

Health and Safety Executive		Operational Circular	
Field Operations Directorate		OC 523/6	
Review Date	30/04/2011	Open Government Status	Fully Open
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To
 AFQ Inspectors
 Specialist Group Inspectors (Occ hyg, Med and Occ Health)
 Workplace Contact Officers

ALLEGED RESTRICTIONS ON ENTRY INTO FOOD HANDLING PREMISES

This OC, which cancels and replaces OC 523/2, informs inspectors that there are no legislative requirements imposed in European Directives or UK legislation which would restrict their right of entry to food handling premises, provided they satisfy the employers reasonable requirements and do not act in a way which might contaminate foodstuffs.

BACKGROUND

1. Some inspectors have reported that food handling companies have alleged that inspectors wishing to enter food handling areas will have to have a medical examination including a stool test to establish they will not present a hygiene risk to the food and in order that the occupier may demonstrate that they had used 'all due diligence' to comply with food safety legislation.
2. More recently, inspectors have reported that food handling companies sometimes require completion of a visitor's health questionnaire which inspectors felt might disclose more personal medical information than required and which might not be stored and treated as medically confidential data.

LEGISLATIVE REQUIREMENTS

3. The Food Standards Agency (FSA) have confirmed to the Food Section that there is nothing in European Directives or UK food hygiene legislation which requires an enforcement officer to be medically examined or undergo a stool test prior to being allowed into food premises. However, it is an offence under the Food Safety Act 1990, s.8 for any person to sell food for human consumption that fails to meet food safety requirements. This failure to comply might be because the food is unfit or so contaminated that it would not be reasonable to expect it to be used for human consumption in that state. The Food Safety Act s.21 allows that for any proceedings instituted under the relevant provisions, it shall be a defence for the person charged to prove that they took all reasonable precautions and exercised all due diligence to avoid commission of the offence by themselves or by a person under their control. On these grounds, it is reasonable to assume that some food companies will require visitors to their premises to

fill out a health questionnaire.

4. Pursuant to powers found in the Food Safety Act 1990, reg.4(2)(d) and the Food Safety (General Food Hygiene) Regulations 1995 (SI 1995 No 1763) Schedule 1, Chapter VIII, paragraph 2 provide that 'No person, known or suspected to be suffering from, or to be a carrier of, a disease likely to be transmitted through food or while afflicted, for example, with infected wounds, skin infections, sores or with diarrhoea, shall be permitted to work in any food handling area in any capacity in which there is any likelihood of directly or indirectly contaminating food with pathogenic micro-organisms'.
5. Where these Regulations do not apply, there are a number of other food safety legislative requirements (eg for meat products) which require a medical certificate for food production staff. Such a certificate should prove that there is no medical impediment to such employment. However, the FSA have confirmed that this requirement would not apply 'to any of those people – including HSE inspectors, carrying out a statutory function – who might visit plants in which staff are employed'. The FSA have indicated that the requirement for a stool test may be of limited value because of the possibility that a pathogen present in the stool may not be detected in a single sample. In addition, there is the potential that a person may become infected after the stool test is done, but before visiting the premises.

COMPANY SCREENING PROCEDURES

6. In order to cooperate with the company/business so that it may meet the above requirements, inspectors should be able to assure the company that they are not suffering from any medical condition which would be a cause for concern and should refrain from touching any food product or processing equipment which is in operation or cleaned ready for operation (except after discussion with an appropriate company representative).
7. Furthermore, inspectors and other visitors may legitimately be requested by the company to fill out a health questionnaire/visitor's medical check list prior to entering the production area of food handling premises. An example of an appropriate questionnaire is given at the [appendix](#), the questions are taken from Table 5 of *Food Handlers - Fitness to work - Guidance for food businesses, enforcement officers and health professionals* (1995) published by the Department of Health (and now the responsibility of FSA). The additional wording concerning the purpose for which the information is kept, to whom the information may be disclosed, how the information will be kept and for how long, is a requirement to satisfy the Data Protection Act 1998.
8. Any problems should be referred to the Food Section, Glasgow Office.

CANCELLATION OF INSTRUCTIONS

9. OC 523/2 - **cancel** and **destroy**.

Date first issued: 30 April 2001

(220/FOD/1015/2001)

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APPENDIX
(para 7)

FOOD HANDLER'S/VISITOR'S QUESTIONNAIRE

- | | | |
|---|---|--------|
| 1 | Have you now, or have you over the last 7 days, suffered from diarrhoea and/or vomiting? | Yes/No |
| 2 | At present, are you suffering from: | |
| | (i) skin trouble affecting hands, arms or face? | Yes/No |
| | (ii) boils, styes or septic fingers? | Yes/No |
| | (iii) discharge from eye, ear or gums/mouth? | Yes/No |
| 3 | Do you suffer from: | |
| | (i) recurring skin or ear trouble? | Yes/No |
| | (ii) a recurring bowel disorder? | Yes/No |
| 4 | Have you ever had, or are you know known to be a carrier of, typhoid or paratyphoid? | Yes/No |
| 5 | In the last 21 days have you been in contact with anyone, at home or abroad, who may have been suffering from typhoid or paratyphoid? | Yes/No |

Data Protection Act 1998

- 1 The purpose of this questionnaire is to assist *(name of company)* in complying with the requirements of food safety legislation.
- 2 Information given will only be disclosed to *(state recipient/s of information)*.
- 3 The completed questionnaire, and information therein, will be stored *(state method of storing information)*.
- 4 The completed questionnaire, and information therein, will be stored for *(state period)*.