

Public Accounts Committee

Oral evidence: [Ensuring food safety and standards](#),
HC 29

Monday 28 October 2019

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Members present: Meg Hillier (Chair); Douglas Chapman; Sir Geoffrey Clifton-Brown; Bridget Phillipson; Gareth Snell.

Gareth Davies, Comptroller and Auditor General, Adrian Jenner, Director of Parliamentary Relations, Charles Nancarrow, Director, National Audit Office, and Marius Gallaher, Alternate Treasury Officer of Accounts, were in attendance.

Questions 1-106

Witnesses

[I](#): Emily Miles, Chief Executive, Food Standards Agency, Steve Wearne, Director of Policy, FSA, and David Kennedy, Director General, Food, Farming and Biosecurity, Department for Environment, Food and Rural Affairs.

Report by the Comptroller and Auditor General
Ensuring food safety and standards (HC 1227)

Examination of Witnesses

Witnesses: Emily Miles, Steve Wearn and David Kennedy.

Chair: Welcome. We are here today to consider the National Audit Office's Report "Ensuring food safety and standards", which is always a hugely important issue, but particularly in the context of Brexit. The system of food inspection and supply, I think we would all agree—or anyone who has looked into it would agree—is complex and involves about half a million businesses in England alone.

The Food Standards Agency, which is our main witness today, is responsible for a great many areas of food standards and safety, including food hygiene controls, making sure that food is what it says it is, and labelling of allergens, which has been in the news a lot recently. It is also responsible—at arm's length, really—for overseeing environmental health and food standards officers in local authorities, who bear the cost of food inspections. We are quite interested in the dynamic between those who carry it out and those who set the policy.

Today we want to look at how the FSA is ensuring that regulations are implemented properly; how inspection is funded, and whether that is sustainable; and how consumers can be protected. Brexit obviously has quite a big role to play here, so we will come on to questions about how you are preparing for a potential Brexit as well.

I am pleased to welcome as witnesses, from my left to right, David Kennedy, the director-general for food, farming and biosecurity at the Department for Environment, Food and Rural Affairs—welcome. I think you have been in front of us before, Mr Kennedy.

David Kennedy: I have, yes.

Chair: I never forget a friendly face—although we are the friendly faces here, of course. Then we have Emily Miles, the chief executive of the Food Standards Agency. We were just mulling this over, but it is the first time that the Food Standards Agency has been in front of this particular version of the Committee, so welcome to you. We also have Steve Wearne, the director of policy at the Food Standards Agency—a warm welcome to you. Douglas Chapman will kick off our questioning.

- Q1 **Douglas Chapman:** My first question is to Emily. As the Chair has said, a huge responsibility lies on local government to oversee the whole process, at the very front end. Given the substantial decline in local authority staff numbers, how concerned are you about the impact of that on food regulation and safety?



HOUSE OF COMMONS

Emily Miles: I will try to distinguish between the food hygiene staff and the food standards staff. Environmental health has suffered about a 20% cut over the last few years, and food standards staff about a 50% cut in resources. As you know, food hygiene is about the safety of food, and food standards is about the composition of food.

We are probably more worried about the food standards space than we are about the food hygiene space. If you look at the outcome indicators that we at the Food Standards Agency assess for food-borne disease, particularly campylobacter, listeria, E. coli and salmonella, which are the top four, the FSA sets the threshold and, as a country, we haven't got above that threshold recently, so the controls in place—which the local authorities and the FSA operate—seem to be working effectively to contain those.

In the food standards space, there are fewer staff than there were—I think only 272 officers looking at food standards in England, compared with about 1,600 looking at food safety, so it is not very many. Although the FSA follows the practice of local authorities and looks closely at what they are doing, at the moment we do not have the same outcome indicators to assess whether they are succeeding with the things that we want them to do. We will be introducing some indicators in the next couple of years, but I think I have less confidence in that system than in the hygiene one.

Q2 Douglas Chapman: The number of local authorities' food control staff as a whole has been consistently marked lower than it has in, for example, Wales, Northern Ireland and Scotland. Is there any difference in the outcomes that you are seeing between some of the devolved nations and what is happening in England?

Emily Miles: It is quite interesting to look at the food hygiene ratings. You know that we have a rating scale of 0 to 5, so a food business rated 4 or 5 will have less food risk than a business rated 0, 1 or 2. We can absolutely see the correlation between those illnesses and how a food business behaves. In Wales and Northern Ireland, a mandatory display of those ratings was introduced in, I think, 2013 and 2016 respectively. We have seen that in Wales the number of businesses that improve their rating has gone up much faster than the number in England. You have more businesses going more quickly to a rating of 5 in Wales than you do in England. It therefore follows that you will have a safer experience if you go to a food business that is rated 5 in Wales than if you go to one rated 0 or 1 in England. In England, one in 20 food businesses are rated 0 or 1, but for takeaways it is one in 10, which is worrying. We think that mandating the food hygiene rating system would improve outcomes.

Q3 Douglas Chapman: I think that in Wales there is a traffic light system, so if you go to a restaurant, a takeaway or whatever, it is identified like that. You are saying that that would be desirable, but when would it actually happen? It feels like people on the English side of the border are being short-changed by the fact that food safety is different from what it would be in Wales.



HOUSE OF COMMONS

Emily Miles: In the end, Ministers in England must decide whether they want to make it mandatory. We will be presenting a case to health Ministers on that—we think it is a strong one. We think it is relatively cost-effective and would make a big difference. The evidence in Wales and Northern Ireland shows that.

Q4 **Chair:** So it is something that you are openly advocating.

Emily Miles: Yes.

Q5 **Gareth Snell:** When you say “mandatory display”, is that the physical sticker in a shop?

Emily Miles: Or online.

Q6 **Gareth Snell:** Are the online requirements for mandatory display in Wales and Northern Ireland the same as they are for shops?

Steve Wearne: There are slight differences because of the nature of the legislation, which is devolved, but in essence it is the same.

Q7 **Gareth Snell:** Is that your aspiration for England as well?

Emily Miles: Yes.

Q8 **Douglas Chapman:** Moving on, and still with local authorities, which have responsibilities to carry out inspections, it seems that they have not been carrying out inspections in the numbers that they are supposed to be doing. What have you been doing to overcome that?

Emily Miles: We monitor a set of indicators with local authorities and we do audits of their practice. We keep a very close eye on whether local authorities are performing the inspections that we have asked them to do. Until last year, we had been collecting that data on an annual basis through a local authority enforcement monitoring system. We think that is insufficient. We think we need to be keeping a closer eye, so we are moving to what we call a balanced scorecard approach over the next year or two. We will be getting more real-time data about their performance.

We then have what we call four levels of escalation. We start at working level if we have a concern, and we try to offer support and help. We escalate it up the chain in the local authority. The last level—the fourth level—would be us going to the Minister and saying, “We can no longer offer assurance that the local authority is doing this effectively.” There are powers in the Food Safety Act 1990 that we could use if we wanted to direct that the food-related functions of a failing local authority can be performed by another. We wouldn’t want to exercise those powers; we would want to avoid that and try to support local authorities to improve and deliver what they need to deliver.

Q9 **Douglas Chapman:** It looks like a significant number of inspections are not being carried out when they are due. There is a second question: you said that this will all be fixed in the next couple of years, and that you will be bringing in measures to regularise the situation, but why are we putting people at risk now? I initially trained in the food industry. Partly,



HOUSE OF COMMONS

it was about the quality of the food that you wanted to put on someone's plate. You couldn't take a risk with food safety—you couldn't keep food inappropriately, at the wrong temperature, etc. There seems to be a disparity. There is a real drive to change this. The public concern is about whether restaurants and food producers are safe to buy from. That is the question, and that is your responsibility.

Emily Miles: To be really clear, in law it is the food business that is responsible for making sure that food is safe. The first line of defence is the local authority, which will do the inspection. The second line of defence is the Food Standards Agency making sure that local authorities are doing what they need to do.

I wouldn't want to confuse you by saying that our balanced scorecard approach will somehow change our assessment of local authorities. We have been doing that all along, and we will carry on doing that. We have a couple of local authorities at the moment that we are engaging with very actively—asking them to do action plans and so on—so we are intervening when we are concerned. David, did you want to come in?

David Kennedy: On the standards side of things, that is what DEFRA has responsibility for—the compositional standards, which means, "Is fruit juice actually fruit juice? Is the food what it says it is on the label?"

I think it is true that activity in this area has gone down in the last couple of years. I think there was top-up funding from the FSA that finished in 2018; we have seen a drop-off in activity following that. As you say, it is really important, from a consumer perspective and a trade perspective, that we meet the compositional standards and that we work very closely with the FSA to see, first of all, what the risk appetite is across the different parts of Government in this area, and then, how that translates into funding.

I think that as we do that work, it will suggest that translation into funding needs more funding, but let's not pre-empt that. I mean, our assessment at the moment is that this is a reasonably effective system, from a compositional standards point of view, but it could be better.

- Q10 **Douglas Chapman:** The Report raises concerns about staffing levels within local authorities, as well. Although I realise that is not your direct responsibility, do you sense, from a regulatory point of view, that lack of staffing is because we are not training enough people to come through into the industry, or is it because of political decisions over budgets that local authorities are making, to cut what might be considered the low-hanging fruit? Where is the balance in this? Is the industry not attracting enough people to start with, or is it the issue about budgets?

Emily Miles: We have heard both. We have heard that there are issues around budgets, and that is certainly what is coming up. We have just done a series of roadshows with local authorities across the country, and we have heard about issues around budgets. However, we also did a survey last year and found that 60% of local authorities said that they had difficulty recruiting qualified officers. Furthermore, I think that local



authorities used to support students through their trading standards qualifications and I suspect that is happening less. So there is an issue about qualification.

In that space, in terms of competent people to carry out food standards and food safety inspections, we want to look at the competency framework, to see if we can make any adjustments, so that we can be less strict about the lower-risk places—perhaps you could have people who are slightly less qualified doing those sorts of inspections, so they have got a bit more flexibility. In fact, we have given that kind of flexibility to local authorities in the run-up to no-deal EU exit preparations, so that they can use slightly less qualified environmental health officers to do lower-risk work.

- Q11 Douglas Chapman:** Another issue raised in the Report is sampling, as the National Audit Office has some concerns in that area. Can the public be absolutely sure that their food is safe to eat, when we know that insufficient sampling is taking place, because that should be at the very heart of some of the work that has been done on a routine basis?

Emily Miles: Sampling is a very important part of the regime, but it is only one part of our approach to surveillance, and on its own it is imperfect. We also do horizon scanning, so we look at huge amounts of data through our strategic surveillance work. We are looking at industry data, retailer data, local authority data, information that we get from our own food crime confidential helpline, notifications from the EU and so on. That is all brought together so that we can put all of that into a bit of a risk engine and assess where there is risk in the food system. Sampling is part of that, but it is only one small part.

The Report did a very good job of explaining what local authorities do on sampling, but it didn't describe some of the other sampling that goes on. For example, since 2018 we have had a memorandum of understanding with the Food Industry Intelligence Network, and 50,000 lab tests and traceability checks have come through on that, which we are able to add in to our strategic surveillance approach.

- Q12 Chair:** Can you explain how that works? How would you get a tip-off? Why would someone do that? And what do you do with the information?

Emily Miles: I will have to turn to Steve for a bit more of the detail—you will appreciate that I have been in post for only four weeks. I can give you an example of all of these sources of data. We know, for instance, that the thing that most often gets RASFF—rapid alert system for food and feed—alerts, which is the European notification system, is figs from Turkey. There is a particular fungus on them called aflatoxin. We took that information, trade data and climate data, and we used that to try and predict where this fungus might show up on other products. We established that it was quite likely at certain times of the year, because of certain climates, to be on Brazil nuts from Bolivia and ground nuts from somewhere else in South America, and we were then able to use that data to inform port health authorities and work with them to try and manage



HOUSE OF COMMONS

the risk of that product coming into the country, and basically make sure that they pay extra attention to those sorts of commodities. In that kind of way we will use the data to say, "Let's pinpoint where the risk is and therefore—"

Q13 **Chair:** So there might be tip-offs from within the industry.

Emily Miles: We also get industry data; 50,000 is a big amount, and that goes into the mix, too. If we have a question that relates to what is happening in the industry, we can tailor it to that. Steve, do you want to supplement what I have said?

Steve Wearne: Thank you. The data we receive from industry is anonymised and unattributed but, because of the volume of data—over 50,000 data points a year—we can see quite quickly trends across the whole sector, which helps us identify where interventions are needed. In terms of the example of our own approach to predictive analytics, taking data and trying to predict where food incidents will occur has been highly effective.

As for the example of Brazil nuts from Bolivia, we were able to predict a forthcoming issue and work with port health authorities to increase levels of sampling. As we predicted, we found those increased levels and were therefore able to consider what the most appropriate form of control was.

I think we are moving from a system that is based simply on sampling and reacting to the results of sampling, which quite often means you react after the event, to a system that uses open data and closed data from the industry to predict what might happen and so get ahead of the curve.

Chair: That is important.

Emily Miles: Then there is local authority sampling, which is important. Until now we have let local authorities determine the level of sampling that they do locally, based on their own sense of risk. We have done a review over the last few months looking at lab capacity and the sampling approach. We have basically set a high-level framework for how sampling should happen. We expect that to start shaping what local authorities do locally.

Q14 **Douglas Chapman:** Mr Wearne, thank you for your input. I take it that you have been in the job longer than four weeks.

Steve Wearne: Yes.

Douglas Chapman: On the 50,000 data points, how does that compare with the work that local authorities do, in terms of sampling under normal circumstances?

Steve Wearne: In the last year for which data is available, local authorities in England took around 30,000 samples. The data that we have from industry relates to around 50,000 samples per year. That is probably the largest non-local authority source of data that we have, but there are data sources published elsewhere.



HOUSE OF COMMONS

Emily Miles: I have another example. The FSA does microbiological surveys for campylobacter contamination. We do those regularly. We would test about 2,000 samples in that process.

- Q15 **Douglas Chapman:** On the issue of sampling, you said it was for local authorities to assess the risk, but there are 16 local authorities that do not do any sampling at all. Are you saying that they do not anticipate any risk in their local authority, or is it an issue to do with funding or the support that they get?

Emily Miles: If they are not doing any sampling at all, that is a bit of a red flag for us to go and look at the other key performance indicators that we pay attention to, to see if there are any issues with the way the local authority is operating. I can't comment on every single one of the 14, but it will be a way of saying to us, "Right, we need to go and spend a bit more time there."

- Q16 **Douglas Chapman:** In terms of funding, I think £9.5 million was available to local authorities up to 2017-18. Where does that sit now? Is it zero?

Emily Miles: At the moment, £450,000 goes to support health authorities for particular additional EU exit sampling, so we have been specific on that. The sampling budget you describe got closed in 2017. There was a strong sense in the FSA at the time that it was not value for money. Something like 50% of the samples were not loaded on to the national database or were not coded in a useful way. It was not clear that local authorities were sampling the right things. We heard that sometimes, the money was being spent on people and not samples, so our sense was that it was not the right way of spending the money. But we do think that sampling is important, and we want to shape that with the strategic framework.

Steve Wearne: Just to add a bit of context, in the last year that programme was open—2016-17—local authorities took around 35,000 samples. You may well ask how many of those were related to money that the FSA had given them. The answer is 2,900. The vast majority of samples were funded from sources other than the specific additional funding from the FSA as part of local authorities' normal business, and less than 10% of the samples taken by local authorities in that year were essentially purchased by us, by the additional funding we put in.

- Q17 **Douglas Chapman:** If you were to incentivise local authorities to do more sampling and collect information, and made that a stipulation, would that not make more sense, as opposed to just saying, "You're not doing what we are asking you to do"?

Emily Miles: That is an option, but I would want it to be as tailored as possible to the risk. There is a risk with sampling of hitting the target and missing the point. A local authority could just go off and do five samples but that may not be tailored to the risk required. There needs to be a more active conversation between the Food Standards Agency and local authorities about how to tailor that.



Q18 Douglas Chapman: Right, but is it not your role to drive that change?

Emily Miles: Yes. That is why we want the high-level framework for sampling, where we are setting some standards so it needs to be directed based on risk and on sound statistics, conducted openly in open data and conforming to international standards. That is the framework. As our strategic surveillance enhances, we will want to use the data that I described as it comes in and say, "Right, you local authority, you obviously have this particular risk there—can you go and sample on that?".

Q19 Sir Geoffrey Clifton-Brown: Chair, may I apologise to you, the Committee and the witnesses for being late? Inevitably, I had another Committee to attend. Ms Miles, are you certain that another horse meat scandal could not occur today? The incentive is huge because of the difference between the price of a tonne of beef, at well over £1,000, and a tonne of horse meat, in the low hundreds. Spread across many thousands of tonnes of food, there is a huge incentive for fraud in that respect. Are you certain that such a thing could not happen again?

Emily Miles: I don't think I can be certain. I think there is always risk like that in the food system, and it would be foolish of me to say that it could not. On the sampling point, I think is interesting that of the sampling budgets spent in 2013-14, £1.6 million was spent by the FSA on sampling, but that did not find horse meat in the UK. It was Ireland that discovered the horse meat issue, and we reacted. Sampling is not necessarily the answer to all this.

One of the things we have been doing over the last few years is building the National Food Crime Unit. That was one of the recommendations that came out of the horse meat scandal. We spent £4 million on it last year and £5.6 million on it this year. We have built it up in the light of thinking about EU exit, particularly a no-deal EU exit, and some of the food crime incentives there might be as trade flows shift, as there might be shortages of particular commodities and they have become incentives to extend use-by dates on a major scale. That is part of our capability to respond to the most organised and horrendous acts of compositional issues in food as you describe.

Q20 Gareth Snell: Can I ask briefly about how that sampling interplays between you as the Food Standards Agency and food hygiene? In my constituency of Stoke-on-Trent we make plates, so whenever I get served something on a wooden board it really does distress me because they are horrible, disgusting and full of germs. Where do you interplay in terms of that sort of sampling and testing? Do you often give guidance about how things that food comes into contact with should be tested, to make sure that food is not contaminated at source when it is being eaten?

Emily Miles: It is a really good question. I do not know the answer. Steve, do you know ?

Steve Wearne: Yes. As we call it in the trade, "materials and articles in contact with food" is also a part of our remit. We look at everything from



HOUSE OF COMMONS

the microbiological integrity of serving platters, to migration of printing inks from recycled board. All of that is within our remit, so we would, if we thought there was a significant risk, incorporate it into national enforcement priorities in the way that Emily has described.

- Q21 **Chair:** Mr Snell has regaled us, as you would expect from the MP for Stoke-on-Trent Central, with the dangers of wooden boards. From what he has told us, I think we are all about to go home and throw out our wooden chopping boards right now—apologies to the wood industry, which we are no doubt upsetting in the middle of this. You say you do checks. Clearly, there is a difference between a ceramic plate and a wooden board, but what kind of checks do you do, and how can someone clean their wooden board to make it acceptable to the hygiene officers in local authorities to pass them? From what Mr Snell has told us, we are living on the edge and in great risk.

Steve Wearne: There is certainly advice on our public-facing website for consumers in a domestic kitchen setting about how they may clean chopping boards including wooden ones, including by putting them in a dishwasher, which gets sufficiently hot to decontaminate them, although I tried it myself and my chopping board warped—I wouldn't necessarily recommend it.

- Q22 **Chair:** This is good news for the ceramics industry, Mr Snell.

Steve Wearne: There are a range of interventions that people can make in the catering sector, using specific cleaning agents with specific contact times and cleaning conditions that are not available to us as usual consumers. There are ways of cleaning wooden boards effectively.

- Q23 **Chair:** So just to assuage my constituents in Hackney South and Shoreditch, where we have many trendy, fantastic restaurants that serve food—sorry, Mr Snell—sometimes, but not always, on plates, it is safe to eat there if they have already been inspected, particularly if they have their rating on the door.

Steve Wearne: If the boards have been properly and adequately cleaned, yes. But you would not want to eat off a dirty food contact material, whether wood, porcelain or anything else.

Chair: Very deftly handled, Mr Wearne. Mr Snell is still smiling.

- Q24 **Douglas Chapman:** There have been a number of things that you say you are working on over a longer period of time, but I sense there is a build-up of things that are either backlogged, not working that well or not working as they should. In terms of the public analyst laboratories in England, we are seeing some drastic numbers—reduced from 13 to nine post-2013. That has now fallen to five. If I am a local authority or any other agency and I am seeing reduced availability within the market, does that have the effect of driving up the costs of sending your samples to be analysed for local authorities? What are the real issues that the Food Standards Agency would have, in terms of the drop in the number of laboratories that are open to public authorities?



HOUSE OF COMMONS

Emily Miles: I don't believe there is an issue with the cost at the moment, but I stand to be corrected if I am wrong. We just did a review of the public lab capability and capacity, because we were thinking about it in terms of day one of leaving the EU. Our conclusion was that there is sufficient capacity in the system for what we need at the moment. There was just one area where we thought there might not be sufficient capability, which was GM, where we might need to call on that. But we can access more capacity through UK national reference laboratories and international partner laboratories. We do not have to rely on the public laboratories in England to do this work; we can go elsewhere. We also rely enormously on Public Health England's food examiner laboratories; we make great use of those, too. The Report is right to identify the public laboratories that it mentions, but it is part of a wider ecosystem.

Q25 **Douglas Chapman:** So at the moment you are relaxed about the capacity of the laboratory system in England.

Emily Miles: I don't think I would ever say I was relaxed about anything as the chief executive of the Food Standards Agency, but we are confident that we have enough capacity at the moment, and we are going to keep a very close eye on it.

Q26 **Douglas Chapman:** In terms of going elsewhere, what is going to happen in a post-Brexit situation where we might not have access to different international agencies or bodies to carry out the tests, the sampling and so on?

Steve Wearne: Those organisations are commercially driven, and we have had no indication that those commercial relationships will change post-EU exit. There are a number of large European testing companies based outside the UK that will continue to offer testing at a commercial rate, as they do currently. That is part of the mixed economy, the ecosystem that Emily referred to: this combination of local authority-owned public analyst laboratories—and again, that number has reduced further. There are now only three, so it is a shrinking part of the sector.

Q27 **Chair:** Will there potentially be export issues? Will they be flown out? Is this air freight, or ferry freight? How would those samples get to those European companies?

Steve Wearne: It depends on the nature of the sample and whether it needs to be refrigerated. Typically, if it needed to be refrigerated, it would be in a cool box packed with ice or dry ice—one of the big polystyrene boxes—and shipped overnight.

Q28 **Chair:** By air freight.

Steve Wearne: Yes, air freight.

Q29 **Chair:** We have heard a lot from the Department for Transport and the Department of Health about moving our goods around. Medicines have a high priority. Have you had to book space on those sorts of flights, or have you made other arrangements?



HOUSE OF COMMONS

Steve Wearne: We believe the current commercial arrangements are robust. You are not talking about the same volumes as you would be for national medical supplies; you are talking about possibly a handful of samples a week, and we believe there would be sufficient capacity for those in air freight. That is part of the ecosystem, together with local authority labs, national reference laboratories in the public sector, and other public sector laboratories.

Q30 **Chair:** There are no export duty issues or anything for small samples like that.

Steve Wearne: Not that I am aware of. Not for scientific samples, no.

Q31 **Douglas Chapman:** To conclude on some of the issues around funding, in October 2018, I think, the FSA wrote to the Cabinet Office reaffirming its ambition to introduce a funding model where businesses would take on more of the costs of regulation. To what extent would the Government be striking the right balance between the level of risk that they are taking on and the level of funding in the system? Where does the risk lie there?

Emily Miles: That is quite a complicated question to answer. I think your question is getting at whether we should charge the industry more for the cost of regulation. The FSA starts from the principle that businesses should bear more of the cost of regulation; I think that is a well-known principle for regulators, and the National Audit Office has promoted that over a long time. However, we have also realised over the past few years that we need to do this in concert with others. It is very difficult for the FSA to act alone on this.

For example, we are the competent authority for meat hygiene inspections. The FSA does that directly, rather than a local authority, and we charge for that, but we offer a 50% discount on the costs of that at the moment. The last time we went to Ministers to suggest that we increase the charges, they were not supportive of that, so we recognise that we need Ministers to join up with us on this. The system that businesses are paying for also needs to be fit for purpose. We are doing what we can to try to make the system as efficient as it can be, so what they are paying for feels like value for money.

The last point I want to make is that while we are in the EU, there are quite strict rules about what can be charged for and what cannot. At the moment, under those rules, if you are a local authority, largely you cannot charge for your competent authority controls. There are some exceptions, such as shellfish, wine and the meat hygiene stuff that I mentioned. Local authorities can charge for advice, for instance, or they can charge for re-inspections for their hygiene ratings. We would need to change primary legislation if we were going to increase charges. I suppose the alternative model to all of that is to have some kind of levy of the industry, in the way that you see in some other areas, but again that is quite controversial and would need some exploration.

Q32 **Douglas Chapman:** We have looked at the impact on competition with England versus Northern Ireland, Wales or Scotland. If English businesses



HOUSE OF COMMONS

were subject to a tariff or an extra levy, would you take into account the impact that that might have on business in general across the whole of the UK? The National Audit Office report says: "Government does not have a coherent view on what a financially sustainable food regulation system should look like", so we are stuck in no man's land at the moment. As you say, it is very complex, but in terms of the situation with other constituent nations of the UK, how would it work?

Emily Miles: The FSA covers Wales and Northern Ireland as well; Food Standards Scotland is separate. We are very conscious that Wales and Northern Ireland put more of their taxpayers' money into the food system than perhaps England does. We are seeing less of a fall in the number of officers, or the ratio of officers to food businesses, in those two jurisdictions than in England. I think it is a specific issue for England, but it is complicated.

The FSA board's view is that we would need to do this in concert with other parts of the Government. The Secretary of State for Health and the Secretary of State for Environment, Food and Rural Affairs would need to be comfortable. There may be other issues with other regulators that we need to think through, and there will be costs falling on small businesses that may be disproportionate, so we would have to look at all of that. We have not come to a clear view about it.

David, do you want to come in from a DEFRA point of view?

David Kennedy: Only to reassure that we are working together on this. Have we got the right balance of risk and funding? I think the answer is that we don't know, but we probably need more funding; we have said that already. Where that funding comes from—central Government, local government or charging the industry—is an open question that we are working on together.

Steve Wearne: Just to provide some figures, if it would add useful context: if you look at the cost of regulation compared with the whole value of the sector, the UK consumer spends around £220 billion a year on food and drink. The cost of controls delivered by the FSA and local authorities together across England, Wales and Northern Ireland is a touch over £200 million, of which only £26 million is recouped in charges from the industry. If all of it were recouped in charges, that would be the equivalent of charging an extra 1p on every £10 of consumer spending on food and drink.

Q33 **Douglas Chapman:** I have been speaking to a major smoked salmon company in my constituency. We sent it some questions on this very topic, and it came back with an idea about having more of a centralised regulatory regime where you could build up the skills and talents to look at certain sectors. Is that something that could work—building up that level of skill to home in on the most dangerous and most concerning sectors and making sure that you had coverage in all these areas as a centralised service, as opposed to it being down to local authorities?



HOUSE OF COMMONS

Emily Miles: That is a very interesting idea. I used to be director of policing in the Home Office, and one of the things that we constantly wrestled with was which functions should be done at a national level in policing, and which should be done at police force level. We ended up with all sorts of different models, including the lead force model, where the National Police Air Service was run out of Hampshire, for instance.

There is a very similar thing in the food system: the primary authority model, where a national business can go to a primary local authority. What we have been doing over the last couple of years is working with that model and saying, "Could we have some sort of national inspection approach for businesses?"

I think what you are saying is an extension of that: could we have particular areas of expertise in certain local authorities? I think we should have a think about it.

Chair: There you go, Mr Chapman: I sense that there is a campaign coming to your constituency.

- Q34 **Bridget Phillipson:** Returning to the issue of the food hygiene rating system in England, I have a question for Mr Kennedy: are there any discussions ongoing within the Department and with Ministers on whether it should be mandatory, either within the Department or across Government?

David Kennedy: We do not have responsibility for food hygiene ratings, so I will have to pass that back to Emily.

Emily Miles: It would be the Secretary of State for Health.

- Q35 **Bridget Phillipson:** Would this be discussed between DEFRA and the Department of Health? I picked that up, which is why I said "across Government". This is clearly a cross-cutting issue.

Emily Miles: Any policy issue that is agreed by Government is subject to collective agreement, so the Secretary of State for Health would need to write round to his colleagues on it, and any other Secretary of State could agree or disagree. That is the principle of Government, so the Environment Secretary of State might also have a view.

- Q36 **Bridget Phillipson:** I am just trying to get a sense of the timescale. I appreciate, as you said earlier, Ms Miles, that this is something where you are actively making the case for it to be mandatory; yet I am not clear whether the Government have any plans to do anything with this.

Emily Miles: We have not had a commitment yet from the Secretary of State for Health that he might be interested. I imagine that there would be some reservations about whether this was a burden on business. We think that our business case for it would reject those. In timescale terms, everything is always subject to parliamentary time. You all seem quite absorbed with some other legislative issues at the moment, so I don't know how quickly we could get the time to do this.



HOUSE OF COMMONS

I know that Henry Dimbleby is looking at food strategy at the moment. I am sort of hoping that some primary legislation might come out of that. That might be an opportunity. I do not know whether David has a view on that. That might be one vehicle; there might be other vehicles.

- Q37 **Bridget Phillipson:** It is not inconceivable that you could have a piece of primary legislation whose main focus is not in this area, but we could seek to shoehorn it in. We are discussing the Environment Bill, for example, which is not primarily concerned with this area. There are plenty of opportunities for this to be discussed. I am keen to get a sense of whether there are any particular blocks within Government to this happening. Has particular concern been expressed by any particular Departments about whether this is desirable?

Emily Miles: I have not heard any yet. Again, I have only been in for a short period, but it is very striking that no Minister has picked this up and run with it before, given that it is clearly seen to be a success, in my view, in Wales and Northern Ireland. That suggests to me that there must be some reservations, but I hope that we will be able to make the case.

David Kennedy: You have hinted about the join-up across Departments, between Health, Education, DEFRA and the FSA. We have a really good opportunity in responding to the food strategy review by Henry Dimbleby. He is going to report next summer. I think he will cover consumer information, but it is much more wide ranging than that, and we have said that we will come out with a White Paper within six months of him reporting. That is the opportunity for us to have a joined-up, holistic approach across all the areas that we are talking about today, but going well beyond that to trade, affordability, nutrition, environment, sustainability, and animal health and welfare. That is a set of issues for that strategy and the White Paper that will follow it.

- Q38 **Bridget Phillipson:** That has come up in a number of different areas—the lack of clarity about who is responsible for which particular aspect of food policy, whether it is food poverty or takeaways, not just in the food licensing sense and the hygiene sense, but the prevalence of takeaways, the impact that that would have on children, obesity and how that connects to health. There is a lot to talk about, but it has not always been entirely clear to me who was going to take charge within Government for bringing that together into something coherent. I hope, as you say, Mr Kennedy, that something will emerge.

David Kennedy: It is fair to say that it has been a bit siloed in the past. We have done two things in terms of governance to join things up. The first is that I have established a cross-Whitehall group, on which sit director generals from the relevant Departments, so that we can have a joined-up approach to food strategy. We have also established the Food and Drink Sector Council. That has representatives across industry, and representatives of all the key Whitehall Departments—again, with a focus on food strategy. We will certainly have a joined-up approach going forward, including covering consumer information.



- Q39 **Bridget Phillipson:** I have one final question. Ms Miles, if a premises were to be zero-rated, could you explain to me what the process would then be? What would happen next?

Emily Miles: Steve might want to supplement this. Often the question is: if a premises is zero-rated, why can't you just shut it immediately? In order to close down a premises you would have to have a sense of absolute imminent risk to consumers. Then the local authority does have powers to close something down temporarily. Normally, they would go through a period of escalation—warning, offering advice and giving them a timescale to fix it. Then there is a set of powers that they can use, and various orders and notices that they can use to sort it. Steve, do you want to supplement that?

Steve Wearne: No, that is pretty much it, I think.

Chair: There you go—a month in and you are getting the thumbs up from the lifer.

- Q40 **Bridget Phillipson:** That takes us back to the issue of mandation because, as a consumer, you are unlikely to know whether that has happened unless you read about it much later in your local newspaper. I do not imagine that that premises is going to advertise its terrible result.

Emily Miles: Just to give an example, last week I ordered a Chinese takeaway on Just Eat. On Just Eat, which is an aggregator for foods businesses, you can click on "info" and it tells you the food hygiene rating of the business. I was able to do that, and the first one I looked at in Camberwell was a 2, so I didn't go there. I changed my mind and went and bought a takeaway from another one round the corner. At the moment, I suspect, locally the business would not have been putting that sticker on their window, but Just Eat helpfully provides that information to the consumer. It is that kind of consumer information, which I think we are entitled to, that we should have available to us.

Sir Geoffrey Clifton-Brown: Just to reinforce that point, Ms Miles, consumer pressure is a great idea, but the establishments I tend to go to are rated 4 or 5. I have never seen one that is only 1, 2 or 3. Until it become mandatory, I don't think consumers have the option. Unless they are assiduous like you are and go online, they are not going to have the option.

- Q41 **Chair:** It is a policy matter, primarily. Which bit of legislation would be the one that would need to be amended—presumably it is an environmental health Act—in order to make it mandatory?

Emily Miles: I don't know.

- Q42 **Chair:** Can you write to us? It is confusing. We have a very useful grid that has been provided, of who is responsible for what in food hygiene. Actually, it is FSA and DEFRA. The Department of Health, which is, interestingly, the policy lead—for one obvious reason—has very little in day-to-day responsibilities. It is a curious situation we are in, where it is the Department of Health lead.



HOUSE OF COMMONS

Emily Miles: I assume it would be either the Food Safety Act 1990 or the Food Standards Act 2000. Those are the two main bits of law that affect our work.

Q43 **Chair:** You've been in the post for a month, Ms Miles, but you sound quite positive about the idea of mandatory ratings.

Emily Miles: Because we can see what happens in Wales and Northern Ireland, which are also my responsibility. It feels uncomfortable that we are not offering that to consumers in England.

Chair: I sense the waves of a campaign coming, maybe through this Committee. Maybe it was a good time to appear.

Q44 **Gareth Snell:** Given that local authorities are responsible—I notice on the back of all the ones in Stoke-on-Trent that they are signed by the local lead for the local authority. The local authority can collate the data, so they could just bulk-publish it on their own websites regardless of what the mandatory requirement is for proprietors. Secondly, you probably are an outlier because of the role, in terms of checking what things are on a website for the rating—whether it is a 1 or a 2, or a 4 or a 5. Has the FSA ever done any work to look at how engaged consumers actually are in using this information, even if it is available to them?

Emily Miles: We are quite interested in that. One of the things we have done in the last couple of years at the FSA is collate something called the “unified view” of food businesses across England, Wales and Northern Ireland, which was not in place before. It is an absolutely essential thing if we want to trade with other countries, particularly if we want to trade with the EU—they are going to be very interested to know if the central competence authority has got sight of all the businesses in the UK. Over the last couple of years, we have been piecing together local authority information into a single view. That information is available right now as open data—it can be used by anyone. It is used by Just Eat, as I described. You don't need the local authority to publish it; we are doing it for you. In fact, *The Times* ran a story a few weeks ago talking about one in 20 food businesses having a 0, 1 or 2. It is being used as a way to improve standards through providing information, which is good. Consumer knowledge—we have information on that. Have you got access to that, Steve?

Steve Wearne: Not on consumer knowledge, but on our latest consumer research on whether consumers would support the mandatory display of food ratings in England—85% of consumers would.

Chair: We are getting the message that the FSA is very pro-mandatory food ratings.

Q45 **Gareth Snell:** I agree. My local newspaper, every quarter, runs a “grot spot” place of where not to eat because of the food ratings. I appreciate that publishing that your local Chinese takeaway is a 2 is what you aspire to. What I want to understand is, if I am an ordinary Joe Bloggs who goes to buy a Chinese from a Chinese shop that is rated 2, what am I expected



HOUSE OF COMMONS

to know that means? What is a 2, as opposed to a 5? If that is your usual place that you go to, and you have always gone there and had a good experience—are you expecting to see consumer habits change based on the information being out there? You say that in Northern Ireland and Wales it is different. Is there any evidence to suggest that a roll-out in England would also educate the consumer base more, and therefore cause a change in habits that would drive up standards?

Emily Miles: I would expect the food business behaviour to change, rather than consumer behaviour particularly. What we saw in Wales, as it was introduced, was that food businesses took more care over their food hygiene and were doing better practice, which is good for the consumer.

On consumers recalling seeing an FHRS sticker, at the moment, 96% of consumers in Northern Ireland recall seeing one, 93% of consumers in Wales, and 85% of consumers in England—so there are different levels. I assume they understand a rating of 0 to 5. We could potentially do a bit more research into whether they really understand that, but you would be wanting to head up to 4 or 5, rather than 0, 1 or 2.

Steve Wearne: That is why, in the design, when we designed the stickers and the information, there is not just the number but a few words of explanation—so 2 is “improvement needed” and 5 is “very good”.

Q46 **Chair:** What we are hearing is that you are waiting for the Dimbleby review next summer and then you will be making these proposals to Ministers, potentially—so that is some time off at this point. We get the message, though, loud and clear. It is a month in and you have got that across to us very clearly.

I want to move on to the tricky and tragic issue of allergens. Obviously, we have had two tragic deaths that have been very much in the news recently. You responded in particular to the Owen Carey death, when he had chicken that was marinated in buttermilk but that was not evident on the menu. Do you think you have done enough to make sure that an incident like that could not happen again?

Emily Miles: The Food Standards Agency estimates that there are about 10 allergen-related deaths every year—that is our estimate—and none of those should happen. It is just tragic—

Q47 **Chair:** How do you estimate that?

Emily Miles: I do not know how it is estimated. I know that our chief scientific adviser produced a report a couple of years ago with that estimate, so he will have done a lot of work with our scientific committees on it.

Q48 **Chair:** So that is people eating out—because if you have prepared it at home, it is maybe a slightly different situation. You are not looking at that, obviously.

Emily Miles: That is true; I do not know whether it distinguishes. In terms of prevalence in the UK, you will know that there is a difference



HOUSE OF COMMONS

between an allergen and a hypersensitivity. An allergen is an immune system reaction where you can potentially have an anaphylactic shock, whereas a hypersensitivity will cause vomiting or painful headaches or cramps or whatever—it is not as serious.

We think about 1% to 2% of adults live with an allergy, and 5% to 8% of children live with an allergy, which is about two in every school class. It is hard work living with an allergy, because you have to be very careful about what you eat, and you do not necessarily know what your reaction will be in advance. Consumers and parents take a lot of care to try to make sure that their kids do not eat those things.

It has been growing over time. In terms of food incidents, we had 283 allergen incidents in 2018-19, which compares with 89 about five years ago. The number of allergen incidents that are being reported to us—

Q49 **Chair:** That is interesting in itself. Why has it gone up so much?

Emily Miles: I do not know. Do you know, Steve, why it has happened?

Steve Wearne: Probably an increase in awareness on the part of manufacturers and an increase in reporting to us—

Q50 **Chair:** So it is not necessarily an increase; it is more an increase in reporting.

Steve Wearne: Most likely.

Emily Miles: We do not know enough about allergen prevalence in the UK. The FSA has been doing some research to understand it more, which those figures that I have just quoted come from. At the moment, however, there is not a near-miss reporting mechanism. If you are a parent and you are in a restaurant and you suddenly think, “Oh yes, my son suffers from an egg allergy and definitely just had some egg”, but you do not go to the doctor, there is no way to report that at the moment. We are trying to set that up, including for medical professionals as well.

Q51 **Chair:** The complexity of the regulatory system must have an impact, because food hygiene and food standards officers are not looking for something that is an allergen, because anything could be an allergen to somebody. Who is looking to see that a menu is clear, or that staff are trained to make sure that they advise customers properly about what they are eating?

Emily Miles: In Wales and Northern Ireland that is joined-up. In a unitary authority—I think all of Wales’ local authorities are unitary—you have the trading standards and food hygiene work all together. In England, where you have a district council and a county council, it is often split.

Actually, however, I was with Preston Council about three weeks ago. The food hygiene officer was looking for allergen information and they had come to an agreement with the county council. They had a joined-up approach where they were running through a checklist on the food inspection that was looking at hygiene practice and at allergen risk-of-

contamination practice, which was really good. She was offering a lot of advice for businesses on how to avoid cross-contamination.

Having looked at it briefly over the past few weeks, my sense is that there are several things that you need to get right to deal with this allergen issue. One is food handling practice in the food business and avoiding cross-contamination. The second is ensuring that ingredients information is available to the consumer—there is currently a statutory duty for all food businesses to make that information available, whether on a menu or verbally.

The third is that you need staff who are knowledgeable about what is in the food—I think that is what went wrong in the Owen Carey case. Kitchens are very dynamic environments and it may be that today you are making the same recipe as yesterday but have run out of olive oil and will use sesame oil. The staff need to know on a daily basis how things are being prepared so that they can offer advice to consumers.

Chair: That is quite a lot to ask of staff on the minimum wage.

Emily Miles: The last thing is that there needs to be a conversation between the person who suffers from the allergy and the business that they are buying from. As I said, even if it is on the menu, it might not be accurate, so you need to pay attention to that. Lots of businesses are taking a lot of care over this now. Pizza Express and others are trying very hard to make the experience as good for people.

We at the FSA are trying to offer advice to food businesses about what they can do and support local authorities so that they can better advise food businesses. We are trying to set up the near-miss reporting mechanism and our chair has set up an FSA-led industry best practice forum so that we can share information. We run communications campaigns—

- Q52 **Chair:** This is all great—we would expect you to be doing that as a minimum—but, as the Report says, you do not have proper performance measurements for how food standards are implemented locally. You can have all the guidance and committees in the world, but if you do not have actual numerical measures of what is going well and what is not and restaurants and cafés are not being checked properly by local authority officers, they will not properly apply the guidance.

You mentioned the good practice of someone taking on trading standards responsibilities as an environmental officer—or the other way around; I cannot remember from the example you gave. That is one example; you are not driving that change.

Emily Miles: There are some things that we are driving. We produce a manual that is in every single kitchen in a food business, called “Safer food, better business”. We are updating that to include the allergens information. That is a way of influencing all those businesses, and local authorities will then inspect against that.



HOUSE OF COMMONS

We are also looking at how we can bring the model of trading standards and environmental health together, so we are refreshing our guidance. As I said, we will look at food standards key performance indicators, which we hope to trial next year and have in place for the year after. We will look at whether there is something in that space that we could do.

Obviously, one of the issues that we are wrestling with is that if you suffer from an allergen, there is often no safe level at which you can have it, so you cannot say, "You have to meet this target at 95%." It has to be 100%. We will need to think that through as we set the outcome assessments.

- Q53 Chair:** Mr Chapman has already mentioned the drop in the number of officers. The Report contains some quite staggering charts on the number of samples being sent off. You have fewer people and fewer samples, yet this issue is very much in everyone's consciousness and definitely needs tackling. Is that not trying to square a circle? You do not have enough people or sampling but you are trying to solve this huge problem. How, practically, are you going to deal with it?

Emily Miles: We are doing the best we can with what we have. We are putting other things in place, too. We have just introduced new legislation on ingredients labelling for pre-packaged for-direct-sale food, which will come into force in a couple of years. As I said, we are doing the communications campaign. There is more to do and it is one of the FSA board's priorities for next year. They have been very seized of this and are challenging to make sure that we do more.

Steve Wearne: You are absolutely right; the food standards approaches of local authorities need to be reviewed and reformed. That is why our board is committed to that. If it is any reassurance at all, local authorities are doing the best they can with the resources they have, and they are targeting their food standards work. Although only 37% of programmed food standards inspections were undertaken by local authorities last year, they rate businesses according to risk from A to C—allergens form part of that risk assessment—and 85% of interventions in the highest-risk businesses were undertaken.

- Q54 Chair:** Is the risk rating on the basis of allergen risk?

Steve Wearne: It is on the basis of a range of issues under food standards.

- Q55 Chair:** If a café sells some things with nuts and some without, might that be a higher-risk business? In other ways, if you are selling cakes baked off the premises, there would not be a risk because you would not be cooking on the premises. Would that jump up the list of risks, because nuts are a known allergen? I am picking nuts at random.

Emily Miles: Under EU legislation, there are 14 allergens that you have to highlight in information. Nuts, lupin, gluten—there is quite a large number. There is not actually an obligation on a food business to serve allergen-



HOUSE OF COMMONS

free food; there is an obligation on them to provide information about it, though. That is the most important thing.

- Q56 **Gareth Snell:** You mentioned Preston, where the county and the district councils are working quite well. That is one, but there are 192 district councils and 26 county councils. Where do you fit in, in terms of flagging up the councils that you think are a problem? What is the threshold for the FSA to say, "Actually, we think that in north Staffordshire, council X is not working properly"? Who do you escalate that to?

Emily Miles: It goes back to what I was saying earlier about our levers over local authorities. We have the food law code of practice, which they have to follow. We collect information on them—at the moment we do so on an annual basis, but we want to move to a more frequent basis—about how they are performing against a set of indicators. We intervene in the ones we are worried about.

- Q57 **Gareth Snell:** What does that intervention look like?

Emily Miles: I don't have the detail on that.

- Q58 **Chair:** Do you name and shame?

Emily Miles: Yes. If it gets really serious, we do, because we have to go public and we do as much as we can transparently. However, we have more work to do on the indicators for food standards. We have more indicators on food hygiene inspections. We do a bit on sampling, but we could do more. That is where we need to look in future.

- Q59 **Gareth Snell:** Do you know whether any local authorities have contracted out this service to a third-party provider?

Emily Miles: I don't.

Steve Wearne: Not off the top of my head, no.

Emily Miles: I know that there are third-party providers out there; I saw one recently that was offering a service not looking at kitchen practice but offering consumers to go and mystery shop as allergy sufferers in food businesses, but that was the service to food businesses rather than to local authorities.

- Q60 **Gareth Snell:** You said that if it came to it, you would name and shame. Do you happen to know when the FSA last took that sort of direct action?

Emily Miles: I don't, but we could come back to you.

- Q61 **Chair:** Not in the last month.

Emily Miles: Not in the last four weeks, no.

Steve Wearne: I cannot recall doing that with local authorities, but I can recall doing it with food businesses.

- Q62 **Chair:** How big a business have you named and shamed?

Steve Wearne: The major retailers.



HOUSE OF COMMONS

- Q63 **Gareth Snell:** I am genuinely interested to understand more about what there is between the good practice that you see people doing and the naming and shaming. Presumably those interventions are multi-faceted and come in a variety of different carrot and stick options.

Emily Miles: I feel that I do not know enough yet about all the different levers that we have. Steve, can you add anything?

Steve Wearne: It comes down to the four-stage intervention strategy with the local authorities that you identified, from a working-level discussion to head of service to chief executive and then asking Ministers to use default and direction powers if necessary. As you said, there are two local authorities currently at the third stage of that procedure, and others at lower levels of intervention.

- Q64 **Gareth Snell:** We know that the Department has for many other indicators, but does the FSA have a hierarchy of ones you are keeping an eye on closely and the ones you are not?

Emily Miles: Yes.

- Q65 **Gareth Snell:** Is that just through local intelligence fed to you that you keep an eye on that?

Emily Miles: It is a mixture; some of it is local intelligence and some of it is based on the indicators that we keep an eye on. Steve, am I right in saying that we publish a quarterly performance report on local authorities, so there is a lot of information in the public domain already?

Steve Wearne: Yes.

Chair: It is nice to know where it is in the mass of Government data.

- Q66 **Sir Geoffrey Clifton-Brown:** Can I stick with allergies for one question, please? It is for Ms Miles, but I don't mind if Mr Wearne answers it. I believe I am right in saying that where the GP comes across a case of food poisoning, he is duty-bound to report that. Could this allergy problem come in with that same regime?

Emily Miles: I don't think it does at the moment, but it is one of the things that we want to look at—what is formally notifiable. At the moment, if there is an allergen incident and you, as a medical professional, come across it, as a GP or in accident or emergency, there is no obligation on you to tell us that it has happened, so we do not get the information in the same way we do across the country for E. coli, listeria or salmonella. This near-miss reporting mechanism is one of the things that we are trying to establish. We need to get the data so that it works, and the system so that it works, but we should also look at who is required to let us know what has happened.

- Q67 **Sir Geoffrey Clifton-Brown:** Given that very clear statement at the beginning of this section on allergies—that these deaths could be avoided—isn't this something that is relatively simple and could be urgently put in place?



HOUSE OF COMMONS

Emily Miles: In terms of the technology behind the near-miss reporting system, that will take us a little bit of time—a few months—to get right. In terms of making it an obligation to report, I honestly do not know the answer to that. Steve may know.

Steve Wearne: We would need to discuss that with DHSC.

- Q68 **Sir Geoffrey Clifton-Brown:** But do you get reports from GPs? How do you record them? Your statement at the beginning was so positive about the research you had done on the number of deaths and how they were avoidable. Was this recorded? Do you get reports from GPs?

Emily Miles: I gave you some numbers at the start of the allergen incident—283. That is what is reported to us. It is that few.

- Q69 **Sir Geoffrey Clifton-Brown:** So it could be more.

Emily Miles: There could be more out there that we are not hearing about.

- Q70 **Sir Geoffrey Clifton-Brown:** That is quite a serious issue, really.

Can I move on to the next section, which is about the National Food Crime Unit? This might be more in Mr Wearne's ambit, as it were—I am not wishing to take it away from you, Ms Miles. Can you tell us what the unit has achieved since it was set up?

Emily Miles: I thought you might ask. It has gone in two phases: the first was an intelligence collection phase; and the second, which started in April, is more about investigations and prosecutions. So far their intelligence has led to convictions for manslaughter in the UK and arrests and safeguarding action in seven other countries, including Ukraine, Poland and the USA. They think they have disrupted 27 instances of food crime through that intelligence.

They have evaluated 7,000 pieces of information. They pass actionable operational intelligence to local authorities and the police. They have worked in particular on the issue of DNP—a nasty chemical that people have consumed to try to lose weight. It is quite dangerous—it makes your organs overheat. They have managed to get 40 websites removed or suspended. They have taken listings off online marketplaces and got social media accounts suspended. They have been doing a lot of upstream work in that way.

They have also taken some global leadership, having established and chaired the global alliance on food crime. Those are some of the things they have been up to.

- Q71 **Sir Geoffrey Clifton-Brown:** That is an impressive list. Could it have been even more impressive if the unit had had proper enforcement powers?

Emily Miles: They are eager to get the enforcement powers they are missing. They actually can do quite a lot themselves already: they can collect intelligence and do investigations. There are just a couple of powers



HOUSE OF COMMONS

that sit under the Police and Criminal Evidence Act that they would like to have access to, which are about seizing business records and, I think, to do with—

Sir Geoffrey Clifton-Brown: Entry?

Emily Miles: No, the FSA has powers of entry. It is about seizing records and interviewing people under caution. They are having to use police officers to do that with them at the moment. For example, they have just done a big investigation, which hopefully will lead to a prosecution, where they interviewed 13 people who were suspects, but they had to do that with a police officer present because they needed to use the PACE powers. We are finding work-arounds. We are very grateful to the National Police Chiefs Council for forming a MOU with us so that we can do this, but we would like those powers.

Q72 **Sir Geoffrey Clifton-Brown:** You quadrupled the size of the unit before you secured these enforcement powers. Do you anticipate giving it further resources if you have those enforcement powers? Presumably then you could do even more work.

Emily Miles: As I said, we are not being stopped from doing the work that we need to do at the moment; we just have to find ways around that by using resources in other parts of the system. I do not think it is preventing us from doing what we need to do; it is just harder work. It has grown substantially—I think we are spending £5.6 million on it this year. I would want to see for a bit how that was. It is a new function, and it needs to find its way a bit now.

Q73 **Sir Geoffrey Clifton-Brown:** What opportunities are you going to try to find to change the law in this respect?

Emily Miles: In order to do that, we put a case to the Secretary of State for Health and Social Care asking whether we could be added to the PACE powers. He was not minded to do that when we asked. I am not sure of the reasons why. That is an outstanding request from us.

Q74 **Chair:** We want to touch on Brexit, inevitably, but just before that, we regularly have witnesses from MHCLG in front of us, and they have a list of local authorities that are of concern to them using their various indicators. Do they share that with you? In particular, do they share details of those under budgetary pressure, where there might be a knock-on effect on food standards and food hygiene?

Emily Miles: I assume they must, because I know that one of the local authorities that we are particularly concerned about is under particular budgetary pressure, and it was that issue that caused us to go and look at it.

Q75 **Chair:** Mr Wearne?

Steve Wearne: Yes, I understand that they do.

Q76 **Chair:** Earlier, Mr Chapman raised the fact that we have seen a decline in staff numbers and a decline in measuring things. You have these



HOUSE OF COMMONS

pressures on local authorities, which have made cutbacks—they have cut back often in this area—but it seems that there is not great evidence that there has been a big increase in some of the more serious food issues: listeria, salmonella and things like that. How are you balancing the risk? There must be a tipping point. These numbers are going so low in some areas—as the Report highlights, some authorities do very few checks—yet at the moment you are not seeing an uptick in problems. Is there a tipping point? How close are we to that tipping point? How do you monitor that?

Emily Miles: Instinctively, I think there must be a tipping point. Drawing again on my experience as director of policing, I was there as police resourcing was being cut. At the beginning, from 2010 on, the police managed that okay. They were concerned about crime levels rising, but they were coping. I think there comes a tipping point. Even in the Home Office at the time, we did not necessarily know where that tipping point was, but there is such a thing.

Q77 **Chair:** Mr Wearne, would you like to have a stab at where you think the tipping point is? Are we just lucky at the moment, or are there things that have not been reported?

Steve Wearne: In the food hygiene area, which relates to the microbiological hazards you identified, we are less concerned, because the level of resourcing has been sustained, but—

Q78 **Chair:** It is more the standards, yes.

Steve Wearne: It is more the standards area, around allergens, labelling and compositional standards, and low-level regulatory offences such as people being sold stuff that is not precisely what it says it is. As I said earlier, the only heartening fact is that local authorities are still prioritising high-risk businesses for food standards within the resources they have available. Even so, the percentage of scheduled interventions is down to the low to mid-80s.

Q79 **Chair:** But say I was a criminal—or someone who perhaps was not thinking as a criminal but who just thought, “Well, I’ll chance it.”—and say I am importing from my compatriot who has a farm in another country, and I think, “I’ll bring in some of what they’ve got. It might not quite meet the standards, but we know, because we’ve looked at this Report, we’ve looked at the FSA’s website and we’ve looked at the local authority, that they’re reducing their checks on standards, so we can adulterate the olive oil or add something to the flour and we can get away with it.” What is to stop me doing that? What is to stop us being confident that there is not some big adulteration scandal around the corner that could cause serious harm to consumers? I am not trying to shroud-wave, but it feels a bit optimistic of you to be quite relaxed about this. Maybe you are not relaxed; maybe you are just cool customers. Are you relaxed about this drop? What are the risks? How are you really assessing what the risks are?



HOUSE OF COMMONS

Steve Wearne: I am not relaxed, I am sure Emily is not, and our board is not, which is why we are looking to completely change our approach to food standards inspection and enforcement. It does not seem to me that we have yet reached a tipping point. We have safeguards in the continued prioritisation of high-risk premises and in our increasing capability to use data to understand where emerging risks may be in the food chain, but those are safeguards rather than a system-wide solution or intervention. That much is clear. What we need is that system-wide review.

Q80 **Chair:** But the horsemeat scandal—a pub in my constituency started serving up horsemeat burgers: the “Shetland”. They were very small. I will not bore you with the rest.

Gareth Snell: It was on the board.

Chair: Probably on the board. The point is that if you know you are eating horsemeat and it comes from a reputable source, that is one thing, but the food standards issue arose when the horsemeat was in place of beef or mixed with beef. It went through a lot of major suppliers, who trustingly had bought from a source. That, in the end, did not kill people, but what if something else had gone into the food, and if standards checks were not being done? I am trying to grapple with how you can sit there saying that it is all fine. Where is your real information on this, if the standards checks are not happening at local level?

Emily Miles: I don’t think we have said that it is all fine.

Q81 **Chair:** No, but that’s how you are coming across. Maybe you are just being cool customers. You are very calm, Ms Miles, as a new chief executive.

Emily Miles: There is always risk, and we are not going to be able to completely get rid of the risk. Going back to those three levels, the very first organisation that is responsible for food safety, and for food being what it says it is, is the food business. They have to take responsibility for that. The second line of defence is the local authority. The third is the FSA, inspecting the local authority.

There is less resource, which makes me anxious, because I think there are the risks that we have described. We have all said, in the food standards space, that it is concerning. What the FSA can also do, however, is help to design a system that is more efficient. We have been doing a number of things to try to use our resource to the best effect. The strategic surveillance capability that I talked about earlier, where we are getting all this data from different parts of the food industry and from local authorities, pulling all that together, is a way of us saying to local authorities, “Okay—we know that you can’t inspect everything. Let’s try to direct you to where we think the risks might be so that it’s more intelligent.”

We have done other things in terms of reforming the regulatory system. We have put some real underpinning building blocks in place. Strategic surveillance is one. Second is the unified view that I described. We now



HOUSE OF COMMONS

have all that information about food businesses in one place where we can interrogate it. A third is national electronic registration of businesses. It used to be the case that a food business had to fill out a form and give it to the local authority; then they key it in. We now have an electronic registration system where you can literally, on your phone in a kitchen, register your new food business if you want to do that. It is much simpler. You can do it in five to eight minutes, and the local authority does not have to do the keying in.

We are slowly getting local authorities on stream with that. We have about 40 so far. We want to do 150 by the end of this year, and 300 by the end of the following year. That is another building block, but there is more to go, and we need to do more to help the whole food system be as efficient as it can be.

Q82 Chair: Is it possible for us to know the names of the 16 local authorities that you just touched on?

Emily Miles: The two that we are most concerned about at the moment are Northamptonshire and Birmingham. The other 14, I can't remember.

Q83 Chair: Can you write to us?

Emily Miles: We can write. It is Northamptonshire and Birmingham who we are working very closely with. They each have an action plan—

Chair: In a way, that is not surprising given what we know about local authorities and the challenges that they have both had. If you could write to us with the others, that would be very helpful. I think most Members of this House would be quite interested to know whether it covers their area. Thank you for that.

Q84 Gareth Snell: You mentioned being able to register as a new food business on a hand-held device. Once that registration goes in, what is the physical follow-up? What would stop me deciding to turn my kitchen into a takeaway business? I go on, fill the form in, batch-cook a load of burgers and sell them for a fiver.

Emily Miles: The local authority must inspect them within 28 days.

Q85 Gareth Snell: That is 28 days in which, in theory, I could be selling my batch-cooked burgers with almost zero scrutiny.

Emily Miles: Yes. It is important that we have food businesses registered, though; otherwise there could be loads of food businesses that are not in sight of a local authority at all. One of the things we have been doing recently with this data capability is we have just done a trial with a couple of local authorities where we have put in information that is publicly available, open data, and from online aggregators like Deliveroo, but also Google Maps and others. We have found that there are food businesses that look like they are operating that have not been registered, so we are using our intelligence to help local authorities to go and find the ones that have not registered with them.



- Q86 Gareth Snell:** There was a BBC investigation where there was basically a barbecue in the front garden; Just Eat turned up¹, picked it up and took it to somebody. With the springing up of the gig economy, where individuals set themselves up as delivery drivers, not contracted to a particular company but self-employed, how do you even begin to regulate the potential minefield that is not the traditional set-up—I phone a takeaway and they send it round to my house—but it is all done online, nobody really talks to anybody, and it passes through multiple different entities in terms of legal structure?

Emily Miles: The FSA is working with online aggregators—the Deliverooos and Just Eats of this world—in that space. For example, Just Eat, as I understand it, have spent £1 million on food hygiene, trying to help the businesses that they put on to the platform to improve their food hygiene ratings. I do not think they even put the 0s, 1s and 2s on there. There are things that aggregated businesses can do to improve the experience of the consumers.

- Q87 Gareth Snell:** Can I ask a couple of questions about the FSA's preparedness for exiting the European Union? Where are you at the moment, as an organisation, and what input are you having to the trade talks about what would be needed from the consumer and producer ends to be compliant with a future free trade agreement, either with the EU or with other countries?

Emily Miles: In terms of our EU exit preparedness, we needed to get a number of things in place, and we have done all of them. We had them in place for March, and we have enhanced them a bit in the last six months. We had to transfer a number of statutory instruments into UK law. We needed to set up a risk analysis process. The responsibility of the European Food Safety Authority is coming back to the UK, so we needed to take that on. We have expanded capacity in the way I have described, with the national food crime unit, strategic surveillance and giving additional resource to port health authorities.

We had an issue about import alerts, which we are relying on David and the team for. The new IPAFFS system, which replaces TRACES, will draw on that for high-risk food and food notifications from third countries. We have also been looking at how we can enhance the data that we get from RASFF and INFOSAN—the international equivalent of RASFF—so that we have the same or enhanced capabilities as we move outside the EU. That is all in hand.

The particular thing about trade deals is about our risk analysis process. If, for example, if we were in a no-deal scenario on 31 October, which we will now probably not be, the first day that we are outside the EU, so Friday, there could be an application from anyone, including any food business in any country, to us, as the central competent authority, to authorise a novel food or preparation for a food. We would then need to go through a rigorous assessment of that. It does not rely on a trade deal

¹ Just Eat was not the company involved in the incident referred to

for that to happen. It could just happen as a consequence of anyone applying for that permission. That is what happens right now for the European Food Safety Authority, so we are basically taking that back.

We have set out that we are going to take a very rigorous and transparent approach to these considerations. Any new food preparation approach, for example, will need to get through three hurdles before being allowed. First, the FSA would consider all the scientific evidence and would do a risk assessment and analysis, which it would make public. It would then consider what the risk management response to that should be, which it would also make public. It would then look at other consumer interests, as well as at safety and hygiene matters. It would then give all that advice to Ministers, including those in Wales and Northern Ireland—if they are there—and in Westminster. It is then for Ministers to make a decision.

First, the FSA has to agree that it is okay. Secondly, Ministers have to agree that they want to do it. Thirdly, you would have to change the law through a statutory instrument, so it would come to Parliament for agreement.

Q88 Gareth Snell: I appreciate that that is for things coming into the UK—

Emily Miles: No, it would include things happening in the UK. For example, to take the one that is on everyone's minds, which is chlorine washing of chicken, if the FSA were to decide that that was okay, a UK company could apply for that. As soon as the FSA agrees it, it could happen in the UK, and not only for imports. We would go through a very rigorous and transparent before that were to be the case.

Q89 Gareth Snell: Fine, so that is more about—I will come to this point in a second—how we might want to diverge from European standards internally if we chose to do so. For chlorinated chicken, we could choose to or not, regardless of what the EU said. At this moment in time, I am more interested in another point. In my constituency, we have a Premier Foods factory that makes every Mr Kipling cherry bakewell in the country.

Chair: That is a good advert for Stoke-on-Trent.

Gareth Snell: I am diligent; there is an election coming.

Chair: The cherry pitters, or whatever, will be voting for you.

Gareth Snell: They export huge amounts to the European Union. What I want to understand from their perspective is the way in which at some point the people who regulate them in the UK are going to have to be able to satisfy the European requirements that their product is still good to be sold in the EU—that it meets the EU standards. Where are you in terms of that process? That is why I asked about trade deals, because at some point, somebody in Europe is going to have to either regulate that factory, or trust a British regulator to regulate it to a European set standard. Where are we in those conversations?

Emily Miles: I might draw a bit on David, who is more of an expert on the exports process. The FSA's has a role in exports particularly related to



HOUSE OF COMMONS

products of animal origin—rather than food not of animal origin, which I assume is the case in your bakewell situation. For food of animal origin, we have some involvement in the export process, but more of it sits with APHA and DEFRA. For example, we do export approval inspections in the establishments where we are responsible as a competent authority, so we would be doing the approval inspections relating to meat hygiene.

We also provide advice and guidance to DEFRA on food safety and public health aspects of exported products of animal origin, and we have been providing advice and guidance to local authorities to issue export certification for products that are not covered by APHA. We support local authorities to do that. As I mentioned earlier, for example, in preparing for a no-deal situation, we were conscious that local authority environmental health officers would be providing that certification for food not of animal origin. We have slightly altered our guidance about what level of experience you would need to give that certification as an environmental health officer, so that that was not acting as a blockage to exports.

Q90 Gareth Snell: Over the weekend, there were reports of the Department for Exiting the European Union talking about divergence from European regulations as a potential by-product of leaving the European Union. I appreciate that you cannot talk about politics, but the pushback politically was that divergence does not mean lessening of a standard; it can mean a deviation from a standard. I wonder whether the FSA, or even DEFRA, have an example of where European standards have constrained the FSA or DEFRA in trying to achieve a higher standard—where they have been unable to do so because of that European regulation.

If you have an example, to hand could you write to us giving one? If one springs to mind, great. You can always go higher inside the European framework. I want to know specifically whether there is something that prevents you going higher, and where divergence would be required to achieve higher standards.

Emily Miles: The general principle behind EU law is usually that there is a minimum, and then if a state wants to go higher, it can. It probably could. There is a particular example that will soon not be relevant, because the EU is changing its law, but until recently, the official controls regulations that particularly relate to the meat hygiene inspections have been quite prescriptive on the “how”, not just on the “what”.

We often find that EU legislation sets a standard that we agree with, but the way in which you are expected to inspect against that standard or prove that it is working is not very flexible. For example, exactly what kind of person needs to be standing at the line as the chicken carcasses go past has been prescribed in legislation. Because of our sense that that was not a very effective use of resource, we have done a lot of work with the EU, as have other states, and they are about to change the rules to give a few more flexibilities to countries. That is coming through in law in December, but that would be an example.



David Kennedy: I would take the example of food imports, where there is a very prescriptive approach to checks that have to be done by the port health authorities at the border. We would look to have a risk-based approach as we leave the EU, depending on the deal that we agree and the flexibilities that we get there. I think the other point is right; I was thinking about chicken stocking densities, where there is a maximum level for the EU and we have a more stringent maximum level that is below the EU's level. That is not food safety; it's a welfare thing.

Q91 **Gareth Snell:** So what you have demonstrated there is that we can have a more humane approach inside the framework. What I want to try to understand is where EU law prohibits our having a higher standard, or a more humane approach, because I don't necessarily believe that it does. Obviously the commentary over the weekend was that divergence is not about weakening standards; it is about potentially making them greater, but I think you can do that inside. However, we are deviating to policy now, Chair.

Chair: I think we are—I will bring in Sir Geoffrey, just to finish us off, or nearly finish us off. Mr Wearne, do you have anything to add on the last question?

Steve Wearne: I cannot think of anything precisely on that point, but there is a long-standing European principle, around the Cassis de Dijon case, that once a product is accepted in any part of the Community, it may be accepted in other parts, which is a way in which there can be a less than level playing field—if you have a level of national standards that is higher than products imported from elsewhere in the EU, which you cannot disallow coming into your market. I think that may be a detriment to UK producers and UK consumers.

Gareth Snell: Okay.

Chair: Good question and interesting answers. Sir Geoffrey?

Q92 **Sir Geoffrey Clifton-Brown:** If we leave the EU we will become a third country. That has two implications, the first of which relates to exports. You have a very high reputation around the EU and around the world. Would you expect that a certificate that a product meets EU safety standards issued by you would not be questioned by the EU, or are we going to find that if we leave without a deal, they will start questioning your certification of exports from this country?

Emily Miles: This is more a matter for David. Basically, however, the importing country sets the standards for what they want in terms of the certificate, and they will come and make sure that the country that is issuing those certificates is meeting their standards. For example, we get Chinese visitors coming and looking at our controls. They look at our meat hygiene inspection to make sure that we are certifying in the right way. It is for the importing country to set the standard and then to decide whether we are meeting it.

The complicated issue that we were just about to run into was going into a no-deal scenario, because we have not done any kind of negotiation with



the EU about what an export health certificate should look like for the UK exporting to the EU. We were going to rely on the EHCs they use for other countries. That was quite complicated, because it did not quite make sense in law, but we were having to slightly sort of find a way round it. A much better situation would be where we have had a formal negotiation, as in a trade negotiation, where we set what the EHCs would be and there is an understanding about what they expect a central competent authority and the competent authorities to be doing.

Going back to your question, Chair, about whether there is enough resource in the system and whether we can have confidence, one of the things that we are very aware of is that we will be looked at by the EU, by China and by the US to see whether we are meeting food hygiene standards that they expect in their imports and in food standards. It is not just about what we think now; it is also going to be about what they think.

David Kennedy: We are a listed third country for a no-deal exit at the end of this month, which means in principle that we will be able to export. We would have to do that with export health certificates, which would be issued by APHA, and those would be checked at the border going into the EU. That was the situation for no deal.

I think that in any situation as you go forward—take the example of the EU. They will want to know that our whole food system is fit for purpose, so they will send SANTE F to come and audit the whole system, with respect to that. They will also want to look at individual premises, as well, to make sure that they are producing to EU standards.

Q93 **Chair:** How long will that take?

David Kennedy: The SANTE F audits happen every three years, I think?

Steve Wearne: As an EU member state, yes.

David Kennedy: They may be more frequent as a non-member

Q94 **Chair:** Sorry. Are you saying you could not trade until they have done that?

David Kennedy: No. We were set up to trade in a no-deal scenario. I am just saying that over time they would want to come back and inspect the food system and the premises in the food system.

Q95 **Sir Geoffrey Clifton-Brown:** The other side of the coin is imports. Presumably, we will just accept EU standards from those countries in the EU that we import from, but we will get more of the 50% that we import from third countries that are not EU members under this scenario—whatever the scenario, whether we leave with or without a deal—so, given that the Government have told this Committee time and time again that they will only stop lorries in dire circumstances, one of which is safety, how are you going to get the intelligence that a particular product from a particular third country warrants a particular inspection from the FSA?



Emily Miles: We already have arrangements for third-country imports, which we currently get through TRACES. We would get the information through IPAFFS, which is the replacement system. That was going to be ready for Friday and we were going to be running that system and collecting the information from it. The thing that IPAFFS does not currently cover is EU imports, because why would it? We do need a capability to find out what high-risk food and feed is for EU imports, so the FSA is looking at the moment at how to build that. We basically made an assumption that on day one in a no-deal scenario, the risk would not be any worse or better than it was on day minus one, but over time that might degrade.

We will want to have some kind of system in place to give us the information for EU imports in addition to what we already get for third-country imports. We will be keeping a close eye on it. One of the things about being an independent, non-ministerial department is that if we get to the point where we consider that somehow food safety is being put at risk because of import controls, we can say that in public. I do not think we are anywhere near that now, but it is available to us.

- Q96 **Sir Geoffrey Clifton-Brown:** There is a risk here, isn't there? If we are going to have a very light inspection regime of lorries coming into this country, as we have been told time and again that we will, the incentive for criminals to try to do something fraudulent must rise. Are you, the FSA, gearing up for that?

Emily Miles: Yes. We have no specific intelligence that there would be an increase in food crime in a no-deal scenario, but we can intuit that there might be. I mentioned that earlier. For example, if we were in no deal—of course we are not going to be right now, but if we were—and there were products for export that could not access the market, you can imagine that there is an incentive to change the expiry date. The same applies if you are struggling to get certain import commodities in; you have an incentive to mark it as a premium product and so on, hence the investment in the national food crime unit. We have expanded that unit, so that we have more capability there, and it is doing all the things that I described earlier.

- Q97 **Chair:** I will bring in Mr Snell and Mr Chapman for a couple of quick-fire questions, but may I ask first whether you are on the Border Delivery Group?

Emily Miles: I am not, no.

- Q98 **Chair:** Is anyone from the FSA on the Border Delivery Group?

Emily Miles: We are well connected; I was on the Border Delivery Group until four weeks ago because of my DEFRA job, so I feel that I know everyone extremely well.

- Q99 **Chair:** That is great, but it should not be relying on personal contacts. Are you represented by DEFRA, then?

Emily Miles: The only thing that the Border Delivery Group relies on us for is this IPAFFS system and the import notifications around port health



HOUSE OF COMMONS

authorities. Our other capabilities are in-country capabilities—the risk analysis and so on—so we are a bit of a bit-part player, to be honest.

Q100 Gareth Snell: You mentioned the potential increase in frequency of audits of the whole food system as part of our being a third country. Audits cost money. Who picks up the cost for those audits? Presumably, once we are outside the European Union, we may have to go and audit their whole food system to ensure that any food imports are meeting our standards. Who pays for that audit?

David Kennedy: The EU will pay for European audits of our system, as any country does. To the extent that we have to audit the EU system, there would be a funding requirement there. In the big scheme of things, that is a relatively small cost that we would pay for.

Q101 Douglas Chapman: A final question from me. A DEFRA document was published in the *FT* earlier this month regarding the relaxing of SPS standards in the UK in order to get a US trade deal, which could damage public health. It said, “Weakening our SPS regime to accommodate one trade partner could irreparably damage our ability to maintain UK animal, plant and public health, and reduce trust in our exports”. I come from a part of the country where food and drink exports are at the centre of our economy, and I have real concerns about that happening. What reassurances can the Food Standards Agency give us that you have that on your radar and that, when trade deals are done, you will have a say in how we manage such a dangerous situation?

Emily Miles: The Food Standards Agency wants to see no degradation in food standards in the UK. We are committed to very high standards. The process I described around the risk analysis that will be done transparently and rigorously, with scientific input, is the key to our making sure that those standards remain high. Ultimately, in terms of trade deals, we are not part of the negotiating team—it is DEFRA that leads on the negotiations for SPS and we feed in, so we are very plugged in to that in terms of being able to spell out the implications of any particular change to food standards or safety. Because we are an independent, non-ministerial department, if the FSA board had any concerns, we would make those public.

David Kennedy: There are three sets of things that we want to protect: SPS and human health; animal welfare—I have taken the example of stock density of chicken, which is a lot higher in America than it is but we will look at that. The third thing is that we are designing a farming transition to move away from the income transfers under the common agricultural policy. We do not want to liberalise in an overly aggressive way that undermines the ability of farmers to adjust. Those three things: the SPS and food safety, animal welfare, and the sector economics and the adjustment that has to happen over the next 10 years or so.

Q102 Chair: Ms Miles, you mentioned the European Food Safety Agency and that you have taken over its responsibilities. How many extra staff have you had to recruit to do that? Are they all in post?

Emily Miles: I cannot remember the exact details.

Steve Wearne: Around 40 extra staff.

Q103 **Chair:** Perhaps you could write to us about the extra cost of taking those European responsibilities on to your shoulders.

Emily Miles: We have been given an additional £30 million or £40 million per annum to do all the things that we need to do as we leave the EU in a no-deal scenario in particular. That includes expanding the national food crime unit, the surveillance capability, the additional risk analysis—

Q104 **Chair:** What leaves Europe and comes to the UK adds up. We were promised certain things would save money, but there is a certain amount that is not being saved but is simply being spent in the UK. We are just trying to keep track of that.

Finally, we have talked quite a lot about your powers and legislation. Could you list what you would like on your legislation wish list? So far, we have looked at the food crime agency, so you can cross that one off; ratings being publicly displayed; allergens. Is there anything else?

Emily Miles: They are probably in order priority. At the top of the list would be NFCU having access to normal PACE powers. Second on the list would be mandatory display for FHRS ratings in England, because we think that would benefit consumers in a major way. There is a set that is not top of my list but I think are interesting possible that I will share with you.

Chair: Please do. Now is your moment to share your agenda.

Emily Miles: One is about a delegated power to make very simple, routine decisions under the risk analysis process. At the moment, we are expecting to need to make maybe 150 decisions a year. They will all have to go to Ministers. Although we think the most routine ones we could take ourselves. England Ministers have committed to do that in due course. Basically, it is one of those regulatory change powers that we would need.

Gareth Snell: Due course.

Chair: Yes. Don't hold your breath.

Gareth Snell: Says the former Minister.

Emily Miles: Secondly, the question of fixed penalty notices. This is one that the NAO Report mentioned that local authorities had said. For failure to register a food business, a fixed penalty notice would be a more proportional approach than the current sanction available, which requires prosecution and is quite long-winded for local authorities to pursue. Given that we want to incentivise food businesses to be in the system and accessing inspection, we think that would be useful.

In terms of charging, if we want to move away from the current EU set rules about what you can charge for in regulation, we will need a power to do that.

Chair: But that is assuming that we leave the EU, which is the running assumption.

Emily Miles: I am assuming we are going to leave the EU.

Chair: I am just being clear that it could not happen without our leaving the EU.

Emily Miles: Indeed. Lastly, you mentioned allergens, but there was a specific issue that the FSA board came out on a few years ago, about local authorities being able to issue fines and compliance notices for non-compliance with labelling requirements for gluten. That was a particular issue that I think is still outstanding. We are demandeurs of the Secretary of State for Health on these things. We have gone to him formally on the NFCU powers and we are about to go formally on the mandatory display of FHRS ratings. To be fair to him, I do not think we have yet gone with that wish list.

Q105 **Chair:** I am sure he is watching avidly and will be clocking all those options, but Parliament is not doing a great deal at the moment. Are they ready to pull off the shelf and put into legislation, or do you have a bit of work to do on that?

Emily Miles: We would work extremely quickly on them, but they are not quite ready.

Q106 **Chair:** You are waiting for Ministers, but apart from that, how quickly could you draw up legislation?

Emily Miles: I assume relatively quickly because they will not be more than one or two clauses each. Resource has been focused a bit more on Brexit in the last few months.

Chair: That is putting it mildly. We were wondering whether there were other options to discuss that would help to protect the consumer.

Thank you very much for your time. We look forward to seeing you again, Ms Miles, when you have been in the post for more than a month. We will hold you to what you have said today. It is possible that when you come in front of us next time, we may be in a slightly different position if we have left the European Union.

The transcript will be on the website uncorrected in the next couple of days, so I am sure you and your team will have a look at that. Our report could be out very quickly if we have an election, but normally by Christmas.