

Consultation: The Food Standards Agency's approach to managing the interests of its external advisers

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Introduction

Which? welcomes the opportunity to respond to the Food Standards Agency (FSA) consultation on its approach and updated guidance on managing interests and any conflicts of interest for the FSA's external scientific advisers.

It is essential that consumers can have confidence that FSA advice is based on robust and independent scientific advice that is developed transparently. This issue goes to the heart of why the FSA was set up in the aftermath of the Bovine Spongiform Encephalopathy (BSE) crisis as an arms' length agency and with a clear remit to protect public health and other consumer interests in relation to food.

In the coming years, as the UK leaves the EU, the FSA is likely to take on greater responsibility for risk assessments and approval of regulated food products, ingredients and contact materials. Consumers need to have reassurance that the FSA is drawing on a broad range of multi-disciplinary scientific advice and that those advisers are also motivated by the importance of public health and consumer protection, rather than other interests. A system of scientific committees will remain an important way in which to ensure that the FSA is receiving advice from a range of experts and disciplines, particularly as scientific advice will often require collective expert judgement to be reached.

It is essential that the FSA has robust guidance in place that enables it to make use of a broad range of external expertise, while also ensuring that it effectively identifies and manages any conflicts of interest that could bias or undermine this advice. Full transparency of interests, including a public register, is also essential. This is particularly important when the nature of research funding is becoming more complex, with a strong emphasis on joint funding and collaborations with food companies and where experts in some specialist fields may be in demand to provide consultancy to a broad range of interests. The FSA needs to be aware of these issues, have robust procedures in place to ensure all potential interests are declared

and that it can identify and manage any conflicts, as well as perceived conflicts, that could undermine the credibility of its advice and decision-making.

Consultation questions

Criteria for success

We agree with the proposed criteria for a successful approach to managing interests: robust, transparent, consistent, easy to implement and verifiable.

Principles

We generally agree with the five principles proposed to guide the FSA's approach to managing interests and potential conflicts of interest:

- Conflicts of interests can lead to bias; risks of bias must be managed effectively
- An interest is not the same as a conflict of interest. A conflict arises when an adviser has an interest that could make them act in a way that reduces the objectivity of the advice
- Conflicts of interest don't always lead to biased advice, providing they are managed effectively
- Perceived conflicts of interest can be damaging, even if they do not lead to bias. People should be aware of how things appear as well as how they actually are
- There must be a balance between managing conflicts, maintaining access to diverse, good quality and relevant scientific advice and being practical to implement.

In relation to the third principle, expert advisers that may have conflicts of interest may still be able to make a useful contribution because of their expertise, but their bias needs to be carefully taken into account. Other mechanisms for receiving their input, as recognised in the guidance, may also be appropriate so that their input is clearly distinguishable.

In relation to the fifth principle, there must be an "appropriate" balance. The focus should be on maintaining the independence and impartiality of the system, but in doing this to ensure that the system does not become so burdensome that the FSA is unable to attract or access the advice that it needs.

We also suggest that an additional principle is included. This should state that decisions should always reflect the FSA's statutory duty to protect public health and other consumer interests in relation to health. This should always be the priority guiding the FSA's approach.

The process for managing interests

We agree with the roles and responsibilities as described, including the recognition that the use of multiple advisers is also an important factor in ensuring the breadth and impartiality of advice. Advisers should be responsible for declaring their interests, but the FSA needs to have a proportionate way of "policing" this. Chairs have a crucial role in ensuring that interests that may arise during scientific committee or working group discussions are handled appropriately. Their independence and integrity is therefore especially important.

Defining interests and conflicts

It is important that interests are not defined solely as an advantage or obligation that an expert owes or feel that they owe to another person or organisation, or is owed to the individual from that person or organisation. Experts may have an interest that creates a conflict without them necessarily consciously seeking to act on this. Individuals are not always going to be in a position to appreciate that they are influenced or conflicted. The definition should recognise that interests include experience that may affect an advisor's advice or judgement in a particular way.

Guidance

The guidance sets out a non-exhaustive list of a wide range of interests that need to be declared, both personal and non-personal. A challenging, but important issue is how to deal with non-direct interests eg. those interests which go beyond current employment or personal remuneration and may be more subtle. This is also an important consideration when selecting Chairs and deciding whether membership, or balance, on a particular panel is appropriate. We agree that previous employment or other relationships, support or funding that could affect or be perceived to affect independence should also be declared and taken into account.

The FSA must also develop a transparent approach to dealing with specific interests that may relate to a company, sector or product, for example, and how it will be determined whether this could present a conflict when dealing with other related products or more generic advice and vice versa in the case of non-specific interests. The issue of how to deal with potential conflicts in the context of assessment of regulated products as part of an authorisation process may need more specific guidance if the FSA takes on a greater role in this area. More generally, it would be useful to develop some specific scenarios to help with the consistent and appropriate application of the guidance, reflecting some of the complex situations that may arise across the FSA's areas of responsibility.

Other considerations

A robust approach to safeguarding independence by dealing with conflicts of interest is essential. Alongside this, the FSA needs to maintain an approach that enables its decisions to be effectively scrutinised. Transparency is emphasised as a principle and this should extend to open meetings of scientific committees and the continued appointment of public interest and lay members of committees and other forms of expert panel to provide challenge.

Careful consideration also needs to be given to ensuring that there is sufficient balance of expertise and avoiding over-reliance on particular perspectives that could also lead to a particular bias or failure to consider the full range of evidence and perspectives. It may sometimes be the case that leading experts that the FSA could benefit from involving, may have limited time available to contribute to regular advisory bodies. The FSA must therefore ensure that it develops a range of mechanisms to ensure that it is involving and consulting the most relevant experts in line with the principles in the guidance.