

Charging for food safety inspections

Where did this come from?

Food Standards Agency FSA 11/01/05 Open Board – 25 January 2011 (extract)

The EU Commission is currently reviewing the provisions in Regulation (EC) 882/2004 which cover the financing of official controls in the food and feed sector, and is expected to produce a legislative proposal in spring 2012. The proposal is likely to affect official controls for which other government departments are responsible. The FSA will take the lead in agreeing a co-ordinated, cross government position, and will lead on discussions in Europe. This paper proposes a set of high level principles to be taken into account in reviewing charging policy at a UK and at an EU level.

Paragraph 1.2 The Board is recommended to **agree** the principles proposed and **note** further work planned.

Paragraph 4.5 To address the issues highlighted above, ensure a higher level of consumer protection through promoting adequate resourcing for official controls and a more level playing field across Member States, the following principles are proposed as a basis for developing the UK position on fees for official controls.

1. **A clearer, simpler fee system**
2. **A fee system based on actual costs and aiming for full cost recovery**
3. **Definition of which sectors are covered by the fee system**
4. **Strengthening the link between fees and compliance**
5. **Clarity on what is included within the calculation of the fee.**

In 2013 EC agreed to include an exemption for charges on micro businesses. Food Solutions worked with UEAPME in pursuing this exemption which resulted in the interim decisions below. Unfortunately, the EU Parliament went awry on this, and with the poor financial situation in many Member States there are now demands for full cost recovery.



Extract from a powerpoint presentation from the Commission shows:

- Member States should consult businesses
- There should be extended intervals for inspection for good compliance (bonus/malus).



Quote from a high ranking FSA official 28 April 2014:

The official controls proposal will be in negotiation for some time and the sentiments expressed by you and your members on the exemption of micro enterprises and potential for revenue generation through inspection charges will not be lost. We continue to welcome new evidence. We are aware that smaller businesses favour the micro exemption, which is why we are pressing for the ability to determine how and where this should apply within the UK. You have to realise that the opposition to the exemption in Europe is strong and so retaining the ability to reduce the burden on smaller businesses in the UK throughout the process will be a victory.

EC 2016 Review of legislation on official controls (extract)

The European Parliament and the Council reached a political agreement on the new Regulation on Official Controls on 15 June 2016. The Regulation was part of a package of proposals presented by the Commission in May 2013 to strengthen the enforcement of a broad range of rules applicable to the agri-food chain.

The new rules will replace Regulation (EC) No 882/2004 on official controls and other legislation which currently governs the enforcement of rules along the agri-food chain; it is expected to enter into force in the first quarter of 2017 and to be applicable by 2020.

Under the section: Financing official controls and other official activities:

Mandatory fees for certain official controls. List of cost elements to take into account in the calculation of fees.

*The Regulation clarifies **which cost elements** Competent Authorities need to take into account when calculating the fees. It also requires Member States to consult relevant stakeholders on the general methods used to calculate the fees or charges.*

*When determining the fees, Competent Authorities shall take into account the salary, social security, pension and insurance costs **of support and administrative staff** (as well as of staff physically performing official controls); the same applies to the **costs of services charged to Competent Authorities by delegated bodies** for the official controls delegated to them.*

Food Solutions is the only UK representative on the [UEAPME Food Forum](#). As a group we opposed this move. Eventually the European Commission agreed that it was up to individual Member States whether or not they went ahead.

FOOD STANDARDS AGENCY Consultation title: Proposal for a regulation of the European Parliament and the council on official controls and other official activities. January 2014 (extract)

Paragraph 10. *The draft proposal consists of a number of significant amendments that in summary will involve an extension of mandatory fees and the requirement that Member States recover the full cost of official controls. Our interpretation of the text is that such fees would apply to a significantly increased number of businesses, from farms through to retail. However, Member States will be required to exempt micro-businesses from the payment of mandatory fees.*

Please note: once the UK leaves the EU this exemption for micro businesses will no longer be valid. We need written confirmation from the UK that this exemption will be honoured.

Feedback from our colleagues throughout Europe suggests that no other Member State has introduced these charges. **No such commitment has been received from the UK Government.**

Food Solutions has written to the Food Standards Agency asking them to confirm that charges will be made for routine food safety inspections. We are still awaiting a response.

The current situation

The Food Standards Agency are reviewing the way in which food regulations are to be implemented in the future through their initiative '[Regulating our Future](#)'.

Food Solutions applied and was appointed to be the member of the Expert Advisory Group (EAG) representing the food industry. We were horrified to discover that the group is dominated by employees of multi-million pound businesses and organisations representing them.

We were also concerned that the FSA look likely to recommend to the Government that charges are introduced for routine food safety inspections. They also plan to introduce a replacement for the current requirement for businesses to be registered, they are calling this Permission to Trade. This would also attract a cost.

[This link takes you to the latest podcast from the FSA](#). This provides more background.

To follow are two extracts from meetings held:

Regulating Our Future Programme - SME Hot Housing Event, 20th October 2016

Brainstorm Session 3: Pilot Design Principles

All pilot ideas need to be aligned with at least one of the principles that underpin the future regulatory model, which are:

1. Compliance is the responsibility of food businesses
2. Focus the regulatory effort in a tailored and proportionate way
3. Use all available sources of information
4. Recognise businesses that do the right thing and take action against those that don't
5. **Businesses should meet the cost of regulation**
6. No operational impact on the business carrying out the pilot
7. No requirement for significant IT change or infrastructure investment
8. Can be completed in three months
9. Has demonstrable benefits and measurable outcomes

Regulating Our Future Programme - EAG Meeting – Summary Output Document, 2nd December 2016

Proposal: Permission to Trade

- Develop a centralised, digitally enabled registration process, with online information to support new business start-ups
 - **This would be mandatory, a fee would be charged, data would be verified**, and annual updates expected
- Some businesses will need a 'permit to trade' before they can commence trading - have to demonstrate they have robust arrangements in place for ensuring food is safe and what it says it is
- Some low risk businesses will not require inspection following registration – dependent on risk segmentation

How did we arrive at £300 as an estimated cost per visit?

- Original estimate from EU €500 - €600 per visit. At that time the exchange rate would translated that to £352 to £422.
- The Welsh Government passed a law to allow a charge of £160 for re-visits requested by FBOs.
- [Port Health & Environmental Services City of London Corporation](#) (extract)
 - **Option Three – Full-cost recovery.**
 - *The full cost of a re-visit inspection is currently £210 on average. This has been calculated taking into account factors including officer time, direct costs, and a proportion of overheads*

such as accommodation. The City Corporation's fee to achieve full cost recovery would therefore be £210.

- *In comparison, in Wales, businesses are charged a "reasonable" cost for re-visits which has been determined at £160 per re-rating request. As of 21 October 2016, charges for re-rating by English local authorities taking part in the charging pilot range between £90 and £234 where published, with the average being £154; only one of those authorities is a London Borough who charge £215.*
- *This Option would ensure we are able to use the costs recovered from requested re-rating inspections to help maintain our programmed inspections and other statutory duties.*

Therefore an estimated charge of £300 per full food safety visit would seem reasonable.

Conclusion

Two points to ponder:

- You need to ask yourself - would I like to have input to decisions that will potentially have a significant effect on my ongoing costs?
- If you do nothing. Will you be happy when these charges are introduced with the knowledge that you could have had the opportunity to influence the decision?

Remember:

Inaction at this stage is not an option

If we do nothing we will get what we deserve.

Further reading

[Regulatory Futures Review](#) - The review is the first of a series of functional reviews of arm's length bodies, and was led and carried out by regulators themselves. It excluded a number of regulators already involved in other reviews, notably the economic regulators. Owing to the large number of regulators in scope (70+) as well as differing levels of involvement, the review focused on some key themes:

- the future of regulation;
- regulated self-assurance and earned recognition;
- charging for regulation;
- collaboration between regulators;
- burdens on regulators.