ANIMAL HEALTH VETERINARY LABORATORIES AGENCY

OPERATING PROCEDURES FOR INSPECTION AND ENFORCEMENT (DAIRY HYGIENE)

July 2011

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Introduction

Animal Health Veterinary Laboratories Agency is responsible for the enforcement on milk production holdings of the Regulations (EC) Nos 852/2004, 853/2004 & 854/2004 and the Food Hygiene (England) Regulations 2006 and of the Food Hygiene (Wales) Regulations 2006 with the associated administrative duties and statutory action required. This responsibility is carried out in accordance with the requirements for competent authorities set out in Regulation (EC) 882/2004 on official controls, certain elements of which are applied by the Official Feed and Food Control (England) Regulations 2007 and the Official Feed and Food Control (Wales) Regulations 2007.

The guidelines which follow should be regarded as the standard procedure for inspection and enforcement and may be reviewed from time to time to reflect changes in the inspection practice.

Carl Parker
Technical Services Manager
Animal Health Veterinary Laboratories Agency
July 2011

1.0 Types of inspection

1.1 Primary Inspection
A primary inspection is the first inspection of any cycle of inspections. This will identify any non-compliances with the Regulations and dictate any further action to deal with these.

1.2 Secondary Inspection
Secondary inspections are those inspections carried out to check that improvements requested at a previous inspection have been undertaken. To obtain compliance it may be necessary to undertake more than one secondary inspection.

1.3 Inspection following reports from third parties
These inspections will occur as a result of information received from third parties such as the RPA, Assured Dairy Farms and Milk Buyers including where regulatory limits for plate count have been exceeded. They will take the form of a primary inspection described above unless the enforcement action is already being undertaken.

1.4 Inspection in response to a complaint
If a complaint is received about conditions on a milk production holding, a full primary inspection will be done within 3 working days unless a secondary inspection is already planned.

2.0 Policies

2.1 Accompanied Inspections
The Food Business Operator (FBO), his/her representative or a responsible person (adult family members, agents, manager or appropriate employee) should normally accompany the inspector on a primary inspection to answer questions on hygiene procedures and operating practices. However, unaccompanied inspections are permissible provided a responsible person is available towards the end of the inspection to discuss the outcome. A primary inspection may be aborted if no appropriate person is available.

2.2 Prioritisation of Inspections
Inspections should be carried out in the following order of priority.

1. Complaints from the public
2. Secondary inspections.
3. Primary inspections to FBO's who sell untreated milk.
4. Primary inspections due to information received from third parties.
5. Primary inspections generated under routine inspection frequency arrangements.

2.3 Recording information
The forms to be used to record information during inspections (Forms FHR1A, B and C) can be found at Annex 1

2.4 Appointments
Normally all inspections should be made without appointment. However, appointments may be made for inspections under the following limited circumstances:

- When there have been two consecutive aborted inspections due to the FBO or a representative not being available.

- To discuss differences of opinion on the interpretation of the Regulations (usually accompanied by a senior colleague).

2.5 If milk is not being produced
If milk is not being produced a decision will be made to either remove the FBO and the premises from the Register of Milk Producers or mark forward to arrange an inspection when milk is due to be in production.

2.6 If no appropriate person is available on the farm
When no appropriate person is available on the farm, no detailed inspection will be made. A signed, dated FHR1A form will be left on the farm.

2.7 If the Inspection is hampered
If the inspection is refused or is hampered the inspector will consider if any grounds given for hampering the inspection are reasonable (e.g. farm or family emergency, TB testing or RPA inspection). If so, the inspector will agree to come back on another occasion.

If the grounds are not reasonable and it is considered safe to do so, the inspector will notify the FBO that they are hampering the inspection. If co-operation is not obtained the FBO will be informed when possible, that obstruction of an authorised officier is an offence and a letter will be sent to the FBO explaining that an offence has been committed which may be referred to the FSA Investigation Branch and this may result in prosecution.

2.8 Evidence Gathering
Photographs and other evidence may be taken at any time during an inspection if the inspector wishes to do so. This must be done in accordance with AHVLA evidence gathering procedures.

3.0 On Farm Procedure

3.1 Procedures common to all types of Inspection
Inspections will be undertaken in accordance with Animal Health Veterinary Laboratories Agency's Health and Safety and biosecurity policies.

On arrival the Inspector will:

- Explain who they are, showing Food Standards Agency (FSA) 'Authority to Enter' card on all occasions.
- Explain the reason for the visit.
- Establish to whom they are talking and their position in the business.
- If they are not the FBO, determine if that individual is available. If not, consider whether the person is an appropriate individual to accompany the inspection.
- Explain the content of the inspection.
- Check that the business details are correct.
- It should be ascertained whether any untreated milk from the holding is sold for direct human consumption or has knowledge that the milk is used to produce unpasteurised products such as cheese or cream. This should be recorded on the producer details.

3.2 Primary Inspection

3.2.1 Inspection of animals and housing

Milk producing animals should be healthy and kept sufficiently clean to enable hygienic milking. The areas listed on the FHR1 should be assessed for compliance. Any non compliances with the Regulations and guidance on how to achieve compliance should be recorded on the FHR1.

Animal cleanliness & health

The milking animals should be inspected for cleanliness. Animals presented for milking must, prior to milking, have clean teats, udders and adjacent parts. If there are concerns the following aspects should be considered:

- Is the FBO aware that the milk from heavily soiled animals should not be sold for human consumption, as there is potentially a high risk of contamination?
- Is the FBO aware that milk must only come from animals that present no sign of disease that might result in the contamination of milk and colostrum? This includes animals suffering from any infection of the genital tract with discharge and animals with a recognisable inflammation of the udder or udder wound likely to affect the milk or colostrum.

3.2.2 Access routes, housing, feeding and grazing

It is not essential that these aspects are inspected unless there is evidence that animal cleanliness is being compromised by them. Areas to inspect are:

- Any aspect of the housing system that is likely to have an influence on animal cleanliness such as broken cubicles and frequency of cleaning out.
- Access between the milking area and the housing, feeding areas and fields, as appropriate for the season.

3.2.3 Veterinary medicines and veterinary inspections

The FBO's veterinary records should be inspected. Check that the records are complete and up to date. There is no set form in which the records must be kept however the records should show at least the following:

- The name of the animal medicine used.
- The date of administration.
- The quantity of animal medicine used.
- The identity of the animal / group of animals treated.
- The dates on which any withdrawal period for meat, milk or any other product ended.

Any recommendations for improvement should, if possible, be discussed with the FBO and noted on the FHR1.

3.2.4 Action where there are concerns about animal welfare

During an inspection if there are any concerns about animal welfare, i.e. an apparent failure to meet the requirements of the Animal Welfare Act 2006 these should be referred to the local Animal Health duty veterinary officer.

3.2.5 Inspection of milking operations

Milking practices should be sufficiently robust to ensure that the hazards associated with milking animals are recognised and managed and the risk of the contamination of milk minimised. Depending on the time of inspection, the milking routine will either be observed or discussed. During milking time inspections due care should be taken to minimise the disruption to milking.

The aspects below need to be assessed for compliance. Any non compliances with the Regulations and guidance on how to achieve compliance should recorded on the FHR1.

Teat Preparation

Teats, udders and adjacent parts must be clean before milking. Check that:

- appropriate facilities are available to enable the washing and drying of soiled teats and udders;
- the milking routine demonstrates that adequate procedures to avoid contamination of the milk are applied (at a milking time inspection);
- teat cup liners are free from faecal contamination;
- teat dips and sprays are being used in accordance with manufacturer's instructions

NB Cleanliness of milk filter medium does not demonstrate adequate teat cleanliness.

Detection and rejection of abnormal milk and milking of TB reactors

The inspector should check that the FBO is aware that milk, for human consumption, must come from individual animals that:

- Do not show symptoms of diseases communicable to humans through milk, or any signs of disease that may contaminate the milk, are free from enteritis with diarrhoea and fever, inflammation of the udder or infectious discharge from the genital tract.
- Are free from udder wounds that are likely to affect the milk
- Do not show a positive reaction to tests or deemed to be reactors for tuberculosis or brucellosis.
- Have not been subjected to unauthorised or illegal treatments and that the correct withdrawal periods have been observed for legal treatments.

The inspector should check:

- That foremilk is taken from each animal at each milking and examined for abnormality or that an equivalent method is used.
- That milk unfit for human consumption is rejected at the time of detection.
- That milk obtained from animals undergoing medical treatment, likely to transfer residues to the milk, or from animals with infections which can be passed on through milk, is kept out of the human food chain.
- That treated animals are effectively identified and that there is a readily available way of verifying which animals must have their milk kept out of the food chain and when it can be put back into the food chain. What is acceptable will depend on the size and nature of the business.
- What method is, or would be, used to keep milk from TB or Brucellosis reactors out of the human food chain and also those animals are effectively isolated. Ensure the FBO is aware that same treatment applies to animals which have had 2 successive inconclusive TB test results. If the herd has lost its TB free status it should be ascertained that the FBO is aware that milk produced on the holding from animals in the herd which are not reactors must be heat treated and that the milk buyer has been notified.

Operator Hygiene and cleaning routines

To judge the effectiveness of operator hygiene and cleaning routines, determine:

- What clothing is worn during milking,
- That protective clothing is clean and is kept clean or changed as needed.
- The availability of facilities for washing hands and arms and, if at an observed milking, that they are kept clean.
- The availability of facilities for cleaning the structure of the milking area.
- How the milking area is kept clean during milking.
- How the milking area is cleaned at the end of milking.
- What periodic cleaning is carried out.
- If there is any concern that persons performing milking and/or handling untreated milk are not in good health.

3.2.6 General Hygiene and structure

Structure and location

The milking premises should be assessed in relation to construction and location:

- Walls, floors and any fixtures should be kept clean.
- Floors should be free draining.
- All surfaces should be in a sufficiently good state of repair to enable them to be kept clean by the methods being used.
- The milking premises should be located so as to limit the risk of contamination of contamination of the milk.

Vermin control

The FBO should be questioned on their vermin control procedures and this noted on the FHR1. The FBO may be requested to provide evidence of the procedures.

Milk sample results

Discuss milk hygiene test results from milk buyers such as bactoscans and somatic cell counts and note them on the FHR1 form. Also record if test results were not seen.

3.2.7 Inspection of milking and cooling equipment and cleaning methods

The location and condition of the equipment, method of cleaning and cleanliness must be such as to ensure that the milk is not subjected to avoidable contamination. These aspects should be assessed and non compliances or risks of avoidable contamination found recorded on the FHR1. Any comments and guidance on how to reduce the risks and comply with the Regulations should also be noted on the FHR1.

Cleanliness of milk tanks and equipment.

The assessment of cleanliness should cover:

- All surfaces intended to come into contact with milk sold for human consumption
- Any other internal surfaces where air movement within the plant could contaminate the milk.
- External surfaces close to inlets where air entering the equipment could carry contamination into the milk.

Condition of milk tanks and equipment.

The assessment of condition is limited to surfaces intended to come into contact with milk sold for human consumption.

If the tank contains milk, the inspector should check the temperature shown on its thermometer. When this is not possible, milk collection tickets should be checked for the temperature at the time of collection.
If the milk storage vessel is fitted with serviceable filters, the servicing of these should be checked.

Construction and location of milk tanks.

Tanks should be constructed and located to avoid contamination. Tanks designed to be used within a milk storage room should not be used externally without appropriate modifications.

3.2.8 Cleaning Process & Recording

This covers both the processes for the milking machine and the milk cooling / storage equipment. Depending on the time of the inspection, the cleaning and disinfection routines will be observed, monitored and/or discussed. Consideration should be given to the suitability of the cleaning process, including:

- Frequency of application.
- Detergents / disinfectants used.
- Source, volume and temperature of water.
- Evidence of residues / contamination within the milking equipment.
- Periodic treatments.

The FBO or his / her representative may be requested to provide evidence that the temperature of the water and concentration of the chemical is regularly monitored.

3.2.9 Water supply

Check with the farmer that all private water supplies in use for dairy purposes are being monitored by the Local Authority. The FBO may be requested to provide evidence of the last test date and results. The type of water supply (mains, bore hole, spring, well etc.) should be noted on the FHR1.

Where a Private supply is in use the inspector must check:

- What purposes it is used.
- Any treatment applied to the private water supply for each form of use.

If a private water supply is being used and not tested by the Local Authority, then the inspector should inform the FBO or his/her representative, that AHVLA will inform the Local Authority of the situation.

Where the Local Authority have reported that a private water supply is unsatisfactory due to contamination (e.g. bacterial) the FBO should be asked to change to mains water or ensure that all water used for dairy purposes is treated. This requirement should be recorded on the inspection form (FHR1 / FHR2).

3.2.10 Inspection of washroom, milk storage and collection area

Consideration should be given to all aspects of hygiene and management with particular attention paid to areas listed on the FHR1. Any non compliances with the Regulations and guidance on how to achieve compliance should recorded on the FHR1.

3.2.11 General hygiene & management

During an inspection, a general assessment of the hygiene conditions observed in and around the facilities will be made and should be recorded along with the level of hygiene management practices demonstrated.

Areas to be considered:

- General standards of construction and management.
- Staff training undertaken on health risks.
- Vermin control.
- Prevention of animals and pests from causing contamination.
- Measures in place to control hazards and associated records.

Inappropriate articles and processes

The milk storage area should not be used for any purpose other than the filtering, cooling and storage of milk and processes connected with the cleaning of milking and milk storage equipment. Check that:

- The milk storage area and rooms communicating with the milk storage room are free from poisons and items likely to cause contamination.
- That clutter is not preventing effective cleaning.
- That the use of rooms opening off the milk storage area does not result in dirty or potentially contaminating items being taken through the milk storage area.

Structure

The structure should be assessed to ensure that:

- There is adequate protection against vermin.
- There is effective separation from areas used to house animals.
- It is constructed and maintained to limit the risk of contamination.
- Walls are cleanable.
- Floors are free draining.

Approach and surrounds

The access and surroundings should be assessed for hygiene and risk of deterioration. Assess:

- The proximity of potential sources of contamination to the milk storage facilities.
- Whether the immediate access should be capable of being kept clean.
- Whether the tanker can reach the collection point without becoming excessively soiled.

3.3 Procedures Specific to a Secondary Inspection

A secondary inspection will concentrate on the non-compliances of the Regulations found at the previous inspection.

4.0 Post inspection Procedures

4.1 Procedures on Farm

The inspector will:

- Record any non compliances and general improvements in hygiene practises that may be appropriate and clearly mark these on the FHR forms.
- Summarise the non compliances with the FBO or an appropriate person, giving sufficient technical advice on how to comply with the Regulations.
- If possible obtain a signature from the FBO or appropriate person to acknowledge receipt of the forms.
- Agree the time allowed for completion of the required works.
- Complete and leave the top copies of the FHR forms with the FBO or their representative.
- Explain what form of enforcement action, if any, will take place.

5.0 Subsequent Action

The appropriate form of action at the end of an inspection will depend on the conditions found, the farm assurance status of the producer and the type of product being sold or the type of process the raw milk will undergo if known.

Determination of interval to next inspection

5.1 Interval to secondary inspection
The interval between an inspection and the intended date of a subsequent secondary inspection will be determined by the seriousness of the non compliances found and will be not less than 14 days or the deadline set by the inspector for corrective action, whichever is the greater.

5.2 Interval to the next primary inspection
The intended interval to the next primary inspection will be measured from the last inspection (primary or secondary) and will be determined by:

- The type of product, e.g. raw drinking milk sales or use in unpasteurised products.
- The Farm Assurance status, assured or not

6.0 Procedures Specific To Particular Special Situations

6.1 Raw Drinking Milk Sales and Catering sales
Premises which sell untreated drinking milk for direct human consumption will be inspected every 6 months and in addition those selling raw cows' drinking milk will be subject to a milk sampling regime as required by the Food Hygiene Regulations 2006. Details of the regime (which will be carried out by a sampling body contracted on behalf of the FSA) are set out in Annex 2. Should the sampled milk fail to meet the requirements in the Regulations additional inspections may be carried out. At least one in every two inspections to these premises will be during milking or equipment cleaning.

6.2 Milk supplied to producers of unpasteurised milk products.
Premises which sell to producers of unpasteurised milk products will be subject to an inspection frequency of 2 years regardless of ADF membership.

6.3 Newly Registered Businesses
Where there is a new registration a full primary inspection will be carried out within 2 years of the production start date if the farm is farm assured under the ADF scheme, or 90 days if not under the assured scheme. If the producer intends to sell raw drinking milk, then the premises will be inspected prior to production commencing.

6.4 Inspection of milk production at agricultural shows
If milk produced at an agricultural show is sold for human consumption then the show organisers will need to be registered for the duration of the show. Inspection and enforcement procedures will be the same as for other milk producers.

6.5 Inspection in response to a complaint
If a complaint is received about conditions on a milk production holding, a full primary inspection will be carried out unless a secondary inspection is already planned.

Any further action will depend entirely on what is found during the inspection and will not be influenced by the fact that there was a complaint.

6.6 Investigation into an outbreak of food-borne disease linked to a dairy farm
Responsibility for investigating outbreaks of food-borne disease rests with the Local Authority. In situations where a milk producing farm is considered a possible source of the outbreak Animal Health Veterinary Laboratories Agency Inspectors may be asked to assist by assessing the hygiene methods on that farm.

7.0 Enforcement

The Animal Health Veterinary Laboratories Agency Dairy Hygiene Enforcement Policy can be found at Annex 3. Enforcement includes advice on compliance with the regulations provided as part of a statutory inspection, advising the FBO on how to comply and formal enforcement action.

Informal enforcement action includes self certificates, warning letters. Formal enforcement action includes Hygiene Improvement Notices and referral to FSA Investigation Branch, which could lead to prosecution.

7.1 Self Certification
Where the level of compliance is such that further action is required, but not sufficient for a secondary inspection, a self certification form (COWCO) will be used, requesting that the work is carried out by a particular date and that the FBO return a self certificate confirming the work has been completed.

7.2 Warning Letter
Where the level of compliance is such that further action is required and is sufficient for a secondary inspection then a warning letter will be sent stating the non compliances found requesting that the work is carried out by a particular date. It warns the FBO that formal enforcement action in the form of a HIN or prosecution may take place if improvements are not achieved. A letter will be sent to all partners in a business partnership.

7.3 Hygiene Improvement Notice
A Hygiene Improvement Notice will be issued where the level of compliance is found to be poor or when there has been a failure of the FBO to comply with a previous warning letter. The FBO will be given a minimum of 14 days from receipt of the HIN before a secondary inspection takes place. Separate Hygiene Improvement Notices will be issued for each non compliance. They will be copied to all partners in the business and accompanied by a letter.

After service of a HIN, Animal Health Veterinary Laboratories Agency will check that it is complied with by the stated date.
Where compliance is achieved, Animal Health Veterinary Laboratories Agency will confirm in writing to the FBO that the works carried out are satisfactory.

7.4 Referral to FSA Investigation Branch
Referral to FSA Investigation Branch shall take place where a Hygiene Improvement Notice has not been complied with or where an inspector has been obstructed by the FBO.

7.5 Court Proceedings

At the request of the FSA Legal Branch a further inspection may take place to confirm whether the non-compliance(s) still exist.

7.6 Choice of enforcement action

A flow chart showing the steps in the enforcement policy procedures is at Annex 4.

Within a particular cycle of inspections the appropriate level at which enforcement action will start will depend on the level of compliance found and the previous compliance history of the FBO.

7.7 Subject of enforcement action

Any FBO or person who is the subject of enforcement action will be kept fully informed of any actual or intended enforcement action by Animal Health Veterinary Laboratories Agency.

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FOOD STANDARDS AGENCY

Hygiene Inspection Report: Dairy

The Food Hygiene (England) Regulations 2006, The Food Hygiene (Wales) Regulations 2006
Regulations (EC) Nos 852/2004, 853/2004, 854/2004 (as amended)

CPH: …../……../……..…/….. *FBO …….....
Food Business Operator

Date …..……. Time …….

Type of inspection	Primary / Secondary / Aborted / Other	Operational	Y / N

Summary of inspection

Further action	Information to be Supplied	Primary Inspection	Secondary Inspection	Guidance Letter	Warning Letter	Hygiene Improvement Notice	Referral to FSA Investigations Branch

Person seen		Dairy Inspector	
Signature of recipient		Signature	
Status		Contact number	

* A 'Food Business Operator' is the natural or legal persons responsible for ensuring that the requirements of food law are met within the food business under their control.

Do not write in this area

FHR1A (rev04/10) Operator copy

ANNEX 1

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FOOD STANDARDS AGENCY

Hygiene Inspection Report: Dairy

The Food Hygiene (England) Regulations 2006, The Food Hygiene (Wales) Regulations 2006
Regulations (EC) Nos 852/2004, 853/2004, 854/2004 (as amended)

CPH: …../……../……..…../….. *FBO …….....
Food Business Operator

Date …..……

Animals and Housing	
Animal cleanliness & health	
Access routes, housing, feeding, grazing inc. isolation facilities	
Veterinary medicines/supervision	
Operating methods	
Teat preparation	
Detection and rejection of abnormal milk inc. milking of TB reactors	
Operator hygiene & cleaning routines	
General hygiene & structure inc. vermin control	
Milking & Cooling Equipment	
Cleanliness of internal surfaces & high risk areas	
Cleaning process & recording inc. water supply	
Condition of milk storage tanks & milking equipment	
Washroom, Milk Storage & Collection	
General hygiene & management inc. vermin control	
Inappropriate articles & processes	
Structure	
Approach & surrounds	

* A 'Food Business Operator' is the natural or legal persons responsible for ensuring that the requirements of food law are met within the food business under their control.

Dairy Inspector

Milk hygiene results	Bactoscan	
Seen Y / N	SCC	

Signature

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FOOD STANDARDS AGENCY

Hygiene Inspection Report: Dairy

The Food Hygiene (England) Regulations 2006, The Food Hygiene (Wales) Regulations 2006
Regulations (EC) Nos 852/2004, 853/2004, 854/2004 (as amended)

CPH: …../……../……..…../….. *FBO …….....
Food Business Operator

Date …..……

Parlour type, size and equipment

Type		Stalls		Units		Milking Staff	

Feeding		Throughput/hour		Drop hoses		Hose for swilling		ACR	

Abnormal Milk Management

TB Reactors Milk

Milking Routine

Milking Equipment Cleaning Routine (inc tank/silo)

* A 'Food Business Operator' is the natural or legal persons responsible for ensuring that the requirements of food law are met within the food business under their control.

Dairy Inspector

Signature

Customer Service Standards

We are committed to providing a responsive and efficient, high quality service that is valued by our customers. We will ensure that we respond courteously, helpfully and professionally with all customer contact. We endeavour to complete inspections in an efficient manner through full co-operation of the Food Business Operator or his/her representative.

Full details of our Customer Service Standards and Complaints procedure are available upon request from your local Office. Below are the key points:

Telephone Calls

- We aim to respond to your telephone calls promptly. When we answer the telephone or make telephone calls to you, you will be given the name of the person you are talking to. If the first person you speak to cannot deal fully with your enquiry, we will seek to transfer you to someone who can.

Correspondence

- We aim to provide a full reply to correspondence within 15 working days or, if this is not possible, we will write to explain the reason for the delay and give an indication as to when a full reply can be expected.
- Should you have any cause for complaint about the way we operate or the service we provide, you can tell us by telephone, in writing, by fax or by email. We aim to ensure that we resolve complaints promptly and informally whenever possible.

Monitoring and Improving Our Standards of Service

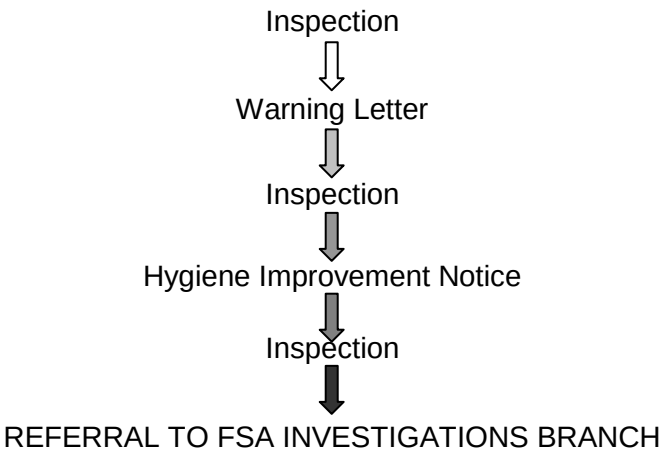
- We are dedicated to identifying and serving the need of our customers and are always looking for ways to improve the service we give. We will aim to provide information and advice in plain language and ensure that the information is accurate, straightforward and readily understood.
- We will seek feedback from our stakeholders on issues that affect them and levels of satisfaction with our service. We will ensure customer responses are relayed back to our managers or operational staff so action can be taken to continually improve our quality of service.

Enforcement Policy – Dairy Hygiene

- Where only minor contraventions of the Regulations are identified at an inspection, written details will be left at the premises at the time of inspection. You may be required to return a 'Confirmation of Works Carried Out' card to confirm that the required improvements have been completed.
- Where contraventions of the Regulations are of a more serious nature a Warning Letter will be issued. The letter will include the nature of the fault(s) identified, what must be achieved, recommended work / actions and a date by which the work must be completed.
- Where contraventions of the Regulations are very serious, recurring or outstanding from a previous inspection, then a Hygiene Improvement Notice will be issued. Failure to comply with a Hygiene Improvement Notice could result in prosecution.
- Hygiene Improvement Notices may also be issued when analyses of samples taken e.g. Private Water Supplies or Raw Cow's Drinking Milk, indicate that they have not achieved the requirements of the Regulations.
- Where a Hygiene Improvement Notice is issued, the notice will contain details of your rights to appeal to a magistrates' court.
- Prosecutions will be taken by the Food Standards Agency and are appropriate where there is unwillingness by the Food Business Operator to comply with the Regulations and / or there is a risk to public health. Any person who hampers or obstructs an inspection or inspector will be prosecuted, whether or not they are a Food Business Operator.

Flowchart of Enforcement

(Enforcement action may commence at any point)



Untreated Milk for Human Consumption - Policy and Procedures

Untreated drinking milk for direct human consumption potentially poses a significant risk to public health as it may contain organisms harmful to health. Raw cows drinking milk will be sampled and action will be taken where samples fail the microbiological criteria set down in The Food Hygiene (England) Regulations 2006 and Food Hygiene (Wales) Regulations 2006 (as amended).

Animal Health Veterinary Laboratories Agency manages the untreated milk sampling programme for retailers or users (caterers) throughout England and Wales.

Any milk producer wishing to retail untreated cows' milk or use untreated milk within an on-farm catering enterprise must notify their local Animal Health Veterinary Laboratories Agency office who will instigate the sampling programme as required in Regulation 32 of the Food Hygiene (England) Regulations 2006 and Food Hygiene (Wales) Regulations 2006. A designated sampling and laboratory service will take the samples.

Ongoing Untreated Cows' Milk Retailers – A sample of untreated milk from either the holdings' bulk milk tank or packaged product, will be analysed approximately four times per year.

Ongoing Untreated Cows' Milk Caterers – A sample of untreated milk from the holdings' bulk milk tank will be analysed approximately four times per year.

Should a routine sample of untreated milk fail to achieve the standards required by the Regulations the milk producer will be advised to cease selling raw milk directly to the public. If the milk producer continues with this type of sale follow up samples will be taken and the enforcement procedures detailed below will be followed. Follow up sampling and enforcement will continue until the sample results comply with the requirements of the Regulations. This is usually after two consecutive samples have met the requirements. The producer's local Environmental Health Officer will be notified of failed samples. Should the milk producer decide to suspend sales sampling will cease. Before recommencing the milk producer should inform Animal Health Veterinary Laboratories Agency.

Enforcement Procedures

It is an offence to place milk on the market that has failed to meet the requirements of the Regulations. In the event of a sample failing the following hierarchy will be followed:

1. First failure - verbal advice confirmed in writing.
2. Second failure - inspection followed by formal warning in writing.
3. Third failure – Issue of a Hygiene Improvement Notice.
4. Fourth or subsequent failure – Referral to the FSA Investigation Branch for consideration of further action including prosecution or formal caution.

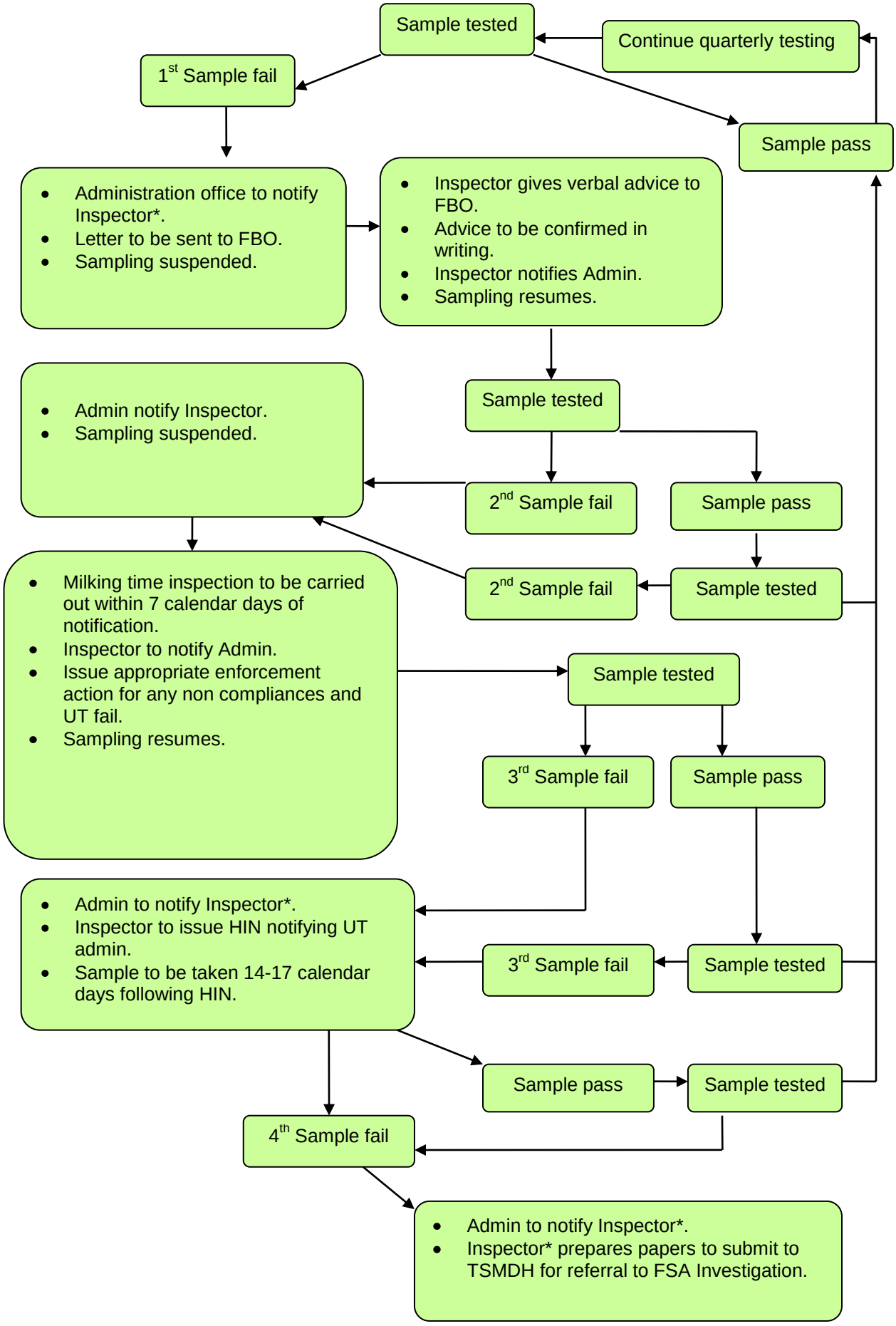
Untreated Cows' Milk for Human Consumption - Sampling Procedures

A FBO is required to notify Animal Health Veterinary Laboratories Agency if they intend to sell untreated cows' milk to the ultimate consumer, through retail sales or catering use. Animal Health Veterinary Laboratories Agency will instigate the sampling programme as required by the Regulations.

On average sampling of untreated milk will occur approximately every 3 months. Such a sample will be deemed to be a routine sample with subsequent samples being designated as follow up samples. All samples will be taken by a sampling contractor.

The details of sampling procedures are shown in the flow chart.

Testing of Untreated Milk – Procedures Flowchart



ANNEX 3

ANIMAL HEALTH VETERINARY LABORATORIES AGENCY DAIRY HYGIENE ENFORCEMENT POLICY

1. This document explains the enforcement policy that Animal Health Veterinary Laboratories Agency staff should apply when taking enforcement action against FBOs who do not comply with the regulatory requirements for dairy hygiene. The aim of the policy is to ensure that, in line with the principles of Better Regulation, enforcement decisions are consistent, fair, transparent, proportionate and accountable and that the health of consumers is protected.

2. We believe that preventative action is better than corrective action and will actively work with FBOs to help them comply with the law.

3. A clear message will always be given to FBOs that it is their responsibility to comply. We will assist in explaining legal requirements and distinguish them from best practice. Reasonable time scales will be set for the FBO to achieve compliance. We will not impose requirements on FBOs that go beyond the requirements of the legislation.

4. Each situation may involve different variables and each case will be judged on the individual circumstances. We will aim to explain clearly in each case why remedial action is required and discuss what steps are needed to comply.

5. A “Practical Guide for Milk Producers” has been sent to all milk production holdings in England and Wales. This guidance booklet aims to clearly set out the statutory requirements.

Enforcement Action

6. Enforcement action is targeted at FBOs who fail to comply with the requirements of the Regulations. We have a system of prioritising regulatory effort based on an assessment of the level of compliance with the Regulations.

7. In general, we will aim to secure compliance through the use of appropriate enforcement action. Where the FBO has not complied with previous written advice, we may seek compliance by serving a formal statutory notice. Such notices will specify the grounds for believing the FBO is failing to comply with the legislation, the precise nature of the alleged contravention, the measures to be taken to secure compliance, or works to an equivalent effect, any time scales if appropriate and the appeal provisions available under the legislation.

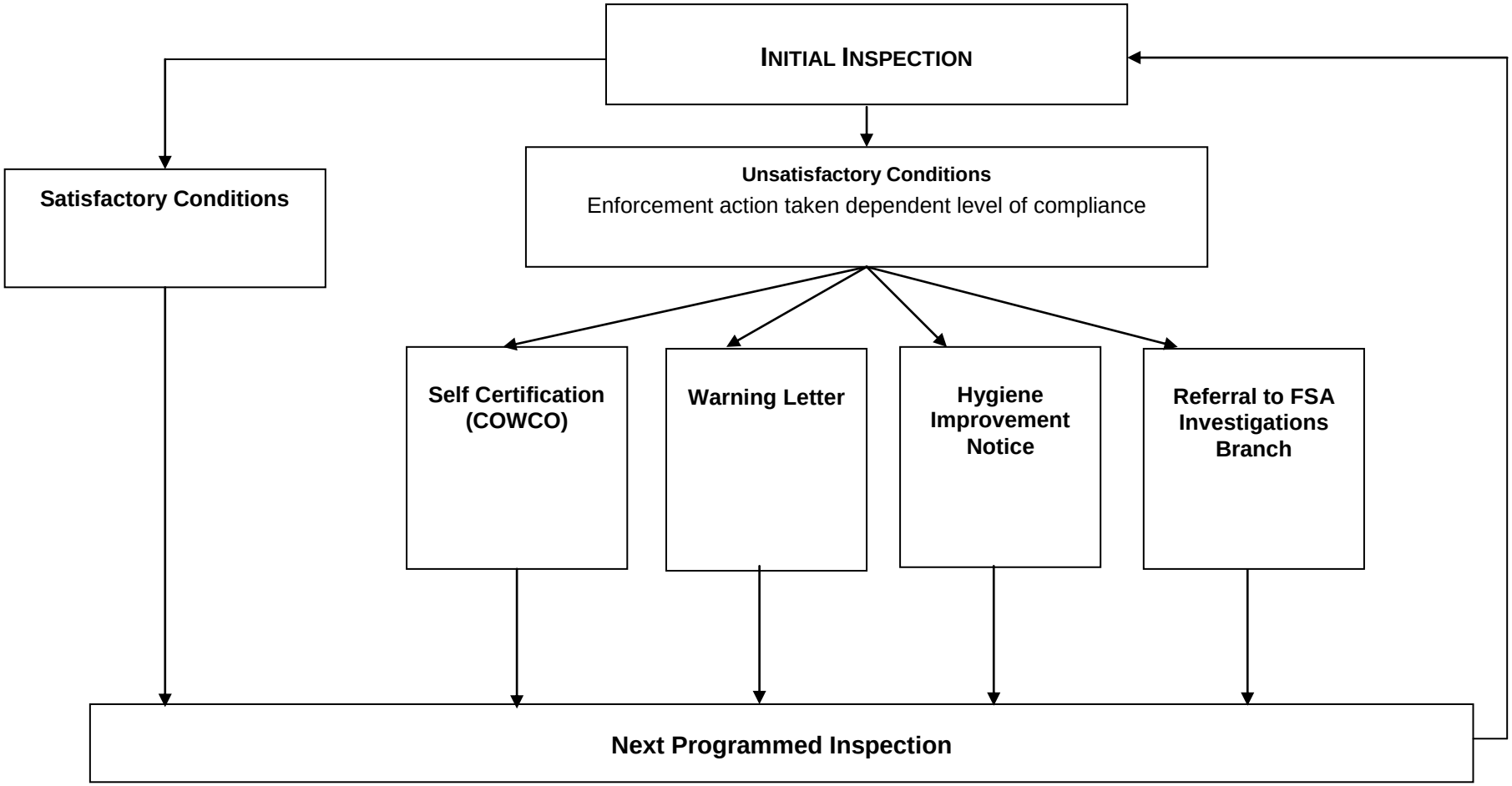
8. Where the level of compliance poses a risk to public health, or where structural, operational, maintenance or cleaning issues need rectifying, a Hygiene Improvement Notice (HIN) may be served on the FBO. A HIN may in certain circumstances be issued straight away where history indicates that other forms of action have not been successful. Circumstances may be such that a recommendation for prosecution is made to the FSA in addition to serving the HIN.

9. The HIN will be withdrawn if compliance is achieved within the timescale specified. Where compliance is not achieved within the timescales specified by the Notice, an offence may have been committed. We will then refer the case to the FSA for further action. This could result in prosecution.

10. Where an inspection is obstructed and co-operation is not obtained the FBO will be informed at the time that this is an offence. A letter will be sent to the FBO explaining that an offence may have been committed and this could be referred to the FSA Investigation Branch which could result in prosecution.

11. Formal intervention will normally have followed a progression throuhg the “hierarchy of enforcment”. However, where the contravention is of a serious nature, or where there is

a record of persistent no-compliance by the FBO, the inspector may seek to initiate foraml action at any level including prosecution.

ANNEX 4

ANIMAL HEALTH VETERINARY LABORATORIES AGENCY
DAIRY HYGIENE ENFORCEMENT POLICY