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A Healthier Scotland: Creating a New Food Body: Consultation Analysis



A HEALTHIER SCOTLAND: CREATING A NEW FOOD BODY: CONSULTATION ANALYSIS

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1. EXECUTIVE SUMMARY

1.1 In 2010 the UK Government moved responsibility for nutrition and food labelling and standards in England away from the independent Food Standards Agency (FSA) to the Department of Health and the Department of Environment, Food and Rural Affairs (Defra), respectively. Following this decision, Scottish Ministers asked Professor Jim Scudamore to undertake a review to assess the feasibility of establishing a stand-alone Scottish FSA (FSAS) which included a Scottish meat inspection delivery body and which maintained the existing statutory objective of the FSA, to protect consumers. The Scudamore report¹ recommended that a single, independent public body be created, at arms length from the Scottish Government, with clear responsibility for all aspects of food safety and standards.

1.2 Scottish Ministers accepted all of the Scudamore report recommendations, and the Scottish Government wished to hear the views of consumers and industry stakeholders on the remit and role of the proposed new food body. To this end, it published a written consultation paper² posing 16 open questions aimed at generating views on what the new food body should do and how food safety and standards should be addressed in Scotland in the future.

1.3 One hundred and twenty six responses to the consultation were submitted: 93% of these were from organisations, and 7% from individuals. The largest category of respondent was local authorities, comprising 19% of all respondents.

1.4 A summary of views contained in the consultation responses follows.

Scope of the new food body

1.5 The majority (63%) of those who provided a view considered that the scope of the new food body should extend beyond the current scope of the FSAS, with a common view being that it should encompass all aspects of food “from farm to fork”. A minority of respondents advocated waiting until the new food body has been established before considering extensions to its scope.

1.6 Of the broad areas for extension of scope suggested by respondents, the most frequently suggested was food poverty. Other frequently mentioned areas were provenance; food security; alcohol; tackling obesity; sustainability and environment considerations; and education.

Roles and responsibilities

1.7 Annex A of the main consultation paper set out current arrangements existing between the FSA and the Scottish Government in relation to diet and

¹ <http://www.scotland.gov.uk/Publications/2012/04/6141/0>

² <http://www.scotland.gov.uk/Publications/2013/02/2691/0>

nutrition. Of the respondents who provided a view, 75% considered that the proposed new food body and the Scottish Government should, by and large, continue with these arrangements for independent and partnership work.

1.8 Dominant themes were that clarity over respective roles is very important, and final arrangements should be publicised widely across industry and NHS boards and to the public. Another recurring comment was that the independence of the new food body, and its intention to operate in an open and transparent manner, should be made clear.

1.9 An area most commonly identified for expansion by the new food body was working in partnership with a broad range of relevant bodies and sectors, with the food industry and NHS Health Scotland and health boards highlighted in particular. Another common recommendation was for the new food body to expand its education function to deliver consistent, evidence-based messages on diet and nutrition, largely in schools, further and higher education establishments.

1.10 Other key areas of potential expansion identified by respondents were research functions and supporting local initiatives (whether strategically or by helping with implementation).

1.11 A minority view was that other bodies already undertake such functions adequately and expansion into these areas by the new food body could cause confusion and inefficiency.

Science and evidence

1.12 The majority (70%) of those who provided a view on possible steps which the new food body could take to access the best available independent expert advice, recommended that it secure access to the scientific advisory committees already operating.

1.13 It was commonly perceived that independent expert advice exists within Scotland with reference made to academic institutions and research bodies, Scottish Government departments, the wider scientific community, public analyst services, NHS Health Scotland and regional health boards, and local groups and committees.

1.14 A recurring view was that the new food body should make links to relevant international organisations to ensure further access to independent expert advice, largely in recognition of the global nature of the food industry.

1.15 Repeated calls were made for the new food body to be given sufficient funds and powers to commission new research.

1.16 In considering whether the new food body should focus its research and surveillance activities on issues particularly pertinent to Scottish citizens or on

wider issues of relevance to the UK as a whole, the overarching view was that such a division is artificial with the issues overlapping. However, a significant body of view supported stronger emphasis on issues pertinent to Scottish citizens if resources for these activities are limited.

1.17 Of the respondents who provided a view, 49% considered that the new food body should be responsible for the coordination of all Scottish Government funded research on food safety and public health nutrition; a further 19% supported the new food body coordinating research on food safety but recommended its working in partnership with the NHS, Scottish Government and local authorities on public health nutrition research; and 17% were opposed to the new food body taking on such responsibilities, suggesting that these functions required expertise which the new food body may not have.

1.18 An overarching theme was that independence of evidence and approach to gathering evidence will be vital for building trust in the new food body. A common view was to further the evidence base by enhancing and building upon existing networks, notably those already forged with the Scottish Food Enforcement Liaison Committee (SFELC) and local authority food liaison groups. Other common recommendations were for national data sets such as the UK Food Surveillance System (FSS) to continue; and for liaison to be maintained with external expert establishments such as academic institutions, professional societies and public bodies both in the UK and further afield.

Regulation policy, enforcement and monitoring

1.19 There were mixed views on whether the new food body would require any further statutory powers in addition to those the FSA already has. Local authorities featured significantly amongst the 45% of those who provided a view and who considered that the new food body should have further statutory powers; industry representative bodies featured strongly amongst the 23% who did not hold this view.

1.20 Amongst those favouring the extension of the new food body's statutory powers were those supporting the proposals set out in the FSA's consultation on Primary Enabling Legislation³. Repeated calls were also made for additional powers to impose fixed penalties and other notices particularly for minor, low risk contraventions, as an alternative to reporting such incidents to the Procurator Fiscal.

1.21 A general view amongst many of those opposing additional statutory powers for the new food body was that the current powers are adequate, but they could be applied more effectively, with greater attention given to intelligence gathering and targeted testing.

³ <http://www.food.gov.uk/news-updates/consultations/consultations-scotland/2013/foodandfeed-consult-scot#.Uc7iVPIBU1o>

1.22 Common views on dealing with contraventions of food standards and safety law were that more enforcement options would be helpful to bridge the perceived gap between informal response and formal reports of alleged breaches to the Procurator Fiscal; and that enforcement options should be implemented promptly, robustly and consistently.

1.23 A prominent theme amongst local authorities was that they currently provide an effective and efficient enforcement regime, aspects of which may be best left to local delivery. It was commonly felt that wholesale transfer of official food controls from local authority delivery to the new food body could have a detrimental effect on the viability of the environmental health service in Scotland.

Consideration of delivery of official food and feed controls

1.24 A common cross-sector view was that the existing partnership between local authorities and the FSA works well and should provide the building block on which to develop the partnership between local authorities and the new food body.

1.25 Concerns were raised over whether a single, centralised enforcement body may result in loss of local knowledge, expertise and good practice. The idea was floated by a small number of respondents that flexibility could be built into the legislation to allow for transfer of enforcement responsibility between local authorities and the new food body, where both parties agree that official controls at a particular establishment, or class of establishments, would be better delivered by one or other body, according to local needs and circumstances.

1.26 Responding to specific proposals set out in the consultation document regarding the delivery of official food and feed controls, there was majority support for the new food body taking on approval of those food and feed establishments that require approval under EU food hygiene legislation (Regulation (EC) No 853/2004) and all processes for the suspension or withdrawal of those approvals. There was also much support for the proposal that where the new food body is the designated food authority for an approved establishment, it should be responsible for official controls and for all food commodities at the establishment and all official controls including those for food standards.

1.27 All of the 12 respondents who provided a clear view agreed that the new food body should undertake the coordination of export certification and liaison with third countries.

1.28 There were mixed views on the proposal that the new food body undertakes import controls at ports of entry, including local authority controlled Border Inspection Posts and Designated Points of Entry, with concern expressed by some over the impact that removing this function from local authorities would

have on what was perceived to be the current holistic nature of environmental health services.

1.29 Majority support amongst those who provided a view was given for other proposals, notably that the new food body undertakes the delivery of all official controls and related monitoring activity during primary production; the delivery of official controls relating to the supply and manufacture of materials and articles in contact with food, food additives and processing aids; responsibility for the recognition of natural mineral water sources; and development of technical and professional training for authorised officers within the new food body or local authorities along with providing specialist advice to local authorities on food science, food technology and veterinary matters.

Audit

1.30 A common view was that robust audit processes will be pivotal to the successful assurance of official controls under the new food body, with much support expressed for the new food body to prepare a Scottish Framework Agreement, similar to that which already exists and which is binding on organisations delivering official controls. Many respondents considered that there may be benefit in establishing Service Level Agreements between the new food body and local authorities to ensure official controls will be delivered adequately and consistently across Scotland.

1.31 Repeated calls were made for the retention or/and enhancement of the current audit arrangements and for the existing Food Law Code of Practice and Practice Guidance to be revised to detail the delivery of official controls.

Relationships with other organisations

1.32 There was much support for the existing partnerships established by the FSA to be adopted and built upon by the new food body. It was commonly agreed that an effective relationship between the new body and the UK FSA will be very important.

1.33 Although support was given to promoting effective working relationships between the new food body and industry partners, this was tempered by caution from some that the new body should remain independent in its decision-making and not be unduly influenced by industry representatives.

1.34 Recommendations were made for additional relationships with the education sector, national advisory groups, third sector organisations, consumers, NHS regional boards, retailers and non-Government departments.

Consumer engagement

1.35 There was much support and respect for the work previously undertaken by the FSA in engaging with consumers, with requests that this work be continued by the new food body.

1.36 A recurring view was that consumers should be represented on the new food body's advisory committees and dialogue with SFELC which includes consumer interests should continue.

1.37 It was generally considered that transparency and openness should be priorities for the new body when providing information to consumers.

1.38 It was commonly thought that the new food body should liaise with those organisations who already have experience of engaging with the public in order to reach this audience. Another common recommendation was for the frameworks for consumer engagement already established by local authorities and territorial health boards to be harnessed and utilised by the new food body.

1.39 A recurring view was that the new food body could deploy a wide range of research methodologies to seek views of consumers. These included specific techniques such as: focus groups; deliberative engagement; consumer panels; participatory research; and citizen's juries. Several respondents also highlighted social media and a dedicated Food App as having potential for engaging with consumers.

Independence from Government and food industry

1.40 There was widespread agreement amongst respondents that the new food body should retain independence from the Scottish Government, primarily in order to boost consumer confidence and trust in the body, and also to deliver the Government's aim to protect health.

1.41 There were mixed views on the extent to which the new food body should remain independent from the food industry and how this should be interpreted. Whilst it was generally acknowledged that the new body should retain independence of decision-making, respondents from a range of sectors emphasised that that it will still be beneficial to involve industry in the development of policy and enforcement regimes.

1.42 Calls were made for the new food body to operate with transparency, being open about decision-making and the underlying rationale for decisions, and publishing the advice it provides to Ministers.

Further comments and suggestions

1.43 The most common additional comment was to request clarity over the relationship between the new food body and the UK authority as the sole central competent authority. Queries were raised over how the new food body will operate when negotiations at EU level are with the UK Government. Caution was expressed over Scotland becoming isolated from other jurisdictions, for example, by making recommendations to introduce laws which do not apply in the remainder of the UK.

2. INTRODUCTION

2.1 In 2010 the UK Government moved responsibility for nutrition and food labelling and standards in England away from the independent Food Standards Agency (FSA) to the Department of Health and the Department of Environment, Food and Rural Affairs, respectively. Not only did this result in the sharing of responsibility for aspects of food safety and standards across different bodies, it also brought certain functions under a Government roof.

2.2 In Scotland, Ministers' commitment to improving public health has been evidenced in recent years in their development of comprehensive policies to tackle smoking and reduce alcohol consumption. Tackling poor diet and obesity is also seen as offering much potential for improving the health of the nation. The 2010 decision by the UK Government was viewed by Scottish Ministers as posing a threat to this, by reducing clarity in where responsibility lies for all aspects of food safety and standards.

2.3 Following the 2010 decision, Scottish Ministers asked Professor Jim Scudamore to undertake a review to assess the feasibility of establishing a stand-alone Scottish FSA (FSAS) which included a Scottish meat inspection delivery body, and which maintained the existing statutory objective of the FSA, to protect consumers. The Scudamore Review adopted two principles: in recognition of Scotland's distinct and complex problems relating to diet, obesity and certain food borne diseases, food safety should not become separated from consideration of nutrition and labelling and standards; and advice on food safety, nutrition and labelling should be independent and transparent, and should, therefore, be provided by a body at arms length from central Government.

2.4 Scottish Ministers accepted all of the Scudamore report recommendations, with the scandal over horse meat serving to strengthen their argument for the establishment of a single, independent public body, at arms-length from Government, with clear responsibility for all aspects of food safety and standards. The Scottish Government wishes to hear the views of consumers and industry stakeholders on the remit and role of the new food body. Ministers envisage its main concern to be consumer protection, and that its scope could extend beyond that currently covered by the FSAS, for example, to encompass public health generally, and to enhance consumer information such as advising on health claims in food advertisements.

2.5 The Scottish Government published a written consultation paper posing 16 open questions aimed at generating views on what the new food body should do and how food safety and standards should be addressed in Scotland in the future. The consultation went live on 28 February 2013 and closed on 22 May 2013. Five consultation events also took place between end March and mid May at which stakeholders discussed the proposed new food body and provided their views.

2.6 One hundred and twenty six written responses to the consultation were submitted . Table 1 shows the numbers of responses by category of respondent. Local authorities formed the largest category of respondent, accounting for 19% of responses. Ninety three per cent of responses were from organisations and 7% from individual respondents. The full list of respondents is in Annex 1.

Table 1: Number of responses by category of respondent

Category	No.	%
Local authorities ⁴	24	19
Public bodies	21	17
Industry representative bodies	21	17
Professional Associations and Unions	17	13
Third sector	14	11
Academic/Research bodies	10	8
Individual business	8	6
Consumer representative bodies	2	2
Individuals	9	7
Total	126	100

2.7 An electronic database was used to collate responses to assist analysis. This database stored free text in a systematic manner whilst providing the flexibility for amendments as the work progressed. The fields used to record the material were based on questions used in the consultation document.

2.8 The analysis was largely qualitative in nature to reflect the open questions posed. One further rationale for minimising quantitative analysis was that many respondents perceived certain questions to overlap (in particular questions one, eight, nine and ten) with respondents cross-referencing to comments made to earlier questions, rather than providing discrete commentary for each. This resulted in challenges for the analysis in determining actual numbers of respondents on each topic and the numbers of respondents holding particular views. An emphasis was therefore placed on reporting the range of views rather than determining proportions of respondents holding each view. Where numbers of those mentioning each view are recorded, these are indicative only and cannot be extrapolated to any wider population.

2.9 Throughout the report quotations from non-confidential responses are used where these illustrate and emphasise key views. The quotations were extracted from a wide range of responses with every respondent sector represented.

2.10 The following 10 chapters document the substance of the analysis.

Chapter 3 examines issues of scope of the new food body and in particular

⁴ The category “local authorities” includes local councils, the Scottish Food Enforcement Liaison Committee, Society of Chief Officers of Environmental Health in Scotland, and the Society of Chief Officers of Trading Standards in Scotland.

whether its this should extend beyond the current scope of the FSA in Scotland. **Chapter 4** looks more closely at the division of roles and responsibilities between the new food body and the Scottish Government. In **Chapter 5** approaches to securing the best available independent expert advice are explored along with ways in which the new food body can establish a strong, independent evidence base for food safety, food standards and nutrition policy. **Chapter 6** presents an analysis of views on appropriate statutory powers for the new food body for regulation, enforcement and monitoring, particularly in the wake of the horse meat incidents. In **Chapter 7** the focus is on official food and feed controls and the way in which the new food body will work with local authorities in ensuring their delivery. **Chapter 8** synthesises views on how assurance of delivery of official controls will be undertaken through robust audit procedures which meet relevant EU obligations. In **Chapter 9** views are presented on potential partnerships and other relationships with the new food body, which will help it contribute to improving Scotland’s health. **Chapter 10** explores the topic of engagement with consumers; and **Chapter 11** focuses on approaches to ensuring the new food body’s independence from Government and the food industry.

2.11 Respondents were given the opportunity to provide any further relevant commentary which had not been addresses by the preceding consultation questions. Their additional responses are documented in **Chapter 12**.

2.12 Respondent categories have been abbreviated in the report as follows:

Local authorities	LA
Public bodies	PB
Industry representative bodies	IRB
Professional Associations and Unions	Prof A&U
Third sector	Third
Academic/Research bodies	Acad
Individual business	Bus
Consumer representative bodies	Cons
Individuals	Ind

3. SCOPE OF THE NEW FOOD BODY

Background

3.1 The FSA was established in 2000 as a UK-wide non-Ministerial Government Department with a wide remit. It has statutory responsibility for protecting public health from risks that may arise in connection with the consumption of food, and otherwise to protect the interests of consumers in all matters connected with food.

3.2 Scottish Ministers are open to innovative ideas that will increase the efficiency or effectiveness of the new food body. These could involve an extension of the scope of the body beyond that currently covered by the FSAS. The intention to bring forward primary legislation to create the new food body in Scotland means that this is the right time to consider such opportunities.

3.3 It has been suggested that the new food body could widen its scope to encompass public health generally, for example by introducing more health-based schemes to tackle problems like alcohol or obesity, tracking and measuring food poverty, or enhancing consumer information such as advising on health claims in food advertisements. Other suggestions are that its scope could include considerations of environment, provenance, sustainability or food security.

3.4 The consultation asked:

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

3.5 One hundred and five (83%) of the 126 respondents provided a response to question 1 as follows:

Table 2: Views on whether the scope of the new food body should extend beyond that of the current scope of the FSA in Scotland

	No. of respondents	% of respondents
Yes extend scope	66	63
No do not extend scope	25	24
Not yet – possibly in future	5	5
Commentary only	9	9
Total	105	100

NB Percentages may not add to 100% exactly due to rounding

3.6 Of those who provided a view, 63% considered that the scope of the new food body should extend beyond the current scope of the FSAS. Twenty nine per cent of those providing a view were not in favour of extending the current

scope, at least not until the new food body has become established. In amongst these were respondents who did not perceive there to be a need for a new food body.

3.7 All of the local authorities and consumer bodies who provided a view advocated extending the scope immediately. Other respondent sectors were divided in opinion.

Views in favour of extending the current scope

3.8 A common view was that the new food body should embrace all aspects of food “from farm to fork”. One respondent particularly welcomed this prospect: “The present food safety and food standards systems were established as a two tier structure, involving the FSA and the local authorities, because it was considered that the scope was too wide for one organisation.....the establishment of the new Scottish food body fundamentally changes the logistical arguments on this. It opens up the prospect for a single, fully integrated food body responsible for policy, regulation and enforcement operating throughout Scotland” (Scottish Salmon Producers Organisation).

3.9 Other respondents recommended extending scope in specific areas, with the new food body taking the lead in some of these, and working in partnership in others.

3.10 Reasons given in support of extending the current scope of the FSA were:

- To meet Ministers’ commitment to improving public health through the provision of safe food and improved/healthy diets.
- Responsibility for public health issues are currently split and shared across many different bodies.
- To provide a more consistent approach to planning and delivery.
- To improve strategic leadership.
- To address what is perceived to be the current problems with limitations of FSA scope in some areas such as the delivery of official controls relating to feed and feeding stuffs.
- As the wider issues such as diet which could be encompassed are very high priority topics.
- Issues of health inequalities and overall health improvement are all connected so should come under one umbrella.

Views on underlying premises for extending scope

3.11 Some supporters of extending the current scope qualified their view, emphasising that any extension should not compromise the new food body’s core functions (6 mentions) or duplicate work undertaken by other bodies (3 mentions). For example:

“...it is essential to ensure that it (new food body) does not duplicate the function of other bodies and that its work is complimentary and timely. For example, NHS Health Scotland has a function relating to the introduction, development, implementation and evaluation of schemes tackling alcohol and obesity. Perhaps there is a need to be explicit about what is required, identify the most appropriate lead agency for each of these functions and create a mechanism for them to work together ensuring a holistic approach that engages with the relevant key stakeholders to advise and support the national agenda” (British Dietetic Association).

3.12 Four respondents representing different sectors recommended that plans for extending the scope of the new food body need to be supported by appropriate allocation of resources, including those required for staff training. Two industry representative bodies suggested that resources could be saved by adopting a risk-based approach to inspections, for example, reducing the level of inspections currently being carried out on fresh produce companies who are rigorously implementing internationally accredited schemes, with the resources saved being re-directed to the extended remit; or focusing inspections on critical control points such as feed mills and ports.

3.13 A recurring theme, particularly amongst local authorities, was that the scope of the new food body should be extended if this will provide for improved strategic leadership and better co-ordination of multi-agency service delivery. Two respondents (IRB, Prof A&U) recommended that decisions on where to extend scope should be based on the criteria of whether this will improve the effectiveness and efficiency of service delivery. One public body, which provided commentary only, suggested that it would be a major undertaking to review scope, analyse gaps and propose cost-effective change options.

Suggestions for broad areas for scope extension

3.14 Many respondents recommended broad areas for extension of scope beyond that currently covered by the FSAS. The most frequent suggestion (17 mentions) was to extend the scope of the new food body to cover **food poverty**. One respondent commented:

“There has been a strong community response to helping those in food poverty, but a lack of a co-ordinated response from national government. We believe that there is an opportunity for the new food body to lead on a national response to the growing problem, and thereby help to address one of the biggest public health problems facing the country” (Citizen’s Advice Scotland).

3.15 Five local authority respondents highlighted the importance of the new food body working with others to track, measure and initiate programmes and projects. Two respondents (Cons, Third) envisaged the new food body providing a

knowledge and information hub for local networks, with a focus on food access and affordability.

3.16 The other broad areas of extended scope recommended by respondents were:

- provenance (16 mentions, 13 of which were local authorities)
- food security (15 mentions, including 11 local authorities many of whom suggested that the new food body should establish links with emergency and contingency planning organisations)
- alcohol (15 mentions, 11 being local authorities, although many considered that the lead should remain with health professionals who are expert in this field)
- tackling obesity (14 mentions from a range of sectors)
- sustainability and environment considerations (14 mentions from a range of sectors with some advocating close partnership working with the Scottish Environmental Protection Agency (SEPA))
- education (13 mentions from a range of sectors who recommended extending scope into school education programmes; promoting consumer awareness to help them make more informed food choices; and advising on food intolerance/allergies)
- influencing food industry and food providers in public places over the quality of food and portion sizes (9 mentions, 8 of which were local authorities)
- diet and nutrition (8 mentions from a range of sectors; one respondent commented:
“Currently there are a number of national bodies involved in improving diet and as a consequence it is not always clear who is responsible for what, giving rise to confusion and the potential for duplication. The creation of the new food body would provide an ideal opportunity to clarify the role and remit of the new organisation and that of its key partners” (NHS Ayrshire and Arran))
- food labelling (8 mentions from a range of sectors)
- public health in general (7 mentions from a range of sectors, with an emphasis from some on health inequality and vulnerable groups)
- general food safety (5 mentions from a range of sectors).

Suggestions for specific areas for scope extension

3.17 Many respondents made suggestions for more specific areas which could be encompassed by the scope of the new food body:

- bringing together animal health and welfare (7 mentions)
- greater role in research including advising the Scottish Government on evidence-based practice and policy (6 mentions)
- advising on health claims in food advertisements (5 mentions)
- export certificates (3 mentions)

- greater enforcement powers (3 mentions)
- dairy and egg hygiene (2 mentions)
- investigating perceived over-provision of some types of food establishment in particular localities (1 mention)
- water quality (1 mention)
- establishing regular routes for communication with the fresh produce industry (1 mention)
- pesticides and veterinary medicines (1 mention)
- genetically modified food (1 mention)
- strategy for procurement of food supplements over the internet (1 mention).

Views against extending the current scope

3.18 Five respondents recommended waiting until the new food body has been established before considering extensions to its scope, which could then be approached on an incremental basis.

3.19 Specific arguments provided against extending the scope of the new food body beyond that of the current FSAS included:

- Many aspects of public health are already being addressed by professional experts and the new food body should take a supportive rather than lead role (6 mentions).
- Extending scope will dilute the core mission of the new food body which in turn will lead to the erosion of public confidence in its representation of their interests (4 mentions).
- It will be costly to re-organise functions (3 mentions).
- Regulatory roles and more wide-ranging policy roles are quite different and require different bodies to undertake them (2 mentions).
- The practicalities of establishing the governance of the new food body and running its operations will be challenging enough without adding to its scope (1 mention).
- Some broader issues, for example, sustainability and food security are complex and not suited to the remit of the new food body (1 mention).
- Extending into areas such as environment could lead to confusing and conflicting decision-making of no benefit to protecting the health of consumers (1 mention).

3.20 A few respondents were very precise about areas which they felt the new food body should *definitely not* take on. Those highlighted were:

- sustainability (5 mentions)
- food security (4 mentions)
- public health (3 mentions)
- environment (3 mentions)
- provenance (2 mentions)

- water regulation (1 mention)
- obesity policy (1 mention)
- food poverty (1 mention)
- alcohol (1 mention).

4. ROLES AND RESPONSIBILITIES

Background

4.1 The respective roles of the FSA and the Scottish Government are independent in relation to health improvement and nutrition, taking account of both food and wider health issues.

4.2 In recognition of this, the FSA and the Scottish Government work in partnership with each other, and with other relevant agencies, in particular, NHS Health Scotland, to ensure effective coordination of their complementary activities in order to achieve the FSA's objective of long-term improvements in the diet and nutrition of the Scottish population, and the Scottish Government's objective of making a step-change in Scotland's health and wellbeing a reality by improving and reducing dietary inequalities.

4.3 In practical terms, responsibility for taking forward specific aspects of tackling health inequalities is shared between the FSA and the Scottish Government. Annex A of the consultation document (reproduced here at Annex 2) outlines their respective responsibilities.

4.4 The consultation asked:

Question 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?

4.5 Eighty five (67%) of the 126 respondents provided a response to question 2 as follows:

Table 3: Views on whether the arrangements for independent and partnership work on diet and nutrition should continue

	No. of respondents	% of respondents
Yes	64	75
No	5	19
Commentary only	16	6
Total	85	100

4.6 Of those who provided a view, 75% considered that the new food body and the Scottish Government should, by and large, continue the existing arrangements for independent and partnership work on diet and nutrition. All respondent sectors were represented amongst those who supported the existing arrangements. Although many respondents suggested minor changes or different emphases, only five were of the view that more substantial revisions should be made.

General commentary

4.7 Recurring comments were that clarity over respective roles is very important, and although there will inevitably be some overlap between different bodies, delineation of responsibilities will contribute to an overall more coordinated and cohesive approach.

4.8 Eight respondents from a variety of sectors argued that clarity of roles between the new food body, the Scottish Government and NHS Health Scotland, could be improved, with potential for simplification identified.

4.9 A dominant theme was that once the arrangements for independent and partnership working are finalised, these should be well publicised to industry, NHS Boards and the public, so everyone is clear on who leads on what issue. Respondents also considered it important to make clear the independence of the new food body and its operation in an open and transparent manner.

4.10 Three respondents (IRB, LA, Ind) suggested that there should be time allocated for detailed consideration and review of the way roles and responsibilities had been allocated, with one (Ind) recommending that costs and benefits of respective input from different bodies be analysed in the review process. One academic argued that as diet and nutrition policy is wide-ranging and requires multiple areas of expertise, it may be timely to consider an entirely new department of health and wellbeing with responsibility for improvement in overall health in Scotland.

4.11 Areas of proposed partnership work for the new food body which were particularly welcomed by respondents (largely local authorities) were:

- paragraphs 34 and 35 in the consultation document (15 specific mentions) which referred to the new food body:
 - taking a lead role in science and evidence-based, consumer-focused public nutrition policy; and
 - taking the strategic lead for Scottish Government policies such as the Healthy Living Award for caterers, the Healthy Living Programme for neighbourhood shops and for technical support for small and medium food businesses to assist them to reformulate their products to be lower in salt, fats and sugars
- interface with the education system (10 mentions)
- work with NHS and local authorities to link with community planning partnerships and community health improvement partnerships (9 mentions).

4.12 Some respondents called for an expansion in the Food Standards Agency roles set out in Annex A of the consultation document (Annex 2 of this report):

- research and monitoring of some of the more common allergens and chemicals that many people react to (Ind)

- nutritional/allergy information provided by caterers (LA, LA)
- more input on behaviour change (linking with industry and consumers) (IRB)
- obesity (PB, Acad)
- general food and health promotion and programmes (IRB)
- greater partnership working with third sector organisations (Third)
- greater partnership working with service delivery partners (LA)
- consultation document Annex A item 9: rather than merely “engaging” with the UK food industry, the role should involve enforcement to strengthen the FSA input (Ind)
- Annex A items 17 and 18, currently with a Scottish Government lead, should be led by the new food body (PB, Ind)
- Annex A item 20, currently undertaken by the Scottish Government, should become the responsibility of the new food body (PB).

Views of those against the current arrangements continuing

4.13 Four third sector respondents and one industry representative body opposed the current arrangements for independent and partnership work on diet and nutrition continuing. One commented:

“Having examined the various roles carried out by FSA Scotland, Scottish Government and NHS Health Scotland in relation to nutrition and diet it is clear that there is duplication of activities and potentially some gaps. Therefore we believe that there should be a comprehensive review of the roles and responsibilities of the three bodies together with a gap analysis subsequent to which the role of the new food body can be decided” (British Hospitality Association Scotland).

4.14 Other views were that the new food body should be more independent than indicated by the arrangements set out in Annex A (Third); the arrangements appeared confusing and could be simplified by making the new food body the umbrella agency for the promotion of public messages about food and nutrition (Third); as there has been little improvement in Scotland’s diet and nutrition since 1996, more of the same is unlikely to produce a different result (Third); and there should be a more explicitly stated role for the new food body in tackling health inequalities (Third).

4.15 The consultation asked:

Question 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.

4.16 Fifty four (43%) of the 126 respondents provided substantive responses to question 3. Others cross-referenced to their comments in response to other questions, or simply agreed that the roles, responsibilities or functions suggested in the consultation document appeared to be appropriate. General remarks which emerged repeatedly were that there must be a robust rationale for any expansion in the new food body's functions, which should be grounded in a cost-benefit analysis.

Partnership working

4.17 An area most commonly identified for expansion by the new food body was working in partnership with broader relevant bodies and sectors (19 mentions). The following were specified by respondents:

- Food industry (7 mentions from 4 different sectors). One comment was: "work closer with industry to influence product development to make the healthy choice the easy choice" (NHS Grampian).
- NHS (4 mentions from 3 different sectors). Respondents recommended close liaison with NHS Health Scotland and health boards to ensure coordination of work on deprivation and health inequalities. One respondent was of the view:
"The consultation suggests the new food body will be responsible for providing information to health professionals. To date, NHS Health Scotland have played a key leadership role in this area and have developed strong and effective partnerships with nutrition/dietetic staff in territorial NHS Boards. In contrast, the Food Standards Agency Scotland has very weak links with Board public health nutrition professionals and therefore these relationships would need to be established and strengthened" (NHS Ayrshire and Arran).
- Retailers (Acad, Acad, IRB). Local food producers and large food retailers were mentioned in this respect.
- The Scientific Advisory Committee on Nutrition (Prof A&U, IRB, LA).
- European authorities (Bus, Prof A&U). One respondent remarked: "...must be involved in all European discussions otherwise there is just confusion. Similar problems are extant in all member states and so a common approach is far more effective" (Food Solutions).
- Education bodies (PB, IRB) with Education Scotland, NHS Health Scotland and Curriculum for Excellence specified.
- Agencies working on social values around food (Acad).
- Consumers (Acad).

Education

4.18 Thirteen respondents identified the provision of education as an area into which the new food body should expand its roles, responsibilities and functions. Respondents considered the new food body to be the appropriate organisation

for delivering consistent, evidence-based messages on diet and nutrition. It was envisaged that such messages could be delivered via:

- the education system in schools, further and higher education establishments (5 mentions from 5 different sectors)
- working with bodies such as the British Dietetic Association (Prof A&U)
- advice directly to the public (Third, Third)
- advising the Scottish Government (Third)
- those supplying food to institutions such as care homes (PB).

Research

4.19 Ten respondents considered that the new food body could take a significant role in aspects of research including coordinating, funding and commissioning, dataset collection, monitoring and evaluation and disseminating findings. One respondent expressed their view:

“At present, the majority of research undertaken by the FSA is food safety-focused. If the new food body is to play a key role in improving population health, it is important that more focus is placed on researching interventions that improve food choice. For example, providing expertise in evaluating pilot initiatives (making links between academics and practitioners) and collating and disseminating evidence on projects that have been successful in changing eating behaviour” (NHS Lothian).

National, regional and local initiatives

4.20 Nine respondents advocated the new food body being involved either strategically or directly in the implementation of initiatives aimed at tackling poor diet and nutrition. One (Ind) suggested a responsibility for rationalising the plethora of national, regional and local initiatives. Three public bodies recommended that the new food body takes a key role in leading and implementing the Obesity Route Map. Others envisaged involvement in Healthy Living Awards and other such initiatives. One local authority considered it appropriate for the new food body to work in conjunction with local authorities to take forward, “Eating for Health – the Challenge”.

Social marketing

4.21 Six respondents identified social marketing as an area where the new food body should take a greater part. It was considered that efforts could be directed to influencing choice by changing perceptions on healthy food, in conjunction with tackling barriers such as affordability and availability. One respondent (Cons) argued that work on healthier choices should be integrated with work around more sustainable choice.

Focus on children's nutrition

4.22 Six respondents called for the new food body to have particular involvement in affecting the diet of children through:

- monitoring the nutritional value of meals for children in schools and other public places (Acad, Acad, Third)
- monitoring food advertising aimed at children (Ind)
- influencing the nutritional value of food sold to school children at lunch time by private outlets (LA)
- providing clear, consistent information for parents on child and infant feeding (Third)
- providing information to women on their diet pre-conception and between pregnancies (Acad).

Coordinating responsibilities

4.23 Four respondents suggested a wider role for the new food body in clarifying the landscape of responsibility for policy-making, provision of consumer information and research on diet and nutrition. One local authority advocated a coordinating role for the new food body to ensure consistency of approach across local authorities and community health partnership areas. An academic called for wider vision across the food system to include links with issues of climate change, food security, food poverty and social values around food.

Regulatory process

4.24 Three respondents (Third, Prof A&U, PB) suggested enhanced involvement in the regulatory process as appropriate for the new food body, although one public body queried whether there may be a conflict of interest between its regulatory function and its provision of technical support to small and medium businesses.

Views against additional roles, responsibilities and functions

4.25 Eight respondents from five different sectors argued against the new food body expanding its roles, responsibilities and functions. A view shared by four respondents was that the Scottish Government already works strategically to develop nutrition and other health-related policy with delivery organisations also already in place. One public body cautioned about the new food body expanding into these areas, creating confusion, and also becoming too large to be responsive and effective.

4.26 One view (IRB) was that the approach to tackling obesity should be multi-faceted and managed outwith the new food body. Another respondent (Prof A&U) recommended consolidating the new body first before considering expansion. An academic argued for *reducing* the remit of the new food body:

“We can see no persuading argument that the new food body should take on any additional roles, responsibilities and functions in the area of diet and nutrition. In fact....there may be an argument that the new food body should relinquish some of its previously held role in disseminating advice on health and diets to other bodies such as the NHS” (The James Hutton Institute).

5. SCIENCE AND EVIDENCE

Background

5.1 The work of the new food body will be shaped by independent, expert science and evidence, which takes full account of the Scottish landscape, whilst ensuring that decisions are informed by a balance of views. This may be achieved in part by securing access to the scientific advisory committees⁵ that currently support the FSA, Defra, the Department for Health and the devolved administrations in their food and feed-related work. Additional sources of science and evidence may be needed, particularly if the role or remit of the existing scientific advisory committees changes over time. It may also be necessary to identify where it needs to develop stronger links with other networks of scientific expertise, both in the UK and internationally.

5.2 The consultation asked:

Question 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.

5.3 Eighty eight (70%) of the 126 respondents addressed this question. The most common view (mentioned by 45 respondents (51% of those providing a view)) was that the new food body should **secure access to the scientific advisory committees** currently operating. Reasons given were:

- avoids duplication of effort (24 mentions)
- recognises the integrated nature of the food supply chain (12 mentions)
- avoids unnecessary expense (4 mentions)
- ensures access to the best available advice in the UK (2 mentions)
- is an established and effective way of working (2 mentions)
- there are not enough suitably qualified advisors in Scotland (2 mentions)
- ensures consistency of advice (1 mention)
- protects against isolation (1 mention).

5.4 Four respondents expressed caution regarding such access arrangements. Two (Prof A&U, Ind) perceived the speed of response from such committees to be slow, with meetings not frequent enough to allow for responsive, efficient provision of advice. Two (Third, Ind) questioned the independence of members, suggesting that some had close links with, or represented, parts of the food industry. One respondent (Ind) suggested that committees had difficulties collaborating on topics which required cross-committee consideration. They also

⁵ The FSA is advised on a regular basis by eight independent scientific committees and can source advice from several others when needed.

suggested that the practice of fixing membership over a set period risked restricting expertise during this time.

5.5 Two respondents (IRB, Ind) recommended that the new food body should undertake a review of the usefulness of the existing scientific committees currently accessed by FSA in order to assess the extent to which they fit its purpose.

5.6 A recurring view (26 mentions) was that **independent expert advice exists within Scotland**, with reference made to academic institutes and research bodies, Scottish Government departments, the wider scientific community, public analyst services, NHS Health Scotland and health boards and local groups and committees. Specific mention was made of particular bodies including Health Protection Scotland, NHS National Services Scotland Division, Scottish Colloquium on Food and Feeding, Association for Nutrition, Scottish Public Health Nutrition Group, Science and Advice for Scottish Agriculture, Marine Scotland and Dunstaffnage Marine Laboratories.

5.7 Twenty five respondents argued for the new food body to make **links to relevant international organisations** to ensure access to independent expert advice. Their reasons were:

- the food industry is global in nature (14 mentions)
- to facilitate awareness of relevant developments at an international level (8 mentions)
- to keep up with the speed at which new developments are introduced (3 mentions)
- the best science and advice is not necessarily available in Scotland (1 mention).

5.8 Six respondents recommended that the new food body consider how best to take up opportunities to access the **European Food Safety Authority** as a source of advice.

5.9 Fifteen respondents commented on the new food body's **access to research**, arguing for it to be given sufficient funds and power to commission new research. It was generally felt that there should not be an in-house Research and Development function, but that external experts would be commissioned to provide this in an open and transparent manner. A recurring comment was that research evidence required to be of good quality and peer-reviewed in order to ensure its objectivity and competence.

5.10 Joint working with other UK bodies was suggested to commission research (PB) and to avoid duplication of effort (IRB, Cons).

5.11 A further four respondents recommended that more attention is given to **utilising research**, disseminating evidence and sharing good practice.

5.12 Ten respondents considered that expert advice could be tapped into within **other parts of the UK**, for example at Public Health England, and relevant English NGOs.

5.13 Six respondents argued for the new food body to **employ and retain staff with expertise**. One commented:

“The organisation needs to be led by individuals with proven expertise in the breadth of issues affecting diet, nutrition and health – including food safety, nutrition, marketing and also the socio-cultural and economic issues” (Midlothian Food and Health Alliance).

5.14 One academic recommended that staff at the new food body **keep up-to-date with expert advice and information** by keeping abreast of primary scientific literature, attending science meetings, participating on relevant committees and developing links with researchers in the field.

5.15 **Other steps** which were identified by respondents as helpful in ensuring the new food body is able to access the best available independent expert advice needed were:

- exploiting expertise in the private sector (2 mentions)
- establishing additional Scottish expert advisory committees with a view to these taking the lead for the whole of the UK (2 mentions)
- appointing a Chief Scientist to be responsible for the quality of science commissioned and the evidence used, and to provide a link to the network of advisory committees (2 mentions)
- setting up short-life expert working groups (particularly at times of crisis) (1 mention)
- setting up steering groups of independent experts to work on specific topic areas (1 mention)
- developing a Memorandum of Understanding between the new food body and the FSA to ensure a free flow of information and advice from expert committees (1 mention).

5.16 The consultation asked:

Question 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.

5.17 Ninety four (75%) of the 126 respondents addressed question 5. The overarching view was that issues pertinent to Scottish citizens are not divorced from those relevant to the UK as a whole and therefore the suggestion that there should be a choice of one or the other is invalid. Twenty five respondents,

however, were clear that their preference was for a strong emphasis on issues pertinent to Scottish citizens in any research and surveillance activities, particularly if the resources available for these activities are limited. Typical comments were:

“It is the opinion of Health Scotland that the new food body should focus its research and surveillance activities on issues that are pertinent to Scottish citizens first and foremost, but also having the scope to contribute to science and evidence programmes on wider issues, which have relevance to the UK as a whole” (NHS Health Scotland).

“The new body should concentrate on Scottish issues but should co-operate on any overlapping issues with other bodies in other areas” (Scotland for Animals).

5.18 Arguments in favour of giving research and surveillance activities a Scottish focus included:

- The funding comes from Scottish citizens so the focus should be on matters particularly relevant to them (IRB, IRB).
- There are other bodies, such as the Department for International Development, which are already funding research of more global relevance (IRB).
- Scotland-specific issues are amongst those least likely to be addressed by others (PB).
- There is already ongoing surveillance in other parts of the UK (Acad).
- There is a strong contingent of research experts addressing obesity in Scotland (Acad).
- Scotland’s relatively small population makes it possible to conduct regionalised research on a controllable scale with findings of benefit to wider audiences (IRB).

5.19 Some respondents highlighted what they considered to be the distinguishing factors in Scotland associated with health, diet and nutrition, which they felt gave weight to the argument of focusing on Scotland-specific issues. The factors mentioned were: prevalence of deprivation and health inequalities; poor dietary culture; food poverty; relatively high rates of alcohol abuse; relatively high rates of obesity; historically high rates of E-coli; lack of Vit D; relatively high rates of MS; poor climate; and specific food hygiene issues such as shellfish hygiene.

5.20 Although the merits of ensuring a Scottish perspective were acknowledged by most of those who responded, a common view was that the new food body should also contribute to science and evidence programmes on wider issues of relevance to the UK as a whole, and indeed further afield. The reasons given were:

- Food businesses in Scotland link to the UK supply chain which is part of the Scottish economy (19 mentions). One respondent remarked: “The food chain is a global concern and Scotland sources food from around the world on a daily basis. It also exports food across the globe. Some foods produced in Scotland start life in other countries or in transnational or international waters. FSA Scotland cannot limit its scope to concerns at country level, but needs to strengthen its links and interests by the most efficient means possible, internationally” (Royal College of Physicians Edinburgh).
- Most issues, such as obesity, do not respect national borders and those that are relevant to Scotland tend to be relevant to the UK as a whole (14 mentions). A relevant comment was: “All aspects of food production, manufacturing, labelling and marketing are now global, and many of the health trends affecting Scotland are not unique to Scotland. Research and surveillance must reflect this and should be able to learn from good practice across the globe” (Midlothian Food and Health Alliance).
- Linking with wider programmes avoids duplication of effort (7 mentions).
- Contributing to other programmes enables resources to be pooled and makes best use of limited funds (6 mentions). One individual respondent expressed their view: “Research and surveillance is expensive – Scotland cannot afford to ‘go it alone’ and have expertise in every issue of relevance to Scotland, hence a partnership with other UK bodies working on similar issues would seem the best value for public money”.
- Reciprocal research and surveillance activities reap benefits in terms of learning, for example, understanding about Scottish issues in relation to other contexts and perspectives (6 mentions, largely academics).
- Many Scottish research institutes are internationally renowned (IRB).
- The new food body will need to deal with both Scottish and UK issues (LA).
- Scottish experiences cannot be separated from other geographical areas (Cons).
- If the focus is limited to Scotland this could distort the evidence base and compromise evidence-based policy development (Prof A&U).
- A Scotland-only focus could be perceived as parochial and failing to contribute equitably to the development of the evidence base (Prof A&U).

5.21 The consultation asked:

Question 6: Do you consider 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.

5.22 Eighty one (64%) of the 126 respondents addressed question 6 as follows:

Table 4: Views on whether the new food body should be responsible for the coordination of all Scottish Government funded research on food safety and public health nutrition

	No. of respondents	% of respondents
Yes	40	49
Yes for food safety but in partnership for public health nutrition	15	19
Yes for food safety but not sure for public health nutrition	2	2
Possibly	1	1
Mixed views	1	1
No	14	17
Commentary only	8	10
Total	81	100

NB Percentages may not total 100% exactly due to rounding.

5.23 Of those respondents who provided a view, 49% considered that the new food body should be responsible for the coordination of all Scottish Government funded research on food safety and public health nutrition; a further 19% (largely local authorities) supported the new food body coordinating research on food safety but recommended its working in partnership with the NHS, Scottish Government and local authorities on public health nutrition research. Seventeen per cent of those providing a view were opposed to the new food body taking on such responsibilities.

Views in favour of the new food body coordinating all Scottish Government funded research on food safety and public health nutrition

5.24 Few substantive reasons were provided by supporters of the proposal. Recurring themes were that such coordination appeared to be logical and would provide a joined-up approach which will reduce duplication of effort. Other comments were:

- Provides a single point of contact for information flow (Prof A&U, LA).
- Will enable gaps in research to be identified and addressed (Acad, Cons).
- Could help to improve overall dissemination of lessons from research (Acad, PB).
- Helps to maintain a focus on the key topics of improving public health and tackling inequalities (PB).
- Makes more efficient use of resources (LA).

5.25 Some respondents qualified their support. Four respondents (IRB, IRB, PB, Acad) argued that a coordinating role would need to be underpinned by appropriate resources for commissioning, managing, reviewing, monitoring and other associated tasks. Two respondents (LA, Prof A&U) emphasised that

research commissioned by the new food body will need to be in line with strategic objectives for each year of the strategic plan. Others (Acad, Ind) recommended that the new food body liaises closely with other coordinators and commissioners of research to ensure duplication is minimised. Two respondents (PB, Prof A&U) urged that the implications of the proposal (for example, for the Chief Scientist's Office) are explored further with key stakeholders such as the Scottish Government, before it is implemented.

5.26 Other stipulations requested were:

- The core purpose and independence of the new food body should not be diluted or compromised (Cons).
- The research agenda should encompass consumer research and engagement (Ind).
- Smaller research projects should not be ignored (IRB).
- The Scottish Government already has resources in place for managing research and this could be utilised (Acad).
- In addition to coordinating research, the new food body should commit to disseminating the findings broadly:
“The key to this however.....is dissemination of research to ensure that messages are reaching the agencies that are supporting consumers within their communities: NHS staff, local authority staff and the voluntary sector. The new food body should have a role to disseminate research broadly” (Midlothian Food and Health Alliance).

Views in opposition to the new food body coordinating all Scottish Government funded research on food safety and public health nutrition

5.27 Those opposing the proposal provided a variety of reasons to support their view:

- Coordinating, commissioning and managing research requires significant expertise which the new food body may not have (Acad, Acad, PB, Bus, Ind).
- Responsibility should be shared with NHS Health Scotland (LA, LA, Ind).
- The proposal risks narrowing the research agenda (Acad, PB).
- Food system is complex and it does not make sense to separate out research on food and health from food and agriculture or food and environment. This could lead to duplication of effort and inefficiencies (Acad, Ind).
- Dilutes the key functions of the new food body (Bus).
- Puts “all the eggs in one basket” which could compromise the emergence of alternative or independent opinion (Prof A&U).
- Could result in overlapping responsibilities with other bodies (Prof A&U).
- No clear added benefits of the proposal – appears to be superfluous to the current arrangements (Acad).

Views on raising the profile of the new food body as a research funder

5.28 The most common suggestion (18 mentions) on how the profile of the new food body could be raised as a research funder was by using existing links to relevant institutions such as universities, research groups and public bodies across the UK and internationally. It was recommended (IRB, LA, PB) that the promotional work could be undertaken at conferences and other research events, with the quality of research produced contributing to profile-raising (LA, IRB). Three respondents (Prof A&U, Acad, IRB) commented that the profile of the body would be raised in line with the amount of funding it has at its disposal. One remarked:

“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” (Quality Meat Scotland).

5.29 One suggestion (Ind) was that pursuing “niche” research pertinent to public health in Scotland could raise the new food body’s profile and also the profile of relevant research institutes and academic bodies. Another respondent (Third) recommended the introduction of a research award scheme.

5.30 Two public bodies considered that the new food body could raise its profile as a research funder by maintaining clear communication channels with NHS boards and local authorities, so that local research dovetails with nationally driven work.

5.31 The consultation asked:

Question 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.

5.32 Seventy two (57%) of the 126 respondents addressed this question. An overarching theme was that independence of evidence and approach to gathering evidence will be vital for building trust in the new food body.

Internal arrangements

5.33 Three respondents (Acad, IRB, Ind) emphasised the importance of ensuring the new food body has an experienced and well resourced research team with a broad range of expertise at the helm of its evidence-gathering operations. Broad representation on the research commissioning panel was requested (Third, Prof A&U), with transparent methodologies (Prof A&U) and internal expertise to interpret data, under the management of a Chief Scientist (Ind, Prof A&U). A strong focus on understanding consumer perspectives was recommended (Cons), with a wide range of stakeholders including consumers and consumer groups consulted prior to taking key evidence-based decisions

(Cons, LA). One respondent (LA) urged that evidence-based decisions should be based on scientific reasoning rather than political pressure.

5.34 Four respondents stipulated that the research from which evidence is drawn should be peer-reviewed. The establishment of a centre of excellence/expertise for evidence within the new food body was mooted (Acad, Ind).

5.35 The importance of open and accessible communication of research evidence as part of the development of establishing a strong, independent evidence base was emphasised by three respondents (IRB, IRB, Third). NHS Health Scotland recommended that the new food body work with them to translate evidence into policy and practice through initiatives such as Knowledge into Action and evidence-informed decision-making programmes.

Building on existing networks

5.36 A common theme (17 mentions, largely local authorities) was to further the evidence base by enhancing and building upon existing networks, notably those already forged with the SFELC and the local authority food liaison groups and working with them to develop effective local sampling programmes. Seven respondents suggested that the wide membership of SFELC will help in establishing the independent nature of the evidence.

5.37 Another common recommendation (17 mentions, largely local authorities) was for national data sets such as the UK Food Surveillance System (FSS) to continue and be replicated with regulated support in place for local data collection systems to feed into the national data sets. One respondent (Prof A&U) called for the FSS working group to continue.

Liaison with external expertise

5.38 Fifteen respondents from a range of sectors attached particular importance to the new food body maintaining liaison with external expert establishments such as academic institutions, professional societies and public bodies both in the UK and further afield, to ensure the Scottish evidence base is up-to-date and independent.

5.39 There were mixed views on whether industry organisations should be engaged with to achieve a strong independent evidence base. Five respondents, three of whom were industry representative bodies, advocated involving industry organisations particularly in the planning stages of evidence gathering and application, in order to ensure practicality and efficiency. One respondent remarked:

“The new food body should have industry knowledge and stakeholder relationships that allow it to be aware, informed and up-to-date with key industry drivers. It should have a mechanism to allow it to consult

with industry, particularly relating to the market effects of any initiatives relating to implementation of campaigns or projects aimed at consumers. Any such initiative should engage with the industry prior to commencement. This should be conducted to ensure consumer protection, but with greater industry buy-in” (Scotland’s Rural College).

5.40 In contrast, three public bodies argued for research to be commissioned independently from industry, Government, or indeed any other body where competing interests may arise.

Collecting primary research evidence data

5.41 Common themes were that good quality, local information should be facilitated, with sample sizes appropriate to enable significantly valid analysis at regional and national level. Five local authorities advocated working with SFLEC and its committees to design robust systems for information gathering. One respondent argued that that the recent food fraud incidents have “highlighted the need for accurate, ‘real time’ reporting abilities” (North Lanarkshire Council).

5.42 Seven local authorities described how currently local authorities submit their performance data into the UK-wide Local Authority Enforcement Monitoring System (LAEMS). Calls were made for this procedure to be reviewed with the aim of devising a more “user-friendly” system for gathering and interpreting the information.

6. REGULATION POLICY, ENFORCEMENT AND MONITORING

Background

6.1 Scottish Ministers have decided that issues of food safety should not be divorced from those relating to nutrition, labelling and standards. The new food body will, therefore, retain responsibility for food labelling and food standards as well as food safety, and will have at least the same statutory powers as the FSA has at present.

6.2 The consultation asked:

Question 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.

6.3 Eighty six (68%) of the 126 respondents addressed this question as follows:

Table 5: Views on whether the new food body requires further statutory powers

Response	No. of respondents	% of respondents
Yes	39	45
No	20	23
Possibly – wait for outcome of horse meat investigation	2	2
Need to review existing statutory powers first	2	2
Depends on whether remit is extended	1	1
Not sure	1	1
Commentary only	21	24
Total	86	100

NB Percentages may not add to 100% exactly due to rounding

Views of those in favour of further statutory powers

6.4 Of those who addressed this question, 45% considered that the new food body should have further statutory powers in addition to those that the FSA already has. Local authority respondents featured significantly amongst these supporters.

6.5 There was much support (12 mentions) for the proposals set out in the FSA's consultation on **Primary Enabling Legislation**.

6.6 Calls were made (8 mentions) for **additional powers to impose fixed penalties and other notices**, particularly for minor, low risk contraventions. Such interventions were viewed as potentially more proportionate and appropriate for many cases rather than the current route of reporting them to the Procurator Fiscal. Comments included:

“Notice procedures would enable the enforcer to be clear about the nature of a contravention and the timescale for compliance. They should divert effective measures from the courts as far as possible but provide safeguards through appeals procedures” (Scottish Federation of Meat Traders).

“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” (North Lanarkshire Council).

6.7 A recurring view (7 mentions) was that additional statutory powers are needed to allow for **unannounced visits** to approved premises and seizure on grounds of standards in addition to safety.

6.8 There was general support for **reviewing and strengthening penalties** (6 mentions, largely local authorities), with one respondent arguing that “at present the financial gain (from criminal offences for non-compliance with food labelling legislation) outweighs the penalties” (Moray Council).

6.9 **Other additional statutory powers** recommended by respondents for the new food body included:

- powers to enforce Protected Geographic Indications (IRB, LA)
- Scottish passport system for horses (Prof A&U, Third)
- consideration of extending regulation 27 of the Food Hygiene (Scotland) Regulations to food provided without adequate evidence of source (Ind)
- random testing and sampling (PB)
- the same powers already applying to food hygiene to apply to food standards (IRB)
- greater enforcement powers (PB)
- powers to request stricter labelling (e.g. to indicate whether meat has come from animals slaughtered without stunning; method of rearing) (Third)
- enhanced powers in relation to registration of businesses and operators across the supply chain, including brokers (Cons)
- enhanced powers to require businesses to display hygiene ratings (Cons)
- legislation to introduce licensing of high risk premises (PB).

6.10 A recurring theme (18 mentions) was that the new food body and others involved in official controls should be **adequately resourced** to carry out their

statutory duties. Ten respondents referred specifically to Audit Scotland's report, "Protecting Consumers" with regards to workforce planning.

6.11 Further general comments included calls for investigation and enforcement responses to be **prompt, consistent but flexible** across boundaries. Two respondents (LA, LA) recommended that the new food body have the power to transfer enforcement responsibility on a permanent or temporary basis to where it is needed in the interests of the consumer. Others (LA, Prof A&U) advocated the powers for cross-border authorisation of officers to deploy resources at times of need, for example in public health emergencies. One respondent commented:

"The new food body will require the power to investigate food related incidents promptly, publicly and independently. Identifying those responsible is necessary to act as a deterrent as commercial pressures driving these incidents will always exist" (Public Health Nutrition Research Group, University of Aberdeen).

6.12 In considering additional statutory powers for the new food body, two respondents (PB, Bus) requested that **consistency with the rest of the UK** should be maintained as far as possible.

Views of those who did not perceive the need for further statutory powers

6.13 Of those who provided a view, 23% did not consider that the new food body requires additional statutory powers over and above those that the FSA already has. Industry representative bodies were particularly well represented amongst the respondents holding this view.

6.14 Referring to the recent horse meat incident, a recurring view (5 mentions) was that that this represented criminal activity which was a matter for the criminal justice system, rather than revealing any inadequacies of FSA's current statutory framework.

6.15 A general theme (8 mentions) was that the statutory powers available are adequate but need to be applied effectively, with greater attention given to the activities of intelligence gathering and targeted testing. One respondent summed up his view thus:

"It is idealistic to suggest that (statutory) powers prevent incidents. The complexity of the food chain and the opportunities to exploit are a major contributor to the incidents which have arisen. Unless decisions are taken to minimise the supply chain then this will always be difficult to control. It is also not just about powers, but resources to pursue these powers. There is a declining resource within the agency, local authorities and scientific services able to monitor and control food safety" (Ind).

6.16 Four respondents including two industry representative bodies, called for enforcement strategies to be reinforced rather than statutory powers extended. One commented:

“NFU Scotland does not believe that additional statutory controls are necessary. The appropriate regulations are in place, but we need increased enforcement and compliance” (NFU Scotland).

6.17 The consultation asked:

Question 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.

6.18 Sixty (48%) of the 126 respondents addressed this question.

6.19 Much of the content of submissions overlapped with comments expressed in response to previous questions, particularly in relation to highlighting what many perceived as a **gap in enforcement options** between informal response to contraventions, and formal reports of alleged breaches to the Procurator Fiscal. Sixteen respondents (largely local authorities) called for a framework of fixed penalty notices to bridge this gap. However, contrasting views from two industry representative bodies were that greater recourse to fixed penalties as an alternative route to formal prosecution, should not compromise consumer protection or fair justice.

6.20 Further calls (10 mentions from a range of sectors) were also made for **enforcement to be implemented promptly, robustly and consistently**. One respondent’s comments reflected common views:

“Enforcement powers must be thorough, but also timely – there is a need to act quickly so procedures must be in place (and well-rehearsed with named individuals responsible for specific actions) so there is no time lag while procedures are set up and agreed, particularly if there is a question over whether a business is to be allowed to continue to trade meantime or not. These procedures must also be cleared with agencies around the UK to avoid confusion as other agencies/enforcers are likely to be involved” (Ind).

6.21 To enable the new food body to operate in this way, six respondents recommended that **appropriate resources** be made available.

6.22 Other recommendations on how the new food body might ensure that it can deal with contraventions of food standards and safety law were:

- Establish specialised Procurator Fiscal services to deal with food offences to ensure food crime is prosecuted and punished more consistently (9 mentions, 7 of which were local authorities).

- Increase the severity of penalties, the current penalties being viewed as lacking in deterrent value and too lenient (8 mentions) (although a call was made to ensure a balance is achieved between severity and threatening viability of businesses (Acad)). One view was:
“Penalties should be commensurate with the level of any contraventions. Until the penalty equals/outweighs the possible ‘benefits’ we cannot see how there might be an effective deterrent” (Association of Meat Inspectors).
- Focus on prevention, through education (for example, for producers, public) and working collaboratively with others in environmental health, health and safety, and so on (5 mentions).
- Increase intelligence functions, from linking with EFSA to identify emerging risks, to introducing a contact telephone number for the public to report their concerns (4 mentions).
- Improve traceability through better licensing and food registration regimes (3 mentions).
- Consider the powers that are being proposed in the Regulatory Reform (Scotland) Bill for environmental regulation with a view to assessing the appropriateness of similar powers to regulate the food and feed businesses (3 mentions).
- Streamline and coordinate cross-border working arrangements (2 mentions).
- Revise inspection strategies so that they become more focused on the complexity of food (e.g. number of ingredients, length of supply chain) (2 mentions). One view was:
“The food producers must be persuaded that robust inspection is a selling point which will protect the brand of Scottish meat, so that consumers throughout the world can be ensured they are receiving a quality product. Investigations and prosecutions are not a sign of ‘weakness’ of the brand, rather an indication of an industry that is properly inspected and regulated” (Unison).
- Retain the independence of the new food body so that it does not become influenced by powerful business interests (2 mentions).
- Establish stand-alone food services within local authorities reporting directly to the Chief Executive, funded by the Scottish Government with ring-fenced monies (1 mention).
- Make the Food Hygiene Rating System mandatory with information displayed for consumers to see (1 mention).
- Learn from legislation elsewhere in the UK and further afield (1 mention).

6.23 The consultation asked:

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

6.24 Eighty four (67%) of the 126 respondents addressed this question. A few further respondents simply referred to their responses to previous questions, notably questions one and eight. The content of responses ranged from detailed lists of specific roles and responsibilities proposed for the new body, to general debate about the pros and cons of centralising such functions.

Views on underpinning principles

6.25 A few respondents suggested general principles which they considered should underpin decisions on the allocation of regulatory, enforcement or monitoring roles and responsibilities. Their suggestions are summarised below:

- Decisions should be preceded by extensive consultation with the stakeholders affected.
- Changes should be based on sound evidence that this is merited and will deliver efficiencies.
- Changes should deliver better outcomes for consumers.
- Independence of the new food body and existing relationships should not suffer.
- Additional roles and responsibilities should be taken on only where gaps are identified. One respondent commented:
“Scotland is a relatively small country with limited resources and expertise, therefore it is essential that the role, remit and responsibilities of different organisations in relation to the nutrition agenda are absolutely explicit and understood. A needs assessment and stock-take would provide an opportunity to identify gaps if they exist” (NHS Tayside).
- The rationalisation of certain controls makes sense, for example, one body regulating both food hygiene and food standards.
- Under a more centralised model, inspection regimes could be rationed by becoming more risk-based.
- Centralisation should be considered where the controls require to be of a specialised nature, involving complex activities, with application infrequent and dispersed geographically.
- Where controls cross local authority boundaries and could be challenging to administer, centralised controls may be more effective.
- Should be centralisation of particular controls highlighted by the European Commission’s Food and Veterinary Office and controls relating to international trade.
- There needs to be provision of central support to local authorities where centralised provision is likely to be more efficient and fairer to individual local authorities, for example, where economies of scale can be achieved.

6.26 Others agreed that some functions could be brigaded more effectively. An example was provided of veterinary resources, which one respondent perceived to be currently:

“...disparate with ‘Government’, in the shape of the FSA, AHVLA and Scottish Government all managing a corps of vets” (Scottish Association of Meat Wholesalers).

This respondent considered that bringing AHLVA within the FSA would lead to a single management command and increased flexibility to fully deploy vets flexibly and cost effectively.

6.27 One local authority called for the SFELC, which currently coordinates food law enforcement and sampling and surveillance activities of Scottish local authorities, to be formalised through legislation as part of the process of establishing the new food body.

6.28 Another basic principle to be incorporated into any revised regulatory, enforcement or monitoring roles and responsibilities regime, according to four respondents is that of maintaining flexibility in the process. It was considered that the establishment of a new food body provides a significant opportunity to create such flexibility to enable the transfer of statutory responsibilities between agencies where official controls would be better delivered by one or other body according to local needs, intelligence and circumstances.

6.29 Two respondents urged that any expanded roles for the new food body should take cognisance of:

- wider environmental issues such as carbon foot prints (Third)
- health inequality impact assessment (PB).

Views on the areas already suggested by stakeholders for regulatory, enforcement or monitoring roles for the new food body

Animal health and animal by-products

6.30 Seven respondents commented, with six agreeing this area of responsibility for the new food body; and one respondent (Ind) disagreeing, although suggesting that the new body could regularly review the updates on TSEs, produced by the appropriate authorities.

Food labelling

6.31 Six respondents envisaged food labelling sitting under the auspices of the new food body’s regulatory, enforcement and monitoring regime.

Provenance

6.32 Seven respondents agreed that the new food body would be well placed to enforce related matters, particularly where they crossed boundaries, such as tracing the movement of livestock.

Dairy and egg production controls

6.33 Eight respondents agreed that this seemed appropriate, with one stating that such controls, “fit wholly within the general food safety/standards remit of the body” (Scottish Food Advisory Committee).

Drinking water quality

6.34 Seven respondents (largely public bodies) provided views on where responsibility should lie. Five agreed that responsibility for the quality of tap water should remain with the Drinking Water Quality Regulator (DWQR). It was remarked that this body also regulates drinking water for private supplies, and appeared to be effective and efficient in operation, with no strong reason to alter this arrangement. According to one respondent:

“...there is a risk that giving another body responsibility for drinking water quality could introduce unnecessary confusion and/or overlap” (Water Industry Commission for Scotland).

6.35 Two respondents (IRB, Bus) favoured the new food body taking on responsibility for drinking water quality.

6.36 One individual respondent suggested that the new food body take over regulatory responsibility for the quality of “all spring and bottled waters, flavoured or not, fizzy or still”.

Public analyst functions

6.37 Views were divided amongst the eight respondents who provided views on the location of public analyst functions once the new food body is established. Six argued for public analyst functions to remain independent from the new body, decentralised within local authorities, in order for these functions to be coordinated with other related issues.

6.38 The other two respondents (LA, Ind) advocated the new body taking on public analyst functions only so far as they related to food matters, with the remaining aspects retained by local authorities.

Further suggestions for regulatory, enforcement or monitoring roles for the new food body

6.39 The following suggestions were made for additional roles:

- delivery of official controls during primary production (LA, LA, LA)
- delivery of official controls relating to the supply and manufacture of materials and articles in contact with food, food additives and processing aids (LA, LA, LA).
- coordination of export certification and liaison with third countries (LA, LA, LA)
- enforcement of equine regulations (Third, Prof A&U)

- import controls at points of entry including existing local authority controlled Border Inspection Posts and Designated Points of Entry (LA, LA)
- promoting Scotland's "larder" as natural, fresh and healthy (Ind)
- adoption of a consumer-facing approach to service provision, complaints and ombudsman procedures (IRB)
- independent evaluation of policy and legislation relating to nutrition/food and public health (Acad)
- sourcing and development of technical, professional and practical training for food and feed enforcement officers (LA)
- overseeing good food education and school meals (Third)
- standard setting for welfare-assured schemes (Third)
- provision of phytosanitary protocols (IRB)
- monitoring of primary honey production (IRB)
- transfer of responsibility for inspections relating to farmed fish and shellfish which are currently under the auspices of the Fish Health Inspectorate of Marine Scotland (IRB)
- provision of veterinarian services for the official certification of carcasses/meat products for export (IRB)
- testing of meat for veterinary residues (IRB)
- enforcement of cross-boundary food services, for example, those on board passenger vehicles (LA)
- determination of approval of establishments under Regulation (EC) no. 853/2004 (LA)

Views on contribution of local authorities to official controls

6.40 A prominent theme amongst local authorities was that they currently provide an effective and efficient enforcement regime, aspects of which may be best left to local delivery. It was commonly felt that wholesale transfer of official food controls from local authority delivery to become the direct responsibility of the new food body could have a detrimental effect on the viability of the Environmental Health Service in Scotland. Three respondents (PB, Ind, IRB) argued that the new food body would not have the necessary local knowledge and understanding to fulfil this role effectively, with local authorities also likely to provide a speedier service. They considered that should deficiencies be identified in the service provided by local authorities, then rather than transferring the service delivery elsewhere, improvements should be identified in discussion between the new food body and local authorities.

6.41 Ten local authorities emphasised that the benefits of the current holistic nature of environmental health services should not be jeopardised by the reorganisation of the delivery of food controls. They considered that a separation of food law enforcement from general environmental health activity could detract from the wider protective service in Scotland.

6.42 Three respondents provided a contrasting perspective, arguing that centralisation of the delivery of food controls would be helpful by:

- reducing the number of organisations involved in controls (especially where retailers operate businesses in more than one local authority)
- helping to develop expertise within the new food body
- reducing current disjointedness in service
- reducing variation in the interpretation of law.

6.43 Two respondents (LA, PB) were specific in their recommendations for roles and responsibilities which they considered should remain within the remit of local authorities:

- formal approval of all fish processing establishments
- inspection of fish at point of first landing and prior to wholesale at auction markets
- routine inspection of businesses
- inspection of third country imports of fishery products at Border Inspection Posts
- issue of export certification for fishery products exported to third countries
- delivery of official controls relating to feed hygiene and standards.

Views against the new food body taking on additional regulatory, enforcement or monitoring roles

6.44 Twenty (24%) respondents who provided a view appeared to be largely against the new food body taking on additional regulatory, enforcement or monitoring roles in areas where the FSA does not currently have a role. Three (Cons, LA, PB) expressed concern over whether the new body would be resourced sufficiently to perform additional functions. One commented:

“Unless there is significant additional funding, the new food body should consolidate and retain existing staffing levels and competencies without taking on too many new roles and responsibilities” (Dundee City Council).

6.45 Others argued that there is no good reason for an extension in roles and responsibilities (Acad, LA, PB); a further four respondents (LA, Cons, PB, Third) cautioned against the new food body becoming too large and losing its core focus. According to two respondents (PB, Ind), extending the new food body's roles and responsibilities in relation to regulation, enforcement and monitoring could add a layer of complexity and create confusion.

6.45 Two industry representative bodies suggested that the new food body establish itself first before considering taking on additional roles and responsibilities.

7. CONSIDERATION OF DELIVERY OF OFFICIAL FOOD AND FEED CONTROLS

Background

7.1 The FSAS has direct responsibility for the delivery of official controls in approved fresh meat establishments. Official controls at other food and feed establishments and at ports are delivered by local authorities. It has been suggested that official controls currently delivered by local authorities could be delivered directly by the new food body, or that control of delivery could be centralised. An alternative suggestion was for the new food body to take on direct responsibility only for certain official controls and functions currently delivered by local authorities. The consultation document presented a number of suggestions for changes to the delivery of official food and feed controls.

7.2 The consultation asked:

Question 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.

7.3 Sixty five (52%) of the 126 respondents addressed this question. Overall the submissions contained a mixture of general comments about balance of controls, more specific comments on the proposals outlined in the consultation paper, and references to comments provided previously in relation to other related questions. Many responses were very detailed, with lengthy, in-depth commentary on precise topics and control arrangements. The analysis below summarises the broad, key themes raised.

Views on whether the new food body should work in a different way with local authorities

7.4 A common cross-sector view was that the existing partnership between local authorities and the FSA works well and should provide a building block on which to develop the partnership between local authorities and the new food body. Five respondents called for closer working between them to help to address what was seen as inconsistent interpretation of food legislation by different Scottish local authorities.

Views on overall balance of controls between local authorities and the new food body

7.5 The consultation raised the issue of changing the balance of responsibility for controls between local authorities and the new food body. Whilst the model of having one single, centralised enforcement body was viewed by some as

attractive in its simplicity and potential consistency, concerns were raised over loss of local knowledge, expertise and good practice should this proceed. One respondent's comments summed up the considerations involved:

“The issue of changes to the delivery of food and feed controls is potentially a complex one. It could be argued that a national body responsible for the delivery of all food and feed controls would bring with it certain economies of scale, national consistency and a focus on food issues. On the other hand, it is reasonable to state that local authorities currently deliver a good service with local accountability and importantly, local knowledge and long standing relationships supporting local business to achieve compliance with food safety legislation” (East Lothian Council).

7.6 A few respondents repeated their caution that centralisation of official controls should not compromise current environmental health services (Third, LA) and should be properly funded (Third, Cons, IRB).

7.7 Five respondents supported the proposition that flexibility be built into the legislation to allow the transfer of enforcement responsibility between local authorities and the new food body where both parties agree that official controls at a particular establishment or class of establishments, would be better delivered by one or other body according to local needs and circumstances. One stated:

“The flexible approach outlined... seems more practical to implement than having a major re-shuffle of responsibilities between the new food body and local authorities, particularly if removal of functions could threaten the on-going existence of that local expertise” (Quality Meat Scotland).

Views on specific suggestions for delivery of official food and feed controls outlined in the consultation

Proposal: The new food body takes on approval of those food and feed establishments that require approval under EU food hygiene legislation (Regulation (EC) No 853/2004) and all processes for the suspension or withdrawal of those approvals. Official controls other than approval or the suspension or withdrawal of approval would remain with local authorities. Responsibility for enforcement action relating to operation of an unapproved establishment requiring approval would rest with the new food body.

7.8 Of the 14 respondents who provided a clear view on whether or not they supported this proposal, 10 respondents from a range of sectors agreed with it, and four were clearly opposed.

7.9 Those who supported the proposal considered that it would ensure greater consistency in the approval process. They also commented that this would remove what they perceived to be a current anomaly whereby local authorities

deal with unapproved establishments even though they are not responsible for enforcement once the establishment is approved.

7.10 Four local authorities expressed clear opposition to the proposal. Concerns were raised over whether a remote, centralised body could provide a similar level of service to that currently available to businesses in remote areas of Scotland. Opponents also questioned the rationale of having different sets of officers dealing with approval and on-going enforcement and liaison respectively.

7.11 If the proposal is implemented, respondents requested that it be well resourced and staffed with competent, suitably qualified personnel, who will work closely with local authorities over practical details. Calls were made for arrangements to be put in place for new applications to be processed efficiently so as not to hold up the development of new food enterprises (LA, IRB).

Proposal: Where the new food body is the designated food authority for an approved establishment (such as slaughterhouses and meat cutting establishments), it should be responsible for official controls for all food commodities at the establishment and all official controls including those for food standards.

7.12 Sixteen respondents commented on this proposal, 13 of them local authorities. The overarching view was that food standards should be delivered by the new food body where they also deliver food hygiene official controls. Two key reasons were provided to support this view:

- removes an area of dual enforcement
- enables a greater degree of clarity for businesses.

7.13 One overriding concern was that if implemented, the new food body will need to ensure that the expertise of enforcement officers is maintained through qualifications, training and experience.

7.14 One respondent (LA) suggested that these functions be retained by local authorities unless there is clear evidence that the new food body can undertake them more efficiently and effectively.

Proposal: The new food body undertakes coordination of export certification and liaison with third countries.

7.15 All 12 respondents (10 of them local authorities) who provided a clear view agreed that the new food body should take on this coordinating role, with actual delivery remaining with local authorities. An industry representative body recommended that the new food body be encouraged to redesign the way in which export certification is supported, minimising cost and bureaucracy whilst still meeting the requirements of the third countries involved.

Proposal: The new food body undertakes import controls at ports of entry, including local authority controlled Border Inspection Posts and Designated Points of Entry.

7.16 There were mixed views on this proposal amongst the 12 respondents who commented. Whilst one local authority supported it as a means to providing greater consistency and efficiency, others expressed concerns over the impact it could have on the local authorities involved. Removing this function from local authorities was seen as potentially jeopardising the current holistic nature of environmental health services which was viewed as running contrary to the Scottish Government's Better Regulation Agenda. One local authority stated that they saw no good reason to remove this function from local delivery. A recurring view (8 mentions) was that import controls at ports of entry could be an area where the proposed flexibility could be applied to transfer enforcement responsibility from the new food body to appropriate local authorities.

Proposal: The new food body undertakes the delivery of official controls relating to animal feed hygiene and standards.

7.17 Whilst two respondents (Prof A&U, LA) supported this proposal, largely on the grounds that as only a small proportion of local authority officer time is spent on these controls, there may be merit in centralising the function, others (seven local authorities) expressed caution. For them, the proposal was attractive in potentially creating a single enforcement organisation for the farming industry regarding food and feed, but wider considerations included the possible adverse impact this could have on the delivery of overall trading standard functions by local authorities.

Proposal: The new food body undertakes the delivery of all official controls and related monitoring activity during primary production, including farming (including milk production holdings), game larders, fishing and aquaculture. Consideration could also be given to first landings of fish at markets.

7.18 Seven respondents (including five local authorities) clearly supported the proposal largely on the basis of:

- provides for economies of scale
- creates a single enforcement authority for the primary food production sector
- consistent with the Scottish Government and Rural Services Project
- addresses gaps in the current arrangements.

7.19 Three local authorities cautioned that the proposal should not jeopardise the delivery of wider environmental health functions by local authorities. It was suggested (LA, LA) that this could be an area where a flexible transfer approach

to the enforcement role between the new food body and appropriate local authorities could be implemented.

7.20 Two local authorities expressed concern that if the new food body undertakes fish inspection then this would alter the current position in which one authority (local authorities) are responsible for food safety and standards.

Proposal: The new food body undertakes the delivery of official controls relating to the supply and manufacture of materials and articles in contact with food, food additives and processing aids.

7.21 All 11 respondents (including nine local authorities) who provided a view supported the proposal. The main reasons for support were:

- improves consistency of delivery
- addresses gaps in provision
- ensures effective delivery of official controls in this area.

Proposal: The new food body takes responsibility for the recognition of natural mineral water sources.

7.22 Eight local authorities supported this proposal. Their reasons were:

- aids consistency of delivery
- addresses gaps in provision.

7.23 Two respondents called for flexibility to remain to ensure appropriate use is made of local authorities' expertise and local resources.

Proposal: The FSA currently develops technical and professional training of authorised officers whether they are employees of the FSA or of the local authorities. However, in addition, the new food body could, if resourced appropriately, also provide specialist advice to local authorities on food science, food technology and veterinary matters.

7.24 Twelve respondents (including nine local authorities) supported this proposal. A recurring view was that potential existed for the new food body to establish a similar role in relation to training as had been developed by the Health and Safety Executive in providing specialist support to local authorities on occupational health and safety enforcement. One individual respondent suggested that training could be provided by the new food body in partnership with Queen Margaret University, Edinburgh.

Proposal: The SFELC is a group that coordinates the food law enforcement and sampling and surveillance activities of Scottish local authorities. It has been suggested that this group could be formalised through legislation as part of the setting up of the new food body.

7.25 Twelve respondents from a range of sectors commented on this proposal, with 11 finding merit in the concept of formalising the group into a body which is formally consulted by the new food body on relevant issues. Two respondents (LA, Prof A&U) emphasised their view that the independence of SFELC should not be compromised by a formal arrangement.

7.26 A recurring view (7 mentions) was that the guidance produced by SFELC would benefit from greater formal recognition, and could possibly be established as a formal Code of Practice.

7.27 One industry representative body opposed the proposal, preferring the current voluntary approach to remain.

Proposal: The new food body could support and protect food law enforcement services by strengthening audit procedures.

7.28 Four respondents from different sectors provided clear support for this proposal. Two (Cons, Prof A&U) argued that audit procedures needed to be strengthened; one public body stated that as one of the main functions of the new food body is to focus on improving the quality of services, its role in strengthening audit procedures would be advantageous.

8. AUDIT

Background

8.1 EU legislation placed Member States under an obligation to enforce food and feed law and to ensure compliance. They are to designate competent authorities for the purposes of official controls, and these competent authorities are required to have internal audits or external audits carried out. The FSA, as representative of the UK as Member State, provides assurance to the European Commission of delivery of official controls in the UK.

8.2 An audit team at FSAS audits the delivery of official controls by local authorities in Scotland. This provides assurance of delivery of official controls in Scotland. Delivery of meat and shellfish official controls by FSA and FSA operations staff in Scotland is currently audited by the FSA's internal audit team based in England. The new food body could expand upon the current audit capability of FSAS in order to carry out parallel internal audit of any aspect of the new food body's operation, including the Scottish meat and shellfish operations functions and any additional operational or enforcement functions that the new body might take on.

8.3 The consultation asked:

Question 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.

8.4 Sixty one (48%) of the 126 respondents addressed this question with many emphasising that robust audit processes will be pivotal to the successful assurance of official controls under the new food body.

8.5 The most common view expressed (18 mentions including 17 local authorities) was for the new food body to prepare a **Scottish Framework Agreement**, similar to that which already exists, which is binding on organisations delivering official controls.

8.6 Sixteen respondents from a range of sectors argued for the retention or/and enhancement of the **current audit arrangements**, with four requesting that these are formalised.

8.7 Calls were made by 15 respondents (including 13 local authorities) for the existing **Food Law Code of Practice and Practice Guidance** to be revised to detail the delivery of official controls.

8.8 Fourteen respondents (including 13 local authorities) considered that given concerns relating to workforce planning, the new food body may find benefit in

establishing **Service Level Agreements** with local authorities to have assurance that official controls will be delivered adequately and consistently across Scotland. Four local authorities suggested that the new food body works with COSLA on the workforce planning arrangements suggested in Audit Scotland's report on "Protecting Consumers".

Other suggestions for assurance on meeting EU obligations

8.9 Other suggestions included:

- Resources need to be in place to support the delivery of official controls (10 mentions).
- Audit staff should be expert, with external experts co-opted onto the audit team where they are auditing specialist systems (Ind, Ind, PB).
- The staff carrying out controls should be of high quality (Prof A&U, LA, LA).
- Close liaison is required between the new food body and the FSA and the EU (IRB, IRB, Bus).
- Resources should be adequate to support official food control laboratory work (Acad, Prof A&U).
- The new food body needs to provide the necessary information to help companies comply with EU legislation (IRB, IRB).
- There should be an appropriate risk-based programme of inspection and sampling (IRB, IRB).
- Work closely with Trade Associations as they provide a useful link to smaller producers/retailers (Acad).
- The new food body could hold centrally the Register of Food Businesses (LA).
- It is the Scottish Government's role to ensure that EU obligations are met, advised by the new food body (Acad).

Concerns

8.10 A number of concerns were raised in connection with audit procedures. Most frequently raised (6 mentions from several sectors) were those over ensuring independence of the audit and transparency in the process. Two respondents (LA, Ind) questioned how the issue of independence of audit will be addressed once the new food body takes over direct delivery of official controls. Two others (Ind, PB) suggested that audit findings are made publicly available to aid transparency. One suggestion (Bus) was for a dedicated, separate, Scottish "verification team".

8.11 The relationship between audit procedures in Scotland and those elsewhere was raised, with one respondent (Ind) suggesting that it may be challenging for the new food body as the FSA will remain the relevant competent national authority in dealing with the EU. Two respondents (Prof A&U, IRB)

expressed concern that the new food body may duplicate efforts of the FSA in its auditing functions.

8.12 One respondent (Ind) considered that by strengthening standards of food safety by local authorities, other aspects of their environmental health remit could be weakened.

8.13 One academic cautioned against disadvantaging Scottish businesses in the establishment of new audit procedures, and recommended consistency of approach with auditing approaches across the EU.

8.14 The Society of Chief Officers of Trading Standards in Scotland urged the new food body:

“to consider ways other than the setting of overly bureaucratic systems/standards and formal audit, by which to achieve the assurances that the European Commission seeks”.

According to this respondent, the current system of audit process represents a waste of resources, and focuses too much on process and input/outputs rather than delivering outcomes which can make a real difference to the integrity of the food chain.

9. RELATIONSHIPS WITH OTHER ORGANISATIONS

Background

9.1 The FSA works with a range of other organisations in a variety of ways to delivery its responsibilities. In particular, it has a detailed protocol to handle food related incidents. The new food body will also need to collaborate, cooperate and coordinate with other organisations. These will include the FSA, Defra, Department of Health, local authorities, the Scottish Government, Health Protection Scotland, NHS Health Scotland, relevant professional bodies such as the Royal Environmental Health Institute of Scotland, academic institutions and research funders.

9.2 The new food body will establish appropriate working relationships with all relevant bodies, where necessary setting out contacts, service level agreements or memoranda of understanding, and ensuing in particular that a robust incident handling protocol will be established that will ensure consistency in appropriate and effective working with the FSA and with appropriate stakeholders, including the EU. This will be the subject of detailed discussion and negotiations during the programme to establish the new food body.

9.3 The consultation asked:

Question 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.

9.4 Sixty seven (53%) of the 126 respondents provided fresh commentary relating to this question. A few others stated that they had addressed the issues raised in their responses to previous questions.

9.5 Eighteen respondents from a range of sectors expressed support for the existing partnerships established by the FSA and recommended that these be adopted and built upon by the new food body. A recurring theme was that a key relationship will be between the new food body and the UK FSA, for example:

“We would stress the importance of the new food body – FSA relationship and hope that this would still allow Scotland to have a voice when negotiations are taking place at an EU level” (British Association for Shooting and Conservation).

9.6 One consumer representative body requested that attention be given to the relationship between the new food body and NHS Health Scotland so that the two organisations can ensure that potential overlaps in function can be addressed. An industry representative body recommended close partnership

working across a range of bodies to ensure improved clarity and consistency in public health messaging.

9.7 Six respondents from a range of sectors stated simply that they did not envisage any further relationships needing to be developed with the new food body other than those stated in the consultation.

Recommendations for additional relationships

Industry

9.8 Ten respondents from a range of sectors recommended that working relationships with industry partners would contribute to achieving the objectives of longer, healthier lives for people in Scotland. One respondent remarked:

“This section of the consultation has a substantial omission of any indication that the new food body should work with the food industry. This industry is in fact one of the new food body’s major partners. It is the food industry that actually delivers most of what the new food body is responsible for. It is only by working in conjunction with the food sector that the Ministers’ objectives will be met” (Scottish Salmon Producers Organisation).

9.9 Three (PB, Cons, Prof A&U) of the supporters of stronger working links with industry also expressed caution that the new food body should retain independence of decision-making, and resist becoming unduly influenced by industry representatives.

Education

9.9 There was cross-sector support (9 mentions) for the new food body to develop links with the education sector including Education Scotland with respect to the Curriculum for Excellence, schools, colleges and universities. One respondent argued:

“We hold the view that a return to ‘Home Economic’ lessons in schools and colleges would be money well spent. Even with the best systems there will always be a small element of risk, and educating children from the earliest practical age about the safe handling of food, adequate cooking, the maintenance of the cold chain and sell by/use by dates would all serve to help to meet the Scottish Ministers’ objective” (Association of Meat Inspectors).

National advisory groups/Professional bodies/Committees

9.10 Nine respondents (four of them academics) recommended that the new food body forge links with expert advisors including the Public Health Nutrition Group (hosted by NHS Health Scotland), the Association of Public Analysts, the Royal Society of Chemistry, Parliamentary Committees, scientific advisory and the Health Inequalities Ministerial Task Force.

Third sector

9.11 Five third sector organisations were amongst the eight respondents who advocated partnership work between the new food body and third sector organisations to promote longer, healthier lives. BHF Scotland, Voluntary Health Scotland, Community Health Exchange, Scottish SPCA and Community Food and Health Scotland were amongst the organisations highlighted.

Consumers

9.12 Six respondents from a range of sectors considered that efforts should go into developing stronger links with consumers and those experienced in engaging with consumers. Citizens Advice Scotland commented:

“We would like Citizens Advice Scotland to have a good working relationship with the new food body. The service took over the responsibility for the Consumer Direct helpline in April 2012, which is now the Citizens Advice Consumer Service helpline. Through the helpline, the service dealt with around 1,000 cases last year related to food and drink, involving issues with quality, food labelling and misleading advertising. The evidence could be used by the new food body to inform their priorities for action.

Citizens Advice Bureaux advise on relatively few issues directly related to food and drink, but commonly assist clients who are struggling to afford adequate food and have a poor diet as a result. Bureaux have an excellent understanding of the issues that make a healthy diet unaffordable for many clients and the consequence this has for them. This experience can be fed into the work of the new food body.”

NHS regional boards

9.13 Six public bodies suggested that if the new food body takes a wider public health approach to improving diet, nutrition and health, then it will be appropriate to establish working relationships with the NHS boards in territorial areas.

Businesses/Retailers

9.14 According to five respondents from a range of sectors, the new food body will need to develop links with small food businesses which are integral to frontline delivery of services. The view of the Scottish Retail Consortium was:

“The current relationship between the FSA and our sister organisation the British Retail Consortium has been extremely important in ensuring a two-way flow of information.....it helps the FSA understand some of the practical implications of decision on retailers and consumers and provides a conduit for FSA to pass information quickly to the retail sector to ensure all decisions are quickly acted upon.”

Non-Government Departments

9.15 Five respondents (four of them third sector organisations) recommended that links with appropriate NGOs will be beneficial for the new food body. SEPA and Scottish Water were identified in this respect.

Other suggestions

9.16 A small number of other suggestions were made by respondents for relationships which might help the new food body to achieve the Ministers' aims.

These were:

- Public Health England
- Department of Work and Pensions (over the impact of welfare reforms)
- Meteorological office
- Ordnance survey
- Crown Estates Commission
- UK Hydrographic Office

10. CONSUMER ENGAGEMENT

Background

10.1 The new food body will be consumer-focused. The FSA engages with consumers in a number of ways, to consult and to provide information or advice. One method is by means of a consumer panel. The FSA in Scotland, in addition, engages with 'seldom-heard' consumers through a variety of organisations already engaged with these groups.

10.2 The consultation asked:

Question 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?

10.3 Seventy two (57%) of the 126 respondents addressed this question. Overall there was much support and respect for the work previously undertaken by FSA in engaging with consumers, with 23 respondents requesting explicitly that this type of work continues. A recurring view was that consumers should be represented on the new food body's advisory committees and dialogue with SFELC which includes consumer interests should continue.

10.4 Two public bodies suggested that the new food body develops a formal strategy for communication with consumers.

Views on providing information and advice

10.5 General comments on *providing* information to consumers were that transparency and openness in information provision is required (Third); and that the new food body needs to understand the perspectives of different consumers in order to present not merely factual information, but advice which is in tune with their lifestyles and available choices (Acad).

10.6 An emphasis was made on the need for consistency of message, which some felt was lacking at present. It was suggested that this could be achieved by establishing the new food body as a "one-stop-shop" for advice (IRB); and closer collaboration with other relevant stakeholders to ensure that crucial messages are agreed and presented in a united fashion (Acad).

10.7 Some respondents commented on appropriate formats for information and advice, with calls for user-friendly, readily understood messages (IRB, PB, PB), in layman's terms (PB, LA). One view was:

"Messages need to be clear and accessible, not 'preachy' or seen to be targeted only at middle class audiences" (Midlothian Food and Health Alliance).

10.8 Two respondents (Acad, Third) questioned the use of the word “consumers” in this context, expressing concern that the word may in reality be a barrier to engagement, with negative connotations. One remarked:

“The term ‘consumers’ implies that people are passive users rather than active citizens engaged in their own health” (Children in Scotland).

10.9 A recurring view (6 mentions) was that the new food body could benefit from collaborative work with organisations experienced in providing information to the public, such as NHS Health Scotland, Citizens Advice local networks and healthcare professionals such as local nutritionists.

10.10 Specific routes to providing information and advice were highlighted:

- website (Acad, PB, Third)
- face-to-face in supermarkets (especially useful as an alternative to IT routes) (IRB, Acad)
- media (Acad, PB)
- emails akin to the current FSA email system which provides information about food incidents/ recalls (Ind)
- newsletter (Ind)
- using the food hygiene rating scale (Bus).

Views on engaging with consumers

10.11 A general view was that *engagement* with consumers should be mainstreamed into the work of the new food body rather than added on as an extra (Cons, Cons, Ind). One respondent remarked:

“Consumer engagement needs to be an in-house and mainstream activity for the new food body so that consumers’ views are part of the development of policy from an early stage – these cannot be patched on at the end” (Ind).

10.12 One local authority recommended that consideration is given to whether enough weight is attached to consumers’ views. Others (PB, PB, Prof A&U) advocated a wide range of consultation mechanisms be deployed in order to reach different sectors of the population.

10.3 The challenges of engaging with ‘hard to reach’ consumers (low income, young people, vulnerable consumers were mentioned in this regard) were raised by five respondents from a range of sectors. A recurring view amongst industry representative bodies and public bodies (5 mentions) was that care should be taken that views gathered are truly representative of the wide range of population sectors.

10.4 One respondent (Third) identified a lack of resources available to small third sector organisations as a potential challenge to furthering engagement with consumers.

10.5 A common view was that research methodologies should be deployed to seek views of consumers. One respondent (Third) suggested that the new food body should develop a formal, ongoing programme of action research. Others agreed that there is a need for more interactive, qualitative research (Acad), supported by a significant research budget (Cons).

10.6 Some respondents specified research techniques which they felt would be particularly appropriate for seeking consumers' views:

- focus groups (e.g. with shoppers; chefs) (Ind, Ind)
- deliberative engagement (Ind, Cons)
- consumer panels (Third, IRB)
- participatory research (Third)
- citizen's juries (Third).

10.7 Other recommendations for engaging with consumers were:

- via social media (11 mentions)
- a dedicated Food App (4 mentions)
- public meetings (Third)
- attending road shows (Ind)
- attending food and drink events (Bus)
- online forum (Ind)
- website area for voting and providing suggestions (akin to the 10 Downing Street concept) (Ind).

10.8 A common view (10 mentions) was that the new food body should liaise with those organisations who already have experience of engaging with the public. Citizens Advice Bureaux, Which?, Community Food and Health (Scotland), the Food and Health Alliance and Poverty Alliance were identified in this regard.

10.9 Another common recommendation (10 mentions) was for the frameworks for consumer engagement already established by local authorities and territorial health boards, to be harnessed and utilised by the new food body. One local authority suggested building in to SLAs the use of citizen's panels and forums for seeking views on food related issues.

10.10 It was suggested (PB) that rather than undertake isolated consumer engagement exercises, partnerships should be forged with local groups to promote joined-up, ongoing work. Two respondents (LA, PB) called for groups such as local food liaison groups and other relevant community groups to be supported and built upon.

10.11 Two respondents (Prof A&U, LA) considered that engagement could be enhanced by placing the Food Safety and Inspection Service on a statutory footing.

11. INDEPENDENCE FROM GOVERNMENT AND FOOD INDUSTRY

Background

11.1 It is intended that that the new food body will be established at arms length from the Scottish Government. The independence of the body is considered to be vital to ensure that consumers trust and follow the advice the body gives, particularly during outbreaks of food-borne diseases.

11.2 It is proposed that the new food body's governance structure underpins its independence with the body being set up as a non-Ministerial department, part of the Scottish Administration rather than the Scottish Government, and accountable to the Scottish Parliament rather than Scottish Ministers.

11.3 Safeguards will also be built into the legislation to help build confidence and trust in the new body.

11.4 The consultation asked:

Question 15: Do you agree with the suggested approach to ensuring the new food body's independence from Government and 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.

11.5 Ninety respondents (71%) of the 126 respondents addressed this question. There was widespread agreement with the proposal that the new food body retain independence from the Government and the food industry (although it was felt that it could not be considered completely independent from Government whilst being funded by the public purse (IRB) and if Board positions need to be approved by Ministers (IRB)).

11.6 Overall, 46 respondents gave explicit support to the approach suggested in the consultation paper to ensuring the new food body's independence from Government and the food industry. It was considered that being seen to be independent was important for:

- boosting consumer confidence and trust (17 mentions)
- delivery of the Scottish Government's aim to protect health (13 mentions)
- the public interest (PB)
- credibility of the new food body (Cons)
- prevention of conflicts of interest (Prof A&U)
- preventing accusations of political bias and interference from food industries (Acad).

11.7 The proposed governance structure was particularly welcomed by six respondents from a range of sectors. The proposed safeguards were praised in general by a further two respondents (LA, Ind). Five respondents from five different sectors highlighted their support for the proposal that the new body is given the ability to publish its advice to Ministers, with some emphasising what they perceived to be the importance of exercising this ability.

Additional suggestions

11.8 The most common additional suggestion was that the new food body operates with complete transparency, being open about decision-making and the rationale behind this (8 mentions).

11.9 Five respondents (four of them public bodies) called for the new body to have autonomy to act on scientific evidence independently.

11.10 Two third sector respondents suggested that independence could be enhanced by stipulating that the Chief Executive and board members do not have a past history of involvement in the food industry or have conflicting interests.

11.11 The view of three respondents (Ind, Ind, Third) was that the new body should be free from industry funding for its research function and should not be involved in any promotion of the food and drinks industry.

11.12 NHS National Services Scotland suggested that it may be beneficial to incorporate the functions of the new food body within its own organisation on account of its provision of a range of relevant services, many of which currently interact with the FSA, its strong governance, and its established services at arms length from government.

Concerns

11.13 One issue on which there were mixed views was the extent to which the new food body should remain independent from the food industry and how this is interpreted. Whilst it was acknowledged that the new body should retain independence of decision-making, 10 respondents from a range of sectors emphasised that the involvement of industry in the development of policy and enforcement regimes was healthy and beneficial. One remarked:

“...agrees with the approach being taken to ensure the new food body is independent from Government and food industry. However, maintaining and improving upon existing links with Government and the food industry should be continued; these deliver a means of informing and being informed, without compromising the ultimate independence of the new food body” (NFU Scotland).

11.14 One respondent (Ind) suggested that being open and transparent about this relationship with industry will reap significant benefits.

11.15 The other substantive concern raised (PB, PB) was that not enough emphasis had been given to the requirement for the new food body to be accountable for its actions. One respondent commented:

“Members have expressed concern about the expected wide remit and responsibilities of the new food body, and have suggested that the organisation’s proposed remit would cross various ministerial portfolios. This would have a significant impact on accountability and members would like to see the remit adjusted to make accountability more clear” (Aberdeen and Grampian Chamber of Commerce).

12. FURTHER COMMENTS AND SUGGESTIONS ON THE CREATION OF THE NEW FOOD BODY FOR SCOTLAND

12.1 The consultation asked:

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

12.2 Fifty (40%) of the 126 respondents took this opportunity to provide further commentary. Their comments are summarised below in order of the number of respondents who highlighted each topic.

Clarity of role of new food body within UK and EU

12.3 Eight respondents from a range of sectors provided commentary on the future operation of the new food body within the UK and the EU. Of key concern was the need for clarity over the relationship between the new food body and the UK authority as the sole central competent authority. Queries were raised over how the new food body will operate when negotiations at EU level are with the UK Government. Comments included:

“Whilst FSA Scotland plays an important role within Scotland, it is clear to Scottish food businesses that the main decisions which will continue to affect them will be taken at a European level where Scotland is not recognised as a Member State. Rather, the FSA UK will continue to play this role and we are therefore unclear on where the new, separate Scottish body would sit within that framework and what value would be added to businesses in Scotland” (Scottish Retail Consortium).

12.4 Caution was expressed over Scotland becoming isolated from other jurisdictions:

“A major drawback we see is that the new food body may make recommendations to introduce laws that are not reflected in the remainder of the UK. We believe this would be a disincentive for UK companies wanting to invest in new and existing Scottish facilities or place contracts with Scottish food producers, particularly if they have to supply certificates confirming they are in compliance with Scottish law whilst being processed under possible differing UK law” (Scottish Whisky Association).

“Should Scotland become independent from the rest of the UK following the referendum in 2014, there may be a temptation to establish a new food body which is wholly independent from the rest of the UK. This would be an expensive mistake. While Scotland may become an independent country, the issues of food safety and

nutrition are common across the UK, Europe and many parts of the western world. We should not seek to duplicate advisory committees or other mechanisms currently shared across the UK. Instead we should develop partnership arrangements that allow us to share rather than duplicate resource” (Rowett Institute of Nutrition and Health, University of Aberdeen).

Licensing of food businesses

12.5 Whilst five respondents (including four local authorities) considered the creation of the new food body to be the ideal opportunity to consider licensing of food businesses, which would provide a means of prior approval to determine that a food business is able to operate safely and in line with legal requirements, this proposal was opposed by a professional association on the grounds that it would be another cost burden to an industry which they considered to be already overregulated.

Tacking inefficiencies

12.6 The creation of the new food body also provided the opportunity for reviewing operations to promote efficiency of practice according to five respondents from a range of sectors. For example, one local authority considered that resources could be used more effectively and efficiently if inspection regimes are revised; two respondents (Bus, Prof A&U) suggested that further use could be made of outsourced resources; and rationalising of functions such as meat inspections was raised (Prof A&U).

Honesty and transparency

12.7 Five respondents from five different sectors emphasised their view that honest and transparency in working will be crucial for the new food body. Two respondents (Bus, IRB) recommended that mechanisms are built into the operational and administrative frameworks for the new body to minimise or remove opportunities for conflicts of interest or dishonesty. One academic requested that meetings, or at least minutes of meetings of the new food body, are accessible to the public.

Maintaining effective relationships

12.8 Where existing relationships between the FSA and other bodies are perceived to be working well they were valued, with four respondents (three of these industry representative bodies) recommending that these continue to be nurtured.

Role in public health nutrition strategy

12.9 Four respondents (including three public bodies) called for the new food body to take the lead role in driving forward a joined-up public health nutrition strategy across Scotland.

Tackling obesity

12.10 Three respondents (LA, Third, Prof A&U) identified tackling obesity as the most significant challenge facing the new food body, and urged that wider contexts which influence choices should be addressed along with greater control over food industry in areas such as advertising and nutritional declaration.

Consistency across local authorities

12.11 Three respondents (LA, LA, Ind) raised what they perceived to be inconsistencies across Scottish local authorities in their operations relating to food issues. One (LA) argued that robust auditing processes by the new food body would assist in promoting consistency; another (LA) suggested that the Food Law Code of Practice would be useful for driving forward consistency.

Resourcing

12.12 Three respondents (IRB, IRB, Ind) urged that appropriate resources are allocated to the new food body, with one industry representative body requesting continued funding for the Healthy Living Programme.

Other comments

12.13 Other comments were made by only one or two respondents:

- The perspective of small businesses should be considered throughout, particularly in ensuring they do not incur costs as a result of complex regulatory regimes (Bus, IRB).
- Mixed views between industry representative bodies on whether the new food body should encompass issues of sustainability with one arguing that other bodies are more appropriately placed to be involved in this, and another suggesting that the new food body should educate the public on environmentally sustainable diets.
- Attention should be given to harmonising the terms and conditions of staff transferred to the new food body, with Prospect Trade Union expressing willingness to be involved early in the discussions over arrangements.
- The Scottish Government needs to play a part in ensuring employees in the food sector are paid a living wage (perhaps stipulating this in procurement policy) (Prof A&U).
- Regulations should be harmonised as much as possible with those within the wider EU in order to maintain Scotland's competitiveness (Bus).

- The new food body should work more closely with Scottish laboratories and research bodies to develop and retain expertise (Bus).
- Low cost, high quality training (e.g. web-based training) developed by FSA should be continued as this will help to promote consistency and ensure officer competencies are developed (LA).
- Information should be provided by the new food body in a range of formats as appropriate for the needs of different sectors of the population (Third).

ANNEX 1: LIST OF RESPONDENTS

Organisations

Academic/Research Bodies

Association for the Study of Obesity
Centre for Research on Families and Relationships
King's College London
Public Health Nutrition Research Group, University of Aberdeen
Rowett Institute of Nutrition and Health, University of Aberdeen
Royal Society of Chemistry
Royal Society of Edinburgh
Scotland's Rural College
The James Hutton Institute
University of Abertay

Businesses

Food Solutions
Galloway & MacLeod
Glencoe Shellfish
Hall Mark Meat Hygiene
National Fallen Stock
Peter Bowbrick
SFQC
Tesco Stores Limited

Consumer Representative Bodies

Citizen's Advice Scotland
Which?

Industry Representative Bodies

Association of Licensed Multiple Retailers
British Association for Shooting and Conservation
British Hospitality Association Scotland
British Potato Trade Association
Dairy UK
Fresh Produce Consortium
National Farmers' Union Scotland
Quality Meat Scotland
Scotland Food and Drink
Scottish Association of Meat Wholesalers
Scottish Beekeepers Association
Scottish Federation of Meat Traders
Scottish Food and Drink Federation
Scottish Grocers' Federation
Scottish Pelagic Processors Association

Scottish Retail Consortium
Scottish Salmon Producers Organisation
Scottish Whisky Association
Seafood Scotland
Seafood Shetland
Soil Association

Local Authorities

Aberdeen City Council (Environmental Health and Trading Standards)
Aberdeenshire Council
Argyll and Bute Council
City of Edinburgh Council (Food and Health and Safety Service)
Comhairle Nan Eilean Siar
Dundee City Council
East Ayrshire Council
East Lothian Council
Falkirk Council
Fife Council (Enterprise Planning and Protective Services)
Glasgow City Council
Glasgow City Council (Environment and Sustainability)
Highland Council
Moray Council
North Ayrshire Council
North Lanarkshire Council
Renfrewshire Council
Shetland Island Council
Scottish Food Enforcement Liaison Committee
Society of Chief Officers of Environmental Health in Scotland
Society of Chief Officers of Trading Standards in Scotland
South Lanarkshire Council
Stirling Council
West Dunbartonshire Council

Professional Associations and Unions

Association of Meat Inspectors
Association of Public Analysts
Association of Public Analysts Scotland
British Dietetic Association
British Equine Veterinary Association
British Medical Association Scotland
British Veterinary Association
Institute of Food and Science and Technology
Law Society of Scotland
Prospect Trade Union
Royal College of General Practitioners Scotland
Royal College of Physicians of Edinburgh
Royal College of Physicians and Surgeons of Glasgow

Royal Environmental Health Institute of Scotland
Scottish Licensed Trade Association
UNISON
Unite the Union

Public Bodies

Aberdeen and Grampian Chamber of Commerce
Centre for Environment, Fisheries and Aquaculture Science
Drinking Water Quality Regulator for Scotland
Fish and Shellfish Working Group (Scotland and Northern Ireland)
Food Hygiene Information Scheme Implementation Group
NHS Ayrshire and Arran
NHS Grampian
NHS Health Scotland
NHS Lanarkshire
NHS Lothian
NHS National Services Scotland
NHS Public Health Nutrition Group
NHS Tayside
Regulatory Review Group
Scottish Directors of Public Health
Scottish Environmental Protection Agency
Scottish Food Advisory Committee
Scottish Water
UK Government
Water Industry Commission for Scotland
Water UK

Third Sector

British Heart Foundation Scotland
British Horse Society Scotland
Cancer Research UK
Children in Scotland
Consensus Action on Salt and Health (CASH)
Diabetes UK Scotland
Haemolytic Uraemic Syndrome Help (HUSH)
Midlothian Food and Health Alliance
Mentieth Group
Nourish Scotland
Poverty Alliance
Scotland's Countryside Alliance
Scotland for Animals
Scottish Society for the Prevention of Cruelty to Animals

Nine individuals

ANNEX 2: DIET AND NUTRITION – ROLES AND RESPONSIBILITIES

(Reproduced from Annex A of the original consultation document.)

1. The respective roles of the Food Standards Agency (FSA) and the Scottish Government are independent in relation to health improvement and nutrition, taking account of both food and wider health issues.
2. In recognition of this, the Food Standards Agency and Scottish Government work in partnership with each other, and with other relevant agencies, in particular, NHS Health Scotland, to ensure effective co-ordination of their complementary activities in order to achieve the Food Standards Agency's objective of long-term improvements in the diet and nutrition of the Scottish population, and the Scottish Government's objective of making a step-change in Scotland's health and wellbeing a reality by improving and reducing dietary inequalities.
3. In practical terms, responsibility for taking forward specific aspects of tackling health inequalities is shared between the FSA and Scottish Government as outlined below.

The Food Standards Agency is responsible for:

4. The monitoring and surveillance of the nutrient content of food and the nutrient content of the diet, and the nutrient intake of the population specific subgroups including surveillance of the nutritional status of the population.
5. Providing authoritative, factual information about the nutrient content of individual foods and information on the diet as a whole as well as its components.
6. Providing the definition of a balanced diet for use in health education material produced by other bodies.
7. Proposing legislation, where appropriate, relating to nutritional aspects of food, including labelling and claims, dietary supplements sold as food, fortified foods and functional foods.
8. Representing the UK in EU & international negotiations on issues relating to nutritional content of food, except in relation to mothers who are breastfeeding, children, inequalities and groups and on foods for particular nutritional purposes.
9. Engaging with the UK food industry to promote reformulation of food: the reduction of salt, saturated fat, fat and sugar (including front of packet labelling) through a self reporting framework to highlight reductions.

The Food Standards Agency leads on:

10. Providing factual guidance in relation to nutritional aspects of the food chain, including production and catering.

The Food Standards Agency:

11. Formulates policy and provide advice to Cabinet Secretaries on the above issues (4-10)

12. Commissions research appropriate to its responsibility for the above issues (4-11)

The Scottish Government is responsible for:

13. Wider public health policy issues, including nutritional aspects of clinical conditions (such as cardiovascular disease, cancer, osteoporosis and obesity) where nutritional status is one of a number of risk factors.

14. Providing guidance and direction for the Scottish NHS and health professionals on nutrition topics such as breastfeeding promotion, clinical nutrition and dietetics, including hospital catering and nutritional therapy.

15. Undertaking general health surveillance of the population of Scotland.

Scottish Government leads on:

16. Health improvement, integrating diet and nutrition with other health topics such as substance misuse, tobacco, physical activity and mental health and wellbeing, utilising the expertise of NHS Health Scotland.

17. Identifying, through surveillance and research the needs of and provision for vulnerable groups including pregnant women, mothers who are breastfeeding, children and inequalities issues.

18. Co-ordination on a national scale, of the implementation Eating for Health- The Challenge on food in the public sector, in schools, in hospitals, in prisons in the workplace and in the home.

Scottish Government:

19. Formulates policy and provide advice to Cabinet Secretaries on the above issues (13-17)

20. Commissions research appropriate to its responsibility for the above issues (13-18)

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