a hot topic and enforcement over the coming months we are certain will be rigorous.

What about food and ingredients left in the cottages between lettings?

So, by this we mean salt, pepper, herbs, spices, some condiments, stock cubes, flour etc. What we are about to say is going to be very controversial and some of you will probably spontaneously combust but here goes:

The writer of this paper is an allergy sufferer with a severe anaphylactic response. Even leaving items such as flour, jams, sauces etc have a risk of cross contamination and because you don't know what has happened to that food during the stay of the previous guests, what previous guests have put in it etc.

The packet of plain flour might have had a dirty spoon put into it that had previously been used to portion out nuts. The jam may be contaminated by a butter knife causing a dairy allergy reaction.

This is a belt and braces view, and it is for each business owner to determine how much of a risk they think these items are. However, it can so, so easily happen that something left between guests becomes accidentally contaminated in a way that you are unable to spot on visual inspection. Why would you want to take that risk?

Can I give my customers fresh eggs from my hens?

If you have fewer than 50 hens, then you may provide your customers with eggs from your hens. However, it is worth looking in to having your hens vaccinated against salmonella if you are going to do this. More information on when you have to vaccinate, test and register for selling eggs for human consumption can be found on the DEFRA part of the government website here:

<https://www.gov.uk/guidance/eggs-trade-regulations>

AND FINALLY.....

Providing a welcome hamper is a lovely thing to do and we hope that many of you will continue to do this. However, please do read the Pink Book (hard copies provided to all PASC UK Members and available free on line at <https://www.visitbritain.org/business-advice/know-your-legal-obligations> and the legislation referred to in this document.

APPENDIX B - APPLICATION FLOW CHARTS

Premises Licence/ Club Premises Certificate

