

SIMPLIFICATION TASKFORCE
Inspections (non-land) Penalties Sub-Group Meeting
Monday 1st April 2019 – Saughton House

ATTENDEES

SG Members

Marcus Mackenzie (Chair)
Brian Service
Polly Walker
Yvonne Nova (Secretariat)

Apologies

Douglas Petrie
Aimee Budge

External Members

David Lawrie
Sion Williams

1. Introductions

Marcus introduced the members in the room and their roles in the sub-group

2. Penalty statistics discussion

- All stats presented at meeting are available on the RP&S website (although not in this format) - stats sent previously but also attached to this minute.
- Penalties within the 5-15% thresholds were breaches that have been repeated within a 3 year period.
- Penalties >15% are intentional breaches.
- In 2009 following an audit, working rules were changed to fall more in line with legislation – 3% penalty as the normal distribution curve.
- Approx. 1/3 of farmers inspected incur a penalty for livestock, animal ID and traceability.
- 16% tolerance of missing tags on cattle before a financial penalty imposed

3. More guidance/information is required around: **Answers in red**

- Are breaches classed in the same way? i.e. missing ear tags v wrong sex of calf.

The assessment process is the same for all discrepancy codes but each is given a separate weighting score e.g.:

One missing tag – 0.1

Two missing tags – 0.3

Incorrect sex or breed notified to BCMS – 0.1

Animal expected to be present on holding but not present – 1.0

The scores are added together to give an ‘absolute severity score’.

The ‘absolute severity score’ is converted to a ‘percentage severity score’ by dividing it by the number of animals inspected.

These two figures are then assessed against the threshold severity levels listed in the following tables and the highest is taken forward to determine whether a financial penalty is applied.

Absolute Severity Table	
Score	Absolute Severity
0.01 - 1.99	Very Low
2.00 - 4.99	Low
5.00 – 10.00	Medium
10.01 +	High

% Severity Table	
Score	Percentage Severity
0.01 – 10.00	Very Low
10.01 – 40.00	Low
40.01 – 60.00	Medium
60.01 +	High

Negligent, On-farm, **Very Low**, Rectifiable, First offence breaches result in a Warning letter.

Pages 82 and 83 of the [Verifiable Standards](#) show two realistic examples.

- What constitutes a warning letter against a penalty?
Depends on the type of discrepancy, the number of discrepancies and the number of animals inspected. See above.
- 48 hour rule for movement between farms, but 3 days for moves outside business? Additionally Scotmoves ask for 48 hours to alert change but Eid is 3 days for electronic and 7 days for post. No consistency.
There is consistency unfortunately I didn't have the information to hand on the day.
There are two requirements; recording On and Off movements in the farmers records and separately notifying the move to BCMS.
On and Off movements have to be recorded in the farmers records within 36 hours of the move taking place.
On and Off movements have to be notified to BCMS within 3 days of the move taking place. The 3 day deadline also applies to notifications by post. (7 days relates to the deadline for notifying deaths).

Movements within businesses can be recorded on Scotmoves which also acts as the farmers internal movement record. Movements within businesses have to be notified to Scotmoves within 48 hours.

Recording On and Off movements – 36 hours
Recording movements within businesses - 48 hours

- Why a warning letter rather than yellow card for one missing cattle tag?
Yellow cards aren't a concept under the legislation that governs cross compliance; businesses are either compliant or non-compliant. Minor non-compliances (breaches), such as one missing tags up 16% of the herd, will

result in a warning letter, if that's the only deficiency found during the inspections. If the missing tags are replaced the slate is wiped clean and the warning letter isn't taken into account in the assessment of any future breaches.

- Who are getting hit by penalties (large or small businesses)?
Rather than referring to getting hit by penalties this bullet point should refer to are large businesses more compliant compared to small businesses or vice versa.

The size of support scheme payments has been considered as a proxy for the size of the business. With a very large health warning*, the following table shows the percentage of businesses within particular payment bands which have breached Cattle ID and traceability (SMR 7). (The size of support scheme payments has been considered as a proxy for the size of the business).

2017 inspections (most up-to-date available figures)

Payment range	% of businesses with cattle that have breached SMR 7
>100,000	5
>75,000 <100,000	3
>50,000 <75,000	4
>20,000 <50,000	4
<20,000	3

* This is a very crude assessment and doesn't take into account other factors -
- the payment profile of businesses selected for inspection
- the number of warning letters issued 'v' penalties applied
- the number of cattle owned by businesses – large recipients don't necessarily have a lot of cattle
- etc, etc.

- Can warning letter be adapted/modified to make the details of penalty more visible and earlier in the narrative than is currently?
The content and structure of warning and penalties letters is hard coded in the IT system which doesn't make it easy to change. Any changes can be made if they are justified and are balanced against available resources.

Currently, in both cases the first paragraph of the letters indicate that the business has breached the requirements and directs them to the Annex for full details. For penalty letters the number of breaches found during the inspection is also included in the first paragraph.

- What are the percentage of faults that would trigger penalties and what are they. For both Cattle and sheep?
For cattle see above.

For sheep, pages 84-91 of the [Verifiable Standards](#) gives an indication of the expected assessment of a breach of each of the requirements.

The three most commonly breached requirements in 2018 are –

The keeper has not replaced lost or illegible identification and/or the record of replacement identification has not been maintained (380).

Individual identities of home bred animals, present on the holding, are not in the records indicating the record of identification or the record of replacement identification have not been maintained (195).

Failure to record death details of an animal born or identified after 31/12/2009 (125)

4. Observations:

- Rules around tagging is driven by legislation
- Any changes to the form are driven by our RP&S (IT system) which is an onerous task just for a simple name/telephone number change already. Brian is aware of the existing limitations to the current IT system.
- Warning letters are a good driver for compliance and mitigate many further issues and potential % penalties
- Warning letters maybe need to be designed to get straight to the point. i.e. have the breach early on in the letter and the reference detail in the annex, not the other way round. You can lose the reader early.
- Land inspection letters are not easily understood.
- What is causing the breaches – Understanding/Inexperience/on purpose – what's the culture?

5. Further actions

External members

- Marcus to further collate and send the internal and NFUS simplification suggestions into a single file for information - done.
- Marcus encouraged the external group members to have discussions before the next meeting around the circulated spreadsheet detailing simplification suggestions from both NFUS and SG, and for their comments and own suggestions.
- Share thoughts on today's session and their own views at the next STF meeting.
- Email responses/comments to Marcus before next STF meeting on 24 April - ALL

Internal members

- Brian Service to supply the answers to the points raised at Item 3.
- **Note: Answers provided in red above on 11/04/19.**