

PAPER 2:

REGULATORY ROLES, RESPONSIBILITIES AND STRUCTURES

Introduction

This is Paper 2 in a Review of government involvement in the domestic food sector.

The Review is a significant long-term project that is likely to run over at least five years. Its purpose is to put in place a food regulatory programme across all sectors of New Zealand's domestic food industry that promotes and delivers safe and suitable food in New Zealand.

This is only the second time in the last 30 years that the government's role in the New Zealand domestic food sector has been critically examined at official level. The last review was undertaken in the late 1980s, and led to the Food Amendment Act 1996 and eventually the establishment of the New Zealand Food Safety Authority (NZFSA).

This Paper includes a description of the current regulatory structure covering the food sector, and sets out roles and responsibilities of the regulator(s) at various levels, criteria for assessing structural options and a range of structural options for the future shape of the regulator involving central government, District Health Boards and local government. It has been developed by the New Zealand Food Safety Authority (NZFSA) in conjunction with groups representing Public Health Units (who are part of District Health Boards) and Territorial Authorities with Local Government New Zealand.

Other Papers in the series include:

- Paper 1: Introduction and context
- Paper 3: Food Control Plans
- Paper 4: Implementation of Food Control Plans.

At the end of public consultation on all of the Papers, NZFSA will analyse all submissions and provide policy advice to central Government.

Submissions are sought from interested people and organisations on the roles and responsibilities, assessment criteria and proposed structures. A response form is provided, but submissions will be accepted in any format.

The closing date for submissions is 31 December 2004.

Submissions should be sent to:

Submissions – Domestic Food Review
 c/o Policy Group
 New Zealand Food Safety Authority
 PO Box 2835
 WELLINGTON
 Email: robbie.thomson@nzfsa.govt.nz
 Fax: (04) 463 2501

The discussion document will be available on the NZFSA website www.nzfsa.govt.nz/policy-law/projects/domestic-food-review/index.htm. Following analysis of submissions, a summary of issues raised will be made available on the above website.

All submissions are subject to the Official Information Act 1982, which specifies that information is to be available unless there are grounds for withholding it. If you wish your submission or any part of it to be withheld, please indicate the grounds within the Official Information Act that apply. NZFSA will take your request into account when determining whether or not to release information. Please note that any decision by NZFSA to withhold information is reviewable by the Ombudsman.

Executive Summary

This Paper invites public comment on the roles and responsibilities of the regulator for the future regulatory programme for domestic food on a number of structural options for delivering regulatory functions; and criteria for assessing those options.

Defining the roles and responsibilities of key players in the food regime is essential to ensuring that rights, responsibilities and obligations are appropriately allocated, understood and acted on. The accountabilities of the Minister for Food Safety link directly to the NZFSA, and are intended to then link through to Public Health Units in District Health Boards and to Territorial Authorities. The NZFSA is expected to continue to have an overarching role in ensuring strong accountability linkages in the system.

The current system is characterised best as a system of loose accountabilities between levels of regulators (central government, District Health Boards and local government), with little consistency and mixed and/or duplicative responsibilities. The roles and responsibilities cover:

- the setter of standards and requirements
- systems audit
- registrations and approvals
- inspection of businesses
- enforcement
- food complaints
- emergency and recall response
- monitoring and surveillance
- verification that the relevant standards are being met
- education
- training.

This Paper proposes criteria that might be used to identify the best regulatory system for the domestic food supply in New Zealand. These are that the regime:

- must deliver on food safety and suitability outcomes
- must be cost effective and efficient
- should provide a single point of contact for business and consumers as far as possible
- must promote consistency and equity
- must promote a seamless and coherent regulatory programme
- should remove unnecessary duplication in roles, responsibilities and activities as far as possible
- must maximise resources available across New Zealand and their effectiveness
- must provide clear lines of accountability and transparency of operation
- must provide accessibility and geographical spread across New Zealand
- must ensure capability and capacity for delivery
- must maximise the connections and links among the communicable disease and public health outcomes Public Health Units are required to deliver
- must ensure ease and low cost of implementation and transition to any new regime.

Finally, this Paper describes a range of options and assesses each against the criteria. While no preferred option is identified, some weighting of criteria might be applied to factors such as cost, consistency, accountability and accessibility.

Note: The term ‘the regulator’ is used in this Paper generically to describe the various agencies of central government, District Health Boards and local government with food-safety responsibilities. The specific ‘regulator’ in each case is identified where relevant. See also the glossary in Paper 1.

Purpose of the Paper

The purpose of this Paper is to:

- describe how the regulator operates at each level now
- identify issues associated with that operation
- describe the functions and responsibilities of the regulator within the future food regulatory model
- explore options for the future regulatory regime for the food sector.

Scope

Inclusions

The scope of this Paper is all aspects of government regulation of food and food-related products. Government involvement includes central government, District Health Boards and local government involvement. A glossary of terms is provided in Paper 1.

Exclusions

This Paper excludes consideration of the functions and responsibilities of others in the food sector (such as Occupational Health and Safety) to the extent that the food regulator is not likely to be involved. It also excludes any other functions and responsibilities of the regulator such as market-access responsibilities (central government) and environmental functions such as implementing the Resource Management and Building Acts (Territorial Authorities) – although noting there is an interface issue between food businesses and the Building Act that needs to be considered.

Background

Regulatory control of food safety and suitability in New Zealand is spread over many agencies at three different levels:

- central government through the New Zealand Food Safety Authority (NZFSA)
- regionally through the 12 Public Health Units in District Health Boards
- across 74 Territorial Authorities at local government level.

Central government

At the central government level, the specified role and functions of NZFSA of direct relevance to this Review are:

- administer all national food-related legislation, including reviewing and establishing policy; standards setting; and undertaking the science necessary to set standards and other requirements
- administer food safety and suitability matters including implementation, application, education, compliance with and enforcement of requirements (this does not include local government by-laws)
- continue to maintain a commitment to the joint Australia New Zealand food standards system
- provide oversight of the services currently provided by Public Health Units and through Territorial Authorities.

Currently, NZFSA has responsibility for administering all aspects of the Dairy Industry Act 1952, the Animal Products Act 1999 (including the Meat Act 1981), the Agricultural Compounds and Veterinary Medicines Act 1997, the Food Act 1981 and parts of the Wine Act 2003. In most areas other than the Food Act, there is no regional or local involvement in administration and enforcement.

Central government responsibilities are funded both by the Crown through direct appropriation and by industry through cost recovery.

There has never been a single agency for food safety delivery in New Zealand, as far as can be determined. The nearest to a single agency operated from the 1960s through to the late 1980s, comprising a Department of Health headquartered in Wellington with a network of district offices. That provided a national system of grading, training and promotion for food regulators, and demanded staff mobility and relocation for career progression.

This was succeeded by Area Health Boards, who generally delivered generic regulators rather than the specialist regulators of the former district office system. Consistency began to falter under financial pressures and difficult demands on the system. Area Health Boards were, in turn, succeeded by District Health Boards.

Public Health Units in District Health Boards

There are 12 Public Health Service providers with 29 offices throughout New Zealand. The Public Health Service providers, often called Public Health Units, are all part of District Health Boards. Due to geographical spread, Public Health Units may have more than one office, and in several cases Public Health Units provide services for more than one District Health Board.

‘Public health’ is about improving and protecting the health of the population, promoting well being and preventing ill health. Accordingly, public health programmes are offered to populations or groups of people rather than individuals, and are a combination of both health protection and health promotion programmes. Public health programmes cover a range of areas including food safety, nutrition, communicable disease, environmental health and biosecurity. Public Health Units also play a pivotal role in the investigation of food-borne illness.

Public Health Units currently employ Health Protection Officers, Food Act Officers, Food Sampling Officers and Medical Officers of Health, all of whom are appointed by the NZFSA with powers under the Food Act. Health Protection Officers primarily oversee the Food Act, including food safety activities and labelling and composition requirements.

Until NZFSA was formed, the Ministry of Health contracted food-safety work to Public Health Units. From 2003, NZFSA has contracted Public Health Units to undertake a number of food safety and suitability activities, including:

- enforcement of food safety and suitability legislation under the Food Act, including seizure and disposal of product
- surveillance and monitoring programmes of food production and sale
- managing food recalls regionally
- investigating food-borne illness and food complaints
- promoting food safety and food quality among the public and the food industry
- providing food-safety advice to the public
- monitoring high-risk imported foods
- monitoring and compliance of the food-labelling and food-composition legislation
- promoting and assessing risk-based food-safety management.

Public Health Units' food safety and other food related activities are funded in the main by the Crown through a contract administered by NZFSA. Other sources of funding are from industry cost recovery (e.g. for import clearances, assessment of Food Safety Programmes).

Territorial Authorities

New Zealand's 74 Territorial Authorities have the following roles and functions of direct relevance to this Review:

- administration of the Food Hygiene Regulations 1974, including registration and inspection of premises, and the associated compliance with and enforcement of these regulations
- administration of local food related by-laws, including requiring operator food safety training, grading systems for food premises, and the ability to temporarily close premises
- the seizure and destruction of decayed and putrefied food and the seizure of food stuffs and appliances where offences have occurred against the Food Act or the Food Hygiene Regulations
- non-regulatory responsibilities such as provision of food safety training, and involvement in and implementation of food safety initiatives such as public education.

Territorial Authorities employ Environmental Health Officers primarily to oversee food safety through inspections of food premises and enforcement of the Food Hygiene Regulations 1974.

The elected members of Territorial Authorities decide the following aspects of how legislative requirements and other food-safety matters are implemented:

- the setting of fees
- inspection priorities
- the promulgation of by-laws
- how services are provided, including whether to contract out these services.

Problems associated with the regulatory structure

The Review has identified a number of problems arising from the current regime and these are set out in Paper 1: Overview and introduction. Those most directly related to this paper are:

- **Direct accountability**
In a number of areas of government involvement in the food sector, accountability is direct. However, in other areas the accountability is indirect and at times several times removed. Experience and evaluation of government structures by the State Services Commission and others has shown that lengthy accountability chains can lead to:
 - non-achievement or only partial achievement of government priorities or objectives
 - redirection of resources to other areas where results may be more easily achieved, or where a problem is easier to identify or is more obvious (i.e. has a higher profile).
- **Consistency**
The Government expects NZFSA to achieve a consistent, practical and efficient approach to food regulation in New Zealand. There has been some consistency across the 12 Public Health Units, but very little active effort has been made to ensure consistency across the Territorial Authorities or food related by-laws.
- **Coherence and seamlessness**
The Government expects NZFSA to provide a coherent and seamless food regulatory programme across New Zealand's food industries. But this is not achieved in a number of respects, producing inconsistent and inequitable effects on businesses.

For example, there are no clear criteria to guide the level of involvement by government, and in practice there is frequent confusion about when government will get involved. Government

requirements are very specific and prescriptive for some sectors; in others, the government provides only guidance. Businesses operating across more than one food regime must comply with multiple registrations and audits even for comparable issues.

The government is proactive in engaging with some industry groups in preparing Codes of Practice (e.g. specialty cheeses and ice cream) but not in others (e.g. takeaway food businesses).

Finally, roles of key players ('persons', auditors and verifiers, and the regulator) are ill-defined in some legislation, while elsewhere (such as in the Animal Products Act) roles are set out clearly. As a consequence, it is frequently unclear how much (and what) NZFSA will do as regulator, and how much 'persons' must do.

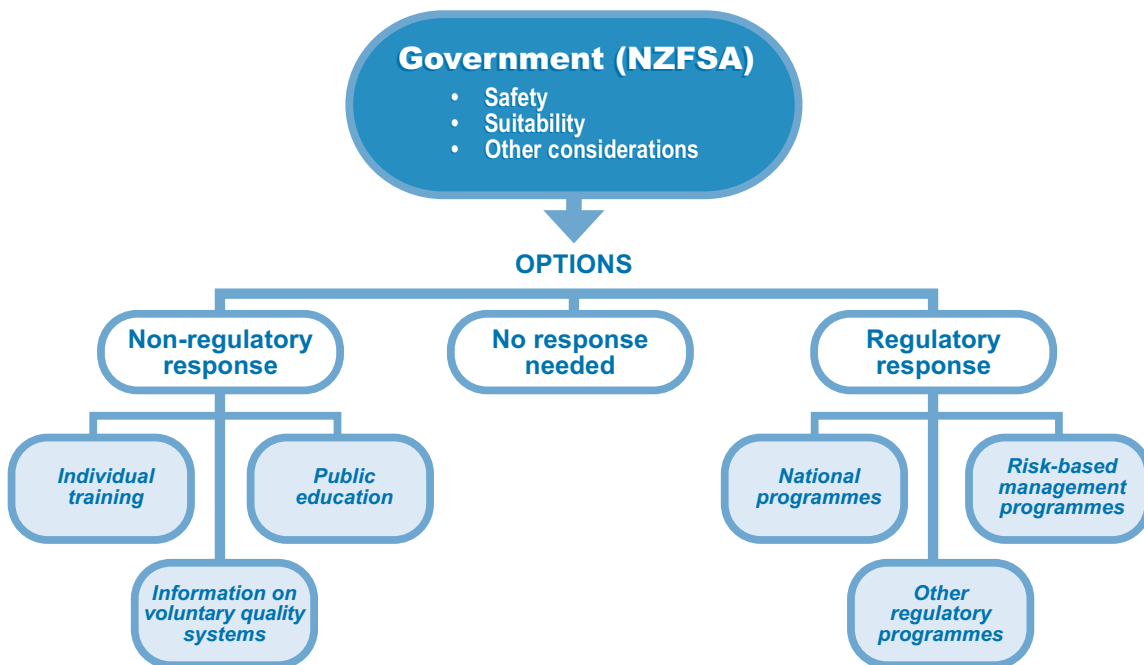
Roles and responsibilities of the regulator

Defining the roles and responsibilities of key players in the food regime is essential to ensuring that rights, responsibilities and obligations are appropriately allocated, understood and acted on. The accountabilities of the Minister for Food Safety link directly to the NZFSA and are intended to then link through to Public Health Units in District Health Boards and to Territorial Authorities. The NZFSA is expected to continue to have an overarching role in the food regime and to ensure there are strong accountability linkages in the system.

The NZFSA is responsible for all aspects of the food regime in New Zealand, including for all food destined for export before it leaves New Zealand. This involves two key types of interventions described in a diagram in Paper 1 and reproduced here as Figure 1. The key interventions are:

- non-regulatory (such as education and training)
- regulatory (such as setting standards and requirements).

Figure 3: Options for government involvement in food safety and suitability



Government’s Code of Good Regulatory Practice¹ requires that policymakers consider and balance the issues of efficiency, effectiveness, transparency, clarity and equity in deciding what intervention

¹ Available on the Ministry of Economic Development’s website (www.med.govt.nz/buslt/compliance/regprac.html)

is best and how to intervene. The roles and responsibilities, including those related to the types of intervention, are described as follows.

Setting standards and requirements

Where government involvement is regulatory, the regulator sets standards to reflect the desired outcomes. In the current Regulatory Model, NZFSA is the principal regulator ultimately accountable for food control in New Zealand and for the implementation and overall performance of the food regulatory programme. The NZFSA sets regulatory requirements (see Figure 1) and provides implementation tools that cover:

- the safety of food
- the suitability of food
- other aspects of a food regulatory programme, such as regulatory requirements for non-food products and official assurances for export of foods.

Criteria for setting these requirements are not yet fully developed, but might involve:

- ranking and prioritising a food safety or suitability issue
- whether there is any existing Government policy in the area, and whether it provides sufficient guidance
- the available scientific information.

The 'no response needed' option may be selected where the issues are covered in other ways, or where the costs of action clearly outweigh benefits. For example, an event overseas relating to a contaminant may result in 'no response needed' if the product is not available in New Zealand, or if product tested in New Zealand shows no evidence of contamination.

Food standards currently cover a wide and varied range of areas, including:

- production
- transportation
- processing
- manufacture
- labelling and packaging.

The regulator might also develop, usually in consultation with relevant industry sectors, Codes of Practice designed to achieve the outcomes or standards set by the regulator. These might be 'recognised' by the regulator as one means of achieving the outcomes set in standards. Responsibilities in this area also include assessment and registration of risk-based management plans.

Systems audit

Auditing the food safety system for effectiveness and efficiency is a vital regulatory function. The regulator may also look at compliance with a range of standards across a sector (a horizontal audit) or the compliance of a single operator selected randomly from within a sector (a vertical audit). The regulator may similarly look at third party/external verifiers to ensure that the functions they are undertaking are complete and meet the required standard.

Systems audits are designed to assess expected versus actual coverage of the regime, consistency of the regime's application, and gaps and duplications. Audit also assists in ensuring that functions, activities or types of intervention are undertaken across New Zealand to the same extent and in a manner appropriate to the issue or sector.

Registrations and approvals

Currently, regulators undertake all registration and approvals. This covers:

- physical premises (such as food business registrations issued by Territorial Authorities)
- food processes (such as food safety, animal product or the dairy product safety programmes)
- accreditation of suppliers of specialist skills (such as verifiers) and of facilities (such as laboratories).

Inspection of businesses

Currently, Territorial Authorities as regulators undertake variable inspection of businesses, primarily associated with the Food Hygiene Regulations. This activity may well be replaced in the future by third party verification and/or system audit by the regulator.

Enforcement

The regulators are responsible for all enforcement activity associated with food law. This involves applying sanctions such as warnings, closures and revocations, seizure and destruction of food and prosecutions.

Food complaints

Regulators receive many food complaints from consumers. Some complaints might not be made in the first instance to the regulator (such as suspected food-borne illness diagnosed by a doctor), but are expected to reach the regulator if they are significant. The regulator can receive complaints directly from the public, from food businesses, from other agencies, and from health professionals.

Emergency and recall response

Responding effectively to food emergencies and any necessary recalls is a key regulatory responsibility. The regulator's actual involvement will vary from case to case, but the regulator must ensure that the necessary resources and systems are in place.

Monitoring and surveillance

The regulator is responsible for monitoring the entire food regulatory system and for surveillance. Monitoring could, for example, take the form of the New Zealand Total Diet Survey or could focus on a single sector (e.g. red meat, dairy). Surveillance might cover a particular aspect of the food sector, such as food-borne illness or use of agricultural chemicals and veterinary medicines.

External verification

The regulator may provide an external verification service, such as where it is necessary for product to enter export trade (some foreign governments will only accept products that have been verified through a government service).

Education

Education is the primary non-regulatory responsibility in the food regime. It takes the form of sourcing, substantiating and providing information to sectors, communities and the general public. Educational activity is not exclusive to the regulator; but the regulator can co-ordinate, seed, lead or supplement the activities of the private sector. Examples of educational programmes may include information delivered to groups

(such as businesses and schools) and comprise checklists, curricula material, guidance on food standards, nutritional information, and so on.

Guidelines can cover non-regulatory matters (such as advice for pregnant women) regulatory areas (such as how to apply or interpret standards and requirements). Similarly, guidelines can cover both food-safety matters (such as how to meet dairy-industry standards) and food-suitability issues (such as the nutrition information panel that must be included on most pre-packaged food).

Training

A food safety and suitability regime includes training at all levels: of the regulators, of the auditor/external verifier, and of 'persons' (food-industry participants). The regulator may undertake some of this activity, contribute to others, and have no role elsewhere. It is important to ensure that training is available, supported and expert.

Proposed criteria for assessing options for government regulatory structures

This Review is designed to promote evolutionary development of the current food regime. The best features of the current system should be retained and built on; new approaches should be added to address specific deficiencies or problems.

The options set out in this paper are concepts only. Clearly there are political, social and economic issues associated with all options. This paper does not attempt to canvass these in depth, but they are assessed where they clearly arise as a result of the structures proposed.

A proposed set of criteria has been identified against which options on regulatory structure can be assessed.

Draft criteria for assessing structural options (not in priority order)

Criterion 1: Must deliver on food safety and suitability outcomes

The structure must facilitate and promote the specified food-safety and food-suitability outcomes across New Zealand.

Criterion 2: Must be cost-effective and efficient

The regulatory structure must be as cost-effective as possible while improving efficiency. Cost-effectiveness needs to be assessed in terms of the cost of achieving the desired outcomes across all of the relevant businesses and areas of responsibility. Efficiency considers the extent to which food safety and suitability objectives are delivered by the least intervention and at the least cost.

Criterion 3: Should provide a single entry point for business and consumers as far as possible

Currently, 'persons' approach the regulator (or multiple regulators) at a variety of points, depending on factors such as the activity (domestic or export, meat or dairy), size and significance to the economy (large entities are sometimes handled centrally, small ones locally), and numbers of players or level of sector co-operation (i.e., their ability to convey collectively a clear message). Where a business is also an exporter, multiple pathways may apply.

A single entry point for all 'persons' could ensure clarity of coverage, lines of control and contact. A single entry point does not mean all technical expertise must reside in one place.

Criterion 4: Must promote consistency and equity

This criterion mainly applies to the regulator ensuring that the rules that are set can be imposed impartially and consistently across individuals, sectors and geographical regions (unless addressing person/sector/geographic specific issues) and can be enforced such that people in similar situations are treated in a similar way. This criterion also requires that assistance provided by the regulator is even-handed. It will be critical to calibrate the way regulatory controls are applied in order to achieve consistency geographically and across industries.

Criterion 5: Must promote a seamless and coherent regulatory programme

This criterion is aimed at ensuring that the regulator's activities operate seamlessly and smoothly across the legislative framework.

Thus, even after the legislation is harmonised, the regulator must implement a 'seamless' programme with simple, practical and effective interfaces among all sectors across the food chain.

Criterion 6: Should remove unnecessary duplication in roles, responsibilities and activities as far as possible

There should be no duplication across the regulatory function unless there is clearly stated and transparent justification for them. Clear and explicit areas of responsibility are needed to avoid duplication. This does not exclude the regulator having capability at various levels to undertake the same task; nor does it preclude areas of responsibility being carried out by third parties under contracts or memoranda of understanding.

Criterion 7: Must maximise resources available across New Zealand and their effectiveness

Regulatory resources across New Zealand are scarce at all levels. Some areas or regions have only one full-time person or less to undertake food-related activities. Maximising such resources and their effectiveness needs to be considered in light of the balance of criteria for the food regulatory programme and for the roles and responsibilities of the regulator .

Criterion 8: Must provide clear lines of accountability and transparency of operation

Accountability among regulator levels (national government, District Health Boards and local government) is vital to ensuring confidence in the food regulatory programme, delivery of a consistent and coherent programme, and transparency of responsibilities and activities. Accountability must also reach the Minister for Food Safety. Accountability can be effected through contract or legislation.

Criterion 9: Must provide accessibility and geographical spread across New Zealand

Food businesses currently have local access to registration, inspection and information services. Accessibility is an important feature in minimising compliance costs and facilitating domestic trade.

Criterion 10: Must ensure capability and capacity for delivery

The regulator needs to have sufficient capacity and the necessary range of capabilities and competencies in staff to deliver on its responsibilities.

Criterion 11: Must maximise the connections and links among communicable disease and public health activities that Public Health Units are required to deliver

Close relationships and the transfer of key information (communicable disease data or investigation results)

among the regulatory agencies – particularly between Public Health Units and Territorial Authorities – can reduce delay and uncertainty in identifying and responding to food-borne illness.

Criterion 12: Must ensure ease and low cost of implementation and transition to any new regime

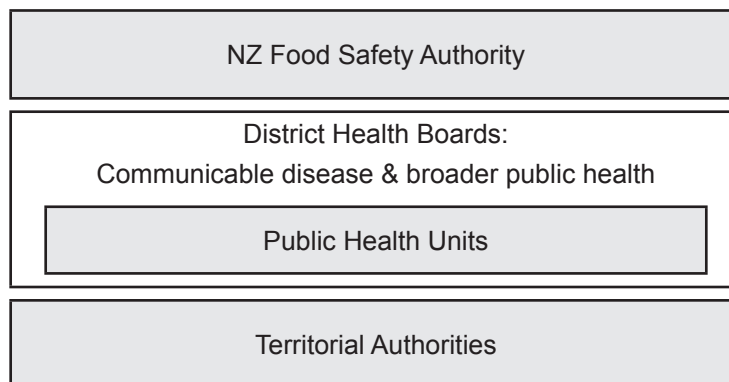
Changes to structural arrangements should achieve maximum benefit at minimum cost.

Options for government regulatory structures and assessment of options

The following options have been developed by NZFSA, Public Health Unit (PHU) and Territorial Authority (TA) representatives including Local Government New Zealand to cover the range of possible future regulatory structures for food in New Zealand. All options are on a ‘without prejudice’ basis, recognising that any decisions relating to changes to roles, responsibilities and structures are subject to extensive consultation with all parties involved.

Possible variations to these options are almost inexhaustible. The options reflect the main themes, and are neither exhaustive nor mutually exclusive. The options make no comment about the prospect of Public Health Units or Territorial Authorities operating as external verifiers. This could be possible so long as conflicts of interest are addressed appropriately. Each option addresses also the key roles and responsibilities: Setting standards and requirements (including development of codes of practice), assessment and registration of risk based management plans, systems audit, registrations and approvals, inspection of businesses, enforcement, food complaints, emergency and recall response, monitoring and surveillance, verification, education and training.

OPTION 1: Status quo



This Option reflects the current arrangements, including current roles and responsibilities. NZFSA contracts Public Health Units to deliver a broad range of food safety and suitability activities; Territorial Authorities undertake inspections for food safety and of premises, funded through local government arrangements. Increased resourcing to support this Option (e.g. through better training, more guidance material etc) would potentially improve the system.

Under this Option, Public Health Units (PHUs) would continue to exist within District Health Boards, and thereby maintain close linkages with communicable disease and public health issues. Public Health Units would work independently from NZFSA, but in liaison with it and retain current roles and responsibilities and would continue to operate largely independently of Territorial Authorities (TAs). The roles and responsibilities identified in Section 5 would be delivered as follows:

Agency	Role and/or Responsibility
NZFSA, TAs	Setting standards and requirements (including development of codes of practice)
NZFSA, PHUs with provision for TAs	Assessment of Food Control Plans
NZFSA	Systems audit
NZFSA for FCPs and TAs for premises registrations	Registrations and approvals
PHUS, TAs	Inspection of businesses
NZFSA, PHUS, TAs	Enforcement
NZFSA, PHUS, TAs	Food complaints
NZFSA, PHUs, TAs	Emergency and recall response
NZFSA, TAs	Monitoring and surveillance
NZFSA VA*, third-party agencies, possibly TAs	Verification
NZFSA, PHUs, TAs	Education
NZFSA, TAs	Training facilitation

* NZFSA Verification Authority – previously MAF Verification Authority

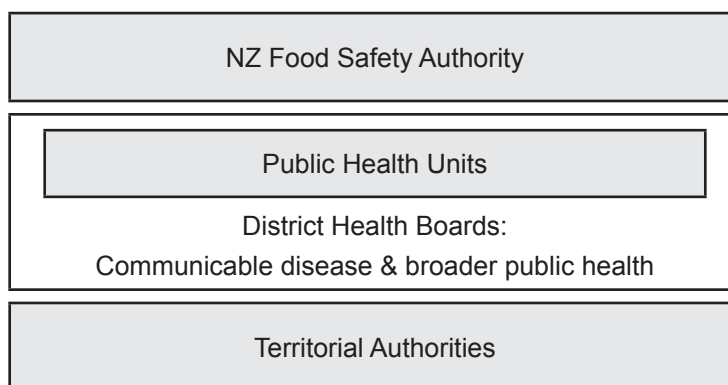
Assuming a less-prescriptive regime generally, more Food Control Plans can be expected across food sectors, and Public Health Units’ limited capacity to deal with this increase (based on current resources) would result in some activities passing to NZFSA or to Territorial Authorities. Territorial Authority food hygiene activity would potentially decrease overtime as more businesses moved from coverage under the Food Hygiene Regulations (historically the responsibility of Territorial Authorities) to Food Control Plans, although some mechanism for sharing or linking activities such as registrations of premises and plans would be needed for consistency.

Assessment of Option 1

Criterion 1: Must deliver on food safety and suitability outcomes	Variable delivery on food safety and suitability
Criterion 2: Must be cost-effective and efficient	Variable cost-effectiveness and continued room for improvement Efficiency also variable, due to different funding policies at territorial level
Criterion 3: Should provide a single entry point for business and consumers as far as possible	Multiple entry points for business; confusing for consumers and somewhat fragmented Some arbitrariness in functional splits
Criterion 4: Must promote consistency and equity	Does not promote consistency, and potentially delivers inequitable treatment across individuals, sectors and regions. Little support provided between regulators, variable priorities and limited arrangements
Criterion 5: Must promote a seamless and coherent regulatory programme	Does not promote a seamless and coherent regulatory programme Functions are split across agencies; agencies and their operations are not generally understood
Criterion 6: Should remove unnecessary duplication in roles, responsibilities and activities as far as possible	Duplication continues (such as in multiple inspections of premises)
Criterion 7: Must maximise resources available across New Zealand and their effectiveness	Effectiveness of resources limited by too few undertaking too many roles Accommodates part-time staff
Criterion 8: Must provide clear lines of accountability and transparency of operation	Does not provide accountability from Public Health Units and Territorial Authorities to Minister for Food Safety External accountability lines are poor
Criterion 9: Must provide accessibility and geographical spread across New Zealand	Good geographical spread
Criterion 10: Must ensure capability and capacity for delivery	Variable capabilities and competencies, and no mechanisms to assure capability and capacity Qualifications are built on general ability across a large number of fields Specialist training limited and no food qualifications are identified Often no value placed on added qualifications
Criterion 11: Must maximise connections and links between communicable disease and public health outcomes public health units are required to deliver	Connections and links good <u>within</u> Public Health Units, but variable <u>between</u> Public Health Units and Territorial Authorities
Criterion 12: Must ensure ease and low cost of implementation and transition to any new regime	No implementation or transition implications

No Health Protection or Environmental Health Officer representatives favoured this status quo option. Lack of direction and support from central government in the past, confusion about roles and responsibilities, and duplication of effort were all seen to contribute to this option not delivering value for individuals, agencies or New Zealand. The benefits of imposing no implementation costs are generally outweighed by the other disadvantages.

OPTION 2: NZFSA and Public Health Units align on compliance, investigation, calibration, systems audit and complex Food Control Plan assessments and approvals; Territorial Authorities operate as entry points



This option is not structurally different from Option 1. Public Health Units would continue to exist within District Health Boards, and thereby maintain close linkages with communicable disease and public health issues. However, under this option, the roles and responsibilities change.

Public Health Units would work very closely with NZFSA and operate primarily with the NZFSA Compliance and Investigation Group. In this role they would undertake audit, calibration and investigative activities horizontally across the regulatory programme and vertically within sectors of the programme. In addition, Public Health Units could work with NZFSA in the standards setting area on, for example, Codes of Practice. This would continue to operate under a contractual arrangement. NZFSA would be responsible for assessing and approving more complex or national Food Control Plans for registration.

An explicit classification of businesses would identify which application processing was done by the Territorial Authority, and which was passed to Public Health Units or NZFSA. Linkages between Territorial Authorities, Public Health Units and NZFSA would be closer and more regularised.

Capability would need to be enhanced under Option 2 for Public Health Units and Territorial Authorities.

The roles and responsibilities identified in Section 5 would be delivered as follows:

Agency	Role and/or Responsibility
NZFSA and PHUS	Setting standards and requirements (including development of codes of practice)
TAs, with NZFSA undertaking complex/ national assessments	Assessment of Food Control Plans
NZFSA and PHUs	Systems audit
NZFSA and TAs	Registrations and approvals
TAs	Inspection of businesses
NZFSA, PHUs, TAs	Enforcement
NZFSA, PHUs, TAs	Food complaints
NZFSA, PHUs, TAs	Emergency and recall response
NZFSA and PHUs	Monitoring and surveillance
NZFSA VA, third-party agencies, possibly TAs	Verification
NZFSA, PHUs	Education
NZFSA, PHUs	Training facilitation

Public Health Units would become directly responsible, along with the Compliance and Investigation Group, for systems audit – acting as authoritative sources of information on the legislative framework. Territorial

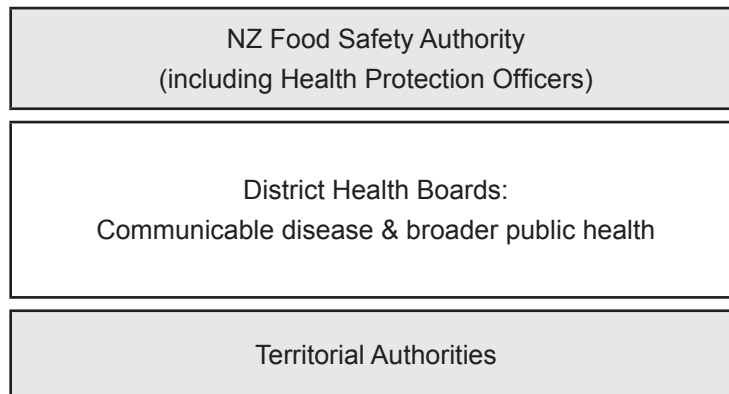
Authorities would register and approve Food Control Plans commensurate with their capability to do so. Inspection of businesses would reside with Territorial Authorities, to the extent that this function continues.

Assessment of Option 2

Criterion 1: Must deliver on food safety and suitability outcomes	Potentially good delivery on food safety and suitability
Criterion 2: Must be cost-effective and efficient	Some elements of cost effectiveness and potentially efficiency
Criterion 3: Should provide a single entry point for business and consumers as far as possible	Can provide for a single point of access although confusion for consumers with queries or complaints still a possibility.
Criterion 4: Must promote consistency and equity	Consistency and equitable treatment delivered through calibration and audit activities and through the guidance material and support.
Criterion 5: Must promote a seamless and coherent regulatory programme	A seamless regulatory programme would be apparent to businesses and investigation trails may be shortened.
Criterion 6: Should remove unnecessary duplication in roles, responsibilities and activities as far as possible	Potential for duplication, depending on clarity of roles.
Criterion 7: Must maximise resources available across New Zealand and their effectiveness	Maximises resources. Accommodates situations where part-time staff can operate. Clarity in roles maximises effectiveness.
Criterion 8: Must provide clear lines of accountability and transparency of operation	Potential for clear lines of accountability, although risks of 'passing everything up the line' or doing tasks beyond capability (accreditation might overcome this). Potential for some double-handling and conflicts of interest.
Criterion 9: Must provide accessibility and geographical spread across New Zealand	Good geographical spread.
Criterion 10: Must ensure capability and capacity for delivery	Significant capacity-building and capability/ competency development required (with consequent costs).
Criterion 11: Must maximise connections and links between communicable disease and public health outcomes public health units are required to deliver	Connections and links good <u>within</u> Public Health Units, but variable <u>between</u> Public Health Units and Territorial Authorities.
Criterion 12: Must ensure ease and low cost of implementation and transition to any new regime	Minimal implementation and transition implications.

Some Health Protection and Environmental Health Officers consider this the best option because it maximises the resources currently available which, with clarity around roles and responsibilities and strong central government support and commitment, could deliver gains in most areas. Some potential for confusion remains with three agencies still involved, but a 'common look' for food regulators could reduce confusion. Geographical spread is maintained, while costs to implement and ongoing costs to business are minimal.

OPTION 3: Health Protection Officers join NZFSA, which operates a regional office network; entry point for businesses is through Territorial Authorities



Under this option, Health Protection Officers working fully on food matters would move from Public Health Units and become employees of NZFSA. Linkages with communicable disease and public health issues would be at arm's length. A small increase in the number of staff at central government level would therefore occur (likely to be around 16 extra full-time equivalent staff).

Some Health Protection Officers would likely join the NZFSA Compliance and Investigation Group. There may be a need for regional offices when operating remotely from the central agency although that is not currently required for the regional spread of members of the Compliance and Investigation Group. Investigation, response and complaints would continue to be handled by the Compliance Group. Other Health Protection Officers could work fulltime on the pre-assessment and approval for registration of more complex Food Control Plans, and participate more actively in standards-setting activities.

Territorial Authority registration activity would increase over time as both premises and plan registrations were undertaken, although some mechanism for sharing the activities between NZFSA and Territorial Authorities would need to be developed to ensure registrations were commensurate with regulator capability. As with Option 2, Territorial Authorities would take a broader role with the food businesses in their jurisdictions by being the entry point for all food applications, approvals and registrations. Businesses and their operators would be classified in order to clarify which processing takes place at the Territorial Authority level and which is passed to NZFSA. Inspection of businesses would reside with Territorial Authorities, to the extent that this function continues.

Capability would need to be enhanced under Option 3 for some Health Protection Officers and for Environmental Health Officers in Territorial Authorities.

The roles and responsibilities identified in Section 5 would be delivered as follows:

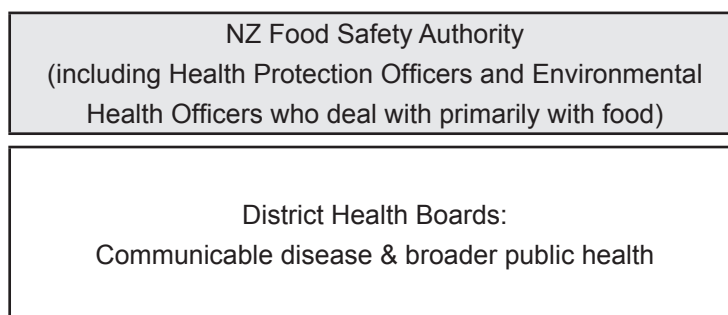
Agency	Role and/or Responsibility
NZFSA	Setting standards and requirements (including development of codes of practice)
TAs, with NZFSA undertaking complex/national assessments	Assessment of Food Control Plans
NZFSA	Systems audit
NZFSA and TAs	Registrations and approvals
TAs	Inspection of businesses
NZFSA, TAs	Enforcement
NZFSA, TAs	Food complaints
NZFSA, TAs	Emergency and recall response
NZFSA	Monitoring and surveillance
NZFSA VA, third-party agencies, possibly TAs	Verification
NZFSA, TAs	Education
NZFSA	Training facilitation

Assessment of Option 3

Criterion 1: Must deliver on food safety and suitability outcomes	Potentially good delivery on food safety and suitability
Criterion 2: Must be cost-effective and efficient	Some elements of cost-effectiveness and potential efficiency after set-up May leave costly resource (persons and financial) gaps, depending on structure
Criterion 3: Should provide a single entry point for business and consumers as far as possible	Limited confusion about entry point and access Potentially provides for one-stop shop Regional coverage reduced Potential for better branding
Criterion 4: Must promote consistency and equity	Consistency and equitable treatment delivered through calibration and audit activities Centralisation gives increased uniformity for health protection officers, but service delivery at Territorial Authority level unchanged
Criterion 5: Must promote a seamless and coherent regulatory programme	Fewer 'seams' likely as Health Protection Officers centralised with NZFSA
Criterion 6: Should remove unnecessary duplication in roles, responsibilities and activities as far as possible	Reduced risk of duplication, depending on clarity of roles
Criterion 7: Must maximise resources available across New Zealand and their effectiveness	Access to resources reduced through smaller pool of available people (only persons working full time on food are added to NZFSA) Potentially allows limited specialisation; simpler contract administration for NZFSA
Criterion 8: Must provide clear lines of accountability and transparency of operation	Clearer lines of accountability and transparency of operation through elimination of the need for accountability links to DHBs
Criterion 9: Must provide accessibility and geographical spread across New Zealand	Geographical spread at entry point maintained through Territorial Authorities, but coverage through District Health Boards is lost
Criterion 10: Must ensure capability and capacity for delivery	Capacity-building and capability/competency development required Loss of public health capacity and capability skills Existing NZFSA and Territorial Authority capacity and capability (staff and infrastructure) potentially insufficient
Criterion 11: Must maximise connections and links between communicable disease and public health outcomes public health units are required to deliver	Connections and links reduced, and creates some cross-boundary problems
Criterion 12: Must ensure ease and low cost of implementation and transition to any new regime	Complex implementation and transition

This option is seen as having the potential to reduce duplication, promote better branding for food regulatory activity, and promote consistency. The maintenance of geographical spread could be considered as offsetting regulatory costs to business. The loss of connectivity with communicable disease and public health outcomes is problematic, as are the costs to implement this option.

OPTION 4: Environmental Health Officers and Health Protection Officers join NZFSA which operates a regional network. Entry point for business at NZFSA regional office.



Under this option, Health Protection Officers from Public Health Units and Environmental Health Officers from Territorial Authorities would all become direct employees of NZFSA. Linkages with District Health Boards on communicable disease and public health issues, and with Territorial Authorities, would be at arm's length.

All Food Control Plan pre-assessment, approval and registration would be undertaken by NZFSA, potentially through a network of regional offices. Geographical access would be severely affected, as it is unlikely that NZFSA would duplicate the existing 'network' of offices currently operated by Territorial Authorities. Since many Health Protection and Environmental Health Officers undertake both food related and non-food related activities (such as health promotion activities at the District Health Board level and dog licensing at the Territorial Authority level) not all would transfer to NZFSA. With effectively reduced human resources, NZFSA would need to develop mechanisms to deploy those scarce resources to respond, for example, to emergencies and to complaints. Inspection activities would be limited to match dedicated resources available.

There would potentially be a comparable 'cost' to Public Health Units and Territorial Authorities through loss of human resource and potentially loss of a skills in a variety of other areas.

All the roles and responsibilities identified in Section 5 would be undertaken or facilitated by NZFSA.

The roles and responsibilities identified in Section 5 would be delivered as follows:

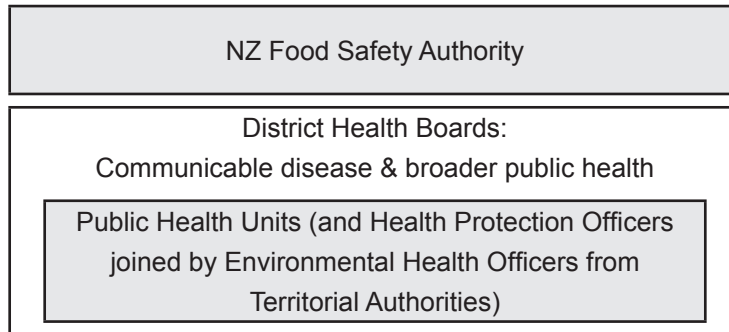
Agency	Role and/or Responsibility
NZFSA	Setting standards and requirements (including development of codes of practice)
NZFSA	Assessment of Food Control Plans
NZFSA	Systems audit
NZFSA	Registrations and approvals
NZFSA	Inspection of businesses
NZFSA	Enforcement
NZFSA	Food complaints
NZFSA	Emergency and recall response
NZFSA	Monitoring and surveillance
NZFSA VA, third-party agencies	Verification
NZFSA	Education
NZFSA	Training facilitation

Assessment of Option 4

Criterion 1: Must deliver on food safety and suitability outcomes	Potentially good delivery on food safety and suitability, but considerable risk arises from reduced coverage
Criterion 2: Must be cost-effective and efficient	Some elements of cost-effectiveness through collocation of persons dealing primarily with food matters centrally, but difficulty in achieving efficiency with a reduced number of people to call on or to deploy
Criterion 3: Should provide a single entry point for business and consumers as far as possible	No confusion about entry points and access Potentially provides for one-stop food shop dependent on total resources (human and financial) available Potential for clear branding
Criterion 4: Must promote consistency and equity	Consistency and equity delivered through calibration and audit activities within a single agency
Criterion 5: Must promote a seamless and coherent regulatory programme	Seamless regulatory programme possible: investigation trails shortened for the regulator, but timeliness of response depends on extent of regional presence i
Criterion 6: Should remove unnecessary duplication in roles, responsibilities and activities as far as possible	Duplication removed
Criterion 7: Must maximise resources available across New Zealand and their effectiveness	Some increase in capacity at central government level with Health Protection and Environmental Health Officers joining NZFSA Expertise in a single agency Overall loss of capacity through smaller pool of staff and loss of public health and territorial authority skills Potentially allows for specialisation and better career options for food regulators
Criterion 8: Must provide clear lines of accountability and transparency of operation	Clear lines of accountability and transparency of operation No external contracting for NZFSA
Criterion 9: Must provide accessibility and geographical spread across New Zealand	Geographical spread for entry points lost or significantly reduced Isolation from local developments and activities and impacts on food systems
Criterion 10: Must ensure capability and capacity for delivery	Extensive capacity-building and capability/competency development required
Criterion 11: Must maximise connections and links between communicable disease and public health outcomes public health units are required to deliver	Connections and links lost
Criterion 12: Must ensure ease and low cost of implementation and transition to any new regime	Highly complex and costly implementation and transition

Some Health Protection and Environmental Health Officers consider this the best option for food safety and suitability delivery because it removes any duplication, delivers a single brand for food regulatory activity, and ensures consistency. However, it is problematic in relation to maintaining human resources at the Public Health Unit and Territorial Authority level for carrying out the range of 'non-food' related activities of Health Protection and Environmental Health Officers. Further, the reduction in geographical spread, the cost to implement and on-going operational costs are significant, and all these factors may outweigh the benefits of this Option.

OPTION 5: NZFSA separate, Environmental Health Officers join Public Health Units, entry point for business is via Public Health Units



Under this option, Environmental Health Officers dealing with food would move from the Territorial Authorities and join expanded Public Health Units within District Health Boards. The expanded Public Health Units would be the entry point for businesses, and would be audited and calibrated by NZFSA.

Public Health Units would continue to exist within District Health Boards and thereby maintain close linkages between food issues and communicable disease and public health issues. Public Health Units would work independently from NZFSA, but in liaison with NZFSA and within a contractual arrangement. Geographical spread would be severely affected, with limited entry points available for local food businesses because of more limited geographical spread of Public Health Boards and the more urban rather than rural spread. Connections to local developments and activities would be severely curtailed.

The roles and responsibilities identified in Section 5 would be delivered as follows:

Agency	Role and/or Responsibility
NZFSA	Setting standards and requirements (including development of codes of practice)
PHUs with NZFSA undertaking the most complex assessments	Assessment of Food Control Plans
NZFSA	Systems audit
NZFSA and PHUs	Registrations and approvals
PHUs	Inspection of businesses
NZFSA, PHUs	Enforcement
NZFSA, PHUs	Food complaints
NZFSA, PHUs	Emergency and recall response
NZFSA and PHUs	Monitoring and surveillance
NZFSA VA, third-party agencies, possibly PHUs	Verification
NZFSA, PHUs	Education
NZFSA, PHUs	Training facilitation

Assessment of Option 5

Criterion 1: Must deliver on food safety and suitability outcomes	Potentially good delivery on food safety and suitability
Criterion 2: Must be cost-effective and efficient	Some elements of cost effectiveness and potential efficiency after set up but costly to effect Number of officers collocated in Public Health Units may be far less than the number of persons currently undertaking, as part of their duties, food related activities; costly human resource gaps Acceptance of shifting local government responsibilities to District Health Boards may be difficult
Criterion 3: Should provide a single entry point of contact for business and consumers as far as possible	Reduced confusion about entry points and access (through reduced numbers of entry points) Provides for more focus at the District Health Board, but much reduced number of entry points Responsiveness reduced due to remoteness from businesses and local developments and activities Potential for better branding
Criterion 4: Must promote consistency and equity	Consistency and equity delivered through calibration and audit activities
Criterion 5: Must promote a seamless and coherent regulatory programme	Seamless regulatory programme possible
Criterion 6: Should remove unnecessary duplication in roles, responsibilities and activities as far as possible	Reduced risk of duplication, depending on clarity of roles
Criterion 7: Must maximise resources available across New Zealand and their effectiveness	Resources reduced through smaller pool of staff Limited change at District Health Board level Allows limited specialisation
Criterion 8: Must provide clear lines of accountability and transparency of operation	Clearer lines of accountability and transparency of operation
Criterion 9: Must provide accessibility and geographical spread across New Zealand	Geographical spread at entry points greatly reduced Isolation from local developments and activities
Criterion 10: Must ensure capability and capacity for delivery	Some capacity building and capability/ competency development required
Criterion 11: Must maximise connections and links between communicable disease and public health outcomes public health units are required to deliver	Connections and links maintained
Criterion 12: Must ensure ease and low cost of implementation and transition to any new regime	Highly complex and costly implementation and transition

Some Health Protection and Environmental Health Officers consider this the best option because it reduces duplication, promotes better branding for food regulatory activity, and promotes consistency. The reduction in geographical spread, the cost to implement and ongoing operational costs, and acceptance of changes in local government / District Health Board responsibilities are all potentially problematic.

OPTION 6: NZFSA remains separate, Health Protection Officers join Territorial Authorities, entry point for business is at the Territorial Authority level



Under this option, Health Protection Officers would move from Public Health Units and become employees of Territorial Authorities.

Territorial Authorities would work independently from but in liaison with NZFSA. Geographical spread would be slightly reduced (District Health Boards currently provide 29 entry points) but food related capability within District Health Boards would be lost or severely affected with the transfer of Health Protection Officers who work on food from Public Health Units to Territorial Authorities. Linkages with communicable disease and public health activities would be lost or severely reduced. Connections to local developments and activities would be preserved.

Territorial Authority registration activity would increase over time, and Territorial Authorities would take a broader role for food businesses by being the entry point for all food applications, approvals and registrations within their areas. Clear guidance would be needed on which Food Control Plans would be passed to NZFSA. Capability to deal more broadly with food safety and suitability issues at the local government level would need to be enhanced under this option.

The roles and responsibilities identified in Section 5 would be delivered as follows:

Agency	Role and/or Responsibility
NZFSA	Setting standards and requirements (including development of codes of practice)
TAs, with NZFSA undertaking complex/national assessments	Assessment of Food Control Plans
NZFSA	Systems audit
NZFSA, TAs	Registrations and approvals
TAs	Inspection of businesses
NZFSA, TAs	Enforcement
NZFSA, TAs	Food complaints
NZFSA, TAs	Emergency and recall response
NZFSA, TAs	Monitoring and surveillance
NZFSA VA, third-party agencies, possibly TAs	Verification
NZFSA, TAs	Education
NZFSA	Training facilitation

Assessment of Option 6

Criterion 1: Must deliver on food safety and suitability outcomes	Potentially good delivery on food safety and suitability
Criterion 2: Must be cost-effective and efficient	Some elements of effectiveness and potential efficiency after set-up, but costly to set up Number of officers collocated in Territorial Authorities may be far less than the number of persons currently undertaking food-related activities as part of their duties; costly human resource gaps both at local government and central government levels Acceptance of shifting District Health Board responsibilities and resources to local governments may be difficult
Criterion 3: Should provide a single entry point for business and consumers as far as possible	Reduced confusion about entry points and access (through reduced numbers of entry points) Provides for more focus at the Territorial Authority level, but some reduction in number of entry points Potential for better branding
Criterion 4: Must promote consistency and equity	Consistency and equity delivered through calibration and audit activities
Criterion 5: Must promote a seamless and coherent regulatory programme	Seamless regulatory programme possible
Criterion 6: Should remove unnecessary duplication in roles, responsibilities and activities as far as possible	Reduced risk of duplication dependent on clarity of roles
Criterion 7: Must maximise resources available across New Zealand and their effectiveness	Resources reduced through smaller pool of staff Limited change in capacity at local government level (likely to be around 10 extra FTEs). Allows limited specialisation
Criterion 8: Must provide clear lines of accountability and transparency of operation	Clearer lines of accountability and transparency of operation
Criterion 9: Must provide accessibility and geographical spread across New Zealand	Some geographical spread at entry point lost
Criterion 10: Must ensure competencies and capacity for delivery	Some capacity building and capability/ competency development required
Criterion 11: Must maximise connections and links between communicable disease and public health outcomes public health units are required to deliver	Connections and links to communicable disease and broader public health issues lost
Criterion 12: Must ensure ease and low cost of implementation and transition to any new regime	Complex implementation and transition

As for Option 5, and for similar reasons, some Health Protection and Environmental Health Officers favour this option: it reduces duplication, promotes better branding for food regulatory activity, and promotes consistency. The geographical spread of entry points for business is reduced only slightly, but the loss of connectivity to communicable disease and public health activities is seen as problematic. As for Option 5, the cost of implement is also seen as problematic as is the acceptability of changing responsibilities at the local government / District Health Board level.

CONCLUDING COMMENTS

The relationships among food-borne illness, responses to food emergencies and co-ordinating food recalls, and the communicable disease duties of Public Health Units are complex. A number of options have emerged to maintain communicable disease linkages relevant to food regulators through maintaining Public Health Units within the overall structure of food regulators in New Zealand

The above options do not preclude contracting-out responsibilities between and across Public Health Units and Territorial Authorities. While contracting might reduce the number of agencies NZFSA deals with directly, it has the downside of lengthening the accountability chain and potentially reducing geographical spread.

The above options could also accommodate some persons or groups within Territorial Authorities moving into verification rather than remaining regulators.

Some consider that the objective of single entry points for food related matters for businesses might not be reasonable, since building consents, building inspections, planners, engineers and so on are likely to be in different parts of a Territorial Authority and possibly in different buildings. Nonetheless, it seems reasonable to expect Territorial Authorities to provide single-point information enquiries for all of these areas. Indeed, such arrangements are part of the philosophy promoted under the Local Government Act 2002.

There is some support for NZFSA to become an identity at the regional and local level. It would be expensive to create NZFSA infrastructure to deliver a reasonable level of service around the country. Nonetheless, there are opportunities for NZFSA to achieve a higher profile and a better brand image at all levels and further consideration should be given to this.

It has been suggested that a primary consideration should be maintaining the capacity and capability of Health Protection and Environmental Health Officers at the service-delivery level. For example, if Public Health Units are retained as service-delivery agencies, then the Health Protection Officer workforce is available to respond to emergencies and periods of high demand.

Bringing Health Protection and Environmental Health Officers together might be seen as a further enhancement of the capacity and capability of this specialised workforce by ensuring greater opportunity for shared information and experience. However, because many of these staff also deliver non-food services and will not necessarily move, the overall number of people available to respond to food issues would likely be reduced.

If such staff were located together in Public Health Units, they would be isolated from local developments and activities. This would also come at the cost of the geographical access and local business knowledge that arises in the Territorial Authority environment. While it has been suggested that some Territorial Authorities might not be interested in taking on any further food-related service-delivery responsibilities, contracting services appear to provide alternatives in such situations. Contracting might also offer the opportunity for specialisation, capacity building and structured reporting to develop locally.

