

NFB 068

23 May 2013

Dear Karen,

**Draft SFDF Response to Consultation on Creating a New Food Body**

Thank you for the opportunity to provide comments on “A Healthier Scotland: Consultation on Creating a New Food Body”. This submission is made by the Scottish Food and Drink Federation (SFDF). We are a division of the Food and Drink Federation (FDF), the trade association for the food and drink manufacturing sector and as such our membership extends across companies registered and operating in Scotland and a wide range of companies including multinationals registered elsewhere which operate in Scotland. In this response we represent all of these views.

SFDF appreciates the importance of this consultation, given that it is essential that the outcome creates an effective regulatory system that provides for consistent and proportionate regulation and enforcement - the best working environment for economic sustainable growth.

This is important as a successful food and drink manufacturing industry is a vital component of a healthy Scottish economy. In Scotland our industry has an annual turnover of around £9 billion, exports worth just under £6 billion and employs 44,400 people.

In the UK, food and drink is the largest manufacturing sector accounting for 16% of the total sector and turning over £76.7bn per annum; creating Gross Value Added (GVA) of £20.4bn and employing up to 400,000 people.

In 2011, SFDF responded to the Scudamore Review. In that response we highlighted that as our members operate across the UK, it is important that there is a consistent UK-wide approach to food safety. Furthermore, most food safety legislation emanates from the EU and it is equally important that there is consistent implementation of this legislation in all parts of the UK and that the views of companies based in or operating in Scotland are fully reflected in UK negotiating positions within the EU context. Our position at that time was that **the easiest way to achieve this consistency is for food safety to remain within an FSA structure that has appropriate, effective links across the UK**. The current consultation paper does not provide detail about how the New Food Body would operate within the UK and we therefore stand by our original response.

As a regulated industry, SFDF will of course continue to work constructively on behalf of members with our regulator, whatever the remit of the New Food Body (NFB) but we would stress the importance of maintaining appropriate links across the UK on food regulation. Since the FSA Scotland (FSAS) was set up in 2000, as part of the

Food Standards Agency (FSA), we have found FSAS and its officials credible, straightforward to work with and prepared to discuss the scientific reasoning behind decisions. Our experience of FSAS, as well as of FSA, has been of constructive working relations, even where there has been a difference of views. We look forward to continuing these relationships with the NFB.

The proposal to establish a NFB and any extension of its scope and remit beyond those of FSAS carries the risk of a diminution of the effectiveness of the current model, unless the NFB is adequately resourced to deliver any new functions and activities. No mention of resourcing is made in the current consultation paper. Furthermore the success of the FSAS to date has been, at least in part, due to the ability to access and share resources, expertise and advice through the wider FSA UK model.

In considering the scope and remit of any new food body it is important to take into account the nature of the food and drink manufacturing industry. Companies that sell food products to consumers in Scotland are not all based in Scotland. Similarly, companies in Scotland sell their products to consumers in other parts of the UK and further afield. Sales to the rest of the UK are a vital part of the Scottish Government's food and drink policy. It is also important to be aware of the breadth and size of food manufacturing companies, many of which are SMEs.

Therefore, important issues for the food manufacturing industry are:

- **Consistency of approach to enforcement** –a proportionate approach that is consistent across the UK. The NFB must have appropriate UK mechanisms in place for engagement with other bodies and committees throughout the UK;
- **Consistency of approach to regulation** -much of the legislation that relates to food and drink manufacturing emanates from the EU and it is important that there is consistency in implementation across the UK. The NFB in our view must ensure consistency of approach across the UK;
- **Voice for Scottish specific food and drink issues into Europe** –given that UK is the Member State there needs to be a robust mechanism to ensure Scottish views are taken in to account. Where there is direct contact between the NFB and European bodies, this should reflect the needs of all the Scottish food and drink manufacturing industry;
- **Access to scientific advice** –it is essential that the NFB has robust peer-reviewed evidence on which to base its decisions. Appropriate arrangements should be made to ensure that the NFB makes use and has access to all information from existing government advisory bodies and is represented on all relevant committees;
- **Management of potential conflict of interests-** a NFB with a broad remit could represent many diverse stakeholder groups. When incidents or issues arise which impact across these groups, there must be appropriate mechanisms in place for dealing with and managing any conflict issues;

- **Adequate resourcing** –it is vital that the NFB has the funds to deliver all aspects of its remit, retain experienced staff and be able to recruit or access expertise to fill skill gaps;
- **Independence** –the NFB must be independent and have credibility with all stakeholders in order to build and retain consumer confidence and thus industry’s reputation;
- **Understanding of industry sector** -the NFB should have a structure that enables it to provide a service for all food and drink manufacturers. This includes indigenous companies with key brands, global players and SMEs many of which may have a strong heritage and potential to grow.

Comments on specific consultation questions are given below.

## **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?**

SFDF has very positive relationship with the Food Standards Agency Scotland (FSAS) across the breadth of its activities and sees no immediate reasons to change the current model (i.e. as part of a wider FSA UK) or remit. If the decision is taken to extend the scope of the new food body (NFB) then it is imperative that there is consistency and no dilution of service.

If there is any extension to the remit then a “one stop shop” for all food related issues right across the food chain where all expertise is housed could be beneficial and could provide a better service. For example export certification, veterinary inspection certification and phytosanitary requirements could be included. This could also mean improved strategic leadership and better co-ordination of multi-agency service delivery.

For any changes it is vital that Scottish Government provides adequate resources and mitigates risks by supporting these new functions.

In respect of the areas suggested in the consultation that the NFB could widen its scope to tackle alcohol, obesity and consumer information;

### **Alcohol**

SFDF feels that this extends the remit too far and is an example of taking on an issue that could dilute the focus of the NFB.

### **Obesity**

Obesity needs a multifaceted approach as detailed in the Obesity Action Plan. Given that this covers such areas as building design, physical activity and planning there needs to be overall management out with the NFB.

The NFB should work with partners on Theme 1 of the Obesity Action Plan that relates to calorie intake. SFDF is currently actively involved in this area. For

example we currently have dialogue with FSAS regarding our reformulation programme funded by Scottish Government (Health). We also have a schools programme linking schools with industry. The NFB also has a role in portion size and consumer behaviour. It is important that any proposed interventions are based on robust evidence.

Due consideration also needs to be given to work that companies operating in Scotland are doing under initiatives elsewhere.

### **Consumer Information**

The NFB should work closely with UK partners to promote consistency across UK and Europe.

### **Multi-agency working**

The NFB should work in partnership with other government departments and organisations where there are cross cutting interests, in particular local authorities and SEPA, on factors that relate to food safety and quality. Mechanisms need to be put in place to provide a joined up approach that meets better regulation requirements.

- 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?**

SFDF agrees the arrangements in annex A should continue. There should be clarity on the mechanism for engagement with government departments including Scottish Government, DEFRA and the Department of Health at Westminster. It is very important that working arrangements are made so that there is no duplication of effort while ensuring knowledge is shared.

- 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 FSAS has fulfilled an important and influential role in Scotland in diet and nutrition in Scotland since inception and should continue that role. As detailed under question 1, the approach to obesity needs to be multifaceted and managed out with the NFB.

It is important to note that extensive diet and nutrition expertise exists in the food industry and academia. There should be a mechanism to access this based on scientific merit and independence. Any potential conflict of interest should be noted but this should not negate the work provided it is found to be robust. We welcome the access for FSAS to the Scientific Advisory Committee on Nutrition (SACN).

**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.**

Given that the food industry operates in global, UK and Scottish marketplaces, the NFB should establish the following;

- a) Links at international level;
- b) Links into existing committees in the UK in order to ensure UK-wide consistency and approach. This will avoid duplication of effort and recognises the integrated nature of the foods supply chain in the UK;
- c) Links with Scottish stakeholders. Where necessary the NFB should commission evidence and advice on unique Scottish issues.

Robust evidence from all sources should be considered (see question 3).

**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.**

Please see our response to question 4.

There should be a mix of activities. It would be a mistake to focus only on Scottish issues as food businesses here are part of wider supply chains. In addition, by working with other governments across the UK, the NFB would be able to contribute to, inform and ultimately benefit from broader and more cost effective research. Many of the Scottish research institutes have an international reputation and this should be recognised and encouraged. The NFB can draw on this to feed into organizations identified in question 4.

The relatively small size of Scotland and its population distribution does allow it the possibility to conduct regionalised research in this area on a controllable scale that could ultimately benefit the whole of Europe.

For example, industry test market success of brands which require changes in consumer behaviour in cities where most relevant influences can be controlled. The NFB could do similar work in 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.**

The NFB should be responsible for the co-ordination of food safety research in Scotland and for ensuring collaborations with other governments as appropriate. Research on public health nutrition should continue in partnership with other relevant bodies including Scottish Government and the NHS.

There are established ways of raising profile as a research funder. This includes conferences, horizon scanning, engagement with key food safety and science research groups, calls for proposals, engagement with research councils, government agencies and academic groups. Existing links to academic institutions and international network for overseas research should be used.

It is essential that this work is adequately resourced.

- 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 NFB should build on existing frameworks and sources. The important issue is that the evidence is robust and credible, is peer reviewed and publicized so it can be accessed by all stakeholders. A database of information could be created that would also allow for horizon scanning.

- 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.**

There should only be new powers where they are needed to address gaps which prevent NFB executing its statutory duties in Scotland. These would need to undergo a robust regulatory assessment and meet better regulation requirements.

With respect to the horse meat incident, this arose as a result of fraud and criminal activity and is therefore the statutory responsibility of the police. The current reviews of the incident will no doubt explore whether any changes are necessary.

**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.**

SFDF supports a proportionate approach to enforcement. We understand that an improvement notice regime might be introduced in other parts of the UK under the Food Information Regulations 2013 and, although it is unclear how the proposed regime will work in practice, it is important that enforcement is consistent across the whole of the UK and we would be concerned if Scotland decides to take a different approach. In our view the enforcement of food labelling requirements should remain on a collaborative basis and improvement notices used as a last resort when informal discussions fail to reach agreement on voluntary mitigation measures.

**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.**

The FSAS has worked well to date. It should be recognised that this was helped by it being part of the broader FSA and the FSAS never worked in isolation.

There could be merit in bringing all expertise for food related regulation, guidance and support together which would reduce the number of organizations which companies have to contact and helps develop expertise at the NFB.

In particular our members have raised the issues of export certificate coordination, veterinary inspection certificates and phytosanitary services.

The requirement for the provision of phytosanitary protocols is an issue that could be taken on by the NFB. Members are dependent upon primary products either sourced from within Scotland/UK or further afield and thus depend upon DEFRA, SASRA and UK HM Revenue and Customs to undertake a range of activities directly related to the provision of raw material critical to the food industry and therefore public health.

The NFB could also cover the provision of veterinarian services for the official certification of carcasses /meat products for export.

**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.**

The existing partnership between local authorities and FSA works well and this successful partnership approach in Scotland should be the building block for the NFB. The NFB could take responsibility for some of the aspects listed provided this promotes consistency, increased expertise of staff and improved assistance

to food businesses. There should also be no areas of “dual enforcement”. Links with the enforcement community across UK/EU are also vital.

SFDF has been an active member of the Scottish Food Enforcement Liaison Committee (SFELC) for many years and believes its value lies in the broad membership, the willingness of members to commit their time to the work of the Committee and the ability to create working groups to take forward specific areas of work. It provides a good model for partnership working.

**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.**

It is the responsibility of the food manufacturers to comply with EU legislation. Industry will look to the NFB to monitor, consult and inform on change. Many SMEs will not have in-house expertise, so the NFB will need to have a deep understanding of the Scottish industry and methods for engagement and communication.

The NFB should give timely development of UK-wide guidance on EU legislation to assist companies with compliance.

**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.**

It is vital that an independent NFB fosters good working relationships with other relevant departments and organizations in Scotland, UK and Brussels.

**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 FSA should continue to engage with consumer organisations as part of consultation processes. The programme of direct engagement with consumers should also continue and be targeted as necessary.

The NFB should strive to produce accessible user-friendly information. A food app could be developed.

**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 arm's length part of Government? Please give reasons.**

SFDF supports the NFB being independent from government and believes this is important for the delivery of Scottish Government's aim to protect public health and maintain consumer confidence and trust.

**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?**

In order to create a successful independent NFB it needs to be well-resourced and understand the nature of the food and drink manufacturing industry so it can advise and negotiate appropriately on its behalf. There should be mechanisms to avoid conflict of interest. It must be joined up with relevant bodies at Scottish, UK, Europe and global level, have access to robust evidence and deliver on consistency of approach.

I hope you find these comments useful. Please contact me if you would like to discuss further.

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