

# **Dealing with unacceptable behaviour by business operators – withdrawal of inspection and veterinary services**

## **Purpose**

The purpose of this policy is to summarise mutually understood expectations with industry about the circumstances in which the FSA (England and Wales) may withdraw its inspection and veterinary services from approved slaughterhouses and cutting plant premises. It should be emphasised that withdrawal of service will not be used as a sanction or punitive measure and is not part of the Hierarchy of Enforcement as set out in the Manual of Official Controls.

All Food Business Operators (FBOs) and their employees should be treated with respect and have the right to a working environment which is free from all forms of bullying & harassment. Equally these rights are shared by FSA staff and or their contractors in their relationship with industry, and are set out in the FSA's Bullying and Harassment Policy. We are therefore committed to ensuring that all employees have a respectful and supportive working environment, which is free from all forms of harassment, discrimination, bullying and intimidation (hereinafter referred to as unacceptable behaviour).

Like all organisations, the FSA has legal obligations under both Health and Safety requirements and employment law. If the FSA fails to recognise or investigate incidents of unacceptable behaviour which affects the health and safety of individuals, or does not take steps to prevent staff and contractors from being exposed to risks to their health and safety, this could have serious legal consequences for the Agency.

Where issues of unacceptable behaviour arise, these will be resolved through informal procedures wherever possible. However, the FSA wishes to place on record that it may be necessary on occasions to resort to formal procedures. This policy will allow the FSA to make judgement on the merits of the case and where an issue is upheld, action may follow which can include the withdrawal of service.

## **Scope**

This policy and procedure will apply to all Food Business Operators and their employees, and/or representatives, irrespective of their employment status or position.

All Food Business Operators and/or their staff/representatives are personally responsible for their behaviour towards others and will be expected by their behaviour, to demonstrate an active commitment to this policy and its aims.

## **Key Principles**

The Food Standards Agency (FSA) is a non-Ministerial Government Department. Its purpose as the competent authority in the area of meat production is to deliver official controls in approved meat establishments to protect public health, animal health and welfare. This is done through enforcement of food hygiene and animal welfare legislation, including on-line inspection services in slaughterhouses and cutting plants which are performed by employed and contracted staff (Official Veterinarians and Meat Hygiene Inspectors).

The FSA has an obligation to ensure (so far as is reasonably practicable) the health, safety and welfare at work of all its employees, and or its contractors under the Health and Safety at Work Act. This obligation extends to the provision and maintenance of a working

environment which is safe, without risks to health and adequate as regards facilities and arrangements for the individual's welfare at work. This means that where the FSA has determined that an aspect of an employee/contractor's working environment would present a known/clear risk to their health, safety or welfare, it is not entitled to expose the employee or contractor to these risks without risking criminal or civil liability.

The FSA's obligation not to expose staff to health and safety risks will prevail over its obligation under EU law to provide Official Control services on demand and allow a Food Business to operate effectively. This means that, where the FSA considers that unacceptable behaviour by a Food Business Operator, their management, employee or representatives may present a serious risk to the health and safety of FSA staff or contractors (including their physical safety, their mental and psychological health or their welfare in general), action will be taken to remove the member of staff or contractor from their workplace, which may amount to a withdrawal of inspection and veterinary services. In addition, any conduct that could amount to a criminal offence such as an assault will be reported to the Police for further investigation.

Due to the significant effect that such a step will have upon the commercial operation of a Food Business Operator, the withdrawal of inspection and veterinary services from an approved establishment would only be a measure of last resort, where other options would be insufficient to protect the health and safety of FSA staff. It will only be considered where a single incident is considered to be of a serious nature, or where there is evidence of continued or persistent bullying and harassment have been established to an extent which may pose a risk to health and safety.

Finally, withdrawal of inspection and veterinary services will only be undertaken where necessary and proportionate to the risk faced by staff, and for such a length of time as is necessary in the individual situation. Where the FSA considers that an issue is of lesser seriousness, alternative options will be explored.

## Informal procedure for addressing unacceptable behaviour

There are a number of ways in which the FSA may deal with the problem of unacceptable behaviour which will range from a verbal warning that someone's behaviour has been unacceptable and asking them to stop, to the withdrawal of FSA inspection services.

Incidents of alleged unacceptable behaviour are often effectively resolved in an informal manner and this approach will be encouraged wherever possible. A person who is causing an individual distress may be unaware that their behaviour is offensive or upsetting and therefore a simple explanation may be sufficient to resolve the matter.

In the event that the FSA considers an informal approach is appropriate, discussion and mediation between the parties will be promoted and facilitated by local FSA management. Upon conclusion of these discussions, the Head of Operational Delivery will send a letter detailing a written summary of the allegation and the outcome of any agreements reached between the parties, in order to reestablish a positive working relationship in the future.

All such letters will remain on a Food Business Operator's file for future reference, and may be considered or cited at a later date if further allegations of unacceptable behaviour are made, particularly if these are thought to form a pattern. Continued or numerous reports of unacceptable behaviour may therefore trigger a "*formal approach*" being taken by the FSA, as the FSA considers that it is obliged to keep the health and safety of their staff under continuous review.

Examples of more minor unacceptable behaviour are outlined below although it should be noted that the impact of unacceptable behaviour on an individual may vary and therefore such examples may be cited as serious.

- Insults, shouting, swearing
- Making a person the butt of jokes, spreading rumours or ridiculing of an individual
- Isolating or ignoring an individual
- Offensive gestures

*This is not an exhaustive list*

The types of unacceptable behaviour set out above are most likely to result in the following possible outcomes.

- A documented meeting with FSA management, followed by acceptance of guarantees or assurances from FBO management concerning ongoing/future behaviour.
- The inclusion of an additional member of official controls staff in order to provide support to an FSA representative(s), for which the FSA will seek to recover charges from the FBO.
- The relevant Health & Safety incident reporting documents completed and held on the plant file for future reference.

*This is not an exhaustive list*

It may be necessary or appropriate for the FSA to temporarily redeploy an FSA representative(s) until such a time as the facts of an issue can be established, in order to eliminate any risk to the injured party(s). Any redeployment of an individual will only be considered as a temporary measure and reinstatement would be made upon conclusion of the matter and at the discretion of the agency.

## **Formal procedure for addressing unacceptable behaviour**

If the FSA considers an informal approach is unlikely to resolve an issue of unacceptable behaviour, or the behaviour is of a more serious nature, the FSA will follow a formal procedure. Alternatively, incidents may move from the informal to the formal procedure in cases where informal action proves ineffective.

It is accepted that FSA staff operate in geographically remote locations and in some cases out of normal working hours (night working) therefore at the time of an incident, should the FSA team feel that an imminent risk to their health, safety or wellbeing exists, they have the autonomy to withdraw to a safe environment until such a time as the FSA's Head of Operational Delivery (HoD in England & Wales) or other suitably designated individual can be contacted.

In such circumstances, the HoD, or another appropriately designated individual will ensure that a preliminary investigation is carried out so that the facts can be established.

The FSA accepts that the gathering of accurate information is both important and time critical. To allow FSA officials the necessary time to establish the facts, the HoD or other suitably designated individual may consider the temporary redeployment of the injured party or parties until such a time as the facts have been established. Any redeployment of an individual will be considered as a temporary measure and reinstatement would be made upon conclusion of the matter and at the discretion of the agency.

In the most exceptional of circumstances the HoD may consider it inappropriate to allow the supply of veterinary & and inspection services to be continued during the course of establishing the facts. Such circumstances which may warrant this course of action are where an individual has been the victim of an alleged physical assault or verbal assaults where the Business Operator has a documented history of similar behaviour.

In circumstances where the veterinary and inspection services have continued throughout the gathering of information, the agency may also consider the application of an additional control in order to support the existing FSA officials. Any additional control will be included within a Business Operators Statement of Resource and chargeable through the existing charging mechanism.

Once the facts of an incident have been established, the HoD will then make a decision based upon the evidence, in particular the seriousness of the incident. In situations where the health, safety or wellbeing of an individual is not compromised, a member of the FSA management team will arrange to discuss the situation with a Business Operator and look to resolve the matter through the "informal route".

Where the HoD considers an issue to be of a more serious nature and where the health, safety and or wellbeing of an individual may be compromised - for example an act of aggression or violence - the HoD will ensure that the Food Business Operator is given the opportunity to respond to the allegation. Although an FBO is not obliged to co-operate with such an investigation, should they not do so, the FSA is entitled to take action based upon the known facts at the time.

Once the facts of the allegation have been established, the HoD/ or suitably designated individual will instigate a case conference with another FSA Senior Manager of a similar or more senior grade in order to review the available information and to agree a course of action which is deemed acceptable to the FSA and will assure the health, safety and wellbeing of FSA staff and or its contractors. The range of available actions by the FSA at this stage will include the possible withdrawal of inspection and veterinary services for a period of time.

In the event that the FSA determines that withdrawal of services is not necessary, the FSA may nevertheless require certain guarantees from the FBO before production can continue. These guarantees may include additional staff being put in place to support the work of existing staff.

The FSA will then advise the FBO in writing the outcome of the case conference, a formal/criminal investigation may also be commissioned in appropriate cases. In circumstances of physical assault, the FSA will insist that staff and contractors make a formal report to the Police in order for the matter to be taken further under a criminal investigation.

Examples of behaviours that may warrant a formal FSA and or Criminal Investigation

- Physical Assault
- Racial or sexual discrimination
- Violence
- Intimidation
- Continued or persistent cases of lesser serious unacceptable behaviour (e.g. insults, shouting, swearing, verbal harassment)

*This is not an exhaustive list*

The types of unacceptable behaviour set out above are most likely to result in the following possible outcomes.

- The inclusion of an additional staff member, for which the FSA will seek to recover charges from the FBO.
- The withdrawal of veterinary and/or inspection services
- The requirement of personal security for FSA

FSA Management has a responsibility to act promptly on receiving a formal complaint of unacceptable behaviour. All complaints will be handled with sensitivity and confidentiality, and care will be taken throughout the investigation to protect the interests of both the complainant and the alleged offender.

The FSA recognises the possibility that complaints may be brought with malicious, vexatious or spurious intent. Where a formal investigation concludes to this effect, disciplinary action may be taken against the complainant in line with the FSA's Disciplinary Policy.