

FEED DELIVERY PROJECT

1 Purpose of the paper

- 1.1 The purpose of this paper is to provide the Board with an **update** on the feed delivery project and to ask the Board to note future direction of the development of the model.
- 1.2 The Board is asked to:
 - **Agree** that FSS should now move towards an alternative model of delivery for feed controls.
 - **Note** the implementation of the proposed route through a procurement exercise to deliver an effective model for feed official controls.
 - **Note** the current timescales involved in delivering this project

2 Strategic Aims

- 2.1 This work supports FSS Strategic Outcome 1 – Food is safe, Outcome 4 – Responsible Food Businesses Flourish and Outcome 6 – FSS is efficient and effective.

3 Background

- 3.1 The Board is reminded of previous discussions and decisions made in [September 2015](#), [January 2016](#) and [December 2016](#) concerning the future delivery of feed official controls in Scotland following non-compliances raised at audit by the EU and FSA, as well as declining levels of official control delivered by Local Authorities (LAs).
- 3.2 Further exploration of the Board's preferred option of a regionalised local authority model (September 2015) identified that local authorities could not commit resources to such a model. The Board agreed (January 2016) that centralised control by Food Standards Scotland (FSS), with specific funding allocated to the function, was the best model to deliver improvements to feed controls, and to secure future assurance of feed safety in Scotland.
- 3.3 Following stakeholder consultation, the preferred model was delegation of competence to a small number of "nominated" LAs, operating on a regional basis and across multiple LA boundaries. This model was a rationalisation of the existing arrangements and recognised the existing competence and experience of authorised officers and relationships with feed businesses and was supported by the Society of Chief Officers of Trading Standards in Scotland (SCOTSS).
- 3.4 There have been on-going discussions with COSLA which, with their support, resulted in agreement to transfer the identified feed budget (£325,000) from the LA block grant to FSS. COSLA support is however predicated on the transfer

of legal competence for this function from LAs to FSS which is a project workstream that remains on track.

4. Current Local Authority Performance

4.1 The collated annual feed enforcement returns provide evidence of a continued decline in the level of inspections (official controls) over the last few years (Annex A).

- In 2010/11, the level of LA inspections was 3313. Since that period there has been a steady decline with 927 inspections being recorded for 2016/17.
- In 2016/17, earned recognition was implemented for the sector however, many LAs have not implemented this opportunity due in some parts to the uncertainty of the delivery model as well as a continuing decline in resources for this work.
- As a result of implementation of a new common risk rating framework which includes earned recognition, we expect there to be around 1300 inspections per annum under the new delivery model.

5. Discussion

Service Level Agreements

5.1 Since April 2017, there have been several meetings with the nine nominated LAs, collectively and individually, with a focus on agreeing the terms of the Service Level Agreements (SLAs) for this function. Agreement has not been reached within the required timescale to secure expected implementation due to concerns around LA liability and cross LA boundary activity.

5.2 8 of the 9 nominated LAs indicated commitment to delivering this model subject to;

- I. the issues raised with respect to liabilities and financial matters being satisfactorily addressed and,
- II. final commitment being provided at Council Elected Member level.

Despite majority commitment, most nominated LAs report that elected members would only consider approval of the proposed feed delivery model *after* the SSI had been laid before Parliament, resulting in continuing uncertainty and no assurance of improving delivery almost to the point of the expected implementation date. This left FSS and potentially consumers with the risk of having no delivery model in place in potentially large areas of Scotland and given the risk posed by the uncertainty and expert legal advice we have reluctantly concluded that it would be appropriate to re-consider the future delivery model.

Procurement

5.3 During the development of the SLAs, the risk of nominated LAs being unable to participate in this arrangement was highlighted and contingencies considered.

One of the options included exploring capability in the private sector. Legal advice has now confirmed there is a requirement to carry out a procurement exercise under the Public Contracts (Scotland) Regulations 2015 where there exists a commercial market.

- 5.4 FSS published a Prior Information Notice (PIN) to test the commercial supplier market in January. The outcome from the PIN exercise has identified that there is commercial interest in delivering the feed model, subject to the Board's decision we would move to the next stage of commencing a procurement exercise. Applications from any interested party, including LAs, will be invited.
- 5.5 As a result of the value of the services, the procurement exercise requires to be published in the Official Journal of the European Union. The process of EU procurement will take approximately 6 months with a further three months built in for mobilisation, which will allow, for example, a supplier to ensure they have sufficient staff in place, training etc. See Annex B for the proposed timeline for this process.
- 5.6 The requirement to go out to the market for service delivery also applies to the appointment of Agricultural Analyst(s) who will be required to undertake the analysis of official feed samples. The procurement exercise for this service will be run in parallel with that for the service delivery.

Risks

- 5.7 Until a new delivery model is implemented, there is a risk that feed inspections may continue to a decline. This could leave Scotland exposed to feed safety risks and potential incidents however, LAs have already been reminded about their continuing competence for feed controls until legislation transfers competence to FSS. Parallel discussion have also been taking place with the Society of Local Authority Chief Executives (SOLACE) who have indicated their support for FSS in developing a feed delivery model which aims to deliver improvements in feed safety and addresses the risks arising from the current model. The Executive will also now closely monitor the level of feed official control activity and take appropriate action to address concerns.

Legislation

- 5.8. A consultation on The Feed Enforcement (Scotland) Regulations 2018 took place from 28 August to 20 November 2017. Seven responses were received, which were generally favourable, with two LAs raising concerns. One considered that the current arrangements should remain but with increased funding and another LA disagreed with both the proposals and with the rationale to make changes. The consultation outcomes and FSS responses have been published.
- 5.9 The statutory instrument, now the Feed Enforcement (Miscellaneous Amendments) (Scotland) Order 2018 will be laid before Parliament and arrangements made for its coming into force date to align to the implementation date for delivery of the new model.

5.10 The Feed Enforcement (Miscellaneous Amendments) (Scotland) Order 2018 addresses the caveat to the transfer of funds from the block grant to FSS, by changing the legal competence from LAs to FSS. We have engaged with COSLA who have advised that a change in delivery from the original nominated LA model will not impact on the transfer of funds to FSS.

6. European Union considerations

6.1 Implementation of an effective model for feed official control delivery is required to ensure we have sufficient safeguards in the feed and food chain. In the context of the UK's exit from the EU it is vital that Scotland can demonstrate compliance with current EU feed law. An effective and efficient model will help to protect Scottish businesses who rely on the feed chain and who currently operate with other EU Member States.

7. Conclusion/Recommendations

7.1 Development of a new feed delivery model continues to be a priority under the FSS Regulatory Strategy. Whilst progress has been met with a number of challenges, it is expected that the current route will deliver a model that is effective and ensures compliance with EU feed law requirements. This paper provides the Board with an **update** on the feed delivery project and asks the Board to **agree** that FSS should now move towards an alternative model of delivery for feed controls through a procured service route.

7.2 The Board is asked to:

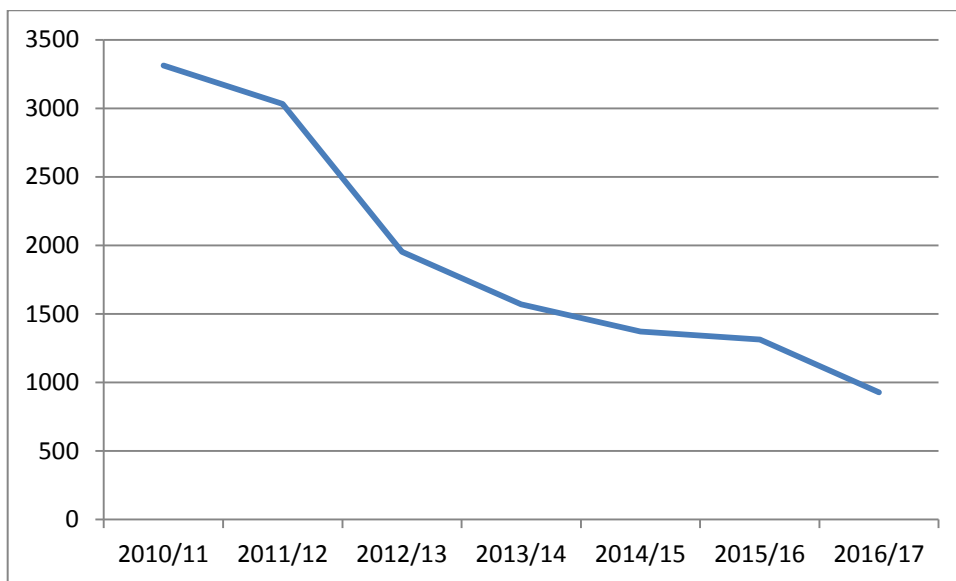
- **Agree** that FSS should now move towards an alternative model of delivery for feed controls.
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- **Note** the current timescales involved in delivering this project

Ian McWatt, Director of Operations, Lorna Murray, Head of Enforcement Delivery,
Jacqui Angus Senior Enforcement Delivery Manager
Jacqueline.angus@fss.scot, 07876 131648

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ANNEX A – OFFICIAL CONTROL DATA (2010 – 2017)

Year	Inspections
2010/11	3313
2011/12	3032
2012/13	1953
2013/14	1569
2014/15	1371
2015/16	1314
2016/17	927



ANNEX B – PROCUREMENT TIMELINE

Action - high level tasks	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec	Jan
Develop procurement strategy	x	x	x								
Develop specification and evaluation criteria	x	x	x								
Issue tender			x								
Tender clarifications			x	x							
Evaluation of tender (including moderation)				x	x	x					
Recommendation report and OJEU de-briefs						x	x				
Award contract								x			
Mobilisation period								x	x	x	
Implementation											x