

MINUTES OF THE MEETING OF THE FOOD STANDARDS SCOTLAND BOARD HELD ON 15TH NOVEMBER 2017 FROM 10.30 AM TO 15.05 PM AT PILGRIM HOUSE, ABERDEEN

Present:

FSS Board

Ross Finnie, Chair
George Brechin
Marieke Dwarshuis
Heather Kelman
Carrie Ruxton
Sue Walker
Anne Maree Wallace

FSS Executive

Geoff Ogle, Chief Executive
Elspeth MacDonald, Deputy Chief Executive
Ian McWatt, Director of Operations
Garry Mournian, Head of Corporate Services
Norval Strachan, Chief Scientific Advisor
Katherine Goodwin, Head of Communications and Marketing
Karen McCallum-Smith, Head of Private Office
Hazel Stead, Board Secretary

External

Laura Mahon, Deputy Chief Executive of Alcohol Focus Scotland via VC for item 9 only

1 Introduction, Apologies

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

1.2 Apologies were received from Louise Welsh, Deputy Chair, and Marieke Dwarshuis had been delayed, and would attend the meeting after 11 am. Apologies were also received from Alison Douglas, CEO Alcohol Focus 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 respect of previous work she had undertaken with red meat Levy Boards in England and Wales. The Chair was content that this interest did not represent a conflict with regards to any of the agenda items for this meeting.

3 Minutes of 16th August 17/11/01 and 20th September, 17/11/02 and Action Log – 17/11/03

3.1 There were no amendments required to the minutes and the Board accepted the minutes of 16th August and 20th September 2017 as accurate records.

3.2 There were no comments on the Action Log.

4 Chair's Report

4.1 The Chair referred to the Food Commission Summit which he had attended with the Chief Executive and Heather Peace, Head of Nutrition, Science and Policy. Mr Ewing, Cabinet Secretary for Rural Economy and Connectivity confirmed at the Summit that a wide ranging Food Bill will be created. However, the Chair explained that FSS would need to monitor the shape of the Bill and the proposals within it.

5 Chief Executive's Oral Report – 17/11/04

5.1 The Chair invited Geoff Ogle, Chief Executive (CE) to provide an oral update on a number of topics. He corrected the date of the meat charging meeting at paragraph 12.1 in

the report which should read “31st August 2017”. He gave an update on his recent business trip to the USA with Jason Feeney, Chief Executive of the Food Standards Agency. This business trip included visits to the US Food and Drug Administration; the Centre for Disease Control and Prevention; attending a CODEX meeting and two large food businesses. Overall, it was an excellent opportunity to make contacts and develop relationships with key USA government departments. In the context of the Brexit paper being discussed, his observation was that it was clear, not just from this international trip but others, that an effective regulatory infrastructure was essential to supporting trade. Issues around harmonization and standards were critical in removing non-tariff trade barriers and importing countries were increasingly relying on regulatory assurance (both government and third party) for confirmation of food safety.

5.2 He welcomed the recent launch of the Scottish Government (SG) Obesity strategy consultation. He noted that the strategy included a number of areas for action which had been highlighted by FSS. The next step for the Executive would be to develop a response to the consultation.

5.3 On the minimum unit pricing for alcohol (MUP) judgement by the Supreme Court which was announced on the 15th November 2017, he explained that MUP was a good example which enables objective justification for SG and public bodies such as FSS to focus action to help deliver improvements in population-wide health issues.

5.4 In discussion, a Board member sought clarification on the timeline of the obesity strategy and what each stage involves. The CE gave a brief explanation of the expected timeline, the consultation was for a 12 week period which would close at the end of January 2018. At that point, Ministers would reflect on the consultation responses received and consider their own response. It would then be for SG to decide on how to take the obesity strategy forward.

5.5 In the context of wider debates around Brexit, a Board member noted the differing political statements on food safety in respect of chlorinated chicken and suggested it would be helpful for FSS to have an official position. The CE explained that any substance used to remove surface contamination on meat and fish currently needs to be evaluated by the European Food Safety Authority (EFSA) and requires approval under European Hygiene Legislation before use in the UK or Europe. The method and criteria implemented to assess risk in the USA is different from that used in Europe. EFSA has issued an opinion on the use of surface washes including (chlorine dioxide; acidified sodium chlorate and peroxyacids) to remove surface contamination on poultry carcasses, on these surface washes and has concluded they are not a safety concern. However none of these have been approved for use in Europe, therefore at present only potable water can be used to remove surface contamination. He explained that FSS had not conducted any research on the safety of these substances on poultry carcasses. He confirmed that should there be any proposed changes to the hygiene legislation in future, FSS would apply a risk assessment on surface washes to protect consumers.

5.6 With regard to the FSS and Food Standards Agency (FSA) board paper “Review of the food withdrawal and recall system in the UK” which was discussed at the Board Meeting on the 20th September 2017, Geoff confirmed he had written to Jason Feeney, Chief Executive of FSA suggesting that setting a target for reducing the number of food recalls was not appropriate. He was pleased to report that Jason replied to confirm he agreed.

5.7 Board members noted the FSS student road shows and suggested including advice to students on reducing alcohol consumption. Board members welcomed the 91% response rate to the FSS Staff Survey.

6 Leaving the European Union – 17/11/05

6.1 The Chair invited Elspeth MacDonald, Deputy Chief Executive to introduce this paper. In his introduction, the Chair sought clarity from Elspeth in how FSS was involved in the detailed discussions into a number of specific policy areas. Elspeth explained that FSS is connected at many levels with the SG in discussions on leaving the European Union. She confirmed that the Chief Executive is involved in the SG Senior Engagement Forum. There are a number of supporting networks, including a policy network to analyse food and feed law implications which she, and Bill Adamson Head of Regulatory Policy are involved with.

6.2 In discussion, board members sought clarity on whether a period of uncertainty would arise when the UK leaves the EU and what the “red lines” were in the Withdrawal Bill to allow FSS to continue its functions. The “red lines” were those identified in the paper, in particular in relation to the implications of changes to the devolution settlement as a consequence of the Bill. Levels of uncertainty would to some extent depend on the conclusion of negotiations: at the earliest point of exit there was likely to be more certainty as the current proposition was to carry over existing EU law onto the domestic statute book. However, beyond that it was difficult to predict because the range of possibilities that could emerge, depending on the outcome of negotiations. For example, retention of membership of the Single Market and Customs Union would mean less uncertainty whilst the further the UK moved from that, the greater the uncertainty at present. The Executive also explained that in order to reduce the risk of FSS delivery towards the end of the Corporate plan, internal business planning is in train to help identify the priorities and the timeframe as the UK withdrawal from the EU becomes clearer, to assess the impact on the delivery of FSS priorities as described in the current Corporate Plan. This would help identify the work which would be affected; the scope and the complexities around drafting new Scottish statutory instruments and the resources required; parliamentary process and the required timeframe. The Executive noted the wider devolution issues are a priority for the Scottish Government, and that FSS will work with them to determine and deliver the appropriate solutions.

6.3 In conclusion, in noting the points raised by Board members and some discussion on the wording of bullet points (a) and (e) in paragraph 1.3 in the paper, the Board agreed the revised wording to summarise the FSS position on leaving the EU.

6.4 The Board :

- a) **agreed** the position of FSS is that, whatever legislation is introduced as a consequence of the UK’s exit from the EU, this should not result in any reduction in the level of protection afforded to consumers in Scotland. Also, that FSS, with its current remit and powers, is best placed to ensure the continued protection of public health, improvement in diet and protection of the other interests of consumers in Scotland in relation to food; and
- b) **agreed** that there are currently many decisions made locally and nationally in relation to the execution and enforcement of EU food law, and the position of FSS is that any arrangements introduced in relation to leaving the EU should provide sufficient flexibility that this position can be maintained.
- c) **agreed** that FSS’s strategic direction remains as agreed in 2016, focussed on delivering our six strategic outcomes to protect consumers and support responsible food businesses.

- d) **agreed** that the executive should bring a paper to the Board early in 2018 setting out, as far as we can foresee at that point, how the work necessary to prepare for leaving the EU might affect delivery of the FSS strategy.
- e) **noted** that clarity about the future decision making for matters currently determined at EU level will be dependent on the end point of negotiations on the European Union (Withdrawal) Bill (“the Bill”), UK Frameworks and negotiations on repatriation of powers, noting the Scottish Government’s (SG) position that repatriation of powers from Europe on devolved matters should be to Scotland and not centralised at the UK level.
- f) **noted** that Food Standards Agency (FSA) may seek new powers with regard to certain decision making functions which may engage the issues raised at a and b above. The Executive will keep the Board updated on any implications this could have for FSS, and how we might address any related issues.
- g) **noted** that we are engaged with both SG and UKG (primarily FSA and Defra) on matters concerning technical and operational readiness.
- h) **noted** the views of consumers and stakeholders, set out in the report about how leaving the EU may effect on their interests in relation to food.

7 Annual Strategic Risk Register Review – 17/11/06

7.1 The Chair emphasised the delegated function of the FSS Audit and Risk Committee was to provide assurance to the Board. He then invited Garry Mournian, Head of Corporate Services, to present this paper.

7.2 The Chair suggested that if risks were to be scored, then timing for mitigation of risks should be included. In discussion, board members noted that strategic risks are decreasing or static and commended the executive for managing risks downwards; suggested that the Brexit risk is global at a strategic level and should not be constrained to one particular FSS strategic outcome; agreed it was appropriate to remove the link to individual strategic outcomes; noted the wider budgetary risk that exists across the Scottish Administration which the Executive are in discussions with SG.

7.3 The Board :

- **Noted** the development and implementation of the FSS Risk Management Policy and framework which shows that risks are being managed, reported and escalated in an effective and timely manner.
- **Agreed** the current strategic risks, in particular those rated VERY HIGH/RED and confirmed they are appropriate but request that wording and classification of risks be revisited
- **Noted** the practical example provided that showed the application of the Board risk appetite when it comes to managing risk
- **Agreed** the risk appetite statement as still being applicable to FSS and for the executive to continue to use to support FSS decision making
- **Agreed** that the existing process for reviewing, reporting and escalation of risk should continue through the Audit and Risk Committee (quarterly) and Board (annually).
- **Noted** that further development of the strategic risk register format will be undertaken by the Executive during quarter 3.

8 Official Controls delivery on Animal Welfare – 17/11/07

8.1 The Chair invited Ian McWatt, Director of Operations, Laurentiu Patea and Elena Gafenco Veterinary Managers, to present this paper. In his introduction, Ian highlighted the public and media interest in the use of closed circuit television (CCTV) in slaughterhouses and that it remains Scottish Government's intention to consult on mandatory CCTV in slaughterhouses.

8.2 Laurentiu highlighted the improvements in Official Controls delivery on animal welfare including improving consistency in documenting and recording animal welfare incidents and the ongoing engagement with Scottish Meat Industry Forum (SMIF), Scottish Livestock Working Group (SLWG) and other government departments. He confirmed that unannounced inspections had been effective in identifying non-compliances which are not found at routine audits or inspections, and the scope would be extended to include slaughterhouses.

8.3 Elena moved onto discuss the Certificate of Competence (CoC) and highlighted three key points of improvement in process; issuing of CoC's was now completed in-house; FSS is the only accredited training and assessment centre to deliver and issue CoC's and the suspension of licences when any breaches in animal welfare occur.

8.4 In discussion, a board member suggested that FSS produce an infographic for the Board to represent the journey of an animal from farm to slaughter to explain and identify the government departments who have the responsibility for animal welfare at each stage. In noting the majority of animal welfare breaches occur during transport of animals to slaughter, Ian explained that the regulatory landscape for animal welfare was indeed, complex. He explained that the SLWG, had met twice and is chaired by the Chief Veterinary Officer for Scotland. He advised that the SLWG would be the appropriate forum to discuss the possible creation and publication of the infographic which is scheduled to meet in January 2018. Ian confirmed he would report back progress in this matter at the February 2018 board meeting.

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8.5 The Board :

- **Noted** the progress to further develop Animal Welfare Official Control delivery in Scotland
- **Noted** the proposals, recommendations and implementation plan for animal welfare including unannounced inspections in slaughterhouses
- **Agreed** that the executive should develop a methodology for the regular publication of animal welfare data in conjunction with the Scottish Livestock Welfare Group

9 The impact of alcohol on health, including diet and obesity and wider health – 17/11/08

9.1 The Chair invited Laura Mahon, Deputy Chief Executive from Alcohol Focus Scotland (AFS) to present this paper. He explained she was attending to present this paper on behalf of Alison Douglas, Chief Executive who was unable to attend. Laura explained that AFS is a charity working to prevent and reduce alcohol-related harm in Scotland. Her presentation highlighted the key health harms of alcohol; the alcohol and weight gain paradox; the UK Chief Medical Officers' Low Risk Guidelines; labelling and health warnings; encouraging alignment between SG Obesity and Alcohol policy and supporting evidence based policy making.

9.2 In discussion, board members and the executive raised questions on improving labelling of alcoholic drinks; what were the most effective ways to raise public awareness to reduce alcohol consumption; suggested that alcohol should be categorised as a discretionary food; noted caution in using “front of pack” labelling on alcoholic drinks. Laura clarified that AFS wanted to ensure that labelling was consistent and provided consumers with the correct message.

9.3 The Chair thanked Laura for attending the meeting. He noted the “asks” suggested by AFS in the paper, which covered a number of FSS policy areas, agreed to take account of these when FSS is considering the diet and obesity strategies. Laura explained that AFS has established a cross-party group to improve public health in Scotland in collaboration with ASH Scotland; Obesity Action Scotland and she agreed to pass on the details of future meetings

9.4 The Board:

- **Noted** the information provided

10 Outcomes Report – 17/11/09

10.1 The Chair invited Susan Pryde, Head of Science Strategy and Information Analysis to present this paper. She explained that this was the first version FSS Outcomes Report and its purpose was not intended to replace more detailed reports e.g. performance reporting and financial performance report which were also being tabled at this meeting. She invited comments from board members on the trends in the indicator data under the six corporate outcomes.

10.2 In discussion, board members suggested to consider comparing the FSS data with other data sources, if available. In noting that using arrows might be difficult to identify the positive or negative trends in the outcomes, it was suggested a Red-Amber-Green score could be used to further explain whether figures were moving in the right or wrong direction. Board members made a number of suggestions including the breakdown of the percentage of FSS budget could be included at the end of the report; suggested including further explanation of the trends in the narrative.

10.3 The Board:

- **Noted** the trends in the indicator data under each of the six FSS corporate outcomes

11 Performance Reporting – 17/11/10

11.1 The Chair invited Ian McWatt, Director of Operations and Sandy McDougall, Head of Operations to present this paper. Ian introduced the paper invited comments from Board members on the content and presentation.

11.2 In discussion, board members made a number of suggestions including; that shellfish sampling compliance should be put into context for clarification; in respect of visual contamination, it should be made explicit in the report that no contaminated carcasses are permitted to leave slaughterhouses; a three month rolling average could be used to smooth the figures for non-compliance and welfare breaches. The executive agreed to look at using a three month rolling average in future performance reports.

11.3 The Board:

- **Noted** the performance metrics and looked forward to the next iteration of the performance report
- **Agreed** that quarterly performance reporting was appropriate

12 Financial Performance Update – 17/11/11

12.1 The Chair invited Garry Mournian, Head of Corporate Services to present this paper. Garry thanked Elaine McLaughlin, Finance Manager for her assistance in preparing this paper. He drew attention to the resource budget and referred to the risks, issues and highlights. He gave an update on the forecast underspend figure which had reached £200k, which was due to number of factors including accrued income not previously reported; staffing changes and delays in recruitment.

12.2 In discussion, board members sought and received clarification on outstanding payments and fees for debt recovery of meat hygiene charging; noted small capital budget for IT expenditure.

12.3 The Board:

- **Noted** the financial information reported as at 30th September 2017
- **Noted** the steps taken to utilise the forecast underspend as reported at the end of the first quarter
- **Noted** that work continues to develop an FSS Financial Strategy in line with Audit Scotland recommendations

13 Audit and Risk Committee Oral Report

13.1 The Chair invited Sue Walker, Audit and Risk Committee (ARC) Chair to provide an oral update on the meeting held on 27th September 2017. She explained that ARC members received reports from Scottish Government Internal Audit Directorate (SGIAD) and Audit Scotland. During the Annual Report and Accounts process Audit Scotland noted that FSS is operating in a very open and transparent manner, there was scope for FSS to further enhance transparency and suggested that ARC papers could be published. The Chair, Ross Finnie subsequently wrote to Audit Scotland on the matter of transparency. Audit Scotland responded to clarify the purpose was simply to make a suggestion to FSS to further enhance transparency where appropriate and did not mean to suggest ARC papers should be placed on the FSS website.

13.2 On Internal Audit matters, the ARC noted that the SGIAD Internal Audit plan was on schedule. The ARC received audit reports on Food Fraud Prevention and Detection from SGIAD which received a reasonable assurance opinion and highlighted good practices and welcomed the good standard of governance in place for a fledgling unit. The ARC also received the audit report of Enforcement Processes at Approved Establishments under Veterinary Control by Food Standards Agency and noted the substantial assurance opinion had been issued.

13.3 On the Audit Implementation Group report, the ARC welcomed the excellent progress made by the executive in actioning recommendations.

13.4 On risk matters, ARC members discussed the Strategic Risk Register and Elspeth MacDonald, Deputy Chief Executive had attended to present the Brexit risk register. Sue

noted that the Brexit risk register would not be presented by the executive at each ARC meeting, given the fast changing nature of the risks.

13.5 She moved on explain that the ARC non-executive and executive members had recently completed a self-assessment questionnaire to review the effectiveness of ARC which would be discussed in closed session prior to the 22nd November 2017 meeting. She would provide an oral report of the ARC effectiveness review at the next Board meeting on 28th February 2018.

14 Question and Answers

14.1 There were no questions from members of the audience. The Chair closed the meeting.