

## CONSULTATION QUESTIONS

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?

Comments:

South Lanarkshire Council would support extending the scope of the new food body beyond the current scope of FSA if in doing so the New Food Body (NFB) would provide improved strategic leadership and better co-ordination of multi-agency service delivery. In respect of the areas mentioned in paragraph 20 of the consultation South Lanarkshire Council would comment as follows:

Alcohol – South Lanarkshire Council supports a multi-agency approach to dealing with health and societal problems associated with alcohol consumption. The NFB would have an important part to play in national strategies to tackle these problems, but South Lanarkshire Council believes the lead should come from health professionals/NHS in this area.

Obesity – South Lanarkshire Council would support the NFB being actively involved in this area. The NFB, 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 – South Lanarkshire Council recognises the impact the environment can have on food quality and safety and how adverse environmental conditions can affect human health. South Lanarkshire Council believes the NFB would work in partnership with other organisations, in particular local authorities and SEPA, on environmental factors that relate to food safety and quality. A good example would be to encourage food businesses to reduce their carbon footprint through local sourcing of food.

Food poverty – South Lanarkshire Council believes this is another legitimate area for the NFB to be involved in. Again, the NFB would be working with partners to track and measure food poverty and would be ideally positioned to initiate projects or programmes to tackle food poverty.

Food advertising – regulation in respect of health claims and advertising currently sits with local authorities and South Lanarkshire Council would recommend that this position is maintained to avoid any issues around dual enforcement in respect of food labelling and presentation. South Lanarkshire Council would support the NFB being actively involved in promotional activities to improve consumer awareness and to assist consumers in making healthier food choices.

Provenance – South Lanarkshire Council recognises that provenance is an important food labelling issue and has significant benefits for the Scottish food industry. South

Lanarkshire Council would support the NFB being involved in this area and feels it sits well with the food standards remit and helps to support the Scottish economy by promoting Scottish produce.

Sustainability – South Lanarkshire Council recognises that this is an overarching consideration for every policy area and the NFB should consider sustainability issues.

Food Security – South Lanarkshire Council would support the NFB being involved in this area. The NFB should establish links with emergency and contingency planning organisations. The NFB 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?

Comments:

South Lanarkshire Council agrees the arrangements in annex A should continue. South Lanarkshire Council would support the NFB working with NHS & LA's to link into community planning partnerships and CHIP's. South Lanarkshire Council also agrees that in establishing the new food body clarity should be provided on which organisation takes the lead for diet and nutrition. South Lanarkshire Council suggests the improved clarity of roles and responsibilities will ensure better co-ordination and benefit everyone.

South Lanarkshire Council would also support the proposed interface with the education system and feels this is the correct age group to work with to bring about societal change.

South Lanarkshire Council would also support the NFB 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.

Comments – South Lanarkshire Council feels the areas suggested in the consultation document are the appropriate functions for the new Food Body.

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.

Comments: South Lanarkshire Council recommends that the NFB links into existing agencies, scientific committees etc. in the UK e.g. HPA. This will avoid duplication of effort and recognises the integrated nature of the food supply chain in the UK. South Lanarkshire Council suggests the NFB also establish links with international organisations, this is important due to the global nature of the food industry; as it is important that the new food body is aware of developments at an international level. South Lanarkshire Council also recognises that a great deal of expertise exists within Scotland and the NFB should establish effective links to HPS, research facilities and

academic institutions. This would be particularly beneficial in light of the incidence of VTEC in Scotland and the work that has been carried out in Scotland over a number of years.

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.

Comments: South Lanarkshire Council recommends that the NFB should deal with both areas as food businesses link into the UK food supply chains and this is a significant part of the Scottish economy. South Lanarkshire Council suggests that the NFB should access national scientific advisory committees etc and also contribute to UK wide research. South Lanarkshire Council recommends establishing good working relationships with HPS and HPA in respect of research and surveillance. South Lanarkshire Council would recommend that the level of research and surveillance activities is maintained at a level such that a skills and investment gap does not develop within the UK.

South Lanarkshire Council would recommend that the NFB works with SFELC and local authorities through the Food Liaison Group network to design statistically valid surveys and sampling programmes to provide evidence to inform policy making.

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.

Comments:

South Lanarkshire Council supports the NFB being responsible for food safety research, but would suggest the NFB works in partnership with the NHS on public health nutrition research.

In respect of the profile as a research funder, South Lanarkshire Council would recommend using existing links to academic institutions and international network for overseas 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.

Comments:

South Lanarkshire Council would recommend that the NFB works with SFELC and local authorities through the Food Liaison Group network when developing policy on food safety and standards.

South Lanarkshire Council would suggest that to get the maximum benefit from food surveillance sampling, the NFB should ensure all samples are recorded on the UK FSS database. South Lanarkshire Council currently does not use this system, but has advised the FSA that we are prepared to enter our food sampling information into the national database.

South Lanarkshire Council would suggest the new Food Body will need to consider what arrangements it will make to record and monitor service delivery in respect of

food safety, food standards and nutrition. Currently local authorities submit their performance data into the UK wide LAEMS database. South Lanarkshire Council would recommend that careful consideration is given to the information requirements of the NFB in respect of food safety, standards and nutrition and thereafter appropriate IT provision is then designed to meet this need. South Lanarkshire Council would suggest a common connector or hub device should be developed to allow food safety information to be transferred to the NFB.

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.

Comments – South Lanarkshire Council would support additional enabling powers being available to the NFB and a copy of our response to the FSA consultation which is running concurrently with this consultation is attached.

South Lanarkshire Council would suggest that current sanctions for food standards are inadequate and there is a strong need to ensure that food standards enforcement is given adequate attention and profile within food law enforcement. South Lanarkshire Council would recommend considering the new provisions outlined in the Macrory Report on sanctions and powers. South Lanarkshire Council is aware of the powers being proposed in the Regulatory Reform (Scotland) Bill in relation to environmental regulation and would suggest that the NFB should consider if similar powers would be appropriate to regulate food and feed businesses.

South Lanarkshire Council would recommend that the NFB obtains the enabling powers proposed in the FSA consultation and then carries out a review of current enforcement options. The review would be used to determine which new enforcements powers and sanctions are required and how they would be used. South Lanarkshire Council would recommend involving SFELC in this review as the wide membership of SFELC would be beneficial in the review process.

South Lanarkshire Council would recommend that the NFB considers the Audit Scotland report 'Protecting Consumers' and in particular the need for work-force planning. South Lanarkshire Council believes that only by having adequate resources available to deliver effective official controls, will local authorities be in a position to mitigate against the threat to consumers and reputable food businesses from incidents such as the recent food frauds. South Lanarkshire Council would recommend that the work force planning exercise is linked to any transfer of functions to ensure the most effective use of resources when delivering official controls and food and feed enforcement functions.

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.

Comments:

South Lanarkshire Council believes there is a lack of options available to deal with food standards contraventions. South Lanarkshire Council would suggest the NFB consider introducing a wider range of enforcement options that would fill the gap between informal action and reporting contraventions to the Procurator Fiscal. South

Lanarkshire Council would also support research into the potential to introduce fixed penalty notices for food safety and food standards contraventions. South Lanarkshire Council is aware of the powers being proposed in the Regulatory Reform (Scotland) Bill in relation to environmental regulation and would suggest that the NFB should consider if similar powers would be appropriate to regulate food and feed businesses.

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.

Comments: South Lanarkshire Council believes 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. South Lanarkshire Council would suggest that any changes are based on sound evidence that the change is merited and will address the objective of the change. South Lanarkshire Council is aware of the demands on existing resources within local authority enforcement services and would recommend that any change in function makes the best use of the available food and feed resources within Scotland.

In making any changes to existing roles and responsibilities South Lanarkshire Council recommends that any change should be designed to improve public health and address any gaps in the existing arrangements.

South Lanarkshire Council considers it 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. South Lanarkshire Council supports official control delivery remaining 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 can be responsible for delivering a range of other environmental health functions at food businesses e.g. health & safety, waste management, smoking prohibition, etc.

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.

Comments: South Lanarkshire Council believes the existing partnership between local authorities and FSA works well and the successful partnership approach in Scotland should be the building block for the NFB. In respect of the bullet points in paragraph 48 South Lanarkshire Council comments as follows:

Approval of food and feed establishments – South Lanarkshire Council understands that there has been criticism of the existing arrangements by the FVO and the creation of the NFB provides an ideal opportunity to improve existing arrangements. South Lanarkshire Council would recommend that careful consideration is given to any change implemented to ensure that the outcome will provide a sustainable and practical process for approving businesses. South Lanarkshire Council agrees the consultation proposal could 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. South Lanarkshire Council supports delivery of official controls remaining with local authorities for establishment where they currently deliver these controls. South Lanarkshire Council believe the success of this proposal will lie in the detail of how the proposal will work in practice, especially where the range of products requiring approval can change regularly. South Lanarkshire Council recognises that approved food businesses are an important part of the local and national economy and substantial employers; it is therefore vital that no unnecessary delays are introduced into the approvals process.

Food standards and FSA ops – South Lanarkshire Council agrees that dual enforcement should be avoided wherever possible. South Lanarkshire Council believes that having a single enforcement body for both food hygiene and food standards will benefit food businesses and represent good use of food enforcement resources. Obviously, if this proposal was implemented it could have implications for the NFB in respect of the qualifications of their enforcement staff and the NFB would need to ensure enforcement officers meet the qualification requirements of the Food Law (Scotland) Code of Practice.

Coordination of export certification – South Lanarkshire Council agrees with this proposal in respect of the co-ordination of certification requirements. However, South Lanarkshire Council recommends that the actual service delivery remains with local authorities, as it is important that the agency issuing the export certificate is familiar with the food business.

Import controls at ports of entry – South Lanarkshire Council recognises the benefits this could give in respect of consistency and may provide greater efficiency. However, given the small number of establishments this affects it is important to consider the impact any change would have on the local authorities involved. South Lanarkshire Council would suggest this could be an area where the flexibility to transfer enforcement responsibility could be utilised.

Delivery of official controls relating to animal feed hygiene and standards – South Lanarkshire Council would suggest that SCOTSS are best placed to comment on the wider impact this proposal would have on the Trading Standards service at local authorities. South Lanarkshire Council is aware of the Audit Advisory Committee's concerns in this area and the Audit Scotland report 'Protecting Consumer' which highlighted concerns relating to the resources available to deliver Trading Standards services. South Lanarkshire Council does recognise that the proposal could create a single enforcement organisation for the farming sector in respect of food and feed. South Lanarkshire Council would recommend that any changes in this area are considered carefully and do not adversely affect the delivery of the wider trading standards function by local authorities. South Lanarkshire Council currently does not have dedicated staff dealing with feed hygiene and feed sampling and therefore any loss of resources could impact on our other Trading Standards activities.

South Lanarkshire Council attended the recent Scottish Government consultation event with the Primary Production Working Group and the Feed Sub-committee and a number of suggestions were made in respect of this proposal. From views expressed at the meeting it was recognised that the NFB could bring a strategic overview to feed enforcement. During discussions concerns relating to feed and feed

ingredient imports were raised and this is an area South Lanarkshire Council would suggest the NFB should review. An emerging issue that South Lanarkshire Council would recommend the NFB considers relates to former food entering the feed chain and the impact of carry over packaging that enters the feed chain along with the food.

In respect of first landings of fish at fish markets, South Lanarkshire Council has no experience of this aspect of food safety and would recommend the views of local authorities currently undertaking these duties are considered when determining the outcome of the consultation.

Delivery of all official controls and related monitoring activity during primary production – South Lanarkshire Council recognises that this proposal will create a single enforcement authority for the primary food production sector and is consistent with the Scottish Government's SEARS project. South Lanarkshire Council believes the proposal could bring economies of scale and address gaps in the current arrangements. South Lanarkshire Council would recommend that any changes in this area are considered carefully and do not adversely affect the delivery of the wider environmental health and trading standards functions by 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 – South Lanarkshire Council agrees with this proposal as it will provide consistency and address any gaps in the current arrangements.

Recognition of natural mineral water sources – South Lanarkshire Council agrees with this proposal as it will provide consistency.

Para 49: technical and professional training – South Lanarkshire Council agrees with this proposal and believes it would be useful. South Lanarkshire Council recognises the potential to establish a similar role in relation to training for the new Food Body to that of HSE in providing specialist support to local authorities on occupational health and safety enforcement.

Para 50: Formalise SFELC through legislation – 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. South Lanarkshire Council has supported SFELC by allowing a member of staff time to participate in SFELC for a number of years and can therefore see the benefits that SFELC brings to food safety enforcement. South Lanarkshire Council would recommend that SFELC should become a properly constituted advisory body to the new Food Body and that SFELC is formally consulted on relevant issues.

South Lanarkshire Council believes there is an area where more formalised recognition would be beneficial and this relates to the status of the guidance produced by SFELC. 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. South Lanarkshire Council is 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

South Lanarkshire Council would recommend that the existing Food Law Code of Practice and Practice Guidance are replicated to detail the delivery of official controls. South Lanarkshire Council would suggest that this would provide an opportunity to review these documents and make any amendments to reflect the changes being introduced in Scotland.

South Lanarkshire Council also recommends the new Food Body prepares a Scottish Framework agreement similar to the framework agreement that currently exists and that the framework agreement is formally recognised and is binding on organisations delivering official controls.

South Lanarkshire Council recognises the benefits of the current audit arrangements and would recommend the existing arrangements are not only retained but formalised.

South Lanarkshire Council is aware that 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. South Lanarkshire Council would also suggest that the New Food Body works with CoSLA on the workforce planning arrangements suggested in the Audit Scotland 'Protecting Consumers' report.

13: Are there any additional or alternative relationships that you 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.

Comments: South Lanarkshire Council believes the existing partnership approach adopted by FSA has worked well and recommends the new Food Body builds on these existing arrangements.

The new Food Body will also need to develop a relationship with the UK FSA, which will be the central competent authority for the UK.

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?

Comments: South Lanarkshire Council welcomes the consumer focus proposed for the new Food Body and would recommend engagement is via the existing networks created by FSA. South Lanarkshire Council is aware that some local authorities have established citizen panels/forums and the new Food Body may consider liaising with local authorities to access consumers via local authority engagement mechanisms.



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.

Comments:

South Lanarkshire Council agrees with the approach to ensuring the new food body's independence from Government and the food industry. South Lanarkshire Council believes this is important for the delivery of Scottish Government's aim to protect public health and maintain consumer confidence. South Lanarkshire Council would recommend the existing liaison arrangements are continued as these can deliver a means of communicating effectively with Government and the food industry without compromising the independence of the NFB.

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?

Comments:

South Lanarkshire Council would recommend that the creation of the new Food Body is an ideal opportunity to consider licensing of food businesses. Licensing of butchers shops was introduced after the Central Scotland E coli outbreak and operated successfully. Licensing would provide a means of prior approval to determine that a food business is able to operate safely and in line with legal requirements. Such arrangements already exist for Approved Food Establishments and other food businesses need to comply with licensing arrangements regarding the sale of alcohol, street trading and late hours opening. The introduction of pre-approval licensing would protect consumers and reputable food business operators. Prior approval licensing could also avoid costly design and or fit out faults. The licensing process would utilise the expertise that exists within the local authorities as an aid to business.

South Lanarkshire Council would recommend that the NFB considers revising the existing inspection frequencies for both food hygiene and food standards inspections, to enable the finite resources available for inspection to be deployed effectively and efficiently. Currently, there is a requirement to inspect all food businesses and then include them in the interventions programme; as a result resources are used in visits to very low risk food businesses. Reviewing the frequency of inspection and considering the risk classification of food businesses could lead to resources being directed at higher risk food businesses. South Lanarkshire Council is aware that an EU member state has a 'no inspectable risk' category and within Scotland we operate a random inspection frequency based on a quantity of food businesses being selected in the primary production sector. South Lanarkshire Council would recommend that the NFB considers if changes to the inspection frequency and targeting guidance could alleviate some of the resourcing issues that exist or will arise in the future.