

CHIEF EXECUTIVE'S REPORT

1 Chief Executive's engagements

1.1 At the end of February and beginning of March 2020, myself and Garry Mournian, Director of Policy, Science, Finance and Human Resources, attended the Global Food Safety Initiative Conference in Seattle, USA. We then travelled to Ottawa, Canada to meet with senior officials from the Canadian Food Inspection Agency (CFIA). The discussion with Canadian colleagues was particularly useful and there is considerable scope for developing further co-operation with both CFIA and Health Canada

1.2 Throughout the COVID-19 pandemic, FSS has been supporting Scottish Government (SG) teams including Resilience, Food and Drink; UK and Scottish Ministers, Defra and other government departments and food retailers.

2. COVID-19

2.1 Since the end of March 2020, FSS colleagues have been working with SG on support for the shielded and vulnerable groups. [Guidance](#) was also provided for food businesses that had remained open during the COVID-19 crisis and further guidance has been provided as part of the SG effort to support businesses coming out of lockdown. Two members of staff are on secondment to SG (1 x COVID-19 Health and Social Care Briefing and Liaison team and 1 x Economic Policy Unit). A detailed paper is on the agenda of today's board meeting, which provides an update on the FSS response to the COVID-19 outbreak.

2.2 On 3rd June 2020, Mike Russell, Constitution Secretary, gave evidence to the COVID-19 Committee at the Scottish Parliament on the lockdown regulations. He warned that if public health issues arise, lockdown measures can be brought in if necessary. He insisted the advice for businesses on preparation for returning to a new normal is clear in [Scotland's route map through and out of the crisis](#)

3. Effect of COVID-19 work on EU Exit transition plan.

3.1 Given the extent of the unprecedented impact on society of COVID-19, considerable resources within government have been diverted into supporting the response to the crisis. Significant elements of this resource, has come from teams previously delivering EU Exit work. The knock on effects of this is presenting challenges to our ability to deliver planned EU exit objectives, against what was already a challenging transition timescale.

3.2 Scottish Government Ministers have expressed strong reservations to the UKG about the consequences of COVID-19 on Exit plans and have argued strongly for a change in position over no extension to the transition period. However, thus far, the UKG have been resolute in holding their position. On 3rd June 2020, SG published a [paper](#), which sets out that to ensure the most rapid recovery possible from the COVID-19 crisis, that the UK Government immediately seeks an extension to the Brexit transition period (scheduled to finish on 31 December 2020) for two years.

3.3 From an FSS perspective, the effect of staff deflection onto COVID-19 work has been reflected in the revised EU Exit risk register. A new stand-alone COVID-19 risk has been added and the risk rating scores adjusted in those projects where delivery has been most effected by the negative impacts.

3.4 With respect to our own plan, high priority posts which were identified to be filled within the new structure have been unable to be recruited due to current restrictions. Other priority posts are now being added to the initial list and a revised priority list produced. These will be recruited as soon as current COVID-19 restrictions permit.

3.5 We do have the advantage that our key UK frameworks with Food Standards Agency and Department of Health and Social Care are at a more advanced stage than most others. However, this work is becoming more interconnected with EU negotiations work and amended EU Exit legal fixes and therefore further progress here will also be affected by anticipated delays in these areas.

3.6 Difficulties are also anticipated with providing additional resource and infrastructure requirements to deal with new export and import controls at the end of transition and this is expected to be exacerbated by additional issues around the Northern Ireland protocol.

3.7. There are two particular risks that the Board will wish to note: the first is that against original UKG assumptions the transition period would have been around 20 months, this was reduced to eleven with the 31 January 2020 departure and now with COVID-19 means preparation time is effectively going to be about 6 months. A large part of our preparation was a build-up of staff resource in particular to deal with the consequences of Brexit and it is now unlikely that we will have all the staff we had anticipated unless there are some changes to recruitment processes and timescales. Second, on resources the agreement with SG was based on a phased approach to moving to the future structure and agreement was given to an additional allocation of up to £5m this year and approximately £2m the following year. Again, it is unlikely we will spend the full £5m this year and discussions are on-going with SG Health finance on this issue. We do not anticipate any issues arising from the current delays with regard to what was agreed as the full resource requirement for implementing our future structure over the 2 financial years. It has also been confirmed that those allocations, once finalised, will subsequently become the revised baseline for future years. Staff will continue to provide Health Finance with updates on forecast out turn as the year progresses and update the Board in line with our normal finance reporting arrangements.

4. EU / UK negotiations and recently published updated EU technical guidance on future trade with the UK

4.1 Negotiations between the UK Government (UKG) and the European Union (EU) have continued via virtual meetings. However, limited progress has been made and based on public pronouncements on the negotiations it would not be prudent to plan on the basis of much progress being made. At high level, there remains some distance between the EU and UK negotiators with respect to reaching agreement on principles to secure a free trade agreement. In particular, the EU are stipulating a close relationship based on a 'level playing field', whereas the UKG are seeking minimum alignment, based on a strategy of securing mutual recognition of equivalence measures to secure trade while facilitating future deviation from EU law. This is a distance removed from the May Government stance where regulatory alignment was at least seen as a possibility.

4.2 In the absence of any agreed transition extension, there will therefore be difficulty in securing a deal before the end of the year. The EU has recently published a 'without prejudice to future agreements' updated technical note outlining the legal requirements for UK trade with the EU at the end of the transition. Given the current trajectory, unsurprisingly this is very similar to the no deal technical notices they produced last year.

4.3 The document is essentially in 4 sections:

- **Food Labelling:** The required changes are mainly explicit consequences of it being no longer technically correct to state EU origin for UK manufactured goods. Businesses were already made aware of these requirements as part of no deal planning and arrangements to accommodate the necessary changes should already be well developed.
- **Food Compositional Standards Food Additives and Food Contact Materials:** UK businesses already comply with current EU standards. Therefore, in principle most of this should not be initially problematic for UK businesses. The key issues relate to mutual recognition of future approvals of specific regulated products (for example recognitions of new food additives) and issues around existing recognitions, where the UK was the recognising member state. It is hoped that mutual recognition of equivalence may be achieved through the negotiations. However, delays in negotiations, coupled with no transition extension, will make it difficult to secure this by the end of the year.
- **The need for the establishment of a business within the EU before application for authorisation of certain regulated products:** This requirement will place an additional burden on those wishing their products to be approved for use within both the UK and the EU. Once more it is hoped that mutual recognition procedures may be negotiated but that will be difficult given current negotiating schedules.
- **Products to comply with equivalent hygiene standards for imports of Products Of Animal Origin (POAO):** While UKG have set out their desire to be able to set their own terms for new deals, it remains the case, especially in a No Deal scenario, that exports of products of animal origin, will require to meet EU standards or agreed equivalent (if there is a deal). Such products will also need to have undergone specific food safety and animal health checks and be presented at an EU border control post (BCP). Agreement will be needed on acceptable future equivalence arrangements and the UKG and EU are currently some way apart on this issue. The EU document confirms the EU position that such BCP checks should take place for goods moving from GB to NI which is considered to be an assimilated part of the EU. This will be a significant new additional burden for exporters of POAO.

5. EU Exit/Future Structure

5.1 We reported to you in November last year that we had initiated a programme to re-structure FSS which would involve the recruitment of additions to the senior leadership team and to staffing throughout FSS. In my last report, in February this year, I said that we had advertised the first of our 'EU Exit' posts. Unfortunately, COVID-19 supervened, and recruitment was paused across SG. At present, internal and external recruitment is suspended, except for roles that are critical, which means those directly working to deliver the Scottish Government's coronavirus response, supporting essential public services or ensuring business continuity.

5.2 The current situation is that 8 EU Exit roles have been permanently recruited, and 8 temporarily filled, leaving up to 64 still outstanding. Given that EU Exit is fast approaching, with no sign that the transition period will be extended, the Senior Management Team

(SMT) has identified a number of key priority roles needed to ensure EU Exit readiness, and we are making a case to the Scottish Government that these roles should be recruited on the basis that they are business-critical. We will continue to identify, and make a case for recruitment for, business-critical roles (for EU Exit and for essential core activities) in response to emerging priorities.

5.3 Our plan was to move to our new structure with effect from 1 April this year, by which time we had expected to have in place the two Directors who are the lynch pins of the new operating model. As you know, Ian McWatt was appointed to one of those roles – Director of Policy, Science and Operations - earlier this year, but the other – Director Strategy, Governance and Infrastructure – remains unfilled. We have therefore deferred moving to the new structure to at least September, and probably to the end of this financial year, and are exploring options for filling the second Director role.

For queries contact :
Geoff Ogle, Chief Executive
Geoff.Ogle@fss.scot
3rd June 2020