

To: Lead Feed Officers, Heads of Service, Chief Executive Officers
cc: SFELC, SCOTSS. Lead Food Officers.

16 November 2020

FSS/ENFTS/20/004

Dear Colleague,

Animal Feed Delivery Model – Update

I am writing to provide an update on the animal feed delivery model currently under development and ask for your assistance in ensuring a smooth transition in April.

1. Legislation

The Feed (Transfer of Functions) (Miscellaneous Amendments) (Scotland) Regulations 2020 was laid before Parliament on Monday 9 November 2020. The SSI is required to go through affirmative procedures which means it must be approved by Parliament before being signed off by the Minister. The Minister is due to sign them on 24 December 2020. The transfer of functions shall then come into force on 1 April 2021.

2. Transition

The transitional arrangements provided in the Feed (Transfer of Functions) (Miscellaneous Amendments) (Scotland) Regulations 2020 ensure continuity after 1 April 2021 in that Local Authorities (LAs) that have begun action under feed legislation shall continue to do so until the action is complete. The transitional and savings provisions within the SSI state that the “validity, effect or consequences of anything done” before they come into force is not affected by FSS becoming the enforcement authority.

In order to ensure a smooth transfer of functions on 1 April 2021, FSS requests that official control plans for the current year be completed by 28 February 2021 with outstanding enforcement activity completed during March 2021, where possible. By bringing forward the official control plan, we aim to minimise the numbers of cases that would be subject to a handover process, reducing the impact of the transition on both parties.

- a. Planned inspections - LAs are asked to complete their planned inspections for 2020/21 by 28 February 2021. Therefore, there will be no inspections started in March and therefore no in-progress inspections on 1 April 2021. However, should it be necessary to carry out any functions (proactive or reactive) in March they shall remain with the LA until their completion.
- b. Samples - LAs are asked to complete their planned sampling for 2020/21 by 28 February 2021. Although sampling may be completed before 28 February, the analysis and therefore the outcomes may not be complete until after 1 April 2021. Should action require to be taken following a sample result then the activity shall remain with the LA until completion. Again, if it is necessary for a LA to carry out sampling in March, the activity shall remain with the LA until its completion.
- c. Enforcement action – any enforcement action that has begun before 1 April and is outstanding (including any reports to the Procurator Fiscal), shall remain with the LA until completion (open ended).
- d. Registration – LAs must process those applications for registration they receive before or on 31 March 2021.
- e. Approvals – if an application is received by a LA on or before 31 March 2021, the LA may gather information and carry out a pre-approval visit, but the granting of conditional or full approval should be passed to FSS for action. Information gathered and records relating to the approval process shall be passed to FSS by 8 April 2021. Any urgent approvals work shall be discussed between LA and FSS on a case by case basis.
- f. Incidents – Control of investigation and withdrawal of product to be passed to FSS on 1 April 2021. Any enforcement action that has begun on or before 31 March 2021 (including any reports to the Procurator Fiscal) will remain with the LA until completion.
- g. Data transfer – data held by the LA for the purposes of feed law activity will be transferred to FSS during March 2021. Data concerning ongoing matters, as listed above in 2. *Transition a – f*, to be passed to FSS at conclusion or by 30 June 2021, whichever is later.

The transfer of data and information, related to the delivery of the new model, is necessary for a successful transition. Under the new model Local Authorities shall remain Data Controller for legacy data transferred to the Feed Management Information System, with FSS acting as a data processor for this information for the period it remains active. FSS shall become Data Controller for information collected in relation to feed official controls from the transfer of authority on 1st April 2021, with the respective LA acting as Data Processor. A schedule will be developed with each LA to identify what relevant information is held, the accuracy of such data, how and where it is held, to allow for agreed methods for secure transfer. While both parties will use best efforts to ensure a complete transfer of all related data, provision will be made for the secure management of any legacy data remaining with the LA. FSS wish to have a transfer plan agreed with each LA by 12 February 2021 to ensure a smooth transfer process.

We would welcome confirmation that your LA is satisfied with these proposals and are able to make arrangements to fulfil annual inspection plans within the timeframe indicated.

3. Official Control Plans 2021/22

We aim to provide LAs that intend to participate in the delegation of animal feed functions, with the annual operational plan for 2021/2022 by 4 February 2021, allowing discussions on the development of monthly plans to support best use of resource by LAs.

4. Food Primary Production

FSS has encouraged feed and food primary production inspections to be carried out at the same time, in order to reduce footfall on farm, and funding has now been provided for primary production inspections for a number of years. Enforcement of food primary production has always been referred to Environmental Health. This is described in the Food Law Code of Practice.

As a result of the joint inspection regime, food primary production (low risk activities – see Annex A) are included in the new animal feed model. Competence for food primary production is shared between LAs and FSS:

- For those LAs that intend to deliver feed official controls under delegation in their own LA area, it is expected that the officers will carry out food primary production at the same time and will be authorised to do so by their LA.
- For those LAs that do not intend to deliver feed under delegation, feed law functions will be carried out by FSS officers or authorised officers from another LA. In the case of food primary production, we need to establish:
 - Is the LA content with the feed officer carrying out food PP inspections at the same time as feed, or does the LA intend to carry out food PP themselves?
 - Is the LA content that the feed officer carries out food PP inspections at the same time, the officer may be authorised by FSS or the LA?

Over the next few weeks, it is intended that FSS will contact LAs to clarify their intentions with regards to food primary production inspections.

If you have any questions, please do not hesitate to contact us at:

Jacqueline.angus@fss.scot (07876 131648), John.scott@fss.scot (07741 295103), Work Stream Managers or

Bryan.campbell@fss.scot (07866796882), Programme Manager or Gordon.wright@fss.scot (07393 006709) Project Specialist.

Yours sincerely



Jacqui Angus

Food Standards Scotland

Pilgrim House, Old Ford Road, Aberdeen, AB11 5RL
www.foodstandards.gov.scot

Food
hygiene
information
scheme



Annex A - Low Risk Food Primary Production Activities within scope of the Feed Model (Feed Manual)

The delivery of hygiene inspections for Food Primary Production is within scope of the Feed Manual according to the list of activities below:

	Feed Manual	Food Law Code of Practice (EH ¹)
Livestock farms (for meat) – feed and food	✓	
Fish farms	✓	
Arable farms² – feed and food	✓	
Vegetable production if only for animal feed	✓	
Fruit and vegetable production for human consumption (including “pick your own”)		✓
Dairy farms (including goat and sheep’s milk)		✓
Farm shops		✓
Sprouted Seeds		✓
Honey production		✓
Game Larders		✓
Egg production holdings	RPID on behalf of FSS	
Shellfish	FSS	

¹ Environmental Health

² Arable crops are crops that must be further processed. They include grains e.g. barley, oats, wheat and oilseed crops, as well as sugar beet.