

**MINUTES OF THE MEETING OF THE FOOD STANDARDS SCOTLAND BOARD
HELD 17 NOVEMBER 2021 FROM 10:30 TO 14:25 VIA VIDEO CONFERENCE****Present****FSS Board**

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

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
Joanne Smith, Board Secretary

External Attendees

Tommy Yule, Lead Senior Auditor, Audit Scotland

1. Introduction, apologies, matters arising

1.1 The Chair, Ross Finnie, welcomed everyone to the Food Standards Scotland meeting.

1.2 No apologies were received.

2. Declaration of Conflict of Interest

2.1 No conflicts of interest were declared by Board members.

3. Minutes of meeting from 15 September and Action Log – 21/11/01

3.1 There was one amendment to be made to the minutes of 15 September at paragraph 10.4, otherwise the minutes were accepted as an accurate record.

3.2 The Chair moved onto the Action Log. Numbers 2019/01, 2021/12 and 2021/17 can be closed. 2019/04, Ross, Geoff and Gillian Purdon are meeting with Maree Todd the Minister for Public Health, Women's Health & Sport tomorrow alongside Public Health Scotland and this Action can be closed. 2021/10, the workforce plan will be taken to a future seminar; 2021/13, a note on regulated products will be issued along with the resurrected Monthly Board Update 2021/14, Maree Todd is speaking at the Board Seminar on 9 February; 2021/15, Kate Bullock is to provide an update.

4. Chair's Report – Oral update

4.1 The Chair attended the virtual Global Food Safety and Incident Conference held 13-15 October 2021 which went very well. On the 5 October the Chair and CEO met with Gillian Martin, the new Convenor of the Social Care and Sport Committee,

to discuss Food Standard Scotland's remit, including the FSS and FSA Joint Annual Report on Food Standards.

4.2 On the 8 October the Chair and CEO had a very constructive formal meeting with both the Chair and Chief Executive of FSA, Susan Jebb and Emily Miles. Given a high percentage of food eaten in Scotland is sourced elsewhere it is important that strong relationships are maintained in order to pursue our shared Agenda.

4.3 The Chair gave the opening remarks at the FSS and FSA joint virtual Global Conference for Food Safety Regulation and Sustainability, on 10 November. This was held to coincide with COP26 and was a very well attended and worthwhile event.

4.4 On the 16 October the Chair met with Angolina Foster, the newly appointed Chair of Public Health Scotland, prior to a joint meeting with the Minister for Public Health, Women's Health & Sport to discuss the Out of Home Action plan. She is interested in building a good relationship with FSS in order to drive our shared objectives.

5. Chief Executive's Report and supplementary oral update – 21/11/02

5.1 The Chair invited Geoff Ogle to provide an oral update to supplement his written report.

5.2 Geoff confirmed that the joint FSS/FSA COP26 conference which focused on sustainability, despite being virtual, had gone very well with an excellent range of speakers and a good attendance. Colleagues from our science division are already working closely with Zero Waste Scotland.

5.3 Geoff updated that the Good Food Nation (GFN) Bill is currently going through parliament. He expects to be called to give evidence at some point during the 6 weeks of evidence being heard. Work is being undertaken to establish our position on the Bill and Board members who would like to share their views were asked to contact Julie Hesketh-Laird.

5.4 Geoff advised that we are in the process of assessing the actual work being undertaken following EU Exit in areas such as imports, exports and risk analysis. He reported that there are pressures particularly associated with resourcing the Risk Analysis work. FSA has been successful in obtaining additional EU Exit consequentials of around £8m following their own analysis.

5.5 Geoff advised that the Board would also be aware of the risks having surfaced around Local Authority (LA) delivery and official controls. December's Board Seminar will focus solely on this topic to understand the scale of risk; the challenges and options on how we might move forward thereafter.

5.6 Regarding the recent Vitamin D campaign Board members asked how uptake would be measured. Kate Bullock explained that an evaluation in March will provide an indication of awareness and uptake, and she would seek advice from Kantar as to whether we could measure actual sales of Vitamin D post campaign.

ACTION POINT : 2021/19 : KATE BULLOCK

5.7 Board members sought clarification as to how the recent veterinary pay supplement would be reviewed. Geoff explained that prior to getting to the stage of a formal pay review the process would begin by paying an allowance to address recruitment and retention issues. Following a meeting with FSA there is also appetite for a joint letter from FSS and FSA Chairs to the Royal College of Veterinary Surgeons to outline veterinary resourcing challenges and the need for their intervention. Further discussions are also taking place with Sheila Voas, SG Chief Veterinary Officer, in terms of Charles Milne's review of the Scottish Veterinary Service.

6. Food Crime Update – 21/11/03

6.1 The Chair invited Ron McNaughton to present a general overview of the Scottish Food Crime and Incident Unit (SFCIU), created in 2016 following the horsemeat scandal. He invited questions and comments.

6.2 Ron provided assurance that, although it is still early days, according to intelligence and regular liaison with FSA, an increase in food fraud and crime has not materialised post EU Exit. The SFCIU has access to Europol and Interpol and produces a monthly RAG status to flag potential issues and put in place mitigation. In future there will be more emphasis on sampling and testing products, particularly from countries that present bigger risks, and areas we know to be vulnerable. Ron will present again at a future seminar should any actual impact become apparent.

6.3 Ron clarified that there is an information sharing agreement in place with APHA to ensure information shared is done so lawfully and in accordance with standards. Ron further clarified that SFCIU is adequately resourced at present, and that Scottish Government (SG) provide funding for 2 members of staff within the Unit.

7. ARC Statement of Assurance – 21/11/04

7.1 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 detail of the ongoing assurance given by 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.

7.2 At the ARC meeting on 12 November 2021 ARC members had had the opportunity to discuss both the draft Annual Report and Accounts (ARA) and Audit Scotland's draft Annual Audit Report for 2018/19.

7.3 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 2020-21 of FSS internal audits, for corporate systems, the Scottish Government Internal Audit Directorate (SGIA);
- the overarching assurance statement in relation to audits required under Article 6 of Regulation (EU) 2017/625 provided by the FSS Head of Audit and Assurance;
- the draft Annual Audit Report from our external Auditors, Audit Scotland and
- its own and the Board's scrutiny of the content of the ARA; and
- to recommend to the Board that it should approve the FSS Annual Report and Accounts 2020/21 to be signed off by the Accountable Officer.

7.4 Sue thanked Audit Scotland and FSS staff for their work on the ARA.

8. Annual Audit Report – Audit Scotland – 21/11/05

8.1 The Chair invited Tommy Yule to present his report summarising Audit Scotland's findings from their 2020/21 audit of Food Standards Scotland's Annual Report and Accounts. 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 Tommy reported that the original version presented to ARC on 12 November 2021 showed no post balance sheet events. However the final version is now consistent with the Audit Scotland Report and Geoff Ogle's Letter of Representation. The two non-material amendments relate to an over accrual of £40k last year related to license costs and unpaid expenditure, and a £100k provision for legal costs for a case which settled for £38k recently. Tommy confirmed that the Accountability Report now corresponds with other documents.

8.3 Tommy reported that FSS has responded positively to the challenges presented by the Covid-19 pandemic and have maintained appropriate arrangements for governance and transparency. The Whole of Government Accounts are due in January.

8.4 The Chair invited questions on the ARA from Board members, none were raised.

8.5 Following discussion the Board:

- **Noted** the outcome of the audit and the recommendations being made by Audit Scotland in their draft annual audit report;
- **Noted** the recommendations made to the Board by the Audit and Risk Committee and

9. Annual Report and Accounts 2020/21 – 21/11/06, 06a and 06b

9.1 The Chair then invited Geoff Ogle, as the Accountable Officer, to introduce the ARA 2020/21. Geoff explained it was for the 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.

9.2 Geoff 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.

9.3 Geoff explained that the ARA consists of three sections; the Performance Report, Financial Management and Financial Statements. He explained that the Performance Report includes both a summary and analysis section which provides a consolidated version of outcomes reporting throughout the financial year, with the analysis section providing some additional details.

9.4 Geoff outlined some of the many significant achievements over the past year; EU exit as of 30 January 2021 which brought about many changes related to food law and food regulations; the establishment of 3 export health certification hubs; the Covid-19 pandemic which resulted in a considerable amount of work such as producing written guidance for food businesses; publishing our new strategy; publishing the Eat Well Guide and new guidance for prepacked food.

9.5 He explained that the Financial Statements detail the Financial Performance in 2020/21 and he confirmed that two uncorrected misstatements are immaterial, individually and in aggregate, to the financial statements as a whole.

9.6 He drew attention to the Financial Performance 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 £16.7 million, compared to the Departmental Expenditure Limit budget of £18.4 million, resulting in an underspend of £1.7 million.

9.7 The Chair invited questions on the ARA from Board members. Given the Auditor's report raised equalities monitoring there was a request for a session on equality and diversity at a future Board Seminar, this will be added to the forward plan. Following a discussion at the ARC meeting regarding recommendations within the Audit report, Board members were given assurance that these will be actioned according to the timeline.

ACTION: 2021/20 : DIANE STRACHAN

9.8 The Chair thanked Tommy Yule and his team at Audit Scotland, the Audit and Risk Committee and the Financial Team at FSS, in particular drawing attention to Tommy Yule's comment on how open and transparent the reports were. The Chair

then proposed a motion that the Board approve the FSS Annual Report and Accounts 2020/21.

9.9 Following discussion the Board:

- **Noted** the positive outcome of the audit and the recommendations being made by Audit Scotland; and
- **Approved** the annual report and accounts 2020/21 and their issue by the Chief Executive as the Accountable Officer

10. ARC Oral Report

10.1 The Chair invited Sue Walker, Chair of ARC to provide an oral update on the Audit and Risk Committee meeting which took place Friday 12 November 2021.

10.2 In addition to the ARA process ARC discussed the Strategic Risk Register. ARC noted that the SG Audit Plan is progressing well remains on schedule. SGIA advised that a new internal audit functional standard and assessment framework is being introduced, we will be kept up to date on the implementation date. The SGIA Audit of the Review of Health and Safety received a reasonable assurance rating. We received assurance that the 2021/22 OFFC Audit Programme for FSS remains on schedule. The ARC received the Audit Implementation Report related to external audit and were pleased to note good performance. The Review of Environmental Emissions Report 2020/21 was received, although with the majority of staff working from home it was difficult to draw conclusions on performance. The report highlighted the major contribution to emissions by Field Staff and this will need to be looked at in future.

10.3 An Audit & Risk Committee Effectiveness Review took place on 15 November and concluded that the ARC was continuing to operate effectively despite the pandemic.

10.4 Marieke Dwarshuis's term ends 31 December 2021 and the 3 remaining Members' terms end 31 March 2023 and the ARC will work towards an effective transition with the introduction of deep dives and appropriate training when working arrangements allow.

10.5 The Board noted the oral report, there were no questions.

Break for 15 minutes

11. Financial Performance Report – Quarter 2 – 21/11/07

11.1 The Chair invited Elaine McLaughlin to introduce her report on the Financial Performance of FSS up to 30 September 2021. At the end of Q2 FSS is reporting an outturn of £21.4m against the resource budget of £22.5m, representing a projected 3.8% underspend against budget.

11.2 Elaine specifically drew attention to the spend review exercise carried out in October 2021. At the mid-year point a revised budget of £21.6m was allocated. The overall decrease in budget allocation of £1.8m was mainly driven by staff underspend due to delays in the recruitment processes and having to re-profile start dates.

11.3 In discussion the Board sought and received clarification that charging at Fish Hubs is more reflective of actual costs following the reconciliation of the estimated charge out rate spanning 2 financial years.

11.4 Board members sought clarification as to whether exit interviews are conducted when staff leave the organisation. Elaine confirmed that they are as part of the HR process and an anonymised report is being produced for ELT. This will be a first for the organisation due to an increase in the number of leavers. The Board were assured that ongoing recruitment issues will continue to be highlighted.

11.5 Elaine also clarified that despite being a non-Ministerial part of Government, we are in terms of functionality, finance and reporting part of Government. Staff are subject to SG pay and conditions and therefore pay uplifts and grade increments are factored in to our forecasting. Regarding efficiencies, should we be asked to make any, a discussion with Health Finance would be required, as due to the pressures of EU Exit we continue to grow and expand.

11.6 The Board asked whether FSS is likely to be asked to hand back on efficiency targets and Elaine advised that the SG Health Portfolio has been protected to date and we have not been asked to make reductions so far.

11.7 Following discussion the Board

- **Noted** the financial information reported as at 30 September 2021
- **Noted** the indicative Resource and AME budget amounts for 2021/22

12. Strategic Risk Register – 21/11/08 and 08a

12.1 The Chair invited Garry McEwan to present an update on the management of the Strategic Risk Register, as well as the ongoing development and management of a new approach to the management of Strategic Risks.

12.2 The newly created Risk Management Forum (RMF) has its first meeting scheduled for 10 December 2021. It is intended that the 3 pre-existing risks (Risk 1 – risk to FSS/SG policy decisions, Risk 2 – risk of Local Authorities failing to deliver and Risk 3 – veterinary personnel recruitment) along with the 5 risks identified in the 5 year Strategy will be considered at the RMF and presented to ARC thereafter.

12.3 The Chair invited questions from Board members. The Board suggested that the third risk relating to the inability to recruit veterinarians could have a huge economic impact and as such should be scored greater than 25. The Executive Leadership Team (ELT) agreed to take this comment on board and review at the RMF.

12.4 The Board

- **Noted** a new strategic risk register is currently under development

13. Outcomes Report

13.1 The Chair invited Garry McEwan to give an oral update following the Performance and Outcomes Reporting Short Term Group meeting held that morning.

13.2 Given this was only the first of 4 meetings there was little to impart. The group will provide a written report at the February Seminar.

14. Operations Performance Report – 21/11/09

14.1 The Chair invited Ian McWatt to present the Operations Performance Reporting paper. This provided a six monthly update for the Board on the FSS Performance in delivering key activities and provided additional context in support of the metrics.

14.2 The Chair invited questions from Board members.

14.3 The Board noted the significant increase in enforcement entries and were advised that this reflects the issues faced in retaining skilled staff and indeed could potentially escalate. Ian also explained that there are more cases of contamination in pigs compared to cattle owing to pigs being a hairier species. Dirty animals being presented at abattoirs continues to contribute to contamination scores despite one of the QMS standards being cleanliness.

14.4 Regarding shellfish official controls Ian explained that due to the nature of algal blooms, and the fact they move around, the warm summer had no bearing on area closures.

14.5 The Board sought further information as to whether Covid-19 had had a bearing on Stirling Council's inability to fulfil their food official controls obligations. Ian advised that during an audit it had come to light that they had neither a Lead Food Officer nor any Environmental Health Officers (EHO) and therefore their issues were unrelated to the pandemic and more to do with a lack of staff. Local Authorities have seen a general trajectory of staff retiring or leaving, and a lack of EHO's coming through university. Mitigation measures continue, but there are still significant weaknesses evident.

14.6 The Board

- **Noted** the new format for presentation of the metrics in a dashboard layout

15. Any Other Business

15.1 No further business was discussed, although the Board observed that Papers were late in being issued and it would be helpful to have these further in advance. The meeting closed at 14:25