

Memorandum of Understanding for Earned Recognition

Between:

**The Food Standards Agency
and**

Assured Food Standards

July 2016



**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) Assured Food Standards, trading as Red Tractor Assurance (RTA), Europoint, 5-11 Lavington Street, London SE1 0NZ.

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 RTA.

This MOU provides a specific framework for the delivery of earned recognition for compliant businesses that are members of the Red Tractor Assurance schemes detailed in Annex A in relation to the delivery of official controls for feed, dairy hygiene and food hygiene in the context of primary production.

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 recognised 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 reduce risks and comply with legislative requirements, verified through a third party certification process. The application of earned recognition recognises compliance and allows the 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 hygiene in England, Wales and Northern Ireland. The FSA is the Central Competent Authority (CCA) 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 authority environmental health and trading standards departments, whereas in Northern Ireland, local authority environmental health departments or the Department of Agriculture and Rural Development (DARD), on behalf of the FSA, are responsible.

Red Tractor Assurance

RTA is a food assurance scheme which covers production standards to promote safety, hygiene, animal welfare and environmental benefits. The RTA logo can be applied to products to show that businesses in that supply chain have met RTA standards and that products are fully traceable back to independently inspected farms.

RTA is a small organisation, and its administrative costs are met by assurance fees and licence payments from farmers and food companies. RTA is owned by the entire food industry, including the National Farmers' Union, the Ulster Farmers' Union, the Agriculture and Horticulture Development Board, Dairy UK and the British Retail Consortium. The Food and Drink Federation also provides input. RTA operates independently on a not-for-profit basis, with an independent chair. This ensures that no one organisation in the food chain has undue influence.

The RTA Board is drawn from key representatives from within the food sectors that it serves. The Board also includes independent experts – prominent academics and specialist scientists, plus experts representing consumers, veterinary science and the environment.

Within the UK agricultural sector, RTA has approximately 61,000 farm enterprises as members. To become a member of RTA farmers must meet the RTA scheme standards. Conformance is verified by independent third party Certification Bodies that, in accordance with rules set by RTA, must be formally accredited by a recognised National Accreditation Body to ISO17065. Cattle and sheep farms are assessed every 18 months and all other types of enterprise every year.

4. FSA Roles and Responsibilities

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

- governance,
- scheme standards
- the certification process
- monitoring / review processes

When the FSA is satisfied that RTA 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 FSA's ability to justify approved scheme status.

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

Key responsibilities include:

- evaluating evidence supplied by the assurance scheme to determine whether it meets 'Criteria for Earned Recognition';
- administration of the MOU with the parties concerned to formally agree approved status, roles and responsibilities;
- organisation of meetings and exchange of management data with the assurance scheme in line with Annexes C, D, E, F and G;
- ensuring 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;
- working 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;
- working with the Red Tractor Assurance to improve the earned recognition process where necessary;
- ensuring information supplied by the assurance scheme as confidential, is retained as confidential information and any restrictions placed upon it are observed;
- working with other government departments to promote where possible a joint approach to earned recognition;
- FSA adherence 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>). Compliance with applicable laws and standards including EU procurement rules, data protection and freedom of information legislation;
- in relation to data protection, the FSA, DARD and RTA acknowledge there will be occasions when specific information about members of the schemes needs to be shared between each other in relation to food and feed safety matters that can affect public health. These requests will be dealt with as one off personal data disclosures under the Data Protection Act and both parties can generally rely on the exemption at Section 29 of the DPA (prevention or detection of crime / capture or prosecution of offenders). The reliance on using this exemption to release specific food safety information is to be reviewed annually to ensure it

remains applicable in all circumstances. Additionally, the FSA is able to disclose the data it holds under The Food Standards Act 1999 Section 19;

- notifying Red Tractor Assurance where enforcement action relating to scheme members results in prosecution; and
- working together with RTA to promote and support the earned recognition process and, subject to legislative restrictions, share information that supports this process.

5. Red Tractor Assurance Roles and Responsibilities

The primary functions of Red Tractor Assurance 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, E, F and G;
- support the process of meetings with the FSA as detailed in Annex C;
- ensure information supplied by the FSA as confidential, is retained as confidential 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 or any situation where animal welfare or the environment is compromised - RTA 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; and
- implement specific arrangements in relation to earned recognition as specified in Annex F.

6. General Principles of Collaboration between FSA and Red Tractor Assurance

The FSA and RTA 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

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

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.

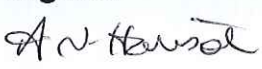
This MOU shall commence on the date it is agreed and, unless terminated, shall continue in force subject to annual review.

8. Application of this MOU

In relation to the enforcement of legislation identified in Annexes E, F and G, this MOU will extend to England, Wales and Northern Ireland

Memorandum of Understanding between the Food Standards Agency and Assured Food Standards / Red Tractor Assurance 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 schemes operated by Red Tractor Assurance.

Name	Signed	Position
NICOLETTE HARRISON		HEAD OF REGULATORY DELIVERY, FSA
Date 31 st August 2016.		

Assured Food Standards / Red Tractor Assurance agrees and accepts the roles and responsibilities and principles as detailed in this MOU in relation to working with the Food Standards Agency in relation to attaining approved status for its schemes.

Name	Signed	Position
DAVID GARRER		CHIEF EXECUTIVE
Date 17/06/2016		

Annex A

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

- Beef & Lamb
- Dairy
- Crops and Sugar Beet
- Pigs
- Chicken Meat
- Fresh Produce

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 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 encompass legislation 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 measures, 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 suspended from the scheme and,
- 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;
- 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,E, F and G Agenda/notes of quarterly meetings with RTA	Decision concerning the continuing justification for approved scheme status Notes of meetings Letter of confirmation of outcome to RTA	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,E,F and G supplied by RTA and FSA Review any changes to legislation to ensure that those changes have been incorporated in to, or will be incorporated in to, 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 RTA

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"> Confidence in the assessment process; Ability of the scheme to deliver the assessment process; Confidence in compliance with standards; Confidence in data sharing; and Non-compliance information 	<p>Management data as set out in Annexes B, C, D, E, F and G supplied by RTA and FSA</p>	<p>Notes of meetings</p>	<p>Review lead taken by the FSA</p> <p>Nominated resource from RTA</p>

Annex D

Data management

Management data	FSA/RTA	Enforcing Authority
Membership of schemes		
The identification of members of the scheme indicating when the member was assessed	Electronic access to RTA data	Electronic access to RTA data
The identification of members that leave, join or are suspended from the scheme	Electronic access to RTA data	Electronic access to RTA data or data supplied by the FSA
Total number of estimated unique members	Annual basis reported to the FSA by RTA	
Management of the assessment programme/process		
Completion of the assessment schedule – assessments completed / overdue	Quarterly basis reported to the FSA by RTA	
Update on any training initiatives underway or planned	Quarterly basis reported to the FSA by RTA	
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 RTA	
Confirmation that certification bodies are UKAS accredited or equivalent	Annual basis reported to the FSA by RTA	
Number of suspension for each scheme	Quarterly basis reported to the FSA by RTA	
Number of withdrawals for each scheme	Quarterly basis reported to the FSA by RTA	
Performance of scheme members		
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 RTA	
Results of LA/DARD/FSA inspections of scheme members	Quarterly basis reported to RTA 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 DARD in Northern Ireland:

- EC Regulation 1831/2003 on Feed Additives;
- EC Regulation 1829/2003 on Genetically Modified Food and Feed; and
- EC Regulation 178/2002 on the principles of feed and food law.
- EC Regulation 183/2005 on Feed Hygiene (including Commission Regulation 225/2012 on feed oils and fats);
- EC Regulation 767/2009 on the Marketing and Use of Feed;
- EC Directive 2002/32 on Undesirable Substances in Animal Feed¹;

Agreement Managers and Co-ordinators

Principal Agreement Managers:

England - Head of Feed and on Farm Delivery

Northern Ireland - Head of Operational Policy and Delivery

Wales - Head of Local Authority Support and Audit

Data Management

As per Annex D

¹ As implemented by the Animal Feed Regulations 2010.

Annex F

Dairy Hygiene

Applicable European legislation:

- Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare (as amended)
- 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 (as amended)
- Regulation (EC) No 852/2004 on the hygiene of foodstuffs (as amended)
- Regulation (EC) No 853/2004, laying down specific hygiene rules for food of animal origin (as amended)
- Regulation (EC) No 854/2004, laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (as amended)

Agreement Managers and Co-ordinators

Principal Agreement Managers:

England & Wales - Head of Operational Delivery – Dairy Hygiene

Northern Ireland - Head of Operational Policy and Delivery

Data Management

As per Annex D and additional management information below:

Task/issue	Detail	Activity/frequency
Provision of monthly data for England, Wales and Northern Ireland	'Negative' list - list of scheme members excluded from ER, where one major non-compliance or 4 minor non-compliances in the area of food hygiene, are detected at assessment. Exclusion relating to non-compliances calculated on a rolling 18 month period; Information provided: Name, address, holding number of each member, location, certificate expiry date and last assessment date	Electronic access to RTA database to view the information. Daily access available and the data is updated on the 1 st of each month
Shadow audit of certification bodies	FSA representatives to shadow certification body assessments. One shadow audit to be undertaken for each of the RTA certification bodies in England, Wales and Northern Ireland. The number to be reviewed if necessary FSA to provide feedback on the shadow audits to RTA	5 x per year to be distributed between England (3), Wales (1) and NI (1)

Annex G

Food Hygiene Primary Production

Earned recognition is provided in relation to food hygiene and the enforcement of the following European legislation by local authorities in England and Wales and DARD in Northern Ireland.

Applicable European legislation:

- Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare (as amended)
- 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 (as amended)
- Regulation (EC) No 852/2004 on the hygiene of foodstuffs (as amended)
- Regulation (EC) No 853/2004, laying down specific hygiene rules for food of animal origin (as amended)
- Regulation (EC) No 854/2004, laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (as amended)

Agreement Managers and Co-ordinators

Principal Agreement Managers:

England - Head of Feed and on Farm Delivery, RDD

Northern Ireland - Head of Operational Policy and Delivery

Wales – Head of LA Support and Audit

Data Management

As per Annex D