

MINUTES OF THE MEETING OF THE FOOD STANDARDS SCOTLAND BOARD HELD ON 21st AUGUST 2019 FROM 10.30 AM TO 14:45 PM AT PILGRIM HOUSE, ABERDEEN**Present:****FSS Board**

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

FSS Executive

Geoff Ogle, Chief Executive
Ian McWatt, Interim Deputy Chief Executive
Garry Mournian, Interim Director of Policy, Science, Finance and Human Resources
Norval Strachan, Chief Scientific Advisor
Katherine Goodwin, Head of Communications and Marketing
Karen McCallum-Smith, Head of Private Office
Hazel Stead, Board Secretary

External

Jim Rundell, Lead Senior Audit Manager, Audit Scotland

1 Introduction, Apologies

- 1.1 The Chair welcomed everyone to the Food Standards Scotland (FSS) Board meeting.
- 1.2 There were no apologies.

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 the diet and nutrition item as she consults to trade bodies representing fruit juice, tea and eggs, whose products may be consumed in an out of home context.
- 2.2 No conflicts were declared by other board members.

3 Minutes and Actions Log - 19/08/01 & 19/08/02

- 3.1 There was one minor amendment to the minutes in . There were no amendments to the action log.
- 3.2 The Board agreed the minutes as an accurate record of the meeting.

4 Chair's Report

4.1 The Chair updated the Board on the Advisory Forum on Food and Feed (AFFF) and the subsequent correspondence between him and Heather Hancock, Chair of Food Standards Agency (FSA). Geoff noted the AFFF is part of the UK food and feed framework agreement and is linked to wider governmental discussions and that the frameworks were unlikely to be agreed by the 31st October 2019. Ross and Geoff are due to meet with the new Chief Executive of FSA in London before November 2019.

5 Chief Executive's Report – 19/08/03

- 5.1 The Chair invited Geoff Ogle, Chief Executive (CE) to provide update on a number

of topics. Following the departure of Elspeth MacDonald, Deputy Chief Executive, Geoff Ogle advised that to fulfil this role in the interim, Ian McWatt is taking on the role of Interim Deputy Chief Executive and Garry Mournian is taking on the role of Interim Director of Policy, Science, Finance and Human Resources.

5.2 Geoff explained that West Lothian Council have agreed to use the Scottish National Database, which means all 32 Local Authorities (LA) in Scotland will be using this platform. On Brexit matters, Geoff explained that the planning assumption is the UK will exit the European Union with no-deal. He is leading on the co-ordination of the Scottish Government response across food and drink (including animal health, rural, agriculture, plant health, Marine Scotland and others).

5.3 Geoff noted that there is a reduction in official controls sampling by LAs. Further investigations are required to find out what is happening and what FSS can do in the short-term to support the four public analyst laboratories in Scotland.

5.4 Geoff gave details on the meeting with the new Chief Executive of the Scottish Society for the Prevention of Cruelty to Animals at the Royal Highland Show where a number of areas of mutual interest were discussed including how both organisations can work together to share information and intelligence on animal welfare.

5.5 Geoff invited Ian McWatt, Interim Deputy Chief Executive to give an update on the transfer of staff from Hallmark Meat Hygiene Ltd (HMMH) to FSS. Ian noted that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) process is progressing towards the deadline of 16th September 2019. He noted all due diligence information has been received and measures letters issued to HMMH staff and those staff who are deemed to be either in or out of scope to transfer. He noted that during that during the TUPE process, direct communications with HMMH staff are challenging, he gave details of the written and face to face methods in place.

5.6 Board members sought and received clarification on two points (i) food supply planning by retailers for Brexit and (ii) whether a contingency plan was in place for staff shortages with the TUPE transfer of HMMH staff to FSS. On the first point, Geoff explained that Operation Yellowhammer is the UK Government civil contingency planning assumption for a no-deal Brexit. He explained that in terms of food supply, discussions with retailers confirmed that there will be sufficient supply of food, but there would be a reduced choice. On the second point, Ian explained that to prevent staff shortages in provision of official controls in the meat industry, a mapping exercise is underway and contingency plans are in place ensure that there is no gaps.

6 Audit and Risk Committee Statement of Assurance to the Board – 19/08/04

6.1 The Chair invited Sue Walker, Chair of the Audit and Risk Committee (ARC) to present the annual Statement of Assurance to the Board. She explained the Statement of Assurance 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 She explained that the ARC had received a draft version of the Annual Report and Accounts (ARA) in May and June 2019 and began their scrutiny of them at that point. The Board also had an opportunity to comment on the draft version of the ARA at this stage.

6.3 At the ARC meeting on 14th August 2019, ARC members discussed the draft ARA and also received Audit Scotland's draft Annual Audit Report 2018/19. ARC members made minor drafting changes to the report to improve clarity. ARC members sought and received

clarification on the impact of two legal rulings regarding public sector pensions and the two post balance sheet events. She noted that the two post-balance sheet events do not impact the financial statements for 2018/19, but are required to be disclosed to meet the requirements of the Government Financial Reporting Manual. ARC members noted the positive draft Audit Scotland Annual Audit report and the anticipated unqualified opinion on the ARA to be issued subject to agreement by the Board. ARC members noted three recommendations by Audit Scotland and the executive had already put actions in place to address these.

6.4 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 2018-19 of FSS internal auditors, for corporate systems, the Scottish Government Internal Audit Directorate
- the moderate annual assurance opinion of 2018-19 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 2018/19 to be signed off by the Accountable Officer.

6.5 She thanked Audit Scotland and FSS staff for their work on the ARA.

7 Food Standards Scotland Annual Report and Accounts 2018/19 – 19/08/05

7.1 The Chair then invited Geoff Ogle, as the Accountable Officer to introduce the Annual Report and Accounts (ARA) 2018/19. 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 Chief Executive and Accountable Officer.

7.2 He explained that the ARA have been adopted and interpreted 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 and 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 discussion by the Board.

7.3 He explained the Performance Report includes both a summary and analysis section which provide a consolidated version of outcomes reporting throughout the financial year. He summarised the achievements made in nutrition, food safety; enforcement and communications and marketing. He explained the Accountability Report remains largely the same in terms of content and format and reflects the roles and responsibilities of the Chair and the Board in the Corporate Governance section. Within the Accountability Report, he drew attention to the two post balance sheet events (additional funding for Brexit and termination of HMMH Ltd contract), however these are not related to the 2018/19 financial year or ARA.

7.4 He explained that the Financial Statements detail the financial performance in 2018/19 and he confirmed that any misstatements above the reporting threshold have been rectified and accepted by Audit Scotland. He drew attention to the Financial Performance section 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 £16 million, compared to the departmental budget of £16.2 million, resulting in an underspend of £0.2 million.

7.5 He noted the non-cash Annually Managed Expenditure (AME) was £0.7 million compared to the budget of £0.6 million. He explained that the additional AME requirement relates to the impact of the McCloud legal challenge on the actuarial reassessment of FSS's longer term pension liabilities which is outwith the organisation's control. He explained this additional pension liability has been discussed with SG Finance who have confirmed it will be covered by the wider SG AME budget allocation. He noted that FSS had drawn down £14.5 million to cover the capital and operating costs.

7.6 The Board noted a drafting error in the awareness and trust table in the ARA which the executive agreed to amend. The Board suggested the ARA should be made more accessible to a wider audience and the executive agreed to take this away for further thought.

8 Annual Audit Report – Audit Scotland – 19/08/06

8.1 The Chair invited Jim Rundell, Lead Senior Audit Manager from Audit Scotland, to introduce the report. Jim explained that the purpose of the report is to provide a summary of all audit activity throughout the year and to meet the requirements of the Code of Audit Practice. He provides comments on financial management; financial sustainability; governance and transparency and value for money. He drew attention to the key messages and the audit opinions which he is required to issue. He confirmed that all audit opinions are clear and unqualified.

8.2 In terms of the wider audit dimensions, he noted that the financial management is effective and helps to support scrutiny. In terms of financial sustainability, he was aware of the various challenges faced by FSS for Brexit but effective planning by the executive is in place. He noted that the annual allocation of funding from Scottish Government (SG) hinders longer term financial planning. In terms of governance and transparency, there are appropriate arrangements in place to support decision making for accountability and scrutiny and that the board is open and transparent in its business. He suggested that for value for money, there was scope for improvement in developing a framework document to show value for money is embedded in every day work. He noted the recommendation for the executive to consider the provision of shared services by SG.

8.3 He moved onto the financial statements and drew attention to the two legal judgments affecting defined benefit pension schemes which have an impact on the financial statements which required an adjustment to the accounts. He then drew attention to the two other adjustments (intangible assets and overstated income) which were satisfactorily corrected. He drew attention to Appendix 1 which detailed the risks and recommendations; the agreed management actions and timeline.

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

8.5 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; and
- **approved** the Annual Report and Accounts 2018/19 and their issue by the Chief Executive as the Accountable Officer

8.6 Jim thanked Garry, Osa Udoh, Financial Accountant and FSS staff for their patience and prompt response to queries and he appreciated the support given during the audit.

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. Sue explained that at the 19th June 2019 ARC meeting, annual private meetings were held between ARC members and internal and external auditors. At these meetings, auditors noted the positive working relationships and welcomed the high priority given by FSS staff to governance, control and risk matters. She explained that ARC members discussed the progress of the Annual Report and Accounts and received the annual assurance opinions from the internal and external auditors. She commended the executive on the progress made on all recommendations from the various audit reports throughout the year.

9.2 The ARC had agreed to the redrafting of the wording of risk 8 on the Strategic Risk Register in relation to ineffective delivery of official controls on food and feed by local authorities. She noted that the Brexit Risk Register continues to have a high number of risks but these are being managed by the executive as uncertainties continue. She noted the ARC had received a report on Cyber Resilience in its role to provide oversight on behalf of the Board. She noted that FSS receives assurance from SG corporate systems. The executive has prepared a Cyber Incident Response plan and a Cyber Resilience audit is underway with a view to achieving Cyber Essentials certification, and work is on-going to maintain a cyber-aware culture within FSS.

9.3 Sue moved onto the 14th August 2019 meeting and explained that the Scottish Government Internal Audit Directorate (SGIAD) Internal Auditor has been assigned a six month internal secondment. She and the Accountable Officer noted concerns that this staffing change had occurred without prior consultation and the level of communication was poor. ARC members raised concerns about continuity and potential risk to the delivery of internal audit plan. The SGIAD Senior Internal Audit Manager sought to provide reassurance and apologised for the lack of communication. Sue noted that it was Garry's final attendance at ARC and she thanked him for his excellent support and his diligence in setting up of the robust governance framework in the early days of FSS.

9.4 The Board :

- **noted** the ARC oral update

10 Strategic Risk Register – 19/08/07

10.1 Sue explained the purpose of the paper was to present the Board with the amended wording of Risk 8 on the Strategic Risk Register. She noted the wording had been amended to reflect the risk of ineffective planning and delivery of official controls by local authorities. The Board noted one further amendment to the wording.

10.2 The Board :

- **agreed** the revised wording of Risk 8 on the Strategic Risk Register

11 Financial Performance Update – August 2019 – 19/08/08

11.1 The Chair invited Elaine McLaughlin, Senior Finance Manager to introduce the paper. Elaine explained that the budget for this financial year is £16 million, with £15.6 million allocated for resource and £0.4 million allocated for Annually Managed Expenditure (AME). There was a £248k underspend against the £4m budget profiled over the first quarter. She highlighted the additional funding received of £278k, which is to offset the increase in employer pension contributions and the £3.5 million for the impact of Brexit. She noted that discussions with SG

Health officials are ongoing in regard to the Resource Spending Review 2019 and FSS will submit an individual return on spend proposals up to 2023-24.

11.2 In discussion, the board sought and received clarification on the timing of the SG Spending Review cycle and whether this might have a negative impact on recruitment planning and the intended plans by the executive to mitigate this. The board sought and received clarification on the specific allocation of the £3.5 million for Brexit. The board suggested expanding the detail on efficiency savings in the paper and the executive agreed to take this point away for further thought.

11.3 The Board:

- **noted** the financial information as at 30th June 2019
- **noted** the extra funding of £278k for employer pension contribution and additional funding of up to £3.5 million to support the impact of Brexit on FSS remit which will be accounted for in the next quarterly report

12 Diet and Nutrition : Recommendations for an out of home strategy for Scotland – 19/08/09

12.1 The Chair invited Garry Mournian, Interim Director of Policy, Science, Finance and Human Resources to introduce the paper. Garry explained that the recommendations had been developed following a 14-week public consultation to seek views on how the out of home environment could be improved and was a key commitment of the SG Diet and Healthy Weight Delivery Plan. He noted this is the start of a significant piece of work and we need to recognise the scale of the task to transform the out of home environment not just by FSS in isolation, but across Government and the out of home sector, as well as galvanising public support for change.

12.2 The Chair then invited Heather Peace, Head of Public Health Nutrition to provide a brief overview of the paper. Heather noted that the paper draws on the responses received to the public consultation; consumer engagement and new data on the out of home (OOH) sector from Kantar Worldpanel which are published on the FSS website. She drew attention to the seven principles and the recommendations and the importance of working with SG; partners and the food and drink industry in taking forward and OOH strategy for Scotland.

12.3 In discussion, board members were comfortable with mandatory calorie labelling but raised queries about the role of the public sector to drive improvements. It was acknowledged that the public sector should be an exemplar in this area so that might suggest mandation was not necessary, but there was little to be gained from developing different approaches between the public and private sector.

12.4 The Board also sought and received clarification on mandatory calorie labelling and how progress in the out of home sector could be measured. The executive responded that the public sector was important in leading the way in all the changes we need across the OOH sector, including calorie labelling which would take some time to be put in place due to the legislative process. Evaluation of progress in the OOH sector (public and private), will be developed as part of the work going forward, but will include analysis of data from commissioned research as well as analysis of industry provided data and engagement with consumers and industry.

12.5 The Board:

- **agreed** the recommendations and actions set out and summarised in the paper and that the Chair should write to the Minister for Public Health, Sport and Wellbeing
- **noted** there will be a further paper on the implementation of mandatory out of home (OOH) calorie labelling in 2020, if Ministers are minded in principle to pursue this
- **noted** the importance of collaborative working with Scottish Government, partner organisations and the food and drink industry in taking forward (OOH) strategy for Scotland

13 Communications and Marketing : Tracking Food Standards Scotland Reputation - 19/08/10

13.1 The Chair invited Katherine Goodwin, Head of Communications and Marketing to introduce this paper. Katherine explained the paper provides an overview of current public and stakeholder perceptions of and attitudes towards FSS since 2015. She noted that reputation is an important way to show how FSS meets its fifth strategic objective 'FSS is a trusted organisation'. She noted that since the Food in Scotland consumer tracker survey began in December 2015, we now have a strong and robust evidence base to draw on. She noted that the research agency was changed at wave seven. Whilst the methodology and sampling was replicated, there is a possibility that the change or the negative media coverage surrounding the Errington Cheese Ltd incident may have caused a some measures to show a negative dip, against the upward trend of the previous six waves. She noted wave eight was undertaken in a time of positive media coverage and following two FSS marketing campaigns – ('Kitchen Crimes' and 'No to Upsizing') which could explain the recovery across a number of measures at this, the most recent wave. To conclude her introduction, she gave a brief summary of the key highlights of the tracking survey, media and social media analysis and stakeholder feedback.

13.2 Board members sought and received clarification on these points:

- whether enough is being done externally to ensure the public is aware of the work FSS is doing to prepare for Brexit, and to communicate the potential risks in terms of food safety and food crime in the event of a no-deal Brexit;
- if the consumer tracking survey is showing that there is an issue with public understanding of FSS's role and responsibilities, and if so, what is being done to mitigate that;
- whether we could deploy staff in external communications to demonstrate pride in the work we do (and help mitigate the point above);
- if recruitment advertising could be used to maximise positive feeling towards FSS;
- whether the executive had plans to use more video content and infographics;
- whether we could do more in external communications to more overtly and clearly tie in nutritional standards with overall food standards.

13.3 The Board :

- **noted** the measures currently in place to track FSS's reputation and the results of engagement and surveys undertaken since 2015
- **agreed** that the current arrangements for monitoring and reporting on attitudes towards met the needs of the Board
- **agreed** on the points raised and the noted the additional actions required to further enhance the reputation of FSS amongst the public, the media and other stakeholders

14 Annual Chief Scientific Advisor Science, Evidence and Information Update – 19/08/11

14.1 The Chair invited Norval Strachan, Chief Scientific Advisor to introduce the paper. Norval noted that Science, Evidence and Information (SEI) is a key part of policy decision making at strategic, operational and tactical levels. He highlighted the importance that the SEI is open to challenge from within and outwith FSS.

14.2 In discussion, board members sought and received clarification the external challenge by peer review; the futures analysis work; the use of data science; maintaining and expanding scientific expertise within FSS and external scientific contacts in the lead up to and after Brexit.

14.3 The Board :

- **noted** the progress with implementation of the SEI strategy from 1st April 2018 until 31st March 2019

15 Incident Management and Emergency Exercising – 19/08/12

15.1 The Chair invited Ian McWatt, Interim Deputy Chief Executive, Jackie McCann, Senior Enforcement Manager and Calum Yule, Resilience Manager to introduce the paper. Ian summarised the background and purpose of the paper. Jackie noted that 18 of the 24 key recommendations are complete and the Incident Management Framework was developed and published to address the recommendations. She noted that Calum has been appointed as Resilience Manager to assist with the Emergency Exercise programme. She advised that the Emergency Exercise programme for 2019-20 has been established and the contract awarded to Deloitte LLP and the initial exercise plans are underway. She noted the recommendations which are still outstanding and that the majority will be closed in the coming months.

15.2 In discussion, the Board sought and received clarification on the two remaining recommendations (incident communications and staffing during a severe incident) and received assurance on longer term incident management resilience.

15.3 The Board :

- **noted** the updated progress towards completion of the Deloitte Incident Management report recommendations
- **noted** the developments in the Financial Year 2019-20 Emergency Exercising Programme

16 Question and Answers

16.1 There were no stakeholders in attendance at this point and the Chair closed the meeting.