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17th February 2017

**Food Standards Scotland bivalve mollusc classification and monitoring: consultation on changes to the official control programme**

**Summary and Purpose**

1. This letter provides an opportunity to comment on the way in which Food Standards Scotland (FSS) intend to deliver official controls for areas required to be classified for food hygiene purposes.
2. The consultation therefore invites views from harvesters, processors, local authorities and all those with an interest in the shellfish safety, on proposed changes in the following areas:
3. **Shellfish classification[[1]](#footnote-1)** We want to consider ways in which FSS and industry can work together to deliver a targeted official control programme by looking at the way we classify areas. It is suggested that:
* For new areas, FSS should ask harvesters to provide samples for classification in accordance with an agreed protocol;
* FSS should agree to undertake sanitary surveys only for aquaculture areas designated by Scottish Ministers as Shellfish Water Protected Areas and that new approaches for delivering this function are required across all sectors;
* FSS should provide sufficient flexibility in sampling approaches to better align classification sampling with harvesting activities.
1. **Purification/Depuration changes**. FSS currently provides specific support to local authorities and businesses involved in purifying/depurating shellfish. However given that food businesses are required to put in place and validate their own food safety management systems, we consider it appropriate to review approaches in this area.

It is proposed that:

* FSS, through Marine Scotland, will no longer provide technical support to businesses and local authorities for approval purposes;
* Businesses should be able to challenge the current 42 hour depuration cycle requirement provided that they are able to demonstrate the efficacy of their system to the satisfaction of local authorities.
1. **Toxin monitoring**. Given that biotoxin monitoring accounts for 45% of the shellfish budget within FSS, we are taking the opportunity to review how we deliver this element of the programme in order to ensure best value and effective delivery. It is proposed that:
* For areas closed due to high toxin levels FSS propose to suspend toxin sampling pending confirmation from food businesses that toxin levels have suitably reduced.
* If sufficient evidence is available to indicate that toxicity has reduced to acceptable levels, closed areas could re-open based on one rather than the current two official control results, provided that businesses provide evidence that toxicity is reducing in their area.
1. This consultation informs the overall outcome of the Shellfish Review Project which is referenced in the FSS Corporate Plan under Strategic Outcome 1 as follows:

*Commitment to a Shellfish Review as outlined in the FSS Corporate Plan under Strategic Outcome 1:*

*FSS will*

*Carry out a comprehensive policy and delivery review of the FSS shellfish official controls, including small scale and local supply chains, working in partnership:*

*Ensure proportionate and targeted interventions to protect public health and maintain consumer confidence thereby promoting sustainable growth.*

*Review and modify as required, such that resources match policy and delivery priorities.*

1. We are also taking the opportunity to ask stakeholders for their views on the programme as a whole with a view to improving delivery and safeguarding public health – views on any aspect of the programme that may not be covered by specific questions presented in the document would be welcome.
2. The consultation will be considered through the prism of the FSS Regulatory Strategy and aligns with the principles for effective and sustainable official controls that were agreed by the FSS Board in August 2016.
3. For each of the questions asked above we would be particularly interested to hear from:
* Shellfish harvesters
* Food businesses operating approved shellfish establishments
* Local authorities
* Official control and commercial laboratories.
1. In your response, please describe the capacity in which you are responding e.g. as a fisherman, local authority, private individual, shellfish processor or dispatch centre etc.

A draft impact assessment has been produced.  **In order to better reflect the likely impacts of the proposals input from industry would be particularly welcome.**

1. Your response to these questions and any other issues raised in the course of this consultation will assist in ensuring that proportionate and consistent controls apply across Scotland.
2. Please see **Annex 1** for further details on how we handle consultation responses. **Annex 2** contains a consultation feedback form and **Annex 3** contains a Public information form, which you will need to fill in if you do not want your details to be made public when responding to this consultation.
3. Please provide the information requested through the FSS citizen space portal which is available at <https://consult.foodstandards.gov.scot> or by email to FoodEnquiries@fss.scot or directly to me at the address below by 12th May 2017.
4. Thank you on behalf of Food Standards Scotland for your assistance and please do not hesitate to contact me if you have any questions.

Yours sincerely

Jennifer Howie

*Regulatory Policy Branch – Food Standards Scotland*

**Annex 1. How we handle consultation responses.**

We need to know how to handle your response and in particular, whether you are happy for it to be made public.  The attached Respondent Information Form at **Annex 3** will ensure that we treat your response appropriately.  If you ask for your response not to be published we treat it as confidential.

You should be aware that Food Standards Scotland is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and must consider any request made to it under the Act for information relating to responses made to this consultation exercise.

***What happens next?***

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision on this issue.  We aim to issue a report summarising the outcome of this consultation by the end of June which will then inform any subsequent guidance or instrument considered necessary.

If you have given permission for your response to be made public and after we have checked that it contains no potentially defamatory material, your response will be made available to the public in the Food Standards Scotland website

web pages shortly thereafter.

**Annex 2**

**Food Standards Scotland bivalve mollusc classification and monitoring: consultation on changes to the official control programme**

Consultation Feedback Questionnaire

We would be interested in what you thought of this consultation package. We would be grateful if you could spend a few minutes to complete the following questionnaire and return it even if you do not intend to respond to the consultation itself. Please return the questionnaire no later than 12th May 2017to:

**Karen McCallum-Smith**

**Food Standards Scotland**

**Head of Private Office**

**Pilgrim House, Old Ford Road, Aberdeen, AB11 5RL**

**01224 285133**

**07866 796697**

**openness@fss.scot**

 **1. How did you become aware of this consultation exercise?**

Our consultation list included your/your organisation’s name……… [ ]

 Other publication (please specify title)…………………………………… [ ]

Other means (please specify)……………………………………………… [ ]

**2. If you / your organisation are / is not responding to the consultation, is it because:**

You are not working on this subject area…………………………………… [ ]

 The consultation topic is not relevant to you……….……………………… [ ]

You do not have the time / resources to reply.…………………………… [ ]

Other reason (please specify) ……………………………………………… [ ]

 **3. Do you feel you were given enough time to respond to the issues / proposals in the consultation?**

 YES [ ]

 NO [ ]

 **4. Were the issues / proposals clearly set out and easy to understand?**

YES [ ]

 NO [ ]

 **5. Do you have any suggestions on how the consultation package could have been improved?**

 **6. Do you have any other comments about this consultation exercise?** (Please continue overleaf if required)

 **7. If you received this consultation direct, were the contact and address details correct?** If not please kindly provide the correct contact details for us to use in the future.

**8. Do you still wish to remain on our consultation list?**

YES [ ]

 NO [ ]

**9. Are there any other subject areas on which you would be interested in receiving future consultations?**

**Name**:………………………………………….

**Organisation**:…………………………………

………………………………………………….

………………………………………………….

**Date**:……………………………………………

**THANK YOU FOR TAKING THE TIME TO COMPLETE AND RETURN THIS FEEDBACK QUESTIONNAIRE**

Annex 3

 **Publication of Personal Data**

Please note that Food Standards Scotland may publish details that you supply in legitimate pursuit of the functions of the organisation.

As the publication of responses in full may include personal data (such as your full name and contact address details), would you please let us know if you object to us using this information.

Please tick the box below, complete the relevant details and return this form (together with your response) to indicate your objection.

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|  |  I **do not** agree to the publication of my personal details.  |

**\* If no objection is received we will assume that you consent to full disclosure of your personal details and these may be published.**

|  |  |
| --- | --- |
| Full Name |  |
|  |  |
| Full postal address |  |

To comply with the *Data Protection Act 1998*, it is essential that we keep our records up to date. Would you therefore please inform us if your personal details change in any way.

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| --- | --- |
| This form has been issued by: | Food Standards Scotland |
|  |  |
| If you have any queries, please contact: | openness@fss.scotPrivate office, Pilgrim House, Old Ford Road, Aberdeen, AB11 5RL |

*General information about the most recent Data Protection Act can be viewed at* <https://www.gov.uk/data-protection>

1. Stakeholders will be aware that new legislative criteria for both end product standards and classifications applied from 1st January 2017 (sometimes known as ‘codex criteria’). A separate consultation letter has also issued on [proposed FSS changes to the way classification determinations](https://consult.foodstandards.gov.scot/regulatory-policy/shellfish-review-options-for-changing-classificati) will be made in future. [↑](#footnote-ref-1)