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| **1**. Do you agree with the approach to “rolling classification” for “A” and “A/B” areas as outlined in the Annex to this letter?  Comments on the draft would be welcome. | **Seafish Industry Authority** | **1.** Initially there is an intrinsic appeal of the ‘rolling A’ approach. However, the situation is more complex and industry should be given more time to consider the pros and cons of the suggested ‘new’ approach before there is any move towards implementation. The views of smaller producers should be actively sought, even though they are hardest to engage with, as they are least likely to be able to respond quickly to high or flip-flopping results. Larger producers, who are more likely to respond to consultations etc, are more likely to be able to take advantage of the proposals where they can. However, there is the potential to engender confusion within the market as areas have the potential to move rapidly from A to B and back again in an unpredictable manner. The main retail outlets perceive A class waters to be the best and prefer to buy from A class waters only.  Much effort has gone in to trying to persuade some of them that depurated produce from class B waters that meets EPS is as wholesome and safe as A class product, but there has not been as much success as hoped.  In the market, perception is everything: buyers are tasked with buying the best for their outlet, they like certainty, and to have to explain that one result, or being unable to furnish the requisite number of OC samples within the rolling timeframe, has moved product from A to B, but in 10 days it could be back to A would not fill them with confidence and could, potentially, result in the loss of a contract. | Noted. Following discussions on this matter we consider it appropriate to maintain the system of classification that has been applied in previous years and will review once the sanitary survey/ classification review has been completed, and the protocol/MoU for harvesters’ own results has been revised. |
| **Blueshell Mussels Ltd** | **2**. No. Reason; no comparative scientific data has been made available on the proposed system, so it is impossible to evaluate. The proposal from FSS is not complete in it’s approach to sampling and to the operation and administration of the system, therefore until this is fully understood and each case considered we must reject the proposal. | Please see above response |
| **Shetland Mussels Ltd** | **3**. No. Shetland Mussels Ltd feels there is insufficient information provided on this particular proposal at this stage.  We note promising discussions took place at the workshop in Aberdeen, but we need to know more about how a site can resume an A classification following a downgrade.  We would want flexibility in numbers of samples industry could submit to ensure a site would get back within the parameters of a codex A. But currently there are un-justified restrictions and rules being referred to we cannot endorse. |
| **Association of Scottish Shellfish Growers** | **4.** The potential to convene with industry a SCM Forum would allow a greater examination of the operational aspects of a within year classification system.  The objective of shellfish producers is to operate within A classification waters as this has both food safety and marketing benefits.  It is noted that the within year classification scheme envisaged effectively only operates for A or A/B seasonal classifications and there appears to be little scope for B classifications to be rectified through such a scheme.  The existence of anomalous results would be a major concern in a water classification being reduced spuriously. In this context, it must be noted that it is the EPT undertaken by the FBO which assures the health quality of the shellfish and not the classification scheme itself which is based on historic information.  “Any result at any time can be considered “anomalous” if certain criteria are met:   * Any failure of the sewerage or sewerage treatment system that has been rectified and where the authority responsible for controlling pollution identified such a failure is not expected to recur.”   This unfortunately exemplifies the disjoint between the agencies involved in the monitoring and control of pollution within Scotland. There is currently no formal process for recognising when such a failure has occurred or an agency who is competent in determining the  likelihood of recurrence.  Hence there is a need for a revised pollution monitoring regime to be in place before any reliance could be placed on the determination of anomalous results.  We would welcome the opportunity to discuss further the ability for all anomalous results to be able to be adequately addressed within either a real time or the current annual water classification system.  It is hoped that the SCM Forum will be a venue where this matter could be progressed. | Noted. We agree that this item merits further examination – please see response above.  Classification and monitoring are not determinants of food safety end product standards being met; rather both the framework for official controls for shellfish (environmental monitoring) and FBO obligations to produce safe food indicate that a partnership is required to ensure public health protection. FSS can only classify areas based on data received which complies with the OC standard and we agree that an improved system of data sharing between all parties with a locus in a classified area would be useful.  One way to facilitate this process would be to set up local action groups. |
| **Scottish Shellfish Marketing Group** |
| **Seafood Shetland** | **6.** We consider that insufficient information has been provided on this particular proposal at this stage.  While some discussion ensued at the workshop held recently in Aberdeen, the view prevails that until such time as greater clarity is given – particularly with regard to how a site can resume an A classification following a downgrade – the approach is not currently supported. | Noted. Following discussions on this matter we consider it appropriate to maintain the system of classification that has been applied in previous years and will review once the sanitary survey/ classification review has been completed, and the protocol/ MoU for harvesters own results has been revised. |
| **Cefas** | **7. In Flow Chart 1 annex A (for sites already with a classification) – please see consultation document**  Second main box: ‘*FSS will consider a rolling 10 result dataset or one year of data whichever is greater….*’  Is this scenario only for when known water quality improvements have taken place? If not, then it should be noted that short periods of good compliance may be due to drier weather period/other factors which may not persist.  **With regard to Scenario 1**  Assume this is for results <700?  Assume this would mean compliance was also back up to 80% or more to remain in compliance with legislation?  It is unclear in general whether additional samples collected by the FBO would be included in the classification dataset.  If so, this needs to be managed in such a way as to avoid introducing bias to the dataset as would be the case if a large number of samples was taken in a short period of time.  To avoid bias, any extra samples should be spread evenly throughout the year. European Good Practice Guide1 (GPG), section 7.3.11, recommends that investigative samples should not be included in the classification dataset. | Noted. Thank you, these helpful comments will inform any changes to our processes. |
| **Scottish Fishermen’s Federation** | **8.** We would support the move to a rolling classification approach, which combined with industry co-operation should lead to enhanced opportunities for safe harvesting at certain times of year. | Noted. As outlined above we intend to defer any potential changes until relevant reviews have taken place. |
| **Highland Council** | **9.**  Yes The proposed system would allow a more rapid, realistic and flexible response to 'spikes' and a changing situation.  Involving harvesters in rapid follow-up testing and investigations would promote engagement and lead to a more co-operative data based approach. |
| **2.** Do you think a rolling classification approach should replace the current system? | **Seafish industry Authority** | **1.** Response given with Q1. | Noted. |
|  | **Blueshell Mussels Ltd** | **2.** No. Reason; Same as Q1, However if the wider changes suggested in our response to Q9 and once industry were content with a new system then tentatively yes. | Noted. |
| **Shetland Mussels Ltd** | **3.** We are unsure at present. We would like a briefing of how this works in other countries and whereas it sounds promising we need to be working on two fronts in our view. Aiming to maximise the number of A sites we can achieve within Scotland but having a better more robust system of consumer safety at the point of harvest.  This may require investment and research to how best to make this happen. I would put this area forward to the proposed FSS industry forum to work on. | Noted. We envisage considerable discussion on classification issues within the new FSS Classification and Monitoring Industry Forum. |
| **Association of Scottish Shellfish Growers** | **4&5.** Combined response at Q1. | Noted. |
| **Scottish Shellfish Marketing Group** | Noted. |
| **Seafood Shetland** | **6.** No. However, information on systems adopted in other countries may prove useful for future deliberations.  However, the Shetland industry is very interested in promoting a trial/study of a system to inform Classification considerations, involving sampling for *E.coli* prior to intended harvest and in line with Regulation (EC) No. 854/2004 Annex II Chapter II F. Food Business Operators’ Own Checks. Perhaps this can be an item of discussion for the proposed Food Standards Scotland (FSS)/Industry shellfish forum. | Noted. |
| **Cefas** | **7. With regard to scenario 2 in the consultation document**  This proposal does not appear to be in compliance with the legislation. Cefas’ understanding is that If a result >700 cannot be waived due to it being deemed anomalous then the site would remain downgraded to class B to be in compliance with the legislation. Resamples are often low/back to normal, particularly after a few days due to the rapid clearance of *E.coli* from shellfish after intermittent pollution events.  This does not mean that any associated pathogenic contamination (particularly viral, if present) will have cleared or that the event may not occur again. The probability of picking up a truly ‘one off’ contamination event with monthly monitoring is very low - additional intermittent contamination incidents may well be occurring in between sampling occasions.  Including the 5 investigative samples (taken 48 hrs apart within 2 week period) in the classification dataset may introduce bias.  **With regard to ‘> 5 year rain fall event’ in anomalous result section**  Assume this means a rainfall event with a greater than a 1 in 5 year return period. GPG (section 7.3.9) now also includes option to use 99.9th percentile calculation for rainfall assessment as rainfall return period calculations can be complicated.  **References**  1. EURL 2017. Microbiological Monitoring of Bivalve Mollusc Harvesting Areas - Guide to Good Practice: Technical Application. <https://eurlcefas.org/media/13973/gpg_issue-6-fianl-170117.pdf> | Noted. Ensuring our classification process maintains a robust public health protection function; can withstand legal scrutiny from all parties, as well as being flexible and pragmatic will inform our approach in this area. |
| **Scottish Fishermen’s Association** | **8.** We would welcome the proposed approach to a rolling classification for areas in the A and A/B structure. The draft in the flow chart seems to address the needs of the regulations and is clear and logical for users. | Noted. As mentioned we intend to defer any changes pending further work. |
| **Highland Council** | **9.** Yes - ref response to qu 5. | Noted. |
| Additional Comments | **Seafood Shetland** | The offer to consider creation of a Food Standards Scotland/Industry shellfish forum is a good one and one which Seafood Shetland supports. | Noted. We look forward to discussing these issues further in that forum. |

**List of Respondents**

**4 Industry Organisations; 3 shellfish businesses; 1 Official control Laboratory; 1 Local Authority.**