

## FOOD STANDARDS AGENCY CONSULTATION

Title: Revised FSA Regulatory Framework

### CONSULTATION SUMMARY PAGE

<b>Date consultation launched:</b>	<b>Closing date for responses:</b>
1 February 2010	26 February 2010

#### Who will this consultation be of most interest to?

Those organisations that responded to the original consultation held July-Oct 2009, but the consultation will be on the website for other interested parties to comment.

#### What is the subject of this consultation?

A revised FSA Framework for policy making.

#### What is the purpose of this consultation?

To allow interested parties to comment on the revised document.

#### Responses to this consultation should be sent to:

Name: Carolyn Ainsbury  
Division/Branch: Strategic Policy and  
Consumer Engagement  
FOOD STANDARDS AGENCY  
SCOTLAND  
Tel: 01224 285 156  
Fax: 01224 285 168

Postal address:  
6<sup>th</sup> Floor, St Magnus House  
25 Guild Street  
Aberdeen, AB11 6NJ  
Email: [carolyn.ainsbury@foodstandards.gsi.gov.uk](mailto:carolyn.ainsbury@foodstandards.gsi.gov.uk)

Is an Impact Assessment included  
with this consultation?

Yes

No  See Annex A for reason.



# REVIEW OF THE FSA REGULATORY FRAMEWORK

## Introduction

1. In December 2006 we published our Framework for Regulatory Decision Making. The document said that we would review the framework and our performance against it two years after adoption.
2. A public consultation on the original document was held from 9 July to 16 October 2009. We are grateful for the thirty responses. A summary of responses received is at <http://www.food.gov.uk/multimedia/pdfs/consultationresponse/consummreviewregulframeeng.pdf>.
3. Research was also carried out through interviews with FSA policy makers.

## Proposals

4. The document has been revised to take into account the responses to the original consultation and the results of the interviews with FSA policy makers.
5. This second consultation gives interested parties the opportunity to comment on the revised document. This consultation is for four weeks, as it is a follow-up consultation to the original consultation, which was held for 14 weeks.

### Key proposal(s):

- **The document has been shortened and made less wordy, in line with the views of FSA policy makers, but the principles of the original document have been retained.**
- **Once the document has been revised to take any additional comments from this consultation into account, it will be put before the FSA Board at an open meeting.**
- **The finalised version will be published on the website.**
- **Additional guidance on more specific policy-making topics will be provided on the FSA's internal intranet.**

## Consultation Process

6. A public consultation on the original document was held from 9 July to 16 October 2009.

### Questions asked in this consultation:

- Q1: Please give comments on the document at Annexe 2. It would be helpful if you could focus on the revised text of the document.**

## **Responses**

1. **Responses are required by close 26 February 2010**. Please state, in your response, whether you are responding as a private individual or on behalf of an organisation/company (including details of any stakeholders your organisation represents).

Thank you on behalf of the Food Standards Agency for participating in this public consultation.

Yours,

**Carolyn Ainsbury**

Strategic Policy and Consumer Engagement

**Enclosed**

**Annexe A: Standard Consultation Information**

**Annexe B: Revised Framework for Policy Making in the Food Standards Agency**

**Annexe C: List of interested parties**

## Queries

1. If you have any queries relating to this consultation please contact the person named on page 1, who will be able to respond to your questions.

## Publication of personal data and confidentiality of responses

2. In accordance with the FSA principle of openness our Information Centre at Aviation House will hold a copy of the completed consultation. Responses will be open to public access upon request. The FSA will also publish a summary of responses, which may include personal data, such as your full name and contact address details. If you do not want this information to be released, please complete and return the Publication of Personal Data form, which is on the website at <http://www.food.gov.uk/multimedia/worddocs/dataprotection.doc> Return of this form does not mean that we will treat your response to the consultation as confidential, just your personal data.
3. In accordance with the provisions of Freedom of Information Act 2000/Environmental Information Regulations 2004, all information contained in your response may be subject to publication or disclosure. If you consider that some of the information provided in your response should not be disclosed, you should indicate the information concerned, request that it is not disclosed and explain what harm you consider would result from disclosure. The final decision on whether the information should be withheld rests with the FSA. However, we will take into account your views when making this decision.
4. Any automatic confidentiality disclaimer generated by your IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.

## Further information

5. A list of interested parties to whom this letter is being sent appears in Annexe B. Please feel free to pass this document to any other interested parties, or send us their full contact details and we will arrange for a copy to be sent to them direct.
6. This consultation has been prepared in accordance with HM Government Code of Practice on Consultation, available at: <http://www.berr.gov.uk/files/file47158.pdf> The Consultation Criteria are available at <http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44458.html>
7. Criterion 2 of HM Government Code of Practice on Consultation states *Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible*. This consultation is not being held for a full 12 weeks because it is a follow-up consultation to the original consultation, which was held for 14 weeks.
8. The Code of Practice states that a Regulatory Impact Assessment should normally be published alongside a formal consultation. We have not produced a Regulatory Impact Assessment for this proposal because the direct impact of reviewing the Regulatory Framework will be felt only by policy-makers in the FSA. Any indirect impact on business or enforcement agencies will be felt as a result of the FSA's actions as a regulator and separate RIAs will be produced as appropriate for those actions.

9. For details about the consultation process (not about the content of this consultation) please contact: [Food Standards Agency Consultation Co-ordinator](#), Room 2C, Aviation House, 125 Kingsway, London, WC2B 6NH. Tel: 0207 276 8633.

**Comments on the consultation process itself**

10. We are interested in what you thought of this consultation and would therefore welcome your general feedback on both the consultation package and overall consultation process. If you would like to help us improve the quality of future consultations, please feel free to share your thoughts with us by using the Consultation Feedback Questionnaire at <http://www.food.gov.uk/multimedia/worddocs/consultfeedback.doc>
11. If you would like to be included on future Food Standards Agency consultations on other topics, please advise us of those subject areas that you might be specifically interested in by using the Consultation Feedback Questionnaire at <http://www.food.gov.uk/multimedia/worddocs/consultfeedback.doc> The questionnaire can also be used to update us about your existing contact details.

# A FRAMEWORK FOR POLICY MAKING IN THE FOOD STANDARDS AGENCY

## Introduction

1. This framework is intended to help policy makers in the Food Standards Agency (FSA) consider **at the first moment a policy proposal is mooted** whether there is justification for government — either the EU or the UK — to intervene. This document aims to prompt due consideration of whether intervention is required and if so, what sort of intervention it should be. There is more detailed guidance on the process of policy making in *How we work* on Foodweb [to be developed, then link to be inserted].

## Background to the FSA

2. The statutory objective of the FSA is to protect the health of the public and the interests of consumers in relation to food and drink<sup>1</sup>.
3. In meeting our objectives, we will be true to our core principles:
  - putting the consumer first
  - openness
  - independence
  - being science and evidence based.
4. Everything we do reflects our purpose of *Safe Food and Healthy Eating for All*.

## An evidence-based approach

5. We are committed to basing our decisions on the best available evidence. We draw on a broad range of expertise, for example through an extensive programme of commissioned research and surveys, and through advice from a network of independent scientific advisory committees.
6. We are open about what we know and what we don't know. Where the risk is uncertain but the potential risk to public health is serious, we take a precautionary approach, publishing what we know when we know it, and taking the appropriate action quickly. We revise our approach as new evidence emerges.

## Is intervention justified?

7. Working with our enforcement partners across the UK, we will consider intervening to protect consumers where the benefits justify action and outweigh the risks of inaction.
8. In deciding whether to intervene, we take into account the:
  - risk to public health or consumer interests, based on the best scientific evidence

<sup>1</sup> In the rest of this document the term “food” is used (as in law) to mean food and drink

- costs and benefits to everyone concerned<sup>2</sup>, always mindful of our statutory duty to protect the interests of consumers
- risks of inaction – including the possible loss of consumer confidence in the regulatory system
- regulatory<sup>3</sup> and sustainability<sup>4</sup> impacts of our proposed actions.

### **What sort of intervention?**

9. In deciding this, we shall:

- support voluntary approaches, as long as they deliver proportionate consumer protection and are consistent with the requirements of EU law;
- expect businesses to act responsibly, and encourage and recognise those that do so;
- seek to work collaboratively with responsible businesses, and/or their representative organisations, to protect consumers;
- work with enforcement bodies to help responsible businesses comply and to penalise those that are wilfully and repeatedly noncompliant, or seriously negligent with respect to consumer safety;
- work with other regulators to minimise the burdens on businesses, for example through joint inspection regimes and data sharing, where this does not jeopardise regulatory outcomes.

### **Options for intervention**

10. In order of consideration:

- do nothing, having analysed the issue and decided that action is counter-productive or unwarranted.
- assemble and publish the evidence, to inform public debate.
- provide information to consumers without recommending a particular course of action, so they may make informed choices, eg publish the results of surveys.
- provide advice to consumers.
- provide and publish our advice to Ministers.
- encourage desirable behaviour by the private or voluntary sector by non-statutory means including positive recognition and/or reputational sanctions.
- encourage self-regulation through voluntary codes of practice or co-regulation through statutory or Government-backed codes of practice or action plans.

<sup>2</sup> We have a statutory responsibility to take costs and benefits into account when considering whether and how to exercise any of our powers. We will assess possible approaches not only in terms of improvements to public health, consumer protection and consumer confidence, but also in light of the effects on industry and other stakeholders.

<sup>3</sup> <http://www.berr.gov.uk/files/file45019.pdf>

<sup>4</sup> [http://www.food.gov.uk/aboutus/how\\_we\\_work/sustainability/](http://www.food.gov.uk/aboutus/how_we_work/sustainability/)

- promote compliance through collaborative working with responsible businesses and encourage responsible businesses to blow the whistle on businesses that are irresponsible or fraudulent
- provide practical advice to businesses to help them comply with the law.
- promote effective, risk-based interventions by enforcement bodies, through guidance, training and support, performance monitoring and audit.
- license products, people, processes or premises.
- negotiate for changes to EU legislation to protect UK consumers, or (where legally permissible) advise Government to change domestic law to improve consumer protection or make penalties more appropriate.

### **Review and evaluation of this framework**

11. This framework has been developed by the Food Standards Agency and informed by consultation and engagement with our stakeholders.
12. We have reviewed the framework and our performance against it, three years after its initial adoption in 2006. In line with internal and external stakeholder comments we will revise and re-launch it in 2010 as a decision-making aid.

**Respondents to the original consultation:**

Aberdeen City Council  
Advisory Committee on Pesticides  
Ajinomoto  
Aunt Bessie's  
British Science Association  
Cambridge Manufacturing Company Limited  
Consumer Focus  
Consumer Focus Scotland  
David Whitley  
Derby City Council  
Food and Drink Federation  
Food and Environment Research Agency  
Herring Buyers Association  
International Sweeteners Association  
Just Rachel Quality Desserts  
Local Authorities Coordinators of Regulatory Services  
National Farmers Union  
National Heart Forum  
Nick Clayton  
Philip Bladon  
Royal College of Physicians  
Royal Society of Chemistry  
Safefood  
Scotch Whisky Association  
Scottish Food and Drink Federation  
Seafish  
SITPRO  
Smithfield Market Tenants' Association  
Sustain  
The Goat Veterinary Society  
The Government Chemist  
Trading Standards Institute  
Which?