

**Memorandum of Understanding for Earned  
Recognition**

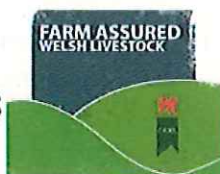
**Between:**

**The Food Standards Agency  
and  
Welsh Lamb and Beef Producers Ltd**

**April 2018**



**Food  
Standards  
Agency**



**This Memorandum of Understanding (MOU) is an agreement between the following organisations:**

- a) The Food Standards Agency (FSA) of Aviation House, 125 Kingsway, London, WC2B 6NH.
- b) Welsh Lamb and Beef Producers Ltd (WLBP), PO Box 8, Gorseland, North Road, Aberystwyth, Ceredigion, SY23 2WB.

## **1. Purpose**

This MOU seeks to set-out the general principles of collaboration, cooperation, roles and responsibilities that support the earned recognition process involving the FSA and WLBP.

It provides a specific framework for the delivery of earned recognition for compliant businesses that are members of the Farm Assured Welsh Livestock (FAWL) scheme detailed in Annex A in relation to the delivery of animal feed official controls.

## **2. Background to Earned Recognition**

Feed and food businesses are responsible for ensuring that the production and use of feed and food satisfies the requirements of the law. The FSA acknowledges that the application of official controls relating to feed and food safety should recognise those businesses that comply with legislative requirements whilst offering necessary safeguards against unacceptable risk to consumers, through the application of appropriate enforcement action to remedy deliberate, persistent or serious non-compliance.

Earned recognition will be available to those businesses that are compliant members of an industry assurance scheme approved by the FSA.

Approved status can be obtained by the demonstration of the scheme's compliance with FSA Criteria for Earned Recognition, Annex B. This process examines four key areas: governance of the scheme, scheme standards, certification and monitoring / review processes. Where such a scheme is approved, compliant members of the scheme will benefit from a reduced frequency of inspection on the basis that they are taking positive action to minimise food and feed safety risks and comply with legislative requirements. This will be verified through a third party certification process. The application of earned recognition recognises compliance and allows the relevant enforcement authority to focus on less compliant businesses.

## **3. Overview of the Parties Concerned**

### **Food Standards Agency**

The FSA is a non-Ministerial government department responsible for food and feed safety and other interests of consumers in relation to food and feed. The FSA is the Central Competent Authority responsible for ensuring the delivery of official feed and food controls in England, Wales and Northern Ireland. Food and feed law in Scotland

is the responsibility of Food Standards Scotland. The FSA works through its headquarters in London and offices in York, Belfast and Cardiff.

Official controls are delivered by a range of enforcement authorities in the UK. In GB these include the FSA and local authorities, whereas in Northern Ireland, local authorities or the Department of Agriculture, Environment and Rural Affairs (DAERA), on behalf of the FSA, are responsible.

### **Welsh Lamb and Beef Producers Ltd**

The FAWL scheme is operated by WLBP, who are a cooperative owned by over 7400 Welsh farmers. WLBP have an objective to strive to strengthen consumer confidence by providing assurance of farm standards through the FAWL scheme. Farms are assessed every 18 months by Quality Welsh Food Certification Limited (QWFC), a body independently accredited by the United Kingdom Accreditation Service (UKAS) to operate under EU Standard ISO 17065. Certified farms are assessed by qualified inspectors to ensure that they conform with the FAWL protocol for beef and sheep farms. The FAWL scheme is also recognised by Assured Food Standards and its members' farms are allowed to market their produce under the banner of the Red Tractor Scheme.

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

The FSA is responsible for assessing applications and approving schemes for earned recognition. The FSA will assess the scheme against 'Criteria for Earned Recognition' (see Annex B) and will work with WLBP to document compliance with FSA requirements. The FSA will also advise how the scheme could be improved to meet the requirements, where necessary. The four key areas of assessment focus on:

- Governance;
- scheme standards;
- the certification process;
- monitoring / review processes.

When satisfied that WLBP meets the approval criteria for earned recognition, the FSA will approve the scheme(s) for earned recognition and enforcement authorities will be informed of the arrangements for earned recognition applicable to the sector concerned. To ensure continuing compliance and confidence to approve the scheme(s) for earned recognition, the FSA will be responsible for verifying compliance with FSA 'Criteria for Earned Recognition'. Positive verification will enable the FSA to have continued confidence in the assurance scheme(s) and the ability to justify approved scheme status.

Should an approved assurance scheme fail to meet FSA approval criteria, the FSA will take steps to remove its approved status.

The primary responsibilities of the FSA in relation to earned recognition are to:

- evaluate evidence supplied by the assurance scheme to determine whether it meets 'Criteria for Earned Recognition';
- administer the MOU with the parties concerned to formally agree approved status, roles and responsibilities;
- organise meetings and exchange of management data with the assurance scheme in line with Annexes C, D and E;
- ensure enforcement authorities are provided with information to identify businesses that qualify for earned recognition through membership of the approved scheme and the frequency that inspections will be carried out;
- work with enforcement authorities to ensure a sample group of businesses that qualify for earned recognition are inspected by the enforcing authority and any adverse findings are reported to the FSA;
- work with the WLBP to improve the earned recognition process, where necessary;
- subject to the requirements of the Data Protection Act 1998 (DPA), Freedom of Information Act 2000 (FOI) and Environmental Information Regulations 2004, and the FSA's appropriate exercise of its powers pursuant to section 19 of the Food Standards Act 1999, ensure information supplied by the assurance scheme as confidential, is retained as sensitive information and any restrictions placed upon it are observed;
- work with other government departments to promote where possible a joint approach to earned recognition;
- adhere to all statutory requirements and best practice (including any relevant Governmental protocols such as the Ministerial and Civil Service Codes and the Security Policy Framework <http://www.cabinetoffice.gov.uk/resource-library/security-policy-framework>);
- comply with applicable laws and standards, including EU procurement rules, the DPA and FOI;
- notify WLBP where enforcement action relating to scheme members results in prosecution; and
- work together with WLBP to promote and support the earned recognition process and, subject to legislative restrictions, share information that supports this process.

## **5. WLBP Roles and Responsibilities**

The primary responsibilities of WLBP in relation to earned recognition are to:

- ensure approved schemes remain compliant with the Criteria for Earned Recognition as set-out in Annex B;
- notify the FSA of any proposed change to the operation and management of the approved scheme that impacts on any of the criteria detailed in Annex B;
- provide and update the FSA with details relating to the certification bodies engaged to carry-out scheme assessments;

- work with the FSA to continually improve the earned recognition process;
- ensure management data is provided to support the earned recognition process, as specified in Annexes C,D and E;
- support the process of meetings with the FSA as detailed in Annex C;
- ensure information supplied by the FSA as confidential, is retained as sensitive information and any restrictions placed upon it are observed;
- ensure the FSA and appropriate competent authorities are notified immediately a scheme assessor becomes aware of a serious threat to public health or animal health, fraudulent practices or any situation where animal welfare or the environment is compromised. WLBP to provide identified officials with the specific detail of such non-compliance including name, address and assessment report to facilitate any remedial action and enforcement.

## **6. General Principles of Collaboration between FSA and WLBP**

The FSA and WLBP agree to adopt the following principles of implementation of this MOU:

- to share information, experience and skills in order to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- to act in a timely manner;
- to coordinate external communications in relation to earned recognition;
- to ensure sufficient and appropriate resources and systems are put in place to fulfil the responsibilities set-out in this MOU; and
- to act in good faith and to support the purpose and objectives of the MOU.

## **7. Governance**

This Memorandum of Understanding is not legally binding. The Memorandum of Understanding does not confer any legally enforceable rights on the Parties, nor does it subject the Parties to any legally enforceable obligations.

This Memorandum of Understanding does not create any legal partnership between the Parties, nor constitute the Parties as agents of each other for any purpose. Neither Party has authority to bind the other to take or refrain from taking any action, and each Party hereby undertakes with the other not to hold itself out to any third party as having the authority to so bind the other.

The FSA and WLBP are jointly responsible for the development and support of governance systems as detailed in Annexes C, D and E.

If there is any dispute arising out of or in connection with this MOU, the concerned individuals shall try to settle it amicably in the first instance. In the event resolution is not reached, the dispute shall be referred to the Chief Executives or nominated person responsible for each party.

The MOU is a voluntary arrangement; however, each party should provide 6 months' notice in writing of their intention to withdraw from the MOU.

This MOU shall commence on the date it is agreed and, unless terminated, shall continue in force subject to annual review or review as a result of significant change e.g legislation or delivery environment.

## 8. Application of this MOU

The enforcement of legislation identified in Annex E of this MOU will extend to England, Wales and Northern Ireland.

### Memorandum of Understanding between the Food Standards Agency and Welsh Lamb and Beef Producers Ltd in relation to Earned Recognition.

The Food Standards Agency agrees and accepts the roles and responsibilities and principles as detailed in this MOU in relation to the approved assurance scheme Farm Assured Welsh Livestock operated by Welsh Lamb and Beef Producers Ltd.

Name  
RICHARD BOWEN

Signed



Position

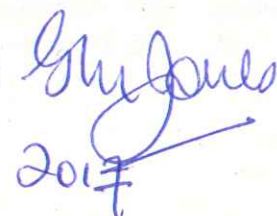
Director FSA Wales

Date 8th November 2017

Welsh Lamb and Beef Producers Ltd agrees and accepts the roles and responsibilities and principles as detailed in this MOU in relation to working with the Food Standards Agency to attain approved status for its Farm Assured Welsh Livestock scheme.

Name MOSS JONES

Signed



Position

Company Secretary

Date

8th November 2017

## **Annex A**

This MOU recognises the following Welsh Lamb and Beef Producer Ltd scheme as an approved scheme for earned recognition:

- Farm Assured Welsh Livestock

## **Annex B**

### **FSA Criteria for the Approval of Industry Assurance Schemes for Earned Recognition**

#### **1.0 Standard Setting**

1.1 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.

#### **2.0 Compliance and Certification**

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

- 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.

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

- UKAS accreditation or equivalent having ISO 17065 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.

### **3.0 Assessment Process**

#### **3.1 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 the statutory 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.

### **4.0 Assessor Authorisation/Competence**

#### **4.1 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.

## **5.0 Standard Mapping**

- 5.1 Scheme standards will need to ensure legislative compliance applicable to the sector the scheme identifies with. The FSA will work with the scheme to ensure applicable food and or feed legislation is identified.
- 5.2 If the FSA identifies that the scheme fails to cover any of the relevant legislative requirements, the assurance scheme will be notified and invited to amend the scheme.

## **6.0 Data Sharing and Communications**

- 6.1 The industry scheme must ensure that:
- Information is made available to the FSA and enforcement authorities to determine membership of the scheme (i.e. 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 quickly or have access to up to date information about members that are withdrawn from the scheme for non-compliance;
  - Processes are in place to ensure that the FSA and enforcement authority are informed immediately of any serious threat to public health, animal health or any situation where animal welfare or the environment is compromised; and
  - Processes are in place whereby information shared with the scheme operator by the FSA in relation to scheme members is followed up in a timescale and way commensurate with the risk, followed by appropriate action.
- 6.2 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.

## Annex C

### Governance of Earned Recognition

Meeting	Activities	Inputs	Outputs	Attendees
Annual	Senior officials to review the evidence to justify continued support for earned recognition	FSA report including governance and performance information e.g. evidence of compliance with key requirements, results of monitoring, data management as set out in Annexes B, D and E  Agenda/notes of quarterly meetings with WLB	Decision concerning the continuing justification for approved scheme status  Notes of meetings  Letter of confirmation of outcome to WLB	Review lead taken by FSA
Annual	Review of approved scheme against FSA Criteria for Earned Recognition and principles of the MOU	Management data as set-out in Annexes B, D and E supplied by WLB and FSA  Review any changes to legislation to ensure that those changes have been incorporated into, or will be incorporated into, the scheme's standards	Evidence collected to support continued justification of earned recognition  Notes of meetings  Report to the senior officials	Review lead taken by the FSA  Nominated resource from WLB

Meeting	Activities	Inputs	Outputs	Attendees
Quarterly	<p>Review of specific criteria in relation to the approved scheme, to verify:</p> <ul style="list-style-type: none"> <li>• Confidence in the assessment process;</li> <li>• Ability of the scheme to deliver the assessment process;</li> <li>• Confidence in compliance with standards;</li> <li>• Confidence in data sharing; and</li> <li>• Non-compliance information</li> </ul>	Management data as set-out in Annexes B, C, D and E supplied by WLBP and FSA	Notes of meetings	Review lead taken by the FSA Nominated resource from WLBP
Twice a year	Shadow audit of certification body	<p>FSA representatives to shadow certification body assessments. Shadow audits to be undertaken for each WLBP certification body if more than one</p> <p>The number of shadow audits to be reviewed if necessary</p>	<p>FSA to provide feedback on the shadow audits to WLBP</p> <p>WLBP to undertake appropriate follow up action, if required</p>	Review lead taken by the FSA Assessor from WLBP certification body

## Annex D

### Data management

Management data	FSA/WLBP	Enforcing Authority
<b>Membership of schemes</b>		
The identification of members of the scheme indicating when the member was assessed	Electronic access to WLBP data	Electronic access to WLBP data
The identification of members that leave, join or are suspended from the scheme	Electronic access to WLBP data	Electronic access to WLBP data or data supplied by the FSA
Total number of estimated unique members	Annual basis reported to the FSA by WLBP	
<b>Management of the assessment programme/process</b>		
Completion of the assessment schedule – assessments completed / overdue	Quarterly basis reported to the FSA by WLBP	
Update on any training initiatives underway or planned	Quarterly basis reported to the FSA by WLBP	
Reports on the monitoring of certification bodies/assessors detailing number of Compliance and Integrity audits, action taken, results of individual assessor monitoring and on suspension of members	Quarterly basis reported to the FSA by WLBP	
Confirmation that certification bodies are UKAS accredited or equivalent	Annual basis reported to the FSA by WLBP	
Number of suspensions from the scheme	Quarterly basis reported to the FSA by WLBP	
Number of withdrawals from the scheme	Quarterly basis reported to the FSA by WLBP	
<b>Performance of scheme members</b>		
Levels of compliance by scheme – number of non-compliances against identified standards, including: - Identification of the most frequent non-compliances - Levels of compliance identified against standards categorised as key to public health	Quarterly basis reported to the FSA by WLBP	
Results of LA/FSA inspections of scheme members	Quarterly basis reported to WLBP by FSA	
Scheme assessment against FSA ER Criteria	Annually, FSA to meet with the assurance scheme to review	

## **Annex E**

### **Earned Recognition for Feed Hygiene: Review Periods and Key Contacts**

Earned recognition is provided in relation to feed hygiene and the enforcement of the following European legislation by local authorities in England and Wales and DAERA in Northern Ireland:

- Regulation (EC) No 1831/2003 on laying down requirements for feed hygiene (including Commission Regulation (EU) No 225/2012 as regards the approval of establishments placing on the market, for feed use, products derived from vegetable oils and blended fats and as regards the specific requirements for production, storage, transport and dioxin testing of oils, fats and products derived thereof);
- Regulation (EC) No 767/2009 on the placing on the market and use of feed;
- Regulation (EC) No 1831/2003 on additives for use in animal nutrition;
- Directive 2002/32/EC on undesirable substances in animal feed<sup>1</sup>;
- Regulation (EC) No 1829/2003 on genetically modified food and feed; and Regulation (EC) No 178/2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

### **Agreement Managers and Co-ordinators**

Principal Agreement Managers:

Wales - Director of FSA in Wales

Wales - Head of Local Authority Support and Audit

### **Data Management**

As per Annex D

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<sup>1</sup> As implemented by the Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016.