

MINUTES OF THE MEETING OF THE FOOD STANDARDS SCOTLAND BOARD HELD ON 16th AUGUST 2017 FROM 10.30 AM TO 15.00 PM AT PILGRIM HOUSE, ABERDEEN**Present:****FSS Board**

Ross Finnie, Chair

George Brechin

Marieke Dwarshuis

Heather Kelman

Carrie Ruxton

Sue Walker

Anne Maree Wallace

Louise Welsh, Deputy Chair

FSS Executive

Geoff Ogle, Chief Executive

Elspeth MacDonald, Deputy Chief Executive

Ian McWatt, Director of Operations

Garry Mournian, Head of Corporate Services

Katherine Goodwin, Head of Communications and Marketing

Karen McCallum-Smith, Head of Private Office

Norval Strachan, Chief Scientific Advisor

Hazel Stead, Board Secretary

External

Helen Cobb, Audit Manager, Audit Scotland

1 Introduction, Apologies

1.1 The Chair welcomed everyone to the Food Standards Scotland (FSS) Board meeting. He welcomed Katherine Goodwin, who was attending via video-conference and Helen Cobb, Audit Scotland.

1.2 Apologies were received from Elaine Barrowman, Audit Scotland.

2 Declaration of Conflict of Interest

2.1 The Chair asked for any conflicts of interest to be declared. Carrie Ruxton declared an interest in food supplements, including folic acid which was declared in her entry in the Board Members' Register of Interests.

3 Minutes and Actions Log - 17/08/01 & 17/08/02

3.1 A few minor grammatical points were raised by one Board member, which the Board Secretary would amend. There were no further amendments required to the minutes and the Board agreed the minutes as an accurate record of the meeting.

3.2 The Chair made two points on the action log; firstly, that Campylobacter was on the agenda to be discussed at today's board meeting; secondly that FSS was awaiting the publication of the Scottish Government's Diet and Nutrition Strategy. There were no further comments on the action log.

4 Chair's Report

4.1 The Chair and Chief Executive held a productive meeting with Heather Hancock, Chair and Jason Feeney Chief Executive of the Food Standards Agency (FSA).

4.2 The Chair thanked all staff involved in the Royal Highland Show; in particular those who organised the event; arranged meetings for the Chair; Chief Executive and Executive and to staff and board members who manned the stand during the event. This helped to ensure a high profile presence for FSS and it was a very successful event.

- 4.3 The Chair moved onto the Gender Representation on Public Boards (Scotland) Bill which was published on 15th June 2017. He explained that following consultation on the Bill, a number of amendments had been made. These included the removal of the requirement to have 50% male representation on a public board. He clarified that there was no need to reduce the female membership of the FSS Board. He noted that the Bill was currently at Stage 1 of the parliamentary process.
- 4.4 The Chair referred to the FSS Inter sessional board paper to review and consider the allocation for the FSS Budget 2017-18 which was circulated in June 2017 for agreement. It was also agreed that for future years, the Executive should aim to present the budget to the Board before the start of the financial year.
- 4.5 The Chair met with Fergus Ewing, Cabinet Secretary for Rural Economy and Connectivity on 26th July 2017 to discuss a complaint regarding meat hygiene charging raised by Scottish Association of Meat Wholesalers (SAMW). The Chair explained to the Board that there was no provision contained in the Food (Scotland) Bill 2015 to request Scottish Ministers to intervene in matter relating to the discharge of FSS's regulatory functions. He had clarified this point with the Cabinet Secretary. The Chair had offered to meet with representatives from SAMW to discuss the issue and a suitable date was to be arranged.
- 4.6 The Chair asked for any questions. A Board member sought clarification whether FSS had received any reply from the Health and Sport Committee. The Chair confirmed that no response had been received by FSS.

5 Chief Executive's Report – 17/08/03

- 5.1 The Chair invited Geoff Ogle, Chief Executive (CE) to provide update on a number of topics. He expected a consultation on the Scottish Government's Diet and Obesity strategy to be launched in the Autumn of 2017.
- 5.2 He agreed with the Chair that good relationships were being fostered with the new Chair and Chief Executive of the FSA we will continue to work constructively with FSA colleagues on matters of mutual interest. Jason Feeney has visited FSS and will return to meet staff at Pilgrim House, Aberdeen on 21st August 2017.
- 5.3 He referred a consultation by Defra on the proposed use of mandatory closed-circuit television (CCTV) recording in meat plants in England. He explained that Scottish Government has the policy lead for this work. He confirmed that in Scotland, 95% animals slaughtered in meat plants are covered by CCTV. He noted that FSS takes animal welfare breaches seriously and all remedial actions are undertaken as required.
- 5.4 He gave an update on the investigation into eggs contaminated with Fipronil. He explained that Fipronil, is a substance which is not authorised for use in food producing animals. FSS is working with FSA who are leading the UK incident response. He confirmed that there had been some distribution in Scotland of affected products, but these had all been recalled. He explained that whilst the risk to public health was low, Fipronil should not be present in the food chain and a criminal investigation is underway in the Netherlands.
- 5.5 He moved onto the outbreak of Bovine Tuberculosis (TB) on a croft on the Isle of Skye. The croft is under restriction and investigations were underway to identify the source. He explained that there is no risk to the population and that the level of TB in Scotland is less than 0.1% over a six year period. This outbreak does not affect Scotland's Official Tuberculosis Free (OTF) status.

5.6 In discussion, board members sought and received clarification from the Chief Executive on a number of points including the removal of shellfish toxin figures and the overall increase in incident numbers in the UK Annual Report of UK Food Incidents; the position of Director of Policy and Evidence would not be filled on a like for like basis; the timeline on the implementation of Animal Feed legislation is expected to be at start of next financial year 2018/19; the incident management review would be coming to the Board in early 2018 and the Executive proposed to manage the recommendations in a similar way to the Scudamore recommendations which had been commended by internal audit. The Chair suggested that a report on incident management could be tabled as a Board paper in February 2018.

6 Audit and Risk Committee Statement of Assurance to the Board – 17/08/04

6.1 The Chair invited Sue Walker, Chair of the Audit and Risk Committee (ARC) to present the Statement of Assurance to the Board. Sue explained the purpose of statement of assurance was to help Board members in their consideration of the Annual Report and Accounts. She explained the statement of assurance takes into account audit reports from internal auditors throughout the year and their annual audit opinions for 2016/17.

6.2 She noted the equivalent assurance opinions issued by Scottish Government (reasonable) and the Food Standards Agency (moderate). She explained that ARC members were content with the information provided by the executive through the year and were assured that controls in place were fit for purpose. She explained that the ARC had received a draft version of the Annual Report and Accounts in May 2017 and began their scrutiny of them at that point.

6.3 At the ARC meeting on 9th August 2017, ARC members were content to approve the draft Annual Report from Audit Scotland.

6.4 Sue confirmed that the Statement of Assurance was agreed by ARC members at the meeting on 9th August 2017.

6.5 In discussion, the Chair sought clarification that the ARC received on-going assurance on official controls and that the ARC Chair in turn provides oral reports at each board meeting.

6.6 The ARC was content:

- on the basis of the assurances provided by the internal auditors through the year, ARC's own scrutiny of reports provided by the executive, the draft annual report from the external auditors and ARC's own scrutiny of the Annual Report and Accounts to **recommend** to the Board that it should approve the FSS Annual Report and Accounts 2016/17 to be signed off by the Accountable Officer.

7 Food Standards Scotland Annual Report and Accounts 2016/17 – 17/08/06

7.1 The Chair asked Geoff Ogle, as the Accountable Officer to introduce the Annual Report and Accounts 2016/17. Geoff explained it was for board members to review and, subject to their consideration, approve the annual report and accounts and authorise their issue by himself as Accountable Officer. He explained that from the experience of production of the 2015/16 Annual Report and Accounts and the lessons learned, we have been able to meet the required deadlines for the 2016/17 accounts. He noted that the good quality working files which had been acknowledged by Audit Scotland colleagues as an area of good practice.

7.2 The Chair invited questions on the Annual Report and Accounts from board members, none were raised.

7.3 The Board:

- **Noted** the implementation of improvements to the process behind the production of the Annual Report and Accounts by FSS
- **Noted** the recommendation made to the Board by the Audit and Risk Committee; and
- **Approved** the Annual Report and Accounts 2016/17 and their issue by the Accountable Officer

8 Annual Audit Report – Audit Scotland – 17/08/05

8.1 The Chair invited Helen Cobb, Audit Manager, to introduce the report. Helen explained the Annual Audit Report will be submitted to the Auditor General for Scotland and published on the Audit Scotland website. She summarised the content and the key messages contained in the report. She noted that an exemplary set of accounts had been prepared within the timeline and would be shared with other public bodies as an area of good practice. She thanked all FSS staff involved for their assistance in the preparation of the Annual Report and Accounts.

8.2 Audit Scotland was able to give an unqualified opinion and there were no matters to report to the Auditor General for Scotland. She was pleased to note that recommendations for longer term financial planning had been taken on board by the executive. She was content to report that the FSS Board was acting on a transparent basis.

8.3 The Chair, pointed out that Audit Scotland had found the Annual Report and Accounts exemplary, thanked Audit Scotland for making the annual audit report available to circulate and Garry Mournian, Head of Corporate Services and his team for their work.

8.4 The Chair noted that, Audit Scotland considers that FSS is operating in an open and transparent manner, there is some scope to further enhance the transparency of Audit and Risk Committee (ARC) meetings. Helen suggested that by making ARC agendas and papers accessible to the public would allow for further transparency. This suggestion was briefly discussed at the meeting. It was agreed that essentially this decision was a matter for the Board. To assist with any Board consideration, it was further agreed that the ARC should give serious consideration to the proposition and report back to the Board.

The Board :

- **agreed** that the Chair would write to Audit Scotland regarding enhancing the transparency to the conduct of private governance meetings

ACTION : 2017/01 : CHAIR

9 Audit and Risk Committee Oral Update

9.1 The Chair invited Sue Walker, Audit and Risk Committee (ARC) Chair, to give an oral update on the ARC meetings held on 15th June and 09th August 2017. In reference to the Chair's comments to Audit Scotland regarding the points they raised on transparency in their Annual Audit Report, Sue emphasised that Board members receive a full oral report of each ARC meeting at board meetings; all ARC meetings are minuted and are circulated to Board members once the minutes have been agreed.

- 9.2 She explained that at the 15th June 2017 ARC meeting, the ARC members discussed the progress of the Annual Report and Accounts and received the annual assurance opinions from Scottish Government Internal Audit Directorate (SGIAD) and Food Standards Agency (FSA). Sue commended the executive on the progress made on all recommendations from the various audit reports that had been received. The ARC discussed risk matters including the strategic risk register and Brexit risks. The risk management policy was circulated. The ARC members suggested that the Brexit risk should be reworded and escalated as a red risk. The executive had agreed. Given the time lapse between the ARC meeting and the 16th August 2017 Board meeting it was agreed to escalate the Brexit risk to the Board interessionally. This was subsequently done.
- 9.3 Sue moved onto the 09th August 2017 meeting, where the main focus was the FSS Annual Report and Accounts 2016/17. The ARC members also received and discussed the post-transition review report from SGIAD.
- 9.4 The Board noted the ARC oral update and formally noted the rewording of the Brexit risk and its escalation to red on the strategic risk register.

10 Financial Performance Update – August 2017 – 17/08/07

- 10.1 The Chair invited Garry Mournian, Head of Corporate Services to introduce this paper. Garry explained that for the first quarter of the financial year, there is a variance of 10% against actual spend for the period when compared to the year to date (YTD) resource budget of £3.6m. In addition to the YTD performance, a full year forecast of £14.7m is being reported against the agreed budget of £15.3 m representing a projected 4% underspend against budget. He explained the revised format and the tables and charts in the annexes.
- 10.2 In discussion, board members requested and received assurance on the debt recovery process which was to be included in future financial reports; sought clarification on the numbers of agency staff involved in poultry meat inspection; noted the challenge in preparing a five year financial plan with a one year budget allocated to FSS. The executive agreed to provide more detail in future financial reports to clarify the year on year comparison for the monthly budget versus actual performance.
- 10.3 The Board:
- **noted** the financial information and the revised format reported as at 30th June 2017
 - **noted** the current review to utilise the forecast underspend; and
 - **noted** that work is continuing to develop an FSS Financial Strategy in line with Audit Scotland recommendations

11 Folic acid fortification for the reduction of neural tube defects – 17/08/08

- 11.1 The Chair invited Elspeth MacDonald, Deputy Chief Executive to introduce this paper. Elspeth summarised the history and background of folic acid fortification of flour. In response to a request from the Minister for Public Health in March 2016, FSS was asked if Scotland could fortify flour with folic acid, in a manner that is evidenced based; straightforward and with minimal cost to industry. She explained that to answer the Minister's request, FSS undertook a significant amount of work and the results are presented in the paper.

- 11.2 Elspeth welcomed Heather Peace, Head of Nutrition Science and Policy and Bill Adamson, Head of Regulatory Policy to present the paper. Heather explained that firstly, FSS had asked the Scientific Advisory Committee for Nutrition (SACN) firstly to review its previous risk assessment on folic acid. Secondly, whether the recommendation made in 2006/2009 that mandatory fortification should only be introduced in the UK if accompanied by action to reduce folic acid intakes from voluntarily fortified foods was still applicable. Heather explained that on the basis on its updated review of the evidence and risk assessment, SACN continue recommend fortification of flour with folic acid and reiterated its advice from 2006/2009.
- 11.3 Heather acknowledged the stochastic modelling report was jointly funded by FSS, the Food Standards Agency Northern Ireland; Welsh Government and Chief Medical Officer in Scotland and was carried out by Biomathematics and Statistics Scotland (BioSS). She thanked Graham Horgan from BioSS who was one of the report authors. The report was published on the FSS website on 16th August 2017. She thanked Anne Milne, Senior Public Health Nutrition Advisor for successful management of this project.
- 11.4 Bill Adamson summarised the industry engagement which included face to face stakeholder meetings with representatives from the bakers and millers sectors; a site visit to ADM Milling in Edinburgh. He explained the findings from the stakeholder engagement indicated that it would be too costly to fortify bread and flour in Scotland only; additional labelling and infrastructure costs would occur; and possible loss to trade in the UK and exports may occur.
- 11.5 In conclusion, these findings indicated that a fully integrated UK model would be the only straight forward solution for fortification of flour with folic acid.
- 11.6 In discussion, Board members agreed with the recommendation and recognised the need for sharing the message with the public. The Chair noted that it was with great reluctance that the conclusions were accepted but explained that it was important for FSS not let this matter to be dropped; that FSS would continue to engage with FSA colleagues who have the policy responsibility in Northern Ireland; and encourage Scottish Government to enter a UK wide discussion on fortification of flour with folic acid. The Chair thanked Heather Peace, Bill Adamson and teams.
- 11.7 The Board:
- **Noted** the updated advice and agreed with the recommendations; and
 - **Agreed** the Chair would write to the Minister for Public Health to provide advice on fortification of flour with folic acid

ACTION: 2017/02: CHAIR

12 Reducing the risks of Campylobacter – update on UK strategy and how Campylobacter is being addressed by Food Standards Scotland - 17/08/09

- 12.1 The Chair welcomed Jacqui McElhiney, Head of Food Protection, Science and Surveillance to introduce this paper. She explained that the FSA survey had put pressure on industry to take measures which have resulted in reduction in contamination levels. This reduction has co-incided with a reduction in foodborne illness, but a direct link between these cannot be established at this stage. She gave an update that FSA has now received agreement from 9 major retailers to publish their own data in accordance with the FSA protocol. The details are yet to be finalised, but FSA would expect to stop sampling the major retailers in October 2017 and focus on smaller retailers such as butchers. She explained that major retailers will publish data on an anonymised basis.

12.2 In discussion, board members sought and received clarification on whether data provided by major retailers would be reliable; whether infection rates were higher when eating out of home; suggested promoting sharing knowledge and experience throughout industry.

12.3 The Board:

- **Agreed** that reducing incidence of foodborne Campylobacter infection in Scotland should continue to be a strategic priority;
- **Noted** the progress being made at a UK level to reduce Campylobacter in the poultry production chain; including the plans to reduce Government-led surveillance of fresh chicken at retail in line with industry's own commitment to publish its own data on Campylobacter contamination;
- **Agreed** that FSS should continue to work with FSA to further promote Campylobacter reduction in UK produced poultry and engage with Scottish partners to develop interventions to help reduce the public health impact of this pathogen in Scotland; and
- **Agreed** that the Chair to write with FSA Chair to acknowledge agreement by major retailers to adopt a more transparent approach through publication of their own testing results

ACTION : 2017/03 : CHAIR

13 Annual Report : Freedom of Information Requests and Complaints – 17/08/10

13.1 The Chair invited Karen McCallum-Smith, Head of Private Office to introduce this paper. She explained that we have worked hard to raise our profile and a higher profile and brought increased numbers of both Freedom of Information (FOI) requests and complaints. She noted that the bulk of the complaints related to a reference to diabetes in the Healthy Eating Campaign. This campaign had attracted a good deal of positive attention and feedback, with indications that it influenced people's intentions and behaviour. We do take complaints seriously and responded to the diabetes complaints by adjusting the content of the campaign accordingly.

13.2 In discussion, board members welcomed the performance on FOI requests and complaints handling; requested further detail on complaints to be included in next year's report and supported the publication of FSS responses to FOI requests.

13.3 The Board :

- **Noted** the information provided;
- **Agreed** that we publish our responses to all FOI requests; and
- **Agreed** to receive an Annual Report on FOI and Complaints handling performance

14 Shellfish Review Update

14.1 The Chair invited Jennifer Howie, Senior Policy Advisor to introduce this paper. Jennifer explained that no information on costs had been included in paper due to on-going discussions with suppliers.

14.2 In discussion, board members sought and received clarification on the protocols in place for *e.coli* and shellfish toxins; the role of FSS in the shellfish classification forum; whether FSS would need to reconsider this area of work post-Brexit; noted the timing of the official controls legislation which will be in place before Brexit.

14.3 The Board :

- **Noted** the progress of work to date and the proposed revised shellfish work plan following consultation;
- **Noted** the potential for changing the way that shellfish classification determinations are made in future through increased use of harvesters' own results with the programme; and
- **Noted** the establishment of a FSS Shellfish Classification and Monitoring Industry Forum which will enhance our engagement and assist in agreeing and delivering any significant changes to shellfish official controls in future

15 Question and Answers

15.1 There were no members of the public present at the end of the meeting. The Chair closed the meeting.