

**Memorandum of Understanding  
between**

**The Food Standards Agency**

**and**

***[insert other parties]***

**for the Enforcement of Animal  
Feed Official Controls in Wales**

**COMMENCEMENT DATE 1 APRIL 2016**

## MEMORANDUM OF UNDERSTANDING: CONTENTS

1. The Parties
2. Purpose
3. Background
4. Roles and Responsibilities
5. Programme of Work
6. Governance
7. Dispute Settlement
8. Reporting
9. Funding
10. Payment
11. Review & Audit of the MoU
12. Freedom of Information and Communications to the Public
13. Termination
14. Charges & Liabilities
15. Signatures

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## **1. The Parties**

This Memorandum of Understanding (MoU) is between the following parties (the Parties):

- a) The Food Standards Agency in Wales of 11th Floor, South Gate House, Wood Street, Cardiff, CF10 1EW (FSA).
- b) [ Lead LA for the Region]
- c) [List other LAs for that region]

### **FSA**

The FSA acts as the Central Competent Authority for feed law enforcement by Local Authorities (LAs) in Wales, England and Northern Ireland. This includes ensuring the delivery of activities in relation to feed hygiene, labelling and composition of animal feed, including pet food. The FSA has the statutory function of providing expert advice and knowledge as well as the role of influencing the way that LAs deliver animal feed official controls.

### **Local Authorities**

LAs are responsible for the enforcement of trading standards and environmental health legislation, including that relating to feed hygiene at all feed related establishments, including importers, farms, manufacturers, transporters and food businesses sending surplus food into the feed chain. LAs provide advice and support to feed businesses, as well as carry out inspections, sampling, investigations and formal enforcement activities in accordance with the Feed Law Code of Practice. This work is closely linked to enforcement responsibilities for animal by-products, animal health, animal welfare and food. Animal feed official controls are delivered on a regional basis in Wales, with the 22 local authorities in Wales divided up into six regions.

## **2. Purpose**

- a) This MoU seeks to set out the general principle of collaboration between the Parties and provides a specific framework for the delivery of animal feed official controls in Wales.
- b) This MoU seeks to ensure that the enforcement of feed legislation in Wales is carried out in an effective, consistent and coordinated manner.
- c) This MoU establishes the responsibilities of the Parties and the general principles for their cooperation.
- d) This MoU contains the financial arrangements between the Parties.
- e) This MoU is not intended to create a binding legal obligation between the Parties.

### **3. Background**

In 2009 and 2011 the Food and Veterinary Office (FVO) audited the delivery of Animal Feed Official Controls in the UK and found significant weaknesses. In response to the audit findings the FSA established a Programme to research and implement solutions to the issues raised by the FVO. In July 2014 the FSA published a report titled "Food and Feed Law Enforcement in Wales," in which concerns were expressed about the delivery of official feed controls by Welsh LAs. The report alerted the Minister for Health and Social Services to the risk that animal feed safety may be compromised unless the issues were addressed urgently. The Minister was clear that retaining the status quo was not an option and asked Welsh Government officials and FSA to identify options for the future funding and delivery of this work in Wales. Local Government had a key role to play but it was clear that better targeting of the resources could provide a more efficient, effective and economic service.

On the basis of a proposed model and estimated costs provided by the FSA, Welsh Ministers agreed the sum of £490,000 should be removed from the current Revenue Support Grant (RSG) on a recurrent basis from 1 April 2015. This funding is available to the FSA to direct and support LAs and other partners to deliver a sampling and inspection programme in Wales.

Directors of Public Protection Wales (DPPW) have agreed that LAs would collaborate and work regionally in Wales to deliver animal feed official controls. Six regions had been set up, each with a lead feed officer responsible for day to day management and oversight of the work in their regions. DPPW delegated governance of this work to Wales Heads of Trading Standards (WHoTS).

Decisions in relation to the regional inspection programme have been made in consultation with the FSA, WHoTS and Regional Lead Feed Officers to ensure optimal use of the funds available, in line with feed safety and consumer protection priorities.

### **4. Roles and Responsibilities**

The Parties agree that they will:

- a) Adhere to the following roles and responsibilities.
- b) Consider each other as a potential source for mutual assistance.
- c) Learn, develop and seek to achieve the full potential of the MoU.
- d) Share information, experience and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost.
- e) Seek to extend the provisions of this MoU as appropriate where significant and on-going opportunities are identified.

- f) Act in a timely manner.
- g) Agree a strategy for managing communication with stakeholders, where appropriate.
- h) Ensure sufficient and appropriately qualified employees and other necessary resources are available and (in the case of employees) authorised to fulfil the responsibilities set out in this MoU.
- i) Act in good faith to support achievement of the key objectives and compliance with these principles.

### **FSA key roles and responsibilities**

- Develop an agreed risk based feed inspection programme for Wales in conjunction with Regional Lead Feed Officers.
- Develop an agreed risk based feed sampling programme for Wales in conjunction with Regional Lead Feed Officers.
- Meet twice a year with Regional Lead Feed Officers.
- Attend WHoTS Regional Feed Meetings.
- Provide support to LAs in the delivery of animal feed official controls.
- Produce guidance where required and appropriate.
- Provide expert advice and knowledge.
- Promote and share best practice.
- Facilitate and/or deliver appropriate training, funding where appropriate.
- Provide funding for the delivery of animal feed inspections ensuring invoices are paid in a timely manner.
- Work with LAs to resolve situations where they encounter difficulties in fulfilling their responsibilities to follow the animal feed inspection programme.
- Where appropriate promote the animal feed delivery programme and the importance of safe animal feed.
- Monitor and audit the feed delivery model to ensure consistent interpretation of the Feed Law Code of Practice and to work with LAs to resolve any issues identified through this.
- Conduct a formal evaluation of the delivery programme within an appropriate timeframe.
- Maintain communications with key stakeholders involved in the funding, planning and delivery of animal feed official controls across the UK to ensure a consistent approach.
- Provide updates to Welsh Government on progress in delivering the programme.

### **Feed regions key roles and responsibilities**

- Deliver a programme of risk based animal feed inspections and sampling as agreed with the FSA.
- Profile inspections for the year ensuring that delivery can be achieved.

- Complete the agreed annual programme of work, no later than 31st March in each year covered by this MoU.
- Give early warning of any emerging problems to the FSA so that advice and support may be offered.
- Work collaboratively to ensure animal feed official controls are carried out in all LA areas within the region.
- Follow in full the Feed Law Code of Practice including implementation of the risk rating scheme, taking into account the principle of earned recognition.
- Maintain an up to date register of feed establishments.
- Report any feed incidents to the FSA.
- Meet twice a year with the FSA.
- Attend WHoTS Regional Feed Group.
- Carry out official controls at import points of entry where appropriate.
- Provide quarterly returns and invoices to the FSA which accurately reflect the work carried out during the previous quarter.
- Provide returns and invoices within two weeks of the end of the quarter.
- Liaise with partner organisations in relation to feed enforcement where appropriate.
- Ensure officers undertaking animal feed official controls are trained and competent.
- Monitor consistency of inspections.
- Commit the necessary resource and time for officers to conduct inspections.
- Ensure sufficient information is captured and recorded during inspections using agreed model inspection forms to demonstrate that a thorough assessment of compliance has been carried out.
- Adopt model policies and procedures for animal feed enforcement subject to any specific requirements of LAs in their region.
- Have regard to food hygiene at primary production when carrying out animal feed inspections, by ensuring sufficient information is captured on the model inspection form to demonstrate an assessment of compliance has been carried out.
- Provide the Regional Lead Feed Officer with the resource, support and time to conduct the role effectively.

### **The Regional Lead Feed Officer**

Each region shall appoint a Regional Lead Feed Officer. The primary role of the Regional Lead Feed Officer is to:

- Ensure a risk based approach is adopted for the delivery of animal feed official controls within their region and activities are coordinated.
- Act as the point of liaison between their region and the FSA highlighting strategic or operational issues that require discussion.
- Share best practice and promote consistency.
- Input into discussions with FSA on emerging issues and operational issues.
- Input into consultation responses.

- Escalate unresolved queries from their region to the WHoTS Regional Feed Group and draft opinions to be agreed by members when appropriate.
- Provide legal interpretation on existing legislation.
- Provide advice and guidance on the preparation of guidance / leaflets.
- Identify and discuss future priorities, consider future developments and emerging issues.
- Attend meetings to represent regional views.
- Ensure all officers involved in the delivery of animal feed official controls are competent by carrying out a documented assessment of their competencies in accordance with an agreed procedure.
- Provide advice, guidance and mentoring as required to ensure sufficient capacity and maintain officer competence in the regions.
- Coordinate feed sampling.
- Assist in the production and maintenance of common standards, operating procedures and documentation to support delivery of the service in accordance with the FSA's Feed Law Code of Practice.
- Maintain a good working knowledge and experience of animal feed and the law relating to it.
- Monitor performance and consistency of inspections in their region.

## **5. Programme of Work**

As a part of the FSA's Business Planning process for each of the financial years covered by this MoU the FSA and the WHoTS Regional Feed Group will agree an annual programme of work which will consist of the specific animal feed official controls to be undertaken.

Following agreement of the work plan the FSA will issue a Purchase Order which funds the forecasted costs.

## **6. Governance**

A governance group will oversee the delivery of animal feed official controls in Wales, including adherence to the terms of the MoU. The governance group will consist of a representative from DPPW, WHoTS, WLGA and the FSA.

The governance group will:

- Ensure that the programme is on track to deliver the required benefit, that the financial performance is on target and any required changes are identified and addressed to ensure the delivery of activities.
- Consider future developments, the understanding and sharing of good practice and addressing feedback on progress made and improvement opportunities.
- Agree the process to facilitate the day to day operational working necessary to deliver the agreed programme of work. This will ensure efficient management of all the work involved, provide assurance that the key objectives are being met and that the region is proceeding in accordance with their work plan.

- Meet at least annually and more frequently as the workload demands.

## 7. Dispute Settlement

Any dispute between the Parties arising out of or in connection with this MoU shall in the first instance be settled amicably between the Parties and, if no resolution is reached, referred to the Chief Executive responsible for each Party.

## 8. Reporting

Each feed region will provide the FSA with a quarterly update on the progress achieved on the programme of work within two weeks of the end of the quarter.

## 9. Funding

Funding for the Programme of Work will consist of:

- Quarterly payment from the FSA to fund regional delivery of animal feed official controls.
- Regional Lead Officer Funding to cover the costs of administering and managing the programme of work
- Funding to enable delivery of any agreed projects designed to improve regional delivery of animal feed official controls.

The quarterly payment will be inclusive of any relevant VAT and shall remain firm and fixed at the level set in the signed MoU, which will be up to the level determined in the work programme planning exercise. The specific activities outlined in this proposal should not already form part of any programmed expenditure plans by the feed region for the current financial year. The price paid per inspection for the delivery of animal feed official controls in 2016-17 is detailed below.

Premises Type	Cost Per Inspection
Manufacturer - A01-08, A11, R01-04 & R06	£550.00
Co Product Producer - R12	£375.00
Mobile Mixer - R04	£275.00
Importers	£125.00
Stores - R09	£180.00
Distributor - A01-08, A11, R01-03 & R05	£180.00
Transporter - R08	£180.00
On Farm Mixer - R10 (annex II)	£275.00
On Farm Mixer – R11	£180.00



Supplier of Surplus Food - R07	£210.00
Livestock Farms - R13	£140.00
Arable Farms - R14	£140.00
Visit - Business Ceased Operations	£ 37.50
Points of Entry	£ 37.50 per hour

The funding must be used solely for allocating to regions to fund animal feed official controls for the period in question. The funding will be determined on an annual basis. Should FSA wish to change this allocation during the financial year, the new allocation shall be agreed in writing. The funding is payable in quarterly instalments after each three month period of the work programme has been conducted, with Regional Lead Feed Officer funding payable in the first quarter.

The hourly rate at points of entry will additionally include the time taken to conduct official animal feed samples at that point of entry. Official controls at points of entry should be conducted as per Article 16 of Regulation 882/2004 which details the controls that need to be applied to third-country animal feed. The funding for point of entry work will be paid to the lead regional LA and can be claimed through the quarterly invoice submission. Official controls at points of entry should include at least a systematic documentary check, a random identity check and, as appropriate, a physical check of the animal feed.

A breakdown of the payment schedule for [insert region] is given below.

**Breakdown of costs not to exceed:**

Feed inspections	£
Inland sampling costs	£
Points of entry controls	£
Lead officer co-ordination fee	£
National co-ordination (Ports)	£
<b>Total funding awarded</b>	<b>£</b>

Feed regions will ensure that the funding provided by the FSA is used in accordance with the terms of this MoU. The FSA will undertake to provide the agreed funding within agreed deadlines, following application through an invoice.

The FSA will ensure that it maintains appropriate financial systems and controls to fulfil its obligation to provide payment to enable the agreed work programme to be delivered.

The FSA is required to submit forecasts of its expenditure to Welsh Government at regular intervals. Regional Lead Feed Officers will support this process by providing forecast expenditure for the programme, as necessary, within the FSA's reporting timescales.

Right of Audit - FSA auditors will give an opinion on the accounts as to whether the FSA funds have been properly applied in line with this MoU.

The lead LA for the region shall be the accountable and responsible for the funding and its use.

Capital assets are not expected to be created, acquired or sold under this MoU. Should this situation arise prior authority should be sought from the FSA. Ownership of any capital assets purchased and any proceeds of asset sales may revert to FSA if appropriate.

## **10. Payment**

The FSA's financial year runs from 1<sup>st</sup> April to 31<sup>st</sup> March. The FSA have a 'no Purchase Order, no payment' policy and the FSA will issue a single Purchase Order for periodic invoicing before the commencement of work.

Invoices raised should quote the FSA provided purchase order number with a copy being emailed to [lasupportwales@foodstandards.gsi.gov.uk](mailto:lasupportwales@foodstandards.gsi.gov.uk)

The FSA shall make payment within 30 days on receipt of an invoice quoting the appropriate purchase order number.

A withholding of payment by the FSA may take place if there is a material failure to perform tasks, reach milestones or achieve targets agreed in the annual programme of work.

## **11. Review and audit of the MoU**

This MoU shall be reviewed annually, and whenever substantial changes occur to the policies, external relationships and structures of the respective Parties. Any changes to this MoU will only be effective if set out in writing and signed by the Parties.

Each Party must keep and maintain until six (6) years after termination of this MoU full and accurate records of all sums received from the other Party. Each Party must on request afford the other Party or its representatives such access to those records as may be requested in connection with the MoU or as otherwise required in connection with audit requirements (including, without limitation, audit by the National Audit Office).

## **12. Freedom of Information and Communications to the Public**

Each Party will provide to the other Party any information in its possession that may be reasonably requested by the other, subject to necessary confidentiality constraints, safeguards and statutory rules on disclosure.

Each Party will consult the other Party before making to any third party any disclosures of information under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 or Code of Practice on Access to Government Information.

Each Party will seek the other Party's approval before externally publishing any information resulting from the use of exchanged data received from the other Party; such approval will not be unreasonably withheld. In respect of the release of information identified as Confidential by either Party, the decision of the supplying Party shall be final.

## **13. Termination**

This MoU shall commence on 1<sup>st</sup> April 2016 and (subject to earlier termination on the terms of this MoU) shall continue in force for a period of one year, which may be extended by the mutual written agreement of the Parties.

This MoU may be terminated by any Party:

- a) for any reason by giving 6 months' notice in writing to the other Party;
- b) by giving 3 months' notice in writing in the event that it reasonably concludes following a review that the MoU no longer represents a valuable use of resources in the pursuit of its objectives; or
- c) forthwith by giving notice in writing in the event of material breach by the other not remedied within 30 days of written notice from the terminating Party.

This MoU may also be terminated forthwith by any Party by that Party giving written notice to the other Party if events, circumstances or causes beyond its reasonable control (and arising without its fault or negligence) result in it being unable to comply with its responsibilities under this MoU.

## **14. Charges and liabilities**

Except as otherwise provided in this MoU, the Parties must each bear their own costs and expenses incurred in complying with their respective responsibilities under this MoU.

Both Parties shall remain liable for any losses or liabilities incurred due to their own or their employees' actions and neither Party intends that the other Party shall be liable for any loss it suffers as a result of this MoU.

## **15. Signatures**

You are hereby requested to indicate your acceptance of this Memorandum of Understanding by signing two copies and return both copies to the FSA. One copy

signed by the FSA will be returned to you, the other copy will retained by the FSA for its records.

The Memorandum of Understanding must be signed unaltered in any way: any amendment to it without prior written approval of the FSA will render the document void.

Signed \_\_\_\_\_  
(On behalf of Region)

Signed \_\_\_\_\_  
(On behalf of the FSA)

Name \_\_\_\_\_  
(Print)

Name \_\_\_\_\_  
(Print)

Date \_\_\_\_\_

Date \_\_\_\_\_

DRAFT