

The logo for Which? is a red square with the word "Which?" in white, bold, sans-serif font.

Which?, 2 Marylebone Road, London, NW1 4DF

Date: 22 May 2013 Response by: Sue Davies, Sue.Davies@which.co.uk

Consultation Response

Karen McCallum-Smith
Public Health Division
Directorate for Chief Medical Officer and Public Health
Room 3.EN
St. Andrew's House
Regent Road
Edinburgh EH1 3DG

A Healthier Scotland: Consultation on Creating a New Food Body

General comments

Which? welcomes this possibility to comment on the creation of a new food body for Scotland. This provides an enormous opportunity to create a food agency that will build on the strengths of the existing Food Standards Agency Scotland as well as dealing with the specific challenges that will be facing Scottish consumers in the coming years, including high rates of obesity and diet-related disease.

We welcome the decision already made that the new body will have responsibility for food safety, standards and nutrition. It is important that it can work across all areas of food policy that will impact on consumers, enabling a co-ordinated approach and joined up information and advice for consumers.

It is also essential that the new body has a clear and unambiguous remit to put the consumer first. It must have no responsibility for promoting the food industry. We have repeatedly seen over the years, for example, in the case of Bovine Spongiform Encephalopathy (BSE) and more recently horsemeat, that failure to do this will not only have devastating consequences for consumers themselves, but will also have serious consequences for the food industry and wider economy. Recent Which? research¹ for example found that the horsemeat incident had negatively affected consumer confidence in the food industry and led to many people changing the types of meat products they were buying, with around a quarter buying less processed meat products.

It is also essential that the new body operates openly, transparently and is independent of both economic and political interests if it is to have public confidence. The Food Standards

¹ An on-line survey of 2064 adults between 22nd and 25th February 2013. Data were weighted to be representative of the general population.

Which? is a consumer champion

We work to make things better for consumers. Our advice helps them make informed decisions. **Our campaigns make people's lives fairer, simpler and safer.** Our services and products put consumers' needs first to bring them better value.

www.which.co.uk

Which?
2 Marylebone Road, London, NW1 4DF
t 020 7770 7000 f 0207 7770 7600
www.which.co.uk



Agency (FSA) has put in place steps to ensure this, such as open board meetings and scientific committee meetings. It is essential that this is advanced by the new body and that it ensures that it effectively engages consumers in all aspects of its work - from effective consumer representation on its Board to day to day consultations with consumers and consumer organisations.

The new body will also need to have effective arrangements in place to ensure that there is close cooperation with the UK FSA. Food issues and risks will not stop at the border and so it is essential that there is sharing of intelligence, expertise and resources. It will also be important that the new body can effectively input into EU and wider international discussions so that it can keep abreast of the key issues facing the global food supply chain and its regulation.

The horsemeat affair has also reinforced the importance of effective enforcement of both food standards and food safety work. The new body should have responsibility for enforcement within meat plants, ensuring that this is also independent and consumer-focused. Its relationship with local authorities will also be very important in order to ensure effective enforcement more generally. The agency should have an important oversight, audit and co-ordination role and must ensure that there is an effective 'horizon scanning' function to identify wider economic and industry trends that will impact on food quality and safety.

Our response to the specific questions in the consultation document are set out below.

Specific comments

Q1: 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?

It is essential that the new body has responsibility for nutrition, food labelling and standards. We agree that there could be some advantages in broadening the scope of the new agency beyond that of the existing FSA. We consider that in determining what else should be transferred to the FSA, it is important to keep in mind:

- The need for the agency to be unambiguously consumer-focused: care is needed to ensure that the body does not become too involved in wider public health issues that are better addressed by the Scottish Government.
- The need for the agency to be food-focused, rather than its remit becoming too broad, for example, by becoming involved in wider animal health or welfare issues.
- The need to avoid its areas of responsibility resulting in potential conflicts of interest, for example, if it had to deal with issues related to food industry promotion.

With these principles in mind, we consider that there are three main areas where the new body's work could be expanded:



Enabling sustainable as well as healthier choices:

Our research² has highlighted the need for much clearer advice and information for consumers about how to make sustainable as well as healthy food choices. Issues such as increased food price volatility, concerns about long-term food security and the impact of climate change on food production in many parts of the world have made food sustainability a greater priority. But a series of citizens' juries that Which? conducted at the end of 2012, including a Glasgow jury, showed that many people were unaware of these issues and wanted more information and advice to enable them to make more sustainable choices if they want to.

Our research has shown that there is a lack of awareness and confusion about many of the labelling schemes that are already on the market that cover ethical and environmental aspects of food production. While people were aware of issues such as the need to recycle, they knew little about issues such as the impact of how food is produced on carbon emissions and water scarcity, for example.

While the new body should avoid getting into wider issues of sustainability, it should be able to provide clear information and advice to consumers, ensuring that information is joined up with other advice and that it acts as a 'one stop' shop on food issues. The agency should also have a role in ensuring that consumers are not misled by labelling schemes and claims relating to food sustainability.

The agency could also become involved in initiatives focused on enabling consumers to act on this advice, including initiatives such as standards for public procurement, for example, and identifying best practice for the food industry.

Nutrition policy:

There is also an opportunity to expand the scope of the agency's work on nutrition and obesity policy. As proposed in the consultation document, we think there is an opportunity for the agency to take a greater role in issues relating to food affordability and access to food for consumers on a lower income. Wider policy relating to obesity and chronic disease should, however, remain a Scottish Government responsibility.

Pesticides and veterinary medicines:

There should also be a review of whether the agency could usefully take a greater role in some areas that can impact on consumers but which are currently primarily dealt with as agriculture or food industry issues. This includes policy on use of pesticides and veterinary medicines. The existing FSA currently only has a limited role in this area.

Q2: 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?

We consider that this split remains broadly right. The new body should deal with the more food-specific and consumer facing aspects of diet and health policy, while the Scottish

² The Future of Food - Giving Consumers a Say, Which?, April 2013.



Government should deal with wider public health aspects. There will inevitably be a lot of cross-over.

Up until now, the Scottish Government has led on initiatives relating to food marketing, consumer information campaigns, healthy living awards and standards in public institutions. We consider that these fit better within the new body's responsibilities, although close working will be important.

Q3: 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.

This is an area where there is a real opportunity to make a difference through the creation of the new body. Tackling poor diet and associated rates of obesity and other diseases has to be a priority. We consider that the role of the new body should therefore be strengthened in this area, but the Scottish Government should retain responsibility for wider public health policy.

Our research has highlighted that many people are finding it difficult to afford to buy food, with many having to use savings and credit cards. Food affordability is a key barrier to healthier eating and this is becoming much worse in the current economic climate and with rising food prices. Our consumer surveys have found that the cost of healthier choices is one of the main barriers to healthier eating and that people would like to see more action to make healthier choices cheaper³.

We therefore consider that the new agency should be more pro-active in relation to access and affordability issues. In order to do this, it will need to draw on the experience of groups, including local community groups, who are active in this area and understand the issues facing lower income consumers.

As already highlighted, we consider that the work on healthier choices needs to be integrated with work around more sustainable choices as much as possible. The new body should provide integrated advice around what is healthy and sustainable.

The new body should also take on initiatives such as the Healthy Living award for caterers and the Healthy Living Programme for neighbourhood shops. We also think the FSA could have a greater role setting standards for public institutions. The Scottish Government has made progress in this area, but this would seem to fit better under the new agency's consumer-focused role.

Q4: What steps do you think could be taken to ensure the new food body is able to access the best available independent advice it needs to underpin its work on food safety and public health nutrition in Scotland? Please give reasons.

It will be important for the new agency to work closely with UK FSA scientific committees where possible, rather than duplicate work or become isolated. It will be essentially for consumers across the UK that the different agencies can benefit from each other's knowledge and expertise and that new and emerging issues are quickly shared and dealt with. Additional committees may also be needed to meet specific Scottish needs, for example, to look at specific issues relating to poor diet in Scotland.

³ A Taste for Change?, Which?, December 2012.



Effective arrangements must be in place to ensure that UK-wide scientific advisory bodies respond effectively to requests from the Scottish agency and that it can shape the agendas and work plans.

It will also be important that the agency has access to social science advice and that it has sufficient resources to undertake its own programme of consumer research. Research should in general be co-ordinated as much as possible with other agencies across the UK in order to ensure that most effective use is made of limited resources and that the key issues are addressed, rather than repeating similar work.

A major challenge for the new body will be to ensure that it is effectively linked into sources of advice and evidence at EU and international level. This includes the work of the European Food Safety Authority (EFSA). Informal relationships will be needed as well as effective co-ordination with the UK FSA and other UK government departments as competent authorities for EU and wider international discussions in bodies such as the World Health Assembly and Codex.

Q5: Do you think 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.

We consider that a mixture of both approaches is needed. It makes sense for the limited resources available across the UK to be pooled, particularly as many of the products and companies that may be included within the research and surveillance will operate UK-wide. It also makes sense for work developing analytical methods and approaches to be developed jointly where this is possible and it does not delay action being taken in Scotland on behalf of consumers. However, more targeted work on issues specific to Scotland will also be necessary.

Q6: Do you consider that the new food body should be responsible for the coordination of all Scottish Government funded research on food safety and public health nutrition? What steps could be taken to raise the profile of the new food body as a research funder across the UK and beyond? Please give reasons.

We think that the new body will have a very important role co-ordinating research on food safety and public health nutrition. This will help to ensure that key gaps in research are taken forward. Given the increasing focus on joint public/private funding of food research, it will, however, be important that the new body is not compromised in any way and that taking on this role would not affect its independence or detract from its core purpose. The agency should ensure that publicly funded research is focusing on public health priorities and directly feeding into policy.

The agency should be linked into key UK initiatives, such as the Food Research Partnership and work closely with all other UK funders that are relevant. It should also work closely with relevant EU bodies, including DG SANCO, Agriculture and Research, EFSA and the World Health Organisation.



Q7. 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.

It will be very important that there is a strong link between research and policy. The new body must also ensure that its research strategy has a strong focus on understanding consumers and understanding consumer perspectives across Scotland.

The new body must also have the capacity to identify new and emerging risks that will impact on consumers, including chemical and microbiological hazards and the social as well as health risks that may be raised by new technologies.

It is important that the agency does not become isolated from key discussions at EU and international level. A constructive relationship and clear memoranda of understanding with the UK FSA and Westminster, Welsh and Northern Irish government departments will therefore be essential.

Q8: 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 horsemeat substitutions, and to prevent such incidents happening? Please give reasons.

This is an area that we are feeding into as part of the Scudamore Expert Panel. We will also respond to the FSA consultation that is complementing this one. We agree that it is important for the new body to have a robust regulatory enforcement strategy to deal with food standards and food safety law. Areas where we think that there is scope or improvement include:

- Enhanced powers for the agency to enter food businesses, require testing by food business operators and require the results of testing and surveillance to be disclosed.
- Enhanced powers in relation to registration of business and operators across the supply chain, including the role of brokers which has been highlighted by the horsemeat affair.
- Enhanced powers to require businesses to display hygiene ratings.
- Strengthened penalties for breaches to food law.
- A review of the extent to which local authority enforcement action is successful and any improvements that can be made to ensure that breaches to food safety and standards are successfully prosecuted.

Q9: 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.

The intelligence gathering and horizon scanning capacity of the new body will be key. It is important that surveillance is sufficiently resourced and co-ordinated. The new body should work closely with local authorities, FSA and Defra. It must also ensure that it has the capacity



to conduct economic analysis to identify potential opportunities for fraud. International relations will also be key and the new agency should be linked into EFSA work on emerging risks (as well as the FSA's work) and other alert systems, such as the WHO's International Food Safety Authorities Network (INFOSAN). Relationships with business will also be important - ensuring that information is shared with the agency without developing too close a relationship that undermines the body's independence. More informal links with other international agencies will also be important and the agency will need to ensure that it has a clear memorandum of understanding with the UK FSA to enable this.

Q10: Should the new food body take on any regulatory, enforcement or monitoring roles and responsibilities not currently fulfilled by the FSA in Scotland? If yes, please give details and reasons.

It is important that any expansion of regulatory or enforcement work to new areas does not undermine the agency's core business, for example, by it becoming too involved in wider animal health and welfare aspects.

We are not against the idea of giving the Agency more direct enforcement responsibility, for example for animal feed controls, if it is sufficiently resourced to do this and it does not undermine its independence or consumer focus.

Q11: 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.

It is essential that sufficient resources are given to food law enforcement. We can see that there are advantages of local delivery, but the agency must have strong oversight and the ability to intervene if necessary where a local authority is not delivering. The current system seems to generally work well and so the potential turmoil caused by more fundamental reform does not seem to be worthwhile.

The Agency must provide clear guidance and training for enforcement officers and ensure that the work they do is in line with what it sees as the priorities. The Scottish Food Enforcement Liaison Committee (SFELC) seems to work well as a co-ordination body, bringing together all key stakeholders responsible for enforcement delivery and planning work such as joint surveillance activities. It may therefore be helpful to formalise it as is suggested in the consultation document.

We agree with the proposal that the new body should have an effective audit role. We agree with the idea of a clear standard for local authorities that has Ministerial backing and that audit procedures should be strengthened.

Q12: 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.

The EU Official Controls regulations are currently under review and so this will largely depend on the outcome. The new Regulations may bring some changes, including the possibility to charge fees which will need to be implemented carefully. The Regulations will also improve co-ordination between Member States and will be more prescriptive in some areas such as border controls. IT systems and information sharing systems between Member States will be boosted and so it will be important that the new agency can be linked into these. The new



Regulation should also bring in a new requirement that penalties have to reflect the economic advantage that would be gained from the violation of food law concerned, which we see as a very positive development.

Q13: Are there any additional or alternative relationships that you would suggest that would help the new food body achieve Scottish Ministers' objective of longer, healthier lives for the people of Scotland? Please give details and reasons.

We agree that it will be very important for the new body to have clear arrangements in place for working with key stakeholders across the UK, including contracts, service level agreements and memoranda of understanding where necessary. Incident handling will be a particularly important area.

It will be important that the new agency works with experts from across Scotland and the UK as well as further a field in order to learn from best practice.

Q14: 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?

It is essential that putting the consumer first is at the heart of the agency and integrated into its ways of working. Consumer interests must not be an 'add on' but part of how it approaches all of its work. This includes:

- Strong consumer representation on the Board. Consumer interests should not be sidelined to a separate consumer committee.
- A significant budget to conduct consumer research and engagement activities. This should include surveys but also more deliberative forms of research to understand the issues facing different groups of consumers.
- Strong consumer representation on all of its advisory committees.
- Regular contact and meetings with consumer bodies at all levels of the organisation.

Q15: Do you agree with the suggested approach to ensuring the new food body's independence from Government and food industry? Do you have any further suggestions for how the new food body could best establish and maintain its position as an arms' length part of Government. Please give details.

The independence of the agency is essential for its credibility. This needs to be ensured through a variety of mechanisms, including open and transparent ways of working.

- The make-up of the Board will be crucial for ensuring its independence, as well as a strong Chief Executive. There must not be any conflicts of interests.
- The agency's decision-making processes must be transparent - from open meetings with all stakeholders to open Board and scientific committee meetings.
- The agency must be open about any interests of experts that it uses and ensure that they are not conflicted. It must also ensure this in any research it commissions or contracts.



- The agency must also be clear about how it reaches its decisions, balances different interests and handles uncertainties.
- It should also have the power to publish its advice to Ministers - and use it.

The agency must also have a clear and unambiguous remit to put the consumer first.

Which?
May 2013