

## **Annex A**

### **Request**

In 2020 how many DNA tests were conducted on food products for fish and meat species identification? How many of these came back with unsatisfactory results?

Please give details of these unsatisfactory results including product/brand/manufacturer of the product, the species it was supposed to be and the quantity and species of the detected fish/meat or other foodstuff.

### **Response**

The FSA is only able to provide a partial response to your request as it does not hold all of the relevant information needed to fully determine how many DNA tests were conducted for fish and meat species identification in 2020.

To put this partial information into context, please note the following points.

- Food Standards Scotland (FSS) is responsible for food safety in Scotland so you would have to request any data on local authority sampling in Scotland from [FSS](#).
- Day to day responsibility for enforcement of food standards law in food businesses, including the taking of samples, rests with local authorities across England, Wales and Northern Ireland.
- Food sampling is only one of a number of different approaches that local authorities take to assess compliance with food law - other approaches include, for example, checking traceability and inspecting food during inspections.
- Local authorities conduct the sampling, arrange for relevant testing and carry out enforcement activity where required.
- The number of samples taken will depend on a range of factors including the number and types of businesses, the results of past inspections and other types of intervention.
- Sampling is not conducted on a random or representative basis but, rather, is used as part of a targeted approach.
- The FSA collects sampling data on an annual basis through its Local Authority Enforcement Monitoring System (LAEMS) but this only provides information on the total number of samples local authorities take during the preceding financial year and does not provide details of what particular testing was undertaken or the results of that testing.
- Some but not all local authorities report sampling results using the FSA's United Kingdom Food Surveillance System (UKFSS) - use of the system is voluntary.

## Local authority data reported on UKFSS relevant to your request

The data that we are able to provide is derived from sample information recorded on the UKFSS.

Please note the following additional points in relation to this data.

- Some local authority data for 2020 may not, as yet, have been processed and reported through UKFSS and some samples were taken in 2019 but were analysed or the results reported in 2020.
- The data has not been verified with the reporting authorities to ensure its accuracy.
- Trace levels of unspecified meat or DNA at values of less than 1% are regarded as cross contamination – this is generally due to inadequate cleaning of processing lines - rather than deliberate inclusion.
- It is possible that levels of unspecified meat or DNA above 1% may also be due to cross contamination (due to inadequate cleaning) rather than deliberate inclusion.

The total number of samples within the scope of your request recorded on UKFSS was 204.

A total of 37 samples were unsatisfactory in relation to speciation. Details of these samples are provided at Annex C.

The exempt information has been redacted and marked with the relevant section of the Act.

The species it was claimed to be, and the quantity and species of detected fish and meat is detailed in the analysts' comments with varying degrees of detail.

Some of the analysts' comments within column E of Annex C that are not in scope of the request have been removed and replaced with *'[information not in scope]'*.

## FSA sampling

To ensure continued surveillance and intelligence of the food system during the Covid-19 pandemic, the FSA initiated a 6-month targeted surveillance sampling programme that commenced in July 2020. The programme includes speciation testing of 300 meat samples, as well as 100 fish samples. The FSA will shortly be publishing this data, as open data which will be available to view on: [www.food.gov.uk/search/research-evidence](http://www.food.gov.uk/search/research-evidence)

As the publication date for this data is within the next three months, we are withholding this information under section 22 of the Act.

## **Annex B**

### **Section 22 (intended for future publication)**

The FSA holds some of the information in scope of your request relating to COVID-19 sampling data, however we are withholding the information in full as we consider it to be exempt under section 22 of the Act.

The public interest in permitting public authorities to publish information in a manner and form and at a time of their own choosing is important. It is a part of the effective conduct of public affairs that the general publication of information is a conveniently planned and managed activity within the reasonable control of public authorities.

As there is a commitment to publish, we are reasonably entitled to make our own arrangements to do so.

Overall, we consider the balance is in favour of withholding this information at this point in time.

### **Section 31 (law enforcement)**

*(1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under the Act would, or would be likely to, prejudice—*

*(g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2)*

*(2) The purposes referred to in subsection (1)(g) to (i) are —*

*(c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise.*

In this case the information relates to investigations being carried out by the local authority in which the food business operators are located which may lead to prosecution.

Section 31 is a qualified exemption and therefore we have conducted a public interest test to decide whether the balance of the public interest weighs more heavily in favour of disclosing or withholding the information.

We recognise that there is a public interest in accountable, open and transparent regulation and that there is a consumer interest in seeing that products are what they say they are.

However, prejudicing or impeding investigations which may lead the local authority to initiate criminal proceedings runs counter to these aims.

With the public interest arguments considered, we are in favour of withholding the information to protect the integrity of future prosecutions and to allow the local authority to conduct their statutory functions effectively.

## Section 43 (commercial interest)

Information is being withheld under section 43(2) (commercial interests). This is information which if disclosed would be likely to prejudice the commercial interests of companies.

In this case release of the information could damage the commercial interests of the business concerned.

This is a qualified exemption under the Act which means that consideration must also be given to whether in all the circumstances of the case the public interest favouring disclosure is greater than the public interest in maintaining the exemption. We have considered whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Whilst there is a general public interest in increasing transparency and openness, there is also a need to protect the legitimate commercial interests of companies.

If food producers believe that information, they provide to the Agency will be disclosed, they might be reluctant to provide the Agency with all the information it requires to carry out its statutory functions.

This could be damaging to the Agency's objective of protecting public health in relation to food.

We believe, therefore, that the balance of the public interest favours withholding the information.