

Annex C - Material re. 15 January 2018 meeting

Communication 1 – For release

From: Owen Paterson **[Section 40]**

Sent: 08 January 2018 16:35

To: heather.hancock@foodstandards.gsi.gov.uk; Denis Lynn <Denis@finnebrogue.com>; Declan Ferguson <declan.ferguson@finnebrogue.com>; Professor Chris Elliott <chris.elliott@qub.ac.uk>;

[Section 40] Guyver <guyvera@parliament.uk>

Subject: Finnebrogue Nitrite Free Bacon

Many thanks for your time on the phone just now. We agreed that we need to meet urgently with you and your technical team to discuss the FSA's interpretation of 'Nitrite Free' following Chris Elliott's letter to me dated 3.1.18 (forwarded to **[Section 40]** by **[Section 40]** Guyver this morning) in response to Carles Orri's letter to Denis Lynn dated 24 November 17. This is even more urgent now that you have received an RASFF notification from Ireland and France about the Prosur product. This seems extraordinary as products using these Prosur natural ingredients have been approved and sold in France for over a year. Having invested £14m in a new plant and having taken on 100 new employees, Denis is extremely concerned about what looks to be a concerted attack on his Nitrite Free product (which could reduce the 6500 annual deaths from colorectal cancer) by producers of processed meats which contain nitrites but who are deliberately and misleadingly selling them to the public as nitrite free. We have an opportunity to establish a new UK bacon product which is undoubtedly safer than other alternatives, boosting the international reputation of U.K. foods. Chris Elliott should certainly attend the meeting and it would be good to get a representative from Prosur with technical data. My office will contact **[Section 40]** to set this up as rapidly as possible. Many thanks again. Best wishes. Owen.

Communication 2 – For release (minus four attachments that do not fall within scope)

From: Carles Orri <Carles.Orri@food.gov.uk>

Sent: 10 January 2018 10:03

To: **[Section 40]** Mark Willis <Mark.Willis@food.gov.uk>

Subject: Meeting with Owen Patterson on 15 January - Finnebrogue bacon

Mark

We spoke. Please find attached the exchanges with our NI colleagues about Finnebrogue's bacon. You'll find the letter sent to the FBO in November in the last attachment ('RE: Query [from Declan...'] as an attachment to the attachment.

[Section 40] – I have just found out that there will be a meeting with Owen Patterson on Monday to discuss this case. Michael and Mark (thanks, Mark, again for covering for me!) will attend. It would be good if you can also attend. There might be a pre-meeting on Thursday which I would like you to attend (with me) as well – I will

confirm details when I find out. Last, apart from what is in the attached emails, have you received any further information about this case? If so, could you please share it with Mark (and myself)?

Many thanks,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | 125 Kingsway | London WC2B 6NH | +44 20 7276 8406 | carles.orri@food.gov.uk
(please note email address has changed)

Communication 3 – For release

From: GUYVER, [Section 40] [<mailto:guyvera@parliament.uk>]

Sent: 10 January 2018 14:22

To: Self, David <david.self@food.gov.uk>

Cc: declan.ferguson@finnebrogue.com

Subject: Re Mtg 15th January - Owen Paterson

Dear David

Thank you for confirming who will be attending the meeting on Monday 15th January at 17.45 in Mr Paterson's office at 1 Parliament Street. Mr Paterson has asked if it is possible for Mr Carles Orri at the FSA to also attend as he was the person who wrote the letter after the previous meeting.

I have copied in Declan Ferguson from Finnebrogue so that you can be in direct contact regarding information that will be needed for the meeting.

To confirm, the following will be attending:

FSA

Professor Guy Poppy – Chief Scientific Advisor

Michael White – Head of Science

Mark Willis – Additives expert

Plus one for note taking

Owen Paterson

Denis Lynn – CEO Finnebrogue

Declan Ferguson - Finnebrogue

Juan De Dios Hernandez – CEO Prosur

Professor Chris Elliott – Queen's University Belfast

On arrival at the 1 Parliament Street entrance, guests should make themselves known at the airport-style security and either myself or my colleague [Section 40] will come down to meet you. I have attached a map of the Parliamentary estate for ease of reference.

If there is anything further I can do to help, please do not hesitate to get back to me.

Kind regards

[Section 40]



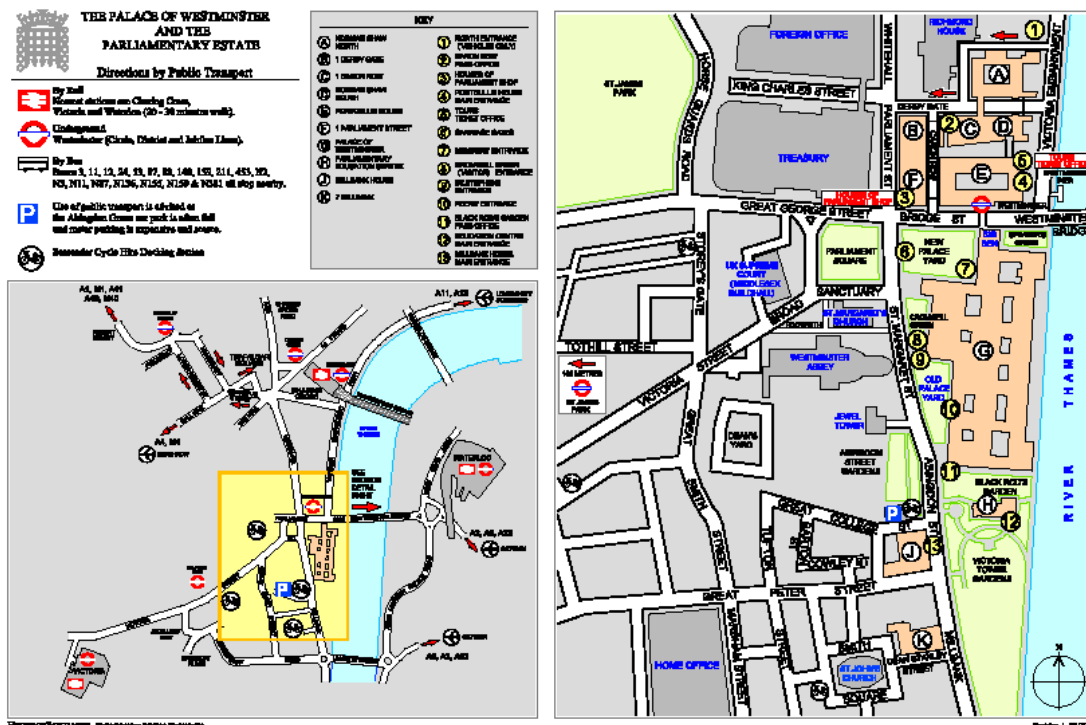
[Section 40] **Guyver**

Office Manager to the Rt Hon Owen Paterson MP
Member of Parliament for North Shropshire
House of Commons, London SW1A 0AA
Tel 020 7219 5186

UK Parliament Disclaimer: This e-mail is confidential to the intended recipient. If you have received it in error, please notify the sender and delete it from your system. Any unauthorised use, disclosure, or copying is not permitted. This e-mail has been checked for viruses, but no liability is accepted for any damage caused by any virus transmitted by this e-mail. This e-mail address is not secure, is not encrypted and should not be used for sensitive data.

This email was received from the INTERNET and scanned by the Government Secure Intranet anti-virus service supplied by Cable&Wireless Worldwide in partnership with MessageLabs. (CTM Certificate Number 2009/09/0052.) In case of problems, please call your organisation's IT Helpdesk. Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

ATTACHMENT



Communication 4 – For release

From: Declan Ferguson <declan.ferguson@finnebrogue.com>

Sent: 10 January 2018 15:05:57

To: Hancock, Heather

Cc: Owen Paterson; Denis Lynn; Professor Chris Elliott; **[Section 40]** Guyver; Self, David

Subject: RE: Finnebrogue Nitrite Free Bacon

Hello Heather,

Thanks for facilitating the meeting next Monday.

Who would be best to liaise with on the information you will want to run through during the meeting? We want to ensure we satisfy your expectations and that we can be prepared for your queries and provide you with the required level of detail during the meeting.

We are obviously also very concerned about the possible existence of a RASFF notification.

Can you confirm the info below or let me know who I need to contact in order to get more information on this?

1. Has the FSA received a notification under the RASFF system in relation (either directly or indirectly) to any 'Finnebrogue' produced food products?
2. If the answer to (1) is yes, then please can you confirm whether the notification under the RASFF system concerns a 'Prosur' flavouring product?
3. Please can you provide a copy of the RASFF notification to us as a matter of extreme urgency?
4. Please confirm the date the notification was first received by FSA?

Many Thanks

Declan

Declan Ferguson

Technical Director

Mobile: **[Section 40]**

Landline: **[Section 40]**

Communication 5 – For release

From: Hancock, Heather <heather.hancock@food.gov.uk>

Date: 10 January 2018 at 15:11:15 GMT

Subject: Fw: Finnebrogue Nitrite Free Bacon

To: Self, David <david.self@food.gov.uk>

Can you get the right people onto this and let me know who is going to reply? Then I will go back saying who is coming back to him. Heather

Communication 6 – For release minus attachment as it is outside scope

From: David Self <david.self@food.gov.uk>

Sent: 10 January 2018 15:51

To: Michael Wight <Michael.Wight@food.gov.uk>; Mark Willis <Mark.Willis@food.gov.uk>; Guy Poppy <Guy.Poppy@food.gov.uk>

cc: **[Section 40]** Eden, Laura <laura.eden@food.gov.uk>; **[Section 40]**

Subject: Finnebrogue

Dear all,

Thanks for agreeing at such short notice to attend the meeting with Owen Patterson, Finnebrogue, Prosur and Chris Elliot on Monday afternoon. When I spoke to you all yesterday (other than **[Section 40]**, who is aware of the issues and Laura and **[Section 40]**, who I will brief tomorrow morning), I promised that I would send through relevant correspondence. Please find attached Carles Orri's letter to Owen Patterson setting out the FSA's position on additives (in relation to Finnebrogue's complaint against **[Section 31]** - this will be forwarded to you in the next email as IT have broken my iPad **[Section 43]**, as well as Chris Elliot's response to Carles' letter.

I will provide further context at the pre-meeting tomorrow, which I hope you have now all been invited to by **[Section 40]**, Heather's new Diary Secretary.

The one person I have not been able to contact directly regarding this meeting has been Andy Morling. But my feeling that with Michael, Guy and Mark, we are more than likely properly covered.

And finally, in rushing around trying to organise the meeting last night, **[Section 40]** and won't be able to attend. **[Section 40]** or Laura will therefore kindly be stepping in to provide a note of the meeting.

Thanks,

David

Dr David Self

Private Secretary to the Chair and Deputy Chair

0207 276 8278 / 07967 826884

david.self@food.gov.uk

Communication 7 - For release (minus an attachment that does not fall within scope)

From: Self, David

Sent: 10 January 2018 15:59

To: Willis, Mark <Mark.Willis@food.gov.uk>; Wight, Michael <Michael.Wight@food.gov.uk>;
[Section 40] Eden, Laura <laura.eden@food.gov.uk>; Poppy, Guy <Guy.Poppy@food.gov.uk>
Subject: Fwd: Fw: Finnebrogue Nitrite Free Bacon

Dear all,

And as a further addition, please see below correspondence **[this is Communication 4]** Heather has received from Finnebrogue in relation to the upcoming meeting. I would be grateful for suggestions as to who is best placed to reply to this. I suggest we respond to his queries following the pre-meet.

Thanks,

David

Dr David Self
Private Secretary to the Chair and Deputy Chair
0207 276 8278 / 07967 826884
david.self@food.gov.uk

Communication 8 – For release

From: Orri, Carles
Sent: 10 January 2018 16:41
To: **[Section 40]** Gilmore, Sharon <Sharon.Gilmore@food.gov.uk>; **[Section 40]**
Subject: Meeting with Owen Patterson, Finnebrogue bacon

Hi **[Section 40]**

I tried to speak to you and Sharon this morning. On Monday, Michael Wight and Mark Willis are meeting Owen Patterson and Chris Elliot to discuss Finnebrogue's Naked Bacon. Our understanding is that they wish to challenge our interpretation of the additives legislation.

We are putting together what we know about the product and a list of outstanding questions. Could you please provide an update as a matter of urgency on the LA's visit to the FBO and the information provided by them? **[Section 40]**

Please do contact me for any queries.

Many thanks,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | 125 Kingsway | London WC2B 6NH | +44 20 7276 8406 | carles.orri@food.gov.uk
(please note email address has changed)

Communication 9 – For release

Sent from my iPhone

On 10 Jan 2018, at 17:38, Hancock, Heather <heather.hancock@food.gov.uk> wrote:

Dear Declan

I am glad the meeting is happening, and whilst sorry not to be there this is much more a matter for the technical experts so the right people will be in the room. I have asked the team to come back to you directly on your specifics, but just to say that we are seeking more information on the alert issued under the RASSF system and will be able to update you on that at the meeting. .

In terms of the information that would help as much progress as possible at the meeting, what's needed is details of what the product you are using actually is, to be able to determine whether it would be considered an additive, what function it might be performing in the food and therefore whether it would be caught by additives safety legislation etc. This is what the FSA officials will be focussing on in the meeting.

With regards

Heather

Communication 10 – For release

From: Declan Ferguson [<mailto:declan.ferguson@finnebrogue.com>]

Sent: 10 January 2018 19:53

To: Hancock, Heather <heather.hancock@food.gov.uk>

Cc: Owen Paterson [**Section 40**]; Denis Lynn <Denis@finnebrogue.com>; Professor Chris Elliott <chris.elliott@qub.ac.uk>; [**Section 40**]; Guyver <guyvera@parliament.uk>; Self, David <david.self@food.gov.uk>

Subject: Re: Finnebrogue Nitrite Free Bacon

Thanks Heather for your reply and the information.

Any info or guidance on the RASFF alert prior to the meeting would also help us provide responses for Monday afternoon.

Many Thanks

Declan

Communication 11 – For release

From: David Self <david.self@food.gov.uk>

Sent: 11 January 2018 11:15

To: Michael Wight <Michael.Wight@food.gov.uk>; Mark Willis <Mark.Willis@food.gov.uk>; Eden, Laura <laura.eden@food.gov.uk>

Subject: FW: Re Mtg 15th January - Owen Paterson

Hi all,

See below and attached for directions for the meeting on Monday. I have just been in touch to confirm the final FSA delegation, and have emailed Mark and Colin a draft reply to Declan Ferguson for clearance.

Thanks,

David

Dr David Self

Private Secretary to the Chair and the Deputy Chair

020 7276 8278 / 07984 883451

david.self@food.gov.uk

Communication 12 – For release

From: [Section 40]

Sent: 11 January 2018 12:03

To: Orri, Carles <Carles.Orri@food.gov.uk>; Gilmore, Sharon <Sharon.Gilmore@food.gov.uk>;

[Section 40]

Subject: RE: Meeting with Owen Patterson, Finnebrogue bacon

Hi Carles,

I spoke with the investigating officer this morning and they plan to visit the premises tomorrow morning and will provide us with an update by COP. They plan to address our specific questions, find out more information about the process, shelf life and will take formal samples of four products – pork primal, finished bacon product, brine and extract. The officer also contacted her Public Analyst this morning who provided some further advice/guidance before she visits the company tomorrow.

Happy to discuss further if you want to give me a call.

Kind regards,

[Section 40]

| Standards and Dietary Health Team | Food Standards Agency in Northern Ireland
10a-c Clarendon Road Belfast BT13BG | **[Section 40]**

Communication 13 – For release

From: Carles Orri <Carles.Orri@food.gov.uk>

Sent: 11 January 2018 12:14

To: Michael Wight <Michael.Wight@food.gov.uk>; Mark Willis <Mark.Willis@food.gov.uk>; Colin Clifford <Colin.Clifford@food.gov.uk>

Subject: FW: Meeting with Owen Patterson, Finnebrogue bacon

Dear All

For information, the LA authority will visit Finnebrogue tomorrow. I called **[Section 40]** but could not reach her. I hope to be able to provide more information later, once I speak to her.

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | 125 Kingsway | London WC2B 6NH | +44 20 7276 8406 | carles.orri@food.gov.uk
(please note email address has changed)

Communication 14 – For release

From: Michael Wight <Michael.Wight@food.gov.uk>

Sent: 11 January 2018 13:46

To: declan.ferguson@finnebrogue.com

Cc: Owen Patterson **[Section 40]**; Denis@finnebrogue.com; chris.elliott@qub.ac.uk; guyvera@parliament.uk; David Self <david.self@food.gov.uk>

Subject: Finnebrogue product

Dear Mr Ferguson,

Many thanks for sending your questions through to Heather. We continue to investigate the RASSF issue position in relation to the Spanish product and will provide more information at the meeting, if we can.

As previously mentioned by Heather, in the meeting on Monday FSA officials will be seeking specific information on the material being added to the meat including its composition, how it is used, and the function it is performing in the product. We hope

this will facilitate a productive discussion and help to determine where the product falls within the food law framework.

Michael

Michael Wight
Policy Director
Head of Food Policy
Food Standards Agency
Aviation House
125 Kingsway
London WC2B 6NH

Please note new address from 23rd January:
Food Standards Agency
Floors 6 and 7
Clive House, 70 Petty France
London SW1H 9EX

Mobile: 07766 925 075

www.food.gov.uk

Communication 15 – For release – some content removed as not in scope

From: [Section 40]

Sent: 15 January 2018 10:42

To: Orri, Carles <Carles.Orri@food.gov.uk>; [Section 40] Willis, Mark <Mark.Willis@food.gov.uk>;
Wight, Michael <Michael.Wight@food.gov.uk>

Cc: Gilmore, Sharon <Sharon.Gilmore@food.gov.uk>; Jennings, Maria
<maria.jennings@food.gov.uk>

Subject: Finnebrogue

Importance: High

Sensitivity: Confidential

Dear Colleagues,

[Content removed as not in scope of the Request].

The officer advised that Denis Lynn (proprietor of Finnebrogue) will be attending the meeting with Owen Paterson and Chris Elliott today as well. I've also been advised that the company has produced a booklet (outlining their process/evidence) which they plan to present at today's meeting.

If you have any queries on the above please don't hesitate to contact me at the number below.

Kind regards,
[Section 40]

Standards and Dietary Health Team | Food Standards Agency in Northern Ireland
10a-c Clarendon Road Belfast BT13BG | **[Section 40]**

Communication 16 – For release

From: Gilmore, Sharon
Sent: 18 January 2018 12:03
To: Willis, Mark <Mark.Willis@food.gov.uk>
Cc: **[Section 40]**
Subject: Finnebrogue

Hi Mark

Hope all is well with you.

Just asking if you have an update on how your meeting went with Finnebrogue. Reason we are keen to have an update is our District Council is asking if we can provide an update to assist them working with the business.

Many thanks
Sharon

Sharon Gilmore| Head of Standards and Dietary Health| Food Standards Agency in Northern Ireland
10a-c Clarendon Road Belfast BT13BG | 028 9041 7753| 07876 130 629
Please note New email address- Sharon.gilmore@food.gov.uk

Communication 17 – For release

From: Willis, Mark
Sent: 18 January 2018 12:06
To: Gilmore, Sharon <Sharon.Gilmore@food.gov.uk>
Cc: **[Section 40]**
Subject: RE: Finnebrogue

Hi Sharon

Are you free for a quick chat? It was an interesting meeting a note is being prepared but it may be useful to give you a quick verbal update

Cheers
Mark

Mark Willis
Head of Contaminants and Residues Branch
Food Policy Division
T:0207 276 8559
M:07500 606094

Please note new style email address: mark.willis@food.gov.uk

Communication 18 – For release

From: [Section 40]

Sent: 18 January 2018 12:11

To: Mark Willis <Mark.Willis@food.gov.uk>; Sharon Gilmore <Sharon.Gilmore@food.gov.uk>

Subject: RE: Finnebrogue

Hi Mark,

Sharon isn't available but I'm happy to have a chat?

Thanks,

[Section 40]

Communication 19 – For release

From: Orri, Carles

Sent: 23 January 2018 16:44

To: [Section 40]

Cc: [Section 40] Jennings, Maria <maria.jennings@food.gov.uk>; [Section 40] Wight, Michael <Michael.Wight@food.gov.uk>; Willis, Mark <Mark.Willis@food.gov.uk>

Subject: RE: Finnebrogue

Sensitivity: Confidential

Hi [Section 40]

Thank you for the update.

I understand that at the meeting on 15 January Finnebrogue strongly expressed their dissatisfaction at [Section 31]

The update provided by FSAI on 14 November indicated that the business had agreed to deal with the issues [Section 31]

[Section 31] We recently used the Business Expert Group (run by BEIS) meeting on 18 January to remind businesses of our position on nitrite-rich extracts. It seems more urgent now to proactively engage with key industry associations to clarify any

misunderstandings that there may be about the use of these substances. Therefore, we intend to set up a meeting shortly with key stakeholders (BMPA, BRC, etc.) to discuss the issue in more detail. We will make TC facilities available in case you wish to dial in.

Many thanks,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orri@food.gov.uk (please note email address has changed)

Communication 20 – For release – some content removed as not in scope

From: Gilmore, Sharon

Sent: 26 January 2018 13:00

To: Orri, Carles <Carles.Orri@food.gov.uk>; **[Section 40]**

Cc: Jennings, Maria <maria.jennings@food.gov.uk>; **[Section 40]** Wight, Michael <Michael.Wight@food.gov.uk>; Willis, Mark <Mark.Willis@food.gov.uk>; Clifford, Colin <Colin.Clifford@food.gov.uk>

Subject: RE: Finnebrogue

Sensitivity: Confidential

Hi Carles,

Many thanks for your email.

[Content removed as not in scope of the Request].

If appropriate it would be useful to see a note of the 15 January meeting, you mention below.

Kind regards
Sharon

Sharon Gilmore | Head of Standards and Dietary Health | Food Standards Agency in Northern Ireland
10a-c Clarendon Road Belfast BT13BG | 028 9041 7753 | 07876 130 629
Please note New email address- Sharon.gilmore@food.gov.uk

Communication 21 - For release – some content removed as not in scope

From: Willis, Mark

Sent: 26 January 2018 13:42

To: Gilmore, Sharon <Sharon.Gilmore@food.gov.uk>; Orri, Carles <Carles.Orri@food.gov.uk>;

[Section 40]

Cc: Jennings, Maria <maria.jennings@food.gov.uk>; **[Section 40]** Wight, Michael <Michael.Wight@food.gov.uk>; Clifford, Colin <Colin.Clifford@food.gov.uk>

Subject: RE: Finnebrogue

Sensitivity: Confidential

Hi Sharon

I have attached the draft note of the meeting on the 15th which Laura pulled together and I commented on, but it has not yet been finalised by private office

[Content removed as not in scope of the Request].

Regards
Mark

Mark Willis
Head of Contaminants and Residues Branch
Food Policy Division
Food Standards Agency
T:0207 276 8559
M:07500 606094

Please note new style email address: mark.willis@food.gov.uk

Communication 22 – For release

From: Orri, Carles [<mailto:Carles.Orri@food.gov.uk>]

Sent: 26 January 2018 15:09

To: Declan Ferguson <declan.ferguson@finnebrogue.com>

Cc: Wight, Michael <Michael.Wight@food.gov.uk>; Willis, Mark <Mark.Willis@food.gov.uk>; Self, David <david.self@food.gov.uk>; Eden, Laura <laura.eden@food.gov.uk>; **[Section 40]**

Subject: Finnebrogue nitrite-free meat product range

Dear Declan,

Thank you for meeting with FSA officials and for the information you provided on your nitrite-free bacon. As agreed, we would appreciate further information on your nitrite free range of products and so have listed some questions below.

Background

Whether a component of a food can be classed as a food additive, flavouring or food ingredient (i.e. which doesn't meet the legal definition of a flavouring or food additive)

depends on a variety of factors including its function(s) in the final food (or function during the food production processes) and how the component is made. It could be that a component has a variety of functions in a food and so the primary function should be taken into account. Another overriding principle of food legislation is that consumers should not be misled about the nature of food or its ingredients. Therefore, it is important the correct legislative frameworks are followed and food is labelled appropriately. As an example, rosemary extract may be considered to be a flavouring (i.e. natural* flavouring preparation) or food additive depending on its primary function in the food, why it was added and how it is made. Rosemary leaves would be generally considered to be a food ingredient (or food ingredient with flavouring properties) as they are to be consumed as such and there is no extraction processes. Other examples of food ingredients which are not considered to be food additives are lemon juice and brewed vinegar.

*The term 'natural' can only be used for flavourings if the flavouring component contains only flavouring preparations and/or natural flavouring substances. Therefore natural cannot be used to describe a flavouring that contains either thermal process flavourings, flavour precursors or smoke flavourings.

There is already clear guidance from the European Commission on extracts added for preservation purposes. We already discussed the example of standardised food extracts with high levels of nitrates (e.g. celery or spinach extract) being used for food preservation purposes, which is considered a deliberate use of a food additive. Consequently, such a use of a food additive should comply both with the food additive legislation and also be labelled in compliance with the appropriate food labelling legislation.

Extracts from food additive legislation (Regulation 1333/2008) and the flavourings legislation (Regulation 1334/2008)

Food additives

Recital 5 of the food additive legislation specifies what is considered to be a food additive and what isn't.

"Food additives are substances that are not normally consumed as food itself but are added to food intentionally for a technological purpose described in this Regulation, such as the preservation of food. All food additives should be covered by this Regulation, and therefore in the light of scientific progress and technological development the list of functional classes should be updated. However, substances should not be considered as food additives when they are used for the purpose of imparting flavour and/or taste or for nutritional purposes, such as salt replacers, vitamins and minerals. Moreover, substances considered as foods which may be used for a technological function, such as sodium chloride or saffron for colouring and food enzymes should also not fall within the scope of this Regulation. However, preparations obtained from foods and other natural source material that are intended to have a technological effect in the final food and which are obtained by selective extraction of constituents (e.g. pigments) relative to the nutritive or aromatic constituents, should be considered additives within the meaning of this Regulation."

Article 3 (2) defines a food additive as “any substance not normally consumed as a food in itself and not normally used as a characteristic ingredient of food, whether or not it has nutritive value, the intentional addition of which to food for a technological purpose in the manufacture, processing, preparation, treatment, packaging, transport or storage of such food results, or may be reasonably expected to result, in it or its by-products becoming directly or indirectly a component of such foods”

Additionally Article 2 also clarifies the distinction between food additives and other food ingredients (e.g. flavourings).

Article 2 (2) “This Regulation shall not apply to the following substances **unless they are used as food additives** [DN emphases added]: (e) flavourings falling within the scope of Regulation (EC) No 1334/2008 [on flavourings and certain food ingredients with flavouring properties for use in and on foods].

Flavourings

The definition of a flavouring, Article 3(2)(a) is products “not intended to be consumed as such, which are added to food in order to impart or modify odour and/or taste”

A flavouring preparation is defined in Article 3(2)(d) as a product, other than a flavouring substance, obtained from (i) food by appropriate physical, enzymatic or microbiological processes either in the raw state of the material or after processing for human consumption by one or more of the traditional food preparation processes listed in Annex II.

A natural flavouring substance is defined in Article 3(2)(c) as a flavouring substance obtained by appropriate physical, enzymatic or microbiological processes from material of vegetable, animal or microbiological origin either in the raw state or after processing for human consumption by one or more of the traditional food preparation processes listed in Annex II. Natural flavouring substances correspond to substances that are naturally present and have been identified in nature.

Article 16(2) sets out when you can use the term natural in relation to flavourings i.e. “The term ‘natural’ for the description of a flavouring may only be used if the flavouring component comprises only flavouring preparations and/or natural flavouring substances.”

Questions – *we appreciate you might have answered some of these already in the face to face meetings you have had with FSA representatives, but it would be useful to cover all possible questions in this request.*

Extraction process etc. if possible it might help if you provided flowcharts for the processes as a visual guide

What are the source materials used to make the natural flavourings? What kind of processes are being used e.g. physical, chemical or microbiological for the extracts? How many steps are there in the extraction process?

What components of the food are not extracted at each step of the production process i.e. fibre, fat-soluble aromatic components?

Is the extraction process removing some of the flavouring components of the herbs, spices and fruits or are the flavouring components being concentrated?

Functions of the commercial components

Are different commercial preparations being used in the preparation of the nitrite-free meat products e.g. ham, bacon and sausages?

What is the active component or components that are being used as a substitute for nitrite/nitrate preservatives to prevent the growth of harmful microorganisms and/or increase shelf-life? If this is considered commercially sensitive information can you describe how it kills or prevents the growth of microorganisms?

Does any of the material added/used in the production of the meat product contribute to any technological function?

How do you ensure that the extracts have a consistent antimicrobial effect on the bacon if they are 'crude' extracts? How is the preservation controlled, if the product does not have any preservative?

What flavours (odour and/or taste) are being imparted to the meat or how is the flavour of the meat being modified by the flavourings? Would consumers identify your product as a flavoured bacon i.e. is there a noticeable fruity or spicy note to the bacon or does it taste the same as nitrite preserved bacon without added flavourings?

Does any component impart a colour change in the pork meat?

Labelling

How are the different components used described in the ingredients list?

Is the legal name of the product making it clear that this is a flavoured product?

Please let me know if any of the questions are unclear.

Kind regards,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orri@food.gov.uk (please note email address has changed)

Communication 23 – For release

From: Declan Ferguson <declan.ferguson@finnebrogue.com>

Sent: 26 January 2018 15:28

To: Carles Orri <Carles.Orri@food.gov.uk>

Cc: Michael Wight <Michael.Wight@food.gov.uk>; Mark Willis <Mark.Willis@food.gov.uk>; David Self <david.self@food.gov.uk>; Eden, Laura <laura.eden@food.gov.uk>; **[Section 40]**

Subject: RE: Finnebrogue nitrite-free meat product range

Hi Carles,

Thank you for the info below.

We will start to pull together the evidence and info you have requested and get a response over to you before the end of next week.

Thanks

Declan

Declan Ferguson

Technical Director

Mobile: **[Section 40]**

Landline: **[Section 40]**

“ We look at what's wrong and figure out how to make it the best it can be, without being bound by the way it's always been done ”

Artisan
Finnebrogue

great taste 2015
SUPERMEAT & FISH AWARDS 2015
GOLD MEDAL WINNER AWARDS OF MERIT AWARDS 2016
WINNER AWARDS OF MERIT AWARDS 2016

f t i in

Lynn's Country Foods Limited
Unit 6 | Down Business Park
46 Belfast Road | Downpatrick | BT30 9UP
finnebrogue.com

Communication 24 – For release

From: Eden, Laura <laura.eden@food.gov.uk>

Sent: 29 January 2018 16:21

To: Rod Ainsworth <Rod.Ainsworth@food.gov.uk>; Feeney, Jason <jason.feeney@food.gov.uk>; Christopher Hitchen <Chris.Hitchen@food.gov.uk>; Maria Jennings <maria.jennings@food.gov.uk>; Julie Pierce <Julie.Pierce@food.gov.uk>; Guy Poppy <Guy.Poppy@food.gov.uk>; Purcell, Nina <Nina.Purcell@food.gov.uk>; Colin Sullivan <Colin.Sullivan@food.gov.uk>; Steve Wearne <Steve.Wearne@food.gov.uk>; Michael Wight <Michael.Wight@food.gov.uk>; Heather Hancock

<heather.hancock@food.gov.uk>

Cc: Carles Orri <Carles.Orri@food.gov.uk>; Mark Willis <Mark.Willis@food.gov.uk>; David Self <david.self@food.gov.uk>; Bond, Zoe <zoe.bond@food.gov.uk>; **[Section 40]** Steven Pollock <Steven.Pollock@food.gov.uk>

Subject: Off. sens. Note of meeting with Finnebrogue and Owen Paterson MP 15 Jan 18

Importance: High

Dear All

Please find attached the note of the meeting on 15 January with Finnebrogue, Prosur and Owen Paterson MP, in relation to the Finnebrogue nitrite free bacon product. Directors will want to be aware and Maria may wish to note what was covered.

The meeting was attended by Michael Wight, Mark Willis and I for FSA.

Kind regards
Laura



Laura Eden
Head of Private Office

Food Standards Agency, 7th Floor, Clive House,
70 Petty France, London SW1H 9EX

M: **[Section 40]**
laura.eden@food.gov.uk

[Section 40]

Eating out? Check the rating - www.food.gov.uk/ratings
or download our free app from iTunes or Android Marketplace



Note of meeting with Owen Paterson MP, Finnebrogue and FSA

15 January 2018, 1 Parliament Street, London

Attendees:

Rt Hon Owen Paterson MP (OP)

Professor Chris Elliott (CE) – Queen’s University Belfast

Juan De Dios Hernandez (JH) – CEO, Prosur

Declan Ferguson (DF) – Technical Director, Finnebrogue

Mathew Forde (MF) – Director, Forde Campbell LLC

Michael Wight (MW) – Policy Director, FSA

Mark Willis (MkW) – Head of Contaminants and Residues Branch, FSA

Laura Eden – Head of Private Office, FSA

Denis Lynn (DL) – CEO, Finnebrogue

FSA Meeting and Letter – November 2017

1. The group introduced themselves and OP set out the background to the meeting. He referenced an earlier meeting with Heather Hancock, Chair of the FSA (in November 2017) and a letter that was drafted following that meeting (by Carles Orri from the FSA, dated 24 November 2017) which, in OP’s opinion, did not accurately summarise what had been agreed at the meeting. He also expressed concerns about a [**Section 31**] product.

Prosur Product

2. DL explained that his company were using natural raw materials from Prosur in their Finnebrogue bacon product.
3. MW sought to frame the meeting by setting out the FSA’s interest in the Finnebrogue product. He said that as per the email he had sent in advance of this meeting, the FSA have an interest in the nature of the product Finnebrogue are using in their bacon, the type of ingredient it is, and the function it performs in the food. He outlined that if the product is an additive, the appropriate use of additives is governed by EU law.
4. JH commented that the Prosur product is a fruit and spice extract, which is used in the manufacture of the Finnebrogue product. JH said it met the definition of natural flavouring.
5. MW enquired about the function it is performing in the food. JH replied that it was purely a flavouring.
6. DF commented that the process Finnebrogue employ means the extract is added directly to the food, and as a flavouring what it does to the food is irrelevant. It was noted by the FSA that even natural products (as incorporated in to food) can perform other functions in the food – for example, they can confer antimicrobial functions. The issue lies with whether a selective extraction is undertaken to preferentially extract/concentrate specific constituents to undertake an additive function. It was also noted that foods consumed as such (e.g. lemon juice) are outside the scope of the additives legislation but this may not be the case for extracts.

7. JH reported that the levels of nitrate and nitrite in the product were below the limit of detection in a solid food. He clarified that whilst the analytical certificate stated nitrate less than 200 mg and nitrite less than 100mg this was analytical limit of detection for a powder and the actual concentration may be less than this. He noted that the application rate in to the bacon is 1%, or less and therefore the 'worst case' levels of nitrate and nitrite would be 1ppm and 0.5ppm respectively. CE commented that the laboratory studies suggest there is no evidence of nitrates/nitrites in this product. DF confirmed that **[Section 43]**.
8. DF raised concerns regarding food manufacturers adding 'trojan nitrites' to food and said that this [Prosur] extract was not one of those products. He also reported that the Prosur extract was used in a number of countries including France, Italy, Spain, Portugal, Sweden, Norway, Korea, Australia and Poland. The bacon product has been launched in 3 stores in Ireland but there is no producer in Ireland [it is made in England and Northern Ireland]. Finnebrogue also produce own label M&S products.
9. MkW sought clarification on the extract and whether specific compounds had been selectively extracted from the fruit and spice mix. He explained that just because something extracted from a food might be natural does not mean it is not a food additive – with this in mind he made reference to two forms of rosemary extract – a natural extract and a deodorised form, which was tolerated by the EU until its use was fully authorised by them. MW commented that food ingredients could be selected to confer flavour or they could be active polyphenols which were exerting an additive function.
10. MkW sought further clarification on whether it was a simple or selective extraction process. CE considered it was a simple water/alcohol extraction, that had never been selective. MkW asked a further question about what gives the bacon its colour and it was confirmed the bacon is pink and has the appearance of fresh pork.
11. MW confirmed that he understood this was a potentially a good product in that it limited the use of nitrate/nitrite but the FSA needed to be assured that the use of this extract sits on the right side of food law. In response to a question from MW, MF stated that in his view this was a food as it sits outside of Regulation 1333/2008 and is therefore not an additive. It does fall within scope of the flavouring legislation (Regulation 1334/2008) and is therefore classed as a flavouring. MkW said that there were some 'dual use' substances in 1334/2008 – that meet the definition of a flavouring but may also have a technical function (and are used as additives). DF said that the safety of the substance had been verified by Campden and it had been labelled as a natural flavouring, but it has no specific flavour.
12. It was agreed that FSA would speak to their counterparts in Spain regarding the details of what FSA need to understand about the substance although it was stressed that the FSA would form its own opinion on the information we received from the Spanish and the company itself. DF and DL also agreed they were content for MkW to send a list of further questions about how the extract is made to them to help the FSA understand the product in more detail. DL stated that he

had originally been sceptical about Prosur and had investigated it for 10 months before being convinced. He offered all the assistance he could to the FSA so it could come to an opinion. MW said that he would take the company up on the offer and we were in a similar position about needing to have information.

Action 1: FSA (MkW) to send DF and DL a list of questions in relation to the substance in question. FSA to follow up with counterparts in Spain on their categorisation of the use of the Prosur product.

13. The group returned briefly to the issue that a flavouring could also have a technical function in food, and DL commented that the blending of the Prosur substance had an impact on flavour and shelf life, but it was a natural way of achieving an objective. MW reiterated that the FSA needed clarification on whether the substance in question is a 'whole food extract'. JH confirmed he could send FSA the process flowchart that is followed to derive the substance (highlighting what goes in and what comes out) and CE agreed this would be useful so that the two competent authorities (in Spain and UK) could have a meaningful dialogue.

Action 2: JH to make the Prosur process flowchart available to FSA (MW and MkW)

14. MkW asked some questions regarding manufacture of the bacon product; the process was explained by JH. JH highlighted the importance of the quality of the pork used, the fact that it had to be fresh not frozen, and that *rigor mortis* was done correctly. The injection was then done at high pressure to ensure that the brine and Prosure fully penetrated the centre of the meat, , and the tenderisation process was also done in a different way to conventional bacon production (tumbled).

15. JH reported that the final product is then vacuum packed and has a shelf life of 25 days. As 'standards in meat products' is a policy area owned by Defra [not FSA] MW said he would contact Defra too.

Action 3: MW to make contact with Defra re: production of Finnebrogue bacon.

16. MkW had a question regarding the range of Finnebrogue products. JH reported that Prosur has slightly different formulations but they are all based on the same types of extract, which they tailor to specific products. There is also a new product that **[Section 43]**.

17. CE asked whether FSA had received a RASSF notification in relation to the Finnebrogue bacon product. MW confirmed he was not aware of any RASSF, but what might have happened is that a request for exchange of information/ clarification on the nature of the product may have been launched via a different system (country to country level correspondence) although this had not been sent directly to the UK.

[Section 31]

18. DL highlighted his concerns that, in his view, the FSA had been permitting the sale of a specific **[Section 31]** bacon product, **[Section 31]**.

19. MW reported that the FSA had spoken to FSAI (the Food Standards Authority of Ireland) **[Section 31]**.
20. DL and MF expressed concerns over **[Section 31]** DL commented that he was looking to the FSA to protect him and his investment [in Finnebrogue] and that it was misleading to the public for **[Section 31]** to say that a product was natural or nitrite free when it is not.
21. MW assured DL he would ask FSA NI to seek clarification from FSAI on what action had been taken on reformulation/re-labelling – OP commented that FSA NI has already written to **[Section 31]** suggesting they reformulate their product.

Action 4: MW to contact FSA NI regarding the [Section 31] bacon product in question.

22. It was reported by DF that he understood that the EU standing committee clarified in 2006 that a similar type of extract was a food additive not an ingredient, that its use/function was not authorised, and that **[Section 31]** could apply for their specific celery extract to be authorised as an additive. The group were aware of other companies in the UK trying to use similar products/extracts. DL commented that FSA ought to show leadership in this area as the activity was illegal and dangerous.
23. OP asked if it was possible to raise a RASSF in relation to **[Section 31]** and MW commented that the nitrate/nitrite levels are not in themselves a risk to human health (if the levels present in the food are within permissible limits) – a risk assessment would be required prior to raising a RASSF. MW reported we needed to understand in more detail how the **[Section 31]** extract sits with the 2006 EU standing committee decision, but it could be a case of non-approved use of a food additive. The Finnebrogue delegates, supported by CE reported there had been a backlash from consumers in Canada and California regarding the use of similar 'natural' extracts and the fact that they were potentially detrimental to human health and CE suggested that this was potentially a Daily Mail front page. OP expressed his concerns regarding this issue and consumer confidence in bacon products.

Conclusions/actions

24. MW assured the group he would be in touch regarding a set of questions on the nature of the Prosur substance. He also confirmed he would be in touch with FSA NI on the **[Section 31]** product. It was agreed scheduling another meeting of the group present on 15/01 was not necessary. OP confirmed he would stay in touch with MW and would prefer to keep the lines of communication with Heather Hancock open too.