

## MINUTES OF THE INTERSESSIONAL BOARD MEETING HELD VIA TELECONFERENCE ON 20<sup>th</sup> APRIL 2020 FROM 11:00 AM TO 12:10 PM

### Present:

#### FSS Board

Ross Finnie, Chair  
George Brechin  
Heather Kelman  
Carrie Ruxton  
Sue Walker  
Louise Welsh, Deputy Chair

#### FSS Executive

Geoff Ogle, Chief Executive  
Ian McWatt, Deputy Chief Executive  
Garry Mournian, Director of Policy, Science  
Finance and Human Resources  
Diane Strachan, Head of Private Office  
Steve Hardie, Head of Regulatory Policy  
Stephen Hendry, Senior Policy Advisor  
Hazel Stead, Board Secretary

### 1 Introduction, Apologies

- 1.1 The Chair welcomed everyone to the teleconference meeting.
- 1.2 Apologies were received from Marieke Dwarshuis and Norval Strachan.

### 2 Declaration of Conflict of Interest

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

### 3 FSS advice on the impact of COVID-19 on Food Labelling and Compositional Standards

3.1 In the introduction, the Chair explained the purpose of the meeting was for the Board to discuss and agree the Executive's proposals relating to the FSS advice on the impact of COVID-19 on the food supply chain and the effect this may have on food labelling and compositional standards.

3.2 The Chair invited Steve Hardie, Head of Regulatory Policy to introduce the paper. Steve noted the issues faced by the industry as a result of supply chain disruptions in sourcing key ingredients which are impacting on the industry complying with food labelling regulations. He also reinforced the point that any advice on food labelling should ensure that food safety and consumer protection is not compromised. He drew attention to the options in the paper:

**Option 1** - UK Government request to the Commission seeking a temporary relaxation of directly applicable EU food labelling requirements

**Option 2** - UK Government to introduce temporary easements in UK legislation, made in the vital national interest to maintain food supplies

**Option 3** – Scottish Government to introduce temporary easements in Scottish legislation, made in the vital national interest to maintain food supplies

**Option 4** - Advice for local enforcement authorities

3.3 He explained the options to mitigate the impacts came with different legal challenges to enable legislative easements. He noted that agreement at European Union (EU) level would be best but at this stage, no update from European Commission has been issued. The next option would be to amend UK or Scottish legislation – but noted that challenges exist around legal competence to do so. He explained that Option 4 on providing advice to Local Authorities (LA) is the only viable option under the current circumstances, but noted there is

a risk of legal challenge, and the guidance would encourage a balanced and pragmatic approach to enforcement.

3.4 He noted there is a risk that while food businesses would seek to comply with the regulations there could be challenges at this time of crisis and therefore consistent guidance and handling is important and that the Scottish Food Enforcement Liaison Committee (SFELC) sub-group proposed in the paper would have a central role in this process.

3.5 He noted the Covid-19 pandemic has presented specific issues related to the mandatory fortification requirements in the Bread and Flour Regulations 1998 (BFR), which require calcium, iron, niacin and thiamin to be added to flour milled in GB. Thiamin is sourced almost exclusively from China where production has been affected by the Covid-19 outbreak. The UK milling industry has enough stock of all four fortificants to last until at least October 2020, and while Chinese production of thiamin has now restarted, the lag in product coming back on stream combined with disruption to shipping could cause additional delays in restoring the supply chain. Should manufacturing and/or transport issues continue to have an effect beyond October the milling sector may struggle to fully comply with the mandatory requirements of the BFR. We will work with Defra to achieve the temporary relaxation in the regulations and there are no issues around the applying temporary easement in Scotland.

3.6 Geoff Ogle, Chief Executive, drew attention to the Risk Appetite previously agreed by the Board (low tolerance for food safety issues) and whilst we will not do anything illegal, this takes us towards a high tolerance end of the Risk Appetite in terms of innovation. He noted the Defra and Food Standards Agency (FSA) positions and are planning to make changes which, in their view, are within the confines of existing EU laws. George Eustice, Defra Secretary of State has indicated to officials that there won't be an approach to the EU commission for EU derogation in terms of food labelling. Other EU countries have made changes to their approach to labelling, therefore it may be possible that EU may introduce changes but this looks unlikely at present and cannot be relied on although it is the ideal solution.

3.7 In discussion, Board members noted a number of points for redrafting which the executive agreed to amend. A Board member suggested alternative text "*Our purpose is to enable the Scottish enforcement community to take a common pragmatic and graduated approach to enforcement*". Board members sought and received clarification from the Executive on a number of points:

- the purpose of guidance is to help enforcement officers it is not a reminder;
- the guidance should clearly state we do not accept non-compliance;
- the focus is on maintaining food supply, but food wastage will be addressed
- LA are not involved in checking labelling amendments outwith routine visits, the responsibility remains with food businesses to ensure compliance with regulations;
- the proposed timeline for Scottish Statutory Instrument to relax the UK Bread and Flour Regulations 1998 would be until the end of March 2021.

3.8 The Chair moved onto discuss the guidance. Board members noted that the guidance could be shorter and more succinct. Board members sought and received clarification on the role/purpose of SFELC sub-group would be included; the guidance would be circulated to stakeholders and the Food Sector Resilience Group and LA and the timing of publication.

3.9 The Board:

- **Agreed** to endorse the proposal of Option 4 in the paper by the Executive, subject to a revised version being submitted to the Chair and Deputy Chair for agreement

3.10 The Chair closed the meeting.