

Business Agreement between Food Standards Scotland and the Seafood Hubs in Scotland

Guidance Document

April 2023



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1. Purpose and Introduction

Purpose

- 1.1. This guidance is designed to support Seafood Hubs (referred to as “Hubs” in this document) to develop a Business Agreement (BA) specific to the Hub.

Introduction

- 1.2. The BA (Annex A) is a document setting out the operating hours of the Hub, and details the minimum charges for FSS resources to be supplied. The BA should be drafted in collaboration between the Hub and the FSS Operations Manager (OM). The BA will provide a clear understanding of business requirements and help to maintain a productive and positive working relationship through agreement of FSS resources to be supplied. Both parties will endeavour to deliver cost savings for both industry and FSS, and ensure compliance with regulatory requirements.

- Drafting of the BA should initially be undertaken by the Hub and FSS OM.
- The BA will establish staffing levels and will be a living document to be kept under regular review by the OM and the Hub. A formal review should take place before the start of a new accounting year along with a minimum informal review each month. Either party may suggest changes to the BA as and when business needs or circumstances require it, but a BA will only be amended by agreement at monthly reviews if there have been material changes to the way in which a Hub operates.
- In the circumstances where there is a lack of agreement between the two parties the BA will be completed by the OM, with the resource allocation that FSS determine is required, but noting the Hub’s comments in the relevant section of the BA and covering letter. The Hub is then able to enter into an appeals process to pursue the issue. Please see the section on the BA appeal process below.
- The BA does not supersede or replace any legal requirement applicable to either FSS or the Hub.

2. Business Agreement

Seafood Hub details

2.1. FSS will populate the following information:

- name;
- approval number;
- trading address; and
- invoicing address

FSS staffing allocation and operating hours

2.2. As well as providing the Hub with more detail about how FSS staff will be deployed, the information from this table is used to complete the 'FSS staffing average total hours' table (these tables are contained within the BA examples attached).

2.3. The tables will be completed by the Hub and the OM and will establish when the relevant grade of FSS staff is required for the delivery of Export Health Certification (EHC) service.

2.4. The table will detail the start and finish times for FSS staff and grade required e.g. Certifying Officer (CO) and Certifying Support Officer (CSO). Where possible, start times should be identified to ensure FSS has the maximum opportunity possible to efficiently deploy staff.

2.5. The CO and CSO attendance data should state the start and finish time for each staff category.

2.6. Before agreeing attendance hours, Hubs should take care to ensure they are fully satisfied that the proposed hours reflect all the potential unavoidable variations in working hours.

Other business information

2.7. This section should be used to record any other information which is of relevance to the efficient use of FSS resources. Matters for consideration can include, but are not limited to the following:

- whether the Hub or FSS has identified any Hub working practices which, if altered could improve the efficient deployment of FSS resources;
- whether the Hub or FSS team has identified any areas where changes to FSS processes / procedures could lead to the more efficient use of FSS resources;
- where a Hub wishes to work on Bank/Public Holidays or to alter their operating hours to accommodate religious festivals, they should be encouraged to provide details of these events as early as possible to help plan FSS attendance;
- any other comments which have been identified during the drafting process which could lead to the more efficient deployment of FSS staff;

- any comments which the Hub wishes to make which are not taken into account elsewhere in the document;
- FSS staff allowances should be stated in the Business Information box to ensure the Hub is aware of contractual overtime and/or allowances being levied on invoices.

Next review date

- 2.8. The frequency of the review will be determined by individual circumstances and should be mutually agreed between the OM and the Hub. However, all BAs should be reviewed prior to the start of a charging year with an informal review being undertaken each month. If at any stage, there is substantial change to the operation or inspection requirements, the BA may be reviewed immediately.
- 2.9. In some limited circumstances, it may become necessary for FSS to implement short notice increases to the level of EHC service provided, which are not laid out in the current BA. Examples of such circumstances are in response to:
- health and safety concerns;
 - bullying and harassment of FSS staff (note in extreme circumstances FSS may withdraw its certification team); or
 - high levels of non-compliance with the EHC process which require additional resources to manage.
- 2.10. In these circumstances, FSS will revise the BA as soon as practicable after the introduction of increased resource. A new BA will be produced when the increased level of resource has been reduced again.

Completed BAs

- 2.11. It is the responsibility of the OM that the BA is completed following the discussion and issued to the Hub. The BA should be signed by both parties and a copy given to the Hub as a record of the agreement.
- 2.12. FSS will implement the agreed staffing levels and working hours on an agreed date as detailed within the BA. This version will be retained on the FSS IT system for a minimum period of 2 years.
- 2.13. In the event that the Hub is not content with the outcome of the discussion and a determination, including non-signing of the BA, the Hub may enter into the appeals process. During the appeals process the BA will be implemented as specified and constructed by the OM.
- 2.14. A completed, up to date BA should be displayed in all relevant FSS offices.
- 2.15. The Hubs will be charged for FSS time chargeable to industry covered by the agreement **AS A MINIMUM**. The Hub will also be charged for any FSS chargeable time that is needed in excess of the agreed levels in the BA.

3. How the BA affects Seafood Hub EHC charges

- 3.1. FSS time-based charges are calculated by multiplying the time that has been recorded on FSS certifying team timesheets as time spent carrying out EHC work, by the appropriate hourly charge-out rate. FSS will charge the Seafood Hub for all of the hours specified in the BA with the following exceptions:
- where staff are not required and they can be redeployed elsewhere; or
 - where force majeure applies.

Charges will be levied for unutilised FSS time within the BA in the event of on-site operational failures or shortfalls in agreed operating hours due to the activities/decisions of the Hub.

- 3.2. Any time worked over the BA will be charged e.g. if the daily finishing time of the Hub extends beyond that specified in the BA. (Note where this occurs frequently, the BA will be reviewed to provide a more accurate reflection of the operating hours at the Hubs).
- 3.3. The Hub should provide FSS with as much notice as possible when intending to change operating hours. By giving reasonable notice of changes, FSS will have time to try and re-arrange resources to fit the new requirements without incurring additional costs. For major or permanent changes, 15 working days' notice are required to enable FSS to give notice to its staff where contractual changes are necessary. The Hub should always notify FSS in writing of the intended start date of any change.
- 3.4. For short term changes where, due to their temporary nature, a permanent change to the BA is inappropriate, the Hub should aim to give FSS as much notice as possible and we will endeavour to meet the Hub's needs if at all possible. Where FSS cannot meet temporary requirements without incurring additional costs, then charges will be made to contribute to those costs in accordance with paragraph 3.1.
- 3.5. For further details of how charges are calculated please refer to the Charges for Official Controls in Scotland guide which can be found on FSS website - <https://www.foodstandards.gov.scot/publications-and-research/publications/Charges-for-EHC-in-Approved-Seafood-Hubs-Scotland-guidance>

4. BA appeals procedure

- 4.1. FSS recognises that there may be occasions when a business and the OM do not agree locally on the level of resources and the number of chargeable hours required at the Hubs. Where this happens, FSS will allocate the staffing level and hours to the Hub that it considers appropriate, but the business will be able to seek a review of the allocation by following the BA appeals process. The appeals process is a two-stage process including an internal and external component. This is intended to give confidence in the system, but also to encourage businesses and FSS to work collaboratively to agree resource allocations.
- 4.2. A £250 fee is payable by the business at the outset of the review process as a contribution to FSS costs. Reviews will not commence until the fee has been paid. If the review/appeal rules in the businesses favour the £250 will be refunded.
- 4.3. While the appeal is being carried out, the business is still required to pay FSS invoices in full, including the cost of any disputed resources. If the appeal is upheld, the business will receive a credit on a future invoice. If the businesses appeal is not successful, then the charges will not be credited and the charges will stand. FSS may in certain circumstances continue to retain the disputed resources in the hub, even after an appeal is lost by FSS, where it is considered necessary to meet the requirements of the official controls, but the business will not be charged for the excess attendance.

Stage 1 – Internal review appeal process

Step 1 – Business seeks a review

- 4.4. The OM will use the information available (current operating hours) to produce a BA. The BA will show the allocated number of COs and CSO, and their hours that FSS considers should be allocated to the Hub, and the business will be charged for these. The business will be given a copy of the BA.
- 4.5. The business may request that the resource allocation in the BA be reviewed. This request must be made within 21 days of FSS providing the business with the BA. A £250 fee will be payable on lodging a request for review, refundable if the business' challenge is upheld following internal review or subsequent appeal. Upon lodging the request for a review, the business will be expected to state the grounds for disagreeing with FSS resource allocation. No review will commence until the £250 fee has been paid.

Step 2 – Initial discussion between business and the Head of Field Operations

- 4.6. When notified that the £250 fee has been paid, the OM will, within 5 working days, provide the Head of Field Operations (HOFO) with a copy of the BA, and a paper setting out the reasons for the resource allocation, and any other relevant information, including the business' written reasons for the appeal. A copy will be supplied to the business.
- 4.7. The HOFO will conduct the review together with an industry representative to be nominated by an appropriate representative body.

4.8. The review team will consider the grounds put forward by the business for disagreeing with the resource allocation and carry out the review in the light of the information supplied to them, and any that they obtained from the business or the OM. The team will prepare a report with recommendations for consideration by FSS Head of Operational Delivery (HOD). A copy will be sent to the business.

Step 3 – Consideration by FSS Head of Operational Delivery

4.9. FSS Head of Operational Delivery will consider the review team's report and recommendations and will make a decision on the appropriate level of resources for the establishments. The business will be charged accordingly for official controls - with any charges that have been overpaid being reimbursed. These will be charges for official controls delivered after the £250 payment had been received by FSS, that FSS HOD determined to be in excess of those necessary to deliver the appropriate level of official controls.

4.10. It is intended that the review will take no more than four weeks to complete.

4.11. If the review upholds the appeal, the £250 fee will be returned as a credit on a future invoice to the business.

Step 4 – Business disagrees with final FSS resource allocation

4.12. If the business disagrees with the decision by FSS HOD they may request an independent appeal. This stage 2 appeal must be requested within one week of being notified of the decision by FSS HOD.

Stage 2 – The independent appeal process

Step 5 – Independent review

4.13. The appeal will be determined within one month by an independent person nominated by FSS and agreed by the Hub. The nominated person:

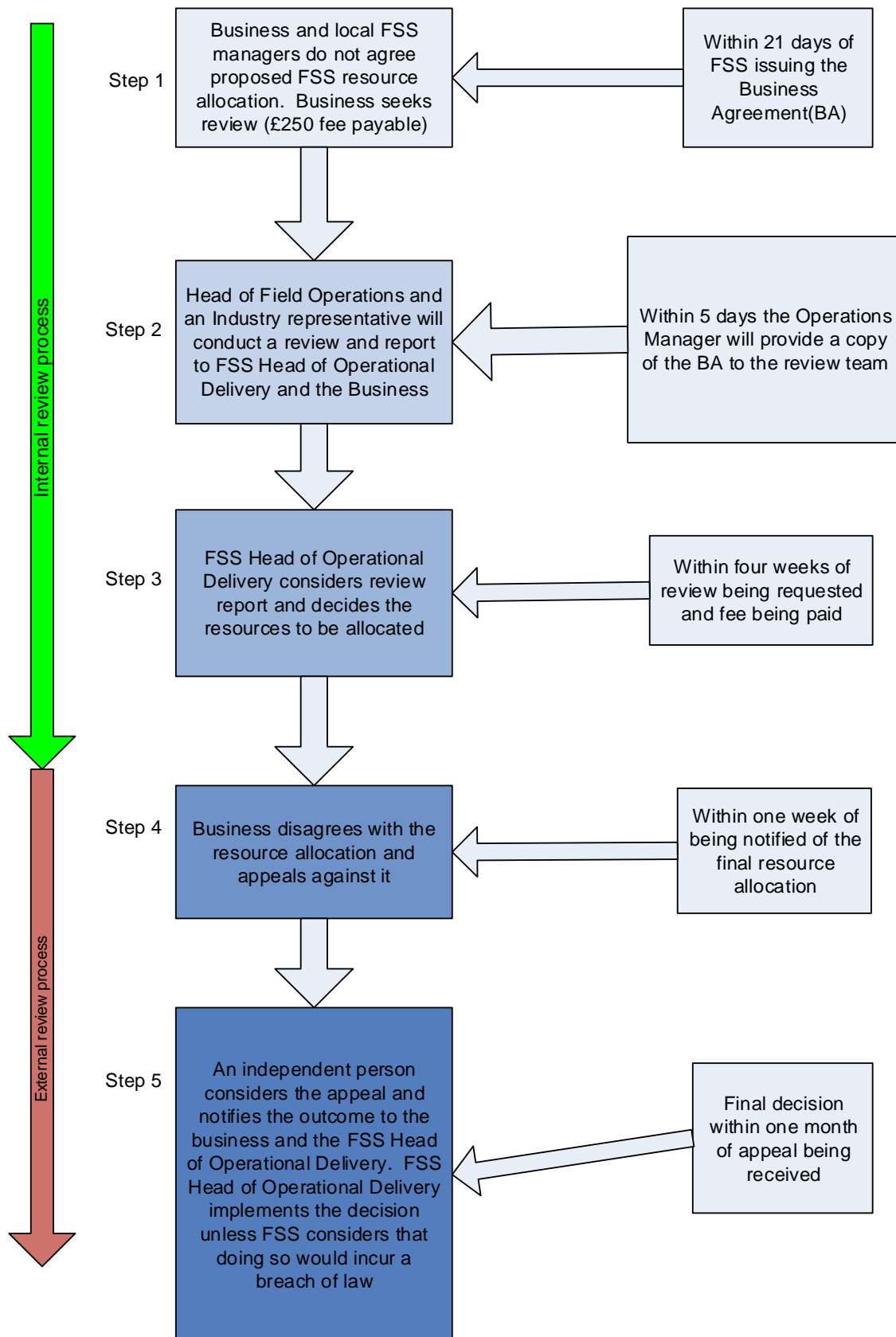
- will give the business and FSS an opportunity to make representations on the matter to be determined;
- will determine the matter concerned;
- can order the business or FSS to pay costs; and
- will notify the business and FSS HOD of the determination and of any order for costs.

4.14. If the independent nominated person finds in favour of the business, the £250 fee for initiating the appeals process would be returned to the business.

4.15. FSS will implement the determination unless FSS considered that the determined resource allocation was insufficient to enable official controls to be carried out in accordance with EC law. If that were to be the case, the business would not be charged for any staff/hours that were in addition to those determined as necessary by the independent nominated person. This would apply from the date that the £250 had been received.


Overview of review and appeal process

Timescales



Annex A

Food Standards Scotland Business Agreement [Business Name] [month year]					
	daily Total				
	Grade	CO	CO		Totals
	Number	1	1		
Monday	Start	00:00	00:00	00:00	00:00
	Finish	00:00	00:00	00:00	00:00
	Break	00:00	00:00	00:00	00:00
	daily Total	00:00	00:00	00:00	00:00
Tuesday	Start	00:00	00:00	00:00	00:00
	Finish	00:00	00:00	00:00	00:00
	Break	00:00	00:00	00:00	00:00
	daily Total	00:00	00:00	00:00	00:00
Wednesday	Start	00:00	00:00	00:00	00:00
	Finish	00:00	00:00	00:00	00:00
	Break	00:00	00:00	00:00	00:00
	daily Total	00:00	00:00	00:00	00:00
Thursday	Start	00:00	00:00	00:00	00:00
	Finish	00:00	00:00	00:00	00:00
	Break	00:00	00:00	00:00	00:00
	daily Total	00:00	00:00	00:00	00:00
Friday	Start	00:00	00:00	00:00	00:00
	Finish	00:00	00:00	00:00	00:00
	Break	00:00	00:00	00:00	00:00
	daily Total	00:00	00:00	00:00	00:00
Saturday	Start	00:00	00:00	00:00	00:00
	Finish	00:00	00:00	00:00	00:00
	Break	00:00	00:00	00:00	00:00
	daily Total	00:00	00:00	00:00	00:00
Sunday	Start	00:00	00:00	00:00	00:00
	Finish	00:00	00:00	00:00	00:00
	Break	00:00	00:00	00:00	00:00
	daily Total	00:00	00:00	00:00	00:00
	Weekly Total	0:00	0:00	0:00	0:00
	Industry Charge rate				
	Mon-Fri	£47.90			£0.00
	Sat	£71.85			£0.00
	Sun	£94.80			£0.00
	PH	£143.70			£0.00
	Total Weekly Charge				£0.00
	Month Grand Total				£0.00

Food Standards Scotland	Food Business Operator
Food Standards Scotland	Plant Number:
4th Floor	Name:
Pilgrim House	Trading Address
Aberdeen	
AB11 5RL	
	Invoicing Address
	Plant Number:
	Name:
	Trading Address
Key Contact:	Key Contact:
<u>Tel:</u>	
Comments	FBO Working
Plant specific Bank Holidays	FBO Working
FSS Signature & date	FBO Signature & date
start date	start date

Version Control

Version	Date	Last review carried out	Next review due	Comments
1.0	January 2021	N/A	April 2021	First version
2.0	April 2022	April 2021	April 2022	Checked and updated
3.0	April 2023	April 2022	April 2024	Checked and updated

Abbreviations

Hubs	Seafood Hubs
BA	Business Agreement
CO	Certifying Officer
CSO	Certifying Support Officer
EC	European Commission
EHC	Export Health Certificate
FSS	Food Standards Scotland
HOD	Head of Delivery
HOFO	Head of Field Operations
OM	Operations Manager

Contact details

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