

## **MINUTES OF THE MEETING OF THE FOOD STANDARDS SCOTLAND BOARD HELD 15 SEPTEMBER 2021 FROM 10:30 TO 14:15 VIA VIDEO CONFERENCE**

### **Present**

#### **FSS Board**

Ross Finnie, Chair  
Louise Walsh, Deputy Chair  
Alban Denton  
Marieke Dwarshuis  
Heather Kelman  
Carrie Ruxton  
Sue Walker

#### **FSS Executive**

Geoff Ogle, Chief Executive  
Julie Hesketh-Laird, Deputy Chief Executive and Director  
of Strategy, Communications and Programmes  
Ian McWatt, Deputy Chief Executive and Director of  
Policy, Science and Operations  
David Gally, Chief Scientific Adviser  
Diane Strachan, Head of Private Office

### **Apologies**

Carol Evans  
Joanne Smith, Board  
Secretary

### **1. Introduction, apologies, matters arising**

1.1 The Chair welcomed everyone to the Food Standards Scotland (FSS) meeting. He welcomed the external stakeholders to the meeting: Tommy Yule, Audit Scotland; Geraldine McNeill & Lindsay Jaacks, Global Academy of Agriculture and Food Security, University of Edinburgh; Lorraine Tulloch, Programme Lead, Obesity Action Scotland, Royal College of Physicians and Surgeons of Glasgow; and Graeme Anderson, Union Rep.

1.2 Apologies were received from Carol Evans and Joanne Smith.

### **2. Declaration of Conflict of Interest**

2.1 The Chair asked for any conflicts of interest to be declared. Carrie Ruxton, Board Member, declared an interest for the Dimpleby Review agenda item. She works with several food manufacturers which could be impacted by policy changes coming out of this report e.g. sugar/salt taxes. No conflicts of interest were declared by other Board members.

### **3. Minutes of meeting held 19<sup>th</sup> May 2021 and 1<sup>st</sup> July 2021, and Action Log**

3.1 There were no amendments to the minutes of 19<sup>th</sup> May 2021 and these were accepted as an accurate record.

3.2 There were no amendments to the minutes of 1<sup>st</sup> July 2021 and these were accepted as an accurate record.

#### **4. Action Log**

4.1 Action 2019/006 – Action to be closed. An agreement has been signed with all four public analyst laboratories.

#### **5. Chairs Report**

5.1 The Chair advised that he had met with Professor Susan Jebb, the new Chair at FSA, on 9th August. Professor Jebb is interested in food standards, safety and nutrition and it is encouraging that she wants to maintain level of collaboration between FSS and FSA.

5.2 The Chair was interviewed by Ruairidh McIver of the BBC about the allergens Prepacked for Direct Sale (PPDS) strategy launch on 17<sup>th</sup> August. He advised that the interview received good coverage and hoped it had promoted FSS's role in development of this strategy.

5.3 The Chair explained he had written to the Ministers on 24<sup>th</sup> August following the publication of agreement between Scottish Government and the Scottish Green Party. The draft shared policy programme document proposed two further food commissions, food enquires and a number of other possibilities that were already catered for in terms of FSS's remit. The letter also reminded Ministers that the Milne review, proposing a single delivery body for Scottish Veterinary Service, is outstanding. There has been no response to the letter as yet.

5.4 The Chair advised that he had been interviewed yesterday by Kieran Andrews, Political Editor at the Times to promote role of Chair of FSS to any potential applicants for the post which is currently advertised.

#### **6. Chief Executive's Report**

6.1 The Chair invited Geoff Ogle, Chief Executive to provide an oral update to supplement his written report.

6.2 Geoff reported that a strategic risk was being developed in relation to the recruitment issues currently faced at FSS as a result of the service provide by SG. This issue this diverts resource from the strategy and corporate plan.

6.3 Progress with recruitment continues to be slow. Geoff, Marion McArthur, Head of Audit Assurance, Garry McEwan, Head of Governance and Infrastructure, and Sue Walker met the SG Head of Internal Audit yesterday regarding recruitment concerns. They were clear on our views about the quality of service and the impact it is having on us as an organisation. This will be raised through SG's internal channels. The Board questioned whether key goals were achievable while the organisation was carrying so many vacancies and asked what the impact was on existing staff. Geoff reported that we have bolstered our own HR team and that agency staff and Fixed Term Appointments (FTA's) are in place which help in short term while permanent staff are recruited.

**ACTION:** The Board directed that the Chief Executive should write SG officials to raise concerns formally about the impact financially and operationally in terms of the FSS resourcing challenges.

6.4 Geoff highlighted that the Out of Home (OOH) action plan had been launched on Friday 10th September with good media coverage both online and in-print .

6.5 A Constitution Committee for the Internal Market Act has put out a request for evidence and workings which we will respond to by 29<sup>th</sup> October.

6.6 Geoff reported we continue to have number of engagements with SG in regards to EU Exit and that a paper would be presented later in the meeting.

6.7 Local Authority (LA) recovery work is ongoing. The highest impacted sector in terms of Covid-19 is care, with hospitality being second. A paper has been produced detailing in terms of shortages and what that might mean.

6.8 Geoff provided an update on regulatory product authorisations. This is a new area for which we made estimates of the resource required and are considering if there are related risks to that going forward. Timescales are set out in legislation and, while there is not currently a problem, we are drafting a business case on the future structure and looking at how robust the original assumptions were. The Board enquired with regards to regulated products whether there was any analysis of the type of products that are coming through.

**ACTION:** Geoff agreed to provide a note to the Board on regulated products after the meeting.

6.9 The Board asked the Executive whether, with regards to ongoing investigations, bringing people to justice was being hampered by delays in courts. Geoff reported that this had not materialised as an issue yet and that Ron McNaughton, Head of Food Crime and Incidents Unit, and his team, were working closely with the Procurator Fiscal team.

6.10 The Board enquired whether Maree Todd, Minister for Public Health, Women's Health and Sport would present at a future Board meeting after she was unable join the meeting 18<sup>th</sup> August as planned due to urgent Ministerial business. Geoff agreed that a new date would be arranged.

**ACTION:** Re-arrange a date for Minister to attend future FSS Board meeting as previously planned.

6.11 The Board asked if there were plans to evaluate the video presentation of the new FSS Strategy to see how members of the public and other organisations responded to it. Geoff advised that evaluation had been carried out after the initial launch and the analysis would be shared with the Board.

**ACTION:** Kate Bullock, Head of Communications & Marketing to share findings on digital engagement with the Board.

6.12 The Board asked what proportion of staff would be comfortable returning to the office. Geoff explained that a detailed analysis of staff preferences had been carried out and that hybrid working would be the first choice. We have done everything we need to do in terms of compliance so there is no sense of any real concern. However, there will be limitations on the number of staff that can be in the office at one time. In relation to conducting Board meetings face to face we have reviewed the facilities and, because of restrictions on the maximum number of people who can attend in person, a hybrid solution might need to be considered.

## **7. Freedom of Information and Complaints Annual Report**

7.1 The Chair invited Diane Strachan, Head of Private Office, to present her paper which provided an overview for 2020/21, and invited questions and comments. Diane noted that there had been 22 freedom of information requests and 7 formal complaints in 2020/21.

7.2 In discussion, the Board asked if there was any information that could be made available on the FSS website to prevent some future FOI requests. The Executive explained that some information, in relation to operations, was already on the website. The Board advised that information held should be published routinely. The Executive agreed to take this away for further thought. The Board noted an error with the date in table one in annex B which the Executive had also pointed out and agreed to amend.

**ACTION:** Amend the date in table one in annex B in published report.

7.3 Following discussion the Board:

- Noted the information provided.

## **8. Financial Performance Update Q1**

8.1 The Chair invited Elaine McLaughlin, Head of Finance & HR, to present her paper. Elaine reported a indicative 3.8% underspend against budget, mainly relating to staff vacancies and programme underspend. Elaine also reported that there had been an increase in FSS debt compared to the previous quarter; this had not been unexpected and was the result of the timing of quarterly invoices being raised. Elaine went on to highlight that debt over 31 days had reduced on the previous quarter and the 10 day payment target for supplier invoices was averaging 97% at the end of end of the quarter.

8.2 In discussion the Board sought clarification on the reason for such a large percentage of the year's spend being in March. Elaine explained that business areas are encouraged to profile spend throughout year but that when the date for activity is unknown the spend is forecast in March. Spend is reviewed monthly and once project profiling has been completed the spend can be brought forward.

8.3 The Board sought assurance that the underspend, which was already just under a million, wouldn't double due to the number of staff vacancies. Elaine explained that the recruitment process for permanent posts is challenging due to

delays in the SG's recruitment and on boarding processes. However, staff were joining the organisation on FTA and agency contracts which are quicker to fill. The Chair requested that future finance reports included an explanatory note about the number of staff employed on FTA or agency contracts. The underspend currently appears greater because temporary staff are recorded differently.

**ACTION:** Future Board finance reports should include a line to distinguish between temporary and permanent staff.

8.4 The Board sought and received assurance that there was no reputational risk with SG regarding the underspend on the staff budget. The Board highlighted an underspend in the training budget and enquired whether plans for training in the Operational Workflow System had got lost. Ian McWatt explained that plans for a replacement system are on track; however, veterinary resource was at a critical stage at the main effort was to maintain service at plants so training was not possible at the moment.

Following discussion the Board:

- **Noted** the financial information and provisional year end position reported as of 30th June 2021 and the indicative Resource and AME budget amounts for 2021/22.

## 9. 8 Month Update Post EU Exit

9.1 The Chair invited Geoff Ogle, Chief Executive, and David Johnston, Head of Strategic Engagement, to present this paper and invited questions and comments thereafter.

9.2 The Board were in favour of pursuing support of a Sanitary and Phytosanitary (SPS) agreement but asked about intelligence on the agreement and if it were to come into force what the resource implications would be for FSS. David explained that there was some political tension; the UK Government (UKG) took the decision to remove Great Britain from the single market and customs union and while returning would be sensible for many businesses, given the EU remains the largest export market, it would be politically challenging for UKG. However, a wide range of voices from industry are pushing for an SPS agreement. Geoff went on to further explain that all businesses are currently aligned with EU law so, in terms of an SPS agreement, it doesn't create problems for business nor for would a SPS agreement have a detrimental impact consumers. Ian McWatt explained, that in terms of the impact on resources it would be predicated on FSS being able to recruit Veterinary Officials when we are struggling to meet the demands of the controls we are already responsible for.

9.3 In relation to delays on the implementation of Import Controls, the Board asked about what action the World Trade Organisation (WTO) might take, for example would they stop imports from other countries. David explained that other countries can challenge the decision not to implement import checks but thought that the UKG would be relying on the process being lengthy in terms of enforcement action being taken.

9.4 In relation to gastropod exports the Board asked whether a lack of reliable testing placed Scottish business at risk. The Executive explained that, for the small number of companies where gastropods are a key part of business, a work around is in place with Local Authorities and exports are continuing. In addition we are looking to develop the official controls methodology in this area.

9.5 The Board asked how confident the Executive were about the nature of engagement with SG to consider the implications of the EU alignment policy on FSS's policy areas and the ability to maintain independence. David advised that engagement is around the understanding of the process SG is using to articulate its alignment. Although decisions might be different, alignment in Scotland's interests is a key focus.

9.6 The Board enquired whether recent change to labelling allergens mean we are still aligned with EU law. Geoff explained that in broad terms we are still aligned. Regarding food information, we have required specific clarification on a specific type of product, with its allergen status due to the way that product is packaged and sold.

9.7 The Board asked if any discussions about the shortage of veterinary staff were taking place at an EU level. Ian explained that the EU doesn't have a veterinary resourcing issue. He went on to say that a number of discussions had taken place with UKG to allow the easement of civil service nationality rules; EU nationals can now be recruited as veterinary staff.

9.8 The Board asked how the related range of risk to this paper was being managed. Geoff responded that there was a focus on risk that would impact delivery of the Corporate Plan and Strategy at an Executive Leadership Team level. Risks would be escalated as appropriate as part of the regular review of risks every month.

9.9 Following discussion the Board:

- **Noted** the update and **agreed** that FSS should continue to publicly support the need for a specific SPS agreement.

## 10. Dimpleby Review

10.1 The Chair invited Julie Hesketh-Laird, Director of Strategy, Communications and Programmes to introduce the paper and David Gally, Chief Scientific Advisor and Gillian Purdon, Head of Nutrition to present it and invited questions and comments thereafter.

10.2 David set the scene by giving a flavour of the wider report before Gillian went on to present key recommendations related to human health and diet-related disease, which are of relevance to FSS.

10.3 The Chair requested that the Board express views in general terms of where they would like to make recommendations, so that the Executive could make recommendations to Scottish Government (SG) and respond to the UK Government

before their White paper is published. He suggested a Board seminar could be held in the future to look at the recommendations in more in-depth.

10.4 In discussion as to whether to confirm the Board's previous position on a sugar tax, concerns were raised about the switch to sugar substitutes which may have greater health impacts. Thus, a clear definition of sugar would be critical. Concerns were also raised about expanding sugar taxes; it is relatively easy to reformulate drinks, but this is more difficult for cakes and biscuits. It is important that reformulation doesn't simply reduce sugar but also reduces calories – this is not happening routinely in food products.

10.5 The Board discussed the need to move on from sugar consumption being an individual issue. There is a need to look at how this can be influenced on a cultural basis.. The food industry need to take responsibility and help to achieve the ultimate goal of reducing sugar content. Changing producers behaviours influences demand. The Executive noted that while the suggestions in Dimbleby did include use of revenue to support implementation of the plan, when it came to sugar reduction, the purpose was to incentivise the speed of reformulation which we had seen with soft drinks. Further, on the socio-economic consequences, there was no evidence from soft drinks reformulation that there was an absence of choice which dis-advantaged those with lower incomes.

10.6 The Board supported education and communication which are important and need to be delivered at pace, with more of a structural approach. Looking to see what other countries had done in this area would be beneficial.

10.7 On the proposal for mandatory reporting for large food companies the Board would welcome trying to make businesses more aware of what they are selling. It would be important to look at outlets which sell to those who are socially and economically deprived. However, there might not be much of an impact in Scotland where there are not that many food business in excess of 250 employees. The Board questioned whether there would be any benefit in naming and shaming to encourage consumers to change their habits. It was suggested that metrics on food waste would also be useful.

10.8 The Board were asked to express views on FSS's role in influencing education on diet for children and young people. In discussion the Board pointed out that several generations of children can't cook. In order for people to eat more healthily, cooking skills need to be promoted before adulthood. It was felt that FSS's expertise is not understood by educational authorities. We have a range of teaching resources but need to better infiltrate teacher training and support food becoming a recognised area of education. This should include getting children interested from a young age in nutrition, menu planning, cooking and food budgeting.

10.9 The Board were asked to comment on the proposal for a National Food Data system for Scotland and questioned how the different metrics would be brought together. It was suggested a feasibility survey might be useful with development being staged. Measuring is important in order to manage situations and make changes but there would be a requirement to look at the needs and purpose of data, rather than gathering data and seeing what it can be used for.

10.10 On the proposal for a trial “Community Eatwell” programme, supporting those on low incomes to improve their diets the Board commented that prescriptions for fruit & vegetables would not be suitable for groups of people who do not visit their GP e.g. men in lower socio-economic areas. The need to get more affordable, good quality fruit and vegetables into Scotland was recognised. Community initiatives, including allotments and vertical farming, could give positive results and might contribute to better outcomes. However, these are modest gestures that won’t change scale of problem. A more hard hitting approach might be required since vegetables in UK supermarkets are cheaper than elsewhere.

10.11 The Board:

- **Discussed and provided a view** on the key recommendations of relevance to FSS contained within the report.
- **Supported** the Executive in writing to UK and Scottish Government Ministers to reflect our position.

**ACTION:** A response based on the Board’s views is to be prepared and the chair will write to UKG and Scottish Ministers on behalf of the Board.

## 11. FSA/FSS Annual Report on Food Standards

11.1 The Chair invited Steve Hardie, Head of Trade Policy Advice to present his paper and invited questions and comments thereafter. The Chair advised that the Food Standards Agency (FSA) would also be discussing the proposals at their Board meeting today.

11.2 The Board asked for clarification as to whether, after the first reporting cycle, reporting would be done by financial, rather than calendar, year and if multiyear analysis would be carried out. Steve explained that the intention was to continue to report on a calendar year basis. He went on to say that year on year reporting is the current plan but if, with experience, it was felt there might be a need to report multiyear analysis then it would be considered for future reports.

11.3 The Board advised that they would welcome the inclusion of a communications plan where there is divergence across the UK nations.

11.4 In discussion the Board enquired as to whether it would be possible to include a section on folic acid fortification. It had been 2 years since the UK consultation which FSS and FSA gave a favourable response to. Steve did not see any reason not to include this since the report is to reflect the full policy remit.

11.5 In discussion the Board asked whether it was clear that FSA would have the right to be independent with this report given the sensitivities around trade deals and the consequences of leaving the EU. Geoff did not see this as an issue based on discussions already had with Emily Miles, Chief Executive, FSA.

Following discussion the Board:



- **Agreed** the form and content of the report.

## **12. Audit and Risk Committee (ARC) Oral Report**

12.1 The Chair invited Sue Walker to give an oral update on the Audit and Risk Committee Meeting which took place on 25<sup>th</sup> August.

12.2 The Internal Audit Programme is on track for this year. The Audit Report on the Programme Management Office received a substantial rating showing it is an effective resource within FSS. Confirmation was received that the Annual Assurance Opinion for Shared Services was reasonable.

12.3 Sue reported that the Official Control Audit Programme was also going to plan for the year. The Enforcement Audit had been discussed and the reasonable rating noted. A more robust system for signing off audit recommendations is to be introduced with a more formal follow up process.

12.4 The External Audit is on track. The draft Annual Report & Accounts will go to the November ARC meeting and then to the November Board meeting for discussion.

12.5 ARC discussed the Strategic Risk Register and agreed to the removal of a number of risks now being managed at ELT level. Five risks are to be adopted to the Strategic Risk Register to align with the new FSS strategy. Work is in progress to further align risk strategy and this will be discussed with ARC and at a future Board seminar.

12.6 Following discussion the Board:

- **Agreed** that the five risks highlighted be adopted onto the Strategic Risk Register.

## **13. Q & A**

No other business was discussed, the meeting closed at 14:15

## **14. Close**