

## Background

1. The Food Standards Agency (FSA) in Northern Ireland (NI) is responsible for devolved matters relating to food safety, standards, nutrition and dietary health in NI. The Department of Agriculture, Environment and Rural Affairs (DAERA) deliver the official controls in approved slaughterhouses and game handling establishments on behalf of the FSA in NI.
2. This guide is for Food Business Operators (FBO) and Official Veterinarians (OV) in NI and explains the development and review of the Statement of Resources (S.O.R.). This guidance does not supersede or replace any legal requirement applicable to either the FSA or the FBO.

## Introduction

3. The S.O.R. describes the operating pattern and confirms the associated chargeable inspection and verification services (official controls) required for each individual approved slaughterhouse and game handling establishment. The S.O.R. reflects the recommended resource level determined by the FSA Review of Official Auxiliary Resource (OA Review) completed in 2016 or any subsequent revision of OA resource requirement for an establishment agreed with the FSA.
4. Accurate S.O.R.s are key to the efficient delivery of official controls. Unrealistic operating times can result in higher than necessary charges to the FBO due to over booking of official control resource. Inadequate notice of changes to agreed times may affect DAERA's ability to provide the required service and in some cases may lead to the FBO not being able to operate.
5. The FBO (or their nominated representative with the relevant authority) and the OV review and agree the S.O.R. in advance of each charging period, by electronic exchange whenever possible. The review should be completed and agreed at least two clear working days before the start of each charging period (prescribed in Annex 1) to facilitate deployment of resource.

## FBO information for the S.O.R.

6. The FBO or nominated representative should complete the electronic template for the charging period with all the projected operating arrangements completed.

**Note:** If the information is not provided the service cannot be arranged.

7. The following key information is required from the FBO for each charging period. FBOs must take care to ensure that the proposed hours accurately and realistically reflect their expectations for production over the relevant charging period.
  - **Operating days:** specific week days, any weekend day, bank or public holidays
  - **Species & type:** primary meat production stock or cast breeding stock
  - Anticipated daily **throughput** and **line speed** by species
  - **Operating hours:** FBO start and finish time
    - **Start** – the time the FBO wishes to stun/kill the first animal by species
    - **Finish** – the time the last animal will clear final inspection point by species
    - **Additions** – for example, time to clear detained line, time to release detained material
  - **Break times:** any times when the line will not operate for breakfast / lunch / smoke / comfort

Additional information that may improve efficiency includes the time the animals are first available for ante mortem inspection and the time the last animals are due to arrive on site.

8. These details are not designed to limit the throughputs but to give the S.O.R as accurate a forecast as possible of throughput demand so that staffing requirements can be more accurately assessed.

## Determining the resource requirements

9. The FBO's information allows the OV to determine the appropriate resource required for the official controls, taking account of the level determined by the FSA OA Review.

10. Attendance times for the OV and MIs must include time for essential preparation to perform the official controls and to comply with hygiene requirements. OV starting time must take account of the time required for ante mortem inspection to achieve the FBO planned start time. MI attendance times must also take account of differing species requirements, where appropriate, and any opportunity to stagger start or finish times must be considered.
11. The OV must populate the S.O.R. with the OV and MI resource allocation based on the information provided by the FBO and share the draft S.O.R with the FBO.
12. The FBO must confirm agreement to the SOR resource allocation and return to the OV.

### Implications for charges

13. The SOR forms the basis for The Meat (Official Controls Charges) Regulations (Northern Ireland) 2009 charges. The FBO will be charged **the greater of the agreed hours of attendance and the actual hours of attendance**, minus any applicable discount and any non-chargeable time. Details on how charges are calculated and invoices are generated can be found in the NI Charges Guide.

The percentage allocation section is used to indicate the likely percentage of non-chargeable time. It is completed by the OV to show the estimated time to complete tasks for which the FBO will not be charged, even though they fall within the hours of attendance for chargeable work. These include tasks for FSA where the time is not charged e.g. SRM controls and tasks for DAERA where the time is not charged e.g. 3rd country exports, residue surveillance sampling.

### Alteration of operating times or practices or to inspection arrangements

14. If at any stage during the life of an S.O.R. the FBOs operating arrangements change, this must immediately be discussed with the OV. Every effort will be made to service additional requests or to re-deploy resource where less time is required, however neither service nor waived charges can be guaranteed.
15. For significant seasonal variations, a minimum of 20 working days notice is required e.g. turkey slaughter for Christmas market.
16. Where the FBO makes changes to the design of the line or the layout of inspection positions the OV should refer to the regional manager with recommendations for future resources. The regional manager shall take the matter forward with FSA. At all times the possible use of flexibilities e.g. flexible OV attendance or cold inspection, should be borne in mind. Note: relevant guidance issued by the FSA must be referred to and followed for these cases.

### SOR FBO challenge process

17. Where the FBO and OV do not reach agreement on the SOR the matter will be handled through the challenge process.

#### Step 1 – SOR FBO Challenge

18. The FBO does not agree the SOR resource requirement as proposed by the OV. Provided the FBO has provided the necessary information (section FBO information for SOR) official controls will be performed using the resource proposed by the OV. The FBO has 15 working days from the date they receive the SOR from the OV to challenge the resource allocation in the SOR.
19. The challenge must be made in writing laying out the grounds for disagreeing with the resource allocation. A £250 fee will be payable on lodging a challenge, this fee is refundable if the challenge by the food business operator is upheld. No review will be commenced until the written grounds are received and the £250 fee has been paid.

### Step 2 – Investigation following a challenge

20. The investigation will be conducted by a DAERA officer nominated by the DAERA VPHTP SPVO and an independent industry representative nominated by FSA in NI.
21. Within 5 working days of receipt of the challenge the investigating team will be given and a copy of the disputed SOR and the OV's written justification for the resource allocation. They may request any other information they consider relevant. Copies will also be provided to the food business operator.
22. The investigating team will consider the information supplied to them. The team may seek appropriate advice from other parties as they deem necessary. The team will prepare a report with recommendations for consideration by the FSA in NI within 15 working days. A copy will also be sent to the food business operator and DAERA VPHTP SPVO.

### Step 3 – Consideration by FSA in NI

23. The FSA in NI will consider the investigating team's report and recommendations and will make a decision on the appropriate level of resources for the establishment and the food business will be charged accordingly for official controls. Any charges that have been overpaid will be reimbursed. Overpaid charges are those determined by the FSA in NI to be in excess of those necessary to deliver the appropriate level of official controls.

### **FBO dissatisfied with challenge outcome – right of appeal**

24. Where the FBO is dissatisfied with a challenge outcome he has the right of appeal.

### Step 1 – FBO disagrees with the FSA in NI determination

25. If the food business operator disagrees with the outcome of the internal review process, which includes the decision of the FSA in NI, it can appeal against it provided that the operator of the business has complied with the most recent request by the OV to provide details of the working hours and practices. The appeal must be requested within 5 working days of being notified of the FSA in NI decision.

### Step 2 – The independent appeal process

26. The appeal will be determined within 20 working days by an independent person nominated by the FSA. The Nominated Person:
- Will give the food business, DAERA and the FSA an opportunity to make representations on the matter to be determined;
  - Will determine the matter concerned;
  - Can order the food business or the FSA to pay costs;
  - Will notify the food business and the FSA in NI Director of the determination and of any order for costs.
27. If the independent Nominated Person finds in favour of the food business the £250 fee for initiating the semi-independent review will be returned to the food business.
28. DAERA will implement the determination of the Nominated Person. This will apply from the date that the £250 fee had been received by FSA in NI.
29. While the appeal is being carried out, the FBO is still required to pay the FSA invoices in full. If the appeal is successful, the FBO will receive a credit on a future invoice. If the appeal is not successful then the charges will not be credited and the charges will stand.
30. The FSA may in certain circumstances continue to retain the disputed resources in the establishment even after an appeal is lost by the FSA where it is considered necessary to meet the requirements of the EC Regulation, but the operator will not be charged for the excess attendance.