

**BOARD ANNUAL STRATEGIC RISK REGISTER REVIEW****1 Purpose of the paper**

- 1.1 The purpose of this paper is to support the Board's role on the annual review of the strategic risks which may pose a threat to the successful delivery of the organisation's strategic outcomes. The paper therefore presents the current strategic risk register (Annex A) so the Board can have a full discussion on the risks currently being faced by FSS.
- 1.2 The Board's annual discussion on risk is in line with the FSS Risk Management Policy (Annex B) and follows on from monthly risk management discussions by the Executive and quarterly discussions/review by the Audit and Risk Committee (ARC) which can escalate to the Board as necessary.
- 1.3 The Board is asked to:
  - **Discuss** the current risks to FSS delivering our strategic outcomes, in particular those rated **VERY HIGH/RED**, and confirm they are appropriate or whether any additions or deletions should be considered.
  - **Discuss and Agree** the addition of a new risk to the register.
  - **Agree** that the existing process for reviewing, reporting and escalation of risk should continue through the Audit and Risk Committee (quarterly) and Board (annually).
  - **Note** the continued application of the Risk Policy and Guidance.
  - **Note** the proposals for development of the Strategic Risk Register which will be reviewed to align with risks to successful delivery of the new strategy.

**2 Background**

- 2.1 Corporate risk and the associated risk registers have been the subject of regular discussion by the ARC and annually by the full Board. These discussions have resulted in the evolution of how risks are articulated, managed and reported within FSS. A full discussion on strategic risk took place with the Board in August 2016 and following these discussions, the Executive developed a revised strategic risk register alongside a new Risk Management policy and guidance document (Annex B), which is based on the Scottish Governments risk management methodology.
- 2.2 The risk register follows the Board's agreed risk appetite statement and the development of the strategic risk register is now part of business of usual with monthly reviews undertaken at Senior Management Team (SMT) level and quarterly at ARC.

2.3 In line with the FSS Risk Management Policy on reporting of risks, it was also agreed that the Board should review and discuss the strategic risk register as a minimum annually, as well as reviewing any risks, following consideration and discussion by the ARC, that have been scored as **VERY HIGH/RED** within the risk register.

### Risk Management Policy and Framework

2.4 The current FSS Risk Management Policy document is provided at Annex B for the Board's information. The policy and guidance document is designed to ensure consistency across the organisation when it comes to managing risks at all levels, so we can ensure the successful delivery of our strategic objectives and statutory functions. The policy adopts a three tier approach to managing risk at the appropriate level and allows for escalation/de-escalation (Fig 1) as appropriate.

- Level 1 – Strategic Risk Register
- Level 2 – Senior Management Team Risk Register
- Level 3 – Directorate/Programme Risk Registers



Figure 1 – risk escalation process in FSS

2.5 The policy has also adopted the principles of the Scottish Government risk framework and the associated methodology is straightforward and aims to assist the organisation manage risk effectively, following 5 distinct phases:

- **Clarifying objectives** – established through the agreement of the Strategy and Corporate Plan
- **Identifying risks** – in order to manage risks, we need to know what risks are faced and undertake an evaluation to articulate the risks specific to FSS.

- **Assessing risks** – this enables the effective prioritisation of risks in relation to our objectives and ensures attention is focussed on the key risks and resources are concentrated where they are most required.
- **Addressing risks** – this is the stage where actions are agreed in order to control or mitigate risks that have been identified.
- **Reviewing and reporting risks** – this ensures that new opportunities and threats or changes to existing risks are managed. Reporting changes helps to raise awareness and coordinate responses to key risks.

2.6 As part of the 'reviewing and reporting' risks section of the policy, it was agreed that the Executive would continue to review, report and escalate risks on the strategic risk register through the ARC, who have been delegated with this responsibility by the Board. The ARC provides the Board with oral updates following each meeting of the Committee, and where relevant and appropriate, will escalate any **VERY HIGH/RED** risks to the Board out with the agreed annual discussion on risk.

### 3 Discussion

3.1 At February 2021, **16** strategic risks have been identified with **4 VERY HIGH/RED** risk being reported and is articulated below for the Boards information:

Risk	Current Score	Trend
<b>R18.</b> <b>Event:</b> There is a risk that provision of scientific services in Scotland fails to deliver FSS requirements <b>Cause:</b> Under-investment in Public Analyst laboratories and poorly co-ordinated scientific expertise across the public sector <b>Effect:</b> This may result in insufficient laboratory capacity in Scotland to adequately support surveillance, official controls and incident response	$4*50 = 200$	No change since last report
<b>R10.</b> <b>Event:</b> There is a risk of increased frequency of outbreaks of foodborne illness or other food incidents <b>Cause:</b> Growing pressure on LA's leaving them unable to unable to maintain the current level of delivery of official controls to food businesses. <b>Effect:</b> Potential for serious cases of human illness and other risks to public health, loss of confidence in the food supply chain and loss of trust in FSS and other regulatory bodies.	$3*50 = 150$	No change since last report
<b>R12.</b> <b>Event:</b> FSS'S regulatory and operational delivery functions are largely related to EU law leading to lack of preparation leading up to EU Exit. <b>Cause:</b> Due to tight timescales and ongoing uncertainty about constitutional issues, there are concerns that FSS	$3*50 = 150$	Risk likelihood reduced from 5 to 3 reducing overall score to 150. The risk remains very high risk.

does not have adequate time to prepare for the effect this will have in Scotland. <b>Effect:</b> This would affect our capability and capacity to achieve our strategic plan, for example through loss of statutory levers or through diverting resources away from carrying out the key activities agreed in the corporate plan.		
<b>R13.</b> <b>Event:</b> Risk there is a diversion and/or reduced resource available to deliver our Strategy and Corporate Plan, whilst ensuring the protection of public health across the food chain <b>Cause:</b> Programme requirements for Brexit <b>Effect:</b> FSS failing to achieve strategic outcomes to original timelines	$2*50 = 100$	No change since last report

3.2 The strategic risk register (Annex A) provides Board Members with additional details on the controls that have been put in place to mitigate the impact of the risk materialising, as well as an update assessment of the risk rating (impact and likelihood) and action that has taken place since the last review of the risk register by SMT and the ARC.

**Board Members are asked to note and discuss the VERY HIGH/RED risk.**

3.3 Of the 12 remaining risks contained within the strategic risk register, 1 is rated as RED high risk and 6 as AMBER. These risks are articulated in full within the attached risk register and the Board are asked to note and discuss these risks where appropriate. The Board are specifically asked to consider the ARC recommendation that 2 risks are closed and one new risk is put in place:

The new risk proposed is as follows:

**Constitution, Devolution & UK Frameworks**

**Event:** Given the Market Access Principles set out in the Internal Market Act, UK Ministers may legislate in a way that undermines FSS/SG policy as it will have automatic effect in Scotland.

**Cause:** Internal Market Act disincentives collaboration and due process as outlined in Common Frameworks and UK Ministers may choose to by-pass those agreements, instead legislating in a way that suits a trade/industry/deregulatory agenda at the expense of consumers.

**Effect:** Scrutiny by devolved parliaments for such law would be reduced; a deregulatory approach to safety and standards is applied in Scotland; legal challenge made for any unilateral measures taken in Scotland even where within SM competence following FSS advice; levers available to FSS/SMs to deliver strategies reduced; enforcement landscape made more complex; food and feed safety and standards undermined to the detriment of consumers.

The risk has the propose scoring of  $4*50 = 200$  making the risk a Very High red Risk.

The Board is asked to note that the following risks have been closed since the delivery of the last Annual Risk report was presented to the Board.

**Risk 16**

**Event:** There is a risk that Local Authorities feel less able to take appropriate and proportionate enforcement action in relation to microbiological food safety.

**Cause:** Due to legal decisions made in 2018 by the courts,

**Effect:** This could lead to lower levels of protection for consumers and an inability to adequately protect public health.

Risk 19 no longer reflects the present situation with the event having now passed, therefore it is proposed that the risk is closed and replaced with the new Constitution, Devolution & UK Frameworks risk proposed.

**Risk 19**

**Event:** Through the EU (Withdrawal) Act, the Trade Bill or other Brexit-related legislative changes e.g. to the Food Standards Act &/or Food Safety Act, the UKG temporarily reserves matters of food safety and standards law to the Westminster Parliament, with (through legislative consent motion - LCM - or without (using Westminster supremacy powers) consent of the Scottish Parliament.

**Cause:** Political decision purportedly needed for the 'UK market' to function effectively after the UK leaves the EU. Also to prevent any difference or divergence within the UK having an adverse effect on the UKG's ability to secure trade deals with other countries.

**Effect:** This would change the constitutional settlement between Scotland & the UK on a temporary basis & potentially remove legislative, executive competence of the Scottish Parliament & Scottish Ministers respectively, at the crucial time in setting the future direction of travel for the UK & effect SG ambitions as set out in Scotland's Place in Europe documents. The likelihood here is high and the effect potentially severe depending on SG/FSS influence in the process (LCM etc.).

**Strategic Risk Matrix**

Impact	Multiplier	1	2	3	4	5	Total	Trend
Very High	50		R13	R10 R12	R18		4	+1
High	25	R4 R17	R1 R11	R2 R3 R9	R8		8	-2
Medium	10		R5 R7 R20		R6		4	+2
Low	5						0	-

**The Board are asked to confirm the strategic risks remain relevant and whether any risks should be removed or added to the strategic risk register.**

## Risks associated with exiting the EU

- 3.4 In general, the strategic risk register reflects the risks around uncertainty about the UK's exit from the EU while a separate Brexit Risk Register considers these risks in more detail.
- 3.5 The scale of EU Exit and the impact and uncertainty means there is an increased risk across FSS including potential disruption and diversion of effort to deliver FSS's Strategy and Corporate Plan, risks to FSS's statutory role and functions as a consequence of the EU (Withdrawal) Act, and issues related to exit-readiness that relate to ensuring that consumers continue to be protected, and that responsible businesses can function.
- 3.6 The transition period has now ended and a large number of the risks on the Brexit Risk Register have been marked for removal from ongoing reporting. A further number are ongoing and will continue to be monitored. We have also considered how to transition any ongoing work into BAU, with risks moving into Operational or Strategic Risk Registers as appropriate, when the EU Exit programme closes end of the 2020/21 financial year.

## 4 Proposals for development of the Strategic Risk Register

- 4.1 Preparations are underway to rework the Strategic Risk Register, aligning risks with the new Strategy. This is an opportunity to coordinate risk management in line with delivery of the Strategic Goals, with the process of identifying and analysing the risks forming part of the tactical decision making and initial planning.
- 4.2 The Risk Register will draw on the main risks highlighted in the Branch Business Plans and will focus on both the risks and the opportunities. Assurance Mapping will assist in identifying and assessing internal control measures which are in place to support risk mitigation.
- 4.3 The new approach will allow the logical progression of emerging issues and risk from Branch level business plans allowing Branch Heads to notify Directors of emerging risk exposures that warrant immediate attention.
- 4.4 It is proposed that a SWOT analysis template will be produced as the foundation for composing new Risks.
- 4.5 A proposal for the new Risk Register approach will be presented to SMT early March before being presented to the Board in May 2021.

## 5 Conclusion/Recommendations

- 5.1 The Board is specifically asked to:

- **Discuss** the current risks to FSS delivering our strategic outcomes, in particular those rated **VERY HIGH/RED**, and confirm they are appropriate or whether any additions or deletions should be considered.
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Annex A – Strategic Risk Register (attached separately)

Annex B – FSS Risk Management Policy and Guidance (attached separately)