

Briefing

A new food standards body for Scotland

Food Standards (Scotland) Bill

Summary

The Food Standards (Scotland) Bill provides an enormous opportunity to create a food agency, Food Standards Scotland, that will build on the strengths of the existing Food Standards Agency (FSA) Scotland as well as dealing with the specific challenges that will be facing Scottish consumers in the coming years. These include high rates of obesity and diet-related disease, the threat of food fraud and food safety issues, such as *E coli* O157.

The legislation should ensure that Food Standards Scotland has:

- **Responsibility for food safety, standards and nutrition** - it is important that it can work across all areas of food policy, enabling a pro-active, co-ordinated approach and joined up information and advice for consumers.
- **A clear and unambiguous remit to put the consumer first** - failure to do this can have devastating consequences for consumers as well as the food industry and wider economy, as seen with BSE and horsemeat.
- **An obligation to operate openly, transparently and be independent** - independence of economic and political interests is essential if it is to have public confidence so FSA measures such as open board and scientific committee meetings must be advanced.
- **A requirement to effectively engage consumers in all aspects of its work** - this should include effective consumer representation on its Board and a statutory duty to consult consumers and consumer organisations.
- **Close co-operation 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.
- **Input into EU and wider international discussions** - the new Body must keep abreast of the key issues facing the global food supply chain and its regulation.
- **The capacity to effectively 'horizon scan' and identify threats to the supply chain** - the horsemeat affair reinforced the complexity and vulnerability of food supply chains.
- **A more strategic approach to food law enforcement, a close working relationship with local authorities and powers to intervene to ensure compliance when required** - recent Which? research highlighted huge variability in compliance across Scotland.
- **Adequate expertise and research capacity** - this includes convening its own expert working groups when needed and commissioning research, including social research.

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



Introduction

There are many challenges facing the food supply chain - from high rates of obesity and diet-related disease in Scotland to the food safety and standards issues posed by an ever lengthening and complex food supply chain. The horsemeat scandal highlight how vulnerable the food supply chain can be, but also how essential it is to ensure that there is a pro-active approach to identifying risks and ensuring that there are effective controls in place.

The Food Standards Agency in Scotland has carried out a lot of good work, but the creation of the new food body provides an opportunity to build on this and ensure that Food Standards Scotland is even better equipped to deal with food issues that will impact on consumers in the coming years.

A strong, independent agency with a clear remit to act in the consumer interest is not only in consumers interests, but will also benefit the food industry and wider Scottish economy. A Which? survey in November¹, for example, found that half of people said they had still changed their meat eating habits as a result of the horsemeat incident.

Scope and responsibilities

Food Standards Scotland must have an unambiguous remit to put consumer interests first, to be independent and to operate transparently.

It must have responsibility for nutrition, food labelling and standards. There could be advantages in broadening the scope of the existing FSA, but the new Agency should be food-focused. It should not, for example, becoming involved in wider animal health or welfare issues. It also should not be involved in broader public health issues that are better addressed by the Scottish Government. Two areas where the new Agency's work should be expanded compared to the current FSA are:

- **Enabling sustainable as well as healthier choices**

The new body should be able to provide clear information and advice to consumers, ensuring that information is joined up and that it acts as a 'one-stop shop' on food issues. The Agency should, for example, 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 helping consumers to act on this advice, including initiatives such as standards for public procurement and identifying best practice for the food industry.

- **Nutrition policy**

The new Agency should deal with the more food-specific and consumer-facing aspects of diet and health policy, while wider policy relating to obesity and chronic disease should remain a Scottish Government responsibility. The new body should take on a greater role in issues around food affordability and access to food for people on a lower income. Initiatives relating to food marketing, consumer information campaigns, healthy living awards and standards in public institutions fit better within the new Agency's responsibilities, although there will inevitably be a lot of cross-over and close working will be important.

¹ Populus, on behalf of Which?, interviewed 2019 UK adults online between 20th and 21st November 2013. Data were weighted to be representative of the UK population



Consumer engagement

Consumer interests must be at the heart of the new Agency. This should include:

- Strong consumer representation on the Board.
- A statutory duty to involve consumers in the development and delivery of all of its functions and to publish a consumer engagement strategy.
- Regular contact and meetings with consumer bodies at all levels of the organisation.
- Adequate resources to conduct consumer research and engagement activities, including 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.

Independence and transparency

An independent approach and transparent ways of working will be key to public trust:

- 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 interest.
- The Agency's decision-making processes must be transparent - from regular 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 have the power to publish its advice to Ministers - and use it.

Intelligence gathering and horizon scanning

Intelligence gathering and horizon scanning will be key to the new Agency's success. There must be the capacity to identify new and emerging risks that will impact on consumers, including chemical and microbiological hazards, fraudulent practices and the social as well as health risks that may be raised by new technologies.

Surveillance must be sufficiently resourced and co-ordinated and the Agency must work closely with local authorities, FSA UK and Defra. It must also have the capacity to conduct economic analysis to identify potential opportunities for fraud.

International relations will be key and the new Agency should be linked into European Food Safety Authority work on emerging risks (as well as FSA's work) and other alert systems, such as the World Health Organisation'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 it has a clear Memorandum of Understanding with the UK FSA to enable this.

Science and evidence

The new Agency should work closely with UK FSA scientific committees, rather than duplicate work or become isolated. The agencies across the UK should benefit from each other's knowledge and expertise so that new and emerging issues are quickly shared and dealt with. Additional committees or expert working groups may be needed to meet specific Scottish needs, for example, to look at specific issues relating to poor diet in Scotland.



The new Agency must have access to social science advice and have sufficient resources to undertake its own programme of consumer research. Research should be co-ordinated as much as possible with other agencies across the UK to maximise limited resources and ensure the key issues are addressed. The new Agency must also ensure it is effectively linked into sources of advice and evidence at EU and international level.

The new Agency will have a very important role in co-ordinating research on food safety and public health nutrition. This will help to ensure key gaps in research are taken forward. However given the increasing focus on joint public/private funding of food research, it will 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 key purpose.

Enforcement and monitoring

Food Standards Scotland must ensure that there is a more strategic approach to food law enforcement across Scotland. It should have responsibility for meat controls, but also make sure that there is effective co-ordination and sharing of expertise and resources across local authorities.

Recent Which? research has highlighted that there is a lot of variation across local authorities². Some are far more effective at ensuring compliance with hygiene requirements than others; and some take a more pro-active approach to food standards and sampling. The new body must therefore get to grips with the situation, understanding where there are weaknesses and particular risks. It should work with the Scottish Food Enforcement Liaison Committee (SFELC) to raise standards across the whole of Scotland.

The new body will need to have an effective audit role. It must also have powers to direct local authorities that are failing to ensure adequate consumer protection, to intervene in national or particularly complex cases and to provide support to local authorities, whether in the form of resources or expertise. As proposed by the Scottish Government, the Bill should provide for the following:

- a statutory basis to require food businesses to display their hygiene inspection rating
- new administrative, non-criminal enforcement sanctions in addition to criminal ones
- powers for officers to seize and detain food
- a statutory requirement on food businesses to report food fraud
- a requirement for all food bodies operating in Scotland to be registered, including brokers, and for conditions to be attached to registration when necessary
- powers for the food body to require the food industry to conduct testing and to disclose the results of testing.

For more information, contact:

Julia Clarke

Julia.clarke@which.co.uk

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² Ensuring consumer focused food law enforcement - Which?, January 2014.