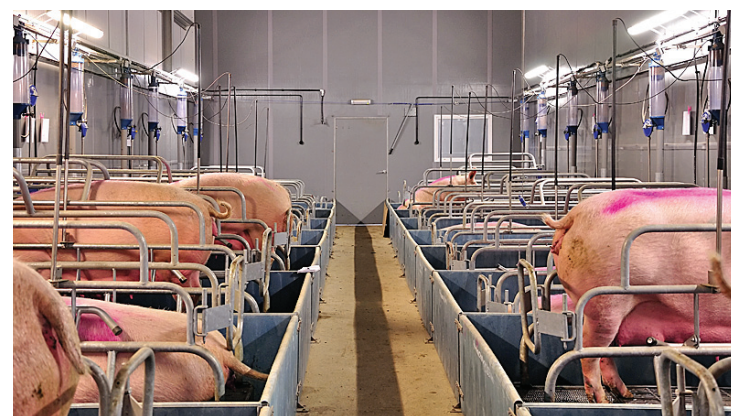


# Code of Conduct

## Addressing Odour complaints

Version 2 August 2013





This Code of Conduct has been prepared to outline the key steps and responsibilities of parties involved in resolving odour pollution issues attributed to pig and poultry farms. All parties have a role to play in resolving odour complaint issues and the exchange of information is an important and necessary part of this procedure. This document should be used in conjunction with the Pig/Poultry Industry Good Practice Checklist in the event of any odour complaint received by the farm operator/responsible person either directly or via the Regulator. This code of conduct should be made available to all interested parties.

### Legal position

This code does not affect a farmer's legal responsibilities. Where there is a permit, it is the permit holder's responsibility to comply with that permit. This code is intended to provide practical measures to help achieve that and to generally help resolve odour issues attributed to pig and poultry farms.

### Managing expectations

Many commercial activities will, on occasion, be responsible for odours, but the intensity and duration of these should not cause offence or impact on the wellbeing of others. The presence of occasional farm smells is not necessarily sufficient grounds for complaints to be made against a farm business, but at the same time farmers must respect the local community's right not to suffer from nuisance (please refer to annex 1 for definition of nuisance).

The rural landscape encompasses agriculture and food production. Farmers live and work within their local community, provide employment and contribute to the local and regional rural economies. Promoting these benefits and encouraging a local understanding of your business can help to maintain good relationships with the community, and reduce the chances of complaints escalating.

### Key parties

- Farm operator; owner, manager, contractor (Farmer)
- Regulator; Environment Agency (EA), Local Authority (LA) Environmental Health Department
- Public (Complainant)

Each party must be prepared to enter into discussions and seek to resolve issues in a timely and efficient manner in order to achieve a workable solution without the need for court proceedings or enforcement action. Each party is advised to maintain complete and accurate records of any relevant communication and/or activity.

### Complaints Procedure

#### – What is expected of each party?

#### The farmer\*

- Each farm unit should nominate a suitable person, plus deputy (for periods when the principal person is unavailable), to be responsible for receiving odour complaints
- Each farm unit should provide the contact details to the regulator as both regulators have a duty, the EA to ensure compliance with an environmental permit and the LA to investigate complaints under statutory nuisance legislation.
- When receiving a complaint you should make a record of this. The preferred format is the “Odour Complaint Form” (**appendix 1, Environment Agency Guidance Document H4**) or in accordance with local authority guidance as appropriate. Alternatively, as much information as possible should be collected from the person informing the complaint. The purpose of collecting the information is to;
  - Identify source or specific issue
  - Minimise the risk of repetition
  - Reduce the intensity of odour experienced

- You should as soon as reasonably practical investigate the complaint and record findings. This includes determining the exact source of the odour.
- When a complaint has been made:
  - if the odour is still present, investigate how you can reduce or stop it immediately
  - if the odour is no longer present, as soon as practicable investigate ways to prevent reoccurrence or the odour becoming so intense in future.
- If the incident is deemed to be a “one off” due to particular circumstances, the Complainant(s)/Regulator should be informed and procedures or systems put in place to prevent reoccurrence.
- If the source of the complaint is not immediately apparent, then you should investigate further using industry specific guidance (checklist) and consider possible solutions and their applicability to your farming system / business.
- Before implementing possible solutions, you should discuss these with the Regulator and, if deemed appropriate, with the complainant or local representatives.
- As well as monitoring odour yourself, it can be useful to involve the local community in odour monitoring also (please refer to the Government issued local authority guidance; (<http://www.defra.gov.uk/publications/2011/06/15/pb13554-odour-guidance-local-authority/>) ).

### Community engagement

- Proactive community engagement prior to any problems should always be considered
- In the event of regular complaints, engagement with the local community is considered essential. This should follow guidelines as laid out in **Environment Agency Guidance H4**

### Examples of good practice may include:

- Ensuring the community know who you are and how to complain to you to give you the best chance of identifying the causes of any issues
- Explaining and communicating when the most odorous times will be, and the reasons why, can help the local community to understand what is happening and be more tolerant of short term, temporary smells
- When dealing with problems – liaising with residents and their diaries to help identify the causes
- Keeping neighbours informed of what is being done to overcome problems and timescales – inviting them to inform you of any improvements as well as problems

\* “farmer” refers to farm operator, owner, manager or contractor.

### The regulator

- Each Regulator should provide relevant contact details to the responsible person/department to the farmer/relevant person on farm.
- Complaints received by the Regulator must be relayed to the responsible person at the farm without delay (ideally within a period of 24 hours including weekends, however where this is not possible the Regulator must attempt to contact the farm the very next working day)
- A Regulator receiving a complaint about a farm it doesn't regulate should inform the other regulator as soon as possible
- When a Regulator visits the farm he/she should tell the farmer if there are any complaints that have been or may be substantiated. This should then be confirmed in writing as soon as possible following the farm visit.
- Possible solutions should be discussed with the farmer to decide if they are appropriate/ applicable to the site.

## The public

Complaints should be made either directly to the farm, or appropriate Regulator without delay

- Complaints submitted, should include as much information as possible to assist those responsible for the alleged odour source to investigate the cause. The preferred format is the “Odour Diary” form (appendix 1, **Environment Agency Guidance Document H4**). Alternatively, the following information is suggested;
  - Time first identified
  - Duration
  - Description of odour and intensity
  - Weather conditions at the time of the complaint (e.g. wind direction)
  - Any activity at the ‘source’ which could provide an indication to the cause
  - Any other activity within the vicinity which could be a source of odour or impact upon the offensive odour
  - In accordance with local authority guidance as appropriate

## References and suggested further reading

NFU/NPA/Hewitsons leaflet entitled Permits,

**Pigs and Poultry – What a Nuisance!\*\***

(<http://www.nfuonline.com/Your-sector/Poultry/News/NFU-and-NPA---guidance-document-on-permits-for-pig-and-poultry-members/>)  
([http://npa-uk.org.uk/Members/Library/NFU\\_Nuisance\\_Pig&Poultry\\_FINAL.pdf](http://npa-uk.org.uk/Members/Library/NFU_Nuisance_Pig&Poultry_FINAL.pdf))

\*\*NFU/NPA members only

Defra; Environmental Permitting Guidance – Statutory Nuisance s79(10) Environmental Protection Act 1990 (updated February 2011)  
(<http://www.defra.gov.uk/publications/files/pb13630-ep2010stat-nuisance.pdf>)

Odour Guidance for Local Authorities; Defra, 2011 (publication no. PB13554)  
(<http://www.defra.gov.uk/publications/2011/06/15/pb13554-odour-guidance-local-authority/>)

This code of conduct document **MUST** follow the Environment Agency document:

- H4 Odour Management – How to comply with your environmental permit (<http://publications.environment-agency.gov.uk/PDF/GEHO0411BTQM-E-E.pdf>)

It can be used in conjunction with the following Environment Agency documents;

- Technical Guidance Note IPPC SRG 6.02 (Farming); Odour Management at Intensive Livestock Installation  
([http://www.environment-agency.gov.uk/static/documents/Business/manguidance\\_1056765.pdf](http://www.environment-agency.gov.uk/static/documents/Business/manguidance_1056765.pdf))
- EPR 6.09 Sector Guidance Note; How to comply with your environmental permit for intensive farming (Appendices 1 – 6)  
(<http://publications.environment-agency.gov.uk/PDF/GEHO0110BRSC-E-E.pdf>)

Furthermore please refer to the following documents for detailed background information;

- BREF document; Integrated Pollution Prevention and Control (IPPC) Reference Document on Best Available Techniques for Intensive Rearing of Poultry and Pigs, July 2003  
(<http://eippcb.jrc.es/reference/irpp.html>)
- Protecting our Water, Soil and Air, A Code of Good Agricultural Practice for farmers, growers and land managers (Defra) (<http://www.defra.gov.uk/publications/files/pb13558-cogap-090202.pdf>)
- The 1998 Code of Good Agricultural Practice for the Protection of Air (Defra)  
(<http://adlib.everysite.co.uk/adlib/defra/content.aspx?id=000IL3890W.16NTBWNAAEMEP8>)

## Other useful links

<http://www.bpex.org.uk/environment-hub/>  
<http://www.britishpoultry.org.uk/>  
<http://www.nfuonline.com/>  
<http://www.npa-uk.org.uk/>  
<http://www.environment-agency.gov.uk/>  
<http://www.britegg.co.uk/>

## Annex 1 – additional information

### What is a nuisance?

In common law, a nuisance may occur when the activities of person A on his land affect person B's reasonable enjoyment of his property. So, if person A creates an unreasonable level of odour or noise, for example, that may constitute a nuisance if person B's enjoyment of his own property is affected. Person B may seek to initiate court proceedings claiming damages for the harm suffered, and/or an injunction to prevent future occurrences of the problem. This is commonly known as "private nuisance".

Private nuisance claims are very fact sensitive, and all surrounding circumstances will be taken into account. One of the factors that are likely to be particularly relevant is the character of the area. What is "reasonable" in a residential area is likely to differ to what is reasonable in a rural or industrial area for example.

English law also has a category of "statutory nuisance", regulated by the Environmental Protection Act 1990 (EPA). Activities covered by these provisions include:-

- any dust, steam, odour or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance (EPA section 79(1)(d));
- any animal kept in such a place or manner as to be prejudicial to health or a nuisance (EPA section 79(1)(f)); and
- noise emitted from premises so as to be prejudicial to health or a nuisance (EPA section 79(1)(g))

Statutory Nuisance from Insects and Artificial Light –

This guidance covers sections 101, 102 and 103 of the Clean Neighbourhoods and Environment Act 2005, which amend sections 79, 80 and 82 of the Environmental Protection Act 1990 to extend the statutory nuisance regime to include two new statutory nuisances:

- statutory nuisance from insects; and statutory nuisance from artificial light.

This guidance is aimed at local authorities, particularly Environmental

Health Practitioners who enforce nuisance legislation. It may also be useful to other agencies.

Local authorities are under a duty to inspect their areas from time to time to detect statutory nuisances which ought to be dealt with under the legislation and to investigate complaints made by residents in their area.

Statutory nuisances may result in the service of an abatement notice by the local authority. Failure to comply with a condition contained in an abatement notice is a criminal offence, and may result in the local authority taking action to abate the nuisance.

NFU Farmer and Grower members can obtain further information in NFU Business Guide 079 Statutory nuisances and how to react to odour, noise and other abatement notices

### Permitting

Many Environmental Permits (including those formally known as IPPC permits) include conditions relating to odour prevention. It is essential that these conditions are complied with, as breaching the conditions of a permit may constitute a criminal offence. In addition, records kept in order to demonstrate compliance with these conditions may, in some instances, be useful if complaints are made.

However, the courts have ruled that the law of nuisance and Environmental Permitting run in parallel to each other. So, the fact that an activity is being carried out in accordance with the conditions attached to an environmental permit does not necessarily mean that the activity cannot constitute a nuisance. Similarly, the fact that an activity is authorised by planning permission does not mean that the activity cannot constitute a nuisance.

In view of the above, it is important that complaints are addressed, even where the activity in question is regulated by permit conditions etc.