

**FINAL BUSINESS AND REGULATORY IMPACT ASSESSMENT**

**CENTRALISED ANIMAL FEED OFFICIAL CONTROLS DELIVERY MODEL**



## 1. Title of Proposal

Centralised Animal Feed Official Controls Delivery Model

## 2. Purpose and intended effect

### • Objectives

The purpose of the proposed animal feed delivery model is to enable effective, consistent and sustainable delivery of feed official controls across Scotland. To achieve this, legal competence for the delivery of animal feed law functions will transfer from Local Authorities (LAs) to Food Standards Scotland (FSS).

Transfer of competence will be achieved through a Scottish Statutory Instrument (SSI), The Feed (Transfer of Functions) (Miscellaneous Amendments) (Scotland) Regulations 2020. The SSI transfers functions for execution and enforcement of feed law in Scotland from Local Authorities in their areas to FSS, and make provision for FSS to delegate all or part of its functions. The SSI also amends the Animal Feed (Scotland) Regulations 2010 to provide for the execution and enforcement of Commission Regulation (EU) 2020/354 establishing a list of intended uses of feed intended for particular nutritional purposes and repealing Directive 2008/38/EC. It is intended the new model will take effect from 1 April 2021.

### • Background

Previous animal feed audits<sup>1</sup> by EU auditors to the UK, and LA enforcement returns demonstrate a weak system of official control delivery and enforcement in Scotland.

The weaknesses in the current system may perpetuate a number of risks associated with public health, animal health and the economic prosperity of the animal feed industry in Scotland.

To achieve the identified need for consistency and a sustainable level of effective official controls, the new model aims to address a number of structural issues. These issues include reductions in LA Trading Standards budgets for feed law functions (paid through the block grant, and not ring-fenced), reducing numbers of qualified and competent staff remaining in the profession and increasing number of feed businesses in Scotland. Furthermore, the UK's exit from the EU is likely to place further demand on Trading Standards services as a result of increasing workloads including import checks for feed and other goods, and providing assurance for exported feed.

As part of the new model, FSS will become the competent authority for feed law and meet all costs associated with the delivery of official controls, including costs incurred under delegation by LAs or other third parties. Current payments made to LAs under the block grant will cease once the new model comes into force.

### • Rationale for Government intervention

In order for FSS to have assurance of compliance with feed law and to mitigate risks to public and animal health, a change in the delivery of feed official controls in Scotland is necessary.

FSS has considered and engaged with a range of stakeholders on alternative animal feed official controls delivery models. This work identified a hybrid model, where

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<sup>1</sup> Three audits by the EU auditors (Health and Food Audits and Analysis, formerly the Food and Veterinary Office – FVO) to the UK took place in 2009, 2011 and 2014. [EU audit reports](#).

both FSS officers and LA officers, working under delegation, deliver feed, as a practical and feasible means of ensuring a national coordinated approach.

For the effective operation of a centralised model, the full transfer of official control functions to FSS is essential. Legislation is required to give effect to this change as functions currently rest with LAs in law. This change will support enhanced levels of protection of human health, consumers' interests and the protection of animal health and welfare. Consistent and increased levels of delivery will minimise risks at all stages of production, processing and distribution of feed produced for, or fed to, food producing animals.

### **3. Consultation**

A shortened 8 week consultation was carried out on the draft proposal from 13 May 2020 to 8 July 2020 with fifteen responses received from LA and industry interests. This consultation complements a previous consultation carried out from 28 August to 20 November 2017.

- **Within Government**

The development of an alternative delivery model has been progressed since 2015. During this period there have been ongoing and regular updates to LAs and the Society of Chief Officers of Trading Standards in Scotland (SCOTSS) which have helped shape the proposed model. Discussions were also conducted with Scottish Government Rural Payments and Inspections Division of the Agriculture and Rural Delivery Directorate and the Animal and Plant Health Agency.

As instructed by the Minister in September 2019, constructive dialogue has taken place with Cosla at which they expressed their support for this proposal.

SOLAR (Society of Local Authority Lawyers & Administrators in Scotland) has indicated an interest in reviewing and advising LAs on the agreements required to facilitate the delegation of functions from FSS to LAs under the new model.

- **Public Consultation, including Industry**

A full 12 week consultation was held in 2017, concerning the proposal<sup>2</sup> to transfer competence and for LAs only to deliver the function regionally. At that stage, discussions had been held with both enforcement and industry stakeholders.

Regular updates have been provided to a key industry stakeholder trade body, representing a range of businesses within their membership, at their annual update events.

### **4. Options**

#### **4.1 Option 1: Do nothing (“Status Quo”)**

‘Do nothing’ is an option that does not currently provide assurance on the safety of animal feed in Scotland. This option does not enable improvements to take place to feed law delivery in order to provide that assurance.

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<sup>2</sup> <https://consult.foodstandards.gov.scot/enforcement-delivery/feed-enforcement-scotland-regulations-2018/>

There were fifteen responses to the consultation. Fourteen were in agreement that the current model of delivery does not work and changes need to take place to provide an effective model of delivery. There were some views that the current system could be improved but only with additional investment. One consultee did not provide a specific response to this question.

Failure to address the current model could ultimately result in non-compliance with EU feed law and the law as it will be retained when the implementation period comes to an end, which may risk trade and the revenue generated from the feed industry. The feed export market is currently worth about £157 million to the economy in Scotland.

The current position within the overall feed and food chain carries a risk that a feed incident, if it were to occur, could have exponential impact across the sector. An example of potential cost associated with a feed incident, based on stakeholder feedback is provided in Appendix 1 to this document.

LAs report budget cuts and reducing Trading Standards staff, as well as an aging workforce. The thin spread of this function across 31 LA Trading Standards services means that in some cases, feed is a small part of an individual's work, risking levels of officer competence in the long term as well as consistency.

Continuing to carry out this function under the current arrangements places an increasing burden on LAs. Investment in officer training and delivery of official controls on feed produced, marketed and sold across Scotland, in accordance with the Feed Law Code of Practice (Scotland) will only increasingly become difficult because of continued reductions in funding.

This option is the baseline with which other options included in this BRIA are compared.

#### **4.2 Option 2: Transfer official control functions from LAs to FSS to provide for effective enforcement and delivery of feed official controls**

This is the preferred model.

This option requires the amendment of legislation for the transfer of competency for feed law from LAs to FSS. Where appropriate, this amendment will permit FSS to delegate feed functions to LAs and other competent bodies in Scotland, subject to agreement by both parties.

FSS will seek to delegate all or some of the official control functions to LAs and/or other qualifying persons or organisations. Any remaining provision for delivery will be filled by FSS staff. The arrangement under which official control functions are delegated to third parties, shall be described in a Delegated Service Level Agreement (DSLAs).

FSS will provide for national administration, coordination of the delivery of official controls, supporting activities and the maintenance of professional knowledge and skills.

#### **Sectors and groups affected**

**(1) Consumers** – of feed (owners of livestock) and of food (food for human consumption originating from animal products). The new model will provide consumers with enhanced levels of confidence that the feed they are using, or food

they are consuming, meets the relevant legislative requirements for safety and standards. The assurance shall be provided by an increase in the level of official controls and consistency in delivery.

**(2) Feed industry** – there is a wide range of feed businesses in Scotland, including farms, hauliers, importers and feed manufacturers (including pet food). Food businesses supplying co-products such as brewers' grain and those supplying surplus food, such as bakery products, are also considered feed businesses.

There are a number of trade bodies representing the interests of the feed industry.

Feed law applies to businesses carrying out a number of activities concerned with the handling of feed including: manufacturing, placing feed on the market, storing feed and the feeding of livestock.

The new delivery model will provide the industry with greater consistency across Scotland in relation to the application of feed law, as a result of the nationalised systems which will be developed and rolled out. The development of more robust official controls and enforcement model for feed will also provide greater assurance to export markets.

### **(3) Regulators: LAs, Other Government Departments (OGD) and FSS**

Competence for feed law functions will transfer from LAs to FSS.

FSS may carry out official feed control functions itself or, where appropriate, delegate all or some of its functions to LAs, third parties or other government departments (OGD). FSS will meet the costs of the delegated services, delivered on its behalf, under a DSLA for a period of 3 years (plus a further option of 2 years). This provides LAs with funding and other support to enable them to allocate officers to the feed role, or recruit new officers.

The proposed delivery model leaves LAs with no legal obligation to deliver official control functions within their area and LAs unable to work with FSS in this way, will choose to focus existing resources on other Trading Standards legal functions. FSS will assume responsibility for delivery of official controls in those LA areas.

FSS will be impacted by the work required to develop the systems to support this model, for example: development of governance, guidance and monitoring, officer training, access to and use of the Feed Management Information System and template documents. In addition, it will be necessary to recruit FSS feed officers in order to ensure sufficient Scotland-wide cover and future resilience for this model, as the final level of LA uptake is still to be confirmed.

Effective and coordinated feed safety and delivery of feed controls is a key objective of the FSS strategic plan. Transferring feed law functions to FSS means that FSS has confidence in the delivery of the following strategic outcomes:

- *Food is safe*
- *Responsible food businesses flourish*
- *FSS is efficient and effective*

## 5. Options Appraisal

### 5.1 Option 2: Introduce domestic legislation to provide a transfer of competence from LAs to FSS to provide for effective enforcement and delivery of feed official controls

#### 5.2 (1) Consumers

##### ***Benefits:***

By transferring competence to FSS, consumers will benefit from improved consumer protection and confidence in the production of safer food and feed. Consistent delivery of official controls according to risk should help provide Scotland's feed industry with greater assurance of safe feed. Over time, with improved transparency, consumers should be able to have greater trust that the feed used for food producing animals is safe.

***Disadvantages and costs:*** We have not identified any disadvantages to consumers from this proposal.

#### 5.2 (2) Feed industry

##### ***Benefits:***

The new model provides for improved consistency and establishes a single point of contact for feed businesses on general feed matters. Under the new model, feed businesses will engage with FSS or with those delegated agents acting on behalf of FSS. The consultation outcome indicated that respondents agreed that the approach aids consistency and is considered by the industry to be a strength of the arrangements which will make the Scottish brand stronger. The nationally delivered, co-ordinated and funded feed controls functions will allow FSS to:

- deliver feed controls in a consistent manner across Scotland removing regional variation in the delivery of official controls;
- introduce a Scottish national feed database for registered and approved feed businesses;
- ensure official controls in Scotland are delivered using robust risk based measures to provide assurance to the industry and markets;
- respond in a timeous manner to feed incidents;
- apply linked intelligence and data to better anticipate and seek to prevent incidents occurring;
- improved identification of links between feed business operators and feed crime located in different locations across Scotland and the rest of the UK by information sharing between agencies such as FSA;
- Keep feed business operators adequately informed, and in a timely manner, about matters which significantly affect their capacity to make informed decisions about feed matters.

Under the new model, where LAs choose not to fulfil delegated functions, provision will be made for transfer of information and familiarisation of businesses with a different authorised officer. In some cases, local officer experience and knowledge, and existing relationships between competent authorities and businesses at a local level shall be maintained. Use of delegated authority is designed to maintain this capacity where viable and desired by the local authority.

### ***Disadvantages and costs:***

Although the processes of official control delivery will remain similar, feed businesses may be subject to official controls by a different officer under this model where a LA does not enter into an agreement to deliver under delegation. Such an outcome may require feed business operators to allocate additional time for a first inspection, under the new model, to allow for familiarisation and exchange of information with the officer. In some cases, this is considered by the industry as a positive opportunity to develop strong relationships with the authorised officer and share information.

It is considered a familiarisation process will impact on a **maximum** of 250 businesses. FSS had estimated that a handover an average of 1.5 hours for these businesses would be necessary, at an hourly officer rate of £28.50<sup>3</sup>. There were no comments raised by consultees from industry of this cost. This would amount to a total of **£10687.50** borne by industry.

A hybrid model may result in an increase of statutory bodies at an individual feed business because of the introduction of FSS as competent authority for feed. Where a LA does not participate in the delegated model for feed delivery, this will result in a lost opportunity for an officer to carry out both feed and other statutory functions at the same time. However primary production food hygiene inspections may continue to take place on farms at the same time as feed, as competence for food primary production is shared between LAs and FSS.

## **5.2 (3) Regulators: LAs, Other Government Departments and FSS**

### ***Benefits:***

The transfer of competence will reduce the LA financial and administrative burden for delivery of official feed controls and enable the LAs that agree to conduct the official controls on behalf of FSS to fully resource delivery of feed law functions. A full programme of work can be carried out without concern of balancing competing LA priorities.

LAs will no longer hold competent authority status for official control delivery and enforcement of feed law. Where LAs make a judgement not to deliver these, FSS will be able to delegate functions to LAs or other third parties in any area of Scotland, or to deliver those functions itself. This will provide for greater flexibility and resilience at a national level for the delivery of feed law functions.

Feedback from the consultation indicates that, under the new model, there will be limited effects on officers' employment terms or conditions as many officers across Scotland carry out a range of other statutory functions in addition to feed official controls. The new model provides for a higher level of official control work with a subsequent uplift in overall funding for this function for the majority of LAs. The new model will provide greater assurance for LAs with funding provided for the delivery of the function over a 3 to 5 year period, as provided for in the DSLA, assisting their ongoing staff planning.

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<sup>3</sup> Based on the ASHE Provisional 2019 Estimates for 'Production managers and directors in manufacturing' professionals, including a 30% overhead uplift in accordance with the UK standard cost model. <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digitsoc2010ashtable14>

The new model will provide for additional support in the professional development of officers fulfilling feed official controls functions along with a revised competency framework to assist in the training and recruitment of these officers.

FSS considers that the new delivery model should benefit officers employed by LAs to deliver non-feed functions. A fully funded and better resourced feed function will provide greater overall capacity across teams allowing focus on the range of service needs.

An increase in the number of animal feed official controls will provide FSS with increased assurance on compliance levels across the sector, protecting consumers from the risks associated with animal feed and providing confidence to third country markets.

A centralised model will bring consistency to FSS and LAs in how feed official controls are delivered across Scotland and assist in the identification of areas where additional activity and resourcing is required.

### **Disadvantages and costs:**

There may be challenges for LAs in reconfiguring staffing resources to fulfil the requirements of increased feed official controls work under the new model. FSS will provide a degree of flexibility within the development of inspection planning, taking account of risk profiles, to enable LAs to more effectively plan overall staffing deployment.

The responsibilities for feed official controls that currently fall to LAs will now fall to FSS, as the competent authority, and this will require additional resource within FSS in order to deliver these functions effectively.

Specific financial costs associated with the introduction of the new model are listed below. The feed delivery model has been under development for 5 years, but the costs provided within this Impact Assessment concern only the year prior to implementation (2020/21).

All costs currently met by LAs for the delivery of official controls will be met by FSS under the proposed funding model.

Costs in the draft partial BRIA for **(a) Development, (b) Transition and (c) Familiarisation**, were based on £29.11 per hour for a Trading Standards professional (based on the ASHE Provisional 2019 Estimates<sup>4</sup> for a 'Quality Assurance and Regulatory Professional including a 30% overhead uplift in accordance with the UK standard cost model).

A range of hourly rates for LA trading standards staff was provided in the consultation responses, from £37.36 to £92.

A cost model developed for LAs and FSS officers has been developed using hourly figures drawn from the salary points of local authority officers. The hourly rate for a level 2 officer including additional on-costs for this function, is £34.34. This compares

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<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digitsoc2010ashetable14><sup>5</sup> This figure is average because there are a number of attendees of the meeting who will have significantly less input than others



to FSS costs of £32.17 per hour (based on B2 salary scale level within Scottish Government).

For the purposes of calculating LA costs prior to implementation a median LA figure of £64.68 per hour is used.

### **(a) Development of the model prior to implementation**

FSS has established an Implementation Group with representatives from LAs and SCOTSS to develop the specific arrangements required for implementation. This group is addressing the cost model for delivery, development of the Delegated Service Level Agreement and any technical issues pertaining to delivery.

**(i) Local Authorities:** It is expected that there may be as many as 6 meetings prior to implementation during 2020/21 and it is estimated that for each meeting and subsequent actions, an average<sup>5</sup> of 6 hours are dedicated to this activity. Approximately 25 LA individuals have regularly attended a meeting. Hourly LA rate are based on the LA hourly rate of £64.68.

<i>estimates</i>	Hourly rate	6 mtgs x 6 hours per mtg per officer	Total
Total officers (25)	£64.68	£2328.48	<b>£58,212</b>

**(ii) FSS:** The FSS Feed project team responsible for developing the model, and the necessary infrastructure and governance arrangements, amounts to approximately 4.8 FTE in the year prior to implementation (2020/21), at a cost of **£253,478**.

### **(b) Transition**

#### **(i) Handover of Complex Business**

If an LA does not intend to deliver feed inspections under the delegated arrangements, a new officer (either an officer from another LA or FSS) will be assigned to carry out official controls at a business within that LA area. As the new officer will be unfamiliar with the business, it is intended that there is a handover from the current officer to the new officer. It is assumed this will impact on a **maximum** of 250 businesses, with each business inspection, for the purposes of handover, approximately 1.5 hours.

250 businesses x 1.5 hours x £64.68 = £24,255

#### **(ii) Transfer of feed business records from LAs to FSS where delegation does not take place – year 1 only**

When competence transfers to FSS, it will be necessary for all LAs to transfer feed business records to FSS.

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<sup>5</sup> This figure is average because there are a number of attendees of the meeting who will have significantly less input than others

Capacity is built into the cost model to accommodate the need for transition for delegated agents to the new model. Costs for transition of official controls from LAs to FSS, where LAs choose not to fulfil delegated functions are accommodated in the cost model.

The SSI will provide provision giving FSS the power to require, by request, LAs to transfer all data and information they hold relating to official feed control functions. Processes for the transfer of records will be agreed between FSS and the respective LA and may include electronic or physical transfer.

The time required to collate the records will vary, depending on the number of records held. It is estimated that it will take around 30 minutes per business and that there are around 8000 business for which there are records. At an hourly rate of £64.68, this amounts to **£258,720**.

### **(c) Familiarisation with new model (LAs)**

Capacity is built into the cost model to accommodate the need for familiarisation for authorised officers from LAs working under delegation to the new model. Officers are required to familiarise themselves with this change and the legislation. Officer time is estimated as 6 hours at an hourly rate of £64.68. One LA agreed with the estimated three hours familiarisation period.

It is not known currently how many LAs will participate in the delegated model. However, as of 27 October 2020, there are 21 LAs that have expressed an interest in working under the delegated model. For the purpose of this exercise, we estimate this equates to a total of 42 officers.

	Hourly rate	3 hours per person	Total
Total officers x 42	£64.68	£194	£8148

### **(d) Feed Management Information System (FMIS)**

The FMIS has been developed by FSS and will be used to capture feed business establishments throughout Scotland (as required by Regulation (EU) No. 183/2005). All necessary data protection requirements have been put in place. The FMIS shall be used for inspection planning and reporting of inspection outcomes, significantly reducing administration time associated with report writing. Importantly, FMIS enables real time data to be accessed by FSS providing a national overview, and negating the annual enforcement return requirement.

Costs for development, licences and hardware amount to **£110,000**.

### **(e) Delivery of the new model (FSS)**

FSS has committed to meet the costs of the delivery of delegated functions by third parties.

Under the current model funding is distributed to LAs in accordance with the block grant distribution for feed. This amounts to a total of £325,000. This money has been

removed from the block grant and will be supplemented to finance the enhanced Scotland wide delivery model.

FSS has developed a detailed cost model to ensure that the service is adequately resourced and that delegated agents delivering under this model are fully funded in accordance with the service they provide on behalf of FSS. For those LAs that are unable to deliver feed official controls under this model, they will no longer be eligible to receive the money intended for feed law functions.

Current estimated costs for the delivery of feed are **£600,000**. An exact figure will not be known until the balance of LAs (working under delegation) and FSS officers has been confirmed. In addition, the model estimated follow up action and contingency actions (such as incidents and complaints) which cannot be predicted. This figure also includes an element of officer time to attend training (5 days over year) and meetings.

#### **(f) FSS National administration costs (staffing)**

As the competent authority, FSS shall be responsible for the administration and coordination of official control activity by FSS and delegated agents (Feed Support Unit (FSU)). FSS will manage enquiries and provide technical and legal advice on feed delivery. It is estimated that there will be a need for the following staff:

- 2 FTE administration post (A3)
- 1 FTE operational support post (B2)
- 3 FTE operational lead (B3)
- 0.2 FTE Branch Head (C1)

**Total FSU: £317,546**

In addition, FSS shall be responsible for meeting the following costs.

Equipment	Grants in 2020/21 (one-off)	£50,000 <i>(estimated)</i>
	Annual costs	£20,000 <i>(estimated)</i>
Indemnity (for LA		£40,000 <i>(estimated)</i>
Agricultural Analyst	Analysis	£175,000
Agricultural Analyst	Courier	£20,000 <i>(estimated)</i>

## (g) Total costs

<b>DEVELOPMENT (FSS, LAs and Industry)</b>	
(a) (i) Development of the model prior to implementation (LA)	£58,212
(a) (ii) Development of the model prior to implementation (FSS)	£253,478
(b) (i) Handover – for more complex business	£24,255
(b) (ii) Transition: Transfer of feed business records from LAs to FSS where delegation does not take place	£258,720
(c) Familiarisation with new model (LAs)	£8148
(d) Feed Management Information Systems costs – development costs and hardware	£110,000
(f) One off equipment grant (2020/21)	£50,000
Transition costs (industry)	£10,688
Total	<b>£773,501</b>

<b>IMPLEMENTATION (per year) (FSS)</b>	
(e) Delivery of the new model	£600,000
(f) FSS Centralised administration costs (staffing)	£317,546
(f) Analytical costs plus courier costs for samples	£195,000
(f) Equipment costs	£20,000
(f) annual indemnity top up	£40,000
Total	<b>£1,172,546</b>

## 6. Agricultural Analyst

Agricultural Analysts are currently appointed by LAs to carry out feed analysis work. Section 67 of the Agriculture Act 1970 requires the competent authority for feed to appoint an Agricultural Analyst. Under the new arrangements, FSS will appoint Analysts for feed law.

Analysts have been concerned that the current level of sampling does not provide adequate controls or assurance for feed safety. FSS intends to significantly increase the planned sample numbers under the new model. Increased sample numbers will enable the laboratories to invest in accreditation, proficiency and maintenance of staff competency.

## 7. Scottish Firms Impact Test

7.1 Businesses have had the opportunity to present their views throughout the consultation which was sent to 78 businesses, organisations and local authorities in Scotland. Fifteen responses were received.

This policy change impacts indirectly on all feed businesses across Scotland (in excess of 24,000). It is anticipated that the new model will have a positive impact on the competitiveness of Scottish businesses as it will provide a measure of assurance that does not currently exist consistently across Scotland. This will be of significance to the Scottish feed industry in securing future trade deals as a result of the UK's exit from the EU.

7.2 The impact of the new model on the performance of the sector will be monitored by FSS (see below).

## **8. Competition Assessment**

This policy change does not place restrictions on the number of feed businesses in the market, nor on entering or exiting the market. Subject to assurance of compliance identified through official controls, it should improve the ability of Scottish feed businesses to compete in the market due to demonstrably higher level of confidence in levels of feed safety assurance.

## **9. Consumer Assessment**

It is considered that this policy change will have a positive impact on consumers as it will provide assurance in the safety of animal feed and relevant food for human consumption. It will reduce the risk of unscrupulous traders operating in this area and therefore the risk of feed crime.

## **10. Digital Impact Test**

In readiness for implementation of the new feed model, the FMIS has been developed. This has been piloted during 2019 and 2020 by LA officers to establish the impact on inspection reporting and recording. LAs have reported that it provides benefits of reduced administration time. and asFSS has real time access to the outputs from the inspections, this has negated the need for the current annual enforcement returns.

Prior to implementation of the new model, the Feed Business registration form, currently handled separately by LAs will move to an online registration form on the FSS website. This will be provided in an Animal Feed portal within the FSS website.

## **11. Test run of business forms**

No new or additional forms are to be introduced by this proposal therefore no test run need be completed.

## **12. Legal Aid Impact Test**

This policy change does not introduce new criminal sanctions or civil penalties therefore there are no legal aid implications.

### **13. Enforcement, sanctions and monitoring**

- **Enforcement**

This function does not introduce additional enforcement provisions. Enforcement will fully transfer to FSS under this proposal, and will be delivered by FSS.

Provisions are to be laid in the SSI allowing for the delegation of Official Feed Controls.

- **Sanctions**

No changes are being proposed to the criminal sanctions or civil penalties contained in existing legislation.

- **Monitoring**

The effectiveness and impact of the new arrangements will be monitored through feedback from stakeholders as part of the ongoing policy process. In addition, under these arrangements, FSS will have mechanisms in place for monitoring and review of official controls delivery through the regular monitoring and performance review of delegated parties against their agreed Delegated Service Level Agreements

FSS will monitor the impact of the new model by consideration of changing compliance measures and additional outcomes including enforcement and sampling.

Monitoring the impact of the delivery of feed official controls on businesses and the wider stakeholder group will be achieved through a range of formal and informal mechanisms including surveys, engagement with sector representative groups and consumer groups.

### **14. Implementation and delivery plan**

14.1. The legislative change to transfer competence from LAs to FSS is essential to implementing a new hybrid model for delivery of feed official controls and enforcement. The Feed (Transfer of Functions) (Miscellaneous Amendments) (Scotland) Regulations 2020 will be laid before Parliament before 31 December 2020.

14.2. The Regulations shall come into force on 1 April 2021. The SSI shall be posted on the [legislation.gov.uk](https://www.legislation.gov.uk) website and stakeholders shall be informed by an Interested Parties letter in March 2021.

### **15. Post-implementation review**

15.1. FSS intends to put in place Delegated Service Level Agreements with third parties which shall be subject to ongoing quantitative monitoring and ongoing informal qualitative and quarterly formal qualitative monitoring. In addition, FSS authorised officers will be subject to qualitative and quantitative monitoring on an ongoing basis. The feed delivery model will be audited in the first year following implementation.

15.2. The purpose of the development and implementation of the new model is to address the shortfall in delivery of official controls and therefore reduced levels of assurance that exist within the Scottish feed industry. The change to the model is intended to increase assurance by providing for consistency in the method of delivery, increasing the number of official controls and to deliver these on an

intelligence led risk basis. FSS has developed the Feed Management Information system to provide real time data on the official controls undertaken and the outputs (including compliance levels and enforcement actions) of official controls. FSS shall monitor the compliance levels and enforcement on a monthly basis.

## 16. Summary and Recommendation

It is recommended that Option 2 ( Hybrid model with FSS as sole competent authority, with the option to delegate) is adopted. The current model does not provide the level of assurance necessary for feed safety and consumer protection. Without significant investment in the current model, no further improvement can be made and the existing block grant arrangements do not guarantee that funding, intended for Feed Official Controls, will be directed for this function.

### • Summary costs and benefits table

<b>Option</b>	<b>Total benefit per annum: economic, environmental, social</b>	<b>Total cost per annum: - economic, environmental, social - policy and administrative</b>
Do nothing (option 1)	<ul style="list-style-type: none"> <li>• Opportunity to carry out multiple official controls at the same time</li> <li>• No change to authorised officer to business</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of assurance</li> <li>• No further improvements without investment</li> <li>• Non-compliance with feed law goes undetected</li> <li>• Risk to trade</li> <li>• Risk of incidents</li> <li>• Continuing burden on LAs</li> </ul>
Hybrid model (Option 2)	<ul style="list-style-type: none"> <li>• Greater level of official controls, therefore assurance</li> <li>• Consistency and single point of contact</li> <li>• Maintenance of competency and provision of training</li> <li>• National horizon scanning and incident management</li> <li>• Develop resilience for future delivery</li> <li>• Relieve LAs of burden of competing priorities.</li> </ul>	<ul style="list-style-type: none"> <li>• Potential increase in footfall to FeBEs if a LA does not participate in delegation</li> <li>• Significant investment by FSS to develop and implement new model. Development £720,000 and annual implementation costs of £1,173,000.</li> </ul>

## 17. Declaration and Publication

I have read the impact assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed: Joe FitzPatrick**

**Date: 5<sup>th</sup> November 2020**

**Minister's name: Joe FitzPatrick**

**Minister's title: Minister for Public Health, Sport and Wellbeing**

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## Appendix 1

### 1. Financial Impacts of Feed incidents

Previous feed incidents spreading across the EU were costed to €1.5 - 2 billion, impacting on the economy, including withdrawal and destruction of affected product, compensation, trading and job losses. Scotland's food and feed export market adds considerable value to the economy, and there are a number of factors that can affect the demand and the price of food and feed. An incident similar to those described above would have a significant detrimental effect on trade.

Feed incidents can vary in size and scale depending on the type of feed, the animals to which the feed is fed or intended and the use of the animal products. The consultation provided a theoretical example of an incident and its impact:

*A load (28 tonnes) of distillers' grains has been contaminated. It is taken to a feed mill and used to manufacture dairy feed at a rate of 10%, resulting in the production of 280 T dairy feed. .*

*If this was sold in 10T loads, this material would be delivered to 28 farms.*

*If each farm had 300 milking cows, 8,400 cows could eat the contaminated feed.*

*If each cow eats an average of 6 kg per day and is producing an average of 28 litres milk per day, the load will last each farm 5.5 days.*

*In 5.5 days, one herd will produce 46,200 litres of milk.*

*28 herds will produce 1,293,600 litres of milk*

*(a) If the milk is contaminated and cannot be sold, the farmgate cost of 1,293,600 litres of milk is **£388,080** (assuming milk price of £0.30 per litre).*

*(b) 1,293,600 litres would produce 258,720 kg cheese (current cheese price £7 per kg). Total cost of cheese produced from 1 load of distillers' grains: **£1,811,040***

*(c) If the cows are culled/killed, the replacement cost of 8,400 cows is approximately **£16,800,000** (approximately £2000 each).*

There may also be additional costs such as incident investigation costs, disposal of contaminated feed and food, veterinary bills and potential job losses.

Such an incident not only affects the feed businesses involved but has an impact on the reputation of Scotland and therefore business and export trading relationships. The impact will vary depending on the nature of the contamination.