

Title: DEVELOPING THE FSS REGULATORY STRATEGY

Consultation Summary Page

Date consultation launched:	Closing date for responses:
24 January 2017	18 April 2017

Who will this consultation be of most interest to?

All sectors of the Scottish food and drink industry, including industry representative bodies and individual food businesses, food and feed enforcement authorities, consumers and consumer organisations, other regulatory bodies, and other Government Departments.

What is the subject of this consultation?

The draft Food Standards Scotland (FSS) regulatory strategy, and associated key elements of an effective and sustainable system of regulatory oversight and principles of official control delivery, agreed by the FSS Board. We are also seeking early views on certain aspects of the food and feed regulatory system that may need to be reviewed or changed in the future.

What is the purpose of this consultation?

This consultation is intended to provide stakeholders with an opportunity to comment on our proposed strategic approach for regulating the food and drink industry in Scotland. It will also give stakeholders an early opportunity to consider those areas of the food and feed regulatory system in Scotland where change may be required to improve the effectiveness and sustainability of the current system. FSS is developing a programme of work to underpin our regulatory strategy that will explore these issues in more detail and provide further opportunities for stakeholder input at working level, but we are keen to seek initial stakeholder views at this early stage in the policy development process.

Responses to this consultation should be sent to:

Amber Souter
Regulatory Policy Branch
Food Standards Scotland
Tel: 01224 285370
E-mail address: amber.souter@fss.scot

Postal address:
Food Standards Scotland
Fourth Floor
Pilgrim House
Old Ford Road
Aberdeen
AB11 5RL

Is a Business & Regulatory Impact Assessment (BRIA) included with this consultation?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/> See Annex A for reason.
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If you would prefer to receive future FSS consultations by e-mail, or if you no longer wish to receive information on this subject please notify the named person in this consultation.

DEVELOPING THE FSS REGULATORY STRATEGY

DETAIL OF CONSULTATION

Introduction

1. As Scotland's national regulator for food and feed FSS has a statutory responsibility under The Food (Scotland) Act 2015 to protect consumers from food safety risks, to improve dietary health, and to protect consumers' other interests in relation to food.¹ Therefore how we fulfil our role as a national regulator and the approaches we adopt will be important in achieving these objectives to deliver the best outcomes for consumers.

2. The FSS strategy published in August 2016, '*Shaping Scotland's Food Future: Our Strategy to 2021*' sets out our overall vision to *create a food and drink environment in Scotland that benefits, protects and is trusted by consumers*.² This establishes our six strategic priorities, of which '*responsible food businesses flourish*' is a key outcome.

3. Therefore a key priority for FSS is developing a future regulatory strategy that is clear about:

- How our regulatory functions are delivered
- How we gain assurance about the performance of food businesses
- How businesses are acting to protect consumers and what those businesses should expect from us

4. The draft regulatory strategy agreed by the FSS Board in March 2016³, along with the subsequent papers the Board considered in June and August on the principles of official control delivery and key elements of an effective and sustainable system of regulatory oversight⁴⁵, establishes our proposed strategic approach as a basis for further dialogue with stakeholders.

5. FSS's primary concern will always be consumer protection, so this means that food businesses that operate responsibly and do things that benefit consumers' interests should benefit from risk-based and proportionate regulation, whilst effective and dissuasive action is taken with those businesses who do not step up to their responsibilities to consumers.

6. Scotland has a thriving food and drink sector which has a strong reputation both at home and abroad, and it is clear that a compliant food and drink industry is good for consumers as well as being good for business. As a Scottish regulator working in line with the Scottish Regulators' Strategic Code of Practice⁶ we have an important role to play in supporting the economic wellbeing and strong international reputation of our food and drink sector by ensuring it is underpinned by an effective

¹ <http://www.legislation.gov.uk/asp/2015/1/contents>

² <http://www.foodstandards.gov.scot/sites/default/files/FSS%20Strategy%20Doc%20Final.pdf>

³ http://www.foodstandards.gov.scot/sites/default/files/Board%20meeting%20-%202016%20March%2016%20-%20Developing%20Regulatory%20Strategy%20160308_0.pdf

⁴ <http://www.foodstandards.gov.scot/sites/default/files/Board%20meeting%20-2016%20June%2015%20-%20Key%20principles%20on%20future%20delivery%20of%20Official%20controls%20-%20Sandy%20McDougall.pdf>

⁵ <http://www.foodstandards.gov.scot/sites/default/files/Effective%20and%20Sustainable%20Official%20Controls%20-%20FSS160808.pdf>

⁶ <http://www.gov.scot/Resource/0046/00467429.pdf>

and sustainable regulatory system for food safety and standards, whether operating in the domestic, EU or wider global markets.

7. Prioritising consumer protection and applying better regulation principles to support a responsible and flourishing food and drink sector are therefore the central themes running through our proposed regulatory approach. Equally important is the need to work in partnership with enforcement authorities to identify areas where change may be needed to shape the future food and feed regulatory landscape so that it remains effective, efficient and risk-based to meet the needs and challenges of modern Scotland. This includes considering the resilience and capacity of existing food law enforcement services across Scotland and, of course, the nature of Scotland's future relationship with Europe.

8. As part of our ongoing engagement with stakeholders FSS now invites views from a wide range of interested parties on our proposed regulatory approach. Views are also sought on those areas of the current regulatory and official control framework that may need to be reviewed or changed in the future.

Proposals

Key proposals on which respondents' views are sought:

- **Draft FSS regulatory strategy.**
- **Elements of an effective and sustainable system of regulatory oversight.**
- **Principles of official food and feed control delivery.**

We are also seeking early respondents' views on:

- **How FSS and enforcement authorities can support responsible food businesses achieve sustained regulatory compliance.**
- **Different ways to gain assurance about the performance of food businesses.**
- **The legal, financial and reputational sanctions available to deal with poor performance and non-compliance with food law.**
- **Registration requirements for food businesses and potential costs and benefits of a pre-trading authorisation scheme.**
- **Shaping the future regulatory delivery landscape for food and feed in Scotland.**
- **Sustainability and funding of the food and feed regulatory system.**

Detail

FSS REGULATORY STRATEGY

9. The draft FSS regulatory strategy enclosed at Annex B adopts an outcome focused framework to reflect the key objectives of the strategy. Five high level regulatory outcomes, set out in paragraph 2.5, are proposed:

1. *Consumers are protected*
2. *Responsible food businesses flourish*
3. *Irresponsible food businesses are dealt with effectively*
4. *Food and feed official control systems are sustainable, responsive and robust*
5. *FSS is a trusted, empowered and effective regulator*

10. These outcomes, and the associated regulatory approaches and ways of working set out in paragraphs 2.7 and 2.10, provide the overall regulatory framework for how we will fulfil our role as a national regulator.

Q1. Do respondents' have any comments on the key outcomes and elements of the draft FSS regulatory strategy attached at Annex B?

BETTER REGULATION

11. An important driver for developing our regulatory strategy is to provide a strategic framework for ensuring our regulatory activities are carried out in accordance with the Scottish Government's agreed approach to better regulation and external scrutiny of public services.⁷⁸ FSS has a statutory duty under the Regulatory Reform (Scotland) Act 2014 to contribute to sustainable economic growth, where this does not conflict with our primary consumer protection objectives, and we must have 'due regard' to the approaches to regulation set out in the Scottish Regulators' Strategic Code of Practice.⁹ This means FSS has a key enabling role to play in supporting responsible and compliant food businesses and to minimise regulatory burdens where possible.

KEY FEATURES

12. The regulatory approaches set out in paragraph 2.7 of our draft regulatory strategy reflect the high level operational approaches outlined in the Scottish Regulators' Code which regulators are encouraged to adopt. In line with this overall approach, FSS are proposing two central features of our regulatory strategy:

⁷ <http://www.gov.scot/Topics/Business-Industry/support/better-regulation>

⁸ <http://www.gov.scot/Topics/Government/PublicServiceReform/IndependentReviewofReg>

⁹ <http://www.gov.scot/resource/0046/00467429.pdf>

- i. Development and implementation of a robust, transparent regulatory decision making process.
- ii. Adoption of a compliance spectrum model that applies across the range of official controls, similar to the model adopted by the Scottish Environment Protection Agency (SEPA).

13. Details of these features are set out in paragraphs 5.13 and 5.14 of the draft strategy.

Q2. Do respondents' have any comments on the proposed regulatory decision making framework and compliance spectrum model outlined in paragraphs 5.13 and 5.14 of the draft regulatory strategy? The views of enforcement authorities on practical implementation are particularly welcome.

14. In terms of FSS's wider policy remit we will seek to apply better regulation principles to influence the development of food and feed policy at all levels – both national and international. Therefore our proposed regulatory approach will equally apply to our functions of legislative standard setting and interpretation of food law, within the existing EU framework and in the future food regulatory landscape that emerges after the UK has left the European Union. This will mean working in close collaboration with the Scottish Government, the Food Standards Agency (FSA), and other UK departments – whether in developing domestic legislation, contributing to UK negotiation positions on emerging EU law while we remain a Member State, or influencing international Codex standards – where we will advocate the principles of better regulation and support a proportionate and risk based approach.

SUPPORTING RESPONSIBLE FOOD BUSINESSES

15. In aligning our regulatory approach with better regulation principles we are committed to supporting wider food and drink policy in Scotland to support economic growth in the sector. This means ensuring consumers and businesses retain trust and confidence in the food regulatory system, that standards applied to food and feed production are internationally recognised, and that there is confidence in the way regulatory delivery is achieved to verify compliance.

16. These were the main themes considered by the FSS Board in agreeing the key elements of an effective and sustainable system of regulatory oversight for the Scottish food and drink industry.¹⁰

¹⁰<http://www.foodstandards.gov.scot/sites/default/files/Effective%20and%20Sustainable%20Official%20Controls%20-%20FSS160808.pdf>

Q3. Respondents' views are invited on the six key elements of an effective and sustainable system of regulatory oversight attached at Annex C.

17. It is the legal responsibility of food businesses to ensure that food is safe and accurately described, and both FSS and enforcement authorities have an important role in supporting businesses to achieve sustained regulatory compliance. Small and medium sized businesses, in particular, plays a central role in the economic wellbeing of the Scottish food and drink industry, and we recognise the challenges smaller food business can face in meeting their legal obligations to produce safe food, particularly in areas that are technically complex.

18. FSS is therefore committed to working in partnership with food and feed enforcement authorities and the food and drink sector industry to provide accessible channels for businesses to obtain advice and technical guidance on the regulatory requirements that affect them.

Q4. Respondents' views are invited on the different ways in which FSS and enforcement authorities can support food businesses achieve sustained regulatory compliance, particularly SMEs.

Q5. What are the priority areas for developing supporting technical guidance and compliance tools for the food and drink industry?

PERFORMANCE ASSURANCE

19. Official inspections play a central statutory role in the regulatory system to verify business compliance with food and feed law, and will continue to do so in the future. But in understanding the diversity of food businesses and how they manage risks it will be important to identify and adopt incentives and disincentives that reward and promote best practice and sustained compliance. One aspect of this will be to consider the different ways in which FSS and enforcement authorities can gain assurance about the performance of food businesses, and how businesses are acting to protect consumers, so that official interventions remain proportionate and targeted to where they are most needed, helping to promote trust and confidence in the regulatory system.

20. For example, a greater role for commercial third party assurance schemes for the purpose of earned recognition to reduce official inspection frequencies is one way this could be achieved, where it is appropriate and practical. This policy approach has been utilised in the UK primary production sector for a number of years and has recently been extended to the animal feed sector. Enhanced data and information sharing between FSS, enforcement authorities and the food and drink industry for official control purposes is another assurance route that could be explored, particularly in relation to the results of commercial food sampling programmes and traceability infrastructure. Clearly, this is an area that will require detailed consideration to inform any possible future policy options, but we would welcome any early stakeholder views at this stage.

Q6. Respondents' views are invited on the different ways in which FSS and enforcement authorities can gain assurance about the performance of food businesses.

Q7. What are respondents' views on commercial assurance schemes or industry generated data having a more prominent role in the overall regulatory system?

DEALING WITH POOR PERFORMANCE

21. Maintaining high levels of consumer protection and support for the international reputation of Scotland's food and drink sector will equally require tackling effectively those businesses that wilfully neglect their legal obligations through targeted, risk based enforcement and proportionate and dissuasive sanctions. This links closely with the compliance spectrum approach outlined in our draft regulatory strategy as a high level framework for dealing with non-compliance.

22. FSS is currently reviewing the existing range of legal enforcement sanctions and the level of penalties available to the Courts, Scottish Ministers and enforcement authorities in Scottish food and feed law to ensure they remain effective and sufficiently punitive. As part of this review FSS will be preparing the secondary legislation that is required to implement the new administrative sanctions (i.e. Fixed Penalty) provided for in The Food (Scotland) Act 2015. This will be subject to a separate FSS consultation exercise in due course.

23. In addition to legal penalties and sanctions, financial and reputational sanctions can also be effective tools for regulators and enforcement authorities in dealing with identified non-compliance. A key principle agreed by the FSS Board is that non-compliance should cost businesses more than compliance, and we are keen to discuss with stakeholders how such a principle could be applied in an operational context. There are a number of other regulators operating in Scotland who employ a charging regime for regulatory services that actively penalises businesses for non-compliance, and FSS has held initial discussions with them to better understand how these schemes operate.

24. However, at this stage it would be helpful to seek respondents' views on the current balance of legal, financial and reputational sanctions that are available to regulators and enforcement authorities to address and deter non-compliance in the Scottish food and drink sector, and whether there are any other forms of penalty or sanction that ought to be considered.

Q8. What are respondents' views on the current balance of legal, financial and reputational sanctions that are available to the Courts, regulators and enforcement authorities to address and deter non-compliance in the Scottish food and drink sector?

Q9. Are there any other forms of penalty or sanction that should be considered or made available?

REGISTRATION OF FOOD BUSINESSES

25. One area of the current regulatory framework that initial stakeholder feedback suggests could be strengthened is the registration requirement that applies to food businesses. The existing registration system is grounded in EU food hygiene legislation, and as outlined in the Food Law Code of Practice (Scotland), food businesses should register each establishment under their control at least 28 days before food operations commence.

26. It is important to ensure that enforcement authorities are aware of new food businesses operating in their area before they commence trading to enable the scheduling of inspections and verification of business compliance with legal standards. FSS appreciates that enforcement authorities can face challenges under the existing registration arrangements in maintaining comprehensive lists of all food businesses, especially where there is a high turnover of businesses or trading on a short-term basis, therefore we would be interested in respondent's views on the merit of exploring further the benefits and dis-benefits of a system of pre-trading authorisation for all food businesses in Scotland.

27. There are a number of possible models for pre-trading authorisation that could be considered (e.g. food business licensing or enhanced registration) and further detailed options and impact analysis would need to be undertaken. Any future proposals would require FSS Board approval, and Ministerial agreement if legislative change was required, and would be subject to full public consultation. However, early views from respondents are welcomed.

Q10. What are respondents' views on the strengths and weaknesses of the existing system for food business registration?

Q11. Do respondents feel there would be merit in considering further the need for a pre-trading authorisation scheme for all food businesses in Scotland? Please outline your reasons.

SHAPING THE FUTURE DELIVERY LANDSCAPE

28. When implementing or giving effect to regulatory delivery FSS has considerable flexibility within the existing EU legal framework¹¹ to shape the domestic delivery landscape in Scotland so that it remains proportionate, risk-based and cost-effective. Our draft regulatory strategy is intended to provide an overarching framework for our future delivery work to ensure that regulation is delivered across Scotland in a way that aligns with our wider strategic aims as a national regulator, and that we continue to meet our competent authority obligations while remaining a member of the EU, but in a way that positions us as a body that influences businesses and others for consumers benefit.

¹¹ 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 rules & Regulation (EC) No 854/2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption.

29. In considering existing arrangements for food law enforcement in Scotland the FSS Board has agreed a set of high level principles that should underpin how official food and feed controls are delivered in the future, as a basis for further stakeholder engagement.¹² These principles are set out in Annex D.

Q12. Respondents' views are invited on the principles of official food and feed control delivery at Annex D.

30. These principles provide the necessary criteria for reviewing any aspect of the existing delivery framework that may need to be changed or improved going forward. One such area is the long term resilience and capacity of the current Local Authority delivery model which applies to the vast majority of food businesses, and the possible impact of constraints on local government expenditure in Scotland, and on environmental services budgets in particular.¹³

31. FSS is aware that a number of food enforcement authorities across the UK and in Scotland are already employing contractors to support delivery of their inspection programmes as a result of increasing pressures on local service delivery resources. While these pressures are arguably more acute in other parts of the UK, it does raise a number of issues that may warrant further exploration in a Scottish context: the possible use of delegated control bodies as part of the regulatory system for food and feed¹⁴; regulatory approaches to private certification in food safety, particularly the impact this would have on food destined for export, an issue that is being actively considered at EU and international levels within Codex; consideration of which official control functions are best delivered at national, regional, and local levels.

32. The FSS Board have made clear its view that responsible, compliant food businesses may be recognised through alternative regulatory mechanisms of assurance approved and verified by FSS. This links closely with the issue of performance assurance outlined above, notably the concept of earned recognition, but it also opens the way for a potential role for accredited third party inspection bodies undertaking official control activity as part of the overall regulatory assurance system in Scotland.

33. These are complex issues that will required detailed policy consideration and impact assessment in due course, which we are keen explore further with Local Authorities and other stakeholders. They will need to be considered as part of a broad review of the existing regulatory system to ensure it continues to deliver the best outcomes for consumers and responsible food businesses, and in a way that allows FSS to effectively discharge Scottish Ministers legal obligations with regard to the implementation of food and feed law.

34. A period of informal consultation is currently underway with Local Authorities in Scotland, through SFELC, food liaison groups and individual authorities, and with

¹² <http://www.foodstandards.gov.scot/sites/default/files/Board%20meeting%20-2016%20June%2015%20-%20Key%20principles%20on%20future%20delivery%20of%20Official%20controls%20-%20Sandy%20McDougall.pdf>

¹³ <http://www.gov.scot/Publications/2016/06/9117>

¹⁴ As provided for in Regulation (EC) No 882/2004.

industry to begin to discuss some of these issues in more detail. It should be emphasised that this is intended as a starting point, and further opportunities for input will become available once arrangements for taking forward working level discussions are more developed.

35. However, at this stage we would welcome early views from stakeholders as part of this formal public consultation.

Q13. What do respondents feel are the main challenges and opportunities for improvement within the existing model for delivering food and feed inspections in Scotland?

Q14. What are respondents' views on regulatory approaches to private certification and the possibility of using third party inspection bodies as part of the regulatory assurance system for food and feed in Scotland, verified centrally by FSS?

FUNDING THE FOOD AND FEED REGULATORY SYSTEM

36. Regardless of the delivery mechanisms that are adopted, it is clear that to remain effective the future regulatory system for food and feed will need to be financially sustainable. With the exception of certain food sectors that are subject to mandatory EU charging requirements for official controls, notably the meat industry, the current delivery model is largely publicly funded. Economic growth in the Scottish food and drink industry will inevitably lead to greater demands being placed on resources for regulatory delivery, and in a climate of increasing pressure on public finances the FSS Board is clear that there is a need to balance costs to industry against a cost-effective system of regulatory oversight.¹⁵

37. Therefore greater cost sharing between the public and private sectors for maintaining the current system of official food and feed controls, which protects both consumers and Scotland's reputation as a land of food and drink, is an issue that needs to be considered as we look at designing what we need for the future.

Q15. Respondents' views are invited on the principle that the food and drink industry in Scotland should contribute to the cost of maintaining an effective and sustainable regulatory system for food and feed.

Consultation Process

38. This 12 week public consultation forms part of a wider programme of stakeholder and consumer engagement that is currently underway to inform development of our regulatory strategy and the supporting programme of work. If

¹⁵ <http://www.foodstandards.gov.scot/sites/default/files/Board%20meeting%20-%202016%20August%2017%20-%20Final%20Minutes.pdf>

stakeholders wish to discuss any aspects of this consultation in more detail please get in touch using the contact details provided above to arrange a meeting. Similarly, if stakeholders feel it would be beneficial for FSS to host a dedicated stakeholder event on this consultation please indicate this in your response.

39. A summary of responses to this consultation will be published on the FSS website within 3 months of the consultation closing.

40. Responses to this consultation will inform the FSS Board's further consideration of our regulatory strategy later this year, ahead of formal publication.

41. Further consultation will be carried out in due course on the specific elements of the FSS regulatory strategy programme detailed above.

Summary of questions asked in this consultation:

DRAFT FSS REGULATORY STRATEGY

Q1. Do respondents' have any comments on the key outcomes and elements of the draft FSS regulatory strategy attached at Annex B?

Q2. Do respondents' have any comments on the proposed regulatory decision making framework and compliance spectrum model outlined in paragraphs 5.13 and 5.14 of the draft regulatory strategy? The views of enforcement authorities on practical implementation are particularly welcome.

SUPPORTING RESPONSIBLE FOOD BUSINESSES

Q3. Respondents' views are invited on the six key elements of an effective and sustainable system of regulatory oversight attached at Annex C.

Q4. Respondents' views are invited on the different ways in which FSS and enforcement authorities can support food businesses achieve sustained regulatory compliance, particularly SMEs.

Q5. What are the priority areas for developing supporting technical guidance and compliance tools for the food and drink industry?

PERFORMANCE ASSURANCE

Q6. Respondents' views are invited on the different ways in which FSS and enforcement authorities can gain assurance about the performance of food businesses.

Q7. What are respondents' views on commercial assurance schemes or industry generated data having a more prominent role in the overall regulatory system?

DEALING WITH POOR PERFORMANCE

Q8. What are respondents' views on the current balance of legal, financial and reputational sanctions that are available to the Courts, regulators and enforcement authorities to address and deter non-compliance in the Scottish food and drink sector?

Q9. Are there any other forms of penalty or sanction that should be considered or made available?

REGISTRATION OF FOOD BUSINESSES

Q10. What are respondents' views on the strengths and weaknesses of the existing system for food business registration?

Q11. Do respondents feel there would be merit in considering further the need for a pre-trading authorisation scheme for all food businesses in Scotland? Please outline your reasons.

SHAPING THE FUTURE DELIVERY LANDSCAPE

Q12. Respondents' views are invited on the principles of official food and feed control delivery at Annex D.

Q13. What do respondents feel are the main challenges and opportunities for improvement within the existing model for delivering food and feed inspections in Scotland?

Q14. What are respondents' views on regulatory approaches to private certification and the possibility of using third party inspection bodies as part of the regulatory assurance system for food and feed in Scotland, verified centrally by FSS?

FUNDING THE FOOD AND FEED REGULATORY SYSTEM

Q15. Respondents' views are invited on the principle that the food and drink industry in Scotland should contribute to the cost of maintaining an effective and sustainable regulatory system for food and feed.

Responses

Responses are required by close **18 April 2017**.

Please state, in your response, whether you are responding as a private individual or on behalf of an organisation/company (including details of any stakeholders your organisation represents). If you are replying by post then please note our updated address details below.

We will summarise all comments received and the official response to each will be published on the FSS website within three months following the end of the consultation period.

Thank you on behalf of Food Standards Scotland for participating in this public consultation.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Steve Hardie', is positioned below the text 'Yours sincerely,'.

Steve Hardie
Regulatory Policy Branch
Food Standards Scotland

Enclosed

Annex A: Standard consultation information

Annex B: Draft FSS regulatory strategy

Annex C: Elements of an effective and sustainable system of regulatory oversight

Annex D: Principles of official control delivery

Annex E: List of interested parties

Annex F: Consultation Feedback Questionnaire [hard copy version only]

Annex G: Data Protection Form [hard copy version only]

Queries

1. If you have any queries relating to this consultation please contact the person named on page 1, who will be able to respond to your questions.

Publication of personal data and confidentiality of responses

2. In accordance with the principle of openness, our office in Pilgrim House in Aberdeen will hold a copy of the completed consultation. FSS will also publish a summary of responses, which may include full name. Disclosure of any other personal data would be made only upon request for the full consultation response. If you do not want this information to be released, please email <mailto:dataprotection@fss.scot.emailaddress> or return by post to the address given on page 1.
3. In accordance with the provisions of Freedom of Information Act (Scotland) 2002/Environmental Information (Scotland) Regulations 2004, all information contained in your response may be subject to publication or disclosure. If you consider that some of the information provided in your response should not be disclosed, you should indicate the information concerned, request that it is not disclosed and explain what harm you consider would result from disclosure. The final decision on whether the information should be withheld rests with FSS. However, we will take into account your views when making this decision.
4. Any automatic confidentiality disclaimer generated by your IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.

Further information

5. A list of interested parties to whom this letter is being sent appears in Annex E. Please feel free to pass this document to any other interested parties, or send us their full contact details and we will arrange for a copy to be sent to them direct.
6. Please contact us for alternative versions of the consultation documents in Braille or other languages.
7. Please let us know if you need paper copies of the consultation documents or of anything specified under 'Other relevant documents'.
8. This consultation has been prepared in accordance with HM Government Code of Practice on Consultation, available at:
http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100807/file47158.pdf
9. The Consultation Criteria from that Code should be included in each consultation and they are listed below:

The Seven Consultation Criteria

Criterion 1 — When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2 — Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3 — Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4 — Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5 — The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6 — Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7 — Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

10. Criterion 2 states that *Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.*
11. The Code of Practice states that any associated Impact Assessment should normally be published alongside a formal consultation. A Business and Regulatory Impact Assessment (BRIA) has not been prepared at this stage but will be developed to accompany any specific policy proposals arising from this consultation exercise.

Comments on the consultation process itself

12. We are interested in what you thought of this consultation and would therefore welcome your general feedback on both the consultation package and overall consultation process. If you would like to help us improve the quality of future consultations, please feel free to share your thoughts with us by completing the consultation feedback form attached as Annex F and email to openness@fss.scot or return by post to the address given on page 1.