

MINUTES OF THE MEETING OF THE FOOD STANDARDS SCOTLAND BOARD HELD ON 18th NOVEMBER 2020 FROM 10.30 AM TO 13:50 PM VIA VIDEO CONFERENCE

Present:

FSS Board

Ross Finnie, Chair
Louise Welsh, Deputy Chair
Marieke Dwarshuis
Heather Kelman
Carrie Ruxton
Sue Walker
Anne Maree Wallace

FSS Executive

Geoff Ogle, Chief Executive
Ian McWatt, Deputy Chief Executive
Julie Hesketh- Laird, Director of Strategy, Communications and Programmes
Garry Mournian, Interim Director of Policy, Science, Finance and Human Resources
Diane Strachan, Head of Private Office
Hazel Stead, Board Secretary

External

Liz Maconachie, Lead Senior Audit Manager, Audit Scotland
Aimee Macdonald, Auditor, Audit Scotland

1 Introduction, Apologies, Matters Arising

1.1 The Chair welcomed everyone to the Food Standards Scotland (FSS) Board meeting.

1.2 There were no apologies.

1.3 The Chair explained that the minutes of the October Board meeting would be carried forward.

1.4 The Chair welcomed Martin Morgan from Scottish Association of Meat Wholesalers to the Board meeting.

2 Declaration of Conflict of Interest

2.1 The Chair asked for any conflicts of interest to be declared. None were declared

3 Chair's Report

3.1 The Chair updated the Board that Marieke Dwarshuis and Anne Maree Wallace had both been extended, and the recruitment of up to three new Board members was already underway. He explained that Marieke Dwarshuis had volunteered to fill the vacancy on the Audit and Risk Committee (ARC). The Chair sought agreement from the Board for Marieke's reappointment to the ARC and the Board agreed.

3.2 The Chair attended a meeting on the UK Internal Market Bill with Mike Russell, Minister for Constitution and External Affairs and stakeholders from the food industry. He noted that it was evident that those in attendance had not understood the White paper that proceeded the UK Internal Market Bill.

4 Chief Executive's Report

4.1 The Chair invited Geoff Ogle, Chief Executive (CE) to provide a verbal update on a number of topics. Geoff welcomed Julie Hesketh-Laird, Director of Strategy, Communications and Programmes to her first FSS Board meeting.

4.2 Geoff explained that winter planning continues, with the critical roles identified and the on-call incidents/risk management rota being finalised. He noted that the Executive is working to ensure that we have organisational resilience from December and into January 2021. He reported that there had been no Covid-19 staff sickness recorded since April 2020, with overall staff absence rates being lower than other organisations.

4.3 He noted that at the Audit and Risk Committee on the 28th October 2020, there was a discussion on the Scottish Government Internal Audit plan and it was agreed that the Workforce Planning audit planned for Quarter 4, is to be replaced by an advisory audit on Best Value.

4.4 He explained that recruitment of staff is ongoing and good progress is being made at all levels. The recruitment of staff for the Export Hubs is going well, however with the Northern Ireland protocol not yet clear, there is potential for significant impact on Local Authorities resources.

4.5 We had an 85% response rate for the Annual FSS Staff Survey which provides the Executive with an accurate indication of staff views.

4.6 He explained that the UK Government Internal Market Bill has a number of implications for FSS. He was invited to give evidence at the House of Lords Common Frameworks Scrutiny Committee on 24th November 2020.

4.7 Board members noted the influence of the three Bills currently going through Westminster parliamentary process and the associated impact of these on food legislation. The Board requested a written update, with the threats and opportunities to FSS identified. The Chief Executive noted it was a difficult and fast moving situation and a written briefing would be out of date by the time it was issued.

5 Audit and Risk Committee Oral Update

5.1 The Chair invited Sue Walker, Chair of the Audit and Risk Committee (ARC) to provide an update and present the annual Statement of Assurance to the Board. Sue explained that at the ARC meeting on 28th October 2020, recognising the pressures on staff decided to cancel the December 2020 and March 2021 ARC meetings. These meetings are to be rescheduled in February and May 2021, which provides a more balanced ARC schedule.

5.2 On Internal Audit matters, she explained the Scottish Government Internal Audit plan was on-track with the exception of the Workforce Planning Audit which had been replaced by an advisory audit on Best Value. She noted the substantial opinion issued for the Open Data Audit Report.

5.3 On External Audit matters, she explained that the ARC had discussed the Audit Scotland Annual Audit Report and two papers for information – Covid-19 Guide for ARC and National Fraud Initiative Self-Assessment Checklist.

5.4 In terms of Risk and Governance matters, the ARC noted that there had been little movement in risk scores since the last ARC meeting and that risks associated with Brexit were very challenging with the proximity becoming closer.

5.5 The ARC received a report on Environmental targets and were pleased to see the progress that FSS is making. The ARC noted that due to increases in staff numbers, overall emissions had increased. She explained that a new Carbon Management Plan is to be developed to reflect the urgency needed in dealing with the climate emergency.

6 Audit and Risk Committee Statement of Assurance to the Board – 20/11/01

6.1 Sue moved on to present the annual ARC Statement of Assurance to the Board. She explained that it provides the detail of the on-going assurance provided by in audit reports and opinions from internal and external auditors throughout the year. During the year, the ARC completes its own scrutiny of controls in terms of risk, internal controls and governance.

6.2 At the ARC meeting on 28th October 2020, ARC members discussed the draft ARA and also received Audit Scotland's draft Annual Audit Report 2019/20. ARC members noted it was a positive draft audit report, and the unqualified opinion on the ARA to be issued subject to agreement by the Board. The ARC noted the recommendations made and the executive had already put actions in place to address these.

6.3 The ARC was content:

- on the basis of assurance provided through reports presented to it through the year by internal audit and by ARC scrutiny of the reports from the executive on a number of matters including risk management and the internal controls framework
- with the reasonable annual assurance opinion for 2019-20 of FSS internal auditors, for corporate systems, the Scottish Government Directorate of Internal Audit and Assurance
- the moderate annual assurance opinion of 2019-20 of the Food Standards Agency Head of Internal Audit (internal auditor of FSS official controls)
- the draft Annual Audit Report from our external auditors, Audit Scotland
- with its own and the Board's scrutiny of the content of the ARA
- to recommend to the Board that it should approve the FSS Annual Report and Accounts 2019/20 to be signed off by the Accountable Officer.

6.4 She thanked Liz Maconachie and her Audit Scotland team and FSS staff for their work on the ARA during these exceptionally difficult times.

6.5 The Chair invited questions from the Board, but none were raised.

7 Annual Audit Report – Audit Scotland – 20/11/02

7.1 In the introduction, the Chair wished Jim Rundell a speedy recovery. He introduced Liz Maconachie, Lead Senior Audit Manager from Audit Scotland. Liz explained that the report was updated since it was tabled at ARC on 28th October 2020. She discussed the changes with the ARC Chair and confirmed that they do not impact on the audit opinion. She confirmed that all audit opinions are clear and unqualified.

7.2 She noted that working papers were of a good standard and FSS Finance team had provided good support during the audit. She noted that an addendum to the Government Financial Reporting Manual (FReM) was issued which permitted sections of the performance report to be omitted, but FSS had prepared the ARA in accordance with the full FReM requirements. She explained revised audit timetable was issued due to Covid-19 and was pleased that this had been met.

7.3 She drew attention to materiality levels had changed very slightly from the planning stage. She noted that the performance and accountability report was detailed and comprehensive, and there was scope for streamlining in future in line with Audit Scotland Performance Report Good Practice Guide. She noted that an understatement was found in relation to a pre-payment, which was amended. She noted the statement of cash-flows within the use of provisions (£189k) relating to the McCloud provision which was an error as it was not a current provision.

7.4 This was balanced out by another error in the intangible assets were shown as additions rather than a transfer from assets under construction which gave a £2k difference and is below the trivial reporting level. She explained that trade payables under accruals, the Audit Scotland Audit fee was wrongly included, and it should be recorded as a nominal fee. She explained that £63k of misstatements were identified and corrected.

7.5 She explained that there is an uncorrected misstatement in the ARA which relates to employers contributions £45k difference which is a timing issue between the provider who uses estimates and the actuals which were £45k less.

7.6 She moved onto Financial Management and confirmed that FSS operated within budget and controls are effective. She explained that governance arrangements were reviewed and made a recommendation that FSS fraud policy and whistleblowing policies need updated. She noted that Financial Sustainability, noting the Financial Management Plan was being revised in terms of longer-term planning, but this did not occur this year due to internal restructuring/EU Exit. She noted that the business case for FSS to receive additional funding for EU exit purposes was approved. She noted that £0.25k was spent by FSS on dealing with the impact of Covid-19, which is being offset by savings made elsewhere.

7.7 She noted that on Governance and Transparency, FSS has appropriate and effective arrangements in place. She moved onto Value for Money, noting that a Best Value Framework was being developed. She explained that Key Performance Indicators (KPIs) could be included in the Performance Report. She noted that the Equalities Mainstreaming Report was published on the FSS website by the due date, but there was scope for improvement in equalities training and use of KPI's. She drew attention to Appendix 1 which detailed the risks and recommendations; the agreed management actions and timeline and Appendix 2 on the significant audit risks identified during planning and Appendix 3 was a summary of national performance reports 2019/20.

7.8 The Chair invited questions on the Annual Audit Report from Board members. A question was raised regarding why the length and detail of the Performance Report had not been questioned by Audit Scotland in previous years. Liz explained that she was looking at the ARA with a fresh perspective, noting there was some repetition and had expanded over time and by refining it would make the document more readable. The Board welcomed the suggestion to streamline the Performance Report. No other questions were raised.

7.9 The Board:

- **noted** the outcome of the audit and the recommendations being made by Audit Scotland in their draft annual audit report
- **noted** the recommendation made to the Board by the Audit and Risk Committee;

8 Food Standards Scotland Annual Report and Accounts 2019/20 – 20/11/03

8.1 The Chair noted that the Board was content with the way in which George Brechin's death was documented in the Director's Report. He then invited Geoff Ogle, as the Accountable Officer to introduce the Annual Report and Accounts (ARA) 2019/20. Geoff noted that the Performance Reporting section had evolved over the years and it was an appropriate time to review the content.

8.2 Geoff explained it was for Board members to review and, subject to their consideration, approve the ARA and authorise their issue by himself as Chief Executive and Accountable Officer. He explained that the ARA had been prepared in accordance with the

Government Financial Reporting Manual and prepared to meet the requirements of Section 15 of the Food (Scotland) Act 2015 and in accordance with the Accounts Direction given by Scottish Ministers. He explained he had fulfilled his responsibilities as Accountable Officer for the preparation of the ARA 2019/20 in regards to financial regularity and corporate governance arrangements. He noted that accounting records, other documents and matters for the ARA have been made available to Audit Scotland for the purposes of their audit. All transactions undertaken by FSS have been accounted for and reflected in the Financial Statements. He confirmed that in all material aspects expenditure was incurred and income applied in accordance with the Accounts Direction given by Scottish Ministers. He explained that further details of his obligations were outlined in his letter of representation to Audit Scotland. He noted that Audit Scotland anticipate issuing an unqualified opinion following the Board's discussion at today's meeting.

8.3 He explained that the ARA consists of three sections, the Performance Report, Financial Management and Financial Statements. He explained that the Performance Report includes both a summary and analysis section which provides a consolidated version of outcomes reporting throughout the financial year, with the analysis section providing some additional details.

8.4 He gave a summary of some of the achievements made over the year - to bring in-house the Official Veterinarians and Meat Hygiene Inspectors for Official Controls; established the Future Structures project to ensure we have the capacity and capability for EU Exit; responding to Covid-19 towards the end of the financial year; in nutrition in developing the evidence base to improve the out of home environment and expanding our role on diet and nutrition, food safety (in campylobacter and Shiga-toxin E-coli); in regard to the Food Law Rating Scheme, Scottish National Database was completed, Food and Feed Official Controls; Regulatory Strategy had been refreshed and Food Hygiene Information Scheme and Food Crime and Allergens campaigns had been introduced.

8.5 He explained that the Financial Statements detail the financial performance in 2019/20 and he confirmed that two misstatements above the reporting threshold have been rectified and accepted by Audit Scotland. He explained the unadjusted error in the ARA relating to employer's pension contributions, and due to the timing of the issue being raised, no adjustment was made to the ARA, but it has been agreed to review the matter.

8.6 He drew attention to the Financial Performance in the Performance Analysis section which outlines the financial outturn against budget at the end of the financial year. He noted the total resource expenditure was £17.4 million, compared to the departmental budget of £18.2 million, resulting in an underspend of £0.2 million.

8.7 He noted the non-cash Annually Managed Expenditure (AME) was £0.4 million compared to the budget of £0.7 million. He explained that FSS drew down £15.6 million in cash terms to cover its capital and operating costs. He noted that the ARA have also been reviewed by the Audit and Risk Committee, who recommended the ARA and their issue by the Chief Executive as the Accountable Officer. He noted the positive statements made by Audit Scotland in their Annual Audit Report. He explained that the recommendations made by Audit Scotland have been accepted and are being implemented. He thanked Liz Maconachie and Aimee Macdonald for their work and Elaine McLaughlin and Nanret Ogala and the FSS Finance team for their work on the ARA.

8.8 The Chair invited questions on the ARA from Board members, but none were raised. He then proposed a motion that the Board approved the FSS Annual Report and Accounts 2019/20.

8.9 The Board:

- **approved** the Annual Report and Accounts 2019/20 and their issue by the Chief Executive as the Accountable Officer

8.10 Sue Walker noted that it would be helpful to explain how the ARA would be signed off remotely. Liz explained that the FSS Annual Report and Accounts 2019/20 would be signed electronically by Geoff, Elaine and countersigned by herself using DocuSign software and the ARA are then subject to a final quality assurance check by Audit Scotland and be laid in Scottish Parliament. The Chair noted the ARA are not published until they have been laid.

9 Financial Performance Report – Quarter 2 – 20/11/04

9.1 The Chair drew attention to the revision of Table 5 in the report. He then invited Fiona Bruce, Interim Senior Finance Manager to introduce the paper. Fiona noted the indicative total resource budget was £20.6 million, with £15.6 million allocated with and an additional £5 million to manage the impact of EU exit. She explained that work is underway to finalise the additional budget which will be allocated within the Spring Budget Review. She noted that FSS has been provided with an AME budget of £350k, with a further £150k requested to cover FSS pension liability.

9.2 She gave a breakdown of the total underspend (£1.2 million) - staff (£137k), administration (£390k), programme (£476k) and capital (£102k). She noted the provisional outturn for the year was £17.8m against the resource budget of £18.2, which represents a projected underspend of £486k (3%). She noted that the estimated costs to FSS for Covid-19 was £0.55m and drew attention to the mid-year budget review, which allows the Executive to re-align the budget.

9.3 In discussion, the Board sought and received clarification on the underspend and that Covid-19 had contributed to it, that recruitment will continue until the end of the financial year; that cheques are taking longer to be received and that the debt recovery process had recommenced.

9.4 The Board:

- **Noted** the financial information and expected end year position reported as at 30th September 2020.
- **Noted** the review and allocation of the Future Structure budget and that the forecast will be updated in the next quarter to reflect the work planned for the remainder of the year.

10 Performance Reporting – 20/11/05

10.1 The Chair invited Ian McWatt, Deputy Chief Executive and Sandy McDougall Head of Operations to introduce the paper.

10.2 The Board welcomed the improvements in the reduction in animal welfare breaches and that robust action was quickly taken against one food business operator. The Board sought and received clarification on the use of key performance indicators for animal welfare breaches and that these were considered on a monthly basis by the Scottish Livestock Welfare Group. The Executive explained that visits to meat plants are arranged when FSS receives intelligence, with notices served when appropriate and that FSS audits of meat plants are expected to resume in January 2021.

10.3 The Board noted that the legends used on graphs must be the same to allow for year on year comparisons to be made. The Executive suggested that an overlay for year on year could be added to the graph and agreed to make this change. The Board noted that there was an opportunity for FSS to provide good news from the results in the performance report to explain the benefits of FSS's work and agreed to take this point away for further thought.

10.4 The Board:

- **Noted** the reported performance metrics
- **Noted** that measures on Pages 9,10 and 11 related to Veterinary Audits, and Audit Assurance have been impacted by Covid-19 related capacity issues and the measures are not reflective of the measures that would be reported during a standard six monthly period.

11 Outcomes Report – 20/11/06

11.1 The Chair invited Ruth Dewar, Business Reporting Officer to introduce the paper.

11.2 The Board sought and received clarity that the reduction in sampling was due to Local Authorities resources being diverted onto Covid-19 and the hospitality sectors being shut down. The Board asked for commentary to explain this to be included. The Board noted that figures on written warnings were included in the ARA and could have been included in the Outcomes Report.

11.3 The Board:

- **Discussed and noted** the trends in the indicator data under each of the six FSS corporate outcomes;
- **Noted** the following; the measures on pages 13 and 14, written warnings and formal enforcement notices, have been impacted by COVID-19 related capacity issues and these measures have not been reported as standard.

12 Revision of the Food Standards Agency and Food Standards Scotland Memorandum of Understanding (MOU) – 20/11/07

12.1 The Chair explained that this is an operational document, but it is sufficiently material to the way that FSS operates, that the Board has a clear interest and requires to be assured by the provisions and benefits of the MOU. He explained that it is for the Executive to manage the operation and implementation of the MOU.

12.2 He then invited Diane Strachan, Head of Private Office to introduce the paper. Diane explained why the changes were required. She noted that some of the text in relation to EU Exit had not yet been finalised, but would be supplemented with working level agreements and included at the annual review. She explained that the final version is to be signed off by Chief Executive's of FSS and FSA in December 2020.

12.3 The Board sought and received clarity that working level agreements with Local Authorities would be included for FSS and FSA.

12.4 The Board :

- **Noted and accepted** the explanations provided at paragraphs 4 & 7 of the Report for the extensive amendments and additions to the MOU dated 1 April 2015.

- **Approved** the principles on which the revised MOU has been drawn up.
- **Approved** for its interest, the revised MOU on the basis that, whilst the detailed provisions address the operational relationship between FSS and FSA, the generality of the provisions set out in the document provide sufficient assurance to the Board that FSS's ability to discharge its functions in collaboration with FSA are adequately protected.

13 Question and Answers

13.1 The Chair noted the point made by Board Member Carrie Ruxton on opportunities for shadowing/mentoring the FSS Board which would be carried forward for consideration.

13.2 Martin Morgan, Scottish Association of Meat Wholesalers (SAMW) made three points for the Board to consider:

- to consider the fairness of the red and white meat industries being the only sectors subject to charging (meat hygiene charging);
- to note that that employer costs for National Insurance and pension contributions are included, which takes up any subsidy to the industry and would like a further discussion with the Executive
- Does FSS engage with stakeholders on its own performance and that relationships and behaviours between both sides could be improved

13.3 The Chair explained that the charging for official controls is the law and the current formula for the charge out rate and which costs should be included has been raised by SAMW previously and to which Executive has already responded.

13.4 The Chair closed the meeting.