

## 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?

Argyll and Bute Council would support extending the scope of the new food body beyond the current scope of the current FSA, if in doing so the New Food Body would provide improved strategic leadership, and enhanced co-ordination of multi-agency service delivery. In respect of the areas mentioned in paragraph 20 of the consultation the Council comments as follows:

**Obesity** — Argyll and Bute Council strongly advocates that the new food body becomes further actively involved within this important agenda. The problems associated with obesity and ill-health is proven although obesity remains an issue nationally. We are of the view that it is entirely apposite to consider the role of what will become Scotland's National food body according to this agenda and that it is also timely to review the efficacy of the current arrangements, intended to address obesity and to clarify the roles and responsibilities in this agenda of the Scottish Government departments and the new food body. The Council would hope that the inception of a New National Food Body for Scotland is not a wasted opportunity and that more effective measures will be put in place. Whilst this may mean working with existing partners, such as the NHS, in terms of health education, the Council foresees a new emphasis is also required, that focuses on Food Business Operators; an emphasis that would be allied to enhanced health education for the general Public. The new food body would be in a position to influence the food industry on food composition and portion size, to influence local authorities on the outcomes of food standards inspection and sampling programmes, and where appropriate highlight to the Scottish Government the need for legislation.

**Alcohol** — Argyll and Bute Council supports a multi-agency approach to dealing with health and societal problems associated with alcohol consumption. The new Food Body would have an important part to play in national strategies to tackle these problems, but Argyll and Bute Council believes the lead should come from health professionals/NHS in this area.

**Food poverty** — Argyll and Bute Council believes this is another legitimate area for the new Food Body to be involved in. Again, the new Food Body would be working with partners to track and measure food poverty and would be ideally positioned to initiate projects or programmes to tackle food poverty.

**Food advertising** — enforcement of regulation in respect of health claims and advertising currently sits with local authorities and Argyll and Bute Council would recommend that this position is maintained to avoid any issues around dual enforcement in respect of food labelling and presentation. Argyll and Bute Council would support the new Food Body being actively involved nationally

in promotional activities to improve consumer awareness and to assist consumers in making healthier food choices.

**Provenance** — Argyll and Bute Council recognises that provenance is an important food labelling issue and has significant benefits for the Argyll and wider Scottish food industry. There are many businesses which trade on the “Food from Argyll” perspective which is critical for the economy of the area. We support the new Food Body being involved in this area and feels it sits well with the food standards remit and helping to support the Scottish economy.

**Food Security** — Argyll and Bute Council would support the new Food Body being involved in this area. The new Food Body should establish links with emergency and contingency planning organisations. The new Food Body will want to be satisfied that for food there is a security of supply and the supply chain is protected from acts of terror.

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?

Argyll and Bute Council agrees the arrangements in annex A should continue. Argyll and Bute Council supports the new Food Body working with NHS Scotland and Local Authorities to link into community planning partnerships and Community Health Partnerships. Argyll and Bute Council also agrees that in establishing new food body, clarity should be given as to the lead for diet and nutrition. Argyll and Bute Council suggests the improved clarity of roles and responsibilities will ensure better co-ordination and benefit all parties.

Argyll and Bute Council also supports the proposed interface with the education system and feels this is the correct age group to work with to bring about the required societal change.

As stated above, Argyll and Bute Council is of the view that at the inception of Scotland’s National Food Body, a review is undertaken of the efficacy of existing arrangements, including current independent and partnership arrangements. The Council is of the view that further focus must be placed upon Food Business operators and the standards of the food that they produce and the standards of the associated promotional and nutritional information and also the labelling/menus. The Council foresees a clear new role for the New Food Body in this regard, at the policy and strategic level, working in partnership Local Authorities at the local operational level.

Argyll and Bute Council also support the new Food Body taking the lead in the areas outlined in paragraphs 34 (science and evidence based, consumer focused public nutrition policy) and 35 (policies

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.

Argyll and Bute Council feels the areas suggested in the consultation document are the appropriate functions for the new Food Body.

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

Argyll and Bute Council recommends that the new Food Body links into existing scientific committees etc. in the UK. This will avoid duplication of effort and recognises the integrated nature of the foods supply chain in the UK. Argyll and Bute Council suggests the new Food Body also establish links with international organisations, this is important due to the global nature of the food industry; as it is important that the new food body is aware of developments at an international level.

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.

Argyll and Bute Council recommends that the new Food Body should deal with both areas as food businesses link into the UK food supply chains and this is a significant part of the Scottish economy.

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.

Argyll and Bute Council supports the new Food Body being responsible for food safety research, but would suggest the new Food Body works in partnership with the NHS on public health nutrition research.

In respect of the profile as a research funder, Argyll and Bute Council would recommend using existing links to academic institutions and international network for overseas 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.

Further to the responses to questions 4, 5 and 6, Argyll and Bute Council would recommend that the new Food Body works with SFELC and local authorities through the Food Liaison Group network to design statistically valid surveys and sampling programmes to provide evidence to inform policy making.

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.

Argyll and Bute Council would support additional enabling powers being available to the new Food Body and the Council supportive of the proposed changes in the FSA consultation, which is running concurrently with this consultation. Argyll and Bute Council would recommend that the new Food Body considers the Audit Scotland report 'Protecting Consumers' and in particular, how it can contribute and assist in considering the wider issues around work force planning.

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.

Argyll and Bute Council holds the view, that currently there a significant gap in enforcement options available to deal with food standards contraventions. The Council suggests that the new Food Body consider introducing a range of notices that would fill the gap between informal actions and reporting contraventions to the Procurator Fiscal. For example, the wider application of fixed penalty notices for food safety and food standards contraventions could provide a very useful alternative to prosecution that would be flexible and proportionate. This would meet the recommendations of the Macrory report (Regulatory Justice: Making Sanctions Effective, 2006). Introduction of the powers to Local Authorities would not be a significant issue as similar powers are regularly used by Environmental Health teams for other legislation and are also available under other current food legislation (e.g. the Scotch Whisky Regulations 2009, S12009:2890).

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.

Argyll and Bute Council agrees that the establishment of the new Food Body provides an opportunity to take stock of the roles and responsibilities of all organisations involved in food and feed official controls and related areas.

Argyll and Bute Council considers it vital that the current holistic nature of environmental health services are not be jeopardised through any consequent reorganisation of delivery of Food Controls and that the implications of any changes are carefully considered in the

wider context..

In particular, changes that would result in the transfer of staff from local authority services to a centralised delivery body are likely to have a detrimental effect on the viability and the resilience of environmental health services. Argyll and Bute Council supports official control delivery remaining with local authorities as the food safety is an integral part of the environmental health function and staff involved in food safety are also responsible for may be responsible for delivering a wide range of functions across environmental health within and outwith food businesses . This enables an integrated approach for enforcement which is consistent with the better regulation agenda and reduces the burden of enforcement to business through multiple visits. At food businesses. As a result we support the delivery of official control remaining with local authorities although the new body provides an opportunity for improvements, Any change should be designed to improve public health and address any gaps in the existing arrangements.

Apart from some limited and specific examples given in question 11, the Council strongly supports the existing successful partnership approach in Scotland progressing forward with local authorities retaining their current responsibilities. The Council holds that in Scotland local authorities are providing an efficient and effective service that is capable of responding to challenges. This was widely recognised during the critical stages of the horsemeat scandal, but has also been demonstrated in the continuing improvement been brought about since the FSA was formed. Scope for improvement remains and the current structure in Scotland of liaison groups, SFELC, and FSA audit provides a solid foundation for the new Food Body to continue improvement, by working with local authorities. The recent 'Protecting Consumers' report by Audit Scotland recognised the good work in this area in providing consistency and the new Food Body should seek to enhance these existing partnerships and not introduce significant changes to the current responsibilities shared between the FSA and local authorities.

In response to the specific suggestions:

- **Animal by-products** — The Council agrees that the new Food Body should take on responsibility for co-ordination of this activity to ensure it is getting appropriate priority. Local authorities should retain current enforcement role;
- **All areas of food labelling, provenance** — for consistency the Council agrees that the new Food Body should take on responsibility for coordination of this activity. Local authorities should retain current enforcement role;
- **Dairy and egg production controls** - the Council agree that the new Food Body should take on responsibility for co-ordination of this activity to ensure it is getting appropriate priority. Local authorities should retain current enforcement role;
- **Public analyst functions** — whilst the new Food Body will have an involvement with the on-going work on the Scientific Services review,

the Council does not support the new Food Body assuming responsibility for the public analyst services in Scotland There is a separate review of scientific services on going to identify a resilient public health model for Scotland and food safety is only one element of the work of the Public Analysts.

- **Drinking Water Quality** should remain with the Scottish Government and not the new Food Body. However, what is required is a rationalisation in the definitions of water as there are differences in food and water legislation which pose enforcement difficulties. **We do not support this transferring to the 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.

As stated, Argyll and Bute Council believes the existing partnership between local authorities and FSA works very well indeed - And this successful partnership approach in Scotland represents the underpinning, for the new body.

In respect of the bullet points in paragraph 48 the Council responds as follows:-

**Approval of food and feed establishments** — Argyll and Bute Council has **significant concerns** in relation to this part of the consultation and **strongly disagrees** with the consultation proposal for the new Food Body to take on responsibility for approval of establishments requiring approval, and all processes for the suspension or withdrawal of those approvals

There is much confusion as to the proposed changes to the approval process and although there appeared to be a recommendation that the new Food Body would take over responsibility for determining the approval application and issuing the number, local authorities would continue with the enforcement role it current undertakes (this would remove the conflict issue identified by EC). Whilst recognising that this could improve the approval process through central administration, and was indeed supported by SELC, there are now suggestions that the new Food Body would assume direct responsibility for all approved premises, **a position we are firmly opposed to. Recognising this uncertainty, we respond as follows:-**

#### **General Observation on Approvals**

Local authorities are best placed to work closely with local businesses to assist them in all stages of the approval process. This includes the frequently very extensive pre-approval work and the on-going modifications to processes and product ranges. Local industry need a prompt service to deal with these demands and this is currently provided by local authorities. The Council struggle to see how a remote, centralised body could provide a similar level of service as that currently available to businesses in Argyll. Changes to the approval

process are addressed in further detail under Absence of a Business Case and Operational Difficulties below.

### **Absence of a Substantive Business Case**

The Council simply fails to see a substantive Business case for significant change to the current situation. As the Council perceives it, the case for any change appears to be driven from four standpoints: -

1. Outdated and un-informed perceptions of the standard of certain Approved establishments;
2. The mis-application of the findings of the 'Jan Polley report' into the former Meat Hygiene Service (MHS) to the broader food manufacturing sector;
3. The perceptions of Conflict of Interest that appear to emanate from the EU;
4. The conflation of concerns over dual Agency enforcement, within a small number of low risk raw meat processing establishments, into concerns that apply to the broader approved sector

The Council addresses each of these points point in turn:-

### **Outdated and Un-informed Perceptions of the Standard of Certain Approved Establishments**

The history of the Approval of establishments in Scotland (and indeed throughout the UK) goes back to the early 1990's, i.e. a time pre-dating the Scottish Government and the Food Standards Agency, when Food Safety was a '*Westminster matter*' and subject to the Government policies of that time. In fact, during that time, establishments were approved under a suite of different regulations and Local Authorities were centrally directed under a '*Deregulatory Agenda*' to Approve establishments, in order that trade and commerce were not compromised.

That initial approval exercise left Local Authorities with a legacy of establishments that required a great deal of work and sometimes significant enforcement to bring them up to standard. Under the former regulations, an Approval could only be removed where an '*Imminent Risk to health*' was proven – with all the attendant difficulties that entailed. Any lingering perception of the standard of Local Authority approvals must be informed by the reality of the central direction that Local Authorities were given at that time.

Recognising that the Focused Audit by the FSA in Scotland identified issues nationally with the standards in approved premises, it is understood that actions have been taken. Appropriate action has been undertaken to address these issues and it is noted that since that time, the FSA itself has undertaken a further audits into Approved Establishments in 2011. The audits findings were generally positive, confirmed improvements in the standard of Scottish approved establishments. In respect of Argyll and Bute Council it confirmed three major aspects of Best Practice.

On this basis, the Council finds no Business case for any significant change

## **The Mis-Application of the Findings of the 'Jan Polley report' into the Former Meat Hygiene Service, to the Broader Food Manufacturing Sector,**

The '*Jan Polley Report*' into the former Meat Hygiene Service, has been cited as one of the reasons for considering changes to the current approval process. The '*Jan Polley Report*' recommended a '*disaggregation*' of the initial approval process from the ongoing routine 'Official Controls' within abattoirs. The report which was critical of the performance of the Meat Hygiene Service, also found that a '*Parent-Child*' relationship existed between the FSA and the MHS, with distrust on both sides.

The Council has considered the '*Jan Polley Report*' in detail, in the light of the broader approved sector. The Council finds the report is largely irrelevant to the broader approved sector and also finds the report not to be a credible basis for reasoning in the broader approved sector. The reasons outlined below, are borne from extensive experience of both sectors.

The abattoir sector is very low risk in Food Safety terms and is fairly constant in operational and Approval terms: - changes to approval only ever really amount to changes in the species being slaughtered (where the risks are very similar if not identical) or changes to the intensity of throughput. By stark contrast, the broader approved sector, embodies in Food Safety terms, some of the highest risk establishments in Scotland and includes production of ready to eat meats (*E.coli* 0157:H7 risks), milk pasteurisation and specialist cheese production (Tuberculosis, Brucellosis and *E.coli* 0157:H7 risks), Shellfish processing (biotoxin, salmonella and norovirus risks) and vacuum packed salmon (botulism and Listeria risks) for example. The challenges of verifying Food Safety within abattoirs are simply not comparable to these types of establishments.

Furthermore, the broader approved sector is very dynamic, changing recipes and critical product formulations frequently, in order to meet the demands of customers and to address competition. Establishments serving the multiple retail chains are particularly dynamic. The consequence for any regulatory agency is a great deal of high level technical interaction with the business, on an ongoing basis, in order that proposed changes on the part of the establishment are verified as safe. In practice this means a high degree of ongoing verification of critical product formulations and Food Safety management procedures. The realities of the requirement for this on-going verification activity, clearly undermines the application of the '*Disaggregation*' of Approval from ongoing 'Official Controls' within the Jan Polley report.

The Council observes that changes to the approval process, whereby the 'New Food Body' carries out the approval and then afterward, leaves the Local Authority to verify its decisions during ongoing Official Controls, actually risks recreating a new '*Parent-Child*' relationship'; this time between the New Food Body and the Local Authorities, i.e. undermining the excellent relationship between the FSA and Local Authorities, that is widely recognised and has been

confirmed by FSA studies.

On this basis, the Council finds the 'Jan Polley Report' is an untenable basis for a Business Case for significant change.

### **Perceptions of Conflict of Interest that Appear to Emanate from the EU**

The Council understands that perception of conflict of interest may underpin considerations of change in the Approval Process: - i.e. that there exists a potential conflict of interest, where a Local authority grants an Approval and is thereafter responsible for the ongoing 'Official Controls'. This perception appears to exist outside the UK.

The Council is however, entirely unconvinced by this line of reasoning. The Council finds that it's Constitution as a Scottish Local Authority and a Competent Body in Food Law, is highly robust in terms of such conflicts of interest and observes that many licensing schemes in other fields are undertaken by Local Councils (and indeed by many other Public Bodies) and no such considerations of conflicts of interest are perceived.

It is furthermore apposite to note, that Argyll and Bute Council has been vetted in terms of conflict of interest, by the United Kingdom Accreditation Service (UKAS) under the former BSEN45004 standard. A central tenet of this standard, which applies to Food Safety inspections, was independence, impartiality and absence of conflict of interests. UKAS found the Constitution of the Council and its policies and procedures on conflict of interest as compliant with the requirements of BSEN45004. As all Local Authorities are established on a similar basis and operate similar '*model*' procedures on conflict of interest, the Council foresees that UKAS would have found the same in the case of any Local Authority in Scotland

On this basis, the Council finds arguments for significant change on the basis of conflict of interest, as highly unconvincing indeed.

Notwithstanding the Council findings, the Council foresees that Scotland's Official Controls could be improved by a form of partnership between the New Food Body and Local Authorities and this would as a '*by-product*' has the effect of addressing any perceptions of potential conflict of interest. The Council returns to this point below (see paragraph below 'Proposal from the Council in Relation to Working in Partnership with the New Food Body on Approvals').

### **The Conflation of Concerns Over Dual Agency Enforcement**

The Council understands that there have been on-going enforcement issues, in a very small number of low risk establishments, where the FSA Operations Unit (formally the MHS) and Local Authorities both have enforcement responsibility and that a principle of a single enforcement body for each establishment, may be underpinning or influencing considerations for changes to the Approval process.

The Council fails to see how this is in fact relevant in any way at all to Approvals within the wider Approved sector. The Council is however very concerned, that

enforcement concerns, in what is a small number of establishments, in a sector that is largely low risk in Food Safety terms, are being unreasonably used to argue for significant change to the Approval process. The Council would find such arguments untenable and do not support the need for significant change

### **Operational Difficulties Inherent With Centralising the Approval Process**

Extensive experience of delivering Official Controls within the 3<sup>rd</sup> largest Approved sector in Scotland and within the largest shellfish sector in the UK, only confirms to the Council that in reality, there will be highly significant operational difficulties associated with centralising the approval process. These relate to two aspects: - 1. The high number of approval applications that are considered, but are never pursued to successful approval and 2. The Competence of Staff carrying out the Approval process. The Council addresses each in turn.

#### **The high Number of Approval Applications that are considered but are Never Pursued**

The FSA have confirmed to the Council, that it has quantified the apparent demand for resources if the Approval process was centralised, on the basis of the number of Approval forms, that are returned to them on an annual basis. The Council represents from practical experience, that this vastly under represents the actual approval work that is being carried out on a regular basis. This is because the vast majority of proposals from establishments never proceed to actual application for approval or to approval itself, because the proposal is confirmed at an earlier stage to be unsafe, unworkable or uneconomic on the part of the Food Business Operator. The Council confirms that it received 88 Service requests in 2011/12 and 101 Service requests in 2012/13 for approval, although only a small fraction of these were reported to the FSA in terms of new Approvals. (These figures aggregate new approval and modifications of existing approvals).

If these figures are reflected across Scotland, even on a pro rata basis measured against the number of Approved establishments per Local Authority, then the demand becomes very significant indeed. In all likelihood, this demand could not be met, without a significant transfer of resources from Local Authorities.

As this work in reality amounts to the 'first line filter' of unsafe products and processes, its importance to Food Safety and to Public Health **cannot be underestimated, nor overlooked.**

The Council is of the view that the FSA is under-estimating the requirement for resources and possible also underestimating the importance of this work in Food Safety terms. The Council cannot see how the FSA in reality would be in a position to resource this demand, without the significant transfer of staff from Local Authorities, which is something returned to below (see paragraph below).

#### **The Competence of Staff carrying out the Approval Process**

The Council notes that Regulation (EC) 882/2004 on Official Controls etc, requires that all staff are competent to carry out Official Controls. The Council

also represents that centralising the Approval process, in order to be both credible and to actually justify such a change, would require staff that are at least as competent as the staff currently based within Local Authorities are now. The Council foresees that this will amount to a very significant problem. This is because in reality, there is only a very small pool of staff to recruit from and that pool of staff becomes critical when specialist resources are to be removed. Transfer would incur considerable uncertainty to those staff affected. There is however the wider issue, particularly in local authorities where food safety is undertaken by generic officers delivering the wide range of environmental health functions. Any removal of duties and staff would have serious implications to the resilience of the environmental health service, the profession and staff affected and to public health generally. It would also be against the principle of better regulation as it would create another enforcement body and undo the work which local authorities have been undertaking in reducing the burden on business through single multifunctional and integrated inspections.

The Council is of the view that this significant practical difficulty, must factored into considerations at a very early stage.

### **Proposal from the Council in Relation to Working in Partnership with the New Food Body on Approvals**

Whilst considering all of the above, the Council also acknowledges the clear desirability of continuing to work with the FSA as it evolves into Scotland's '*New Food Body*'. The Council also acknowledges the opportunity, where possible and appropriate to do so, to work toward improving Scotland's Official Controls. Therefore, the Council proposes that the '*New Food Body*' works in partnership with Local Authorities, during the Approval process, with Local Authorities continuing to be involved and to act at every stage.

The Council proposes that new consideration is given to the paper produced in 2012 by the SFELC Approved Establishments Working Group, on a '*Network of Specialists*'. This paper was closely based on the existing and well thought of arrangements in place, for dealing with Food Fraud. In effect, a formal Service Level Agreement would be established, between all Local Authorities and the '*New Food Body*', in order that those Local Authorities that lacked particular expertise in an Approval application, would be provided with that expertise, from within another Local Authority. In relation to new approvals or Suspension or revocation of Approvals, those specialist staff would be acting for the '*New Food Body*' itself.

The Council foresees that a number of advantages accrue from this proposal. These are in summary:-

- **Any perception of conflict of interest** is addressed, because staff would be acting on behalf of the New Food Body, when they are '*lent*' to another Local Authority.

- **Efficiency/Best Value:** - Duplication of expertise and the sustaining of expertise is avoided (in reality something highly unlikely given the tiny pool of personnel – see above) as is any duplication of salary and associated on-costs, by having a single pool of expertise deciding Approvals of behalf of the *'New Food Body'* and also providing ongoing Official Controls on behalf of Local Authorities.
- **Local Resilience:** - Specialist staff remain within Local Authorities acting in *'front-line'* ongoing Official Controls and contributing to Local Service resilience. In effect specialist staff remain in place and local to the *'front-line'* Service demand and delivery, where they are most appropriately employed.
- **Credibility:** - Those specialist staff that have developed relevant expertise, will be providing that expertise to the *'New Food Body'* and to other Local Authorities.
- **Acceptance/Precedent:** - This proposal is based upon the Food Fraud Unit of the FSA and therefore already enjoys considerable support in relation to its working arrangements and its format

The Council holds that an area that could be improved is the network of officers with specialism in particular processes. Currently this has developed informally or to deal with particular new developments. The Council believe the new Food Body could have a key role in developing a stronger network of enforcement experts through the current food liaison groups. This improved network would have significant benefits both to the new Food Body and local authorities.

**Food standards and FSA operations** — Argyll and Bute Council notes that food standards could be delivered by the new Food Body, where they also deliver food hygiene official controls. However, steps must be taken to ensure consistent qualification, training and experience requirements are maintained for all staff undertaking Food Standards Controls. With this consideration, Argyll and Bute Council recommends the role is retained by Local Authorities, unless there is clear evidence that the service could be provided more efficiently and effectively by the new Food Body.

**Argyll and Bute Council is of the conviction that far too much emphasis has been placed upon this issue and that it is influencing thinking unduly.** Minor operational and enforcement difficulties and the interests of a small number of Food Business Operators; have been conflated out of all proportion to the Food Safety and Food Standards risks actually involved (in Food Safety terms the establishments involved are mostly low risk). The Council is of the firm conviction that the interests of the consumer and the taxpayer should prevail and they are best served by minor modifications of the existing arrangements.

**Coordination of export certification** — Argyll and Bute Council **strongly agrees** with this proposal in respect of the **co-ordination** of certification requirements. This is a key area of the Scottish economy that needs a co-ordinated Scottish approach to the delivery of the activity. The significant issues raised by industry and Local Authorities on the DEFRA handling of the recent export certification for fish products to China demonstrates the need for greatly improved co-ordination of this activity to ensure adequate consultation with local authorities and industry at an early stage. However, the Council strongly recommend that the actual service delivery remains with local authorities.

**Import controls at ports of entry** — Argyll and Bute Council recognises the benefits this may give in respect of consistency and may provide greater efficiency. However, the current service and experience in Local Authorities in delivering the service must be considered. In addition, with the small number of establishments this affects it is important to consider the impact any change would have on the local authorities involved. Unless there are identified, insurmountable issues with Local Authority delivery of the activity the Council would recommend the activity be **retained by Local Authorities**.

**Delivery of official controls relating to animal feed hygiene and standards** — Argyll and Bute Council would recommend that any changes in this area are considered carefully, taking account of the views expressed by SCOTSS. We acknowledge that there are difficulties with the current feed regime and there is a need to review and develop a new strategy which focuses on risk and appropriate enforcement. Audit Scotlands report 'Protecting Consumer' highlighted concerns relating to the resources available to deliver Trading Standards services and there is an opportunity to consider feed enforcement and delivery as part of this review. There are many options including a single enforcement organisation for the farming sector in respect of food and feed; or specific contracting of this work on a similar manner than that of the shellfish monitoring work. However, any changes in this area are must be evaluated and discussed fully to ensure they provide an enforcement regime which meets the principles of better regulation, of public health and food safety and do not adversely affect the delivery of the wider trading standards service by local authorities.

**Delivery of all official controls and related monitoring activity during primary Production** - Argyll and Bute Council would recommend that any changes in this area are considered carefully and do not adversely affect the delivery of the wider environmental health function by local authorities. This may be an area where a **flexible transfer** approach to the enforcement role is adopted as for areas such as fishing there may be more suitable arrangements for providing service but for other areas such as remote game larders there is benefit in retaining local authority approach as officers may be visiting these areas for other duties such as monitoring private water supplies.

**Delivery of official controls relating to the supply and manufacture of materials and articles in contact with food, food additives and processing aids** —

Argyll and Bute Council **agrees** with this proposal as it will provide consistency and address any gaps in the current arrangements.

**Recognition of natural mineral water sources** — Argyll and Bute Council **agrees** with this proposal as it will provide consistency. However, the Council recommends that flexibility is applied with arrangements for sampling to ensure appropriate use is made of Local Authorities expertise and available local resources for sampling and monitoring of supplies.

**Para 49: technical and professional training** — Argyll and Bute Council agrees with this proposal and believes it would be useful. We recognise the potential to establish a similar role in relation to training for the new Food Body to that of HSE in providing specialist support to local authorities on occupational health and safety enforcement.

**Para 50: Formalise SFELC through legislation** — The value of SFELC 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. Argyll and Bute Council believes the current arrangements are consistent with Schedule 2 of the Food Standards Act 1999 and that SFELC meets the requirements of a joint committee as detailed in section 8 of this schedule. Argyll and Bute Council would support legislation that is similar to the existing provisions to allow the new Food Body to establish joint committees. Argyll and Bute Council believes there is an area where more formalised recognition would be beneficial and this relates to the status of the guidance produced by SFELC. SFELC guidance is generally designed to promote consistency and it would be beneficial if it was recognised in the same way as the Code of Practice or Practice Guidance and ultimately the guidance could be incorporated into these documents. Argyll and Bute Council is aware of the Scottish Government plans for Better Regulation legislation and see a definite role for SFELC in producing national standards for food safety.

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.

Argyll and Bute Council recommends the new Food Body prepares a Scottish Framework agreement similar to the framework agreement that currently exists. The Council would also recommend that the existing Food Law Code of Practice and Practice Guidance are replicated to detail the delivery of official controls. Argyll and Bute Council recognises the benefits of the current audit arrangements and would recommend the existing arrangements are retained. Argyll and Bute Council is aware that the new Food Body will have the responsibility as the central competent body to ensure the provision of adequate resources to deliver official controls. Given the current concerns relating to work force planning the new Food Body may find benefit in establishing service level agreements with local authorities to have the assurance that official controls

will be delivered adequately and consistently across Scotland.

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.

Argyll and Bute Council believes the existing partnership approach adopted by FSA has worked well and recommends the new Food Body builds on these existing arrangements.

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?

Argyll and Bute Council welcomes the consumer focus proposed for the new Food Body and would recommend engagement is via the existing networks

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.

Argyll and Bute Council agrees with the approach to ensuring the new food body's independence from Government and the food industry. We believe this is important for the delivery of Scottish Government's aim to protect public health and maintain consumer confidence. The Council recommend the existing liaison arrangements are continued as these can deliver a means of communicating effectively with Government and the food industry without compromising the independence of the new Food Body.

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

None