

**MINUTES OF THE MEETING OF THE FOOD STANDARDS SCOTLAND BOARD
HELD 15 JUNE 2022 FROM 11:00 – 15:40
HYBRID – PILGRIM HOUSE, ABERDEEN**

Present

FSS Board

Heather Kelman, Chair
Louise Welsh, Deputy Chair
Carrie Ruxton
Alban Denton
Carol Evans
Aileen Brown

FSS Executive

Geoff Ogle, Chief Executive
Ian McWatt, DCE and Director of Policy, Science & Operations
Julie Hesketh-Laird, DCE and Director of Strategy & Corporate Affairs
David Gally, Chief Scientific Advisor
Diane Strachan, Head of Private Office
Joanne Smith, Board Secretary
Kate Bullock, Head of Comms & Marketing
Garry McEwan, Head of Governance & Infrastructure

1. Introduction, apologies, matters arising

1.1 The Chair, Heather Kelman, welcomed everyone to the Food Standards Scotland Board meeting. This was Heather's first meeting as Chair having taken up the role as of 01 April 2022.

1.2 Geoff Ogle, CE was only available to dial in for part of the meeting owing to being unwell. Apologies were received from Sue Walker.

2. Declaration of Conflict of Interest

2.1 No conflicts of interest were declared by Board members.

3. Minutes of meeting from 16 March 2022 and Action Log – 220601 and 220602

3.1 The Minutes of the meeting held 16 March 2022 were agreed as an accurate record.

3.2 The Chair moved onto the Action Log:

- 2021/10 – Workforce plan presentation may benefit from a people strategy and will be brought to a Board Seminar in the Autumn,
- 2021/19 – a full wash up of the Vitamin D campaign is to follow
- 2021/20 – an equality and diversity session will be added to a future Board meeting and it has been added to the Board Forward Plan and Holding Pen.

4. Chair's Report – Oral update

4.1 Since Heather took over as Chair of FSS she has had a number of very constructive introductory meetings with the following: Julie Fitzpatrick, Chief Scientific Advisor for Scotland; Susan Jebb, Chair of Food Standards Agency (FSA); Maree Todd MSP, Minister for Public Health, Women's Health and Sport; Sheila Voas, Chief Veterinary Officer for Scotland; Angiolina Foster, Chair and Angela Leitch, CEO, Public Health Scotland; Mairi Gougeon, Cabinet Secretary for Rural Affairs and Islands and George Burgess, Director of Agriculture and Rural Economy.

4.2 The Chair provided an update on the process for appointing three new members to the Board of FSS as follows:

- Advert going live – 17 June 2022
- Interviews taking place – 12, 15, 26 and 29 September 2022
- Formal take up of appointments – 01 April 2023

4.3 The Chair attended the Scottish Food Enforcement Liaison Committee (SFELC) on 10 June 2022 to introduce herself and appraise them of her key priorities.

5. Chief Executive's Report – 220603

5.1 The Board noted Geoff Ogle's Report and there were no questions. The Chair invited Julie Hesketh Laird, DCE and Director of Strategy and Corporate Affairs and Ian McWatt, DCE and Director of Policy, Science & Operations to provide supplementary oral updates in the absence of Geoff.

5.2 Julie provided an update on the Good Food Nation Bill which is currently going through Committee stage with the final vote having taken place yesterday. A Food Commission, with 4 x commissioners and a Chair only, will be established. Although there is no timescale for establishing the body the Government is to prepare a report within a year.

5.3 Julie also advised that FSS have been engaging with FSA on the FTA section 42 report for New Zealand, with a 12 week stakeholder consultation launching shortly. Advice will be published in due course.

5.4 Ian provided an update on the Scottish Veterinary Service (SVS) and advised that the Steering Group has met twice. Establishing a SVS could potentially create a direct link to Ministers exposing governance issues. For economic reasons the preference would be for the service to reside within an existing body and the Steering Group has from now until March 2023 to develop options for an operating model.

5.5 Ian also reported that DFDS, one of the logistics hubs, wish to outsource export health certification (EHC) to a private contractor and we are looking at where we can redeploy FSS staff who were recruited to provide this service.

6. Financial Performance Report – Quarter 04 – 220604

6.1 The Chair invited Elaine McLaughlin, Head of Finance and Procurement, to present her report on the Financial Performance of FSS up to 31 March 2022. At the end of Q4 FSS reported an outturn of £20.9m against the resource budget of £21.7m, representing a projected 3.7% underspend against budget.

6.2 Elaine specifically drew attention to the 5% Staff underspend of actual spend against budget in the quarter which is mainly the result of significant delays within the recruitment and on-boarding process leading to postponed start dates across FSS. Staff leaving, retiring or taking career breaks also impacted on the number of vacant posts. This underspend is partially offset by backdated payments for the pay increase award paid out in February.

6.3 Elaine advised that despite the budget now being fixed for 5 years there is still no capacity to roll over any underspend to future years.

6.4 The Board asked whether the projected income was still accurate given DFDS's intention to outsource export health certification and were advised that the private model will result in no income to FSS. The cost of living crisis is also having an impact on the meat industry, with the usual Easter peak being suppressed this year. However any increase to debt is likely to be very small and easily written off.

Following discussion the Board:

- Noted the financial information and expected year end position reported as at 31 March 2022.
- Noted the indicative Resource and Annually Managed Expenditure (AME) budget amounts for 2021/22.

7. Financial Approach for 2022/23 – 220605

7.1 The Chair invited Elaine McLaughlin, Head of Finance and Procurement to present the paper providing the Board with an update on FSS budget allocation as a result of developments since the Board discussed the 2022/23 budget at the meeting on 16 March 2022.

7.2 FSS has been allocated £22.6m for the next financial year, plus £0.4m for AME, which is unlikely to be sufficient to meet the FSS pension liabilities. Further AME budget will be allocated at the Spring Budget Review (SBR). In addition FSS will receive £0.3m funding for the Scottish pilot contributing to the UK Pathsafe research programme.

7.3 The current planning assumption for resource allocation is that the resource budget will be used to deliver statutory functions, essential core activity as well as continued delivery across work programmes for Regulatory Strategy and Nutrition.

7.4 Elaine clarified that the costs of staff who require to be redeployed following the outsourcing of EHC will still be borne by FSS until they have transferred elsewhere and have not been included in the budget profile, these include 10 x full-time, 4 x Fixed Term Agreement (ending next year). Out of the 3 original hubs 2 remain very happy with the service and therefore forecasting has taken place on that basis. The Board also noted that Scottish Government (SG) have a no compulsory redundancy policy in place.

7.5 The Board received assurance that over-allocating budget is fairly standard, and takes into account the huge amount of vacancies. The Executive routinely look at priorities and programme expenditure to balance budget. The Board noted that overspend is not allowed, and that the final accounts would not get signed off and Geoff Ogle, as the Executive Officer, would find himself in serious trouble.

The Board

- Discussed and provided a view on the indicative budget allocation of the resource budget made by the Executive for 2022/23.
- Noted the risks and issues being considered as part of the final budget allocation for 2022/23.

8. Audit & Risk Committee – Annual Report to the Board April 2021 to March 2022

8.1 The FSS Chair invited Carrie Ruxton, Audit and Risk Committee (ARC) member, in Sue Walker's absence, to present the Annual Report to the Board from ARC for the period April 2021 to March 2022.

8.2 Carrie highlighted in particular the substantial assurance rating following the Audit of the Programme Management Office, and the reasonable assurance rating following the audit of the Review of Health and Safety (HSE), which identified a culture of continuous improvement within FSS towards HSE matters.

8.3 The Chair thanked the ARC for their excellent work throughout the year.

9. Audit & Risk Committee – Oral Update

9.1 The FSS Chair invited Carrie Ruxton to provide an oral update on the ARC meeting which took place on 08 June 2022.

9.2 Prior to the meeting proper, ARC met in private separately with the FSS Head of Audit and Assurance, our SG internal auditors, and Audit Scotland. ARC was pleased to hear of the continuing good working relationship between the auditors and FSS staff. The return of face to face and hybrid working was discussed in the context of conducting audits and in relation to ARC meetings.

9.3 The ARC received the report on the Review of Wellbeing Arrangements in response to Covid-19. A substantial assurance rating was received with the audit

showing FSS provided a strong response in setting up new wellbeing processes during the pandemic.

9.4 The ARC received the audit report on Financial Arrangements and were pleased to see that as well as receiving a substantial audit assurance rating, no recommendations were identified.

9.5 Carrie was delighted to report for the first time in FSS history, that Internal Audit had given FSS a substantial annual audit opinion for 2021/22, achieving this rating is testament to the strong commitment of FSS to effective governance and risk management.

9.6 The ARC received the audit report on Food Business Operators (FBO) Audits and noted the reasonable assurance given.

9.7 The audit of Official Veterinarian and Meat Hygiene Inspector Training received a limited assurance, and whilst disappointing, this was not a surprise given several recent audits pointed to the need for more effective training. Resulting recommendations are due for completion in July.

9.8 A number of audits have been closed following implementation of all recommendations and these will now be published on the FSS website.

9.9 The ARC reported that Audit Scotland's time as our external auditor is coming to an end and they will be replaced by Deloitte.

9.10 The ARC noted the annual audit plan, which had been circulated intersessionally, is still on track to bring the draft annual report and accounts (ARA) to the September ARC and Board meetings.

9.11 The Audit Implementation Management Report was received and ARC noted the continued good progress in implementing audit recommendations.

9.12 The ARC received the Annual Health and Safety Report and noted in particular the support to return to work at Pilgrim House. They were advised that FSS is not meeting some of the KPI's in relation to HSE, however steps are being put in place to address this. Levels of injury remain very low and whilst there was one RIDDOR reportable incident the injury was not long lasting and a lessons learned exercise was carried out.

9.13 The annual report on fraud and significant losses was received and ARC were pleased to note there had been no cases of fraud reported during the year. A new FSS Counter Fraud policy will be published in the summer and engagement with the National Fraud Initiative continues.

9.14 The annual report on non-competitive actions (NCA) was also received and ARC noted the majority of these relate to provision of veterinary services.

9.15 The Strategic Risk Register was discussed at the meeting and ARC noted / agreed the following:

- Noted that the risk score associated with Public Sector resourcing (LA Delivery) was now at 250, the highest possible level;
- Agreed that the risk associated with Covid-19 could be deescalated to the Executive for future management;
- Noted that the risk score associated with recruitment had reduced;
- Agreed to recommend to the Board that the risk score related to EU Exit Budget Allocation be increased to 250 in light of the Finance Secretary's Spending Review statement;
- Agreed to recommend to the Board that a further strategic risk be proposed in relation to FSS inability to deliver its strategy due to the resources allocated in the Spending Review statement. The detailed risk and its mitigations would be formulated in time for the September ARC following the Board discussions over the summer on resourcing and priorities and
- Agreed the risk description and mitigations associated with the strategic risk in relation to the war on Ukraine be recommended to the Board with a current risk score of 125.

The Board noted the oral report, there were no questions.

10. Performance against Corporate Plan: Year 1 Delivery - 220607

10.1 The Chair invited Julie Hesketh-Laird to present a paper giving sight of what FSS have delivered in Year 1 (Y1) of our Corporate Plan. In particular Julie drew attention to the seventy one Y1 priority commitments that have been successfully delivered.

10.2 As outlined in the pie chart at Point 4, Julie explained that there are 45 Y1 priority deliverables that are being rolled forward. Seven were not started in Y1 as planned, mainly due to external dependencies, internal resource challenges and/or competing priorities, 39 were started but not delivered as scheduled. The majority are now anticipated to be delivered in Y2, with a small number being delivered in Y3.

10.3 The Board received assurance from Gillian Purdon, Head of Nutrition, that some of the nutrition work has elements that have been deferred, such as enhancing the 'Eat Well, Your Way' tool, rather than being deferred in totality.

10.4 The Chair thanked all staff for the excellent work undertaken.

10.5 Following discussion the Board:

- Noted the achievements of FSS in Y1 of our 5-year Strategy.

11. Performance against Corporate Plan – Year 2 Planning – 220607a

11.1 The Chair invited Geoff Ogle to present a paper setting out FSS proposed approach for delivery against Corporate Plan in Year 2 (Y2) given the current expected funding envelope to 2026/27, which currently does not take into account the consequences of EU Exit.

11.2 Following discussion the Board:

- Commented and agreed on FSS principles-based approach given the expected funding challenges and agreed to the 8 proposed categories outlined in the paper at 5.6.
- Addressed the strategic questions set out in para 8:
 - Further discussion at a Board away-day in August will determine where the Board sees the balance of priority between EU Exit consequences and 'business as usual'.
 - The Board agreed the review of functions should also include review of SG support functions FSS currently pay for (eg recruitment HR, legal advice, IT services and procurement advice) to test whether best value can be obtained through different provision.

11.3 The Board and Executive agreed that a joint away-day in August should be arranged. This will allow sufficient time to determine the set of suggested priority deliverables in Annex A and/or suggest areas that can be de-prioritised. The Board agreed that, once the allocation of functions against the principles has been undertaken and the risks, issues and consequences are known, the Executive should inform Ministers as appropriate.

12. Revised Strategic Outcomes Format – Rationale – 220608 and 220608a

12.1 The Chair invited Garry McEwan, Head of Governance & Infrastructure to present the refreshed suite of Strategic Performance Indicators for scrutiny and monitoring purposes. This paper supplements a set of slides at Annex B using live data.

12.2 Following discussion the Board:

- Considered the Strategic Performance Indicators as presented in Annex B and noted the very clear visuals.
- Noted the proposal to reconvene the Performance and Outcomes Reporting Short Life Working Group between January to March 2023 to consider next steps in relation to target and trend setting ahead of new performance year.

Break

13. Local Authority – background paper on the current situation - 220609

13.1 The Chair invited Lorna Murray, Head of Local Authority Delivery Division to present to the Board a paper providing a more detailed analysis of Scottish Local Authority (LAs) Environmental Health Services, this provided the Board with a summary of:

- the demand of food law delivery across the 32 LAs;
- the levels of resource for each LA;
- the challenges of maintaining a professional workforce;
- funding of the service; and,

- current and future challenges being faced.

13.2 The Board noted that current LA delivery continues to be the highest strategic risk caused by the pressures of a significant lack of resources as well as the impact of Covid-19, EU Exit and increasing demands for support to government initiatives on existing requirements under current Food Law.

13.3 The Board asked whether businesses can be charged for, for example, an 'annual statement of assurance' and Lorna confirmed that there is the potential for charging and it merits further investigation, however this doesn't immediately address the severe shortage of trained EHO's, there are currently 60 vacant posts. With the degree course taking 4 years to complete, 5 years previously, staff shortages will continue for some considerable time.

13.4 Lorna explained that this is the first paper of several in 2022, a LA blue print options paper will be presented at the September Board meeting.

13.5 Lorna explained that a range of measures are being looked at, including modernisation of digital platforms as part of our digital and data strategy, and extending the Code of Practice to allow other disciplines to check low risk establishments.

13.6 Ian McWatt also ensured that the Board were made aware of the additional risks posed by trade deals being predicated on Assurance of Official Controls Regulations via official audits.

13.7 The Board thanked Lorna for a very thorough and informative paper

13.8 Following discussion the Board:

- Noted the challenges and fragility of the current Local Authority Food Law delivery framework.
- The Board agreed that given the risk has been severe for quite some time, the time had now come to escalate the issue to Scottish Ministers by way of a formal letter from the Chair, outlining the steps FSS have taken already, and outlining potential solutions and recommendations for a way forward.

14. Safeguarding Laboratory Services for Food and Animal Feed in Scotland – 220610 and 220610a (confidential information)

14.1 The Chair invited Jacqui McElhiney, Head of Science to present a paper on Official Food and Feed Laboratory Services in Scotland and the Case for a Nationally Funded Delivery Model.

14.2 As a result of LA budget pressures over the past decade, national provision of Environmental Health (EH) services has been much reduced, resulting in a significant decline in sampling activity and therefore less income for the four Public Analyst (PA) laboratories based in Aberdeen, Dundee, Edinburgh and Glasgow City. This situation has been further compounded by a lack of investment by the majority of the other 28

LAs and in light of the acute shortage of EH officers being trained, and a lack of scientists entering the PA profession, the future viability of PA laboratories is now under significant threat.

14.3 The Board sought clarity on costs to FSS for laboratory provisions and Jacqui responded that it wasn't possible to be definitive at this point, however additional costs aren't necessarily for us to bear as LA's fund them, there could also be opportunities to charge for sampling under a different model.

14.4 Following discussion the Board:

- Noted and commented on the strategic consequences of a failure of official food and feed laboratory services in Scotland, the action needed to safeguard future provision of these services, and the role of FSS in driving this.
- The Board strongly supported the need for provision of official laboratory services within the public sector in Scotland and agreed for the Chair to make a formal approach to Scottish Ministers on the issues outlined in the paper and the need to commission a business case for a model which will support optimum delivery of these laboratory services at a national level.

14.5 The Chair will write two separate letters to Ministers, one regarding LA delivery and one regarding PA laboratories, cross referencing each other.

15. Cutting Plant & Cold Stores Review Project – close out report - 220611

15.1 The Chair invited Christina Anthony, Regulatory Strategy Programme Manager to present her paper updating the Board on the Cutting Plant and Cold Store (CPCS) review project.

15.2 In early 2018, following several high-profile incidents in several food business across the UK which identified some areas for concern, particularly in relation to industry practices on traceability, durability and authenticity, FSS and FSA announced a UK-wide review of CPCS.

15.3 The project has successfully delivered 11 of the 19 recommendations made, with the remainder not yet delivered due to delays as a result of EU Exit, Covid-19, and lack of resources/finance. FSA has now officially closed their project with outstanding recommendations being taken forward as business as usual (BAU) and following discussion at the FSS Regulatory Strategy Programme Board in February it was agreed that FSS would take a similar approach.

15.4 The work carried out through this review has resulted in significant improvements to meat industry practices for both FSS, FSA and industry.

15.5 The Chair commended everyone on achieving 11 of the 19 recommendations within the project.

15.6 Following discussion the Board:

- Noted the proposal to close off the CPCS project and transfer responsibility of the 8 outstanding recommendations to BAU.
- Confirmed they were content with the proposed approach.

16. Terms of Reference for the Finance & Business Committee – 220612 and 220612a

16.1 The Chair invited Diane Strachan, Head of Private Office to present the Terms of Reference (ToR) for the newly established Finance & Business Committee (FBC) which has been set up to give appropriate high level oversight of financial and operational matters at Board level.

16.2 The FBC meetings are still to be scheduled but will take place in line with financial quarters. The Chair has still to discuss membership of the Committee with Board members.

16.3 The Chair invited questions from Board members, there were none, the Board:

- Noted the content of the FBC ToR
- Agreed the FBC ToR for adoption and publication

17. Any Other Business

17.1 William Strachan, external Stakeholder, joined the meeting and asked the following questions which were answered offline via email:

Q1:

Strategic Outcomes Report: I noticed the increase in Campylobacter cases and noticed that, unlike cattle, sheep and pigs, FSS has failed (as far as I'm aware) in the past five years or more to publish the contamination figures from poultry slaughterhouses. Do you think it would be prudent to begin publishing the contamination levels/numbers obtained from poultry slaughterhouses in the Operations Performance Reports? Do you know if there is correlation between the level of contamination in Scottish poultry abattoirs and the increase in cases of Campylobacter?

Answer:

You are correct that we have not been including the contamination levels for poultry in the Operations Performance Reports, however ante- and post-mortem inspection results per species are being published by FSS every year and the link can be found below:

[Multi – Species Ante Mortem & Post Mortem Conditions | Food Standards Scotland](#)

The spreadsheets provide information for different species, including poultry. The results can be filtered by the reason for rejection, in this case, contamination.

Reviewing the data for the years 2020 and 2021, there is a decreased on the levels of contamination from 98,955 rejections recorded in 2020 to 96,595 in 2021, therefore we can conclude that there is no direct link with the increase of Campylobacter cases recorded in 2021.

During 2021 40,800,395 birds were slaughtered in Scotland, a total of 519 Campylobacter samples were taken with only 46 of them being over the established limit of 1000 cfu/g by Retained Regulation 2073/2005.

Q2:

When will the FBO Audit Reports be updated on the FSS website? As far as I can see, the latest one is dated June 2020.

Answer:

All final audit outcomes are now published; the reason for the gap in publishing them is linked to the fact that audits have been paused for the first year of the Covid-19 pandemic. Following the resumption of audits, plants entered the new audit system gradually, on a risk basis and it takes 12 months for plants to start coming out of their first inspection cycle. So, at the link below, you will find the latest audit outcome for each plant – again, some may still be in 2019-2020, as they are currently in their inspection cycle.

[FSS Approved Establishments | Food Standards Scotland](#)

Q3:

Could a system be established to notify stakeholders and interested parties of changes/updates to the SMOC as they occur?

Answer:

This question was answered at the meeting.