

New Food Body Consultation Response

1: Should the scope of the new food body extend beyond the current scope of the FSA in Scotland? If yes, what specific extensions of scope would you suggest, and why?

Yes, The Royal Environmental Health Institute of Scotland (REHIS), representing Chartered EHOs, EHOs and other associated Environmental Health professionals, would support extending the scope of the new food body beyond the current scope of FSA if in doing so the new food body would provide improved strategic leadership and better co-ordination of multi-agency service delivery.

The application of current scope has limited the FSAS ability to deal with some areas of concern such as delivery of Official Controls in relation to feed and feedingstuffs. Whilst this could be viewed as an implementation issue under current scope, it is felt that scope revision could better outfit the new food body to deliver on national standards in this area and others (including food premises approval, border inspection controls and designated points of entry for food and feed and export certification) which currently has measurable area variation.

In the area of evidence base and technical and scientific measures, the new food body scope should include financial and management support for laboratory services delivering much of the official control evidence base in Scotland. This is currently an area of concern for sustainability and has a work stream ongoing to look at the future.

With regard to the specific areas mentioned in paragraph 20 of the consultation we would comment as follows:

- **Alcohol** – We support a multi-agency approach to dealing with health and societal problems associated with alcohol consumption. The new food body would have an important part to play in national strategies to tackle these problems, but the lead should probably come from health professionals/NHS in this area.
- **Obesity** – We would support the new food body being responsible for leading in this area. The new food body, working with other partners, would be well placed to deliver improvements in obesity levels in Scotland. The new food body would be in a position to influence the food industry on food composition and portion size, influence local authorities on the outcomes of food standards inspection and sampling programmes, build service delivery partnerships with NHS colleagues and where appropriate highlight to the Scottish Government the need for legislation.
- **Environment** – We recognise the impact the environment can have on food quality and safety and how adverse environmental conditions can affect human health. We believe the new food body would work in partnership with other organisations, in particular local authorities and Scottish Environment Protection Agency, on environmental factors that relate to food safety and quality.

- **Food poverty** – We believe this to be another legitimate area for the new food body to be involved in. Again, the new food body would be working with partners to track and measure food poverty and would be ideally placed to initiate projects or programmes to tackle food poverty.
- **Food advertising** – REHIS believes the current position with regulation in respect of health claims and advertising currently sitting with local authorities should be maintained but the new food body should be actively involved in promotional activities to improve consumer awareness and to assist consumers in making healthier food choices.
- **Provenance** – It is recognised that provenance is an important food labelling issue and has significant benefits for the Scottish food industry. The new food body must be involved in the forefront of this area as it complements the food standards remit as well as supporting the Scottish economy.
- **Sustainability** – REHIS recognises that this is an overarching consideration for every policy area and the new food body should consider sustainability issues. In the area of sustainability, public health workforce training provision (workforce planning and development) should be scoped. A number of FSAS initiatives have been delivered but have not tackled the long term issue of the depletion of the local authority public health workforce (Chartered EHOs, EHOs and other associated Environmental Health professionals). Since the delivery of official controls locally depends on this highly skilled workforce being sustained through recruitment and training, the scope of the new food body should be expanded to provide (in part if not in whole) a regulated framework of workforce capacity to meet Scotlands Public Health needs.
- **Food Security** – We would support the new food body being involved in this area. The new food body should establish links with emergency and contingency planning organisations. The new food body will want to be satisfied that for food there is a security of supply and the supply chain is protected from terrorism.

2: Should the new food body and the Scottish Government continue the arrangements for independent and partnership work on diet and nutrition set out in Annex A? If not, what changes would you suggest, and why?

REHIS believes that the new food body must be the lead body on all matters relating to food, including diet and nutrition. However, the new food body can retain ultimate responsibility but make appropriate arrangements for other partner agencies to lead in specific projects. Functions in Annex A should be reviewed to reflect this.

Partnership working arrangement should be strengthened and expanded to make better use of existing frontline local authority public health resources (Chartered EHOs, EHOs and other associated Environmental Health professionals). In these austere times, integration and smarter use of resources in local authorities, NHS and the new food body to deliver on Scottish diet and nutrition objectives is needed to produce cost effective results on problems such as obesity with its established health, social and economic impacts.

We agree that establishing new food body clarity needs to be given on lead for diet and nutrition and believe that the improved clarity of roles and responsibilities will ensure better co-ordination and benefit everyone.

We would support the proposed interface with the education system and feel that this is the correct age group to work with to bring about societal change.

We would also support the new food body taking the lead in the areas outlined in paragraphs 34 and 35.

3: Are there any additional roles, responsibilities or functions in respect of diet and nutrition that you think the new food body could take on to help deliver an improvement to the health of the people in Scotland? Please give details and reasons.

REHIS believes that the areas suggested in the consultation document are the appropriate functions for the new food body.

The new food body should ensure that Scottish interests are represented on the Scientific Advisory Committee on Nutrition and ensure bidirectional communication. It should examine whether the Scottish dimension requires special consideration (current trends indicate this would be the case). In addition, the new food body should ensure Scottish engagement on European Food Safety Authority.

It is suggested that the new food body be tasked with national dataset collection and coordination on diet and nutrition. A national surveillance framework is needed to generate the evidence on which policy for action should be based. The national surveillance capacity and support for laboratories should be caught within such a framework.

4: What steps do you think could be taken to ensure the new food body is able to access the best available independent expert advice it needs to underpin its work on food safety and public health nutrition in Scotland? Please give reasons.

The new food body should link into existing scientific committees etc. in the UK. This will avoid duplication of effort and recognises the integrated nature of the foods supply chain in the UK.

The new food body must also establish links with international organisations due to the importance of the global nature of the food industry.

The new food body should actively engage with its stakeholders in the scientific, health and regulatory community to ensure it gathers best available evidence effectively. Such evidence should be the basis of policy and action.

The new food body should be engaged in horizon scanning for emerging challenges and opportunities and should commission research in fields of interest. There appears to be sufficient capacity in the stakeholder group to provide for expert advice and

research. Funding should be realistic though to allow research to be carried and inform the development of advice/guidance/policy.

5: Do you consider that the new food body should focus its research and surveillance activities on issues that are particularly pertinent to Scottish citizens or should it also contribute to science and evidence programmes on wider issues which have relevance to the UK as a whole? Please give reasons.

These areas are not divorced. The new food body should focus research and surveillance in areas designed to reduce the incidence of disease and the burden of ill-health across Scotland but particularly in Scotland's most deprived communities where the health inequalities are stark. Research and surveillance should establish a diet and nutrition benchmark. National datasets should be the norm and used as a basis for action in Scotland's most deprived, most challenged communities.

The new food body should also be outward looking, contributing to science and evidence programmes in the UK and elsewhere, and engaging in peer review programmes where beneficial. This would apply equally to diet and nutrition, animal health and welfare, and food safety and security etc.

The new food body should access national scientific advisory committees etc allowing the new food body to contribute to UK wide research.

There is an opportunity to create the position of a lead scientist for Scotland to coordinate, direct and lead this work.

6: Do you agree that the new food body should be responsible for the coordination of all Scottish Government funded research on food safety and public health nutrition?

What steps could be taken to raise the profile of the new food body as a research funder across the UK and beyond? Please give reasons.

Coordination should rest with the new food body. It should develop and publish in line with its strategic objectives, areas for research for each year of its strategic plan. The new food body should develop and strengthen its ties with universities and institutions and government funders as the key stakeholders in the research area.

We support the new food body being responsible for and leading on food safety research.

7: Do you have any further suggestions for how the new food body could establish a strong independent evidence base for food safety, food standards and nutrition policy? Please give reasons.

As previously stated, national datasets such as the current Food Surveillance System as a national dataset should be replicated with such datasets being the norm and being used as a tool to set benchmarks and against which improvement would be measured.

Aligned to this would be a framework of regulated support for the local resources providing the collection and input to such systems (Chartered EHOs, EHOs and other associated Environmental Health professionals).

The new food body should work with Scottish Food Enforcement Liaison Committee (SFLEC) and local authorities through the Food Liaison Group network to develop effective local sampling programmes and design statistically valid surveys and sampling programmes to provide evidence to inform policy making.

REHIS is an active partner in SFELC and has contributed to the successful development of food safety policies and guidance over a number of years. The Committee's experience in this respect would be a valuable asset for the new food body. The wide membership of SFELC also helps establish the independent nature of the evidence.

8: Do you consider that the new food body would require any further statutory powers, in addition to those that the FSA already has, to equip it to deal effectively with incidents such as the recent horse meat substitutions, and to prevent such incidents happening? Please give reasons.

It is suggested that the new food body have the power to facilitate transfer of enforcement responsibility (by agreement between local authorities and the new food body) on a permanent or temporary basis where it was in the best or most economical interests of the consumer.

Similarly, a power should be drawn down to permit cross border authorisation of authorised officers to deploy resources to areas of need and in times of need (e.g. specified food or feed emergencies or related public health emergencies). This would equate to centralised support to local authorities at such times.

It is suggested that (if necessary to achieve the outcome above) the new food body should have the power to designate time limited area control zones to deal with specified food or feed emergencies and to regulate official control delivery therein.

REHIS has responded to the FSA consultation on additional enabling powers and has indicated full support for the proposals.

The new food body should consider the Audit Scotland report 'Protecting Consumers' and in particular the need for work force planning. We believe that consumers and reputable food businesses can be protected from incidents such as the recent food frauds, only through adequate resources being available to deliver effective Official Controls.

9: Do you have any further comments about how the new food body might ensure that it can deal effectively with contraventions of food standards and safety law? Please give reasons.

There is a lack of options available to local authorities to deal with food standards contraventions and we would suggest that the new food body consider introducing a range of notices that would fill the gap between informal actions and reporting contraventions to the Procurator Fiscal. This would allow more proportionate use of resources and more effective dealings with manufacturers, packagers and retailers of foods. Measures equivalent to those available for hygiene/safety offences could be replicated for food standards matters.

We would also support research into the potential to introduce fixed penalty notices for food safety and food standards contraventions.

There should be provision for specialised Procurator Fiscal units and provision for appropriate and proportionate penalty provisions for food offences taking in to account any financial motive in crime such as food fraud. This would allow the more appropriate consideration of food standards and food safety offences and in good time.

10: Should the new food body take on any roles and responsibilities not currently fulfilled by the FSA in Scotland? If yes, please give details and reasons.

The establishment of the new food body provides an opportunity to take stock of the roles and responsibilities of all organisations involved in food and feed official controls.

The following areas are ones the new food body should consider taking on for the benefit of Food and Feed Safety and security:-

- Delivery of all Official Controls and related monitoring activity during primary production including: farming (including milk production holdings), game larders, fishing, and aquaculture.
- [having regard the potential centralisation of primary production Official Controls and imported feed controls] Delivery of all Official Controls relating to feed hygiene and standards.
- Delivery of all Official Controls relating to the supply and manufacture of materials and articles in contact with food, food additives and processing aids.
- Recognition of natural mineral water sources.
- With regard to the transfer of enforcement responsibility by agreement from local authorities to new food body, one area to be considered might be in relation to cross boundary food service e.g. on board passenger vehicles operating across local authority boundaries.
- Coordination of export certification and liaison with third-countries.
- Determination of approval of establishments under Regulation (EC) No. 853/2004 and all processes for the suspension or withdrawal of approvals. Official Controls other than approval or the suspension or withdrawal of approval would rest with local authorities and it is expected that the new food body would work closely with local authorities before determining approvals or their suspension or withdrawal. Responsibility for enforcement action

relating to operation of an unapproved establishment requiring approval would rest within the new food body.

- Where the new food body is the designated food authority for an approved establishment, it should be responsible for official controls of all food commodities at the establishment and all official controls including those for food standards. This would mean, for example, that where the new food body was responsible for delivering food hygiene controls at a slaughterhouses or cutting establishment it would also be responsible for the labelling and compositional standards of meat and any meat preparations/products produced at the establishment.
- The new food body to continue to develop ongoing technical and professional training of authorised officers carrying out official food and feed controls, whether within local authorities or the new food body.
- The new food body could also provide a small specialised staffing resource that would be available to local authorities.

Any changes should be based on the following principles:

1. Rationalisation of controls to ensure that, to the greatest extent possible, every individual establishment has one food authority for regulating both food hygiene and food standards.
2. Centralisation of specialised Official Controls and specialised/complex activities which are very low in number and thinly dispersed geographically.
3. Centralisation of land and sea-based controls that may be difficult to allocate and deliver in terms of local authority boundaries.
4. Centralisation of particular controls highlighted by the European Commission's Food and Veterinary Office and of controls relating to international trade.
5. Provision of central support to local authorities where centralised provision is likely to be more efficient and fairer to individual local authorities.

In making any changes to existing roles and responsibilities, any change should be designed to improve public health and address any gaps in the existing arrangements.

It is vital that the current holistic nature of environmental health services should not be jeopardised through any consequent reorganisation of delivery of food controls. In particular, changes that would result in the significant transfer of staff from local authority services to a centralised delivery body are likely to have a detrimental effect on the viability of environmental health services. Official control delivery must remain with local authorities as the food safety service is an integral aspect of the environmental health function and staff involved in the food safety service may be responsible for delivering a range of functions at food businesses.

11: Please tell us your views about these suggestions for changes to the delivery of official food and feed controls. Do you think that the new food body should work in a different way with local authorities? Please give reasons.

Further to the response detailed previously, the new food body should support local delivery of services through a regulated framework to ensure sustainable service delivery nationally and best use of resources. The new food body should drive the work stream to headline public health priorities in local authority single outcome

agreements which would include the provision and development of the local authority based public health workforce (Chartered EHOs, EHOs and other associated Environmental Health professionals) currently residing there. This is necessary for the sustainable delivery of Official Controls in Scotland.

The existing partnership between local authorities and FSA works well and this successful partnership approach in Scotland is the building block for the new body. In respect of the bullet points in paragraph 48 our further comments are as follows:

Approval of food and feed establishments – We agree with the proposal as it will ensure consistency within the approval process. The proposal will also remove the existing anomaly where local authorities deal with unapproved establishments, even though they would not be responsible for enforcement once the establishment was approved. We support the delivery of official controls remaining with local authorities for establishment where they currently deliver these controls.

Food standards and FSA ops – We agree that food standards should be delivered by the new food body where they also deliver food hygiene official controls, and support this proposal as it removes an area of dual enforcement.

Coordination of export certification – We agree with this proposal in respect of the co-ordination of certification requirements, but the actual service delivery should remain with local authorities.

Import controls at ports of entry – REHIS can appreciate the perceived benefit behind this proposal and supports the underlying principle. However, in Scotland there will only be a small number of premises affected and current work carried out in this area is part of a suite of duties carried out by EHO's, including partnership working with HM Customs and NHS. Any change would jeopardise the holistic nature of environmental health services in this area and be contrary to the Scottish Government's Better Regulation agenda.

Should the Scottish Government decide to support the legislative change, it may be an area where a system of flexible transfer of enforcement responsibilities could be utilised to allow local delivery.

Delivery of official controls relating to animal feed hygiene and standards – REHIS supports the creation of a single enforcement organisation in relation to the farming sector. The current system appears to require a minimal FTE percentage of LA officer time and there would seem to be some merit in a number of centralised full time officers operating in this area. This would be consistent with the Scottish Government's Better Regulation agenda.

Delivery of all official controls and related monitoring activity during Primary Production – REHIS supports the benefits of the creation of a single enforcement agency for primary food production would result in a more economical system with a number of centralised full time officers operating in this area.

REHIS stresses that changes in this regard are carefully considered and do not adversely affect the delivery of the wider environmental health service in local authorities.

Delivery of official controls relating to the supply and manufacture of materials and articles in contact with food, food additives and processing aids – We agree with this proposal as it will provide the effective delivery of Official Controls and address any gaps in the current arrangements.

Recognition of natural mineral water sources – We agree with this proposal as it will provide the effective delivery of Official Controls and address any gaps in the current arrangements.

Para 49: technical and professional training – We agree with this proposal and believes it would be useful. There is the potential to establish a similar role in relation to training for the new food body to that of Health and Safety Executive in providing specialist support to local authorities on occupational health and safety enforcement. REHIS is well placed to continue to work in partnership with the new food body in this area.

Para 50: Formalise SFELC through legislation – REHIS is an active partner in SFELC and supports the proposal. REHIS supports the proposal, provided the independence of SFELC from the new food body is specifically recognised and assured. The value of SFELC lies in the broad membership, the willingness of members to commit their time to the work of the Committee and the ability to create working groups to take forward specific areas of work. The current arrangements are consistent with Schedule 2 of the Food Standards Act 1999 and SFELC meets the requirements of a joint committee as detailed in section 8 of this schedule. SFELC would support legislation that is similar to the existing provisions to allow the new food body to establish joint committees.

SFELC guidance is generally designed to promote consistency and it would be beneficial if it was recognised in the same way as the Code of Practice or Practice Guidance and ultimately the guidance could be incorporated into these documents. We are aware of the Scottish Government plans for Better Regulation legislation and see a definite role for SFELC in producing national standards for food safety.

12: Do you have any views on how the new food body should assure delivery of official controls and meet the relevant EU obligations? Please give reasons.

Comments

Taking in to account the views previously expressed, it should be reiterated that the delivery of official controls for the most part rests currently with the local authority based public health professionals (Chartered EHOs, EHOs and other associated Environmental Health professionals). The sustainability of the current public health workforce is uncertain. As a largely hidden service often with no direct top line connection in local authorities, it needs a framework of support to ensure it remains fit for purpose in the near and far future. In the commissioning and development of the new food body there is an opportunity to ensure through a regulated delivery framework that training and competencies are provided for and that mandatory workforce planning is brought in to ensure the viability of local authority public health workforce (Chartered EHOs, EHOs and other associated Environmental Health

professionals) and the effective and sustainable delivery of official controls going forward.

The new food body will have the responsibility as the central competent body to ensure the provision of adequate resources to deliver official controls. Given the current concerns relating to work force planning the new food body may find benefit in establishing service level agreements with local authorities to have the assurance that official controls will be delivered adequately and consistently across Scotland.

The new food body must prepare a Scottish Framework agreement similar to the framework agreement that currently exists and that the existing Food Law Code of Practice and Practice Guidance be replicated to detail the delivery of official controls.

The current audit arrangements are seen as a great benefit and would recommend the existing arrangements are retained.

13: Are there any additional or alternative relationships that you would suggest that would help the new food body achieve the Scottish Ministers objective of longer, healthier lives for the people of Scotland? Please give details and reasons.

The existing partnership approach adopted by FSA in relation to Official Controls delivery has worked well and REHIS recommends that the new food body builds on these existing arrangements.

There does appear to be a disconnect between current FSAS function and the activities of the Scottish Government and other partners on issues such as health education of youth, tackling health inequalities in the population, healthy eating resources and prioritisation and industries role in diet and nutrition and ultimately the engagement and regulation of industry on diet and nutrition. The new food body should be engaged on the delivery of health and nutrition in the education sector where currently educational resources are not prioritised towards the life skills of healthy eating, healthy choices and associated food selection and preparation skills. It is suggested that the new food body lead on the policy and delivery of currently delivered NHS services on diet and nutrition and food and health across Scotland to allow use of resources to deliver in the communities of greatest need. These resources are disparate. Opportunities exist for cross sector working. Resource tasking capabilities for the new food body could support improvement

14: Do you have any suggestions about how the new food body can engage effectively with consumers, both in developing policy and providing information and advice?

We welcome the consumer focus proposed for the new food body

Current FSAS stakeholder engagement should continue in the new food body. It's suggested that engagement could be enhanced with the statutory footing of FHIS supported by advertising campaigns to ensure consumers can make informed choice about buying food. Feedback on food outlets could be encouraged through social media or an add on to the FHIS App or similar and replicated across functions.

15: Do you agree with the suggested approach to ensuring the new food body's independence from Government and the food industry? Do you have any further suggestions for how the new food body could best establish and maintain its position as an arms length part of Government? Please give reasons.

We agree with the approach to ensuring the new food body's independence from Government and the food industry and believe this is important for the delivery of Scottish Government's aim to protect public health and maintain consumer confidence.

The existing liaison arrangements should be continued as these can deliver a means of communicating effectively with Government and the food industry without compromising the independence of the new food body.

16: Do you have any further comments, or suggestions, on the creation of a new food body for Scotland that are not covered by any of the previous questions?

On qualification EHOs in Scotland are deemed competent across all seven areas of Environmental Health – Food Safety, Food Standards, Occupational Health and Safety, the Built Environment, Public Health, Pollution Control and Waste Management. This broad remit allows the professionals on the ground to ensure that food safety and food standards are not treated as distinct entities but as part of a wider integrated health protection service. An EHO undertaking a food safety and food standards inspection will be aware of how other environmental exposures can combine to adversely affect the health of the public and can, for example, intervene or offer advice if they encounter an unsafe working practice, a commercial noise problem or a problem with trade waste duty of care provisions.

REHIS as a UK Competent Authority, in terms of EU Directive 2005/36/EC on the Recognition of Professional Qualifications within Member States and under the European Communities (Recognition of Professional Qualifications) Regulations 2007 for the Profession Environmental Health Officer and Chartered Environmental Health Officer, is in an excellent position to support the new food body in relation to the education, professional training, qualifications and standards of competence of Chartered Environmental Health Officers, Environmental Health Officers and other associated Environmental Health professionals. As an independent accreditation and awarding body for both BSc (Hons) and MSc Environmental Health degree courses REHIS is in a position to assure the standard of academic qualification, professional training and qualification and the continuing professional development of individuals undertaking food safety and food standards work within a public health framework.

In this respect REHIS is able to ensure that a robust system is in place to ensure a high level of competence in Chartered Environmental Health Officers, Environmental Health Officers and other associated Environmental Health professionals to effectively meet the demands of the new food body in this important area of public health protection.

The Royal Environmental Health Institute of Scotland (the Institute) has been in existence for over 135 years and has around 1,200 members the majority of whom are Environmental Health Officers working in that capacity for Scottish local authorities.

The objects for which the Institute is established are for the benefit of the community to promote the advancement of Environmental Health by:

- stimulating interest in and disseminating knowledge concerning Environmental Health;
- promoting education and training in matters relating to Environmental Health; and
- maintaining, by examination or otherwise, high standards of professional practice and conduct on the part of Environmental Health Officers in Scotland.

Environmental Health Officers in Scotland are part of a graduate only profession and by virtue of their under-pinning academic education, professional practical training, professional qualifications and experience are well placed to apply a holistic public health approach to the education of the public and to the enforcement of a wide range of environmental and public health legislation.

The Institute, which is Incorporated by Royal Charter, is an independent and self-financing organisation. It neither seeks nor receives grant aid. The Institute's charitable activities are funded significantly by the subscriptions received from its members.

The Royal Environmental Health Institute of Scotland is a registered Scottish charity, No. SC009406.

It is important to note that in terms of EU Directive 2005/36/EC on the recognition of Professional Qualifications within Member States and under the European Communities (Recognition of Professional Qualifications) Regulations 2007 the Royal Environmental Health Institute of Scotland is a Competent Authority for the Profession Environmental Health Officer/Chartered Environmental Health Officer in the UK. In this respect individuals who have successfully completed the appropriate academic study and professional training and examinations are awarded the Royal Environmental Health Institute of Scotland Diploma in Environmental Health.

The Institute is an external body and currently accredits the BSc (Hons) Environmental Health degree courses, delivered by the University of the West Scotland, the BSc (Hons) Environmental Health and the MSc Environmental Health degree courses delivered by the University of Strathclyde and the MSc Environmental Health degree course (by distance learning) delivered by the University of Derby. In addition to achieving the academic qualification, those wishing to become and Environmental Health Officer require to undertake the Institute's Scheme of Practical Training with a Scottish local authority over a minimum period of 48 weeks. Thereafter they require to successfully complete the Institute's Professional Examination, an assessment of their professional competence, before practicing as an Environmental Health Officer.