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Dear Chair

On review of the transcript of the 28 October oral evidence session *Ensuring food safety and standards*, there are two areas where I would like to make sure I have been sufficiently clear with the Committee. One regards the registration of food business operators, and the other the current powers available to the NFCU and also those additional powers which we assess it be necessary for the Unit to be afforded in order to fully discharge its intended function in a way which is independent and free of unnecessary hindrance or burden on our partners.

Food business registration

I mentioned in my answers to the Committee that once registered with the local authority, a food business would be subject to an inspection within 28 days. I want to give the full picture about what happens. Food business operators are advised that they should register their business with the appropriate local authority at least 28 days before trading or food operations commence. When they register they should provide details of the activities that they will undertake. We expect local authorities to conduct a first inspection within 28 days for those businesses considered to be high risk on the basis of the registration information they have provided. At the inspection, the local authority will verify the activities undertaken and the risk posed and will use this information to determine how frequently future inspections are required. They will also take appropriate action if they identify food safety issues which range from providing advice and guidance to formal enforcement actions.

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National Food Crime Unit powers

I mentioned in my answers to the Committee that NFCU have some powers of entry. To explain: FSA authorised officers do have some powers of entry under food law for purposes of inspection. NFCU wish to supplement these with the capacity to secure entry, search and seizure warrants, or a production order, under section 8 or section 9 (schedule 1) of the Police and Criminal Evidence Act (PACE) 1984. These powers will allow NFCU officers to conduct searches of premises where there are reasonable grounds to believe there may be evidence of an indictable offence, and seize material for evidential purposes. At present we have to rely on other enforcement partners to secure and execute these warrants. The powers under section 9 (schedule 1) further relate to obtaining, whether through the execution of a warrant or via a production order, what is known as "Special Procedure Material". This class of material could include important documentation such as business records held in confidence, the relevance of which to food crime enquiries should be readily apparent.

These powers are very helpfully supported by sections 19 to 22 of PACE.

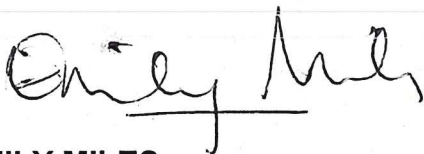
These sections afford to authorised officers:

- ~~general powers of seizure when lawfully on a premises, to seize evidence of other crimes when it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed~~
- the extension of powers of seizure to computerised information
- access and copying of any material seized and requirement to provide a record of seized material
- powers to retain seized material

While our officers are already able to interview persons under caution as required under PACE, they do not currently have the powers necessary to take custody of a person who has been arrested, and remains in detention, in order to conduct such an interview. This power is afforded by section 39 of PACE and also features on the list of powers we intend to seek, along with those under sections 19 to 22.

The powers listed under sections 50-53 of the Criminal Justice and Police Act 2001 are also very relevant to our investigative work going forward. These powers enable the seizure of items which are believed to contain evidence of the offence or offences under investigation where it is not practical to separate the relevant evidence at the location where it is found. These are commonly referred to as seize and sift powers and might apply for example to a large quantity of paper documents, or a physical computer server.

Yours sincerely,



EMILY MILES