

Annex B

Section 31 (law enforcement)

Information in the spreadsheet which relates to the geographical area, establishment number, and names of the establishments has been withheld under section 31(1)(c) and (g) and 31(2) (a) and (c) as the information is held for the purposes of law enforcement.

The relevant section of the Act is as follows:

Section 31(1) Information . . . is exempt information if its disclosure under this Act would, or would be likely to, prejudice

(c) the administration of justice and

(g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2);

(2)(a) the purpose of ascertaining whether any person has failed to comply with the law;

(2)(c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise.

As the responsible enforcement body, it is for the FSA to lead an investigation into potential non-compliance of animal welfare regulations at slaughter and to determine what action, if any, should be taken. Section 31(g) and (2) (a) and (c) is engaged as disclosure of the information would be likely to prejudice the FSA's ability to determine the course of its investigations and any enforcement action that might be justified.

The FSA also considers that the exemption in section 31(1) (c) of the Act would also be engaged if the FSA were to disclose the names of the food businesses, should a decision be made in the future, in the event of further evidence gathered from monitoring the Food Business Operator's (FBO's) compliance regarding requirements of the welfare of animals at slaughter legislation, to make a referral for prosecution for future non-compliances. This is because disclosure would put adverse information into the public domain about the FBO's compliance record, particularly in relation to an emotive issue such as animal welfare, which would be likely to affect its right to a fair trial.

As a qualified exemption, section 31 requires the undertaking of a public interest test to decide whether the balance of the public interest weighs more heavily in favour of withholding the information or releasing it. There is a lot of public concern about animal welfare and the adherence to regulations governing the welfare of animals at slaughter is given a high priority by the public. It is also in the public interest for there to be confidence in the FSA that where breaches take place the FSA is prepared to take enforcement action.

Against disclosure, however, there is a stronger public interest in ensuring compliance with relevant legislation and in ensuring that public authorities, both in the UK and in other countries, are not hampered in their ability to perform their regulatory functions in relation to law enforcement. We have, therefore, concluded that the balance of the public interest weighs more heavily in favour of withholding the information.