
REVIEW OF OFFICIAL CONTROLS:

**Response of the Food Safety Authority
of Ireland and Proposed Approach**

August 2016

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1. SUMMARY OF RECOMMENDATIONS

A review of official controls (inspections) on food safety was conducted by the Scientific Committee of the Food Safety Authority of Ireland (FSAI) and published in 2016. Thirteen recommendations were made to guide the future direction of the official control system.

The table below shows the agencies, including the FSAI, for which the 13 recommendations were made. For each agency, there are 12 recommendations to address, with one on consistency of official controls, also involving the food industry.

Recommendation	Relevant Agency						
	FSAI	HSE	DAFM	SFPA	LA	Industry	
1	Performance management	✓	✓	✓	✓	✓	
2	Performance measures	✓	✓	✓	✓	✓	
3	Performance targets	✓	✓	✓	✓	✓	
4	Data	✓	✓	✓	✓	✓	
5	Review of funding	✓					
6	Consistency	✓	✓	✓	✓	✓	✓
7	Internal audit		✓	✓	✓	✓	
8	Stock of risk	✓	✓	✓	✓	✓	
9	Consistent enforcement powers	✓	✓	✓	✓	✓	
10	Review flexibility	✓	✓	✓	✓	✓	
11	Conflicts of interest	✓	✓	✓	✓	✓	
12	Resources aligned to risk	✓	✓	✓	✓	✓	
13	Expertise in specialised controls	✓	✓	✓	✓	✓	
	Total	12	12	12	12	12	1

Not all the recommendations apply equally to all the agencies and a cross-agency approach is being adopted so that agencies who already apply best practice in their operations can share this success with other agencies. This collaborative approach continues the original spirit of co-operation between the FSAI and each of its agencies. It is reflected too in the new mission statement adopted by the FSAI, 'We protect consumers by leading a collaborative food safety community to continuously raise food standards and create a culture of excellence', and is in accordance with the core values of the FSAI of teamwork, collaboration and respect.

Independently of the Scientific Committee's review, the European institutions have developed a major revision of the key legislation that applies to the official controls system on food (a replacement to Regulation (EC) No 882/2004 on official controls). The new Regulation is set to be published in late 2016, with a general transition period of two to three years. It is a measure of the commitment of the official agencies to excellence that the new service contracts include their agreement to commence the process of developing the food control services to meet the new requirements, whatever they might be.

Progress has already been made on many of the recommendations. This progress is summarised in the following paragraphs, along with an approach proposed by the FSAI to address the recommendations in the report and to commence the implementation of an improvement plan.

2. RECOMMENDATIONS: CURRENT STATUS AND THE FSAI'S PROPOSED APPROACH

1. A cross-agency performance management system to measure the effectiveness of the official control system should be established.

This recommendation will require progress to be made first on Recommendations 2, 3 and 4 before it can be fully addressed. The report notes that some agencies cannot currently report on all the performance measures proposed in the report, so transitional approaches will be needed. Since the report was adopted, the new service contracts agreed with the agencies include performance measures based on the contract requirements and systematic reviews of their delivery. This initial suite of performance measures provides a good basis for further developments.

2. A suite of performance measures should be put in place across all official agencies to ensure the effectiveness of the system by allowing it to be properly monitored and reported.

The new service contracts agreed with the Department of Agriculture, Food and the Marine (DAFM), the Health Service Executive (HSE) and local authorities¹ from January 2016 already include performance measures for the activities done to comply with the contract. These can be used by the management of the agency and by the FSAI to monitor the progress and achievements made against the contracts' objectives. The FSAI considers that these performance measures could be developed further with the agencies to more closely match the key requirements for effective official controls. The report notes the need for better data collection to support the reporting of performance (see Recommendation 4).

Ireland is by no means unique in seeking to develop sound performance measures for official control programmes – other Member States are also engaged with this exercise and there are collaborative fora in place at European and international level where guidelines are being or will be developed for performance indicators in the context of assessing the effectiveness of official controls. The FSAI actively participates in these fora, which will ensure that there is an opportunity to incorporate global best practice, over time, to help to develop accepted yardsticks for official controls.

¹ The service contract with the Sea-Fisheries Protection Authority (SFPA) is not due to be renewed until December, 2019.

3. Realistic targets should be established for each of the key performance measures.

The setting of targets is already central to the management by the agencies of the delivery of their work programmes. This internal management function must continue, but could be developed so that the targets are better aligned to nationally agreed performance measures. This will need to be cognisant of some of the fundamental differences in the sectors of the food industry that are supervised by each agency and the applicable legislation.

The review notes the need to define the targets and the reporting mechanism, considering the detail to be provided at national, regional and local level. The official agencies and the FSAI can agree approaches to distinguish between the management function of the agencies and the monitoring of service delivery by the FSAI – this has been done to date by both parties under the current contract system.

4. Data and information at a sufficiently detailed level should be collected by official agencies and provided to the FSAI. This will allow the official agencies to manage and report on official controls and the FSAI to carry out and report on its oversight function.

The FSAI and its agencies are committed to the collection and analysis of data on official controls. The new contracts have strengthened the basis for the collection by the agencies of data on their activities and its transfer to the FSAI. Real progress is being made: for example, since the report was produced, the first set of enhanced reports from the HSE's recently introduced Environmental Health Information System (EHIS) has been transmitted to the FSAI, along with the most complete register of food businesses under HSE supervision. The review highlights the need to enhance the comparability of data from the different official agencies. The FSAI has developed a five-year data strategy since the report was adopted to develop its acquisition and use of data to underpin decision-making and to inform further the risk-based approaches applied to official controls. The FSAI is implementing the first three years of this strategy under the FSAI's new Strategy 2016-2018, which recognises the centrality of data to its operations; this will include the data plan recommended in the review.

5. The current funding arrangements for food safety controls should be reviewed along with the measures available to the FSAI in the case of non-performance of the official agencies, with a view to strengthening the current organisation model for official controls and maintaining the independence of the FSAI.

The feasibility of this recommendation (which is made to the FSAI) needs to be examined with the Departments of Health and of Agriculture, Food and the Marine, which currently provide the funding for official controls. Currently, the local authorities are the only one of the main agencies reviewed for which the funding is provided through the FSAI. The formal measures available for non-performance of the official agencies are set in primary legislation (Food Safety Authority of Ireland Act, 1998, Section 48). Other legislation such as the Public Service Management Act, 1997 sets out governance and accountability arrangements for one agency (DAFM), whilst the multiple roles performed by agencies in food establishments, with resultant synergies, also need consideration. The recommendation should be implemented in the context of public sector reform and governance initiatives generally. The FSAI recognises the complexity of the issues that must be considered before this recommendation can be fully addressed and that its feasibility is based on a number of the other recommendations being addressed.

Current measures in place to manage the delivery of the service contracts include:

- Clearly identifiable goals set in the service contracts, including annual work plans
- Information provided systematically by the agencies on their official control activities, including inspections and enforcement actions
- Annual reports by each agency on their control programmes
- Programmed contract management meetings between the FSAI and each agency to review the delivery of the contract
- Internal audits carried out by the agencies, and reported to the FSAI
- Technical audits by the FSAI of the official agencies controls
- Clear procedures for each agency by which issues of non-compliance with the service contract are escalated to senior management

These measures have proven effective to manage the delivery of the food inspection system to date. However, as recommended by the Scientific Committee, they will be reviewed and strengthened by the FSAI in partnership with the official agencies and the Department of Health.

6. Measures to further improve the consistency of official controls need to be strengthened to ensure all businesses are inspected fairly.

This recommendation recognises that much work has already been undertaken, and is continuing to be done. Increasing the consistency of official controls has been a priority for the FSAI since its inception and in this regard a number of specific initiatives have been set up to address this issue which include:

- Cross-agency groups to review approaches to enforcement of food labelling legislation
- Provision of training for agencies
- Input into the legislation
- The establishment of a committee of environmental health officers from the HSE to resolve technical issues where inconsistent approaches have been identified

These measures will continue, and more will continue to be developed to ensure that this issue is addressed.

The FSAI will also work with the food industry, as recommended by the report, to gain its perspective on where and how, consistency can be improved. This partnership approach to improving the consistency of inspection programmes is supported by the FSAI's new Strategy for 2016-2018, which recognises the need to work effectively with key stakeholders.

7. All official agencies need to develop and implement effective internal audit systems and ensure timely close-out of findings in line with legislative requirements.

All the agencies have devoted considerable efforts to implementing internal audit systems, with special mention of the effective systems that have operated for some years, in DAFM. The HSE has appointed a National Quality Assurance operational unit incorporating internal audit, with the first audits planned for 2016. The SFPA has established an independent internal audit capacity and is delivering a programme of internal audits for 2016. Local authorities have operated a system of peer-review under their service contracts. The European Commission's DG-Santé Directorate F (Health and Food Audits and Analysis, HFAA) has scheduled an

audit in late 2016 on the implementation of internal audit which will provide an independent assessment of the current state of the agencies' systems. In preparation for the audit, the FSAI has already commenced work with a cross-agency group to discuss the sharing of best practice on internal audit systems.

The experience already gained by the agencies from internal audits has shown the benefits of systematic programmes to check that enforcement on the ground matches the ambition of the agencies' management. It is necessary to ensure that the recommendations and corrective actions arising from internal audits (and from external audits) are fully addressed by the agencies' management and the FSAI as part of the continual improvement cycle. The follow-up to audits are a regular feature of the management of the service contracts and are also a key area of activity for the FSAI to ensure its compliance with the Code of Practice for Governance of State Bodies (2009) and its own Corporate Governance Framework (2011).

8. The FSAI, in collaboration with the agencies, should establish a procedure to estimate and monitor the stock of risk in the system.

The review notes the difficulty of comparing the relative risks from different sectors of the food industry and across different agencies, which have their own individual risk-ranking systems. These systems can work consistently within each agency, but do not necessarily correlate across the range of agencies. This will be a complex recommendation to address, requiring progress initially on the risk-ranking and performance measurement systems. However, the benefit to addressing this issue will be an increased ability to identify the current risks in the food safety control system and to monitor our progress in reducing risk, improving food safety across the system. Progress on this recommendation will be an enabler for Recommendation 12 (resources aligned to risk), as it should provide better information on risks across the system and thus allow enhanced regulatory strategies and funding decisions.

9. A consistent and transparent approach to use of the enforcement powers available needs to be established across all official agencies.

Similar to Recommendation 6, this recommendation stresses the importance of consistency, focusing on the specific issue of the enforcement powers used by the official agencies. A wide variety of enforcement 'tools' are provided in food legislation to the agencies to apply to those food businesses which require it. Some of the measures are only available to certain agencies, depending on the legislation and policies in place. Therefore there may be limits to what can be achieved without the introduction of amending legislation by appropriate Departments.

Addressing this recommendation will also require reviewing the various ways in which enforcement actions are publicised, and the legislative and policy frameworks in which this is supported or even prohibited. Ensuring consistency has been a key objective of the FSAI since its earliest days, and this activity will continue to be a priority.

10. The FSAI should coordinate a review of the flexibility arrangements provided in the EU Hygiene Package whilst ensuring the continued protection of public health.

The review identified that there are flexibility provisions in the EU Hygiene Package (Regulations (EU) Nos 852 and 853/2004) which were intended to help small or traditional food businesses to comply with the food safety objectives with a reduced burden. As the FSAI recognises that it is an important part of enforcement to ensure that official controls are applied with recognition of the special needs of small food businesses; the FSAI has a number of initiatives aimed at smaller food businesses. These include a project examining the application of flexibility for small slaughterhouses in food safety management systems.

The FSAI will work with other Member States and the European Commission to review the optimum use of the flexibility provisions, as there is a recognition that there could be more use by Member States of these important provisions and there are on-going programmes to improve their use.

The review recognises the need for the FSAI to work with Government departments in this area, as in several cases, the EU Hygiene Package allows (or requires) Member States to set national rules for certain marginal food businesses. The absence of national rules hinders effective and proportionate food controls in suppliers of small quantities of wild game, poultrymeat, and primary products (such as raw milk, eggs and vegetables) from farms. Their absence represents a burden to the small or traditional food businesses concerned, a potential threat to the safety of consumers and a non-compliance with EU food law (the latter point has been raised by the European Commission). The FSAI will review the progress on national rules with the relevant regulators and with representative groups, such as the FSAI's Artisan Forum.

The review also notes in its findings in this area that some inspectors considered that the documented procedures they use are too complex and the controls applied disproportionate to the risk. The FSAI will work with the agencies to assess the procedures from this perspective and to ensure the proportionality of official controls.

11. The system of oversight and control for potential institutional conflicts of interest needs to be strengthened.

Preventing conflicts of interest between official controls and the other activities of food inspectorates is more than just common-sense – it is a legislative requirement in the laws on official controls² and a keystone in maintaining the integrity of enforcement action and the public's confidence in it and the overall food safety system. The service contracts require agencies to implement procedures to prevent conflicts of interest among the inspectorates. The report finds that potential conflicts of interest for inspectors are well-managed by the agencies, but these will be reviewed and strengthened as deemed necessary.

The case of institutional conflicts of interest, for example, where an agency has a role to promote the same industry that it regulates, also requires consideration at a senior level by agency management and the FSAI. The FSAI recognises the importance of its own statutory independence and role within the food control system as part of the checks and balances where agencies have such multiple roles. Internal audit, overseen and scrutinised by independent monitoring, also helps to ensure the management of any potential conflicts of interest. The report suggests the development of a cross-agency protocol, which could formalise the arrangements in place to manage this larger issue.

² Regulation (EC) No. 882/2004 on official controls – Article 4

12. The FSAI should monitor how resources are aligned to risk across the food chain with a view to strengthening the effectiveness of official controls.

This recommendation is linked to Recommendations 1 (on performance management), 5 (on funding arrangements) and 8 (on stock of risk) and its implementation will probably need to be preceded by progress on these three. Allocation of resources within the official agencies is a matter for the agencies' management, but the issue arises that, as the different agencies apply controls in different parts of the food supply chain, then the risks and resources do not currently necessarily align with each other. This can be caused or exacerbated by prescriptive legislation on official controls or by requirements of export food markets, which may mandate intensive official controls at particular points, for example slaughterhouses. A fully risk-based programme might not yield the same result. The FSAI will work with the official agencies within the constraints of these realities to progress this recommendation. Progress may be helped by developments within the EU official controls legislation, which is currently under revision, and within the European Food Safety Authority's recent opinions on modernising meat inspection.

13. Expertise in specialist food safety control areas needs to be enhanced and maintained commensurate with the requirements of effective official controls.

All the agencies and the FSAI recognise that the official control of specific items of food legislation presents a challenge, given the complexity and rate of change of food technology and law. However, every food business has a legal responsibility to comply with all the relevant requirements of food legislation and to up-skill themselves for this challenge. Similarly, every agency must also ensure that their inspectorates have a sufficient level of expert knowledge across all the areas of food law and food technology necessary to implement effective official controls.

The high level of training of Ireland's food inspectors provides a good starting point, but needs to be complemented with programmes for the continuing professional development of inspectors. Such programmes are a requirement of the new service contracts agreed with the agencies' management, and are in place. The FSAI and the agencies have worked together over the years to develop and deliver training programmes on many aspects of food legislation. More recently, the FSAI has developed a number of e-learning modules for agency staff. The FSAI will continue to work with the agencies to develop a competency framework that matches the requirements for controls, in particular, food businesses with the specialised skills available within the inspectorates. As recommended in the report, the development of specialist roles within the inspectorates will also be considered.

3. IMPLEMENTATION GROUP

The FSAI is inviting each agency to appoint senior management representatives to participate in a cross-agency implementation group. The group will have initial meetings in 2016 to start the process. The terms of reference would be agreed by the group; the terms proposed by the FSAI would be to:

- Review the 13 recommendations of the report
- Assess the relative priorities of each recommendation
- Assess the feasibility, resource requirements and timescale for implementation
- Produce a phased programme for action on each recommendation in the short, medium and long-term
- Commence the programme and oversee its delivery

This group would have mainly an oversight role over the implementation, which will also include the establishment of bilateral subgroups (between the FSAI and each agency) to progress individual matters, reporting back to plenary meetings of the cross-agency group. The group could also establish cross-agency subgroups looking at individual recommendations if this is considered more effective.



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