

## 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 we support the view that the scope of the new food body should extend beyond the scope of the FSA in Scotland as detailed in paragraph 20 of the consultation document and in particular should include issues such as;

- Health – overconsumption of alcohol and poor diets leading to obesity and other significant health problems in Scotland. Whilst we believe that the lead should come from health professionals there is an opportunity for the new food body to work in partnership with health boards to assist with improving the health of the nation. The new food body would be in a position to influence the food industry and politicians on food composition, portion sizes and labelling. They can also work more with local authorities in ensuring that resources are delivered to do more work on food standards, sampling and educational issues.
- Environment – this can impact on food quality and/or availability. The new food body could 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.

**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?**

We believe that the arrangements in Annex A of the Consultation should continue. As touched on previously clarity needs to be given regarding who takes the lead on issues such as diet and nutrition but we think this lead role should be the health boards. A better mechanism for linking into community planning partnerships would also be helpful.

We also support the proposals in the consultation document regarding education initiatives and also the proposal that the new food body takes 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.**

It is our view that the additional roles, responsibilities or functions relating to diet and nutrition issues which are specified within the consultation document should become part of the remit of 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.**

It is essential that the new food body has sufficient staff who have the expertise required to provide the strategic focus and direction to ensure that food safety standards in Scotland comparable favourably anywhere.

In addition to this, in order to assist in this process and given that the role of the new food body should extend more into other issues such as diet and nutrition, we believe that the new food body should also work closely with other recognised expert bodies such as HPS and academic bodies to ensure that it has the expertise necessary to deal with complex challenges some of which would be literally life changing for some people.

**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 main focus should be on Scottish related issues however, contributing to issues relevant to the UK would encourage liaison and identify possible trends. This approach recognises that many issues link into the UK food supply chains and this is a significant part of the Scottish economy.

We believe that the new food body should access national scientific advisory committees etc and also contribute to UK wide research. It is important that the level of research is maintained at a sufficiently high level that a skills and investment gap does not develop within the UK.

We would also suggest that the new food body 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.**

Yes it makes good sense to coordinate such research as this enables it to be the centre of an information flow from consultees, public and private organisations, local government specialists, industry, academia etc. and be best placed to have an informed overview.

So far as diet and nutrition focussed research is concerned perhaps it would be beneficial for the new food body to work in partnership with the NHS.

Some benefit may also be had from using existing links to academic institutions and the international network for overseas research in regard to funded 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.**

SFELC and local authorities, perhaps through the Food Liaison Group network, could assist with helping to provide an evidence base for food policies.

They could also work with the new food body to design and co-ordinate statistically valid surveys and sampling programmes to provide evidence to inform policy making.

An important issue is that 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. The new food body should review how this system works and try and identify a more user friendly system for gathering and interpreting the information.

The recent food fraud incidents have highlighted the need for accurate, 'real time' reporting abilities. The new food body will need to consider how it can capture information on official controls and sampling activity carried out by other organisations, which will provide the information required to independently report on enforcement and surveillance activity as and when required.

**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.**

Statutory powers in regard to food standards issues are currently inadequate and this should be reviewed.

We believe that fixed penalty notices would assist in improving compliance with food safety standards. This would be an effective and proportionate response for issues such as the sale of food beyond the use by date.

The effectiveness of the use of statutory powers by enforcement officers is determined to some extent by the need to ensure that sufficient staff are available and in this regard the new food body needs to follow up on the recommendation in the Audit Scotland report that the FSA should work together with local authorities to provide sufficient numbers of EHOs to get the job done.

Clearly all local authorities are under pressure to cut budgets and this impacts on everyone. Difficult decisions need to be made as to staffing levels in different disciplines. However, the work done by EHOs is largely a statutory requirement for LAs unlike many other services. This key difference should be factored into future staffing decisions.

Consideration should also be given to whether LAs would be able to retain fixed penalty fees should statutory powers ever be introduced. Clearly there is an issue for some in regard to erosion of independence of enforcement officer but this would clearly assist in staffing costs.

We also believe that the opportunity should be taken to dispense with registration of food premises and replace this with licensing provided this applies only to A-C risk food premises. This would fit into the principle of focussing on higher risk food premises.

**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.**

None other than to say that if fixed penalties were introduced then these would need to be bolstered by meaningful monetary fines (including covering the cost of debt recovery in event of non-payment). Otherwise, it'll continue to be seen as a relatively risk free enterprise by errant FBOs given the difficulties many enforcement authorities have in securing prosecutions through the courts.

**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.**

Reference has already been made to the new food body working more in partnership with others regarding issues such as diet and nutrition. There are also other opportunities for streamlining procedures such as one body dealing with approved premises.

It is our impression however that the existing FSA Scotland has been poorly staffed in terms of numbers. Whilst we believe that this should be addressed it should not be at the expense of local authorities whereby no additional staff are provided and that there is simply a transfer of some staff from Councils to the new food body. It is our view that this would have a seriously detrimental impact on food safety.

Enforcement work undertaken by EHOs and FSOs in Scottish local authorities is largely working well partly because they follow a comprehensive enforcement Framework Agreement which has been developed between the FSA and local authorities over time. This helps to provide the focus and organisation necessary to get the job done efficiently and effectively.

This contrasts sharply with some other local government services who have been reported as being poorly organised. It is important therefore that we build positively on what we already have.

**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.**

We believe that the existing partnership between local authorities and the FSA works well and the successful partnership approach in Scotland should be the building block for the new food body.

In regard to some of the issues detailed in paragraph 48 we would comment as follows:

**Approval of food and feed establishments** – we agree with the consultation 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.

**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. This proposal removes an area of dual enforcement.

**Export Certificates** – we agree with this proposal in respect of the co-ordination of certification requirements provided the actual service delivery remains with local authorities.

**Import controls at ports of entry** – the proposal could provide more consistency and 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. Perhaps 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** – we suggest that SCOTSS are best placed to comment on the wider impact this proposal would have on the Trading Standards service at 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 consistency and address any gaps in the current arrangements.

**Recognition of natural mineral water sources** – we agree with this proposal as it will provide consistency.

**Para 49: technical and professional training** – we agree with this proposal and believe it would be very useful. There is an opportunity here for the new food body to establish a similar role in relation to training to that of the HSE in providing specialist support to local authorities on occupational health and safety enforcement.

**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.**

This may require an amendment to the Framework Agreement and/or a Service Level Agreement between the new food body and local authorities to ensure that firstly local authorities do deliver on what they need to do in respect of the delivery of official controls and secondly that the new food body and local authorities work together to ensure that local authorities have sufficient resources to be able to get the job done properly.

The point regarding resources links into narrative regarding this issue in the Audit Scotland “Protecting consumers” report where it is recommended that the new food body would work with CoSLA on this. If both bodies work together to deliver necessary resources it would also then meet relevant EU obligations specifically detailed in EC regulation 882/2004 - *The competent authorities for performing official controls should meet a number of operational criteria so as to ensure their impartiality and effectiveness. They should have a sufficient number of suitably qualified and experienced staff and possess adequate facilities and equipment to carry out their duties*

*properly.*

**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?**

The new food body needs to find out what the public want and expect through genuine consultation and then act on findings and let the public know what has been done.

Public support and confidence in the new food body will be an essential element in it's future success. Our view was that the Agency is sometimes not as good as they need to be at public relations issues particularly for publicising new initiatives sometimes opting for a "low profile" approach. This has resulted in missed opportunities in some cases and care needs to be taken not to repeat previous mistakes.

Local authorities also have their part to play. It is our view that they all should have some form of meaningful process whereby they can gauge local public feelings on food safety issues. Perhaps the need to have some sort of local engagement with consumers needs to form part of a SLA between the new food body and local authorities.

**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 that the new body should be independent from undue government influence. This is essential for the delivery of the Scottish Government's aim to protect public health and maintain consumer confidence. In order to assist this process we would recommend that 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 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?**

We have previously suggested that as part of the process of setting up a new food body that a new Framework Agreement and/or Service Level Agreement is drawn up between the new food body and local authorities.

We believe that this would be an opportunity to build on existing measures to provide greater consistency in enforcement amongst local authorities and to set some form of target which local authorities would be expected to achieve, provided the new food body and local authorities met their obligations in terms of resources.

For this to work it would need to be relatively simple so that it can be easily measured and also for the public to be able to easily understand. We suggest as an initial building block in this process that a minimum target is set for all local authorities throughout Scotland in terms of the percentage of broadly compliant food premises. Perhaps a need to ensure that all high risk food premises are all inspected at least within current minimum periods should also be considered as a target for inclusion in a SLA.

Clearly this presents greater challenges for some local authorities than others mainly on account of the varying numbers and/or types of businesses in each authority.

The application of a robust auditing process by the new food body based on risk levels would also assist in monitoring levels of performance and consistency in local authorities.