

# Report

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Report to:	<b>Community and Enterprise Resources Committee</b>
Date of Meeting:	<b>6 March 2018</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

Subject:	<b>Delivery of Feed Official Controls</b>
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## 1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ update the Committee on the proposal for the delivery of Feed Officials Controls and seek approval for Environmental Services to enter into discussions with Food Standards Scotland (FSS) regarding the future delivery of Feed Official Controls.

## 2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that Environmental Services enter into discussions with Food Standards Scotland in relation to the future delivery of the Feed Official Controls; and
- (2) that a further Report be brought before the Committee for approval before any decision is made or agreement entered into with Food Standards Scotland.

## 3. Background

- 3.1. Local Authorities in Scotland, as specified in Section 67 of the Agriculture Act 1970 (UK Act), have a statutory duty to enforce this legislation and associated regulations, relating to the control of animal feedstuffs and their composition and supply. Currently, the legislation relating to Animal Feedstuffs has mainly come from European legislation. The function was devolved to the Scottish Government. Local Authorities are Competent Authorities responsible for the delivery of official controls for feed as specified in the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005. Feed official controls are a vital component in ensuring the integrity and safety of the farming and food industry and regulates businesses compliance with feed law from production, processing through to distribution of the feed.
- 3.2. Environmental Services' lead role with Feed official controls, protect and support South Lanarkshire's agriculture/farming community by ensuring the safety of animal feed.
- 3.3. Officers within Environmental Services have the existing competence and knowledge to carry out this work in relation to Feed controls. Within South Lanarkshire, we have 10 Feed Manufacturers/distributors, 12 Feed Hauliers, 10 Feed Suppliers. There are over 500 registered Feed premises including Farms and Retailers.
- 3.4. Following concerns raised at FVO (the Food and Veterinary Office European Commission) and the Food Standards Agency Audits about the delivery of feed official controls, and the UK not meeting the European standards, a review was undertaken across the UK in 2012. Changes to the organisation of official controls

were implemented in England and Wales to a more regionalised and co-ordinated model in 2014.

- 3.5. Due to Food Standards Scotland (FSS) being set up at that time, the review in Scotland was delayed. In January 2016, the FSS Board agreed that the centralisation of feed Official Controls should take place. FSS explored various options and chose a model referred to as the Nominated Feed Authority (NFA).

#### **4. Current Position**

- 4.1. FSS carried out a Consultation on Feed Enforcement from September to November 2017. The document consulted on the proposals for the changes of responsibility and a proposed Nominated Feed Authority model.
- 4.2. The proposed changes will mean that FSS will assume the responsibility of competent authority through a Scottish Statutory Instrument (SSI) which will transfer the duty from the Local Authority to FSS. The SSI cannot change the primary legislation (the Agriculture Act 1970) so the legal requirement to display a Statutory Statement of composition of feeds and for the Local Authority to appoint inspectors, an Agricultural Analyst and to investigate complaints will still be retained by the primary legislation. Once the SSI becomes law, the majority of controls on feed and feed premises will no longer be the duty of the Local Authority to enforce.
- 4.3. The FSS favoured option for delivery was the Nominated Feed Authority would band Local Authorities together into nine nominal regions where a nominated Council, agreed by FSS, would deliver feed controls within each of the regional areas.
- 4.4. The area/ 'region' that South Lanarkshire Council would come within would be with North Lanarkshire and Glasgow City Councils.
- 4.5. At present, the Scottish Government funds feed enforcement by making a contribution within the Block Grant. South Lanarkshire Council's allocation is £11,000. Once enforcement responsibility passes to FSS, it intends to withdraw the monies paid to Local Authorities and then redistribute it by direct funding to each of the nominated feed authorities, dependent on an agreed inspection and sampling programme. FSS would then authorise individual (local authority) feed enforcement officers to carry out this work on behalf of FSS.
- 4.6. Within this new model the feed officers of the Nominated Feed Authority would be conducting themselves as officers of FSS when carrying out feed enforcement duties across the three Local authority areas. This raised a number of points that have been considered by Legal Services and Risk Management. The points to be resolved include governance, authorisation, risk and liability, insurance, complaints and disciplinary matters.
- 4.7. In addition to the above issues, there are procurement issues to resolve. In this regard, FSS have issued a Prior Information Notice (PIN) which will be used to test the market and establish whether or not there are private sector suppliers able to offer a feed delivery service. If this process establishes that a market does exist beyond local authorities, then it will be necessary for FSS to go to tender. Local Authorities would be able to tender for this work. If this process reveals that there is no commercial market, then FSS intends to continue to work with Local Authorities to develop the Nominated Feed Authority option.

- 4.8. FSS have advised that responses to the PIN process have to be with them by 21 February 2018 and they will update Local Authorities of the results after their Board meeting on 28 February 2018.

## **5. Proposals**

- 5.1. If South Lanarkshire Council was to be involved in Feed official controls, there would be a Service Level Agreement between FSS and SLC. This would govern/outline the delivery of the programme and payment as well as operational matters.
- 5.2. Officers from Trading Standards have met with colleagues in Legal Services and risk management who have given initial opinions and comments. These included clarification of the legal capacity of the Officers and the legal relationship between the Officer, the Local Authority and FSS when the Officers are carrying out Feed work. We had also asked which organisation would have responsibility for risk and liability at this time. A response from FSS to these points is awaited.
- 5.3. Assuming the issues/areas highlighted are resolved satisfactorily, Committee approval will be required to take on the Nominated Feed Authority role and would be requested at a future Committee.

## **6. Employee Implications**

- 6.1. If South Lanarkshire Council was successful in becoming a Nominated Feed Authority and employment requirements are known, then a review of staff required would be carried out.

## **7. Financial Implications**

- 7.1. The funding proposal for the Nominated Feed Authority model is for direct funding on a cost recovery basis by the local authority. Costs such as travel, salaries, salary oncosts, equipment would be included as would be the costs of supervision, management time and administration.
- 7.2. For this to be viable for South Lanarkshire Council, this would have to be on a full cost recovery basis.
- 7.3. Initial indications from FSS show that the Nominated Feed Authority would receive in the region of £50,000 per year to deliver the official feed controls within the 3 local authority areas (Glasgow City, North Lanarkshire and South Lanarkshire). The £11,000 that South Lanarkshire Council currently receives in the block grant would be withdrawn by the Scottish Government.

## **8. Other Implications**

- 8.1. If the Council did not become a Nominated Food Authority, or is unsuccessful in the tender process, the Council would lose some of its block grant and this will be reflected in a corresponding reduction in the budget to deliver the Trading Standards Services for the Council.
- 8.2. The majority of the expenditure we have in this area relates to staff so, therefore, any reduction in budget is likely to lead to a reduction in the FTE establishment within Trading Standards Service and may have an impact on other areas of work.

## **9. Equality Impact Assessment and Consultation Arrangements**

- 9.1. This report does not introduce a new policy, function or strategy nor recommend a change to an existing policy, function or strategy and therefore, no impact assessment is required.

9.3. Legal Services and Risk Management have been made aware of the proposals and would be involved in any future discussions.

**Michael McGlynn**  
**Executive Director (Community & Enterprise Resources)**

13 February 2018

**Link(s) to Council Objectives/Values/Ambitions**

◆ Focused on People and their Needs

**Previous References**

None

**List of Background Papers**

None

**Contact for Further Information**

If you would like to inspect the background papers or want further information, please contact:-

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