

**Scottish Food Advisory Committee**  
**29 October 2008**  
**Apex City Quay Hotel**  
**Dundee**

**Open Session**

Present

Committee Members:

Prof.Grame Millar - Chair

Bill Reilly

David Cameron

John Cowden

Brian Ratcliffe

Charlotte Maltin

Moyra Burns

Carrie Ruxton

Amanda O'Donoghue

Catherine Benton

FSAS Officials:

Lydia Wilkie, Assistant Director, FSAS

George Paterson, Director FSAS

Jane Ferries, Committee Secretary, FSAS

Melanie Martin, Committee Secretary, FSAS

Neil Douglas, Committee Administrator, FSAS

Peter Midgley, Head of Local Authority Food Law Enforcement, FSAS

Jennifer Howie, Strategy, Policy and Consumer Engagement Branch, FSAS

**1 CHAIRMAN'S INTRODUCTION AND WELCOME**

1. The Chair welcomed members, guests and observers to the open meeting of the Scottish Food Advisory Committee (SFAC). The Committee was pleased to be in Aberdeen.
2. The role of SFAC is to provide advice to the Food Standards Agency (FSA) on all food safety and standards matters, in particular those with specific Scottish perspective. The Agency in turn has to fully consider the Committees views when determining its actions and the policy advice it gives to Ministers. Food issues are devolved to Scottish Ministers and legislation is implemented by the Scottish Parliament. This Committee is an essential element to the Agency to ensure that devolution is fully taken into account. The Committee holds regular meetings throughout Scotland.
3. Members of the Committee were invited to declare any conflicts of interest on specific areas before they are discussed to allow a decision to be taken on whether participation would be correct.
4. The Chair asked for items of AOB. No matters were raised.

5. There were apologies from Christopher Trotter, SFAC member and Jim Thomson, Assistant Director, FSAS.

## **2 MINUTES AND MATTERS ARISING FROM THE PREVIOUS MEETING**

6. The Chair directed the Committee to the minutes from the previous meeting 3 September.
7. Carrie Ruxton's name had not appeared on the list of Present Committee Members in the minutes - Carrie asked for it to be noted that she had been present at the previous meeting.
8. The Chair discharged the following actions:-

### **Under Para 38 Page 10**

FSAS provided SFAC with a link to Sugar Intake Survey and a copy of nutritional standards for nurseries produced by NHS Scotland was issued on the 17 September.

Members will be provided with an update of the work streams from the National Food and Drink Policy in Agenda item 6 of today's meeting.

### **Under Para 46 Page 11**

SFAC formed a sub group to discuss the Aquaculture consultation and had a briefing session with Scottish Government and FSAS officials on the 14 October.

SFAC Aquaculture working group submitted their final draft response to the consultation and this will be discussed and agreed in Agenda Item 5 of today's open meeting.

9. Members agreed the minute was a true and accurate reflection of the meeting held on 2 September 2008.

**ACTION:** Secretariat to add Carrie Ruxton to the list of Present Committee Members on the minutes.

**ITEM 3**  
**OVERVIEW OF CURRENT LEGAL PROCESSES AND PRACTICE RELATING TO**  
**ENFORCEMENT OF FOOD LAW IN SCOTLAND**

10. The Chair welcomed Peter Midgley, FSAS to the table. Peter gave a presentation covering the overview of food law enforcement in Scotland:-
  - Obligations of member states
    - EC Legislation and requirements
    - UK Legislation and arrangements
  - Obligations of businesses
    - General Food Law
    - Hygiene
    - Standards
  - Official controls and interventions
  - Other essential enforcement functions
    - Imported food controls
    - Incident management
  - The inspection planning cycle
  - Numbers of LA-enforced food premises (Scotland 2006 – 07)
  - Numbers of LA inspections and visits (Scotland 2006 – 07)
  - Options and resources available
  - Relative numbers of LA enforcement outcomes (Scotland, FY 2006 – 07)
  
11. Peter informed the Committee of the National Control Plan which is available on the Agency website. The National Control Plan is a single encyclopaedic document that sets out exactly how official controls are organised in the UK and in all the devolved countries. Where this document does not specify detail, it does specify the documents which contain that detail.
  
12. The Chair opened the discussion to the Committee.
  
13. Members of the Committee raised the following questions:-
  - A The Committee queried what level of consistency is applied amongst the 32 Scottish Local Authorities and if there were differences in the practices?
  
  - B The Committee asked how Scotland's approach to audit compared to Northern Ireland, England and Wales?
  
  - C The Committee felt that there was a more direct route to legal action in England, as Scottish cases are initially sent to the procurator fiscal to consider whether action should be taken.. Does the filter result in Scottish local authority enforcers being more intensive in the way they act on the

ground. Does the filter force Scottish local authority enforcers to interpret more meticulously the application of the rules because they know the end result will be a difficult one as the procurator fiscal is notoriously difficult to reach as they are too busy?

- D Given the slight differences in the devolved nations, how does the Food and Veterinary Office of the Commission cope with the different audit procedures and how does Scotland perform?
- E The Committee asked what evidence there was to confirm that the current regime was effectively protecting public health, and that any food poisoning incidents were due to people not meeting the current regulations?
- F The Committee queried whether food law is part of the better regulation process because we often hear that the food industry is one of the most regulated. Are the regulations constantly under review to ensure we are not asking food establishments to meet a rule that isn't actually directly related to human health?
- G The Committee queried whether food law prescribes for planned inspections, and if so are planned inspections taking place throughout Europe. The Committee asked if it would be more beneficial to have unplanned inspections, or a mix of planned and unplanned to catch people who don't have their house in order?
- H The Committee asked if there was an update on the review process of framework agreement of the local authority food law enforcement which is due to come out in March 2009.
- I The Committee queried the section on page 8 of the paper regarding sampling where it is mentioned that during 2007 14358 food samples were taken by sampling officers in Scotland. What proportion of these, both chemical and biological, failed?
- J The Committee informed Peter they had heard of some restaurants passing off bought in food as home cooked. They queried if home cooked term had a legal definition and if this could be enforced?

14. Peter provided the following answers to the member's points:-

- A Peter informed the Committee that the officers ensure things happen consistently by having to meet the rules set out in the Code of Practice and the supporting Practice Guidance. The audit regimes are used to look at whether the guidance is being put into effect. The audit outcomes

were a matter of public knowledge. Although Peter did not dismiss the suggested inconsistency issue, he said there was no concrete evidence to prove there was an issue. There were procedures in place to deal with any inconsistency issues. The Agency's audit programme will be going into the field and doing reality checks for the first time, so if there are any issues beyond the documentary checks then this will be the time when we would start to see them.

- B Peter informed the Committee audit procedures do not differ throughout the UK. UK colleagues meet frequently to draw up the audit templates which are published on the website. This means that everyone who is being audited can see the template they are being audited against. The audit programme differs across the UK but the approach does not. The auditors carry out audits in different parts of the country so there is a swap over of audits. This helps to ensure that there is a uniform approach across the UK in terms of consistency. Although there are different codes of practice in different parts of the UK, they are substantially the same.
- C Peter suggested one thing to think about in terms of prosecution was that it regardless of the regime, prosecution doesn't have immediate effect. He clarified that part of the role of the Procurator Fiscal service is to decide on the action appropriate to every case. Peter informed the Committee that Scottish Food Enforcement Liaison Committee (SFELC) was in the process of finalising a report on a survey of local authority experience in relation to prosecutions and related enforcement issues. He considered that this would provide a valuable insight into the experience of Local Authorities and undertook to forward it Committee as soon as it was published by SFELC.
- D Peter informed the Committee the Commission's Food and Veterinary Office would not be concerned about different ways of doing things in the different devolved areas provided they met the common standards set out by the Commission.
- E Peter informed the Committee the way that food hygiene regulation is developed through policy and translated into requirements based on an assessment of risk and a consequent assumption that the outcome will be a benefit to consumers. He felt there wasn't any evidence in place that can specifically state that non-compliance with regulations is directly related to food poisonings. It can be assumed that hygiene standards are related to compliance and therefore if hygiene standards enshrined in law are the correct ones and people are following them then there is

connection between the two. Under the precautionary principle, compliance must be in place to protect consumers.

- F Peter agreed that food regulation and the Agency are plugged into the better regulation agenda, both in Westminster and in Scotland. The Agency is fully supportive of the better regulation principles and has got aspirations and targets around being a world class regulator.
- G Peter provided the Committee with his view which was influenced during development of the inspection rating regime for primary production. This work had looked at how other regimes operate and in particular the effective way in which Scottish Government had incorporated an element of random selection into its inspection scheduling.. However, Peter advised that it is a requirement of the Official Controls Regulation that wherever possible inspections are unannounced. Local authorities protect very strongly their right to inspect at any reasonable time and planned inspections are not preannounced wherever possible. There is usually a window of at least a month during which a planned inspection under the Food Law Code of Practice will be carried out.
- I Peter informed Committee he did not have the information on the proportion of the food samples, both chemical and biological that fail, however he could provide the figures to the Committee at a later date.
- J Peter informed the Committee that food should not be passed off as homemade if it has not been produced in a way that justified the description. If the description of a food is misleading it should not be used.

15. The Chair opened the debate to observers.

16. **DOUGLAS SCOTT–SCOTTISH FEDERATION OF MEAT TRADERS ASSOCIATION**

They represent 452 butcher shops across Scotland. They have not had the same volume of complaints in terms of inconsistency of interpretation of the rules that they had had in the past. Another part of their business is Scottish meat training. However, given that they do get inconsistencies between some Local Authorities and in particularly one vet to another, and from one abattoir or approved premises to another. What audit methods are employed to ensure standardisation in interpretation of guidance by inspectors?

Lydia Wilkie, FSAS informed Douglas Scott that the Agency and the Meat Hygiene Service are aware of a lot of accusations of differences but there are detailed guidelines which are provided to all meat plant inspectors, and to the

veterinary officers who are supervising them. It is taken very seriously and is being looked at very carefully as part of the whole transformation programme for the Meat Hygiene Service.

17. The Chair thanked Peter and the Committee for the detailed discussion.

**ACTION - Peter to provide the Committee with figures on what proportion of food samples, both chemical and biological failed at a later date.**

**ACTION – Peter to provide Committee members with a copy of the final enforcement report - SFELC Survey on Prosecution for non compliance with Food Law in Scotland 2003 – 2007.**

#### **ITEM 4 MEAT HYGIENE SERVICE UPDATE**

18. The Chair informed the Committee that Lydia Wilkie, FSAS and the Deputy Chair in his Scottish FSA Board member role would both provide a brief update on this issue.
19. **Charlotte Maltin declared an interest as employee of Quality Meat Scotland.**
20. **The Chair recognised that Charlotte Maltin was an employee of Quality Meat Scotland and informed her it would be determined at the time of any questions, whether there was a potential conflict of interest.**
21. Lydia Wilkie, FSAS provided the Committee with an update on the Meat Hygiene Service. She informed the Committee that the main update was in relation to the Meat Hygiene Charging consultation, which had been expected to be out to consultation by this time. However, there was the question of the Euro implications for minimum charges for species of animals being put through abattoirs. The Euro rate was set on 2 September and since then the Agency and Meat Hygiene Service had been looking at the cost implications for meat premises. Taking this into account with the Board decision taken in March 2008, which was to generally increase the charges by 12%, the Agency hoped to finalise the consultation paper and issue it before the end of the calendar year
22. The Deputy Chair provided an overview on the October Board meeting discussion to increase the testing for bovines up to 48 months. The Deputy Chair reminded the Committee that at the previous SFAC open meeting, they had been briefed on the commission proposals to change the age of testing of cattle that were going into the food chain for human consumption as part of the

BSE roadmap. Since the previous Committee meeting, the proposal came out from Europe to raise the limit from 30 to 48 months in the countries that had sufficient surveillance data to give an accurate estimate of the prevalence of BSE. The Board were presented with an opinion from EFSA (European Food Safety Authority) who were of the opinion that there was no significant risk to public health by changing the age limit. The outcome was that the Board decided in principle they were comfortable of the change to 48 months but that they needed reassurance that the surveillance systems would continue to be robust in determining the prevalence of BSE in cattle in the UK.

23. The Chair thanked Lydia Wilkie and the Deputy Chair for their updates.

## **ITEM 5 SCOTTISH AQUACULTURE – A FRESH START**

24. The Chair introduced the consultation and mentioned that aquaculture was an important industry for rural Scotland with a significant role to play in fish and shellfish production in Europe. However, the industry has had considerable difficulties in recent years. It was clarified that the result of this consultation would be embedded in the Scottish Government's Economic Strategy and be informed by the National Food and Drink Policy. It would also respond to the wider marine agenda such as developing EU Aquaculture Strategy, the new Marine Strategy Framework Directive and the forthcoming Scottish Marine Bill.
25. The Chair clarified that SFAC members had formed a sub group to discuss the consultation and had met with Scottish Government and FSAS officials for a briefing session on 14 October. The sub group draft response was included in the Committee papers and SFAC were asked to comment on the draft and agree the final combined SFAC response at this open meeting.
26. Sub group members asked for it to be recorded that the Agency and Scottish Government officials gave a very useful and informative briefing session to the sub group. The sub group informed the other Committee members that they were taken through the main points of the consultation which form the basis of the questions that the sub group had been asked to respond to. The sub group members briefed the other Committee members on their draft response and welcomed comments from the Committee. The sub group emphasised that they felt the issues of planning, and sea lice, were both major problems.
27. Committee members held a detailed discussion regarding the consultation and members asked for the following to be added to the overall SFAC response –

- ***5b. Planning, Consents and Sites***

It seems that a very important way to increase the sites is to get agreement from Crown Estate to release inactive sites (the consultation mentions an expert working group on aquaculture is looking at this issue). Is it going to be an easy task to release these inactive sites?

▪ **5d. Markets, Marketing and Image**

The benefits of oily fish and shellfish, particularly mollusca, are also undersold. Shellfish in the form of mollusca are a very good contributor to the *n-3* (omega 3) fatty acids but they are not widely eaten by the Scottish population. Perhaps these could be better promoted as local produce which is a contributor to *n-3* (omega 3) fatty acid intakes. There is also less heavy metal contamination in farmed mollusca than in oily fish and they are good sources of minerals such as zinc

28. With the above noted comments the Committee agreed the final SFAC response.
29. Members requested that once amended to incorporate the above additions, the combined response from the sub group should be circulated to all members for final agreement.

**ACTION – Amended sub group consultation response incorporating the Committee discussion, to be circulated to all SFAC members for agreement, before forwarding to FSAS as the agreed SFAC final response.**

**ACTION – SFAC agreed combined response to the consultation to be forwarded to FSAS by the 4 November 2008.**

**ITEM 6  
SCOTTISH GOVERNMENT FOOD AND DRINK POLICY UPDATE**

30. **Charlotte Maltin declared an interest as a member of the Scottish Food and Drink Innovation Working Group and as a member of the Scottish Food Policy Think Tank.**
31. **Lydia Wilkie noted she was on the overarching Food Policy Strategy Group and that the Agency was involved in all but one of the five of the Scottish Food and Drink workstreams.**
32. The Committee were provided with an update paper on the Scottish Government Food and Drink Policy. This had been requested at the SFAC meeting held on the 2 July 2008
33. The Chair informed the Committee of an open invitation to all members to attend the Cross Party Group on Food meeting which was being held on the 12 November in the Scottish Parliament. The Chair was keen for SFAC to be represented at the meeting.
34. The Committee were asked to consider the ways in which they may contribute to the work, in order to harness the genuine enthusiasm among Committee members since Richard Lochhead MSP's announcement at the Royal Highland Show in June. The Committee noted that some time had elapsed since the five

workstreams had started. The Committee felt that it would be helpful to have reports of progress put into the public domain to allow them to consider how they might input to the process as the workstreams develop. It was felt it would be useful for minutes of meetings to be put on the web.

35. The Chair informed Committee members that he felt the best way forward would be a letter stating the Committee's above concerns, from the Chair on behalf of the Committee, to Richard Lochhead MSP.

**ACTION – A letter to be drafted from the Chair to Richard Lochhead MSP stating the Committee's concerns and in particular to ask for reports of progress to be put into the public domain.**

**ACTION – Secretariat to send a reminder email to the Committee to generate interest for SFAC attendance at the Cross Party Group on Food meeting on the 12 November.**

#### **ITEM 6 AOCB/PUBLIC SESSION**

36. The Committee was asked to note the information paper on Primary Production Feed and Food Hygiene Enforcement in Scotland.
37. The Chair announced that this was the Committee Secretary and the Deputy Chair's last open meeting as they were both leaving the Agency. Both were thanked for their contributions during their time with the Agency.
38. The Chair announced that the Director of FSA Scotland would be retiring in 2009. The vacancy had been put out into the public domain and the deadline for applications was mid November.
39. The Chair announced there had been a good response of applications for the Scottish Food Advisory Committee member recruitment and Scottish FSA Board member recruitment, and that the interviews would take place in November. The positions would be taken up early 2009.
40. The next meeting will be held on the 4 February 2009.
41. The meeting closed at 12:30

**ACTION – FSAS to provide the Committee with figures on what proportion of food samples, both chemical and biological failed at a later date.**

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