

NORTH LANARKSHIRE COUNCIL

REPORT

To: ENVIRONMENTAL SERVICES COMMITTEE		Subject: FOOD (SCOTLAND) BILL
From: HEAD OF PROTECTIVE SERVICES		
Date: 12 August 2014	Ref: GC/55	

1. Purpose of Report

- 1.1 To update Members regarding the Food (Scotland) Bill and to seek approval to commence discussions with the Food Standards Agency (Scotland) for the purpose of seeking to agree a revised local intervention strategy pilot initiative.

2. Background

- 2.1 Responsibility for developing policy on, and regulation of, food safety and food standards currently rests with the Food Standards Agency, albeit that Scottish Ministers have authority to direct the Agency in regard to its activities in Scotland.
- 2.2 Food safety is an important issue in Scotland as it is estimated that food borne disease in financial terms costs around £140 million per year. More significantly, something in the order of 130,000 consumers contract food borne disease each year with 2,000 being hospitalised and around 50 will die.
- 2.3 In addition to this, whilst many believe that Scotland has amongst the best natural quality of food in the world, this contrasts sharply with the fact that bad eating habits are one of the significant causes of ill health in Scotland and a major factor in obesity.
- 2.4 Scotland is positioned near the top of the league tables for obesity among OECD countries. The public cost of dealing with obesity is predicted to rise to £3 billion per year in 2030. Experts agree that even relatively minor improvements to the safety and standards of food in Scotland will have significant social and economic benefits.
- 2.5 The food industry in Scotland is also vital to the economic wellbeing of Scotland. It is important that its international reputation for safe, quality food and drink is maintained and this can be helped by appropriate and proportionate regulatory controls.
- 2.6 In 2010, the UK Government decided to move responsibility for nutrition and food labelling in England from the Agency to the Department of Health and the Department of Environment, Food and Rural Affairs (Defra).
- 2.7 This was viewed with concern by Scottish Ministers who subsequently asked Professor Scudamore to lead an independent review to assess the feasibility of establishing an independent Scottish Food Standards body.

2.8 The Scudamore report was published in June 2012. Its recommendations were based on two fundamental principles –

- that because Scotland has unique and complex problems in relation to diet, obesity and certain food borne diseases, food safety should not be divorced from nutrition, labelling and standards
- that advice on food safety, nutrition and labelling should be independent and transparent and should be provided by an organisation at arm's length from Ministers

2.9 Scottish Ministers subsequently agreed to accept all of the recommendations of the report including a recommendation to create a new food body in Scotland independent from the Food Standards Agency.

3. Proposals / Considerations

3.1 One of the key measures in the Food (Scotland) Bill will be to establish the new food body which is to be known as Food Standards Scotland (FSS). It is due to commence work in April 2015 and will, thereafter, be responsible for delivering all necessary food safety, food standards, nutritional and meat hygiene advice and regulation in Scotland.

3.2 The objectives for FSS are as follows –

- to protect the public from risks to health which may arise in connection with the consumption of food
- to improve the extent to which consumers have diets conducive to good health; and
- to protect the other interests of consumers in relation to food

3.3 The objectives are deliberately wide in scope in order to give FSS flexibility to extend its remit. Perhaps one of the most important of these objectives relates to trying to improve the diet of the Scottish nation. This will be a significant task for FSS although it is intended that they will work in partnership with others with similar aims such as NHS Scotland.

3.4 In addition to these key objectives, the Bill will also introduce other measures which are intended to improve food standards in Scotland. These include the following –

- *Performance standards* – the FSS intend to set performance standards for all local authorities regarding food enforcement work
- *Food Hygiene Information Scheme* – powers are provided for the mandatory display of “Pass” or “Improvement Required” notices in all food premises in Scotland. At the moment, this is a voluntary option in Scotland so it is intended to monitor developments in Wales where a mandatory scheme has recently been introduced and then enter into a further consultation process before considering how best to proceed with a mandatory display scheme
- *Seizure/detention* – new powers to detain or seize food which, although may be safe to eat, doesn't comply with food information requirements such as labelling. An example of this would be the substitution, or partial substitution, of horsemeat for beef
- *Duty to report non compliance of food information law* – provision is to be made for the creation of an offence if any person failed to notify FSS if they suspected that food did not comply with food information law. Again, this provides more robust controls to help ensure that the suspected substitution of foods, such as horsemeat, doesn't occur

- *Fixed penalty notices* – these are proposed to be issued where enforcement officers find evidence of an offence. The level of the fixed penalty has still to be decided but will not exceed £2,500 and guidance is to be issued regarding criteria for service of notices. Income is to be paid to Scottish Ministers to ensure that enforcement authorities are not seen to be using fixed penalty notices to pay for the services which they provide.
- *Compliance notices* – these notices can be issued where enforcement officers find food safety offences. It is intended that they would be used for more comparatively minor issues where the service of a notice would be more appropriate than taking more punitive measures such as fixed penalty notices or submitting a report to the Procurator Fiscal. It will be an offence to fail to comply with a compliance notice.

3.5 As part of this process of change, the Agency is also keen to commence work on seeking better ways of working in regard to food safety enforcement by local authorities. In this regard, they are particularly keen to explore the possibility of adopting a revised risk assessment process which is based on “earned recognition”. This means that where a food business has a history of compliance, this would be recognised by their risk score being reduced which, in practical terms, would mean that they would be inspected less frequently.

3.6 The reverse would apply where a food business has a history of poor compliance, in which case the risk score would be increased to “recognise” this, with more frequent visits by enforcement officers as a consequence.

3.7 There are several potential benefits to this including –

- this would allow more focus of resources on where there is greater risk
- it is likely to attract strong support from most food businesses and act as a real incentive for them to ensure that they consistently comply with legal requirements
- it is likely to attract strong support from the public and consumer bodies who wish enforcement officers to do everything possible to maintain and drive up food safety standards

3.8 The Agency is seeking expressions of interest from local authorities willing to volunteer to work in partnership with them and agree to operate a pilot scheme based on “earned recognition”. The Council’s Business Regulation Service has been approached on an informal basis by the Agency and asked whether we would consider coming forward with proposals which could be jointly agreed.

3.9 We are keen to volunteer for this and accordingly, as part of this report, approval is being sought to proceed and enter into formal discussions with the Agency to try to agree a pilot initiative, subject to any implementation and operational costs which may be required being fully met by the Agency.

4. Financial Implications

4.1 There are no financial implications relevant to this report.

5. Corporate Considerations

5.1 The recommendations are consistent with policy and there are no personnel, legal or property implications in the report.

6. Recommendations

- 6.1 That Members note the contents of this Report and give approval to commence discussions with the Food Standards Agency (Scotland) for the purpose of seeking to agree a revised local intervention strategy pilot initiative.

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HEAD OF PROTECTIVE SERVICES**

Local Government Access to Information Act: for further information about this report, please contact Gordon Cunningham, Business Regulation Manager on 01236 856459.