



Project Name	FSS / HMRC Information Sharing MoU	Version	V. 1
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1. Introduction

The purpose of this document is to report on and assess against any potential Privacy Impacts as a result of the sharing of information between FSS and HMRC, in the recording, sharing and management of intelligence, in relation to the investigation of crime.

2. Document metadata

2.1	Name of Project	FSS / HMRC Information Sharing MoU
2.2	Author of report	Duncan Smith
2.3	Date of report	04/07/2024
2.4	Name of Information Asset Owner (IAO) of relevant business unit	Ron McNaughton
2.5	Data Protection Officer	Garry McEwan
2.6	Date of DPO approval of this report	15/07/2024

3. Date for review of Data Protection Impact Assessment (DPIA)

3.1	Unless otherwise provided for at 3.2, a full privacy impact review will take place annually.
3.2	FSS will carry out a privacy impact review as soon as practicable if one or more of the following occurs:
	<ul style="list-style-type: none">• A notifiable data protection breach takes place;• There is a change in data protection law;• The DPIA requires updating; or• Any circumstance in the opinion of FSS allows for a review.
3.3	A privacy impact review must be documented and must in the least record:
	<ul style="list-style-type: none">• The date of the review;• The details of the review;• The start and completion dates of the review;• The name of the official carrying out the review;• Findings and recommendations;• Date the review is approved by FSS Data Protection Officer (DPO).

4. Description of the project

4.1	Description of the work:
	<p>In 2013, at the request of Scottish Ministers, Professor Scudamore undertook a review to shape the approaches taken by the FSS to develop measures to ensure food authenticity and to tackle food crime. One of the recommendations was to improve intelligence gathering, analysis and dissemination.</p> <p>In support of this, FSS and HMRC have an MoU to share intelligence and information to prevent, investigate and disrupt food crime and serious regulatory non-compliance involving dishonesty in relation to food, drink and animal feed.</p>

5. Personal Data to be processed

Personal data	Data source
General personal details, including names, business and domestic addresses, social media profiles, vehicles, telephone numbers	FSS, HMRC
Tax and business data, including tax records, dates of incorporation, NINO, company registration, and employers	HMRC

6. Authority to process and control personal data of FBOs

From 1 January 2021, any references to EU Regulations should be read as meaning retained EU law which can be accessed via the [EU Exit Web Archive](#). Retained EU law should be read alongside any EU Exit legislation which was made to ensure that retained EU law operates correctly and is published on [legislation.gov.uk](#).

Statute	Provision	Competent Authority
Regulation (EU) 2017/625	Article 8 and 11 Confidentiality obligations of the competent authorities and Transparency of Official Controls	FSS
	Article 10 Operators, processes and activities subject to official controls	FSS
The Official Feed and Food Controls (Scotland) Regulations 2009	Regulation 4 - Exchanging and Providing Information	FSS

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	Regulation 8 - Power to request information relating to enforcement action	FSS
Food (Scotland) Act 2015	Section 26 - Power to request information in relation to enforcement action	FSS
UK General Data Protection Regulation and Data Protection Act 2018.	Article 6(1)(e) (UK GDPR) and Section 8 (DPA 2018) - processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.	FSS/HMRC
Data Protection Act 2018	Section 31 - The Law Enforcement Purposes. Sharing of information necessary for the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security..	FSS/HMRC

7. Authority to process and control personal data of AO's and Data Subjects

Statute	Provision	Competent Authority
UK General Data Protection Regulation and Data Protection Act 2018.	Article 6(1)(e) (UK GDPR) and Section 8 (DPA 2018) - processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.	FSS/HMRC
Data Protection Act 2018	Section 31 - The Law Enforcement Purposes. Sharing of information necessary for the prevention, investigation, detection or prosecution	FSS/HMRC

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	of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.	
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8. UK GDPR Principles

Principle	Compliant	Description
Article 5(1)(a) - lawfulness, fairness and transparency	Yes	<i>See 9. Justification for processing and controlling personal data</i>
Article 5(1)(b) – purpose limitation	Yes	There will be no further distribution or use of the personal data beyond the requirement for the prevention and detection of crime
Article 5(1)(c) – data minimisation	Yes	The FSS / HMRC MoU will not collect any personal information that is not required for the prevention and detection crime.
Article 5(1)(d) – accuracy	Yes	FSS and HMRC have a duty to ensure the accuracy of data shared.
Article 5(1)(e) - storage limitation	Yes	Shared data is stored on respective FSS (Clue) and HMRC databases, which is hosted on a secure network.
Article 5(1)(f) - integrity and confidentiality'	Yes	Data on the FSS crime management and intelligence database (Clue) is accessible via approved individual user accounts, which require authentication.
Article 6(1)(e) - processing is necessary for the performance of a task carried out in the public interest or in the	Yes	FSS objectives include protecting public health from the risks that may be caused by food.

exercise of official authority vested in the controller.		
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9. Justification for processing and controlling personal data

9.1	<p><u>FSS Official functions</u></p> <ul style="list-style-type: none"> Food Standards Scotland (FSS) was established Food (Scotland) Act 2015 (the 2015 Act) and came into being on 1 April 2015. It has three statutory objectives, namely: <ul style="list-style-type: none"> a) to protect the public from risks to health which may arise in connection with the consumption of food; b) to improve the extent to which members of the public have diets which are conducive to good health; and c) to protect the other interests of consumers in relation to food. FSS has the power to request information relating to enforcement action.
9.2	<p><u>What the personal data allows FSS to do</u></p> <p>The data sharing is necessary for the purpose(s) of Law Enforcement purposes defined under Part 3 of the Data Protection Act 2018 to accomplish the following:</p> <ul style="list-style-type: none"> The prevention and detection of crime; The apprehension and prosecution of offenders; To prevent, protect, prepare and pursue, Serious Organised Crime Groups who impact on the communities of Scotland; To increase public safety; and To establish an effective communication structure between FSS and HMRC.
9.3	<p><u>What FSS will not be able to do without this data</u></p> <p>Without this data FSS and HMRC will not be able to effectively to tackle food crime and therefore prevent and detect crime in order to protect consumers and businesses.</p>

10. Principle, General and other FSS statutory duties and powers

Statute	Provision	Competent Authority
Food (Scotland) Act 2015	Section 2 – Duty to protect the public from risks to health which may arise in connection with the consumption of food and protect the interests	FSS

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	of consumers in relation to food and diet.	
Food (Scotland) Act 2015	Section 3 (1) (a) – Duty to develop (and assist Scottish Ministers and public bodies and office holders) policies in relation to food matters and animal feeding stuffs matters.	FSS
	Section 3 (1) (b) Duty to advise, inform and assist the Scottish Ministers and public bodies and office holders in relation to food matters and animal feeding stuffs matters	FSS
	Section 3 (1) (c) Duty to keep the public adequately informed about and advised in relation to matters which significantly affect their capacity to make informed decisions about food matters.	FSS
	Section 3 (1) (d) Duty to keep users of animal feeding stuffs adequately informed about and advised in relation to matters which significantly affect their capacity to make informed decisions about animal feeding stuffs matters.	FSS
UK General Data Protection Regulation and Data Protection Act 2018.	Article 6(1)(e) (UK GDPR) and Section 8 (DPA 2018) – processing is necessary for the performance of a task carried out in the public interest or in the exercise of official	FSS/HMRC

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	authority vested in the controller.	
Data Protection Act 2018	Section 8 - processing is necessary for the exercise of official authority and public interest	FSS/HMRC
Data Protection Act 2018	Section 31 - The Law Enforcement Purposes. Sharing of information necessary for the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security..	FSS/HMRC

11. How will the Personal Data be Processed

Personal data collected, processed or shared within the Intelligence Database is only done where there is a lawful basis under Article 6 of the UK GDPR and Section 31 of DPA 2018 for doing so.

FSS and HMRC have robust internal processes necessary to ensure that staff are suitably qualified and trained in terms of the processing and sharing of personal identifiable information.

12. How is the Personal Data Protected

The FSS crime management and intelligence system (Clue) has appropriate and current Scottish Government and UK cyber security standards. All users are authorised and have 2 step authentication personal log-ins to access the system, which can be audited.

Data is held in UK datacentres, including back-ups. Access to MS Azure can also be secured by a virtual private network (VPN) and IP address whitelist.

The system complies with UK Government Cloud Security Principles and data can be stored up to and including Official-Sensitive.

The system meets the requirements of the Scottish Government Cloud Assurance Scheme and On-Premise Assurance Scheme.

The risk of loss or corruption of data on the system is low.

HMRC has similar secure systems in place.

13. Who has access to the Personal Data?

Access to the personal data is limited to authorised, trained and vetted users of the FSS crime management and intelligence system (Clue).

The risk of unauthorised access to the personal data held is considered to be low.

14. How will data be disposed of?

FSS has well-established processes for the safe storage and appropriate disposal of data compliant with data protection legislation and FSS policy.

In line with DPA 2018, the data will only be kept for as long it is necessary and will be deleted after 6 years unless there is a justifiable need for it to be kept longer.

15. Management and accuracy of the data

The data held will be owned and managed by FSS as the Data Controller. FSS and HMRC will be responsible for ensuring the accuracy of data collected and retained.

16. Sharing of data

Part or parts of data may be shared with key partners, including law enforcement agencies as permitted within the remit of the law and between FSS and HMRC.

17. Changes to data handling procedures

There will be no new or changed data collection policies or practices that may be unclear or intrusive or inconsistent with the agreed MoU between FSS and HMRC.

There will be no changes to data quality assurance or processes and standards that may be unclear or unsatisfactory.

There will be no new or changed data security access or disclosure arrangements that may be unclear or extensive.

There will be no new or changed data retention arrangements that may be unclear or extensive.

There will be no changes to the medium of disclosure for publicly available information in such a way that the data becomes more readily accessible than before.

18. Statutory exemptions/protection

FSS is not aware of any exemptions from the Data Protection Act which would apply to this project.
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19. Stakeholder Consultation

A formal public consultation was carried out as detailed below :
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Communication with key FSS and HMRC staff has agreed for the need for a MoU between FSS and HMRC to share intelligence and information.

Various dates

Risks identification and incorporation of privacy risks into planning

Risk	Ref	Result
Personal data is inadvertently collected, processed and stored by FSS and HMRC on their systems as part of their respective functions.		Acceptable. Data sharing requirements and protocols to be discussed and agreed prior to implementation, including reference to legal advice if/where required.

DPIA History

Completed by

Date	Author	Summary of Changes
04/07/2024	Duncan Smith	Drafted and Sent for Approval

Approvals

Name	Title	Date	Version
Ron McNaughton	Head of Head of Food Crime and Incidents Division and Information Asset Owner (IAO)	10/07/2024	V. 1
Garry McEwan	FSS DPO and Head of Governance and Infrastructure	15/07/2024	V. 1

Distributions

Name	Title	Date of Issue	Version