



NORTH LANARKSHIRE COUNCIL

REPORT

To: ENVIRONMENTAL SERVICES COMMITTEE	Subject: Food Agency - Consultation Document
From: DIRECTOR OF ENVIRONMENTAL SERVICES	
Date: 7th February, 1999 Ref: GB/TM	

PROPOSED DECISION

To note the terms of the report and thereafter authorise the sending of the comments contained in the recommendations to the SOAEFD.

REPORT

The Government has published the draft Food Standards Agency Bill, which sets out its proposals for changes in the arrangements for regulating food safety and standards issues in the United Kingdom. Alongside the Bill, the Government has published a consultation document setting out the main provisions of the Bill and seeking comment on all related issues including the funding of the Agency and the arrangements for it by a levy on food premises.

The Proposed Agency

The main functions of the Agency are identified as:

- the development of policies on food safety and other consumer interests, and helping Ministers and public authorities in doing the same
- providing advice, instruction and assistance on food safety and related matters for the public, Ministers and public authorities
- containing and reviewing information on food safety and related issues, including
- carrying out observations of food safety and quality at all points in the food production or supply chain, including on farms. The powers to enter premises, take samples and inspect records only relate to the gathering of information of a general and representative nature, not the investigation of individual cases - in those circumstances enforcement authorities will continue to use the enforcement powers granted by the Food Safety Act 1990
- monitoring and setting standards for enforcement authorities - generally this definition relates to local authorities' responsibilities.

Broadly speaking, the main priority of the Agency is the protection of public health in relation to food. The Agency will draw up a statement detailing its general objectives - in line with the guiding principles specified in the White Paper - and ensuring that particular attention is paid to areas that are not easily legislated for, e.g. the requirements for openness and transparency in the decision-making process, and arrangements for consultation and co-operation with other Government agencies and departments. The Bill provides for the Secretary of State and the devolved authorities (Welsh and Scottish authorities) to issue directions to the Agency where it seriously fails to comply with the statement of general practice or to perform any of its duties; and to remove the appointed members of the Agency from office if they do not comply with such a direction.

Other guiding principles highlighted by the Bill are:

- the Agency's assessments of food standards and safety should be unbiased and based on best available scientific advice, provided by independent experts
- the Agency's decisions and actions should not be disproportionate to the risk - full account should be given to costs and benefits, and over regulation should be avoided
- the Agency's decisions should be made independently of sectoral interests the Agency should ensure clarity and consistency of approach for all its operations.

Consultation on the White Paper revealed widespread support for the Food Standards Agency to be a single independent UK body, which would report to the Secretary of State for Health and his counterparts in the devolved authorities, and work closely with other Government departments, such as MAFF. The Bill provides for separate executive arms of the Agency in Scotland, Wales and Northern Ireland, each with responsibility for the organisation of the Agency in their part of the UK. New advisory committees for Scotland, Wales and Northern Ireland are also proposed.

Financing the Agency

The draft Bill includes powers enabling the Secretary of State to introduce an annual levy on food retail and catering premises. Exemptions are proposed to protect certain small businesses, for example, those that sell wrapped confectionery, soft drinks, crisps and other similar wrapped products. Local authorities will collect the levy and retain a proportion to cover their collection costs - the rest will be payable to the Agency.

Nutrition

As recommended in the White Paper, it is proposed that the Agency will take responsibility for the provision of scientifically based information on the nutritional content of individual foods and impartial and accurate advice on a balanced diet. Broader public health aspects of nutrition will remain within the responsibility of UK health departments, but it is envisaged that the Agency will need to work closely with UK health departments who will retain responsibility for wider public health aspects of nutrition. The Agency should work closely with health departments to establish their individual responsibilities and the means by which close co-operation on this issue can be secured.

Pesticides and Veterinary Medicines

The Bill requires that the Veterinary Products Committee and the Advisory Committee on Pesticides include a member nominated by the Agency, and that responsibility for all aspects of the authorisation process will rest with the Veterinary Medicines Directorate (VMD) and Pesticides Safety Directorate (PSD) - with the Agency being consulted on all veterinary medicines and pesticides policy issues relevant to food safety. It is also proposed that responsibility for the surveillance of foods for residues of pesticides and veterinary medicines lies with the VMD and PSD, but that the Agency will have extensive involvement in discussions concerning relevant programmes, and reviews all survey results - seeking advice from the appropriate advisory committee on the significance of the findings.

Notification of foodborne illness

The White Paper discusses whether arrangements for the statutory notification of diseases should be broadened to include reporting by clinical laboratories of certain specified (human) test results. The Government is still considering whether the Agency should be given the power to operate a statutory notification scheme for laboratory test results involving specified food-borne illnesses. It is envisaged that such a step would assist the Agency in fulfilling the White Paper recommendation of developing a national strategy for the control of foodborne zoonoses.

RECOMMENDATION.

To note the contents of the report and thereafter send the undernoted comments to the Scottish Office:

1. the Council generally welcomes the proposals for a Food Standards Agency;
2. the Agency should be given the power to require the statutory notification by clinical laboratories of certain test results involving specified food-borne illnesses;
3. the Bill proposes that the Agency will set standards for local authorities for implementing food legislation and while this proposal is accepted, any new standards to be employed will require further consultation;
4. the Bill proposes powers for inspectors employed by the Agency to carry out inspections at premises but does not make clear whether or not this extends to the serving of Emergency Prohibition Notices and this should be clarified;
5. the White paper states that the Scottish Parliament and the Northern Ireland Assembly will have power to decide through primary legislation to introduce their own separate arrangements for handling food safety and standards and this could lead to different and uneven approaches to these matters throughout the UK;
6. the Consultation paper on the funding of the Agency proposes that a levy be collected by local authorities and that a proportion of this levy be retained by the local authorities to cover their costs in doing this but it does not specify what the percentage is to be. Clearly this figure must be adequate to cover all costs including the costs of legal action taken against defaulters;
7. the proposed standard levy for all businesses included in the proposal (estimated at £90) is unfair but it is difficult to suggest a fairer scheme which would not involve the collection agency in more work. A scheme based on the risk proposed by the business would be more appropriate and the rating scheme presently set out in Code of Practice No 9 could be used. However this would lead to the charges being

varied after inspections where the ratings were changed and would also lead to arguments about different standards being applied to apparently similar businesses throughout the UK;

8. the proposed levy as described in the Consultation Paper will only apply to businesses at the point of sale to the consumer and this is unfair as it should apply to all food retailers, producers, manufacturers and wholesalers whose premises are subject to inspection by food authorities;
9. it is proposed to exempt from the levy retailers only selling wrapped foods such as confectionery, soft drinks and crisps but it should be pointed out that such premises require to be visited by food authorities to carry out food standards inspections to ensure that such wrapped foods are not being sold beyond their "use by date." To simplify matters all premises subject to the registration legislation should also be subject to the levy;
10. it would seem that a fixed accounting period such as the local authority financial year should be set for levy collection purposes and guidance therefore requires to be given as to how a business which perhaps leaves the exempt category during this period should be treated i.e.. should only a proportion of the levy be paid for the part of the accounting year in question.

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