

**Feed Law**

**Practice Guidance (Wales)**



**(Issued December 2016)**

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## Chapter 1 – Introduction

This Practice Guidance is issued by the Food Standards Agency (FSA) to assist Competent Authorities with the discharge of their statutory duty to enforce relevant feed law. It is non-statutory, complements the statutory Code of Practice, and provides general advice on approach to enforcement of the law where its intention might be unclear.

This Practice Guidance also takes account of recommendations made by the EU Feed and Veterinary Office (FVO) following their inspections of the UK's food and feed control services.

References to chapters, paragraphs and annexes are to the relevant parts of this document unless stated otherwise. The chapters also reference the Feed Law Code of Practice (the Code) for ease of cross reference.

The guidance contained in this document is given in good faith, and accords with the FSA's understanding of relevant legal requirements.

Any examples given are illustrative and not comprehensive.

Competent Authorities are strongly advised to consult their own legal departments when considering formal enforcement action.

### 2.1 Facilities and Equipment

Competent Authorities must ensure they have access to the equipment necessary to take samples of different types of material likely to be present at feed business establishments in their area and to sample materials which may be the subject of complaint.

Sampling apparatus must comprise of materials which cannot contaminate the feeding stuff that is to be sampled. Unless there is a good reason to the contrary, the sampling apparatus for solid feeding stuffs should be taken from among the following items:

- a) a flat-bottomed shovel with vertical sides, usually stainless steel or non-ferrous metal;

no further specifications are made by the regulations but the edges of the shovel should prevent spillage and retain a fair representation of the feeding stuff being sampled.

- b) a sampling spear with dimensions appropriate to the characteristics of the sampled portion in all respects, including dimensions of the container and particle size of the feeding stuff;

no further specifications are made by the regulations but an ad hoc Working Group set up by the then Ministry of Agriculture Fisheries and Food in 1981 to investigate the difficulties associated with bulk sampling made recommendations concerning the suitable dimensions of spears.

sampling spears should not be used if the material is in a package or container containing less than 50 kg and, prior to taking the sample, the manufacturer objects to the use of such a device on the ground that the material is unsuitable.

- c) mechanical apparatus which, if used for the purpose of sampling a feeding stuff being physically moved at the time the sample is taken (e.g. loading or unloading), must be capable of taking samples right across the flow of the product;

the device therefore must be capable of taking a sweep through a complete cross-section of the material, or must be wide enough to accept the entire cross-section.

- d) apparatus designed to divide the sample into approximately equal parts for taking incremental samples, and for the preparation of reduced and final samples;

the regulations do not specify the particular type of apparatus that must be employed but the riffle and rotary sample divider would be suitable, as well as a sample divider that sub-divides in itself to give one sample at the end.

### 2.2 Retention of Establishment Record Files

Records relating to interventions must be retained in the establishment file for at least six years, unless required for longer retention because of litigation or a review by the Local Government Ombudsman or required by the document management policy of the Competent Authority, or following an instruction by the FSA.

### **2.3 Reports following an Official Control**

The outcome of a planned inspection should always be reported in writing to the feed business operator either at the conclusion of the inspection or as soon as practicable thereafter, even if the outcome was satisfactory.

The report should include the following information:

- name of the feed business operator/feed business proprietor;
- type of business/registration activity code;
- name(s) of person(s) seen and/or interviewed;
- date and time of inspection;
- specific feed law under which inspection conducted;
- areas inspected;
- documents and/or other records examined;
- samples taken;
- key points discussed during the inspection;
- action required by the feed business operator to rectify non-compliance;
- signature of the feed business operators representative;
- designation of inspecting officer;
- contact details of the inspecting officer;
- contact details of a senior officer/contact in case of dispute;
- date; and
- Competent Authority's name and address.

The record of inspection may be used as the report of an official control where the inspection report contains the information listed above. Inspection templates at Annex 1 could be used for both recording inspection findings and as a post inspection report.

Post-inspection reports may include other legislation covered during inspections of feed businesses, e.g. animal health, weights and measures etc., although matters relating to feed law should be clearly differentiated from other law.

### **2.4 Registration and Approval of Feed Business Establishments**

Under Article 9(3) of Regulation 183/2005, Competent Authorities shall maintain a register of establishments except for those which fall outside the scope of the Regulation.

Responsibility rests with Competent Authorities for recording and maintaining details of feed business establishments which have been registered/approved with them under Regulation 183/2005.

Those activities currently outside the scope of Regulation 183/2005 which do not require establishments to be registered include:

- private domestic feed production for the feeding of (i) animals kept for private domestic consumption or (ii) animals not kept for food production;



- feeding of food-producing animals kept for private domestic consumption or for the activities mentioned in Article 1(2)(c) of Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs ( i.e. the direct supply, by the producer of small quantities of primary products to the final consumer or to local retail establishments directly supplying to the final consumer;
- feeding of animals not kept for food production;
- direct supply of primary production products in small quantities to local farms for their own use; and
- retailing of pet food. This does not, however, include the manufacturing at retail premises of pet food for sale i.e. the mixing of products arriving at a new formulation. This activity will require registration.

## **2.5 Registration of Feed Business Establishments**

### **2.5.1 Applications for Registration: General**

Under Article 31(1)(a) of Regulation 853/2004 the Competent Authorities, which for the purposes of that Article in Great Britain are the FSA and local authorities, are required to establish procedures for feed business operators to follow when applying for the registration of their establishments. Some of the formalities are set out in the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016. The following paragraphs contain further procedures. Competent Authorities should take steps to ensure that all applicants for registration are aware of the requirements they must meet are set out in Annex I or II to the EC 1831/2003 Feed Hygiene Regulation and the application of HACCP principles as applicable. For Primary Producers Annex III will be relevant.

### **2.5.2 Registration Forms**

The feed business operator is responsible for ensuring the application form has been properly completed. Where incomplete forms are received, the Competent Authority should assess the information so as to determine whether or not there is a need to contact the feed business operator for more information. Where the authority believes that the details submitted are incorrect they should take all reasonable steps to verify the information before proceeding. A model application form can be found at: <http://www.food.gov.uk/business-industry/guidancenotes/hygguid/approvregfeedguidance>

## **2.6 Approved Establishments**

### **2.6.1 Division of Enforcement Responsibilities for Approved Establishments**

Competent Authorities in Great Britain are responsible for approvals at establishments where activities listed in Article 10(1)(a) of Regulation 1831/2003 are undertaken.

Responsibility for approval and enforcement at an establishment where the activity includes the manufacture of a premixture and feed containing a medicinal or specified feed additives e.g. coccidiostats, histomonostats and growth promoters as listed in Article 10(1)(b) and (c) falls to Defra's Veterinary Medicines Directorate in Great Britain regardless of whether it also contains vitamin A or D, or trace elements copper or selenium.

Further information on the approval of feed business establishments and the role of Competent Authorities and the VMD can be found at:

<https://khub.net/documents/5524476/17666335/Feed+hygiene+Memorandum+of+Understanding+between+local+authorities%2C+APHA+and+VMD/f1bcfce4-9cdd-45be-9d2a-6323ecd7d2c6>

## **2.6.2 Applications for Approval: Procedures / Forms**

Article 31(2)(a) of Regulation 882/2004 obliges Competent Authorities to establish procedures for feed business operators to follow when applying for the approval of their establishments. Again some of the formalities are set out in the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 and procedures for handling applications for approval are set out below. Competent Authorities should ensure that they, and feed business operators, follow these procedures as appropriate. Any deviations from these procedures should be recorded and retained by the Competent Authority.

## **2.6.3 Applications for Approval: Handling**

Any application for approval received from a feed business operator should be dealt with promptly. In order to ensure consistency, Competent Authorities should ask feed business operators to submit applications for approval in the appropriate format. A model application form can be found at:

<http://www.food.gov.uk/business-industry/guidancenotes/hygquid/approvreqfeedguidance>

Applications for approval of establishments should only be accepted from feed business operators that intend to engage in activities for which approval would be required in accordance with Regulation 183/2005. Under no circumstances should approval be granted to an establishment which is not required to be approved by Regulation 183/2005.

Competent Authorities should ensure that the feed business operator supplies relevant information before an application for approval is determined. This information may be obtained from the feed business operator in documentation supplied with the application or during the subsequent on-site visit to the establishment (e.g. HACCP records) as required by Article 31(2)(b) of Regulation 882/2004. It is a matter for the Competent Authority to decide at which stage of the application this information should be provided.

## **2.6.4 Determination of Applications for Approval**

Before reaching a decision on an application for approval the Competent Authority should ensure that an on-site visit is made in accordance with Article 13 of Regulation 183/2005 unless the exemption from an on-site visit before approval in Article 17 of Regulation 183/2005 applies.

The on-site visit should take the form of a primary inspection of the establishment. The inspection should be conducted in accordance with, and cover, all aspects of the relevant inspection form for the business concerned and consider all issues identified by Regulation 183/2005. As per Article 31(2) of Regulation 882/2004 all the requirements of feed law relevant to that business must be met.

## **2.6.5 Exemption from On-Site Visit prior to Approval**

This exemption relates to feed businesses that trade feed products but never hold the product on their premises (including modes of transport such as lorries or ships). To qualify for this exemption, feed businesses must make a declaration to the appropriate Competent Authority that the feeds they are placing on the

market comply with the relevant requirements of Regulation 183/2005. A model declaration form can be found at:

<http://www.food.gov.uk/business-industry/guidancenotes/hygguid/approvregfeedguidance>

### **2.6.6 Conditional Approval**

Article 13(2) of Regulation 183/2005 permits the granting of conditional approval following an on-site visit to an establishment which does not fully comply with the requirements of feed law, but only if the establishment meets all the infrastructure and equipment requirements.

It is for Competent Authorities to decide whether or not to grant conditional approval to an establishment which does not fully comply. Professional judgement should be used in deciding whether it would be appropriate to grant conditional approval on a case-by-case basis. However, this discretion to give conditional approval should not be exercised if the non-compliance could lead to feeds adversely affecting the health of animals or humans through the consumption of animal products.

If conditional approval is granted, a further visit must be carried out within three months of the conditional approval being granted in accordance with Article 13(2) of Regulation 183/2005. In appropriate circumstances as set out in Article 13(2) of Regulation 183/2005, conditional approval may be extended, but this is restricted to a maximum of six months from the date of the initial granting of conditional approval. Professional judgement should be used in deciding whether it would be appropriate to extend conditional approval, on a case by case basis.

### **2.6.7 Approval Number / Identification Mark**

A Competent Authority must give an approval number to each feed business establishment it approves or conditionally approves in accordance with Article 19(5) of Regulation 183/2005. The first digit is the alpha sign, 'α'. The next digits are the ISO code of the Member State: this is "GB" for the UK. The remaining digits are the national reference number, but for Competent Authorities they should begin with the authority's three digit official control directive number (also known as the Food Standards reference number) followed by a sequential number of 1 to 9999.

### **2.6.8 Refusal of Approval and Appeals**

If an establishment does not fully meet the requirements of Regulation 183/2005, the Competent Authority should consider whether conditional approval is appropriate in the circumstances.

When a Competent Authority has decided to refuse an application for approval it should notify the applicant in writing of the decision at the earliest opportunity. The Competent Authority should also give the reasons for refusal in writing, the matters necessary to satisfy the requirements of the Regulation, and make clear that activities requiring approval may not be undertaken unless approval or conditional approval is granted. Such notification should also make the feed business operator aware of their right of appeal against the decision and provide the address of the Magistrates' Court where such an appeal may be made. Rights of appeal are provided for in regulation 12 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016.

If the Competent Authority considers that any activities undertaken in an establishment pending the result of an appeal may present a risk to public health,

it should consider the use of other relevant enforcement powers, appropriate to the circumstances involved (see Chapter 6 of the Code and Chapter 6 in this Practice Guidance).

### **2.6.9 Notification of Approval**

Once approval, or conditional approval, has been granted, the Competent Authority should notify the applicant, in writing, of the nature and scope of the approval and any conditions or limitations that apply and the approval number.

When full approval is granted following conditional approval, the Competent Authority should notify the feed business operator in writing. Such a notification should also include details of the nature and scope of the approval, any conditions or limitations that apply and confirmation that the approval number allocated to the establishment may continue to be used.

The Competent Authority should retain a copy of the above notifications on the relevant establishment file and ensure that the FSA is notified of the approval.

### **2.6.10 Change of Details or Activities**

Article 16 of Regulation 183/2005 requires Competent Authorities to amend details of the approval of an establishment, where it has demonstrated its capacity to develop activities which are additional to those for which it was first approved, or which replace them. Where a Competent Authority becomes aware of any significant changes in, for example, the activities of an approved establishment or ownership of the business, it should carry out an inspection and undertake re-approval where the ownership of the feed business establishment has changed. More information on the approval of feed business establishments following the change of a feed business operator/activities can be found at:

<http://www.food.gov.uk/enforcement/sectorrules/opchange/>

### **2.6.11 Fees**

In accordance with regulation 13 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016, Competent Authorities must charge a statutory fee as specified in the schedules to the Regulations for approvals or amendments to approvals. A Competent Authority should not charge a fee for entering a feed business onto their list of approved establishments where approval has already been granted by another Competent Authority including the VMD and the appropriate fee paid. Competent Authorities may also seek reimbursement of any laboratory analysis costs incurred in connection with assessment of the establishment prior to approval.

### **2.6.12 Non-approved Establishments thought to be engaged in activities requiring Approval**

Where a Competent Authority becomes aware of businesses engaged in activities that require approval, but that are not approved, they should inform the feed business operator, in writing, of the need for approval and consider appropriate enforcement action.

(See Chapter 6 in this Practice Guidance for general guidance on enforcement)

## **2.7 Lists of Feed Business Establishments**

Article 19 of Regulation 183/2005 requires the appropriate Competent Authority to draw up lists of feed establishments that have been registered or approved.

## 2.7.1 Lists of Registered/Approved Feed Business Establishments

Competent Authorities should ensure that a separate, up-to-date, list of feed establishments registered with them is available for inspection by the general public at all reasonable times. The list should contain the following information about each feed business and should be consistent with the information held on the authority's database:

1. name of the feed business;
2. address of the feed business establishment; and
3. activity.

Competent Authorities must also keep an updated list of feed establishments which they have approved available for inspection by the general public at all reasonable times. This list must contain the following information about each feed business and should be consistent with the information held in the authority's database:

1. identity (approval) number;
2. activity<sup>1</sup>;
3. name or business name of the feed business;
4. address of the feed business establishment; and
5. relevant remarks.

These authorities may give or send a copy of their list or any entry on it to any person who makes a request for such information. Requests for information on feed business establishments should be handled with due regard to Freedom of Information and Data Protection legislation.

On receipt of a notification of a change of activities, Competent Authorities should update the list of registered/approved feed business establishments as appropriate, and place or record the details on the file relating to that feed business establishment.

Competent Authorities should supply the Food Standards Agency with a complete copy of their registers and lists when demanded by the FSA.

These lists also allow the FSA to fulfil its obligation to make a national list of registered and approved premises publicly available and to supply to the Commission a complete list of approved establishments in the United Kingdom.

The list of approved feed business establishments in the UK can be found at: <http://www.food.gov.uk/enforcement/sectorrules/feedapprove/feedpremisesregister>

The list of feed establishments which have been approved by the Veterinary Medicines Directorate can also be accessed via the above link.

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<sup>1</sup> Codes describing activities for registration approval can be found at: <http://www.food.gov.uk/business-industry/guidancenotes/hygguid/approvregfeedguidance>

### 3.1 Introduction

This chapter concerns the competency of officers who are authorised to carry out official controls to verify compliance with feed law.

### 3.2 Application of Qualification and Competency Requirements

Competent Authorities will need to satisfy themselves and have documented evidence that officers meet the qualification and competency requirements set out in the Code for those duties for which an officer is to be authorised.

Authorisations can be tailored to the enforcement role of an individual officer. Officers do not require to be given authorisations which enable them to undertake all feed enforcement roles unless this is how the authority wishes to organise its service. In this case such officers would need to meet all of the competency requirements in Annex 1 of the Code and hold an appropriate qualification as listed in Paragraph 3.3 below.

An officer's authorisation is able to be extended as the officer gains the necessary competency and qualifications where these are required.

As is set out in Paragraph 2.6 of the Code, Competent Authorities must have a documented procedure that sets out the process to be followed in assessing the competence of the officer to undertake a specific official control duty prior to their authorisation. Information can also be found in Chapter 2 of the Framework Agreement on Official Feed and Food Controls by Local Authorities.

The Code sets out the minimum competency requirements necessary in order for an officer to demonstrate they can effectively undertake the controls for which they are seeking authorisation.

The following are ways in which an officer would be able to demonstrate they met the competence:

- academic qualifications;
- professional qualifications;
- post qualification courses that lead to an additional relevant qualification;
- training courses;
- details of employment history detailing functions undertaken, responsibility exercised and experience gained;
- details of official controls carried out under supervision by an appropriately authorised officer.

Officers should consider creating a portfolio of evidence of qualifications and training.

### 3.3 Qualification

The 'appropriate qualification' referred to in paragraph 3.3 of the feed Law Code of practice is met if an officer has successfully completed agriculture written, oral and practical papers as part of one of the following qualifications in the Trading Standards Qualification Framework (TSQF):

- Certificate of Competence;



- Core Skills in Consumer Affairs and Trading standards;
- Module Certificate in Consumer Affairs and Trading Standards;
- Diploma in Consumer Affairs and Trading Standards;
- Higher Diploma in Consumer Affairs and Trading Standards.

Where a candidate has been awarded a pass in the agriculture written, oral and practical examinations this will be sufficient evidence that an officer satisfies the qualification requirement in paragraph 3.3 of the Feed Law Code of Practice.

These qualifications are not restricted to members of the Trading Standards profession or to local authority employees.

Further details about these qualifications can be found on the CTSI website on the [tsqf awards](#) page.

The following qualifications and their antecedents which satisfied the qualification requirements set out in the Feed Law Enforcement Code of Practice (GB)(now superseded by the Feed Law Code of Practice), are also appropriate qualifications.

- Diploma in Trading Standards (DTS) or its antecedents;
- Diploma in Consumer Affairs (DCA) which includes the Food and Agriculture Paper in part II, or its antecedents;
- Diploma in Consumer Affairs (DCA) Certificate of Competence in relation to Food and Agriculture issues by the TSI or its antecedents;
- Certificate of Competence in Agriculture;
- Diploma in Consumer Affairs and Trading Standards (DCATS) or Higher Diploma in Consumer Affairs and Trading Standards (HDCATS) with the Module Certificate in Consumer Affairs and Trading Standards in Agriculture.

As the FSA identifies other qualifications which adequately assess officers knowledge of EU feed law and following consultation with interested parties it will update the above list accordingly.

### **3.4 Training**

Competent Authorities must ensure that authorised officers receive relevant on-going training. The training programme in respect of any authorised officer should be informed by and address any areas identified where the officer's competence falls short of that required to perform their current role or to extend it to new areas of activity.

The FSA recognises the need for all officers to update or refresh their knowledge and competency to adapt to the changing circumstances they work in and for officers who are starting out in feed law enforcement for the first time or officers returning to feed law enforcement after a break who need to develop their knowledge and competency. Competent Authorities should ensure that authorised officers receive relevant structured on-going training based on the principles of continuing professional development.

The FSA provides an on-going programme of training for officers to help support the competency requirements in the Code which can be found at:- <http://www.food.gov.uk/enforcement/enforcetrainfund/>

### **3.5 On-going Continuing Professional Development (CPD) Requirements**

CPD is the means by which professionals maintain, improve and broaden their knowledge and skills, and develop the personal qualities and competencies required. Many professions define CPD as a structured approach to learning to help ensure competence to practice, taking in knowledge, skills, and practical experience. CPD can involve any relevant learning activity, whether formal and structured or informal and self-directed.

Fundamental to a CPD scheme is the need for individuals to take ownership of their career progression.

Officers should maintain a record of their CPD which should be used as part of their annual review of training and CPD needs as required by the Code and used as proof of continued competency in those areas of current authorisation. Such reviews might be combined with annual staff appraisals where appropriate.

CPD obligations are common to most professions who set minimum levels of CPD to be achieved each year. The Code sets a minimum number of hours of CPD of 10 hours but extra hours may be required depending on the experience of individual officers and their area(s) of authorisation. It is expected that officers will undertake the minimum hours of CPD each year and undertake more hours to address any training needs or deficiency in competency identified at their annual reviews.

All CPD must relate either directly to official feed controls (including generic skills like investigation) or some general knowledge of feed or the feed industry.

### **3.5.1 Ways of Attaining CPD**

Set out below are a number of examples of ways in which officers can undertake and attain CPD. This is not an exhaustive list of ways to achieve CPD in the area of animal feed.

- relevant training courses;
- undertaking distance learning or e-learning activities;
- coaching from other experienced authorised officers;
- review of case studies and literature;
- attending conferences or scientific meetings which involve an element of learning;
- reading to understand the legal, regulatory framework for professional work;
- maintaining or developing specialist skills;
- shadowing of an authorised officer who meet the competency requirements.

A number of assessment tools are available to assist individual officers to assess their own competence and for lead officers to assess the competency of those officers as part of the Competent Authority's normal appraisal process. These could include an assessment process developed specifically for that authority or the use of the RDNA (Regulators Development Needs Analysis) process for regulatory skills. For officers wanting further information on the RDNA process, see the attached link:- <http://rdna-tool.bis.gov.uk/>

The FSA has made use of the Core Regulatory and Leadership skills from RDNA where these were appropriate in drawing up the competency requirements for each of the subtasks set out in Annex 1 of the Code.

Following on from the assessment, the lead officer in consultation with the individual officer will be able to identify development needs which can be used to inform an officer's personal development plan and their CPD priorities. In order



to assist officers in determining the most beneficial way to undertake the appropriate CPD they might wish to look at the Guidance for Regulators-Information Point (GRIP) which can be accessed via the following link:-  
<http://www.regulatorsdevelopment.info/grip/>

Training which would count toward CPD requirements is provided by the FSA and can be found at: <http://www.food.gov.uk/enforcement/enforcetrainfund/>

### 4.1 Liaison with other member states and definition of Trans Border Issues

#### 4.1.1 Introduction

The FSA is the designated liaison body for the purposes of Article 35 of Regulation 882/2004 and, as such, is responsible for assisting and coordinating communication between Competent Authorities and the transmission and reception of requests for assistance. However, this does not preclude direct contacts, exchange of information or co-operation between the staff of Competent Authorities in different Member States.

Trans-border matters that may have policy implications and matters relating to and connected with feed hazards are dealt with by the FSA. Competent Authorities must therefore notify the FSA of all such matters at the earliest opportunity.

Detailed provisions on administrative assistance and co-operation with other Member States are set out in Articles 34 to 38 of Regulation 882/2004.

#### 4.1.2 Trans-border issues

Trans-border matters fall into three broad categories:

- a) trans-border matters that need to be referred directly to the FSA;
- b) trans-border matters reported to the FSA after liaison has taken place;
- c) routine liaison between Competent Authorities and feed control authorities in other Member States.

#### 4.1.3 Trans-border matters to be referred directly to the FSA

- the identification of feeds which appear to pose a risk to animal health or safety;
- enquiries about a particular product which has been examined and the microbiological condition of which gives cause for concern;
- the identification of feeds which relate to previously identified feed warnings, frauds or hazards;
- cases where malicious tampering with feed is suspected;
- circumstances in which feed products have been removed from the UK market with or without the agreement of the retailer or supplier;
- cases in which the authorised officer suspects that other significant national or EU policy matters are at issue; and
- where repeated non-compliance has been identified in connection with different batches, lots or consignments from the same source.

#### 4.1.4 Trans-border matters reported to the FSA after liaison has taken place

- any issue when, after investigation, liaison or inquiry, it appears that circumstances set out in the above paragraph apply;
- cases involving Competent Authorities in other EU Member States where there is undue delay, equivocation or a refusal to undertake action which appears to be warranted;

- circumstances in which it appears that elements of the national feed law of one Member State conflict with that of another; and
- any issue listed for information which, after investigation, liaison or enquiry, appears to have such implications or is of such a serious nature that the FSA should be informed of it.

#### **4.1.5 Routine liaison between Local Feed Control Authorities of Member States**

Competent Authorities should only deal directly with “For Information” matters. Other issues requiring action should be referred without delay to the FSA. Competent Authorities should seek advice from the FSA if there is doubt as to the appropriate procedure for dealing with a particular trans-border matter.

Matters of routine liaison between local feed control authorities of Member States under Category C would include:

- enquiries about a particular product which has been analysed and found to have no feed safety implications;
- enquiries about a product label or description which appears to be in breach of requirements;
- enquiries about sampling records, company history or control systems likely to support legal action;
- enquiries about relevant case law, regulation, compositional requirements and other feed standards applicable in a particular Member State;
- enquiries to establish the integrity of documents, problem source and to avoid duplicating sampling or inspections;
- enquiries into the particular circumstances surrounding the rejection of, or cause for enforcement action relating to, a specific UK feed product; and
- notification of other faults and infringements unlikely to require UK action, but which are for note or action by the authority in another Member State.

#### **4.2 Disclosure of information to Member States**

There will be circumstances in dealing with communications when confidentiality, data protection and human rights issues arise. In such circumstances, the Competent Authority should take account of the contents of its own publication scheme under the Freedom of Information Act. They must apply the law and general principles set out in relevant legislation and case law to the specific facts with which they are dealing. This is best done at a local level, and local administrators should consult their own legal department.

### 5.1 Requirement for a documented Feed Service Plan

LAs are required to develop and implement an annual programme of feed controls. The link below provides useful information in relation to service planning and the management of a feed service including documents available as pdfs on “Effective Feed Law Enforcement” and “Making Every Inspection Count”.  
<http://food.gov.uk/enforcement/enforcework/inspection-tips/>

### 5.2 Earned Recognition

Feed business operators who demonstrably maintain high standards of compliance with feed law should benefit from earned recognition. Earned recognition for the purposes of the Code is a reduction in the frequency at which inspections are delivered, taking into account compliance history, risk and or individual steps a business takes to ensure compliance.

In those instances where the activity being undertaken in a particular sector is nominally risk-rated as low, the Code allows for the possibility of alternative enforcement strategies (AES). Earned recognition aims to reduce the burden on compliant businesses whilst concentrating enforcement activity at those businesses which are less compliant .

The frequency of delivering official controls is not prescribed by regulation, however, under EU Regulation 882/2004, Article 3, Member States must consider a number of parameters when determining the frequency of delivery to ensure controls are carried out on a risk basis and with appropriate frequency. These parameters take into account risk associated with feed and business activity; record of compliance; the reliability of any own checks and any information that might indicate non-compliance.

The Feed Risk-rating Scheme and general approach to earned recognition in Chapter 5 of the Code has been designed with these requirements in mind and has been designed to better recognise feed business operators ‘own checks’. Whilst there is no definition of ‘own checks’ in EU Regulation 882/2004, the FSA (in consultation with other Government Agencies and the European Commission) is of the opinion that a feed business operator who is a compliant member of an assurance scheme whose standards require compliance with feed law and include independent third party audit of members establishments to verify compliance, can be used as the basis for certain feed establishments to qualify for earned recognition. These assurance schemes are referred to as being ‘approved’ in both the Code and this Practice Guidance.

This Code describes two types of earned recognition, these are:

- a business which is not a member of an assurance scheme but demonstrates broad compliance; or
- A business which is a member of an approved assurance scheme and demonstrates satisfactory or broad compliance.

Feed business operators that qualify for earned recognition by being members of an approved assurance scheme receive the lowest frequencies of inspections. The process and criteria by which an assurance scheme obtains ‘approved’

status is set out in a flow chart at **Fig 1**. The frequencies are shown in **Fig 2: Impact of Earned Recognition**.

## **5.2.1 Role of the Central Competent Authority and the Competent Authorities**

### **5.2.1.1 Food Standards Agency**

It is the FSA's role as the central competent authority to assess individual assurance schemes which have applied for 'approved' status. This will be done using the criteria set out in 5.4 below.

When the FSA is confident that an assurance scheme meets the criteria a Memorandum of Understanding (MOU) will be agreed by the FSA with the assurance scheme, which details:

- the relevant scheme standard for which earned recognition has been awarded.
- any limitations to the scope of earned recognition awarded.
- arrangements which permit the FSA to regularly review the approved status of the scheme.
- the expected frequency of inspection for members of the scheme.
- how Competent Authorities can access the membership details of the assurance scheme.

The FSA will publish in Annex 3 of this document all those assurance schemes which currently have approved status, together with a copy of the relevant MOU.

The FSA will review and verify the approved status of assurance schemes on a regular basis using both information provided by the assurance schemes and competent authorities together with other relevant intelligence e.g. RASFF notifications. The FSA will agree actions to be taken by an assurance scheme where the general standards of compliance by its members are causing concern. This does not affect the role of a Competent Authority in ensuring that individual establishments take corrective action to deal with non-compliance or their role in removing earned recognition from an establishment if it fails to attain a minimum level of satisfactory compliance.

The FSA will share with local authorities through appropriate national forums the outcome of reviews of approved assurance schemes, including sharing relevant summary data on assurance scheme audit findings.

### **5.2.1.2 Competent Authorities**

It is the Competent Authorities role to assess compliance of all feed business operators with feed law. In doing this Competent Authorities will be able to:

- assess whether feed businesses which are not members of an approved assurance scheme can be awarded earned recognition or have it removed if they are found not to be broadly compliant.
- assess whether individual feed businesses which have earned recognition as a member of an approved assured scheme is satisfactory or broadly complaint and can retain its reduced level of inspection.
- ensure that any non-compliance is rectified in a timely way.

When the FSA has approved an assurance scheme Competent Authorities must adjust the frequency of inspection of all members of the assurance scheme in their area to that required by the Code and published by the FSA. Except in those circumstances where an initial inspection is required as set out in paragraph 5.7

of the Code, earned recognition will be applied to members of approved assurance schemes by making the adjustments set out in column 7 of the table in figure 2 of Chapter 5 of this Practice Guidance. Such establishments will be regarded as being 'assessed' and having satisfactory levels of compliance for the purposes of paragraph xi of Annex 2 of the Code. However, should the competent authority be aware that an individual member of an assurance scheme is not meeting satisfactory levels of compliance then it should not apply earned recognition to that establishment as per paragraph 5.3.1 of the Code. Feed establishments that are subject to on-going enforcement or are known not to have satisfactory levels of compliance should not qualify for earned recognition until an inspection at the next programmed inspection shows that they meet qualifying criteria as detailed in the Code.

When a Competent Authority becomes aware that a feed business will lose earned recognition and is a member of an approved assurance scheme, this must be notified to the FSA as soon as possible using the earned recognition exception report form that can be found at: <http://www.food.gov.uk/sites/default/files/animal-feed-rec-report-ea.doc> and send to the mail box at [feeddelivery@foodstandards.gsi.gov.uk](mailto:feeddelivery@foodstandards.gsi.gov.uk). This information is important in helping the FSA carry out its verification role of approved assurance schemes.

The FSA will also work with local authorities through national forums to channel information on non-compliances found during inspections (which do not lead to establishments losing their earned recognition status) to assurance schemes. This information will help the FSA identify trends of minor non-compliances which it anticipates will be useful information to improve compliance levels.

Where earned recognition has been obtained by virtue of membership of an approved assurance scheme, inspections by the Competent Authority must not coincide with the assurance scheme audit. If officers wish to witness an assurance scheme audit this should be arranged to take place at an establishment outside of the local authority area or areas in which the officer is authorised. This is to avoid any conflict of interest and to ensure independency of the official controls.

### 5.3 Criteria for the Approval of Assurance Scheme for Earned Recognition

To be approved an industry scheme must meet FSA key requirements and criteria in the following areas:

#### 5.3.1 Standard Setting

The industry scheme and its standards should cover applicable legislative requirements for the sector it covers, and include the following aspects of governance surrounding the establishment and setting of standards:

- **Governance:** The role and governance of the standard setting body should be clearly defined within the scheme and include representatives of all relevant stakeholders;
- **Standards:** There should be clearly defined processes for developing standards, with access to expertise and experience in relation to the sector to which the standards relate;
- **Legislation:** Processes should be in place to ensure standards are reviewed and developed in line with legislative changes; and,
- **Risk based:** A risk based approach to standard setting should be used, drawing upon HACCP or an equivalent risk assessment process that identifies safety hazards and controls.

### 5.3.2 Compliance and Certification

The industry schemes should clearly describe compliance as well as processes for assessment and review, in particularly:

- **Compliance:** The scheme should provide guidance on interpretation and assessment of compliance and how non conformities with standards are dealt with;
- **Review:** Systems should be in place to monitor and adjust scheme requirements to ensure they achieve acceptable standards of compliance; and,
- **Assessment:** The scheme should have appropriate mechanism for the development and review of inspection criteria, with the ability of relevant stakeholders, including central competent authorities, to contribute to this process.

The industry scheme must have the following processes / criteria in place for its certification bodies:

- UKAS accreditation or equivalent having EN45011 accreditation;
- a quality management system, including clearly defined management structure, processes for monitoring audits and the objective collection and recording of evidence as part of the certification process;
- a certification process that is reviewed at least annually to ensure it is operating effectively and in accordance with the requirements of the assurance scheme;
- a process to ensure non-conformances are tracked, closed off or otherwise addressed subject to the scheme's requirements;
- a process to monitor the competence / performance of assessors;
- a process to ensure those responsible for certification are kept up to date with developments in standards and guidance for interpretation of standards; and
- a certification decision-making process that is clear, transparent, proportional, consistent and documented.

### 5.3.3 Assessment Process

The industry scheme will need to demonstrate the following:

- the assessment process must be underpinned with guidance that deals with the assessment of standards and how non conformities are dealt with in relation to the risk posed by non-compliance. Guidance should include procedures for dealing with repeat non conformities, failure to rectify non conformities and situations when certification should be withheld or suspended and circumstances in which it might be re-instated. In addition the guidance must include verification of corrective action;
- the assessment must be carried out by assessors who are impartial, competent and maintain relevant sector knowledge;
- frequency of assessments must be no less than the minimum set by regulation or code of practice for the sector covered by the assurance scheme, risk based and take into account previous history;
- assessment must review all the standards set by the scheme applicable to the business and as a minimum must include a visual inspection of the site, observation of operations and examination of records;
- comprehensive records of assessment findings should be maintained. (date, name of assessor, scope of assessment, non-conformities, timescales for rectification etc); and

- where possible assessments should be unannounced or at short notice.

#### **5.3.4 Assessor Authorisation / Competence**

The industry scheme should have defined the following and have systems in place to ensure the certification body has:

- criteria for appointing and authorising assessors including reference to professional qualifications, auditing skills, relevant experience and arrangements for ensuring on-going competency; and
- induction and continued learning to enable assessors to demonstrate a clear understanding of scheme requirements, procedures and guidance for interpretation of standards and how non conformities are handled.

#### **5.3.5 Standard Mapping**

Scheme standards will need to encompass legislation applicable to the sector the scheme identifies with. The FSA will work with the scheme to ensure applicable feed legislation is identified.

If the FSA identifies that the scheme fails to cover any of the relevant legislative measures, the assurance scheme will be notified and invited to amend the scheme.

- Directive 2002/32 on Undesirable Substances in Animal Feed;
- Regulation (EC) No. 178/2002 on the Principles of Feed and Food Law.
- Regulation (EC) No. 1829/2003 on Genetically Modified Food and Feed;
- Regulation (EC) No.1831/2003 on Feed Additives;
- Regulation (EC) No.767/2009 on the Marketing and Use of Feed; and
- Regulation (EC) No.183/2005 on Feed Hygiene (as amended by Commission Regulation 225/2012 on feed oils and fats).

#### **5.3.6 Data Sharing and Communications**

The assurance scheme must ensure that:

- information is made available to the FSA and enforcement authorities to determine membership of the scheme (ie new members / members that leave or are suspended from the scheme) and such data is kept up to date;
- processes are in place to ensure the FSA and the enforcement authority are informed by the assurance scheme about members that are suspended from the scheme or where assessors have doubts that a member can manage or control risks as a result of repeat non conformities; and,
- processes are in place to ensure that the FSA and enforcement authority are informed immediately if an immediate threat to public health, animal health (including welfare) or the environment is identified.

The industry scheme must be in a position to agree the following processes with the FSA:

- the review of planned and actual assessments;
- the review of high level non-conformity / compliance data and rectification timescales
- the establishment of effective communications, between the assurance scheme, FSA and enforcement authorities;
- how the FSA is notified of changes to the scheme with particular reference to standards that reflect legislative requirements;



- the review of criteria that lead to earned recognition being approved for the scheme;
- key contact details;and
- regular meetings with the FSA to discuss the operation of the scheme.

#### **5.4 Continued Monitoring of Approved Assurance Schemes**

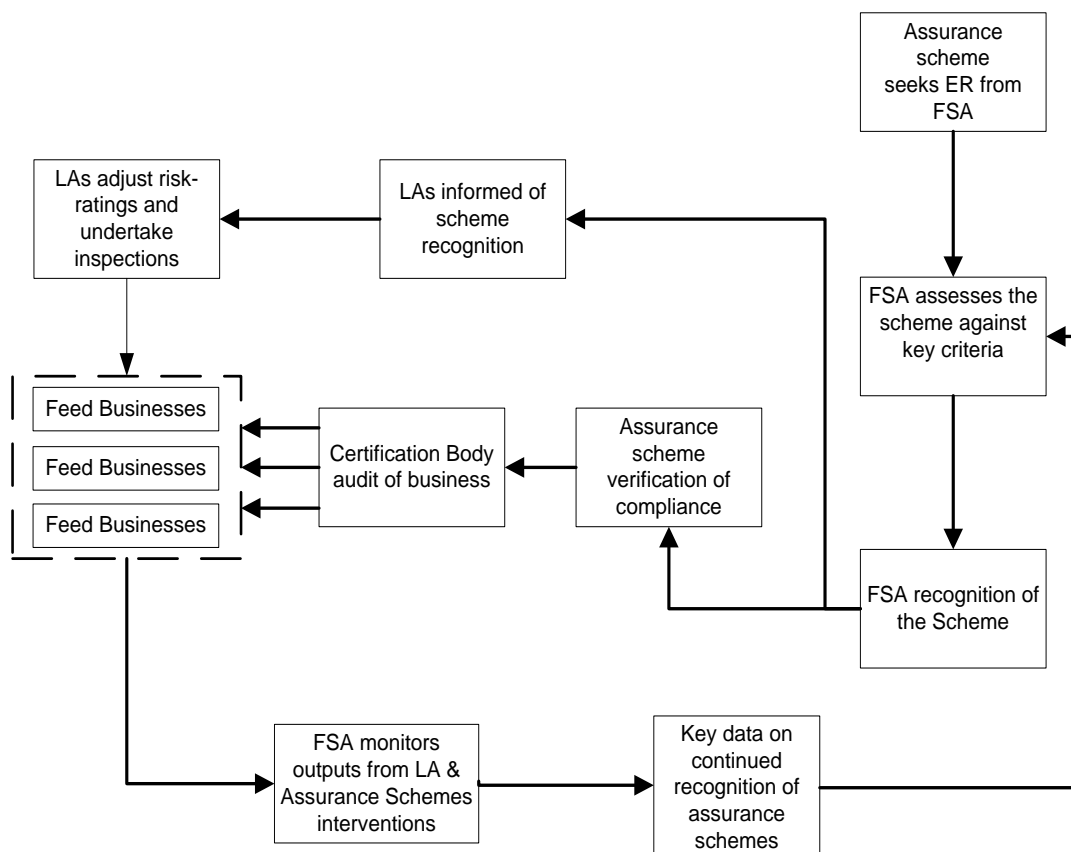
Once the FSA has approved an assurance scheme, steps will be taken to ensure continuing confidence in the scheme through verification. The verification process will enable the FSA to be assured that the scheme continues to deliver high standards, good governance and impartiality that lead to approved status. The inspections and audits of feed business establishments which are approved will form an essential element in this process and enforcement data provided to the Agency and other intelligence from official controls carried out by the Competent Authorities will be key sources of information.

This on-going positive verification will enable the FSA and Competent Authorities to have continued confidence in the approved assurance scheme. Verification will also allow the FSA to intervene should the scheme fail to meet criteria that lead to approved status. The FSA will work with the assurance scheme to ensure FSA criteria for approval is met, but ultimately the FSA can remove approved status. Should the FSA take this step it will liaise with bodies representing Competent Authorities and issue advice as to what adjustments will be made to the risk rating / visit frequency for those businesses concerned.

The FSA on a regular basis will review the following:

- the assurance scheme against the earned recognition requirements, criteria referred to in 5.3 and the MOU;
- agreed and up to date data is exchanged between the FSA, Competent Authorities and the assurance scheme;
- levels of compliance, non-conformities and rectification timescales;
- contact details are maintained for the FSA, Competent Authorities and the assurance scheme;
- membership information is made available to Competent Authorities, including businesses that have left or joined the scheme;
- the assurance scheme and certification body maintain a plan of work to ensure assessments are delivered in line with schemes requirements;
- work with the assurance scheme to understand the type and frequency of non-conformities found to inform the support that both the FSA , Competent Authorities and assurance scheme can provide;
- assess compliance through Competent Authority inspections;
- verify audit performance through the assurance scheme;
- check the quality of audits through direct assessment with the assurance scheme and through Competent Authorities undertaking relevant sample checks of qualifying businesses.
- the criteria that lead to approved status being awarded, to ensure assurance schemes continue to meet such criteria.

Fig 1 The process for gaining earned recognition and the verification process



#### 5.4.1 On-going Internal Governance Arrangements

To support the implementation of feed earned recognition the internal governance arrangements will ensure:

- a continuing connection between operational implementation and strategic development of earned recognition within the Agency;
- the decision making process for approval , continuing approval or termination of approval is fair, consistent, robust and evidence based;
- a system of accountability exists to define responsibilities for approval and monitoring of earned recognition;
- earned recognition continues to support the FSA’s Strategic Plan and the system continues to support the delivery of official feed controls.

### 5.5 Circumstances where a feed business establishment operating to an approved assurance scheme standard can lose earned recognition

#### 5.5.1 Membership Withdrawal

When a business which is a member of a recognised assurance scheme is withdrawn by the assurance scheme, the Competent Authority will be notified. All Competent Authorities will have access to assurance scheme databases to track membership and suspensions.

Competent Authorities are expected to act on all notifications of feed business operators leaving recognised assurance schemes including those members withdrawing because of ‘non-compliance with scheme standards’ or for

voluntarily leaving a scheme. This is because declining standards may be a reason why an assurance scheme member chooses not to apply for re-certification.

Competent Authorities do not need to act on notifications of suspension from a recognised assurance scheme. Suspension will often be a short-term situation and the assurance scheme will continue to work with the feed business operator to make sure that appropriate action is taken to address 'non-compliance with scheme standards'.

### **5.5.2 Action When Membership is Withdrawn**

The circumstances under which a business is withdrawn or leaves an approved assurance scheme will dictate what action the Competent Authority should take. In respect of feed business operators that are 'withdrawn' from an approved assurance scheme for 'non-compliance with scheme standards' Competent Authorities should aim to inspect the feed business operator as soon as possible and re-risk rate.

Where feed business operators leave the scheme for other reasons such as non-payment of membership; no longer trading; companies closing certain sites; switching to a more appropriate feed assurance scheme which is not an Agency approved scheme; or choosing to leave an assurance scheme as participation no longer benefits the feed business Competent Authorities should take a risk-based approach of assessing the feed business operators current level of compliance as an alternative to re-inspecting. Risk-based steps may be as follows:

The Competent Authority making contact with the feed business operator to:

- Confirm the reason for leaving the approved assurance scheme and the activities currently taking place;
- Request a copy of the last assurance scheme audit report, if felt necessary; and
- Make a risk based decision on further action to take based on discussions, information received, non-conformances identified and/or other LA assessment processes.

Based on the outcome of these enquiries the Competent Authority should, as appropriate:

- Carry out an inspection and re-risk rate where there are concerns in respect of compliance or where the audit report clearly indicates less than satisfactory compliance; or
- Leave the risk rating at the current level and remove assurance scheme membership and amend the earned recognition status of the feed business operator, changing the frequency of inspection or Alternative Enforcement Strategy as prescribed in figure 2 of section 5.
- The reason for the decision should be documented by the Competent Authority.

### **5.5.3 Removal of Earned Recognition by the Competent Authority**

The Code provides circumstances in which the removal of earned recognition would be appropriate and includes the authority becoming aware of a serious non-compliance or poor history of compliance associated with the business.

Competent Authorities will become aware of non-compliances through visiting businesses as part of delivering official controls or in response to complaints from the public or information from other agencies that have cause to visit the business.

From time to time Competent Authorities may find minor non compliances when auditing a feed business that qualifies for earned recognition. Providing the matter is not subject to enforcement sanctions, can be rectified immediately or within a reasonable timescale of being identified and the level of compliance is not less than satisfactory, earned recognition should not be removed. The Competent Authority will need to check that the matter has been resolved.

Examples of minor non-compliance could include:

- failure to complete records in full on occasion;
- minor hygiene breaches such as unclean hopper, water trough, etc. but evident that it is cleaned from time to time;
- minor pest control matters (in view of the environment, e.g. birds in shed), but there is a pest control system in place and action has been taken to minimise or eliminate contamination;
- chemicals stored in feed areas (but in sealed/closed containers).

Examples of a serious non-compliance which would lead to an increase in the establishment's risk-rating score leading to loss of earned recognition include:

- non-compliances requiring the use of formal enforcement powers e.g. improvement notice;
- an imminent risk to public health through the consumption of food from animals which have received contaminated feed;
- the welfare of food producing animals is threatened through the use of contaminated feed;
- serious infestation of pests (one which affects the welfare of animals or the safety of feed/food stocks) with no pest control system in place;
- serious breaches of hygiene such as unclean equipment which indicates no cleaning for some considerable time;
- controls to prevent cross contamination (e.g. segregation of medicated and non-medicated feed) are inadequate;
- lack of feed traceability;
- a significant change of activity, e.g. which is outside of the scope of the assurance scheme standard or involves a farmer who begins manufacture of compound feed for supply to other feed business operators.

While the above examples are not an exhaustive list, they provide a broad indication as to when earned recognition should be removed. When a Competent Authority becomes aware that a feed business will lose earned recognition and is a member of an approved assurance scheme, this must be notified to the FSA as soon as possible using the earned recognition exception report form that can be found at: <http://www.food.gov.uk/sites/default/files/animal-feed-rec-report-ea.doc> and send to the mail box at [feeddelivery@foodstandards.gsi.gov.uk](mailto:feeddelivery@foodstandards.gsi.gov.uk)

Feed business operators who are not members of approved assurance schemes but receive earned recognition through having broad compliance should have earned recognition removed if any of the following circumstances occur:

- The Competent Authority becomes aware of a serious non-compliance or subsequent to an inspection the feed business operator is risk assessed as having less than a 'broad' level of compliance; or
- A significant change of activity takes place; or
- Ownership of the feed business to which earned recognition applies changes.

Where such a feed business operator loses its earned recognition status, the business must be informed. There is no requirement to notify the FSA.

## **5.6 Alternative Enforcement Strategy (AES)**

The use of AES at establishments which have earned recognition because they are broadly compliant but are not a member of an assurance scheme will enable Competent Authorities to focus attention on those businesses which present the greatest risk to consumer safety and/or which are failing to meet their statutory obligations.

The use of AES can also assist in maintaining contact with feed businesses to enable advice and information to be provided as appropriate. It will also provide a mechanism for topic based coaching and education as businesses are able to request further feed safety information that may highlight a training need.

The Competent Authority should determine the exact nature of its AES, which should be documented. The use of AES at individual establishments must be alternated with an inspection visit (an official control), at the frequency required by the Code until such time the business loses earned recognition.

Earned recognition is available to businesses which are assessed as 'broadly compliant' but who are not members of a recognised industry assurance scheme. The Code describes the circumstances that will enable the Competent Authority to implement earned recognition through the use of an Alternative Enforcement Strategy at Annex 2.1.2. The Code of Practice refers to premises that are at least broadly compliant as qualifying for AES. If at any time a Competent Authority finds that the business is no longer broadly compliant earned recognition must be removed until such time as the business is re-assessed and can demonstrate a record of 'broad compliance'. See A 2.1.2. in the Code.

A business may approach the Competent Authority on the basis that it believes it qualifies for earned recognition. The Competent Authority should consider the requirements of the Code and notify the business as to whether it qualifies for earned recognition or not. Should a dispute arise, this will be dealt with under the Competent Authority's complaints procedure. If a business is found to meet the criteria as described in the Code, earned recognition will be awarded.

## **5.7 Impact of Earned Recognition and Alternative Enforcement Strategies on Feed Establishments**

The table at **Fig 2** indicates the expected effect of the intervention risk-rating scheme on various types of establishments and indicates whether earned recognition through an approved assurance scheme or AES can be considered.

**Fig 2: Impact of earned recognition**

Business Description	Potential Approval/Registration Codes Applicable to the Business for illustrative purposes only	Poor Compliance  Frequency of inspections Years	Varying Compliance  Frequency of inspections Years	Satisfactory Compliance  Frequency of inspections Years	Broad Compliance or better  Frequency of inspections Years / AES	Earned Recognition for Members of Approved Assurance Schemes  Frequency of inspections years / % annual inspection sample
Arable Farm	R14	3	4	5	AES	2%
Co-Product Producer	R12	1	1	2	4	5
Distributor	All approved codes plus R1,R2,R3,R5,R7	2	4	5	AES	2%
Importer	Not applicable					
Livestock Farms	R13	3	4	5	AES	2%

Business Description	Potential Approval/Registration Codes Applicable to the Business for illustrative purposes only	Poor Compliance  Frequency of inspections Years	Varying Compliance  Frequency of inspections Years	Satisfactory Compliance  Frequency of inspections Years	Broad Compliance or better  Frequency of inspections Years / AES	Earned Recognition for Members of Approved Assurance Schemes  Frequency of inspections years / % annual inspection sample
Manufacturer of additives or of feed using additives	All Approved Codes plus R1, R2, R3 to R4 and R6	1	1	2	3	4
Mobile Mixer	R4	1	1	2	4	5
On-Farm Mixer	R10 or R11	2	4	5	AES	2%
Stores	R9	2	3	5	AES	2%
Supplier of Surplus Food	R7	2	4	5	AES	2%
Transporter	R8	2	4	5	AES	2%

Please see the link below for list of approval and registration activities:-

<http://food.gov.uk/business-industry/guidancenotes/hygguid/approvregfeedguidance>

\*Please note that for the purpose of the Animal Feed Law Inspection Rating Scheme in Annex 2 of the Feed Law Code of Practice 'Other businesses' may include bespoke small scale activities for example very small pet food producers producing less than 100kg of pet food per annum.

## **5.8 Points of Entry**

All Competent Authorities, other than District Councils (second tier councils), have responsibilities for certain aspects of import controls on feed. Whilst the following information is primarily aimed at official controls at points of entry it should be remembered that 'inland authorities' also have an important role to play in monitoring the compliance of materials which originate from outside of the EU and the exchange of intelligence and findings between points of entry and inland authorities on those importing feed and the products imported is a key element to a robust system of official controls. More information on the part inland authorities play in terms of imported feed can be found at:

[http://www.food.gov.uk/business-industry/imports/enforce\\_authorities/resourcepack](http://www.food.gov.uk/business-industry/imports/enforce_authorities/resourcepack)

Import controls were further harmonised at EU level by Regulation (EC) No. 882/2004 on official controls and the requirements (at Articles 15 to 25) extend to feeds not already covered by Directive 97/78/EC (POAO Veterinary Checks regime). The controls on imported POAO (Products of Animal Origin) are carried out by Defra officials.

### **5.8.1 Authorisation**

Officers who are involved in the delivery of import controls must meet the relevant competencies applicable to their duties as set out in Annex 1 of the Code, before they can be authorised. Where officers are involved in the sampling of feed this will also include the competency on sampling. The work on import controls must be overseen by a 'Lead Officer' who meets the relevant competence and qualification requirements. This officer may be one employed in another department within the Competent Authority responsible for feed controls (e.g. one responsible for Trading Standards function) or another Competent Authority as provided for in Paragraph 3.7 of the Code.

### **5.8.2 Routine Official Controls at Points of Entry**

Imported feed should be subjected to risk based checks. Regulation (EC) No. 882/2004 requires systematic documentary checks, random identity checks and where appropriate physical checks. A systematic documentary check does not imply 100% checking of commercial documents but there should be risk based planned arrangements in place. However, documents required to accompany any consignment by feed law, such as under emergency control decisions, are likely to require 100% checking. Physical checks might include: checks on the feed itself, checks on the means of transport, checks on the packaging and analysis or any other check necessary to verify compliance with EU feed safety requirements. Such checks may also take into account any guarantees that the Competent Authority of the third country has given and which have been assessed by the Commission. The arrangements and follow up actions should be set out in relevant service policies and procedures.

Physical checks should be carried out under appropriate conditions inclusive of standards of hygiene and at a place with access to appropriate control facilities allowing investigations to be conducted properly. Samples should be handled in such a way as to guarantee both their legal and analytical validity.



Checks should be informed by:

- statutory requirements for documentary checks and associated sampling laid down in relevant emergency control decisions and emergency control regulations;
- guidance on the risks associated with different types of feed safety issues;
- knowledge of the product e.g. new or unusual;
- any requirements following a Feed Alert or RASFF notification;
- the history of compliance for the product, country of origin and exporter/importer;
- the controls that the feed business importing the feed has carried out;
- adequacy or sufficiency of documentation e.g. discrepancies which need further investigation; and
- suspicion of non-compliance.

Checks may also be influenced by information received from inland authorities regarding non-compliant feed or from other control authorities or the port operator who may have concerns about a consignment.

Checks on imported feed should also take into account any guidance issued by the FSA. Such guidance may cover feeds for which specific documentary checking regimes have been laid down or feeds with restricted points of entry and/or testing regimes laid down in Commission Decisions or Regulations. Competent Authorities with points of entry which are not designated to handle certain FNAO (food not of animal origin) products subject to Emergency Control Decisions may wish to ensure relevant port operators, local HMRC, or agents/importers are aware of any restrictions. Arrangements should also be in place to deal with any such consignments which may arrive at the point of entry.

### **5.8.3 Regulation (EC) No 669/2009 on high-risk feed**

Since 25 January 2010 imports of certain feed and food of non-animal origin, from certain non-EU countries, that are considered to be 'high-risk' can only enter the UK through specific ports and airports approved as designated points of entry (DPEs) where official controls will be carried out. A 'high-risk' product is feed or food that is either a known, or an emerging, risk to public health. This may be due to the presence of contaminants/ undesirable substances such as aflatoxins,

A list of the 'high-risk' products, country of origin and the frequency of checks can be found at Annex I of Commission Regulation (EC) 669/2009, as last amended by Commission Implementing Regulation (EU) 618/2013 of 26 June 2013. This Annex gets updated approximately every six months.

All Competent Authorities, including inland authorities, should be aware of those feeds currently included in Annex 1 of the Regulation in order that they can be sure that consignments have entered via appropriate points of entry and undergone the appropriate checks. More information on the requirements of the Regulation (including a list of designated points of entry) which is published on the FSA website at:

[http://www.food.gov.uk/business-industry/imports/banned\\_restricted/highrisknonpoao](http://www.food.gov.uk/business-industry/imports/banned_restricted/highrisknonpoao)

### **5.8.4 Controls at Small Points of Entry**

The FSA has produced guidance for Competent Authorities on official controls at smaller points of entry which is published on the FSA website at: [www.food.gov.uk/multimedia/pdfs/smaller-seaports-airports.pdf](http://www.food.gov.uk/multimedia/pdfs/smaller-seaports-airports.pdf)

## **5.9 Sampling Policy and Sampling Programme**

The Framework Agreement includes service planning guidance requiring Competent Authorities to set out the scope of the responsibilities and service provided and to describe any external

factors that may impact on their service. Where relevant, Competent Authorities should include in these sections imported feed responsibilities and the control arrangements in place.

Competent Authorities with a point of entry should include details of resources allocated for imported feed control work in their service plans.

Competent Authorities must prepare and publish a Feed Sampling Policy and make it available to businesses and consumers. The Policy must set out the Competent Authority's general approach to feed sampling and its approach in specific situations such as process monitoring, Primary Authority including inspection plans, Home Authority Principle, inspections, complaints, special investigations and national, regional and local co-ordinated programmes.

The Sampling Policy must commit the Competent Authority to providing the resources necessary to carry out its feed Sampling Programme.

Competent Authorities must also prepare a Sampling Programme which details their intended feed sampling priorities. The Programme must take account of the number, type and risk-ratings of the feed businesses, and the type of feed produced in the area, the Competent Authority's originating or Home Authority responsibilities and the need to ensure that the provisions of feed law are enforced. The Sampling Programme should not be published.

The Sampling Programme must take into account Primary Authority inspection plans which seek to coordinate sampling for partnership businesses. The Sampling Policy and the Sampling Programme should be prepared in consultation with the Competent Authority's Agricultural Analyst, which may take place on a local or regional basis. It should also take account of the FSA national feed priorities that are issued annually.

All samples which are sent to an Official Laboratory constitute official control samples. All such samples must be dealt with in accordance with Article 11 of Regulation 882/2004 on the official control of feed and food and the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 which contains various provisions for the administration of Regulation (EC) No. 152/2009 on sampling and the powers to take samples.

Both the Code and "Framework Agreement on Local Authority Food Law Enforcement" require Competent Authorities have a sampling policy and programme.

## **5.9.1 Objectives of feed sampling**

The main objectives of feed sampling should be borne in mind when setting up sampling programmes, and these objectives below may help to formulate priorities for sampling activity.

### **5.9.1.1 Protecting Health**

The most important objective of feed sampling is to protect animal and public health. A significant proportion of sampling activity undertaken will, in some way, have a bearing on this wide-reaching objective. Specifically, sampling to detect naturally occurring toxins, contaminants, use of unsuitable ingredients, excessive addition of additives or additives not approved for the use intended or banned from use in animal feed.

### **5.9.1.2 Detecting Fraudulent Activities**

In terms of animal feed such activity is likely to cause potential health concerns when it is linked to the diversion of product not intended for use as animal feed e.g. the use of 'technical grade' calcium carbonate containing high levels of heavy metals. Another example is the use addition of melamine to feed for animals to alter the apparent protein content of feed. This can lead to the death of animals with potential consequences for public health.

### **5.9.1.3 Compliance with Labelling Requirements**

Information on feed labels is essential to enable feed business operators throughout the feed chain to make appropriate/best use of the material they use either to manufacture feed or use as feed. This information is also often critical in ensuring that the feed is provided to the correct species/age of animal and provided in quantities which does not affect the health of the animal or animal products or have adverse implications for human health/ traceability.

### **5.9.1.4 Providing advice to Feed Business Operators**

Notifying feed business operators of sampling results can highlight issues that they were not aware of, thus allowing them to take prompt action. Similarly, enforcement sampling alerts industry that products are being monitored for the purpose of consumer protection and legal compliance.

### **5.9.1.5 Promoting fair trade and deterring bad practice**

Legitimate businesses need assurance they will not be undermined by competitors who cut corners or commit fraud. Businesses and consumers alike need to know where they stand. It is, therefore, important that feed law is effective and is enforced efficiently and consistently. Fair and effective enforcement helps honest and diligent feed businesses and is supported by industry as a whole.

## **5.9.2 A planned approach to feed sampling**

Competent Authorities should have in place a programme for the majority of sampling that it intends to carry out during the year. This planned sampling should take into account local concerns as well as wider issues and can generally be set some time in advance.

A sampling programme must be risk based (see below), and the planned inspection programme for the year should be considered together to ensure, where appropriate, that sampling and inspection programmes can be effectively integrated. Sampling will want to take place more frequently at premises of high-risk feed business operators than at others, but as well as the risk associated with the premises, consideration of higher risk products which may be found at otherwise lower risk premises e.g. feed additives used in animal feed at stores or distribution facilities.

## **5.9.3 What to Sample**

Competent Authorities will have a good idea of what is required to be included in a sampling programme. The link below provides information on the current enforcement priorities for animal feed:

<https://www.food.gov.uk/enforcement/enforcework/food-law/guidance-enforcement-0/national-enforcement-priorities>

Feed liaison groups and Agricultural Analysts can also be a useful source of information as can information passed on from other enforcement bodies e.g. Competent Authorities at points of entry and agencies such as the Veterinary Medicines Directorate. Sampling programmes should be planned to avoid feeds that are already being looked at on a wider basis. Using information from the UK Food Surveillance System (UKFSS) can be helpful in this regard where Competent Authorities have access to it and the FSA would encourage all Competent Authorities to make use of the system to make the most effective use of sampling resources. More information on UKFSS can be found at:

<http://www.food.gov.uk/enforcement/monitoring/fss/>

Imported feed makes up 40 per cent of the feed used in the UK. Sampling imported feed then becomes a key mechanism to ensure the safety and quality of feed and food entering the UK from countries outside of the EU. All Competent Authorities with responsibility for points of entry should include provision in their programmes to sample products at points of entry on a risk basis. In addition, all Competent Authorities should give priority to the sampling and analysis of

product, particularly additives and feed materials originating from outside the EU to assess its compliance with EU safety requirements.

#### **5.9.4 Local issues**

Competent Authorities will want to deal with known or emerging local concerns and the Agricultural Analyst will be able to advise on these. In addition, sampling will be determined by the profile of feed business operators in the Competent Authorities area which may include such diverse businesses as additive manufacturers, mineral extractors, surplus food processors, importers and feed stores.

#### **5.9.5 When to Sample**

The frequency of visits and subsequently any samples taken will mainly be determined by the risk assessment given for individual premises and the products used. It makes sense to tie in sampling programmes with inspection programmes wherever possible. For instance, if the Competent Authority is the home authority and/or originating authority for any feed premises which deals in unusual products, that may act as wide distribution centres either within the UK or internationally, the Competent Authority will probably want to sample products from these premises more frequently than others.

There may be seasonal factors associated with some businesses, such as seasonal variations in the imports they receive.

Some businesses will not work to normal office hours and may require sampling visits outside of normal working hours e.g. importers.

#### **5.9.6 Where to Sample**

Choosing where to sample is closely linked with risk associated with a feed business and the product. In general, feeding stuffs should be sampled as far back along the supply chain as possible. In the case of feed materials and feed additives this will enable an assessment to take place of compliance before dilution of possible undesirable substances (contaminants) can come into effect. It should also be remembered that many feed materials are fed directly to livestock. Normally, a compound feed should be sampled at premises where it was manufactured unless there is reason to do otherwise e.g. the feed is the subject of a complaint.

Only a small amount of imported animal feed can normally be sampled at points of entry. This is particularly true of loose bulk materials which are difficult to sample effectively at many points of entry. Authorities inland have an important part to play in the monitoring of feed materials and additives originating from outside the EU. Consideration should be given to including checks of feed materials and additives at feed businesses, especially those which store such products and/or use them as part of a manufacturing process. Results of analyses should be shared with Competent Authorities at relevant points of entry.

#### **5.9.7 Planning for unexpected events**

Whilst it is possible to prepare a plan for the majority of the samples a Competent Authority proposes to take, not all sampling can be planned in advance.

There will need to be contingency plans in the sampling programme to deal with sudden changes in priorities which may arise in response to:

- complaints;
- feed hazard warning and feed suspected of contamination;
- Rapid Alert System Food and Feed (RASFF);
- additional national surveillance programmes;

- new businesses;
- new products or manufacturing practices in existing businesses;
- observation during inspections.

### 5.9.8 Risk based Sampling

Article 3 of Regulation (EC) 882/2004 on the official feed and food, requires all official control activities, including sampling, to be risk based. For the purposes of this document, 'risk' means the likelihood of feed being detrimental to the health of animals or humans, and the extent/severity of such harm. For a sampling programme to be effective, programmes should consider the risks presented by different types of feeding stuffs and associated materials.

An effective sampling programme should take into account the types of feed businesses present, the nature of the feed handled, the size of the business and the procedures adopted by the feed business to ensure compliance with legislation. Consideration should be given to the following:

- whether the Competent Authority is the Home Authority and/or originating authority for any feed premises that deal in unusual feed?
- are there feed manufacturers in the area?
- are there any distribution centres which deliver feed to a wide area?
- what type of feed materials/feed additives do feed business operators (e.g. feed manufacturers, and importers) use in the area?
- what is the compliance history related to individual feed business operators?
- do feed business operators use materials which have been subject of RASFF notifications or other incidents?
- do national sampling programmes highlight any feed types which relate to specific premises in the area?

In addition consideration should be given to the following risk-related issues for all samples taken:

- the severity of the effect of any given fault with the feed;
- the likelihood of the occurrence of the fault;
- the consumption pattern applicable to the feed;
- the degree and distribution;
- the degree of control and monitoring exercised by the manufacturer for all potential faults;
- the stage in the production and distribution chain at which the problem can occur or could be more easily detected;
- the compliance history of a feed business;
- emerging national, European and wider international concerns;
- local consumer and business concerns.

### 5.9.9 Level of Sampling

Sampling activity is monitored and assessed as part of the FSA's monitoring and audit arrangements under the Framework Agreement and to meet EU legislative requirements. When the FSA audits a Competent Authority, checks are likely to be undertaken on the level of sampling carried out and whether this is risk based. Routine sampling should be considered by Competent Authorities as part of the inspection process.

This guidance does not set sampling levels for UK Competent Authorities. The FSA provides information annually on priorities for local authority enforcement which are published on the FSA website. These indicate the products and analytes which should be included within local authority sampling programmes where appropriate feed business operators using, storing or importing these products exist. Sampling programmes should take account of these national priorities in addition to locally identified priorities together with the profile of feed business

establishments and quantities of feeding stuffs to determine an appropriate level and range of sampling for a given area.

Table 1: Examples of Undesirable Substances (Contaminants) In Feedingstuffs

	Minerals/Additives	Substance/Hazard
a.	Copper Chelate	Dioxin-like PCBs
b.	Copper Sulphate	Dioxins-like PCBs
c.	Tagetes (Red colouring for feed)	Dioxins
d.	Sepiolite	Lead
e.	Monocalcium phosphate	For the presence of fluorine and heavy metals
f.	Dicalcium phosphate	For the presence of heavy metals including cadmium
g.	Dicalcium phosphate	For the presence of heavy metals including arsenic
h.	Choline Chloride	Melamine
i.	Zinc oxide	For the presence of other heavy metals (e.g. cadmium)
j.	Manganese (manganous oxide/manganic oxide)	For the presence of other heavy metals (e.g. cadmium).
k.	Trace elements belonging to the functional group of compounds of trace elements referred to in Annex I, 3 b) of Regulation (EC) No 1831/2003	For the presence of undesirable substances (heavy metals)
	Other feeding stuffs	Substance/Hazard
a.	Soya and soya products	Unauthorised GM and mycotoxins
b.	Groundnuts	Aflatoxin B1
c.	Feed Premixtures	Dioxins and level of ingredients
d.	Maize and maize products	Unauthorised GM, and mycotoxins
e.	High protein products originating from China, intended for use as animal feed, other than milk, milk products, soy, soya products and ammonium bicarbonate	For the presence of melamine

## 5.10 Planned Inspections and Revisits

### 5.10.1 General

Competent Authorities should establish an annual programme of inspections. The programme of inspections will be based on the risk posed by the activities of individual feed businesses. For further information on risk ratings for feed businesses and the frequency of inspections, including the application of earned recognition see Chapter 5 of the Code.

Inspections should be carried out at all stages of production, processing and distribution to establish whether the requirements of relevant feed law are being met, in line with the general obligations as set out in Article 3 of Regulation 882/2004.

An inspection of a feed business establishment may be either a planned inspection or a revisit.

A planned inspection is an inspection of a feed business in which the appropriate elements set out in the relevant inspection form for the business concerned are considered. Authorised officers may, however, use their professional judgement and decide to cover only certain elements of the inspection form in circumstances where they consider it appropriate to do so. A serious breach of animal feed law before the next planned inspection would not preclude an earlier inspection taking place which replaces that planned.

Competent Authorities should use the inspection forms see Annex 1 of this Practice Guidance. The forms can also be used to report findings of inspections to feed business operators, including remedial actions which are required to rectify non-compliances.

An officer carrying out a planned inspection should:

- establish the scope of the business and the relevant feed law that applies to the operations taking place;
- thoroughly and systematically gather and record information from the observation of practices, procedures and processes, including procedures based on HACCP principles, and discussion with feed business operators and managers;
- determine whether it is necessary to collect samples of raw materials, ingredients, additives, intermediates, finished products, for analysis;
- identify any actual or potential breaches of feed law and, if appropriate, gather and preserve evidence; and
- identify possible sources of contamination with undesirable substances and where these exceed maximum permitted levels or exceed action thresholds carry out appropriate investigations

The first visit to a feed business establishment will also be considered to be a planned inspection, provided it includes the activities set out above.

Competent Authorities should consider the memorandum of understanding between the VMD and NAP on the dual/joint visits before deciding whether a visit is required by the Competent Authority.

Local authority visits should be scheduled in accordance with the Code or where the NTSB Risk-rating scheme is used this should be applied in the way agreed between the FSA and NAP.

### **5.10.2 Revisits - General**

A revisit is any other visit to a feed business that is not a planned inspection, for any purpose connected with the enforcement of feed law, including:

- sampling visits;
- visits to check on the progress of measures required after a previous inspection;
- visits to investigate complaints; and
- visits to discuss aspects of feed safety management procedures based on HACCP principles.

### **5.10.3 Early Inspection**

Circumstances may arise that make it appropriate to bring forward the timing of a planned inspection. Such circumstances may include when the Competent Authority:

- receives a new registration/approval application;
- receives a request to change registration/approval details;
- receives a complaint of a serious nature;
- becomes aware of any change in the ownership, management, layout or nature of operation of a feed establishment;
- receives a referral under the Home Authority Principle; and
- receives a request or other information from the FSA or VMD.

#### **5.10.4 Need to Re-schedule Planned Inspections**

Circumstances may arise that require Competent Authorities to re-schedule their planned inspections in order to take urgent action over a period of time. Such situations may include those where there is evidence that:

- an unsafe practice is occurring or has occurred which represents a significant hazard to animal or public health;
- a particular feed handling or feed preparation practice is found to entail a previously unsuspected hazard to animal or public health;
- a feed previously thought to be safe is found to be hazardous to animal or public health;
- a feed with widespread distribution is found to be contaminated and thereby presents a significant hazard to animal or public health; and
- a feed with widespread distribution is the subject of misrepresentation in labelling or presentation.

Where such a situation arises the FSA may require Competent Authorities to take specific action. (See Chapter 4 of the Code) Competent Authorities are therefore required to have regard to and to act on, any such communication. In all cases, the FSA will, before taking action under this paragraph, consider whether urgent action by Competent Authorities is necessary to protect animal or public health.

Competent Authorities may be asked to provide information to the FSA about the action that they have taken. They should document the action taken in response to requests under this paragraph.

### **5.11 Action following Inspection**

#### **5.11.1 Post-inspection Reports**

The outcome of a planned inspection should always be reported in writing to the feed business operator either at the conclusion of the inspection or as soon as practicable thereafter, even if the outcome was satisfactory. The report should include all the information detailed in Chapter 2 of this guidance, which may be included in a post-inspection letter that sets out the measures to be taken to secure compliance. As mentioned above, the inspection form can be the inspection report if it contains all of the information set out in Chapter 2.

#### **5.11.2 Inspection Record Files**

The Competent Authority's inspection record files, which may be computer based, should be updated after each inspection and include:

- information on the size and scale of the business and its customer base;
- information on the type of feed activities undertaken by the business, including any special equipment, processes or features;
- copies of any correspondence with the business, including documentation associated with approvals or registration;
- copies of feed sample analysis results; and in respect of establishments inspected for feed hygiene purposes;
- an assessment of the business progress in meeting compliance with procedures based on HACCP principles;
- information on training undertaken and qualifications held by employees involved in the manufacture of feeding stuffs;
- for establishments that are subject to approval requirements, details of approved products handled;
- details of enforcement action;
- the existence and assessment of any documented quality system; and
- details of other businesses that produce or import for the business.



### **5.11.3 Retention of Inspection Reports**

Inspection reports should be retained for at least 6 years, or until the next planned inspection, whichever period is the longer, unless required for longer retention because of litigation, Local Government Ombudsman review or the document management policy of the Competent Authority, or instruction by the FSA.

### 6.1 Feed Business Improvement Notices

#### 6.1.1 Introduction

This section deals with the use of a feed business improvement notices under regulation 24 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016. A model form for use in connection with Regulation 24 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 can be found at Annex 2.

#### 6.1.2 Feed Business Improvement Notices – When to use feed business Improvement Notices

Feed business improvement notices may be appropriate in any of the following circumstances or a combination thereof:

- where formal action is proportionate to the risk to animal or human health;
- where there is a record of non-compliance with breaches of specified feed law listed in the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016;
- where the authorised officer has reason to believe that an informal approach will not be successful.

#### 6.1.3 When Feed business Improvement Notices are not appropriate

Feed business improvement notices procedure would not be appropriate in the following circumstances:

- in transient situations, and it is considered that swift enforcement action is needed. An Emergency Prohibition Notice would be the only formal remedy which would have immediate effect;
- where there is a breach of good hygiene practice but no failure to comply with an appropriate regulation; and
- generally, an improvement notice should not be used to require withdrawal of product in circumstances where the feed business operator would have no obligation to do so under Article 20 of Regulation 178/2002.

### 6.2 Prohibition Procedures

This section deals first with the use of feed business emergency prohibition notices under Regulation 29 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 and then feed business prohibition orders under Regulation 28. Model forms for use in connection with Regulations 28 and 29 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 can be found at Annex 2.

#### 6.2.1 Use of Emergency Feed Business Prohibition Notices (Regulation 29)

Unless voluntary procedures as described in this guidance document are more appropriate in the circumstances, feed business emergency prohibition notices should be used if an authorised officer has evidence that the health risk condition is fulfilled and that this risk is imminent. If the appropriate evidence is found, a feed business emergency prohibition notice may be served on the feed business operator, followed by an application to a Magistrates' for an emergency prohibition order.

#### 6.2.2 Health Risk Conditions where use of Feed Business Prohibition Procedures and Emergency Feed Business Prohibition Procedures may be appropriate

The following paragraphs provide examples of circumstances that may show that the health risk condition as defined by Regulation 28(2)/Regulation 29(4) of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 exist. i.e. there is a risk / imminent risk of injury to health, and those in which an authorised officer may therefore consider the use of such prohibition powers. These examples are in no way prescriptive or exhaustive and are for illustrative purposes only. Prohibition Orders can only be made by the courts.

Health Risk Conditions where Prohibition on use of premises may be appropriate:

- infestation by rats, mice, cockroaches or other vermin, serious enough to result in the actual contamination of feed or a significant risk of contamination;
- very poor structural condition and poor equipment and/or poor maintenance or routine cleaning and/or serious accumulations of refuse, filth or other extraneous matter resulting in the actual contamination of feed or a significant risk of feed contamination;
- drainage defects or flooding of the establishment, serious enough to result in the actual contamination of feed or a significant risk of feed contamination;
- inadequate storage conditions or poor cleaning procedures which create a significant risk of contamination or cross contamination of the feed posing an actual risk to the health of animals, or through the products of such animals, to human health;
- any combination of the above, or the cumulative effect of contraventions which, taken together, represent the fulfilment of the health risk condition.

Health Risk Conditions where the Prohibition on use of equipment may be appropriate:

- use of defective equipment, e.g. a mixer which is incapable of achieving the required blend of ration;
- use of equipment for the processing of high-risk feeds that has been inadequately cleaned or disinfected or which is grossly contaminated and can no longer be properly cleaned.

Health Risk Conditions where Prohibition on use of a process may be appropriate:

- serious risk of cross contamination with undesirable substances;
- the use of a process for a product for which it is inappropriate.

### **6.2.3 Health Risk Condition No Longer Exists: Certificate (Regulation 28(7) and Regulation 29(9))**

In respect of feed business prohibition orders the Competent Authority should issue a certificate to the feed business operator within three days of being satisfied that the health risk condition no longer exists. If the feed business operator applies for such a certificate, the Competent Authority must determine the position as soon as is reasonably practicable and in any event within a period of no longer than fourteen days.

### **6.2.4 Voluntary Procedures**

Voluntary procedures to remove a health risk condition may be used, at the instigation of the proprietor or a manager of the business, when the feed business operator agrees that a health risk condition exists. An officer may suggest this option to the feed business operator but only when they are able to use emergency prohibition powers in the Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016. If in doubt, the feed business operator should be advised to take legal advice.

Any voluntary closure agreement should be confirmed in writing by the feed business operator and the authorised officer, with an undertaking by the feed business operator or manager not to re-open without the officer's prior approval.

If the manager of a feed business offers to close their business voluntarily, the officer should obtain written confirmation from the manager that he or she has the authority to agree to such

action. The officer should ensure that frequent checks are made on the establishment to ensure that it has not re-opened.

If the feed business operator offers to close voluntarily, the officer should:

- consider whether there is a risk of the establishment being re-opened without the officer's knowledge and/or agreement (if this were to cause feed incident, the Competent Authority could be criticised for not having used statutory powers);
- recognise that there is no legal sanction against a feed business operator who re-opens for business after offering to close, although enforcement action for the actual breaches e.g. unsafe feed, similar processing as before, etc. remains available;
- explain to the feed business operator that, by making the offer to close, any compensation if a court subsequently declines to make a feed business emergency prohibition order may be less likely to be awarded.

#### **6.2.5 Action when a Feed Business Prohibition Order has been made against a person (Regulation 28(4))**

A feed business prohibition order can only be fully effective if other Competent Authorities are notified, as the individual concerned may try to start a business in another area. The Competent Authority should notify the FSA as soon as possible after an order is made against a person prohibiting them from running a feed business, provided the order is not the subject of an appeal and the period allowed for appeal has expired, supplying the following information:

- case number;
- court details;
- date of prohibition order;
- date(s) of offence;
- nature of offence(s);
- regulation/section number under which offence was committed;
- penalties;
- name of convicted person;
- name of the business;
- feed business establishment address including post code;
- business type/main activity (e.g. catering, retail, etc.); and
- details of assumed names.

Where there is an appeal and the Order is confirmed, the information should be supplied at that point.

#### **6.2.6 Lifting of a Feed Business Prohibition Order Against a Person (Regulation 28(6)(b) and Regulation 28(8))**

A Feed Business Prohibition Order against a person imposed under regulation 28(4) will only cease to have effect if, on an application by the feed business operator, the court gives a direction to that effect.

The Competent Authority should also notify the FSA at the earliest opportunity after they learn that a Feed Business Prohibition Order against a person in their area ceases to have effect.

### **6.3 Detention and Seizure (Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016, Regulation 31)**

When an authorised officer has inspected or sampled any feed material and where it appears from such inspection or analysis of the sample taken that the material fails to comply with the requirements of a specified feed, the officer may detain or seize the feed. A model form can be found at Annex 2.

#### **6.3.1 Detention of Feed**

Unless the circumstances require immediate action, a decision to detain feed should only normally be taken if it has been discussed with the owner or person in charge of the feed and, if appropriate, with the manufacturer. Where the authorised officer has served a detention of feed notice, professional judgement should be used to determine whether feed should be detained where it is, or moved elsewhere. If the officer has any doubts about the security or physical care of the feed, the detention notice should specify a place to which the feed is to be moved.

If feed is to be removed to another Competent Authority's area the officer should notify that Competent Authority and make any necessary arrangements for the feed to be checked while it is being detained.

In all cases, but especially with highly perishable feed, the officer should act expeditiously at every stage and provide full information to those required to carry out analysis or examination of samples of the feed.

If feed is to be detained where it is found, the authorised officer should be satisfied that adequate arrangements can be made to ensure its security and prevent tampering. The officer should organise periodic monitoring of the feed throughout the period of detention. Before making such arrangements regard should be had to the nature of the feed, the quantity, any health hazard that it represents and the ownership of the establishment where it is located. The officer should generally avoid leaving it in the charge of, or in an establishment owned by, any person who may be prosecuted for an offence under feed law.

### **6.3.2 Seizure of Feed**

When considering whether to seize feed, authorised officers should consider whether the feed in question can be treated or processed before consumption and if so, whether the feed, after treatment or processing, would satisfy feed safety requirements. It should be noted that blending down of feed to reduce high levels of undesirable substances is not permitted by Article 5 of Directive 2002/32.

Directive 2002/32/EC of the European Parliament and of the Council of 7 May 2002 on undesirable substances in animal feed as last amended by Regulation (EU) 2015/186 has been implemented in national law by the Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016. Arrangements for the treatment or processing of feed in these circumstances should be agreed by the authorised officer and the owner or the person in control of the feed and are subject to a signed, written undertaking.

Any arrangement that involves feed being moved to the area of another Competent Authority for treatment or processing should be accepted by the receiving Competent Authority before the arrangement is concluded.

Arrangements should be made for that Competent Authority to take steps to ensure the processing or treatment is carried out, including the service of a Detention of Feed notice if appropriate. If the receiving Competent Authority is unable to accept responsibility for ensuring that the feed is properly processed or treated, the arrangement should not proceed unless there is no other way of rectifying the problem with the feed product.

Unless the preceding paragraphs of this section apply, or the use of voluntary procedures is more appropriate, feed should be seized if an authorised officer has evidence that the material fails to comply with the requirements of specified feed law. If evidence or information indicates that feed has already been detained or seized, the officer should serve a feed condemnation notification, warning of the intention to take the feed before a Justice of the Peace and apply for its condemnation.

Feed that has been seized should be dealt with by a Justice of the Peace, as soon as is reasonably practicable and within the statutory 21 days permitted. Highly perishable feed should be dealt with at the earliest opportunity.

The person in charge of the feed must be informed of the intention to apply for a condemnation order, although action should not be delayed if the owner cannot be traced or contacted. The Regulations require that anyone who may be liable to prosecution is entitled to attend, and good service of notice of the hearing should be documented and retained to show the Court that was the case.

The authorised officer should ensure continuity of evidence whether or not there may be a subsequent prosecution and should make every attempt not to leave the feed which has been seized unattended.

### **6.3.3 Notices of Detention/Seizure**

A Detention of Feed Notice should be signed by the officer who takes the decision to detain the feed. When feed is seized, written notification of the seizure should be issued as soon as is reasonably practicable. This notification should include details of the type and quantity of the feed seized, including any distinguishing marks, codes, dates etc. A feed condemnation notification should be given to the person in charge of the feed when the officer intends to have the feed dealt with by a Justice of the Peace. The notification may also be given to the owner of the feed.

### **6.3.4 Withdrawal of Detention of Feed Notice**

The authorised officer should act as quickly as possible when evidence or information indicates that detained feed can be released, and in any case within 21 days. A Withdrawal of Detention of Feed Notice should be served. A model form can be found at Annex 2.

The decision to issue a Withdrawal of Detention of Feed Notice should be taken either by the officer who originally issued the notice or initiated the action or by another officer with the relevant experience. A Withdrawal of Detention of Feed Notice should be served as soon as possible to prevent possible deterioration of the feed and to minimise the Competent Authority's exposure to compensation under regulation 31(6). The notice need not be served by the officer who made the decision, but may be served by any authorised officer.

### **6.3.5 Dealing with Batches, Lots or Consignments of Feed**

Article 15(3) of Regulation 178/2002 stipulates that where any feed which is unsafe forms part of a batch, lot, or consignment of feed of the same class or description, it shall be presumed that all the feed in that batch, lot or consignment is also unsafe, unless following a detailed assessment there is no evidence that the rest of the batch, lot or consignment is unsafe.

If a quantity of feed of different types or batches is being detained, the authorised officer should issue a separate Detention of Feed Notice in respect of each type or batch.

When considering whether to seize or detain a batch, lot or consignment the authorised officer should take into account the following:

- the evidence available;
- the nature of the contamination;
- the nature and condition of any container holding the feed;
- the risk to health; and
- the quantity of feed involved in relation to any sampling which has been undertaken.

### **6.3.6 Voluntary Procedures**

Voluntary procedures for the disposal of feed that is not suitable for consumption by animals intended to enter the food chain may be used, either at the instigation of the owner of the feed or at the suggestion of the authorised officer when the owner of the feed agrees the feed is not suitable for consumption by animals. A receipt should be issued for feed that is voluntarily surrendered to the Competent Authority for destruction. The receipt should indicate that the feed

has been voluntarily surrendered to the Competent Authority for destruction and be signed and counter-signed by the authorised officer and the person surrendering the feed respectively. The receipt should include space for recording the time, place and method of destruction of the feed, and these details should be recorded on the office copy by the authorised officer in due course and retained by the Competent Authority.

If the Competent Authority does not secure, as part of the voluntary surrender, an agreement by the owner to pay the reasonable expenses of destruction or disposal, then it may have to bear the expenses itself.

### **6.3.7 Destruction or Disposal of Feed**

The Competent Authority is responsible for ensuring the destruction of feed that has been seized or voluntarily surrendered, and arrangements should be made for the feed to be supervised until it can be dealt with in the appropriate manner. If possible and if there is likely to be some delay before destruction, the feed should be disfigured so as to prevent any possibility of it being returned to the feed chain or being diverted for human consumption.

The Competent Authority should ensure the total destruction of the feed by incineration or some other appropriate method having regard to the requirements of relevant waste disposal legislation. When disposing of feed, authorities will need to bear in mind that pet foods, or similar feeds, containing animal by-products, may need to be disposed of through licensed renderers.

A copy of the waste transfer note must be obtained and kept on file for any feed that has been disposed of by a licensed waste disposal contractor under these arrangements.

## **6.4 Enforcement Options in establishments subject to registration /approval under regulation 183/2005**

### **6.4.1 Introduction**

In addition to the enforcement powers detailed above, authorised officers have other powers available to them under the Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations in respect of establishments subject to registration/approval under Regulation 183/2005.

Powers to revoke, or suspend, the registration or approval of an establishment subject to registration/approval under Regulation 183/2005 are provided by regulations 8 and 10 respectively of the Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations.

### **6.4.2 Suspension / Revocation of Registration or Approval - General**

Competent Authorities should bear in mind that the immediate effect of the suspension or withdrawal of an establishment's approval is such that the establishment may not be used for any activities which would render it subject to approval/registration under Regulation 183/2005.

On the discovery of non-compliance in establishments subject to registration or approval/conditional approval under Regulation 183/2005, the Competent Authority should, before considering suspension or revocation, explore other enforcement options to control the feed hazards presented by the establishment.

Non-compliance should not necessarily be considered sufficient to justify the *immediate* suspension or withdrawal of an establishment's approval or conditional approval, and a reasonable opportunity to achieve compliance should be allowed where this is appropriate.

### **6.4.3 Suspension of Registration or Approval**

Competent Authorities should only initiate procedures to suspend an establishment's registration or approval if other enforcement options have been considered and circumstances exist in accordance with Article 14 of Regulation 183/2005. Competent Authorities may request that any guarantee regarding future production made by a feed business operator in accordance with this Article is made in writing, although Competent Authorities should be aware that they cannot insist on this as no requirement exists in law to provide such guarantees in writing.

#### **6.4.4 Revocation of Registration or Approval**

Competent Authorities should only initiate procedures to withdraw an establishment's registration or approval if other enforcement options have been considered, including suspension of the approval, and if circumstances exist in accordance with Article 15 of Regulation 183/2005.

An establishment's approval/registration should only be withdrawn in circumstances where the feed business operator is unable to satisfy the Competent Authority to the extent that it has a reasonable expectation that the identified deficiencies will be rectified and acceptable standards will be maintained in the future.

#### **6.4.5 Notifications of Suspension/Revocation of Registration or Approval**

Notice of suspension or revocation must be given in accordance with regulations 8 and 10 of the Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations respectively. Model documents of notification can be found at Annex 2. Such notifications should also make the feed business operator aware of their right of appeal against the decision and, in England and Wales, provide the address of the Magistrates' Court where such an appeal may be made. Rights of appeal are provided by regulation 12 of the Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016.

Copies of notifications should be retained on the Competent Authority's files. The Competent Authority should also notify the FSA when an establishment's registration or approval has been suspended or withdrawn.

#### **6.4.6 Appeals Against Suspension or Withdrawal of Approval/ Registration**

Competent Authorities should bear in mind that regulation 12(5) of the Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016 stipulates that following an appeal against a decision of a Competent Authority to suspend or revoke an approval/registration, the feed business operator who, immediately before such suspension or revocation, had been using the establishment concerned may continue to use it, pending the results of the appeal, subject to any conditions imposed by the Competent Authority for the protection of public health.

If the Competent Authority considers that any activities undertaken in an establishment pending the result of an appeal may present a risk to animal or public health, it should consider the use of other relevant enforcement powers appropriate to the circumstances involved.

### **6.5 Enforcement Options with regard to Feed Materials Imported from Third Countries**

#### **6.5.1 Introduction**

Authorised officers have further powers available to them under the Official Feed and Food Control Regulations to ensure that feed from third countries which does not comply with feed law does not enter into circulation in the EU.

#### **6.5.2 Feed consignments which are injurious to human or animal health or are unsafe**

Article 19(2)(a) of Regulation 882/2004 requires that feed which is injurious to human or animal health or is unsafe is detained pending destruction or any other appropriate measure to protect human or animal health. Where a decision is taken to reject any feed consignment on the basis



that it will give rise to a risk to animal or human health, the enforcement body should inform the FSA's Incidents Branch. It should use the rapid alert system form for this purpose

### **6.5.3 Feed consignments which do not comply with feed law but are not injurious to human or animal health or unsafe**

Such consignments of feed must be detained and then either:

- ordered to be destroyed; or
- subject to special treatments detailed in Article 20 of Regulation 882/2004; or
- re-dispatched outside the EU.

### **6.5.4 Special treatments detailed in Article 20**

Special treatments can consist of:

- treatment or processing to bring the feed into line with the requirements of EU law or the third country of dispatch, including decontamination, where appropriate, but not dilution; or
- processing in any other suitable manner for purposes other than animal or human consumption.

### **6.5.5 Re-dispatch of consignments**

Competent Authorities can agree to re-dispatch only if:

- the destination has been agreed with the feed business operator responsible for the consignment;
- the feed business operator has informed the Competent Authority in the third country of origin or the third country of destination;
- different reasons and circumstances preventing the placing of the feed on the market for feed in the EU; and
- when the Competent Authority of the third country of destination, if not the third country of origin, has notified the relevant UK Competent Authority of its willingness to accept the consignment.

Article 21(2) requires that re-dispatch generally takes place with no more than 60 days after the Competent Authority decided on the destination of the consignment unless legal action has been undertaken or the delay is justified. Otherwise the consignment will be destroyed.

Where a product is to be re-dispatched notifications identifying the product and its final destination must be given to the FSA in order it can inform HMRC, the Commission and other Member States.

### **6.5.6 Appeals against action taken under Article 19 to 21 of Regulation 882/2004**

The importer must be given the Competent Authority's decision by way of a notice in writing. The decision must relate to the most effective way of dealing with the product and should not be used as a punitive measure. There is a right of appeal against the Competent Authority's decision provided by Official Feed and Food Controls Regulations 2009. Appeals against the notice must be made within one month of the notice being issued.

## Additional Guidance Documents

Link to additional guidance documents

See below for link to additional guidance documents in relation to feed that can be found on the FSA website:

<http://www.food.gov.uk/business-industry/farmingfood/animalfeed/>

## ANNEX 1: Model Inspection Documents

## Feed business establishment (FeBe) manufacturing / buying / selling / transporting feed or placing surplus food into the feed chain

### Feed Business Establishment Inspection Report

Regulation (EC) No 1831/2003 laying down requirements for feed hygiene  
 Regulation (EC) No 1831/2003 on additives for animal nutrition  
 Regulation (EC) No 767/2009 on the placing on the market and use of feed  
 Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016  
 Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016

<b>CPH</b>		<b>Registration No.</b>	
<b>Date of visit</b>	/ /	<b>Officer Name</b>	
<b>Visit Number</b>		<b>Start/Finish Time</b>	/

Current Premise Details		Premise details to be added/amended	
Name:		Name:	
Address:		Address:	
Telephone:		Telephone:	
Mobile:		Mobile:	
Email:		Email:	

<b>Brief summary of business activities</b>			
<b>Registration/Approval code:</b>		<b>Revised Registration/Approval code:</b>	

<b>Assurance Scheme member</b>	<b>Y/N</b>	<b>Name of Assurance Scheme</b>		<b>Assurance scheme no.</b>	
<b>FSA approved scheme</b>	<b>Y/N</b>	<b>Date of last audit</b>		<b>If appropriate apply assurance scheme sticker below</b>	

<b>Brief details of any non conformities:</b>	

<b>Approved by VMD?</b>	<b>Y/N</b>	<b>For:</b>		<b>Date of last audit</b>	
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Brief details of any non-conformities:

Categories of products produced	tonnes/year	Categories of products produced	tonnes/year
<b>Straight feed material only:</b>		<b>Mineral Supplements</b>	
<b>Compound feed:</b>		<b>Additives</b>	
Cattle		<b>Premixtures</b>	
Sheep		<b>Surplus food / co products(Describe below)</b>	
Pigs			
Poultry			
Other (State)			

Does the Feed Business use Surplus food / Co-products Y / N (If yes list suppliers and products below)

Criteria		Comments	Compliant Y/N
<b>Hazard Control Systems</b>	1. Has the FEBE operator implemented and maintained, permanent written procedure(s) based on HACCP principles  <i>Article 6(1)</i>  <b>(for food businesses this must contain the feed</b>	<i>(List the main documents)</i>	
	2. Have any changes occurred to the product range being manufactured /transported/stored etc. since the last review, which should have prompted a review of the feed safety management systems?  <i>Article 6(1)</i>	<i>(Date of review, reason and brief detail of any changes made.)</i>	
	3. What chemical, physical and biological hazards have been identified and Are the hazard controls sufficient to ensure feed safety? • <i>Article 6(2a)</i>	<i>(List the chemical, physical &amp; biological hazards and comment on any gaps. Attach a copy of FEBE Hazard Analysis or complete Hazard analysis form at Annex I)</i>	

	4. Are management records proportionate with the nature and size of the feed businesses to demonstrate the effective application of the measures set out above? • • •	(List records examined )	
<b>Personnel</b>	<b>Criteria</b>	<b>Comments</b>	<b>Compliant Y/N</b>
	5. Is an organisation chart listing qualifications and responsibilities of all supervisory staff available?  <i>Annex II Personnel</i>	(Detail how this is complied with but note information may be in other documentation )	
	6. Are all staff clearly informed in writing of their duties, responsibilities and powers regarding the production of feed?  <i>Annex II Personnel</i>	(List any problems with compliance)	
<b>Production</b>	<b>Criteria</b>	<b>Comments</b>	<b>Compliant Y/N</b>
	7. Who is the designated person responsible for production – are they suitably qualified?  <i>Annex II Production (1)</i>	(Indicate who is the designated person and what are their appropriate qualifications)	
	8. Are all stages of production carried out to pre-established written procedures?  <i>Annex II Production (2)</i>	(Give examples of procedures seen)	

	<p>9. Are technical or organisational measures taken to avoid/minimise cross contamination, carry over and ensure homogeneity during manufacturing and what checks are carried out to ensure arrangements work during manufacturing?</p> <p><i>Annex II Production (3)</i></p>	<p>(List any measures employed and detail any deficiencies)</p>	
	<p>10. Are all the scales and metering devices used in the manufacture of feeds appropriate for the range of weights or volumes to be measured and tested for accuracy regularly?</p> <p><i>Annex II Facilities and Equip.-</i></p>	<p>(List equipment checked and equipment not meeting this requirement)</p>	
	<p>11. Are foods or food ingredients containing animal proteins, meat or meat products, made or kept on the same site?</p> <p><i>Annex II Production (4)</i></p>	<p>(Detail what these are and are adequate measures in place to prevent contamination of livestock feed)</p>	
	<p>12. Are procedures in place to isolate, identify and safely dispose of waste?</p> <p><i>Annex II –Production (5)</i></p>	<p>(List any measures employed and detail any deficiencies)</p>	
	<p>13. What system of tracing products and materials used in them is employed?</p> <p><i>Annex II Production (6)</i></p> <p><b>If not possible or appropriate to complete Annex specify Why</b></p>	<p>(Describe the system(s) of traceability of <u>all</u> products, including ingredients and finished products, and complete the form at annex II or III as appropriate for at least one ingredient – preferably a raw material such as a trace element or additive)</p>	
	<p>14. Where material placed into the feed chain contains food grade packaging, what steps are in place to ensure the feed chain is not contaminated by food packaging material?</p>	<p>(Detail what steps are in place to remove food packaging including further processing and is this effective)</p>	
	<p style="text-align: center;"><b>Criteria</b></p>	<p style="text-align: center;"><b>Comments</b></p>	<p style="text-align: center;"><b>Compliant Y/N</b></p>
	<p>15. Does the FEBE have a written complaints procedure?</p> <p><i>Annex II Comp recall (1)</i></p>	<p>(Detail system and records checked)</p>	

<b>Complaints and Recall</b>	16. Does the FEBE have a system of recall in place which is documented?  <i>Annex II Comp recall (2)</i>	<i>Detail system and records checked</i>	
	<b>Criteria</b>	<b>Comments</b>	<b>Compliant Y/N</b>
<b>Quality Control (Not R8)</b>	17. Who is the designated person responsible for quality control – are they suitably qualified?  <i>Annex II Quality Control (1)</i>	<i>(Indicate who is the designated person and what are their appropriate qualifications)</i>	
	18. Does the FEBE have access to a laboratory with adequate staff and equipment and is the business following a sampling plan to control hazards?  <i>Annex II Quality Control (3)</i>	<i>(Indicate how this requirement is complied with)</i>	
	19. Are final samples kept of each batch of product produced, adequately labelled and properly stored?  <i>Annex II Quality Control (4)</i>	<i>(Indicate how this is complied with)</i>	
	20. Are documents relating to ingredients kept for the life of the final product?  <i>Annex II Quality control (4)</i>		
<b>Facilities &amp; Equipment</b>	<b>Criteria</b>	<b>Comment</b>	<b>Compliant Y/N</b>
	21. Does design and construction of the facilities and equipment permit:  Adequate cleaning and Minimise the risk of cross contamination of products?	<i>(Give examples of the facilities and equipment checked and list any deficiencies)</i>	
	22. Are ceilings and overhead fixtures designed to prevent accumulation of dirt, condensation and growth of moulds and shedding of particles  <i>Annex II Facilities &amp; Equip. (9).</i>	<i>(Give examples of the facilities and equipment checked and list any deficiencies)</i>	

**Facilities & Equipment**

<p>23. Are feed processing, storage facilities, equipment, containers, crates, vehicles and their immediate surroundings kept clean?</p> <p><i>Annex II –Facilities &amp; Equip.( 1)</i></p>	<p><i>(List areas of the site/equipment checked and indicate those which require further cleaning)</i></p>	
<p>24. Do facilities have adequate lighting (natural/artificial)?</p> <p><i>Annex II Facilities &amp; Equip. (4)</i></p>	<p><i>(List the areas of the site and equipment checked)</i></p>	
<p>25. Are drainage facilities adequate to avoid contamination of feed?</p> <p><i>Annex II Facilities &amp; Equip. (5).</i></p>	<p><i>(List the areas of the facilities/equipment checked and arrangements in place)</i></p>	
<p>26. Is water used for manufacture suitable for animals and are conduits inert in nature?</p> <p><i>Annex II Facilities &amp; Equip. (6)</i></p>	<p><i>(Detail how FEBE determines that water is suitable and conduits are inert)</i></p>	
<p>27. Do arrangements for the removal of sewage, waste and rainwater ensure that feed is not spoiled and is dust controlled to prevent pests?</p> <p><i>Annex II Facilities &amp; Equip. (7)</i></p>	<p><i>(List the areas of the site and equipment checked and the arrangements in place)</i></p>	
<p>28. Are effective pest control programmes implemented? Is there evidence of uncontrolled pest activity on site?</p> <p><i>Annex II Facilities &amp; Equip. (1)</i></p>	<p><i>(List the areas of the site/equipment checked, steps taken to control pests and state if there is evidence of pest activity)</i></p>	



	<p>29. Are windows and openings proofed against pests?</p> <p><i>Annex II Facilities &amp; Equip. (8)</i></p>	<p><i>(List the areas of the site checked and the arrangements in place)</i></p>	
	<b>Criteria</b>	<b>Comments</b>	<b>Compliant Y/N</b>
<b>Storage &amp; Transport</b>	<p>30. Is Processed feed kept separate from ingredients and additives?</p> <p><i>Annex II Storage &amp; Transport (1)</i></p>	<p><i>(Detail items checked in each case and any non-conformance for each question)</i></p>	
	<p>31. Are additives (including trace elements and vitamins) within their expiry dates and approved for use in feed?</p> <p><i>Approved and R1-R6 only</i></p>	<p><i>(Detail items checked in each case and any non-conformance for each question – note any products which are not authorised for use in feed)</i></p>	
	<p>32. Is feed kept and transported in suitable conditions to which only persons authorised by the FEBE have access?</p> <p><i>Annex II Storage and Transported (2)</i></p>	<p><i>(Detail storage/transport items checked and in each case the arrangements in place to limit access)</i></p>	
	<p>33. Is feed easily identified in store and when transported so as to avoid cross contamination and deterioration?</p> <p><i>Annex II Storage &amp; Transport (3)</i></p>	<p><i>(List items checked, method of identification and detail any deficiencies)</i></p>	
	<p>34. Where appropriate, are temperatures kept low to avoid condensation /spoilage – particularly in storage areas?</p> <p><i>Annex II Storage &amp; Transport (6)</i></p>	<p><i>(Detail areas checked and any deficiencies found)</i></p>	
	<b>Criteria</b>	<b>Comments</b>	<b>Compliant Y/N</b>

<b>Labelling</b>	35. From a visual examination, does the labelling of products appear to comply? <i>Regulation 767/2009 Labelling</i>	<i>(Detail labels examined and any issues found attach copy as appropriate)</i>	
<b>Fats &amp; Oils</b>	36. Does the FEBE process fats and oils, or manufacture with fats and oils, as governed by <i>Commission regulation 225/2012</i> .	<i>(Give details of test/analysis carried out by, or relied upon by, the FeBe)</i>	
<b>Samples Taken</b>			
<b>Is the test listed in the National Enforcement priorities Y / N</b>		<b>Have samples been uploaded to UKFSS Y / N</b>	
<b>Overall comments/Actions required. (Continue on separate sheet if required)</b>			

Large empty rectangular area for notes or content.

<b>Officer:</b>	<b>Signed:</b>	<b>Date:</b>
<b>Person Seen:</b>	<b>Signed:</b>	<b>Date:</b>
<b>Lead Feed Officer:</b>	<b>Signed:</b>	<b>Date:</b>

**Annex I Hazard Analysis**

<p>What CCPs have been identified?  (List and comment on whether the CCPs are appropriate)</p>	<p>List critical limits for each CCP</p>	<p>What monitoring procedures are used to identify if each CCP is under control?</p>	<p>What is the procedure(s) for corrective actions?</p>	<p>How often are these items verified?</p>

## ANNEX II Traceability exercise for a manufacturer

1.	Description of a raw material chosen for the traceability exercise including: batch number, durability date, and the total quantity of one identifiable consignment	
2.	Is the supplier a registered or approved FeBE as required by Article 5(6) Regulation (EC) 1831/2003?	
3.	Name and address of supplier	
4.	Where the product is an additive or bioprotein, the date of manufacture	
5.	Date of delivery to the FeBE	
6.	Is a sample of the consignment available and properly labelled?	
7.	Batch number allocated by FeBE if different to above	
8.	Date(s) of use (approx)	
9.	To which products has this material been incorporated?	
10.	Name and production number of an identifiable batch of product chosen for the traceability exercise to which the raw material has been incorporated	
11.	Give detail of how production records show use of the raw material in the product chosen	
12.	Repeat question 9 if the batch of product under goes separate mixing/blending with other ingredients before the final product is produced.	
13.	Repeat question 10 if the batch of product under goes separate mixing/blending with other ingredients before the final product is produced.	
14.	How is the final product identified as being supplied to a specific customer?	

15.	Name and address of a customer to which the batch of final product has been supplied (if more than one give the total number of customers receiving product of the same batch) product supplied	
16.	Dates of delivery to the customer	
17.	For how long are traceability records kept?	

**ANNEX III Traceability exercise for a FeBE where manufacturing is not taking place**

Description of the product chosen for the traceability exercise and the total quantity in one identifiable consignment	
Name and address of supplier	
Is the supplier a registered or approved FeBE as required by Article 5(6) Regulation (EC) 1831/2003?	
Batch number and durability indication of material in the consignment	
Date of delivery to the FeBE, where the FeBE took delivery of the product	
Batch number allocated by FeBE if different to above	
How is the final product identified as being supplied to a specific customer?	
Name and address of customers to which the batch of final product supplied (if more than one give the total number of customers receiving product of the same batch)	
Date of delivery to the customer	
How long are traceability records kept?	

**Feed / Food Primary Producers where livestock are kept and feed maybe mixed with compound feeds , additives or premixtures for feeding only to their own animals.**

**Feed Business Establishment Report**

Regulation (EC) No 1831/2003 laying down requirements for feed hygiene  
 Regulation (EC) No 1831/2003 on additives for animal nutrition  
 Regulation (EC) No 767/2009 on the placing on the market and use of feed  
 Regulation (EC) No 853/2004 food hygiene regulations  
 Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016  
 Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016  
 Food Hygiene (Wales) Regulations 2006

<b>CPH</b>		<b>Registration No.</b>	
<b>Date of visit</b>	/ /	<b>Officer Name</b>	
<b>Visit Number</b>		<b>Start/Finish Time</b>	/

Current Premise Details		Premise details to be added/amended	
Name:		Name:	
Address:		Address:	
Telephone:		Telephone:	
Mobile:		Mobile:	
Email:		Email:	

**Brief summary of business activities (if R10 indicate why)**

<b>Registration /Approval code:</b>		<b>Revised Registration/Approval code:</b>	
-------------------------------------	--	--	--

<b>Assurance Scheme member</b>	<b>Y/N</b>	<b>Name of Assurance Scheme</b>		<b>Assurance scheme no.</b>	
<b>FSA approved scheme</b>	<b>Y/N</b>	<b>Date of last audit</b>		<b>If appropriate apply assurance scheme sticker below</b>	

**Brief details of any non conformities:**



Approved by VMD?	Y/N	For:		Date of last audit	
------------------	-----	------	--	--------------------	--

<b>Brief details of any non conformities:</b>

Categories of products used	Y/N	Categories of products used	Y/N
<b>Straight feed material only:</b>		<b>Mineral Supplements</b>	
<b>Compound feed:</b>		<b>Other:</b>	
Cattle			
Sheep		<b>Additives (Annex II applies)</b>	
Pigs		<b>Premixtures (Annex II applies)</b>	
Poultry		<b>Direct drying using fossil fuel (Annex II applies) – Specify Fuel</b>	

<b>Does the Feed Business use Surplus food / Co-products Y / N (If yes, list suppliers and products below)</b>

	Criteria	Comments	Compliant Y/N
<b>Storage, Facilities and equipment</b>	1. Are areas used to store feed materials including buildings, containers, crates, vehicles and their surroundings kept clean, dry?  (EU 183/2005 Annex I – I (4b))	<i>List areas of the site checked, steps taken to ensure cleanliness and note any areas which are not clean.</i>	
	2. Are buildings and drainage sound to prevent access by rain?  (EU 183/2005 Annex I – I(1))	<i>List areas of the site checked and note any issues.</i>	
	3. Are steps taken, as far as possible, to prevent pests and pets gaining access to feed materials and finished feed?  (EU 183/2005 Annex I – I (4d))	<i>What control measures are in place and is there evidence of pest activity?</i>	

	<p><b>And</b> are occurrences of pests or diseases that may affect the safety of the feed or animals recorded? (EU 183/2005 Annex I – II (2c))</p>		
	<p>4. Is feed stored separately from waste and hazardous substances to prevent contamination? e.g. fuel, pesticides, fertiliser, veterinary medicines, waste plastic.  (EU 183/2005 Annex I – I (4e and f))</p>	<p><i>List areas checked and any contraventions seen.</i></p>	
	<p>5. Is all equipment used for handling/ producing feed kept clean?  (EU 183/2005 Annex I – I (4a))</p>	<p><i>List areas checked and cleaning procedures. Indicate any areas in need of cleaning.</i></p>	
	<p>6. Is water used suitable to prevent hazardous contamination?  (EU 183/2005 Annex I – I (4c))</p>	<p><i>How does the farmer know the water is suitable?</i></p>	
<b>Mixing Operations R10, 11.</b>	<b>Criteria</b>	<b>Comments</b>	<b>Compliant Y/N</b>
	<p>7. Do staff understand how to undertake mixing to achieve safe feed?  (EU 183/2005 Annex I – I (1))</p>	<p><i>Which staff are involved in mixing feed and what training/instruction have they received?</i></p>	
	<p>8. Is the equipment used for measuring ingredients appropriate to ensure they are incorporated at the correct rate?  (Particularly when using compound feeds, additives and premixtures.  (EU 183/2005 Annex I – I (1))</p>	<p>Identify equipment used and is it appropriate?</p>	
	<p>9. Is the equipment used in the mixing of feed appropriate and capable of producing an homogenous safe mix?  (Particularly when incorporating compound feeds, additives and premixtures.)</p>	<p>Identify mixer used and is it appropriate?</p>	

	(EU 183/2005 Annex I – I (1))		
	<p>10. Is mixing equipment cleaned thoroughly when formulations change? e.g. flush through (Particularly when using compound feeds, additives and premixtures.)</p> <p>(EU 183/2005 Annex I – I(1))</p>	<i>Detail any procedures used.</i>	
	<p>11. How is homogeneity of the mix ensured? How does the business check that the mix is consistent / homogenous?  (Particularly when using compound feeds, additives and premixtures.)</p> <p>(EU 183/2005 Annex I – I (1))</p>	<i>Note any test to ensure consistent / homogenous mix.</i>	
	<b>Criteria</b>	<b>Comments</b>	<b>Compliant Y/N</b>
<b>Additional requirements for R10 - EU 183/2005 Annex II operations only.</b>	<p>12. Are instructions on cleaning and maintenance of equipment documented and records kept measures in place and are they documented</p> <p>(EU 183/2005 Annex II, para. 3)</p>	<i>Identify documented procedures – maybe manufacturers instructions. Identify measures and frequency. Records of equipment cleaning/maintenance - may simply be a case of retaining a copy of a service company's checks.</i>	
	<p>13. Have staff involved in mixing feed received appropriate training and is it recorded?</p> <p>(EU 183/2005 Annex II Personnel)</p>	<i>Training may be by experience staff or supplier of equipment. Records should be kept for at least 1 year.</i>	
	<p>14. Is there a documented procedure or instructions for mixing operations and are they being observed?</p> <p>(EU 183/2005 Annex II Production 2)</p>	<i>Instructions for mixing operations may incorporate equipment manufacturer's instructions.</i>	

	<p>15. Is a record of feed formulations kept including date of production?</p> <p>(EU 183/2005 Annex II Production 6)</p>	<i>Indicate records kept and if they are adequate.</i>	
	<p>16. Are records relating to purchase of additives / premixtures kept?</p> <p>Name and Address of supplier Quantities of each product purchased Batch Numbers (EU 183/2005 Annex II Record keeping 2b)</p>	<i>Detail how this is achieved and any deficiencies e.g. invoices kept in order.</i>	
<b>Records</b>	<b>Criteria</b>	<b>Comments</b>	<b>Compliant Y/N</b>
	<p>17. Is the use of plant protection products and biocides recorded?</p> <p>(EU 183/2005 Annex I – II 2a)</p>	<i>What products are used and when and where?</i>	
	<p>18. Are records relating to purchase of feed kept?</p> <p>Name and Address of supplier Quantities of each product purchased Batch Numbers (EU 183/2005 Annex I - II 2e)</p>	<i>Detail how this is complied with.</i>	
	<b>Criteria</b>	<b>Comments</b>	<b>Compliant Y/N</b>
<b>EU 183/2005 Annex III Good Feeding Practice</b>	<p>19. Is grazing pasture managed to prevent animals having access to land treated with manure or chemicals until its safe?</p> <p>(EU 183/2005 Annex III – Pasture Grazing)</p>	<i>How is this managed?</i>	
	<p>20. Are feed troughs and other feeding equipment clean?</p> <p>(EU 183/2005 Annex II – Stable and Feeding Equipment)</p>	<i>Detail how this is done.</i>	

	<p>21. How does the business ensure that the right feed ends up is being fed to the right type of animal and there is no risk of cross contamination?</p> <p>(EU 183/2005 Annex III - Feeding 2)</p>	<p><i>Detail how this is complied with.</i></p>	
	<p>22. Are animals clean? Regard must be had to further measures to clean animals and environmental contamination.</p> <p>(EU 852/2004 Annex I 4c)</p>	<p><i>Detail issues identified and risks.</i></p>	
<p><b>Primary Producer <u>Food Hygiene</u></b> (not covered elsewhere)</p>	<p>23. Are Veterinary Medicine records kept and up to date?</p> <p>(EU 852/2004 Annex I 3a)</p>	<p><i>Source, date of purchase, product, batch no., quantity, disposal, date and method of treatment, ID of animals, product used, date treatment finished, withdrawal date, person administering, quantity used.</i></p>	

Samples Taken	
Is the test listed in the National Enforcement priorities Y / N	Have samples been uploaded to UKFSS Y / N

**Overall comments/Actions required to address any non-conformities. (Continue on separate sheet if required)**

**Person seen:**

**Date:**

**Signed:**

**Officer:**

**Date:**

**Signed:**

**Senior / Lead Feed Officer:**

**Date:**

## Feed / Food Primary Producers where crops are grown for sale for food or feed

### Feed Business Establishment Inspection Report

Regulation (EC) No 1831/2003 laying down requirements for feed hygiene  
 Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016  
 Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016  
 Regulation (EC) No 853/2004 food hygiene regulations  
 Food Hygiene (Wales) Regulations 2006

<b>CPH</b>		<b>Registration No.</b>	
<b>Date of visit</b>	/ /	<b>Officer Name</b>	
<b>Visit Number</b>		<b>Start/Finish</b>	/

Current Premise Details		Premise details to be added/amended	
Name:		Name:	
Address:		Address:	
Person seen:			
Telephone:		Telephone:	
Mobile:		Mobile:	
Email:		Email:	

<b>Brief summary of business activities</b>

<b>Registration/Approval code:</b>		<b>Revised Registration/Approval code:</b>	
<b>Assurance Scheme member</b>	Y/N	<b>Name of Assurance Scheme</b>	
<b>FSA approved scheme</b>	Y/N	<b>Date of last audit</b>	
		<b>Assurance scheme no.</b>	
<b>If appropriate apply assurance scheme sticker below</b>			

<b>Brief details of any non-conformities:</b>

Crops Grown	Food tonnes/yr	Feed tonnes/yr	Crops Grown	Food tonnes/yr	Feed tonnes/yr
Cereals (Wheat, Barley etc)			Salad Veg.		
Potatoes			Fruit		
Carrots			Other:		
Swede					
Turnips					
Other root veg.					
Direct drying using fossil fuel (Annex II applies)					Y / N
Are grain treatments used, such as the use of preservatives e.g. Propionic Acid (Annex II applies and registration should be R10)					Y / N
Is any food processing carried out on site other than simple processing as defined in 852/2004 Art 2 (m) (n) (e.g. cleaning, bagging etc.) If yes Environmental Health should be informed.					Y / N

Criteria	Comments	Compliant Y/N
<p>1. Are areas used to store crops including buildings, containers, crates, vehicles and their surroundings kept clean, dry?</p> <p>EU 183/2005 Annex I – I (4b) EU 852/2004 Annex I – II (4a)</p>	<p>List areas of the site checked, steps taken to ensure cleanliness and note any areas which are not clean.</p>	
<p>2. Are light bulbs, tubes and windows etc protected to avoid broken glass contamination?</p> <p>EU 852/2004 Annex I – II (2)</p>	<p>Note the way primary products are protected against "contamination"</p>	
<p>3. Does the farm have a crop storage policy including temperature and moisture content of grain?</p> <p>EU 852/2004 Annex I – II (2)</p>	<p>Note the way primary products are protected against "contamination"</p>	
<p>4. Are buildings and drainage sound to prevent access by rain?</p> <p>EU 183/2005 Annex I – I (1) EU 852/2004 Annex I – II (2)</p>	<p>List areas of the site checked and note any issues.</p>	
<p>5. Are steps taken, as far as possible, to prevent pests and pets gaining access to crops in store.</p> <p>EU 183/2005 Annex I – I (4d) EU 852/2014 Annex I – II (5e) <b>And</b> are occurrences of pests or diseases that may affect the safety of the crops or animals recorded?</p> <p>EU 183/2005 Annex I – II (2c)</p>	<p>What control measures are in place and is there evidence of pest activity?</p>	



	EU 852/2014 Annex I – III (9b)		
	6. Are crops stored separately from waste and hazardous substances to prevent contamination? e.g. fuel, pesticides, fertiliser, waste plastic.  EU 183/2005 Annex I – I (4e and f) EU 852/2014 Annex I – II (5f)	<i>List areas checked and any contraventions seen.</i>	
	7. Is all equipment used for harvesting, handling, producing crops kept clean?  EU 183/2005 Annex I – I (4a) EU 852/2014 Annex I – II (5a)	<i>List equipment checked and cleaning procedures. Indicate any areas in need of cleaning.</i>	
	8. Is water used during the growing and processing of crops suitable to prevent hazardous contamination?  EU 183/2005 Annex I – I (4c) EU 852/2014 Annex I – II (5c)	<i>How does the farmer know the water is suitable?</i>	
	<b>Criteria</b>	<b>Comments</b>	<b>Compliant Y/N</b>
<b>Direct Drying &amp; Treatment of Feed Annex II EC 183/2005</b>	9. Are instructions on cleaning and maintenance of equipment documented and records kept measures in place and are they documented  (EU 183/2005 Annex II, para. 3)	<i>Identify documented procedures – maybe manufacturer's instructions. Identify measures and frequency. Records of equipment cleaning/maintenance - may simply be a case of retaining a copy of a service company's checks</i>	
	10. Have staff involved in treating or drying feed received appropriate training and is it recorded?  (EU 183/2005 Annex II Personnel)	<i>Training may be by experience staff or supplier of equipment. Records should be kept for at least 1 year.</i>	
	11. Is there a documented procedure or instructions for treating and direct drying using fossil fuels and are they being observed?  (EU 183/2005 Annex II Production 2)	<i>Instructions for mixing and drying operations may incorporate equipment manufacturer's instructions.</i>	
	12. Is a record of production kept including date of treatment?  (EU 183/2005 Annex II Production 6)	<i>Indicate records kept and if they are adequate.</i>	

	<p>13. Are records relating to purchase of additives including preservatives kept? Including: Name and Address of supplier Quantities of each product purchased Batch Numbers</p> <p>(EU 183/2005 Annex II Record keeping 2b)</p>	<i>Detail how this is achieved and any deficiencies e.g. invoices kept in order.</i>	
	<b>Criteria</b>	<b>Comments</b>	<b>Compliant Y/N</b>
<b>Records</b>	<p>14. Is the use of plant protection products and biocides recorded?</p> <p>EU 183/2005 Annex I – II 2a) EU 852/2014 Annex I – III (9a)</p>	<p><i>What products are used and when and where? Refer to FSA guidance</i> <a href="http://multimedia.food.gov.uk/multimedia/pdfs/afrecordkeepingrequirements1.pdf">http://multimedia.food.gov.uk/multimedia/pdfs/afrecordkeepingrequirements1.pdf</a></p>	
	<p>15. Are records relating to pest and disease that may affect the safety of the product kept?</p> <p>EU 183/2005 Annex I – II (2c) EU 852/2014 Annex I – III (9b)</p>	<i>List records seen.</i>	
	<p>16. Does the farm have a control policy for use of fertilisers, including organic fertiliser and soil improvers, which includes appropriate use and storage records?</p> <p>EU 852/2004 Annex I – II(3a)</p>	<i>Identify records used to demonstrate the safe application to prevent pollution/contamination.</i>	
	<b>Criteria</b>	<b>Comments</b>	<b>Compliant Y/N</b>
<b>Transport</b>	<p>17. Does the farm employ adequate measures to prevent contamination of crops during transport.</p>	<i>List control measures. E.g. trailer cleaning records.</i>	
	<p>18. Does the farm take adequate measures to ensure staff handling food stuffs are in good health and trained on health</p>	<i>List measures taken and training records seen.</i>	
<b>Hygiene (not</b>			

	risks.  EU 852/2004 Annex I – II (5d)		
	19. Are there adequate hygiene facilities for staff?  EU 852/2004 Annex I – II(2)	<i>List facilities seen. The facilities should be sufficient to allow for seasonal staff increases..</i>	

<b>Samples Taken</b>	
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<b>Is the test listed in the National Enforcement priorities Y / N</b>	<b>Have samples been uploaded to UKFSS Y / N</b>
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<b>Overall comments/Actions required to address any non-conformities. (Continue on separate sheet if required)</b>
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<b>Officer:</b>	<b>Signed:</b>	<b>Date:</b>
<b>Person seen:</b>	<b>Signed:</b>	<b>Date:</b>
<b>Lead Feed Officer:</b>	<b>Signed:</b>	<b>Date:</b>

## ANNEX 2 MODEL FORMS

### ANNEX 2: Model Forms for Use in Connection with the Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016

Model forms which may be used by authorised officers in connection with the Feed (Hygiene and Enforcement) Regulations are provided below.

Location	Model Form
A2.1	<a href="#">Feed Business Improvement Notice</a>
A2.2	<a href="#">Feed Business Emergency Prohibition Notice</a>
A2.3	<a href="#">Detention Notice</a>
A2.4	<a href="#">Certificate of Withdrawal of Detention Notice</a>
A2.5	<a href="#">Seizure Notice</a>
A2.6	<a href="#">Certification That Health Risk Condition No Longer Exists</a>
A2.7	<a href="#">Notice of Suspension of Registration/Approval</a>
A2.8	<a href="#">Notice of Revocation of Registration/Approval</a>

**A2.1: Model Form 1 – Feed Business Improvement Notice**

Authority: .....

The Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 - Regulation 24

**FEED BUSINESS IMPROVEMENT NOTICE**

Reference Number: .....

1. To:.....(Feed Business Operator)

At:.....

.....(Address of Feed Business Operator)

2. I have reasonable grounds for believing that you are failing to comply with the feed law because:

.....  
.....

[Officer to insert grounds for believing that requirements of specified feed law as defined in the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 are being breached]

in connection with your feed business

.....

.....(Name of Feed Business)

at .....

.....(Address of Feed Business)

The matters which constitute your failure to comply are:

.....  
.....  
.....  
.....

[Officer to insert provision(s) of specified feed law as defined in the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 are being breached and how]

3. In my opinion, the following measure(s) are needed for you to comply with the legal requirements specified above:

.....  
.....  
.....  
.....

4. The measure or measures that will achieve the same effect must be taken by:.....(date)

5. *It is an offence not to comply with this feed business improvement notice by the date stated.*

Signed:.....(Authorised Officer)

Name in capitals: .....

Date: .....

Address:  
.....  
.....

Tel: ..... Fax: .....

E-mail: .....

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

## **A2.1: Model Form 1 - Improvement Notice (Reverse)**

### **NOTES**

1. In the opinion of the authorised officer you are not complying with specified feed law as that term is defined in the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 as detailed in paragraph 2 of the notice. The work needed in the officer's opinion to put matters right is described and it must be finished by the date set.
2. You are responsible for ensuring that the work is carried out within the period specified, which must be at least 14 days.
3. You have a right to carry out work that will achieve the same effect as that described in the notice. If you think that there is another equally effective way of complying with the law, you should first discuss it with the officer.

### **YOUR RIGHT OF APPEAL**

4. In accordance with regulation 25 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016, if you disagree with all or part of this notice, you can appeal to the magistrates' court. You must appeal within one calendar month of the date of the notice or the period ending with the date stated in paragraph 4 of the notice, whichever ends earlier.
5. If you decide to appeal, the time set out in the notice is suspended and you do not have to carry out the work described until the appeal is heard. However, if you are not complying with the legal requirements mentioned in the notice, you may still be prosecuted for failure to comply with those requirements.
6. When the appeal is heard, the magistrates' court may confirm, cancel or vary the notice.

**WARNING**

***FAILURE TO COMPLY WITH THIS NOTICE IS AN OFFENCE***

Offenders are liable to be fined and/or imprisoned for up to 2 years.



**A2.2: Model Form 2 – Feed Business Emergency Prohibition Notice**

Authority: .....

The Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 Regulation 29

**FEED BUSINESS EMERGENCY PROHIBITION NOTICE**

Reference Number: .....

1. To:.....(Feed Business Operator)

At:.....

.....(Address of Feed Business Operator)

2.\* I am satisfied that the health risk condition is fulfilled with respect to:

.....  
.....

.....(Name of Feed Business)

At:.....

.....(Address of Feed Business)

Because:.....

.....  
.....  
.....

(\* See Note 1 overleaf)

**YOU MUST NOT USE IT FOR THE PURPOSES OF [THIS] [ANY] [THIS OR ANY SIMILAR]†  
FEED BUSINESS.**

[† Officer to delete as appropriate]

Signed: .....(Authorised Officer)

Name in capitals: .....

Date: .....

Address:.....  
.....  
.....

Tel: ..... Fax: .....

E-mail: .....

**Please read the notes overleaf carefully. If you are not sure of your rights or the implications of  
this notice, you may want to seek legal advice.**

## **A2.2: Model Form 2 – Feed Business Emergency Prohibition Notice (Reverse)**

### **NOTES**

1. When you receive this notice you must IMMEDIATELY stop using the premises, process, treatment or equipment described by the officer in paragraph 2 of the notice and located at the address stated.
2. Within 3 days of service of this notice, the authority must apply to a magistrates' court for an order confirming the prohibition. You will be told the date of the hearing which you are entitled to attend and at which you may call witnesses if you wish.
3. If you believe that you have acted to remove the health risk condition, you should apply in writing to the authority for a certificate, which would allow you to use the premises, process, treatment or equipment again. You can do this even if the court hearing has not taken place.
4. You are not allowed to use the premises, process, treatment or equipment for the purpose specified in paragraph 2 of the notice (see regulation 28(2) of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 as applied by regulation 29(4)) until (a) a court decides you may do so; (b) the authority issues you with a certificate as in paragraph 3 above; (c) 3 days have passed since the service of the notice and the authority has not applied to the court as in paragraph 2 above; or (d) the authority abandons the application.
5. A copy of this notice must, by law, be fixed on the premises or equipment which is not to be used. It is an offence (under section 1 of the Criminal Damage Act 1971) to deface it.
6. COMPENSATION: If the authority does not apply to the magistrates' court, for an order confirming its action within 3 days of the date of service of this notice, you will be entitled to compensation for any losses you have suffered because you could not use the premises, process, treatment or equipment because you were complying with this notice. You will also be entitled to such compensation if the magistrates' court, decide at the hearing that the health risk condition was not fulfilled with respect to the feed business at the time when the notice was served.

**WARNING**

***ANYONE WHO KNOWINGLY CONTRAVENES THIS NOTICE IS GUILTY OF AN OFFENCE***

Offenders are liable to be fined and/or imprisoned for up to 2 years.

**A2.3: Model Form 3 - Detention Notice**

Authority: .....

**The Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 –  
Regulation 31  
DETENTION NOTICE**

1. To:.....(Feed Business Operator)

At:.....  
.....  
.....Address of Feed Business Operator)

Name of feed  
business:.....

Address of feed  
business:.....  
.....  
.....

2. The enforcement authority is satisfied that Requirements under the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 are being breached, as outlined below:

.....  
.....  
.....  
.....

3. For the purpose of examination the following feed is being detained:

.....  
.....  
.....  
.....

Signed: .....(Authorised Officer)

Name in capitals:  
.....

Date: .....

Address:.....  
.....  
.....

Tel: ..... Fax: .....

E-mail: .....

**Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.**

### **A2.3: Model Form 3 - Detention Notice (Reverse)**

#### **NOTES**

1. When the authorised officer is satisfied that the legal requirements specified in paragraph 2 of the Detention Notice are being met, and receives evidence that the feed need no longer need be detained, a withdrawal notice shall be issued to you. An authorised officer has 21 days following receipt of such evidence to come to a decision.
2. In accordance with Regulation 31 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016, you are entitled to appeal against this notice. If you want to do so, you should apply to the magistrates' court, within one calendar month of the date on which this notice is served on you.

**A2.4: Model Form 4 – Certificate of Withdrawal of Detention Notice**

Authority: .....

**The Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016-  
Regulation 31**

**CERTIFICATE FOR THE WITHDRAWAL OF A DETENTION NOTICE**

1. To: .....(Feed Business Operator)

At:.....  
.....(Address of Feed Business Operator)

Name of feed business  
.....

Address of feed business  
.....  
.....  
.....

2. The enforcement authority certifies that it is satisfied that you have taken sufficient measures: i.e.

Therefore the specified feed need no longer be detained.

The Detention Notice served on you on .....(date) is hereby withdrawn.

Signed: .....(Authorised Officer)

Name in capitals: .....

Date: .....

Address: .....  
.....  
.....

Tel: .....Fax: .....

E-mail: .....

**Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.**

## **A2.4: Model Form 4 - Certificate of Withdrawal of a Detention Notice (Reverse)**

### **NOTES**

1. The feed that has been released may be returned to the feed chain.
2. In appropriate circumstances you may have a right to claim compensation under the terms of regulation 31(6) of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016.

**A2.5: Model Form 5 – Seizure Notice**

Authority: .....

**The Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 –  
Regulation 31  
SEIZURE NOTICE**

4. To:.....(Feed Business Operator)

At:.....  
.....  
.....(Address of Feed Business Operator)

Name of feed business:.....

Address of feed business:.....  
.....  
.....

5. The enforcement authority is satisfied that Requirements under the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 are being breached, as outlined below:

.....  
.....  
.....  
.....  
.....  
.....  
.....

Signed: .....(Authorised Officer)

Name in capitals: .....

Date: .....

Address:.....  
.....  
.....

Tel: ..... Fax: .....

E-mail: .....

**If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.**

**A2.6: Model Form 6 - Certification that Health Risk Condition No Longer Exists**

Authority: .....

**The Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 –  
Regulations 28(6) & 29(8)  
CERTIFICATE THAT THE HEALTH RISK CONDITION NO LONGER EXISTS**

1. To: .....(Feed Business Operator)

At:.....  
.....(Address of Feed Business Operator)

Name of feed business  
.....

Address of feed business  
.....  
.....  
.....

2. The enforcement authority certifies that it is satisfied that you have taken sufficient measures to secure the removal of the imminent\* risk of injury to health described in the:

- Feed Business Prohibition Order\*
- Feed Business Emergency Prohibition Notice\*
- Feed Business Emergency Prohibition Order\*
- [\* Officer to delete as appropriate]

served on you on .....(date).

Signed: .....(Authorised Officer)

Name in capitals: .....

Date: .....

Address: .....  
.....  
.....

Tel: ..... Fax: .....

E-mail: .....

**THIS CERTIFICATE MEANS THAT YOU MAY NOW USE THE PREMISES, PROCESS, TREATMENT OR EQUIPMENT AGAIN.**



## **A2.6: Model Form 6 - Certification that Health Risk Condition No Longer Exists (Reverse)**

### **NOTES**

1. The authority is now satisfied that the health risk condition no longer exists in respect of the circumstances that caused the authority to issue you with an Emergency Prohibition Notice or the court to impose a Prohibition Order or Hygiene Emergency Prohibition Order\*.
2. The relevant notice or order is now lifted and you may use the premises, process, treatment or equipment again.

[\* Officer to delete as appropriate]

**A2.7: Model Form 7 - NOTICE OF SUSPENSION OF REGISTRATION/APPROVAL**

Authority: .....

**The Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 -  
Regulation 8**

**Notice of Intention to Suspend Registration/Approval\***

1. To: .....(Feed Business Operator)

At:.....

.....(Address of Feed Business Operator)

Name of feed business

.....

Address of feed business

.....

.....

.....

2. The enforcement authority gives notice that on the [*enter date suspension is to take effect from*], the [*enter the full name of the enforcement authority*], proposes pursuant to regulation 8 mentioned above and Article 14 of Regulation (EC) No 183/2005 to suspend your approval/registration to [*enter the activity(ies) for which the approval/registration is held*] at [*enter the address of the establishment(s) to which the suspension applies*] because the Authority is not satisfied that the relevant/essential conditions/duties stated in column one of the table in the attached schedule, required by the Regulations, are being complied with.

3. In order for the suspension to be lifted, you must take the remedial action listed in column two of the attached schedule, to the satisfaction of the Authority. If the required remedial action has not been carried out to the satisfaction of the Authority within twelve months of the operative date mentioned in paragraph 2 the approval/registration will be revoked without further notice.

[\* Officer to delete as appropriate]

served on you on .....(date).

Signed: .....(Authorised Officer)

Name in capitals: .....

Date: .....

Address: .....

.....

.....

Tel: ..... Fax: .....

E-mail: .....

## **A2.7: Model Form 7 - NOTICE OF SUSPENSION OF REGISTRATION/APPROVAL (Reverse)**

### Right of Appeal.

Take notice that under Regulation (12) of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 you have a right to appeal to a magistrate's court against the decision of the Authority to suspend your registration/approval at [*enter the address of the establishment(s) to which the suspension applies*]. You must make your appeal within **one month** of the date on which this notice was served on you. **If you are considering making an appeal you are strongly advised to seek prompt legal advice.**

**A2.7: Model Form 7 - NOTICE OF SUSPENSION OF REGISTRATION/APPROVAL (Schedule)**

Column 1 Relevant/essential conditions/duties not being complied with	Column 2 Action required to ensure compliance
[Enter appropriate reference - refer to the EC 1831/2003 Feed Hygiene Regulations]	[Enter appropriate detail]

**A2.8: Model Form 8 - NOTICE OF REVOCATION OF REGISTRATION/APPROVAL**

Authority: .....

**The Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations  
2016Regulations - Regulation 10  
Notice of Revocation of Registration/Approval\***

1. To: .....(Feed Business Operator)

At:.....  
.....(Address of Feed Business Operator)

Name of feed business .....

Address of feed business .....

2. You are hereby given notice that with effect from the [enter date revocation to be effective from], your approval/ registration is revoked in relation to [here enter the activity(ies) for which the approval/registration is held] at [enter the address of the establishment(s) to which the revocation applies] because the Authority is satisfied [here insert one of the following three reasons:

- (1) the activity has ceased at the establishment,
- (2) the establishment has not complied with the relevant requirements for the activity being undertaken stated in column one of the table below, required by the Regulations.
- (3) that serious deficiencies have been identified and/or production has had to be repeatedly stopped and furthermore that you are unable to give to the authority guarantees that future production will comply with European Community rules.

In order to regain your approval/registration you must take remedial action, to the satisfaction of the Authority, which is listed in column two of the attached schedule and reapply to the Authority for approval/registration as appropriate.

[\* Officer to delete as appropriate]

served on you on .....(date).

Signed: .....(Authorised Officer)

Name in capitals: .....

Date: .....

Address: .....

Tel: .....Fax: .....

E-mail: .....

## A2.8: Model Form 8 - NOTICE OF REVOCATION OF REGISTRATION/APPROVAL (Reverse)

### Right of Appeal

Take notice that under regulation (12) of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 you have a right to appeal to a magistrate's court against the decision of the Authority to revoke your registration/approval at *(here enter the address of the establishment(s) to which the revocation applies)*. You must make your appeal within **one month** of the date on which this notice was served on you. **If you are considering making an appeal you are strongly advised to seek prompt legal advice.**

**A2.8: Model Form 8 - NOTICE OF REVOCATION OF REGISTRATION/APPROVAL (Schedule)**

Column 1 Relevant/essential conditions/duties not being complied with	Column 2 Action required to ensure compliance	
[Enter appropriate reference to the EC 183/2005 Feed Hygiene Regulation]	[Enter appropriate detail]	

**Carrying out these activities without the appropriate approval/registration is an offence under the The Animal Feed (Hygiene, Sampling, etc. and Enforcement) (Wales) Regulations 2016 and could result in prosecution.**

### **ANNEX 3: LIST OF FSA APPROVED ASSURANCE SCHEMES**

The MOU recognises the following **Red Tractor Assurance schemes** as approved schemes for earned recognition:

- **Beef & Lamb,**
- **Dairy,**
- **Crops and Sugar Beet,**
- **Pigs and Poultry (all schemes)**
- **Fresh Produce Standards**

The MOU recognises the following **Agricultural Industries Confederation schemes** for earned recognition.

- **Universal Feed Assurance Scheme (UFAS)**
- **Feed Materials Assurance Scheme (FEMAS)**
- **Trade Assurance Scheme for Combinable Crops (TASCC)**

Effective from **9 June 2014**