



Finance Committee

Duncan McNeil MSP,
Convener,
Health and Sport Committee

Finance Committee
Room T3.60
The Scottish Parliament
EDINBURGH
EH99 1SP

finance@scottish.parliament.uk

18 June 2014

Food (Scotland) Bill: Financial Memorandum

Dear Duncan,

The Finance Committee issued a call for evidence on the Food (Scotland) Bill's Financial Memorandum (FM) on 7 April 2014. A total of [nine responses](#) were received and these are attached.

Funding of Food Standards Scotland (FSS)

Quality Meat Scotland notes that "it is intended that the increased running costs of FSS will be offset through a financial transfer from the FSA UK-wide budget to SG. The level of this financial transfer remains subject to negotiation and is therefore as yet unknown. This unknown creates uncertainty in the financial model."

Remuneration of Food Standards Scotland Committee members

The Scottish Food and Drink Federation (SFDF) compares the provisions in the Bill that indicate that remuneration will be provided to non-Food Standards Scotland members of committees it establishes to the existing position in relation to the Food Standards Agency. SFDF notes that currently Scottish Food Enforcement Liaison Committee (SFELC) members do not receive any payment and that "office bearers in particular devote much time to work related to the committee". SFDF comments that "this could be a new and significant on cost".

This is a point that was also made by SFELC in its own submission. While not quantifying what the potential cost might be, SFELC did offer an indication of the level of work currently undertaken by its members stating that "SFELC office bears can spend over 100 hours per year on work related to the committee".

Guidance

The use of guidance was identified by some local authority respondents as being important in avoiding significant additional costs in relation to the exercise of the powers conferred by the Bill. For example, in relation to the powers for detention and seizure of food, West Lothian Council stated that “a significant cost element can be avoided if the direction and guidance for the use of these powers ensures a sensible and proportionate expectation on enforcement officers.” A similar view was expressed by South Lanarkshire Council.

Administrative sanctions

Responses commented on the potential costs and savings in relation to Part 3 of the Bill which provides for administrative sanctions, by way of fixed penalty notices and compliance notices, as an alternative to seeking prosecution for relevant offences.

Some respondents questioned whether the fixed penalty notice arrangements in the Bill will result in financial savings by reducing the number of prosecutions that will be brought forward. For example, West Lothian Council noted that “reports for prosecution consume officer time and opportunity costs” and that “as the fixed penalty notice arrangements do not have a mechanism for recovery of non-payment then there is still potential that a report for prosecution will have to be made thereby increasing the impact.”

Other respondents, such as the SFDF, noted that “the anticipated reduction in prosecutions may not be realised as the administrative sanctions may be used for offences not currently reported to the Procurator Fiscal”.

SFELC also note that the Bill does not define a relevant offence for which an administrative sanction may be applied so “it is not possible to be completely certain in relation to this aspect”.

From the perspective of food businesses, SFDF commented on the potential impacts of administrative sanctions, stating that—

“Where additional costs of administration and enforcement fall to local authorities, it could lead to a possible scenario where they may seek to recover these costs, possibly through an increase in the number of enforcements and/or through charging.”

SFDF also notes that, while the use of administrative sanctions may reduce costs to business in relation to court cases, there is currently “no clarity on what routes of appeal would be open and the costs associated with these.”

Wider issues

A number of local authority respondents commented on the reference in the Policy Memorandum to potential new areas of responsibility that could be extended to FSS. For example, East Ayrshire Council stated that—

“this would require clarification, the provision of more detail and further consultation as this may have an impact on the financial proposals (in terms

of associated costs) and also the removal of duties and powers from local authorities in terms of public health protection.”

North Ayrshire Council also commented on the potential for future costs should the scope or remit of FSS vary considerably.

The idea of further funding being provided to local authorities was raised in the submissions from both Renfrewshire Council and North Ayrshire Council. Renfrewshire Council stated if it is found not to be the case that the costs set out in the FM are accurate “provision should be made through grant funding via the Food Standards Scotland to local authorities who can demonstrate additional costs incurred in implementing the provisions of the Act or in implementing policy changes made as a result of this.”

North Ayrshire Council stated that “when dealing with large scale food fraud incidents, North Ayrshire Council recommends that FSS operates a fund which Local Authorities can apply to for financial assistance, such as that currently provided by the Food Standard Agency.”

Conclusion

Your committee may wish to consider the above information along with the attached submissions in its evidence session with the Minister in charge of the Bill.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Ken Gibson', with a stylized flourish at the end.

**Kenneth Gibson MSP,
Convener**