

MINUTES OF THE MEETING OF THE FOOD STANDARDS SCOTLAND BOARD HELD ON 08TH MARCH 2017 FROM 10.30 AM TO 14:30 PM AT PILGRIM HOUSE, ABERDEEN

Present:

FSS Board

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

FSS Executive

Geoff Ogle, Chief Executive
Elsbeth MacDonald, Deputy Chief Executive
Peter Midgley, Director of Policy and Evidence
Norval Strachan, Chief Scientific Advisor
Garry Mournian, Head of Corporate Services
Hazel Stead, Board Secretary

1 Introduction, apologies, declaration of conflict of interest, matters arising

- 1.1 The Chair welcomed everyone to the Food Standards Scotland (FSS) Board meeting.
- 1.2 Apologies were received from Karen McCallum-Smith, Ian McWatt and Sue Walker.
- 1.3 There were no conflicts of interest declared.
- 1.4 There were no matters arising.

2 Minutes and Action Log - 17/03/01 & 17/03/02

- 2.1 A Board member suggested that one amendment to the minutes. The heading at paragraph 8 was amended to "Audit and Risk Committee Report". It was agreed that the minutes were to be amended and that version would then be accepted as an accurate record of the meeting held on 14th December 2016.
- 2.2 The Chair moved onto the Action log. He advised that actions on campylobacter and diet and nutrition remained open and explained the reasons why these were still outstanding. In addition, he had not received a response from the Health and Sport Committee and he would write a follow up letter to the Chair.

ACTION: CHAIR 2017/01

3 Chair's Report

- 3.1 The Chair referred to the Errington Cheese Ltd (ECL) v South Lanarkshire Council item and that he intended to move a motion to discuss this item in closed session at the end of the meeting. The Chair praised staff for their diligence and professionalism shown throughout this incident and thanked all staff involved.
- 3.2 The Chair and Chief Executive (CE) had met with three Conservative members of the Scottish Parliament - Peter Chapman shadow spokesperson on food and agriculture, Finlay Carson and Brian Whittle, to discuss a number of complaints and their concerns regarding the conduct of ECL and to gain further understanding of how FSS addresses serious incidents; the food law regulatory framework; the responsibilities of the relevant enforcement authorities. He informed them that a post incident report would be written which may include recommendations to the Scottish Parliament.

4 Chief Executive's Report – 17/03/03

- 4.1 In addition to his report, the CE updated the Board on a number of topics. The CE thanked the Chair and the Board for the kind words expressed to all staff involved in the ECL incident.
- 4.2 The CE intimated that a Food Standards Agency colleague Kenny Thoresen had sadly passed away recently and condolences had been sent to his family. Ian McWatt and a number of FSS colleagues were attending his funeral.
- 4.3 He advised that the CLIO incident management tool which is used by the emergency services had been purchased by FSS. He expected this system to be in place by 1st April 2017.
- 4.4 The CE expressed thanks to Jacqui Angus for the successful progress in the project to deliver changes to animal feed controls in Scotland. He advised that financial issues have been resolved and the required changes to secondary legislation are expected to be in place on the 1st of October 2017.
- 4.5 He referred to the Regulatory Strategy consultation which had been launched and had received media coverage from the Grocer, which incorrectly mentioned handing over regulatory responsibility to the private sector. He explained that in terms of a regulatory framework and structure, the oversight arrangements were important, and referred to the effective and sustainable official controls paper which was discussed at the 17th August 2016 board meeting. He advised that Food Standards Agency (FSA) is discussing a board paper on Regulating our Future at the meeting on 15th March 2017. He noted that this area of work has parallels to FSS work on regulatory strategy and that there would be overlaps as well as differences. He expected a future board discussion on how FSS will align regulatory work with FSA as well as meeting our commitments to deliver under the Scottish Regulators' Strategic Code of Practice.
- 4.6 He and the Deputy Chief Executive recently attended the Global Food Safety Conference in Houston, Texas. This was a good opportunity to discuss areas of interest in the post-Brexit landscape with European Union nations and also discuss third party accreditation, exports and lessons learned on trade from third-party countries.
- 4.7 He highlighted a number of results from Wave 3 of the Food in Scotland tracking survey. He noted that awareness, trust and brand measures are all moving in a positive direction, with awareness of FSS increased by 13% to 57% from Wave 1 to Wave 3; trust increased by 12% from 31% to 43% from Wave 1 to Wave 3. The most notable points in terms of how FSS is viewed externally include that FSS is increasingly seen as the organisation which responds to problems related to food; FSS takes action when needed to protect consumer and is viewed as working in the best interests of Scotland and its people. The understanding of FSS role in diet and nutrition has increased by 6% in the past six months and the healthy eating campaign has contributed to the increased awareness of FSS's remit in this area. Furthermore, people in Scotland are more concerned about having an unhealthy diet, this particular statistic has increased by 10% from 50% to 60% from Wave 1 to Wave 3. In a less positive note, the average number of 4C's (food safety practices) being undertaken by consumers is largely static, a degree of apathy for the potential of food poisoning to happen in the home still exists; and significant confusion remains in the difference between use-by and best before dates on food labels. He concluded that there was positive results on the reputation of FSS and on diet and

nutrition, but clearly much work was still to be done including food safety and labelling.

- 4.8 In discussion, board members congratulated the executive on the progress to deliver changes to delivery of animal feed controls in Scotland; sought clarification on audit reports being shared with the audit and risk committee and the board and questioned whether operational audits should also be shared; noted progress on the review of the Food Hygiene Information Scheme (FHIS) and that confusion by the public exists as to who is responsible for the scheme. The CE advised that a paper on FHIS would be presented at a future board meeting and the particular point on ownership and delivery of FHIS would be considered.

5 Science, Evidence and Information Strategy – 17/03/04

- 5.1 The Chair invited Professor Norval Strachan, Chief Scientific Advisor, to introduce this paper on Science, Evidence and Information strategy (SEI) and welcomed Susan Pryde to the meeting. Norval explained the revisions made which included board members comments made at the December 2016 board meeting. The draft was placed on the FSS website for consultation by stakeholders between 10th and 24th January 2017 and that six responses from stakeholders were received.
- 5.2 Norval explained the reason why an additional theme on risk management had not been included, and that a risk management framework would be drawn up which would be shared with the board. He drew attention to section 4 – Measurement of the impact of the SEI strategy. He explained the two approaches to measure impact of the SEI strategy including an Annual Report covering all (SEI) projects with the impact against the FSS Corporate plan and its six strategic outcomes and an annual narrative of what has been achieved under each of the three (SEI) themes and the objectives for the following year.
- 5.3 In discussion, board members welcomed the changes to the strategy, in particular those which clarified the description of risk and the risk management section and the proposals for annual reporting; and suggested that FSS should fully exploit its own scientific research. Norval explained that this would be taken into account in the scientific checklist which staff would complete.
- 5.4 The Board:
- **Agreed** the final SEI strategy
 - **Agreed** the proposed approach to measuring impact of the SEI strategy in section 4; and
 - **Noted** our intention to publish the final SEI strategy by April 2017.

6 Diet and Nutrition – Proposals for setting the direction for the Scottish diet – one year on – 17/03/05

- 6.1 The Chair invited Peter Midgley, Director of Policy and Evidence to introduce this paper. Peter highlighted a number of areas of positive progress and gave a summary of the five additional recommendations to help bring about improvements to the Scottish diet at a population level.
- 6.2 In discussion, board members noted a number of points including consumer messaging to encourage behavior change and importance of engaging with stakeholders such as NHS Health Boards; suggested it could be too broad and to be effective, the need for FSS to prioritise actions; sought clarification on the definition of out of home (OOH) premises;

referred to the Scientific Advisory Committee on Nutrition report on carbohydrates which linked obesity and sugar sweetened soft drinks as the evidence base for a sugar tax on soft drinks and suggested consideration of all high energy dense foods which drive the risk of obesity and not focus specifically on foods high in sugar; questioned the evidence base behind the justification for a sugar tax; consideration of high fat, salt sugar foods available in small retailers and convenience stores which are located in areas with no other food retailers; sought clarification on what tangible progress had been made by industry and asked for measurable indicators of success.

6.3 Peter thanked Heather Peace and her team for their work in writing this paper. Heather Peace explained the intention was to work with NHS Boards, stakeholders and NHS Health Scotland Public Health Nutrition Network. Heather explained the definition of out of home (OOH) premises includes quick service restaurants, takeaways, small retailers and convenience stores. She explained the Scottish Government has a programme with Scottish Grocers Federation to improving these retailers across Scotland who are often located in areas of social deprivation. Peter noted that an indicator of success would be cross-party parliamentary support for a diet and obesity strategy. He explained that FSS has held constructive discussions with industry and reformulation and the soft drinks levy were two main areas of progress. The Chief Executive noted that a sugar tax would not be the only solution for tackling diet and obesity and sugar alone would not be the only focus and the FSS approach would be evidence based.

6.4 The Board :

- **Accepted** the review of work to date
- **Endorsed** the recommendations
- **Noted** that further progress updates will be provided throughout the year and a full review will be presented to the Board in spring 2018.

7 Developing a strategic approach to food surveillance – 17/03/06

- 7.1 The Chair invited Peter Midgley to introduce this paper and welcomed Jacqui McElhiney to the meeting.
- 7.2 Following Peter's verbal update on traceability element of the recommendations of the Scudamore Expert Group report, the Chair sought further clarification. Peter provided the Chair with an explanation that although there is still a need to take this back to the board in due course, there is merit in considering whether it would be more effective for FSS to work with organisations that set industry standards for traceability, rather than work with various different food industry sectors. It would seem reasonable for the executive to review improvements to traceability standards implemented by industry since 2013 before committing to a work programme to develop any new standards. The Chair was content with this clarification.
- 7.3 Jacqui McElhiney highlighted that the proposals in the strategy set out a new structured and targeted approach for future food surveillance. She noted that the recommendations in the Scudamore vision for a world recognised surveillance system is ambitious and that FSS will need to ensure that the infrastructure, relationships and resources are in place to make a positive impact.
- 7.4 In discussion, board members sought clarification on what is different in this strategy and whether FSS could be confident an issue such as horsemeat food fraud would be identified in future; questioned where responsibility lies for ensuring food authenticity; suggested

that a formal review of the food surveillance strategy and its cost effectiveness should take place after two years; the input required and what is the outcome. The executive noted that this strategy uses a coherent approach to collate and analyse information from a range of sources to improve food sampling and surveillance and can also be used to inform research projects and direct local authorities.

7.5 The Board :

- **Agreed** the proposed strategy and noted the priority areas of work that have been identified to deliver our model for future food surveillance;
- **Noted** that we will undertake a targeted consultation to seek stakeholder views on the proposed strategy, our intention being to bring the finalised strategy back to the Board later this year for agreement;
- **Agreed** that the executive should take responsibility for resourcing and delivering this strategy, ensuring that the Board is updated on progress.
- **Agreed** that April 2019 would be a suitable timeline for review of the model and the executive would prepare a Board paper at that point.

8 Initial consideration of consumer interests associated with exiting the European Union – 17/03/07

8.1 The Chair invited Peter Midgley to introduce this paper. Peter explained the purpose of the paper and highlighted the key points which arose from the small scale consumer focus groups conducted in early February 2017.

8.2 The Chair asked Elspeth MacDonald, Deputy Chief Executive to provide an update on the requests being made by government to FSS, in regards to the UK leaving the European Union. Elspeth explained that when Article 50 is triggered at the end of March 2017, she advised that efforts will be intensified and focused to prepare the legal framework when the UK leaves the European Union. She advised that the Regulatory Policy team are involved in cataloguing all legislation and identify the changes and legislative measures that will need to be put in place and identify the areas where inoperabilities exist. She noted that this is a significant programme of work and FSS is working closely with Scottish Government and keeping in regular contact with Food Standards Agency, Defra and Department of Health.

8.3 In discussion, board members noted that this was an interesting exercise to gather views from consumers whether they were concerned with Brexit; suggested that FSS would need to start informing and engaging with consumers in the near future. Peter thanked Pamela McQuarrie for her work with market researchers which was completed within a very tight timescale.

8.4 The Board :

- **Noted** that the initial assessment of consumer opinion suggests a high level of satisfaction with current food safety and food standards requirements and very little appetite for change. That is not an argument for the status quo necessarily, but suggests a need for government to consider how best to prepare for consumer engagement on issues affecting the regulation of food.
- **Noted** that it will be important for businesses to ensure there is an appropriate balance between opportunities to reduce burdens on business, but not at the expense of consumer acceptance and trust.

- **Noted** the risks and issues
- **Agreed** that FSS will have a key role to play in ensuring that consumers' concerns and views are represented and considered as part of any proposals for change. In order to inform consumers fully on the issue and fulfil this role, FSS will need to engage with producers and retailers.

8.4 The Chair advised the meeting that this was Peter's final board meeting before his retirement. Peter joined Food Standards Agency in Scotland (FSAS)/FSS 14 years ago having previously worked for both Aberdeen and Aberdeenshire Council, where he started as an Environmental Health Officer. Peter joined FSAS as Head of Audit before moving onto become Head of Enforcement where he completed two secondments to FSA HQ in London, to work on cross-contamination guidance and better regulation. Peter was promoted to Director of Policy and Evidence in 2015. He thanked Peter on his significant contribution to FSAS and FSS during his career and the board wished him well in his retirement.

9 FSS Scheme of Delegation from the Board – 17/03/08

9.1 The Chair introduced this paper and explained why the Scheme of Delegation was being revised. On the 19th January 2017, the Chair had met with three senior Scottish Government staff responsible for Corporate Governance, Corporate Financial Reporting and Public Bodies to discuss FSS Corporate Governance.

9.2 In discussion, Garry Mournian, Head of Corporate Services suggested one amendment to the Scheme of Delegation to change the description of approval at paragraph 2.13 to "Resource and Capital" budgets for each financial year and this amendment was agreed by the Board.

9.3 The Board:

- **Agreed** the final version of the Scheme of Delegation for publication

10 Financial Performance Update – March 2017 – 17/03/09

10.1 The Chair invited Garry Mournian, to introduce this paper. Garry thanked Elaine McLaughlin for her assistance in preparing the paper.

10.2 He highlighted that there is a variance of 2% against the actual spend for the period year to date performance. He highlighted the risks and issues in relation to the 2017/18 budget which is in process of being finalised. He advised that the underspend was expected to be reduced to £170k.

10.3 In discussion, board members welcomed that the underspend was less than 1%; one of the provisions in relation to annual leave were expected to be of a similar figure each year. Garry noted that due to staff transferring to Scottish Government terms and conditions this figure would have been increased and expected this figure to be reduced this year.

10.4 The Board:

- **Noted** the financial information reported as at 31 January 2017
- **Noted** on-going work to establish values of potential liabilities and provisions required in year which will reduce the current forecast underspend

- **Noted** that work is continuing to develop and FSS Financial Strategy in line with Audit Scotland recommendations

11 Questions and Answers

11.1 There were no members of the public remaining.

12 Motion

12.1 The Chair explained that due to forthcoming court proceedings he tabled a motion to discuss the item on South Lanarkshire Council v Errington Cheese Ltd in closed session and this motion was agreed by the board.

12.2 The Chair closed the open session of the meeting and the Board moved into private session.

13 South Lanarkshire Council v Errington Cheese Ltd update

13.1 The Chief Executive updated the Board on the current position with respect to the above.

13.2 The Board noted the information provided, and the meeting was closed at 15:45 pm.