

**MINUTES OF THE MEETING OF THE FOOD STANDARDS SCOTLAND BOARD
HELD 16 MARCH 2022 FROM 13:00 TO 17:00
HYBRID – HILTON CARLTON EDINBURGH / TEAMS**

Present**FSS Board**

Ross Finnie, Chair
Louise Welsh, Deputy Chair
Heather Kelman
Carrie Ruxton
Sue Walker
Carol Evans
Aileen Brown
Alban Denton

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

1. Introduction, apologies, matters arising

1.1 The Chair, Ross Finnie, welcomed everyone to the Food Standards Scotland meeting. Ross passed on his congratulations to Heather Kelman who will take up the role of Chair as of 01 April 2022.

1.2 No apologies were received.

2. Declaration of Conflict of Interest

2.1 No conflicts of interest were declared by Board members.

3. Minutes of meeting from 17 September and Action Log – 21/11/01

3.1 The Minutes of the meeting held 17 September 2021 were agreed as an accurate record.

3.2 The Chair moved onto the Action Log. Number 2021/10 – Workforce plan presentation may benefit from a people strategy and will be brought to a Board Seminar in the Autumn, 2021/19 – the Vitamin D campaign is still running, a full wash up will 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 On February 15 the Chair and CEO had a very positive meeting with both the Chair and Chief Executive of FSA, Susan Jebb and Emily Miles to discuss the joint FSS and FSA Annual Report.

5. Chief Executive's Report and supplementary oral update – 21/11/02

5.1 The Chair invited Geoff Ogle to provide an oral update to supplement his written report.

5.2 Geoff advised that FSS and FSA have recently received a request from the Department of International Trade (DIT) to provide advice on the UK-Australia Free Trade Agreement (FTA) and work is progressing on this.

5.3 Geoff advised that he hopes to get a letter of comfort next week regarding the additional money requested from Scottish Government (SG) following EU Exit.

5.4 Geoff explained that FSS have stood up the Scottish Incidents methodology in response to the shortage of sunflower oil due to the conflict in Ukraine. This is resulting in lots of extra work for colleagues, in particular, Science, Policy and Comms, such as undertaking risk assessments on proposed substitutions, changes to labelling and ensuring consumers are kept informed of changes to ingredients. FSS are working with the FSA in the hope of reaching a 4 Nations solution.

5.5 Following FSS win of Commercial Partnerships Award at the Public Service Awards in December Board members passed on their congratulations to the team.

6. Financial Performance Report – Quarter 3 – 21/11/03

6.1 The Chair invited Elaine McLaughlin, Head of Finance and Procurement, to present her report on Financial Performance of FSS up to 31 December 2021. At the end of Q3 FSS is reporting an outturn of £21.2m against the resource budget of £21.7m, representing a projected 2.3% underspend against budget.

6.2 Elaine specifically drew attention to the 8% 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. Garry McEwan, Head of Governance and Infrastructure, and Elaine meet regularly with SG Finance and HR colleagues and there is talk of a dedicated service for Delivery Bodies. There have also been some delays in the delivery of procurement activity and Scottish Government Internal Audit and Assurance Directorate (SGIAAD) are undertaking a review in Quarter 2.

6.3 Elaine also drew attention to the Programme spend which is £360k (29%) under budget, which has been impacted by lack of staff leading to various projects, including some in the work programmes, not going ahead or having to be delayed until the following financial year. The Board received assurance that re-profiling work programmes follows a systematic process by way of Programme Boards.

Following discussion the Board

- Noted the financial information and expected year end position reported as at 31 December 2021

- Noted the indicative Resource and AME budget amounts for 2021/22

7. Financial Approach for 2022/23 – 21/11/04

7.1 The Chair invited Elaine to present to the Board the paper outlining the Financial Approach for 2022/23. FSS has been allocated £23m for the next financial year which includes £0.4m for Annually Managed Expenditure (AME) as detailed in the Scottish Budget 2022 to 2023. The resource and depreciation budget of £22.6m will be allocated through the annual business planning round for 2022/23. This budget will be used to deliver statutory functions, continued delivery across Regulatory Strategy Nutrition programmes as well as Essential Core Activity.

7.2 Elaine specifically drew attention to the business case with SG requesting an additional £2.9m budget next year to fund a further 56 staff to deliver work as a result of EU Exit. Should the money not be forthcoming Geoff advised that a reprioritisation exercise would have to be carried out and the Board would need to consider priorities and consequences and inform ministers. However, the indication is that FSS would be allocated additional funding.

7.3 Elaine also explained that delays in recruitment have led to underspend in previous years, however with the increase in staff this year it is projected that we will spend the 2022/23 budget in full.

7.4 The Board asked whether FSS were confident in receiving £6.2 million in income this year and Elaine stated that business agreements are being reviewed to check figures, but from past experience the forecasts have been accurate.

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 – Oral Update

8.1 The FSS Chair advised that Aileen Brown and Carol Evans had been appointed to the ARC following approval by the Board, and that Heather Kelman was standing down due to being made Chair of FSS from 01 April 2022.

8.2 The FSS Chair invited Sue Walker, Chair of the Audit and Risk Committee (ARC) to provide an oral update on the ARC meeting which took place on 09 March 2022.

8.3 The ARC Chair advised that 2021/22 corporate systems audits and the Internal Audit Official Controls Audit Programme remain on track.

8.4 The Shellfish Official Controls had received a reasonable assurance rating. She noted that the Scottish Manual of Official Controls was being updated in a

stepwise way to ensure it remained a live document. This would allow closure of a number of audits over coming months.

8.5 The ARC Chair reported that ARC supported the proposed corporate systems audit plan and the Proposed Official Controls Audit Programme for the period April 2022 to March 2023.

8.6 The ARC was disappointed that the External Audit plan for 2022/23 was not available at the March meeting. This was due to delays for all public bodies, the plan will be shared inter-sessionally with a view to formally presenting it at the June ARC meeting.

8.7 The ARC Chair advised that FSS Finance are aiming to have the accounts drafted by mid-June with Audit Scotland commencing their work thereafter. ARC expects that the Annual Report and Accounts (ARA) will be presented to the ARC and Board in September 2022, returning to the pre-Covid timeline.

8.8 The ARC Chair advised that Audit Scotland are currently entering year 6 of the current appointment round and FSS will be notified soon regarding which organisation has been appointed for the next 5 years with the handover process taking place following the 2021/22 annual audit.

8.9 The ARC Chair reported that ARC had discussed the style and content of the new strategic risk register and noted the changes to the framework of risk management within the Executive. She advised that ARC agreed to recommend to the Board the 7 risks as set out in the revised Strategic Risk Register be adopted.

8.10 The ARC received a presentation on the new layout for the Performance Reporting and Outcomes which will be a subject of the Board seminar in April.

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

9. Strategic Risk Register discussion following ARC – 22/03/05

9.1 The Chair invited Garry McEwan to present an update on the review of the Strategic Risk Register which aligns with the revised FSS Strategy and to describe the revised risk management framework that has been introduced by the Executive.

9.2 The Board asked what is meant by 'on-boarding' as described at Risk 6, and Garry explained that lack of HR resource has an impact on the whole recruitment process. Advertising new positions, getting successful candidates security cleared, then set up on payroll and IT systems all takes an inordinate amount of time as these are all undertaken by separate departments and therefore cannot be done simultaneously. It is hoped the new IT system SG are investing in will go some way to alleviating this and we are also still hopeful that delivery bodies will be given dedicated HR services.

9.3 The Board asked whether there should be a risk added to the Strategic Risk Register related to food security given the cost of living crisis and the conflict in Ukraine impacting food supply. They were advised that food security is SG's remit,

and that Risk 1, which relates to disruptions in the supply chain, already covers the risk to a certain extent, however ELT will consider the wording.

9.4 Following discussion the Board:

- Agreed the seven strategic risks set out in Figure 1 be included in the new Strategic Risk Register
- Noted the draft Strategic Risk Register (Annex A) which explains the risks in more detail including mitigations
- Noted the draft revised Risk Management Policy and Guidance (Annex B) which reflects the updated risk management processes established within the Executive

10. FSS Update on Genome Editing – 22/03/06

10.1 The Chair invited Garry Mournian, Head of Regulatory Policy, to present to the Board on the subject of genome editing and explained the paper seeks to establish FSS Board position as a science and evidence based organisation alongside the importance of our duty to act independently in the interests of Scottish Consumers. He further stated that there is likely to be considerable political discussion due to the current position of Scottish Government on genetic modification, but that it is important that we can influence and represent developed interests with UK Government.

10.2 The Board thanked Garry for an excellent paper.

10.3 Following discussion the Board:

- Noted the update on potential legislative change in England should the definition of Genetically Modified Organisms (GMOs) exclude organisms that have genetic changes that could have been achieved through traditional breeding or which could occur naturally.
- Noted the intention to explore gaps in our understanding of consumer awareness and attitudes relating to GMO and genome editing in Scotland, and social research that may be needed to inform the discussion around any potential change to the regulatory framework in England and/or the rest of GB.
- Discussed and agreed the extent to which FSS officials should engage with the FSA when it comes to informing the development of a regulatory framework for genome edited products in the event of legislative change in England.
- Discussed and agreed the Chair should write to Ministers on FSS planned involvement in this work at a GB level.

Break

11. Development of a new food surveillance sampling strategy for Scotland – 22/03/07

11.1 The Chair invited Jane Horne and Will Gilbertson to present to the Board a paper informing of plans to develop a new food sampling strategy as part of a scientifically robust national food surveillance programme. It also described how the new strategy will be delivered to provide a structured framework for collecting data on food safety and standards that will enable FSS to deliver its strategic objectives.

11.2 The Board asked whether the budget is set for non-targeted surveillance work prior to deciding what samples are taken. Will Gilbertson explained that the sampling strategy can be designed to fit the budget, and part of the scoping study will also look at what is done in other countries.

11.3 Jane explained that although they are still at the early stages of the scoping exercise Science are already working closely with Diet & Nutrition colleagues gathering analysis, as it is important to ensure as many people as possible can make use of the dataset. FSS are also keen to engage with a number of organisations such as Food & Drink Federation (FDF) and British Retail Consortium (BRC). Samples will potentially be taken by a number of sources such as by local authorities or procurement from third party contractors. The Board were assured that any data published would be commodity related rather than being attributable to a retailer.

11.4 It was noted that local authority sampling has gone down, and reported cases of salmonella and norovirus are down presently, however this is likely to be due to decreased travel and person to person contact due to Covid-19 restrictions.

11.5 The Board thanked Jane, Will Gilbertson and Kasia Kazimierczak, from the Food Protection Science and Surveillance Branch, for a very thorough and informative paper

Following discussion the Board:

- Noted the challenges associated with the current approach to food sampling in Scotland, and implications for FSS surveillance capability, laboratory services, and enforcement delivery in Scotland
- Considered and agreed the case for a new food sampling strategy as part of a scientifically robust national surveillance programme which can be maintained into the future.
- Confirmed the Board is content for the Executive to pursue the proposed approach for delivering this programme as part of our wider plan for mitigating the strategic risk relating to LA delivery

12. Update on first year as Chief Scientific Advisor – 22/03/08

12.1 The Chair invited David Gally to present his thoughts following his first full year as Chief Scientific Advisor.

12.2 David explained that he has used his first year in post to understand the organisation and to make contacts in the wider scientific arena. Going forward he hopes to put himself forward as an ambassadorial figure, and take forward external opportunities.

12.3 As part of his role David engages regularly with the Science Division and contributes to Science papers.

12.4 The Board would like to see David expand his media presence and be seen as the 'go-to' for an expert opinion.

12.5 The Board suggested two ideas for consideration:

- An annual public lecture
- An event to showcase the evidence FSS have collated over the years

13. Fukushima – 22/03/09

13.1 The Chair invited Josep Campins to present his paper related to enhanced import controls on certain food imported from Japan as a result of the Fukushima nuclear accident in March 2011. These controls were put in place as a result of the accident in 2011 and emergency controls have been reviewed a number of times since then. The controls now apply only to a limited number of foods including mushrooms, wild foraged vegetables and certain species of fish.

13.2 The controls have been reviewed regularly since the accident. Now that the Regulation is retained law the commitment to review the controls sits with the Appropriate Authority i.e. Scottish Ministers. The review has followed the risk analysis process so that the Minister can make a decision on the controls. And as part of that process, an assessment has been produced of the risk to public health from consuming Japanese food imported into the UK, if the maximum levels on radiocaesium for food imported from Japan are removed. FSS has consulted on the risk management options. Of the 3 options presented Option 2, to remove the existing controls, was the preferred option in line with the outcome of the risk assessment which indicates that removing these controls would represent a negligible increase in dose and any associated risk to the UK consumer.

13.3 The recommendation applies only to removal of the enhanced controls that were put in place as a result of the accident 11 years ago. The recommendation does not affect the routine monitoring for radioactivity in food. Routine monitoring occurs, largely focused on food produced around nuclear sites. This follows international guidance from the International Atomic Energy Agency, which all countries operating nuclear power stations will follow, including Japan. There are also routine checks on freight entering the UK which screen consignments for radiation. While these are not intended for food samples those checks do occasionally pick up low levels of radioactivity and are investigated. However these radiation detectors have never been triggered in relation to imports from Japan.

13.4 The Board asked whether surveillance of products includes supplements and Josep advised that there is no limit on what is routinely scanned.

Following discussion the Board:

- Agreed that FSS should advise the Minister in Scotland that, based on the outcome of the FSS and FSA's risk analysis, the enhanced sampling and import controls are no longer required to ensure food is safe as the requirements of general food law will suffice
- Noted that FSS officials will continue to work closely with the FSA to ensure actions to remove these controls are coordinated.
- Subsequent to the Board meeting Josep advised earthquakes are not unusual in that area and as a result there have been a few precautionary tsunami warnings since 2011, which have not materialised.

14. Revised Code of Conduct – 22/03/10 / 22/03/10a / 22/03/10b

14.1 The Chair invited Diane Strachan to present the revised FSS Model Code of Conduct for Board Members of Developed Public Bodies which was scrutinised and approved by the Scottish Parliament in October 2021.

14.2 Diane drew the Board's attention to the main changes which were listed in Annex B of the paper.

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

- Noted the content of the revised Model Code of Conduct
- Agreed the revised Model Code of Conduct for adoption and publication

15. Local Authority Delivery – 22/03/11

15.1 The Chair invited Ian McWatt to present a paper outlining the intended approach to address the current strategic risk related to LA Delivery. The "risk event" is LAs being unable to deliver food law requirements as prescribed in the Food Law Code of Practice caused by the failure to invest in the training and supply of professional resource, mainly due to funding cuts. The effect being that the demand for professionally qualified staff within LA Environmental health and Public Analyst Services far outstrips supply risking the ability to meet statutory food law intervention requirements and EU Exit requirements to support trade.

15.2 The risk likelihood is rated at 4 while the impact is rated at 50 giving a risk score of 200, meaning it is a high risk. It has been static for some time, not moving primarily because of the support FSS has provided to prevent a worsening of the situation.

15.3 The live data held within the Scottish National Database (SND) enables FSS to measure capacity against the need for resource and shows that interventions by local authorities has decreased. The local authorities are under severe pressure with the resources they have and are unable to fulfil requirements.

Following discussion the Board:

- Confirmed they are content with the proposed timescales for the papers identified
- Confirmed they wished the risk re-rated from a 4 to a 5
- Agreed that, given the level of resource constraint on LAs to even support implementation of the mitigations measures, the Board should raise concerns with Ministers as there could be an impact on both trade and public health. It was decided not to raise the capacity issues with SOLACE first as they cannot take on more without increased resources.
- The Board would also be supportive of the Executive giving consideration to structural reform

16. Any Other Business

16.1 Martin Morgan, Executive Manager Scottish Association of Meat Wholesalers joined the meeting to ensure the Board were made aware of the strength of feeling within the membership regarding the increased meat hygiene charge out rate. Martin asked whether there had been an economic assessment undertaken given the rising cost of overheads related to, for instance, CCTV and increased fuel costs amid declining production. The Chair reiterated the current issues faced in recruiting Veterinarians and Meat Hygiene Inspectors post Brexit, and that industry would not be able to put products on shelves without the veterinary certification required by law. He also reminded Martin that charges were held last year on account of Covid, and so the increase covers the previous two years.

16.2 Martin acknowledged that FSS had done a good job in bringing meat hygiene inspection in-house but would urge Ministers to look at a different charging model. Martin would also like Ministers to review the veterinary and TSE regulations which he considers out of date, although he appreciates this would not be an easy task.

16.3 The Board and Executive noted the important issues raised.

16.4 Ross Finnie closed his final meeting as Board Chair by reflecting on his time as Board Chair and wishing Food Standards Scotland every success going forward. Geoff and Louise took the opportunity to thank Ross for his time as Chair and the invaluable contribution he had made to FSS.