



19 October 2022

Dear Sir or Madam

**Food Safety Act 1990, as amended**  
**Regulation (EC) No 178/2002**  
**Regulation (EC) No 852/2004**  
**Regulation (EC) No 853/2004, Annex III, Section VII**  
**Retained (EU) No 2019/627, Articles 53, 54 & 55**  
**Food Safety and Hygiene (England) Regulations 2013**

**SHELLFISH HARVESTING, PENFOLD SOUTH, RIBBLE ESTUARY – B 046 M**

There are currently a number of enforcement agencies including Mersey Port Health Authority, West Lancashire Borough Council, North Western-Inshore and Fisheries Conservation Authority (NW-IFCA) and the Gangmaster's Licensing Abuse Authority (GLAA) involved in monitoring activities at the shellfish bed on the coastline. These agencies have entered into a multi-agency enforcement initiative, with the purpose of providing a well managed and co-ordinated fishery that is operated lawfully and safely.

A sampling programme is in progress (in accordance with Regulation (EC) No 853/2004) to determine whether the shellfish bed will achieve a commercial classification. At present the classification process for the cockles is not finalised, therefore the cockle beds are not currently classified. It is anticipated that the classified shellfish bed may open on **24 October 2022**, i.e., if classification is awarded. Any shellfish that are gathered prior to the opening will fail to achieve the food safety requirements; by virtue of the fact that the shellfish have not been produced, processed, or distributed in compliance with the Hygiene Regulations, as such, the shellfish are considered technically **unfit for human consumption**.

Food that does not satisfy the food safety requirements is not permitted to be introduced for commercial food processing. Should any food that is suspected of failing to achieve the food safety requirements be discovered by an Enforcing Authority, the food (including food in that batch, lot, or consignment) may be seized and potentially destroyed (**in accordance with the provisions of Section 9 of the Food Safety Act 1990, as amended and the Food Safety and Hygiene (England) Regulations 2013**). Food subject to seizure will be removed in order to have it dealt with by a Justice of the Peace. Provisions within the Food Safety Act 1990, as amended, allow for any charges incurred during the destruction, and disposal to be passed to the owner of the food.

**Shellfish gatherers are reminded to register with the relevant Food Authority**, prior to collecting Registration Documents. To register with Mersey Port Health Authority, gatherers are required to present a valid NWIFCA permit, and provide photographic identification, e.g., passport or driving licence, in person at Mersey Port Health Authority.

The format of the Registration Documents that will be issued by Mersey Port Health Authority has been revised in time for the season due to open late October 2022. All Registration Documents in the previous format issued by this Authority are no longer valid and should be destroyed or returned.

Gatherers, Merchants, Buyers and Agents (**Food Business Operators (FBO)**) are advised that the movement of cockles from **Penfold South**, Ribble Estuary will only be permitted, when accompanied by a current 2022/23 Registration Document, as issued by Mersey Port Health Authority. There are no agreements with neighbouring Local Authorities, or any other Authority to issue Registration Documents on behalf of Mersey PHA. The movement of cockles from **Penfold North** is subject to the arrangements determined by **West Lancashire BC**.

Shellfish gatherers will be responsible for ensuring that the Registration Documents are properly completed; all forms must include the name, address and signature of the gatherer, the name of the bed from which the cockles were gathered and the date of harvesting.

**In accordance with the Hygiene Regulations, food business operators are required to retain a copy of the Registration Document(s) for a minimum period of twelve months.**

**In accordance with Regulation (EC) No 852/2004, it is a legal requirement for a shellfish gatherer, buyer or merchant to be registered as a Food Business Operator with the Local Authority where the food business is located.**

FBOs, will be aware that each batch of cockles must be accompanied by a Registration Document (previously movement documents) when moved from the production area. In accordance Regulation (EC) No. 853/2004, Registration Documents must be completed by the **Gatherer**, before the cockles are transported.

### **Independent Gatherers**

Shellfish gatherers who wish to operate as an independent trader will be required to complete a registration document for each batch that are moved from the shellfish bed, production area or placed on the market. The 'Independent Gatherer' / FBO will retain the option to sell the shellfish to any merchant subject to the registration documentation requirements being satisfied.

The arrangements for moving the shellfish gathered by an independent gatherer / trader ashore, will be the responsibility of the independent gatherer.

### **Licensed Gangmaster/Appointed Agent**

The Licensed Gangmaster can be the 'Appointed Agent' for numbers of shellfish gatherers. The 'Appointed Agent' and the gatherer must have **both** signed the same 'Express Agreement' to determine that there is prior arrangement for the gatherer to provide those shellfish gathered solely to the 'Appointed Agent' or their representative, for the period of the agreement. In this sense the Licensed Gangmaster or 'Appointed Agent' would in effect become the FBO.

Where there is an 'Express Agreement' between at least two parties, the FBO can sign the registration document(s), on behalf of those gatherers who are exclusive to that 'Appointed Agent'. However, the Registration Document **must** include the name and address of the harvester(s). Where one 'Appointed Agent' has 'Express Agreement' arrangements with multiple shellfish gatherers, the details of all gatherers contributing to the batch must be provided, i.e., accompany each Registration Document.

Should there be exceptional circumstances where the 'Express Agreement' has broken down, there is the option for the harvester to become an 'Independent Gatherer' or sign an 'Express Agreement' with another 'Appointed Agent'. It is the responsibility of one or both of the parties to notify one of the

relevant Enforcing Authorities, i.e., Mersey Port Health Authority of the cessation of the 'Express Agreement' in writing. An 'Express Agreement' should not be entered into with another 'Appointed Agent', without prior confirmation being received by one of the relevant Enforcing Authorities. **A copy of each signed Express Agreement must be provided to Mersey Port Health Authority.**

### **Practical Application**

With regard to the practicalities involved with the completion of Registration Documents on the production area, i.e., shellfish bed, there are recognised inherent factors presented with regard to the environmental and weather conditions.

A practical solution to the issue is for the relevant Food Business Operator to provide the part completed Registration Document to the intended recipient merchant, in advance of the harvesting. The completion of the Registration Document requires minimal preparation, most of the fields can be completed in advance, the only field that would need to be completed after the harvesting is finished, is the weight of the individual batch.

**A limited number of uniquely referenced registration documents will be provided to each of the Agents / Gatherers initially, i.e., an adequate quantity to cover a full week of commercial gathering. Where new documents are required, the Agent / Gatherer must have returned a full set of completed Registration Documents provided, i.e., local authority or third copy triplicate documents, as completed. If the Port Health copies of the Registration Documents are not returned, the Authority may refuse to issue additional Registration Documents to the Agent / Gatherer.**

**Only those uniquely referenced Registration Documents issued by Mersey PHA will be considered acceptable, all other documents should be destroyed.**

The pre-carbonated Registration Documents issued by Mersey Port Health Authority, are in triplicate format as follows.

1. The top copy is to accompany the batch of shellfish during transport.
2. The second sheet is to be returned to Mersey Port Health Authority.
3. The third sheet is to be retained by the gatherer.

**Food Business Operators are required to retain the gatherer's (third sheet) copy of the Registration Document(s) for a minimum period of twelve months.**

Mersey Port Health Authority will monitor the landings of the shellfish, the second sheet (Port Health copy) of the Registration Documents should be handed to the officers onsite or alternatively, dependent upon compliance and co-operation, there may be the possibility of moving to a safe 'drop-box'.

Any person(s) found to be involved with the gathering, distribution, or placing unclassified shellfish on the market, and, or any person who is not in possession of the correct documentation may be subject to criminal investigation and formal enforcement action. If convicted, unlimited fines or a prison sentence for a period of up to two years, or both, may be imposed.

With reference to Ribble Estuary, **Penfold South** classified cockles it has been determined that Mersey Port Health Authority will be the Food Authority responsible for issuing Registration Documents, subject to the shellfish bed achieving commercial food grade classification.

<b>Bed Name</b>	<b>Food Authority</b>	<b>Species</b>	<b>Classification</b>
Penfold South – Ribble Estuary – B 046 M	Mersey Port Health Authority	Cockle <b>(C. edule)</b>	Provisional Class C

## Class C Areas

Cockles harvested from Class C beds cannot be used for direct consumption, molluscs can be sold for human consumption only after re-laying for at least two months in an approved re-laying area followed, where necessary, by treatment in a purification centre, or after an EU-approved heat treatment process. The shellfish cannot be presented or provided for direct human consumption without having undergone one of these treatments.

Food Business Operators, Shellfish Gatherers, Merchants, Processors and Buyers who may attend the shore with a view to accessing the beach are reminded that Sefton MBC operate a permit system for vehicles. **Vehicle permits are available either online via [GreenSefton@sefton.gov.uk](mailto:GreenSefton@sefton.gov.uk) or in person at the Ainsdale Discovery Centre during the mornings of 17th, 18th, 20th & 21st October only.**

Please note that Mersey Port Health Authority will be sharing information with other enforcement Agencies including the Food Standards Agency, West Lancashire BC, Merseyside Police, Lancashire Police the Gangmaster Licensing Abuse Authority and others, to ensure that the shellfish hygiene requirements are robustly, fairly and consistently enforced.

### **Local Authority Contact Details**

Local Authority contact	E-mail	Phone Number
Mersey PHA – Glyn Cavell	<a href="mailto:Port.Health@liverpool.gov.uk">Port.Health@liverpool.gov.uk</a> <a href="mailto:Glyn.Cavell@liverpool.gov.uk">Glyn.Cavell@liverpool.gov.uk</a>	0151 233 2584 07824824378
West Lancashire BC – Lyndsey Key	<a href="mailto:envhealth.admin@westlancs.gov.uk">envhealth.admin@westlancs.gov.uk</a>	01695 583236

**For advice and guidance regarding the interpretation of the Gangmaster Licensing Abuse Authority requirements and the determination of a gangmaster please consult the Gangmaster Licensing Abuse Authority (GLAA).**

Enforcing Authority	Web Address	Phone Number
GLAA	<a href="http://www.glaa.gov.uk">www.glaa.gov.uk</a>	0800 432 0804

Should you wish to discuss this matter, or require further information, please do not hesitate to contact Mersey Port Health Authority.

Yours Sincerely

Glyn Cavell, BSc (Hons), MCIEH CEnvH  
**Public Health Team Leader**  
**Environmental Health Officer / Port Health Officer**  
**Mersey Port Health Authority**

cc. North-Western Inshore Fishery Conservation Authority, Gangmaster Licensing Abuse Authority, West Lancashire BC.