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Dr Pamela Byrne
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20th April 2016


Re: A Review of the Official Control System in Ireland and Opportunities for Improvement

Dear Dr Byrne 

Thank you for forwarding the FSAI Scientific Committee's Review of the Official Control System in Ireland and Opportunities for Improvement, with an invitation to respond to the contents. You will find attached this Department's response.

I can give assurance that DAFM is committed to working with the FSAI to implement the recommendation of the Scientific Committee report to strengthen the system of oversight of official controls in Ireland.

Yours sincerely


Aidan O'Driscoll
Secretary General

DAFM Response to the FSAI Scientific Committee's review of the Official Control System in Ireland and Opportunities for Improvement.

General Comment on Report

DAFM welcomes this opportunity to comment on FSAI's Scientific Committee Review of the Official Control (OC) System in Ireland. DAFM notes that the report recognises that the current systems as implemented have much to recommend them, however the report has identified some operational, structural and strategic issues that the FSAI Scientific Committee believes need to be addressed to strengthen the effectiveness of the OC system.

The thrust of the recommendations themselves are generally positive and forward looking. DAFM believes that the recommendations provide useful first steps in exploring the work necessary to further improve the collective system of OCs in Ireland. A number of general comments on the report are set out below, whilst specific comments on the recommendations are set out in an appendix to this document.

DAFM / FSAI relationship.

The nature of the relationship between DAFM and the FSAI has been by means of a formal Service Contract under the FSAI Act 1988, but also incorporates a highly collaborative element, based on partnership and shared objectives. Overall, the relationship has been very effective at facilitating both organisations in fulfilling their respective mandates. DAFM is committed to continuing this co-operative approach for the future, as we are clear that such a collaborative approach has served the consumer well to date. Lyons (2006) is cited in the FSAI Scientific Committee's report as stating that "FSAI does not operate in a command-and-control fashion". However, recommendation 5 of the report would appear to imply a departure from that model in focusing on control of funding for food safety and the possible imposition of sanctions by FSAI. The Department considers that the independence and general over-arching oversight role of the FSAI is best served by the current collaborative relationship it has with official agencies, and would be compromised if there were a transfer to FSAI of operational responsibility under a 'command and control' model. What is implicit within this recommendation would also be at variance with the legal framework within

which Government Departments and other State Agencies must function. The responsibilities of the Minister for Agriculture, Food and the Marine and the Secretary General of that Department are well defined in legislation - the Ministers and Secretaries Act and the Public Services Management Act 1997. These fundamental principles of public accountability are not reconcilable with “command and control” exercised over a Government Department by a State Agency under the aegis of a different Minister. In addition, the Sea Fisheries Protection Authority, whilst an “official agency” in its own right, operates under the aegis of DAFM and as such has a direct reporting relationship with the Department and has resources allocated to it by the Department to support its activities.

Management of Institutional Conflicts of Interest.

The report refers to potential conflicts of interest at institutional level. It is DAFM's view that the report does not adequately acknowledge that such tensions are inherent in how Government functions given its multiple roles, and that checks and balances are built in to the system of Government to address these conflicts. Specifically the creation of FSAI as an independent agency under the auspices of another Government Department with statutory responsibility for the enforcement of food safety legislation was a clear strategic decision of Government as a mechanism to mitigate such risk.

Report of ICF International

DAFM notes the content of the ICF International report and the historical nature of the content and references within, given that the report was compiled between 2012 and 2014. There has been ongoing review and improvement of systems since the commencement of the ICF review in December 2012, as well as further evidence based FVO, FSAI and DAFM internal audit group findings of the robust nature of the DAFM official control system in the intervening time.

There is a lack of clarity and information on the ICF survey methodology and the response rate of each official agency. This brings in to question the statistical validity and robustness

of the survey data which has informed their thinking and ultimately some of the conclusions and recommendations arrived at in both reports.

APPENDIX – Specific comments on each recommendation

Recommendation 1, 2 and 3 are taken together – (1) A cross-agency performance management system to measure the effectiveness of the official control system should be established (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 and (3) Realistic targets should be established for each of the key performance measures

These recommendations seek to establish a cross-agency performance management system (PMS) to measure the effectiveness of the official control system. Recommendations 2 and 3 expand on the development of the performance management system identifying the need for agreed measures and realistic targets. This PMS should be incorporated into the service contract between FSAI and official agencies, including DAFM.

DAFM for its part already seeks to ensure the effectiveness of the systems it has in place and recognises the need for realistic, measurable targets. DAFM agrees that these recommendations might be most appropriately discussed and progressed by a Cross Agency Group as proposed by the FSAI.

Within the legal framework of the FSAI Act 1988 and under the Service Contract, DAFM commits to work with FSAI to determine both qualitative and quantitative metrics that will demonstrate the value and the effectiveness of the official controls it implements.

Recommendation 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

As part of our service contract with the FSAI, DAFM already provides a significant amount of data relating to food safety controls to the FSAI. We acknowledge however that the methodology of collection and transfer varies across the organisation. From what we understand from the FSAI Scientific Committee report, this recommendation foresees a

significantly more detailed requirement for transfer of data. This will require a data sharing agreement between DAFM and FSAI, with data transfer meeting the requirements of not only of the FSAI Act 1998, but also the Data Protection Acts (DPAs).

DAFM continues to collaborate with FSAI on specific issues of mutual interest relating to public health and food safety, not only within but over and above the remit of the Service Contract. In order to share data with the FSAI over and above the terms of our service contract, there is a need to identify the purpose and value of the data sharing and also do so within the framework of a data sharing agreement under the relevant DPAs.

DAFM is currently drafting a data sharing agreement for discussion with FSAI to facilitate the transfer of all such information, within the Service Contract and on matters of collaboration.

The sharing of data necessitates an IT infrastructure with the capability of capturing the required data and transferring it to the FSAI. DAFM is examining the expansion and internal harmonisation of the current systems of electronic collation of information from its food safety official controls, to optimise this transfer of data. In addition DAFM has discussed a proposal with FSAI on how we might collaboratively develop data-sharing arrangements and national capability in data analytics (a shared centre with other agencies) to enhance our food safety credentials, our early warning systems and our emergency preparedness. DAFM looks forward to further discussing this recommendation with the FSAI.

Recommendation 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

See general comments.

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

DAFM structures have a centralised headquarters whose personnel establish systems and procedures to implement food safety law. This co-ordinated approach is strengthened by

the presence of regional management personnel who monitor the operations and implementation of DAFM procedures at local level. A robust inspection system based on evaluation of risk, taking into account a range of criteria is put in place. This comprehensive system of official controls is audited by a range of external agencies / bodies including the Food and Veterinary Office, FSAI, as well as by the well-functioning DAFM internal audit system. These layered systems, allied to a developed and co-ordinated management strategy of DAFM contribute to ensuring the consistency and fairness of application of official controls. All inspection systems need constant evaluation and review and DAFM commits to engage with the FSAI on this recommendation.

Recommendation 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

The report recognises that DAFM has a well-developed and well-functioning internal audit system. DAFM commits to work with the FSAI in identifying best practice and disseminating it across all Agencies, while seeking to review and improve its own systems on a continual basis.

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

The report finds that the differences in approaches to risk ranking of food businesses by Agencies makes it difficult to track changes in the stock of risk in the system and to assess the overall effectiveness of control activities. While DAFM currently exercises a robust risk assessment procedure, which includes a review of a food business operator's history, DAFM will work with the FSAI in setting out a similarly robust procedure that will allow for capture of the stock of risk across the whole system. It is envisaged that any enhanced electronic collation of data arising from the implementation of recommendation 4 will contribute to the progression of this recommendation.

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

The FSAI Scientific Committee report recommends that the transparency of DAFM enforcement powers (publication, use of powers, consistency and escalation procedures) could be improved in some areas. It should be noted that in line with food safety legislation, serious non-compliances that pose risk to the consumer are reported to the FSAI for input to the Rapid Alert System for Food and Feed (RASFF). In addition, as per the Service Contract, DAFM reports all serious non-compliances to FSAI on a quarterly and annual basis, and FSAI has included these figures in the totality of their annual reports under section 48(8) of the FSAI Act. In the context of the timing of any publication of information in relation to official controls, DAFM approaches these by evaluation of the need to protect public health, public interest, proportionality, dissuasiveness and fairness.

With regard to consistency, it is noteworthy that the report cites that 'FSAI audits of the official agencies have not reported any issues with the available enforcement mechanisms and the audit reports show that in general, enforcement measures are implemented effectively and appropriate actions taken.'

Recommendation 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

DAFM are currently involved in EU working groups in conjunction with the FSAI, examining the potential for the use of flexibility arrangements provided in the Hygiene Package, with a view to progressing these discussions to include flexibility for low risk operators of small businesses. Enhancing the collective capability of agencies to rank risks associated with different types of food business operators and activities (as per recommendation 8) would provide a more robust evidence base for targeting risk-based controls and facilitating flexibility arrangements.

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

See general comments

Recommendation 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

The DAFM carries out assessments of food business operators to determine risk and the outcome of these deliberations feed into the nature and frequency of inspections, audits, and sampling and compliance checks. The FSAI Scientific Committee report acknowledges that DAFM include a review of a food business operator's history and risk management tools in the determination of risk. The DAFM supports the review of risk based assessments to develop best practice in this respect, thus ensuring the most appropriate deployment of resources.

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

DAFM carries out a significant amount of training of staff in relation to public health and food safety issues, and welcomes this recommendation to further enhance the expertise and knowledge of staff, which will serve to give further assurances on the high standards of food safety in Ireland.

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