

New Food Body

CONSULTATION RESPONSE FROM FALKIRK COUNCIL

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?

Falkirk Council generally supports extending the scope of the New Food Body beyond the current scope of FSA in Scotland. It is important that strategic leadership and a multi-agency approach is maintained.

In relation to the areas mentioned in paragraph 20 of the consultation, Falkirk Council would comment as follows:

Alcohol – Falkirk Council supports a multi-agency approach to dealing with the health problems associated with alcohol consumption. The New Food Body would have an important part to play in national strategies and engaging with local authorities to tackle these problems, but it is logical that the lead should come from health professionals within the NHS.

Obesity – Falkirk Council supports the New Food Body being actively involved in this area. The New Food Body, working with other partners, would be well placed to deliver improvements in obesity levels in Scotland. In addition, it would have influence on 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 – Falkirk Council recognises the impact the environment can have on food quality and safety and how adverse environmental conditions can affect human health. Falkirk Council believes that the New Food Body 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 the local sourcing of food.

Food poverty – Falkirk Council believes this is another legitimate area for the New Food Body to have a role, working with partners, primarily in local authorities to initiate projects or programmes to tackle food poverty.

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

Provenance – Falkirk Council recognises that provenance is an important food labelling issue and has significant benefits for the Scottish economy and food

industry. Falkirk Council would support the New Food Body having a role in the marketing of Scotland's quality food produce.

Sustainability – Falkirk Council recognises that this is an overarching consideration for every policy area and the New Food Body should consider sustainability issues.

Food Security – Falkirk Council 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 or pollution events.

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?

Falkirk Council believes that the current arrangements as listed in annex A should continue. We would support the New Food Body working with NHS and local authorities to link into community planning partnerships.

Falkirk Council would also support the New Food Body taking the lead in the areas outlined in paragraphs 34 and 35 relating to procuring scientific advice and overseeing Healthy Living Awards.

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.

Falkirk Council believes that 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.

Falkirk Council recommends that the New Food Body links into existing agencies' scientific committees within the UK such as the (former) Health Protection Agency, now Public Health England and others, as appropriate. Falkirk Council suggests that the New Food Body also establish links with international organisations, 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. It should also be recognised that a great deal of expertise exists within Scotland and the New Food Body should establish effective links to Health Protection Scotland and other 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.

Falkirk Council recommends that the New Food Body should deal with all areas where food businesses link into the UK food supply chains. The New Food Body should access national scientific advisory committees and also contribute to UK wide research. Good working relationships with other appropriate agencies should be established in respect of research and surveillance.

Falkirk Council would recommend that the New Food Body works with SFELC and local authorities through the Food Liaison Group network to validate sampling surveys and programmes.

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. Falkirk Council supports the New Food Body being responsible for food safety research funding, but would suggest it works in partnership with local authorities, via the Food Liaison Group network and with the NHS on public health nutrition research. In addition, to recognise that there is value in collaborative working with UK bodies, in order to avoid duplication of research.

In respect of the profile as a research-funder the New Food Body could promote its profile through events and conferences, using existing links to academic institutions and international networks.

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.

Falkirk Council would recommend that the New Food Body works closely with SFELC and local authorities through the Food Liaison Group network when developing policy on food safety and standards.

The UK FSS and LAEMS databases should be utilised by the New Food Body as useful sources of information which would assist in developing policy.

Recent food fraud incidents have highlighted the need for accurate reporting of food sampling activities. The New Food Body ought to consider how it can capture information on sampling activity carried out by other organisations, such as in the private sector, which will provide the New Food Body with the ability to augment information held 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.

Falkirk Council would support additional enabling powers being available to the New Food Body and to local authorities, as appropriate, to deal with contraventions of food standards legislation. A range of Notice procedures similar to those available for food hygiene should be considered, as well as the introduction of Fixed Penalty

Notices. These might be appropriate for offences such as display of food beyond a 'use-by' date.

Falkirk Council notes that there are no powers available to enforce Protected Geographical Indications (PGI) and would therefore recommend that the New Food Body adopts the principle that legislation be sought to enforce these issues and that powers are available to it and local authorities to enforce PGI offences.

Falkirk Council would recommend that the New Food Body considers the Audit Scotland report 'Protecting Consumers' and in particular the need for work-force planning. Falkirk 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.

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.

Falkirk Council believes there is a lack of options available to deal with food standards contraventions. Falkirk Council would suggest the New Food Body consider introducing a range of notices that would fill the gap between informal action and reporting contraventions to the Procurator Fiscal. Falkirk Council would also support research into the potential to introduce fixed penalty notices for food safety and food standards contraventions.

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.

Falkirk 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.

In proposing any changes to existing roles and responsibilities Falkirk Council recommends that any change should be preceded by extensive consultation with the stakeholders affected and that the resulting change be designed to improve public health and address any gaps in the existing arrangements.

Falkirk 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. Falkirk 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 may be responsible for delivering a range of other environmental health functions at food businesses such as health & safety, waste management, noise control and smoking prohibition, among others

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.

Falkirk 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 New Food Body. In respect of the bullet points in paragraph 48, Falkirk Council comments as follows:

Approval of food and feed establishments – Falkirk Council does not agree with the consultation proposal. Falkirk Council supports delivery of official controls remaining with local authorities for establishments where they currently deliver these controls. Falkirk Council is aware that a number of local authorities have misgivings about this proposal. In particular there are concerns about how the proposal will work in practice, especially where the range of products requiring approval can change regularly.

Falkirk Council would recommend that if this proposal is implemented, Scottish Government and/or the New Food Body should work closely with local authorities to establish the detail on how the proposal would be implemented and work in practice. Falkirk 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 to the approvals process.

Food Standards Enforcement in FSA Operations – Falkirk Council agrees that food standards should be delivered by the New Food Body where they also deliver food hygiene official controls. Falkirk Council supports this proposal as it removes an area of dual enforcement. Obviously, if this proposal was implemented it could have implications for the New Food Body in respect of the qualifications of their enforcement staff and the New Food Body would need to ensure enforcement officers meet the qualification requirements of the Food Law (Scotland) Code of Practice.

Co-ordination of export certification – Falkirk Council agrees with this proposal only in respect of the co-ordination of certification requirements. However, Falkirk Council recommends that the actual service delivery remains with local authorities.

Import controls at ports of entry – Falkirk Council, having the largest container port in Scotland providing the highest volume of imported food **strongly opposes** this proposal, as we perceive no discernable advantage in removing this function from local authorities. Falkirk Council has a dedicated team of officers who administer port health controls (including those not relating to imported food, such as Inspections for Ships Sanitation Certificates; dealing with public health issues at the port should there be cases of illness among passengers or crew; pollution incidents, noise abatement, air pollution and waste disposal). The existing regime works very well, with good relations with the local port operator, HM Customs, other port authorities in Scotland and elsewhere in the UK, via SPLaN (Scottish Ports Liaison Network) and APHA (the Association of Port Health Authorities). Removal of this

function alone would be disruptive in that the residual elements of port health work would have to remain with the local authority and result in dual enforcement.

Delivery of official controls relating to animal feed hygiene and standards – Falkirk Council would suggest that since this function is administered by Trading Standards services in local authorities, they are better placed to respond. However, we are aware of the Audit Scotland report ‘Protecting Consumers’, published in January 2013, which highlighted concerns relating to the resources available to deliver Trading Standards services. Falkirk 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.

Delivery of all official controls and related monitoring activity during Primary Production - In respect of first landings of fish, the inspection of fish at markets is currently undertaken by local authority inspectors who also undertake official controls at fish processing establishments maintaining continuity of inspection in the supply chain. If the inspection of fish was transferred to the New Food Body it would mean that official controls at the market would be undertaken by the local authority (eg hygiene standards/transport) with fish inspection undertaken by the New Food Body. Such a situation would break up the current position where one food body (the local authority) has responsibility for food safety and standards at the premises and therefore Falkirk Council is of the view that the inspection of fish on first landing should remain with the local authority

Falkirk 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. Falkirk Council believes the proposal could bring economies of scale and address gaps in the current arrangements. However, Falkirk 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 carried out 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 – Falkirk Council agrees with this proposal as it will provide consistency and address any gaps in the current arrangements.

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

Technical and professional training – Falkirk Council agrees with this proposal and believes it would be useful. Falkirk Council recognises the potential to establish a similar role in relation to training for the New Food Body to that of HSE which provides specialist support to local authorities on occupational health and safety enforcement.

Formalise SFELC through legislation – SFELC is a body that is widely recognised and valued within the food enforcement community and plays an important, independent role in advising and issuing guidance. Falkirk Council agrees that this role should continue for the New Food Body and should be enshrined in legislation.

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.

Falkirk Council considers that the role of food safety enforcement has been well-executed over the years by local authority professionals, such as Chartered Environmental Health Officers, EHOs and Food Safety Officers. Recent food fraud incidents have highlighted the excellent work carried out by them at local level, in collaboration with national authorities. It is important that these relationships continue in an environment of amicability and mutual respect and Falkirk Council would urge the New Food Body to strive to maintain that ethos, while doing everything possible to promote the professional work done in this field.

Falkirk Council also recommends that the New Food Body prepares a Scottish Framework Agreement similar to the one in current use and that it is formally recognised and is binding on organisations delivering official controls.

Falkirk Council recognises the benefits of the current audit arrangements and would recommend the existing arrangements are retained.

Falkirk Council recognises that the New Food Body will have responsibility relating to workforce planning and so may benefit from establishing service level agreements with local authorities to have the assurance that official controls will be delivered adequately and consistently across Scotland. Falkirk 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 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.

Falkirk Council believes that the existing partnership approach adopted by FSA has worked well and recommends that the New Food Body builds on these arrangements, with more emphasis on linkage to issues being tackled by the NHS in relation to health 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?

Falkirk Council is encouraged by the commitment to the New Food Body being consumer-focussed. Existing measures for engagement with stakeholders have been satisfactory such as having trade body representation at SFELC and can be expanded upon in a number of ways, such as via the use of social media to engage with consumers.

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.

Yes. Falkirk Council agrees with the concept that the New Food Body's independence from Government and the food industry should be enshrined in its Constitution. Falkirk Council believes that this is important for the delivery of the Scottish Government's aim to protect public health and maintain consumer confidence. The existing liaison arrangements should be built upon 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?

Falkirk Council considers that any proposed wholesale change to the way that food legislation is enforced, which may have an impact on local authorities' resources, should be subject to rigorous consultation in advance. The removal of any function from local authority enforcement will have a significant detrimental effect on the sustainability of environmental health services in many local authorities. Where there is a need for local enforcement to be done by the New Food Body and where the resources do not exist, consideration should be given to engaging local authority competent personnel on a temporary or agency basis, in order to permit the function to be carried out without interruption and to allow the resources of local authorities to remain viable.

Falkirk Council would recommend that the creation of the New Food Body is an ideal opportunity to consider the licensing of food businesses. Licensing of butchers shops was introduced after the Central Scotland *E coli* O157 outbreak and was responsible for a noticeable improvement in hygiene standards in that sector. 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 many other food businesses require 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.