

## CONSULTATION QUESTIONS

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

- Yes, the new food body should widen its scope to encompass public health issues such as health based schemes to tackle problems like tracking and measuring food poverty and enhancing consumer information such as advising on health claims in food advertisements. There is also growing concern about teenagers and young adults procuring food supplements via the internet for body building and slimming and research is needed prior to developing a strategy for dealing with this problem. Further research is required on plastic packaging materials and their long term effects on human health. Lead responsibility for alcohol and obesity should remain with the NHS.

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?

- Yes

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.

- The new food body should take the lead role in clarifying the delivery landscape by defining which organisations are responsible for research, policy making and provision of consumer information on diet and nutrition. There should be strong leadership by the new food body on nutrition and an interface to the education system to provide useful information to school pupils and students in colleges and universities.

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.

- Adequate funding needs to be provided to facilitate research and collaboration with countries whose citizens have healthier diets and lower levels of obesity, diabetes, heart disease and cancer.

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.

- Priority should be given to research and surveillance activities relevant to Scottish citizens. Local authorities should be used as sources of local intelligence in shaping programmes. This would allow the new food body to take account of people living in poverty and in low wage employment. Contributions should also be made to wider science and evidence programmes relevant to the UK as a whole.

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.

- No, the new food body should have joint responsibility with NHS Health Scotland for work of this kind until it can demonstrate that it has sufficient expertise to take the lead role. The quality of the research that the new food body funds together with the strategic response taken and ultimately the results and benefits realised by Scottish citizens will raise the profile of the new food body as a research funder.

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

- The new food body should build on the strong track record it already has for food safety and food standards by continuing to consult stakeholders and take views from a wide range of sources prior to taking evidence based decisions and making policies based on scientific reasoning rather than political pressure. The provision of low cost training by FSAS for competent authorities was particularly appreciated and is an area that the new food body could build on.

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.

- Further information is required about the extent of the recent horse meat problem, with an appraisal of the adequacy of the FSA's existing statutory powers. A multi-agency response involving the new food body, SFELC, Local Authorities, the Police and Scottish Government to such fraudulent and illegal activity is always likely to be needed but it would be impossible to prevent or deter such incidents from happening where these have been perpetrated by criminals.
- Additional enforcement powers such as Improvement Notices and Fixed Penalty Notices are required by competent authorities to deal with

labelling problems.

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.

- A robust regulatory enforcement strategy that contains targeted intervention strategies to deal with contraventions of food safety and standards law should be developed. There should also be an interface between the new food body and the Crown Office and Procurator Fiscal Service to raise the profile of food safety and examine the reasons why fines in England and Wales are disproportionately higher than those imposed for similar offences in Scotland and whether a Specialist Procurator Fiscal for food offences should be introduced to ensure that food crime is prosecuted and punished more consistently.
- Consideration should be given to giving Local Authorities powers to issue Fixed Penalty Notices for certain 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.

- 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. The new food body will be expected to balance capacity and demand whilst retaining sufficient resilience and flexibility to react to a range of new or unplanned demands. New programmes will have to be prioritised and resourced against a background of financial constraints and its ability to deliver existing activities.

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.

- Existing mechanisms have been tried and tested and there is a sound basis to current delivery methods of official food and feed controls. In its audit report entitled "Protecting Consumers" published in January 2013, Audit Scotland states: "The Scottish Government has a devolved responsibility for implementing food safety legislation, including European Union regulations. It does this through the FSA in Scotland. The Agency liaises with councils' food safety services, the Society of Chief Officers of Environmental Health in Scotland (SOCOEHS) and the Royal Environmental Health Institute of Scotland. It also has in place a liaison committee (the Scottish Food Enforcement Liaison Committee) with these organisations. The Agency works with the Committee to identify national priorities, set national standards through a Food Law Code of Practice and provide information and guidance for enforcement work. It also collects data, audits councils against the standards and expects them to bring reports to the attention

of elected members. This system has resulted in a relatively consistent approach to enforcement and performance reporting across Scottish councils.”

The same report recommends that Councils should:

- work with the FSA in Scotland and, in future, the new Scottish food body to develop a workforce strategy, which identifies the staffing levels and skills required to sustain an effective food safety service over the next 5–10 years, and take action to address any shortfalls identified (this could be done by revising the Framework Agreement on Food Law Enforcement and requiring all LAs to have such a strategy)
- ensure they have access to, and make use of, intelligence to help determine their local priorities, and contribute intelligence to information systems that support the work of other Scottish and UK councils, and the national teams
- develop a clear direction for the future of their consumer protection services and satisfy themselves that they are allocating resources where they are most effective and in a way that appropriately reflects the risks, national and local priorities and the needs of local communities
- ensure their work on lower risk areas is sufficient to prevent them becoming more serious risks
- ensure they monitor and manage the performance of all their consumer protection services using appropriate measures of performance that enable benchmarking, and report performance regularly to councillors, senior management and the public.

The new body should take a lead role in ensuring that they work with councils on prioritising and acting on these recommendations. The new food body should set standards, coordinate and ensure that Official Controls are delivered robustly and consistently. Delivery should remain local.

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.

- 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. An additional benefit is that the reporting process for audits to Chief Executives of local authorities is considered to be a significant factor in the protection of food and feed law enforcement services. The new food body could support and protect food law enforcement services by establishing a clear standard for local authorities that has Ministerial backing and by strengthening audit procedures.

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. This would provide assurance of delivery of official controls, meet the requirements of Regulation 882, and underpin the assurance of delivery of official controls provided by FSA to the European Commission.

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 new food body will 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 (HPS), NHS Health Scotland, relevant professional bodies such as the Royal Environmental Health Institute of Scotland, academic institutions and research funders.

The new food body will establish appropriate working relationships with all relevant bodies, where necessary setting out contracts, service level agreements or memoranda of understanding, and ensuring in particular that a robust incident handling protocol will be established that will ensure consistency in approach and effective working with the FSA and with appropriate stakeholders, including the EU.

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?

- In their report to the Food Standards Agency Board in May 2012, the Advisory Committee on Consumer Engagement recommended that the Agency should apply consistency about what is meant by consumer engagement, particularly to ensure that hearing the views of consumers gets the weight it deserves and is considered distinctly to outgoing communications and education. The new food body will have to consider whether there is adequate distinction between listening to what consumers want and what the new body gives them.

In the same report, it was also recommend that the Agency should consider developing the work already done to inform Food Safety Week – looking at food safety within the reality of consumers' lives – in an environment of higher food prices, higher energy costs and

higher rates of unemployment. Gaining this insight will help to steer the Agency's outgoing messages to ensure that consumers are getting advice that can make a difference.

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

- Yes, the new body must be independent, evidence-based, consumer-focused and transparent. The independence of the body is vital to ensure that consumers trust and follow the advice the body gives, particularly during outbreaks of food-borne diseases.
- The FSA was constituted as a non-Ministerial department, with a Board made up of non-executive members who are appointed to act in the public interest. A similar arrangement could be an appropriate governance structure to underpin the independence of the new food body. As a non-Ministerial department, the new body would be part of the Scottish Administration rather than the Scottish Government, and would therefore be accountable to the Scottish Parliament rather than Scottish Ministers.
- Confidence and trust in the new body could be helped by building safeguards into the legislation to set up the new food body, for example:
- An ability to independently provide advice and information, including on matters relating to the development of policy on food and feed safety and related matters, to any public authority (which would include, for example, local authorities or agencies of government) and to the public.
- An ability to publish its advice to Ministers, which would be an important factor in its influence and independence.
- The principle of regular review of the new food body by the appropriate parliamentary committee or scrutiny body.
- A requirement to produce a statement of its general objectives, including consulting with interested parties on the new food body's activities, facilitating proper consultation between the new food body and other Departments of Government, local authorities and other public authorities on matters of mutual interest, and ensuring that the new food body's activities and decisions are open and transparent to the public.
- A provision requiring the new food body to respond to any request from Ministers for information, support or advice on any matter within its remit, and allowing Ministers to direct the new food body to do or not do a specific function only if Ministers believe it has not followed key operating principles relating to having assessed costs, benefits and risks.

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

- The FSA's Review of the Delivery of Official Controls team held a workshop in Scotland on 16<sup>th</sup> January 2013 to gather the views of LA officers on their relationship with the Food Standards Agency regarding the delivery of Official Controls. 85% of Scottish Authorities, including Dundee City Council, were represented. One of the key findings of the meeting was that there is a positive, strong and productive relationship between the FSA in Scotland and LAs which is based on honesty and transparency. It is anticipated that the relationship between the new food body and Scottish LAs will have similar attributes.
- The FSA in Scotland interaction and relationship with the Scottish Food Enforcement Liaison Group (SFELC) and the liaison groups is a real strength that the new food body should emulate to enable closer, more effective working relationships.
- Low cost, high quality training should continue to be provided by the new food body as it was by the FSA in Scotland in order to promote consistency across Scotland and ensure officer competencies are developed. More use of web-based training will have to be considered to take account of increasing travel costs and changing working patterns in Local Government that mean that delegates can't attend full day training.
- The Food Law Code of Practice is a useful document for driving and maintaining consistency across Local Authorities and for securing the position of Environmental Health in council hierarchies.
- The Framework Agreement on Food Law Enforcement is a significant and important document that places statutory obligations on Local Authorities and helps protect LA food safety resources from disproportionate cuts.
- The new food body should use the data being inputted and held in UKFSS to develop a nationally co-ordinated surveillance and sampling programme. This would result in more efficient use of LA resources and laboratory services. Further discussion is needed between the new food body and LAs to identify how UKFSS data should be examined or interpreted both nationally and locally.
- The new food body and Scottish Scientific Services need to work together in the current review of laboratory services in Scotland to influence usage and availability of laboratory services in the future.
- The new food body should consider whether Scottish Local Authorities should continue to submit LAEMS returns or whether it will make its own arrangements for collecting quantitative and qualitative data about food enforcement work undertaken.