



REPORT TO INFRASTRUCTURE SERVICES COMMITTEE - 9 MAY 2013

CONSULTATION ON CREATING A NEW FOOD BODY IN SCOTLAND

1 Recommendation

It is recommended that the committee:-

- 1.1 **Approve the Aberdeenshire Council consultation response (Appendix A) on the creation of a new food body in Scotland by the Scottish Government.**
- 1.2 **Seek a further report when a decision on the scope and responsibilities of the new food body has been made by Scottish Ministers.**

2 Background/Discussion

- 2.1 The Scottish Government has a declared ambition to help people in Scotland live longer, healthier lives through eating safe, healthy food and are committed to improve public health through improved diet and nutrition.
- 2.2 In 2010 the UK Government moved responsibility for nutrition, food labelling and food standards in England from the Food Standards Agency to the Department of Health (DOH) and the Department of Environment, Food and Rural Affairs (DEFRA).
- 2.3 Following this decision Scottish Ministers asked Professor Jim Scudamore to lead an independent review to assess the feasibility of establishing a stand-alone Scottish Food Standards Agency to maintain the Food Standards Agency's existing statutory objective to protect consumers.
- 2.4 The Scudamore Report recommended that advice on food safety, food standards and nutrition and official food control operational delivery should be independent and transparent and should be provided by an organisation which should remain at arms length from Central Government.
- 2.5 Scottish Ministers announced their decision to accept all of the recommendations in the Scudamore Report on 27 June 2012.
- 2.6 A stakeholder event, organised by the Scottish Government, was held on 21 November 2012 in order to discuss and determine the content and policy areas to be included in the proposed consultation document to create a new food body in Scotland.
- 2.7 The Scottish Government subsequently published and circulated a consultation document, "A Healthier Scotland: Consultation on Creating a New Food Body", to stakeholders with a closing date for written responses of 22 May 2013.
The document can be accessed through the following link:-
www.scotland.gov.uk/Publications/2013/02/2691

- 2.8 The main subjects contained in the consultation cover the following:
- 2.8.1 The possible extension of the scope of the new food body beyond the current scope of the Food Standards Agency in Scotland.
 - 2.8.2 New food body access to independent expert advice.
 - 2.8.3 New food body focus on research and surveillance.
 - 2.8.4 Additional statutory powers required by the new food body.
 - 2.8.5 Additional regulatory enforcement and monitoring roles and responsibilities.
 - 2.8.6 Additions and amendments to the delivery of official food and feed controls.
 - 2.8.7 Effective engagement with consumers.
- 2.9 The setting up of a new food body for Scotland offers an opportunity to change the current remit of the Food Standards Agency in Scotland so it can achieve more and deliver more efficiently and effectively.
- 2.10 The Head of Finance and Monitoring Officer within Corporate Services have been consulted and comments incorporated within the report.

3 Equalities, Staffing and Financial Implications

- 3.1 An equality impact assessment is not required because the report is merely the response to a Scottish Government consultation and has no differential impact on people with protected characteristics.
- 3.2 No staffing implications are anticipated at this stage of the consultation process to which the report refers.
- 3.3 No direct financial implications arise from this report.

Stephen Archer
Director of Infrastructure Services

Report Prepared by John Bell EH Specialist Officer (Food)
12 April 2013

APPENDIX A

A Healthier Scotland: Consultation on Creating a New Food Body



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Title Mr Ms Mrs Miss Dr Please tick as appropriate

Surname

Forename

2. Postal Address

3. Permissions - I am responding as...

 Individual

/

 Group/Organisation

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick **ONE** of the following boxes

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate

Yes No

Yes, make my response,
name and address all
available

or

Yes, make my response
available, but not my
name and address

or

Yes, make my response
and name available, but
not my address

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

CONSULTATION QUESTIONS

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

- **The scope of the new food body must be extended beyond the current scope of the Food Standards Agency in Scotland if its establishment is to meet the Scottish Minister's commitment to improving public health through the provision of safe food and an improved and healthy diet.**
- **The new food body should clarify which roles, responsibilities and areas it intends to lead on as the Central Competent Authority and which other Competent Authority or Agency it will defer leadership to and work in partnership with.**
- **Aberdeenshire Council will support the new food body's involvement in wider national issues such as alcohol and obesity as long as strategic leadership was implemented and maintained in respect of core food law functions with the streamlining of existing workload burdens and demands together with the provision of sufficient resources to ensure that all enforcement operations can be fully achieved.**

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 (attached). If not, what changes would you suggest, and why?

- **Aberdeenshire Council supports the continuance of the arrangements as listed in Annex A of the consultation in respect of diet and nutrition.**

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.

- **Aberdeenshire Council is of the opinion that the roles, responsibilities and functions, in terms of diet and nutrition, listed in Annex A of the consultation document are sufficient for the new food body.**

4: What steps do you think could be taken to ensure the new food body is able to access the best available independent expert advice it needs to underpin its work on food safety and public health nutrition in Scotland? Please give reasons.

- **Aberdeenshire Council recommends that the new food body maintains the independent advisory scientific committee network currently in place and seeks to establish additional international support given the global nature of the food industry and the speed by which new developments are introduced.**

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.

- **Aberdeenshire Council would suggest that the new food body should maintain its core principles both nationally and internationally but with a special emphasis on research and surveillance issues which are particularly pertinent to Scotland.**

6: Do you agree that the new food body should be responsible for the coordination of all Scottish Government funded research on food safety and public health nutrition? What steps could be taken to raise the profile of the new food body as a research funder across the UK and beyond? Please give reasons.

- **Aberdeenshire Council supports the new food body in leading the co-ordination of Scottish food and feed hygiene research and in partnership with NHS Health Scotland in respect of public health nutrition research.**

7: Do you have any further suggestions for how the new food body could establish a strong independent evidence base for food safety, food standards and nutrition policy? Please give reasons.

- **Aberdeenshire Council strongly recommends that the new food body maintains and strengthens the current working partnerships with the food enforcement community through the Scottish Food Enforcement Liaison Committee, their Sub Committees, Food Liaison Groups and individual Local Authority network, in respect of food safety, food standards and nutrition policy.**
- **This network has a lengthy history of developing food safety policies and designing, co-ordinating and reporting on innumerable food surveys and sampling programmes.**
- **Aberdeenshire Council also fully supports the continued use of the national UK FSS national sampling database in the recording of all survey and sampling data.**

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.

- **Aberdeenshire Council supports any provision of additional statutory powers to the new food body in order for it to be satisfactorily equipped to deal with any and all food related incidents.**

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.

- **Aberdeenshire Council would suggest that the new food body review and introduce a range of enforcement options to deal with food standards contraventions. At present the enforcement choices jump from the informal action of a warning letter to the submission of a report to the Procurator Fiscal recommending prosecution.**
- **Aberdeenshire Council would fully support the introduction of a selection of statutory Notices which would effect improvement, prohibition and closure of establishments as part of a food hygiene enforcement regime.**
- **Aberdeenshire Council would also welcome any feasibility study into the possible introduction of fixed penalty notices in respect of food law contraventions.**
- **Aberdeenshire Council also recommends that the new food body look to establishing expertise in the Procurator Fiscal service in respect of food hygiene and safety, food standards, feed hygiene and nutritional contraventions and offences.**

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

- **Aberdeenshire Council is against the wholesale transfer of official food controls from local authority delivery to the direct responsibility of the new food body. Such a re-organisation of the delivery of official food controls would have a detrimental effect on the viability of the holistic environmental health service in Scotland. Local authority enforcement brings with it benefits to food businesses from support also related to health and safety and waste management (for example).**
- **Aberdeenshire Council believes that the establishment of the new food body provides a major opportunity to build flexibility into the current enforcement roles to enable the transfer of statutory**

responsibilities between the parties where official controls would be better delivered by one or other body accordingly to local needs, intelligence and circumstances.

- This suggested enforcement flexibility should aim to ensure that every individual food establishment has one enforcement food authority for regulating both food hygiene and food standards, as far as is reasonably practical.
- Aberdeenshire Council firmly supports the retention of the following official food controls with local authorities:-
- The first landing of fish at markets as the fish hygiene inspectors inspecting the fish are also involved in hygiene standards including transport at the markets as well as providing a link between the market and the processors (also inspected by the local authority).
- The inspection of establishments approved under EU food hygiene legislation.
- The delivery of food standards official controls in all retail, catering and manufacturing premises in order to provide consistency of enforcement.
- The delivery of official controls relating to feed hygiene and standards as is currently provided by local authority Trading Standards services.

- Aberdeenshire Council also recommends that the following official food controls are carried out by the new food body:-
- The responsibility for legislation covering Transmissible Spongiform Encephalopathies (TSE). Other feed controls currently fall to the Food Standards Agency in Scotland so it is anomalous to omit legislation in this area when it is directly related to the safety of animal feed and the food chain.
- The enforcement of matters in relation to provenance, where cross boundary and border powers would be an advantage in, for example, tracing the movement of livestock.
- Co-ordination of export certification including certificate format and liaison with third countries but with the actual service delivery remaining with local authorities in order to maintain efficiency.
- Import controls at ports of entry, including existing local authority controlled Border Inspection Posts and Designated Points of Entry to improve efficiency and provide consistency.
- The delivery of official controls during primary production including milk production holdings, game larders, fishing and aquaculture.
- Delivery of official controls relating to the supply and manufacture of materials and articles in contact with food, food additives and processing aids in order to provide consistency.
- Recognition of natural mineral water sources in order to provide consistency.

- **Aberdeenshire Council also suggests that the Public Analyst/Food Examiner (scientific services) functions remain independent of the new food body. While much of the work is food related there are other roles which may suffer if the function is controlled by a body dedicated to food. At present scientific services are currently being reviewed under the auspices of the Society of Local Authority Chief Executives in Scotland.**
- **Drinking water quality regulation should remain with the Drinking Water Quality Regulator on the basis that the Regulator covers public and private water supplies serving a variety of premises not just food related.**
- **The Food Standards Agency in Scotland currently sources, develops and provides technical, professional and practical training for authorised food and feed enforcement officers from the local authorities. This provision is highly regarded and appreciated and should be continued by the new food body.**
- **The Scottish Food Enforcement Liaison Committee (SFELC) is a group that co-ordinates the food law enforcement and sampling and surveillance activities of Scottish local authorities with its membership comprising representatives from local and central government and the food industry. Aberdeenshire Council is of the opinion that SFELC should be formalised through legislation as part of the setting up process of the new food body.**

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.

- **Aberdeenshire Council is of the opinion that the existing relationship between Scottish local authorities and the Food Standards Agency in Scotland has worked well for the past thirteen years and that this working partnership should be continued and enhanced with the new food body.**
- **Comments on the suggestions for changes to the official food and feed control delivery are contained in the response to question 10.**

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.

- **By maintaining the current working partnership with Scottish local authorities to develop a Scottish Framework Agreement similar to the one existing for the UK and to revise the Food Safety Code of Practice and the Practice Guidance documents in order to detail official control delivery.**

- **By ensuring that the local authorities are provided with suitable and sufficient resources in order to deliver official controls throughout Scotland, adequately and consistently.**

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.

- **The existing partnership approach adopted by the Food Standards Agency in Scotland has worked very well and should be continued by the new food body.**

14: Do you have any suggestions about how the new food body can engage effectively with consumers, both in developing policy and providing information and advice?

- **The Food Standards Agency in Scotland has engaged satisfactorily with consumers in both policy development and information provision during the thirteen years of its existence and Aberdeenshire Council recommends the new food body continues with the existing arrangements. Arrangements include dialogue with the Scottish Food Enforcement Liaison Committee which includes consumer interests.**

15: Do you agree with the suggested approach to ensuring the new food body's independence from Government and the food industry? Do you have any further suggestions for how the new food body could best establish and maintain its position as an arms length part of Government? Please give reasons.

- **Aberdeenshire Council agrees with the approach to ensure the new food body's independence from Government and the food industry.**

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

- **No further comments to make**

ANNEX A

Diet and nutrition – roles and responsibilities

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)