

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?

- Yes, in the following areas:

Export Certification

Current arrangements for export certification are unwieldy, slow and complicated and the New Food Body should take responsibility for this from AHVLA and FSA. There is only one part-time individual for the whole of the UK who accredits all meat companies & cold stores to export to third countries, a clearly inadequate level of resource for such a vital activity in enabling the growth of Scottish food exports.

Provenance, Protected Food Names & Organic Labelling

The new Food Information Regulation should be the sole responsibility of the New Food Body, encompassing both nutritional and provenance information on labels and ensuring that effective traceability systems are in place. There appears to be no active enforcement of the Protected Food Names Regulation and this, along with organic labelling verification, should also come under the New Food Body. The Scotch Beef PGI alone provides an added value to the Scottish meat industry of £72m per year and yet there has never been a single prosecution brought by Trading Standards for fraudulent labelling.

TSE Regulation

With the reduction of incidence in the animal population, TSE Regulations are predominantly there to protect human (rather than animal) health and as such, it makes sense to transfer responsibility to the New Food Body. FSA Operations already carries out many of the enforcement activities for these regulations.

Animal Health

QMS does not have a clear view at present about whether Animal Health responsibilities should be transferred to the New Food Body. We would want to see a clearer analysis of the advantages and disadvantages of such a move.

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?

- Annex A serves only to demonstrate that this is a complex area with activity underway by FSAS, Scottish Government, NHS and other agencies, including QMS. In light of this complexity, there will

undoubtedly be more efficient ways in which the objectives can be delivered but identifying those arrangements will require time for detailed consideration. We suggest that an early responsibility of the New Food Body should be to undertake a strategic review of public sector diet and nutrition activity.

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.

- See response to answer 2.

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.

- Continued access to the scientific advisory committees should be investigated. It should be noted, however, that the speed of response from these committees is at times unsatisfactory. ACMSF, for example, have three meetings each year and approve the minutes of the previous meeting at the next meeting. This adds a minimum of four months before the opinion can be considered as an official view. Consumer's interests in food related issues moves at a much faster pace.
- The work of the Social Science Research Committee is of particular importance to the nutrition and health policy areas and as such, it is questionable whether two meetings per year is sufficient to provide proper evidence to support decision making. The absence of any of the food market research institutes from the membership is also notable, given that the highest quality information that QMS uses on UK consumers buying habits comes from Kantar Worldpanel and the Institute of Grocery Distribution rather than academia.
- Additional scientific advice would be needed to match any expansion in scope for the New Food Body, for example, in the areas of authenticity testing.
- Short-life expert working groups may prove a more effective mechanism for generating quality evidence upon which to base decisions, particularly at times of crisis. It is essential that these draw not only upon academia but also the food industry itself, since consumers are their direct customers with whom they deal on a daily basis.

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.

- The New Food Body should concentrate its research focus upon issues that are pertinent to Scottish citizens since it is their public funding that is being used to support the research. Other parts of government (such as the Department for International Development) already support food research of a more global relevance. There will be instances where collaboration on wider issues makes sense. For example, a proportion of QMS research funding is pooled with those from counterparts in Wales, Northern Ireland and England to commission projects that meet an objective of common interest but the starting point for all commissioning decisions are whether they benefit Scottish levy payers first.

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.

- Whilst it is desirable that research into food safety and public health nutrition is coordinated, para 38 provides no arguments to explain whether the New Food Body would be the best organisation to undertake this role. Should it do so, it will need to have direct control of substantial funds since this is an expensive area in which to undertake research. The profile of the New Food Body as a research funder will rise quickly enough if it is seen as having enough money available to support substantive projects.

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.

- The consultation suggests a curious interpretation of independence that implies that any involvement of the food industry in the New Food Body would compromise 'independence'. Greater industry involvement at the design stage will improve the quality of policy and enforcement regimes, leading to more effective outcomes to deliver what consumers actually want. An absence of any practical knowledge at these early stages simply leads to control mechanisms that do not deliver the intended outcomes.
- The Scottish food industry has a wealth of relevant practical expertise (particularly relating to food safety and standards) and it would be a missed opportunity if mechanisms are not created to draw upon this experience whilst retaining consumer confidence in the New Food Body.

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.

- In addition to existing statutory powers, there may be a requirement for

additional powers to enforce the Food Information Regulations, although this may already be in place. It is also clear that there is no domestic legislation to enforce the Protected Food Names, of which Scotch Beef, Scotch Lamb and Scottish Farmed Salmon are the largest by value in the UK. Awareness of EU Regulation 1151/2012 amongst local authorities is practically non-existent, which suggests that there is currently no proactive enforcement of this regulation.

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 no doubt that more effective penalties are needed for contraventions of food standards and safety law. Successful prosecutions for food related offences are rare for hygiene and practically non-existent in relation to food standards. When the proceeds of fraudulent labelling can stretch to hundreds of thousands of pounds, a maximum penalty of £5,000 is not a sufficient deterrent.
- Whilst greater use of new measures like fixed penalty notices is appealing, it is essential that the food business operator has an acceptable opportunity for fair justice. The publication by FSA of the Cause for Concern list in early 2012 highlighted severe shortcomings in the processes that had been followed to reach that stage and caused significant reputational damage to at least one Scottish meat company affected. Significant planning (including the involvement of the food industry) should be undertaken before new penalties are put into place.

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.

- See response to Question 1.

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.

- The flexible approach outlined in the first part of Para 48 seems more practical to implement than having a major re-shuffle of responsibilities between NFB and local authorities, particularly if removal of functions could threaten the on-going existence of that local expertise.
- If approval of new establishments is to be centralised, arrangements must be made to enable new applications to be processed very quickly. It would represent an unnecessary obstacle to the development of new food enterprises if they are required to wait for purely administrative reasons and would run counter to overall Scottish Government objectives of sustainable economic growth. Arrangements for businesses that are sold as a going concern also needs attention to

avoid unnecessary delays in operation.

- Food standards and labelling should be a more important part of the controls carried out on approved establishments. Meat cutting plants in particular are high risk operations from the perspective of fraudulent labelling and it is debatable whether the existing enforcement regime is rigorous enough to deter such practices.
- The current arrangements for export certification of meat products are unsatisfactory because DEFRA appear unwilling to commit adequate resources to this activity. Even routine activities, such as the certification of individual shipments, are complicated and involve more people and time than should be the case. This adds cost and delays and can result in the loss of business from Scottish companies to foreign competitors. The New Food Body should be encouraged to redesign the way in which export certification is supported, minimising cost and bureaucracy whilst meeting the requirements of the third countries involved.
- The consultation suggests the NFB should take over inspection of feed law enforcement from local authorities but Government should consider whether SGRPID would be better doing it all instead, given their predominant role in the farm inspections already.

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.

- The New Food Body ideally should undertake all audit functions required in Scotland, such as that covering meat operational functions. Should FSA be unwilling to relinquish this role, then NFB should not undertake parallel audits (suggested in Para 55) because that would simply duplicate efforts and add cost.

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.

- No comment.

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?

- QMS support the proposal for a consumer panel approach, perhaps modelled on the BBC Audience Council for Scotland. This does need to be supported by structured consumer research because no matter how well they are selected, a small group of individuals cannot truly represent the diversity of five million consumers in Scotland. It is also important the views of 'consumerist' groups are not given undue weight since their

membership is often skewed towards particular parts of the population.

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 structure proposed in Para 62 as a model for appropriate corporate governance. The Scottish Food Advisory Committee already operates in an effective manner so this could be transformed into the new Board. It should be noted, however, that the New Food Body cannot be considered totally independent from government because it will be predominantly funded from the public purse.
- There is no good explanation given in Para's 60-63 as to why the New Food Body must be totally independent from the food industry. One of the shortcomings of the current Food Standards Agency governance is that Board members with direct experience of the sectors that are being discussed are excluded due to an overzealous interpretation of conflict of interest rules. The pursuit of Better Regulation will be greatly enhanced by the involvement of the food industry in the development of policy and enforcement regimes. For example, better policy relating to primary production will be developed if farmers and fishermen are allowed to contribute their expertise rather than it being developed by a group of individuals with no working experience of the sector in question.
- Clearly it is essential the strategic objective of the New Food Body remains for the protection of consumers. This will, however, be achieved far more effectively with the controlled involvement of the food industry, rather than its total exclusion as is currently the case with Food Standards Agency. Whilst there are clear examples where the industry has fallen short of acceptable standards, it is important to keep this in perspective because the food industry sustains five million consumers every single day in Scotland.
- The key to maintaining consumer confidence in relation to industry and NFB engagement will be transparency so detailed minutes and papers should be made publicly available. The approach used to the websites for the existing scientific committees should be copied.

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?

- The following areas mentioned in Para 20 should not be included in the scope of the New Food Body:

Sustainability

There are numerous other bodies involved in the sustainability of the

Scottish food industry, such as QMS, Resource Use Scotland, Scotland Food and Drink and the Scottish Food & Drink Federation. With no current expertise in this subject, there is no justification for the New Food Body to get involved in any significant sense in sustainability.

Environment

A similar argument applies to environmental issues, where SEPA already has the lead role.

Food Security

This is a policy aspect that requires political judgements to be made and should therefore stay with Scottish Government.