

## Review of the memorandum of understanding (MoU) between Food Standards Scotland (FSS) and the Food Standards Agency (FSA)

### 1 Purpose of the paper

- 1.1 This paper highlights the arrangements set out in the FSS-FSA MoU for its periodic review. The paper provides a background to the MoU, summarises how it has operated and sets out the changes which for a variety of reasons the Executive believe need to be made to the MoU. In view of the importance of this MoU and the strategic significance of the relationship between FSS and the FSA, the Board is invited to note the Executive's assessment of the day to day functioning of the MoU and, on that basis, approve the areas identified for change.
- 1.2 In summary, the MoU has operated well, and in line with its principles, during its first year and no need for significant redrafting or structural changes has been identified by either party. In addition to the arrangements formalised in the MoU, FSS and FSA have agreed how we will liaise over the preparation of Board papers to ensure that we are sighted on each other's plans, and will trial reciprocal arrangements for attendance at relevant parts of our respective senior management team meetings. The protocols annexed to the MoU will require updating to reflect:
- a) Any improvements arising from exercise *Joint Venture* in March 2016, that was organised by FSS and the FSA jointly to test incident management arrangements (Annex A of the MoU);
  - b) Updates to the data sharing arrangements to reflect changes to information platforms used by FSS (Annex B of the MoU);
  - c) Changes to scientific advisory committees (Annex C of the MoU) following completion of FSA's triennial review during 2015-16 ;
  - d) Updates to the list of Working Level Agreements set out in (Annex F).

Any changes to organisational structure within both the FSA and FSS will be reflected in updated text in the MoU, where it refers to specific liaison arrangements.

1.3 The Board is asked to:

- **Note** the ongoing review of the MoU and the Executive's assessment of its functioning.
- **Approve** the areas identified for change within the MoU and its associated annexes.

### 2 Strategic Aims

2.1 This work supports FSS Strategic Outcome 6: FSS is efficient and effective.

### 3 Background

- 3.1 Board members will be familiar with the MoU<sup>1</sup> between FSS and the FSA, which was signed by their respective Chief Executives on 1 April 2015. The MoU includes within its provisions, arrangements for quarterly liaison between respective Chief Executives, Directors and senior managers, biannual meetings between the two Chairs of the respective Boards and an annual review overseen by the respective Chief Executives.

### 4 Discussion

#### Overview

- 4.1 Initial discussions between the Chief Executives and senior management teams have mutually concluded that the MoU has operated well during its first year. However, both Executives have seen the potential benefit of building on this firm foundation through additional reciprocal arrangements for attendance at respective senior management team meetings and for liaison over preparation of Board papers, particularly those dealing with policy development.
- 4.2 Although quarterly liaison review meetings have generally taken place between the respective Chief Executives, Directors and senior managers in line with the minimum requirements of the MoU, there has, in practice, been more frequent contact at each of these levels and there has been good accord in all areas.

#### Incident Handling and Food Safety Alerts

- 4.3 Arrangements for the effective handling of food incidents across the UK were a particular priority for both the FSA and FSS in the run up to FSS's vesting day. The current arrangements were operational slightly ahead of that date and have operated satisfactorily during the first year of the agreement.
- 4.4 The MoU makes specific reference to testing of these arrangements. Exercise Joint Venture, jointly developed by FSA & FSS, took place on 22 March 2016. Amongst several objectives, the exercise set out *To test the strategic management of a severe food incident affecting both the FSA and FSS* and *To review the effectiveness for the Protocol for Incident Handling contained within the MoU*. Both organisations are committed to working together to address any recommendations once the post-exercise report is published.

#### Data, Information, Knowledge and Intelligence Sharing (Including Horizon Scanning)

- 4.5 FSS is represented on the Emerging Risks Delivery Board which is led by FSA. FSS will be developing complementary processes in relation to Horizon Scanning through the development of its Surveillance Strategy.

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<sup>1</sup><http://www.foodstandards.gov.scot/sites/default/files/Governance%20Document%20-%20FSA%20and%20FSS%20MOU%20Final%20-%201%20April%202015%232.pdf>

- 4.6 Arrangements for sharing information and intelligence are in place. The Executive will amend the MoU to reflect FSS's participation in the Trading Standards Scotland MEMEX Intelligence system. The UK Food Crime Strategic Assessment was published in March 2016. This was a joint assessment produced on behalf of both organisations by the FSA in consultation with FSS. The document outlines the current understanding of the dimensions and nature of the food crime threat to the UK and highlights significant gaps in that understanding. It has been used as a basis for setting the priorities for the Scottish response to food crime over the year ahead. This will be a joint process which will be implemented on a yearly basis.

### **Collaboration on Science, Evidence and Advice**

- 4.7 Programmed liaison over science collaboration took place through teleconference meetings, which in addition to reviewing the specific terms of the MoU and associated annex C, provided an opportunity to discuss resource sharing and both proposed and existing areas of research.
- 4.8 In addition to the programmed liaison, science colleagues across FSS and the FSA have collaborated on the review of evidence to support policy in areas such as risky foods, the commissioning and management of research programmes on *Campylobacter* and *E. coli* O157, and the development of evidence based on-line food safety management tools for the smoked fish and fresh produce sectors. FSS and FSA have also worked closely in the development of underpinning science programmes to support shellfish monitoring. This includes appraisal of research proposals submitted to the NERC/BBSRC Aquaculture Innovation initiative<sup>2</sup>, and joint representation on the European Food Safety Authority Expert Network to design the forthcoming EU baseline survey of norovirus in oysters.

### **Policy Development**

- 4.9 Planned face-to-face meetings have taken place Director level, alternating between Aberdeen and London, covering all aspects of food and feed policy development as well as discussion on any likely changes to the policy environments across the UK. These meetings have been particularly important in the field of policy development and associated communications where priorities, significance or timescales may differ across the UK, as well as providing an opportunity to share and exchange information, and to discuss progress where we are working collaboratively. The most recent meeting, held in Aberdeen, involved an industry visit relevant to our shared work on *Campylobacter* reduction.
- 4.10 Policy colleagues in both FSS and the FSA are in regular contact in relation to development of policy and responding to issues requiring policy advice.

### **Operational Delivery**

- 4.11 Operational delivery has also been an area that has benefited from strong engagement on multiple fronts and levels. Engagement at Director level is through a *UK Delivery*

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<sup>2</sup> NERC (Natural Environment Research Council and BBSRC (Biotechnology and Biological Sciences Research Council)); <http://www.nerc.ac.uk/innovation/activities/sustainablefood/aquaculture/ukai/innovation-call/>

*Group*, which considers Official Control delivery strategy across all four countries in the UK. In addition, the FSA's Chief Operating Officer and FSS's Director of Operations have held regular meetings to discuss operational policy developments as well emerging risks and issues.

- 4.12 FSS has direct involvement and input to FSA's review of Official Controls Delivery. Engagement on veterinary, technical and approvals issues is taking place bimonthly. FSS's veterinary team is active in operational policy development and is taking a leadership role on operational issues related to wild game.

## **Relations on EU and International Matters**

- 4.13 Liaison over EU and international matters has been an integral part of policy development at director level. Arrangements within the MoU follow existing arrangements between Whitehall and the devolved administrations, and no particular issues have arisen during the first year of the MoU.
- 4.14 FSS routinely receives timely updates from relevant European meetings throughout the year. FSS is involved in the development of UK negotiating positions and has been able to contribute specific expertise in areas such as shellfish policy and delivery. FSS attends EU Live Bivalve Molluscs Restricted Working Group meetings, as part of the UK delegation.
- 4.15 FSS has monthly telephone conference meetings with FSA and the food/feed lead in UK Government's permanent representation in Brussels, and have scheduled joint visits at Director level to the European Commission in June and July 2016 .
- 4.16 On international issues, we are sharing knowledge between FSS and FSA and deciding whether joint visits are appropriate: a number of these have taken place and been used by both organisations to influence and shape future direction. Where visits have taken place by only one organisation, the information is being shared between the two organisations. While FSA retains the lead on international and EU matters the level of engagement with the FSA on the international work has been very good.

## **Protocols Annexed to the MoU**

- 4.17 The MoU is supported by five annexed protocols (Annexes A to E).
- 4.18 **Annex A** sets out the protocol for incident handling. The findings of the report on exercise Joint Venture mentioned in paragraph 4.4 will be reflected in any review of this annex. However it is unlikely that any such change would be effective ahead of conclusion of the current MoU review.
- 4.19 **Annex B** sets out the protocol for data sharing. This protocol will be amended to reflect the updated approach to the use of intelligence systems by FSS, mentioned in paragraph 4.5 above.
- 4.20 **Annex C** sets out the protocol for science evidence and analysis. As part of its departmental duties the FSA carried out a Triennial review of its Scientific Advisory Committees. FSS officials were involved and consulted during this process and the review's recommendations were agreed by the FSA Board on the 18 May 2016. Changes proposed for Committees and any consequent ongoing governance arrangements will need to be reflected in this Annex. Two of the Committees will be

constituted as FSA Departmental Advisory Committees, rather than Advisory Non-Departmental Public Bodies. However, arrangements under paragraph 9.3 of Annex C are expected to continue to provide access for FSS to all of the remaining Committees.

- 4.21 No specific issues requiring material change have been identified in relation to **Annexes D and E** (*EU and International* and *Communications* respectively)
- 4.22 **Annex F** to the MoU, which lists Working Level Agreements that were either finalised or in draft form on FSS vesting day, will be updated to reflect current arrangements.

### **Additional Matters**

- 4.23 The MoU also outlines arrangements for transfer of costs and for dispute resolution. Neither of these aspects of the MoU has been utilised during its first year.
- 4.24 There have been changes to the designations of posts identified with specific responsibilities for quarterly reviews within FSS since the document was drafted and the FSA may also choose to amend the designation of posts within its organisation.

## **5 Proposed Governance Arrangements**

- 5.1 The arrangements proposed by FSS executive for conclusion of the review are as follows:
- a) The areas identified for review and the wording of any subsequent changes will be subject to joint agreement between FSS and the FSA.
  - b) FSS would hope to conclude the review of the MoU before 1 October 2016.

## **6 Conclusion/Recommendations**

- 6.1 The Board is asked to:
- **Note** the update on the ongoing review of the MoU
  - **Approve** the proposed areas for change within the MoU and its associated annexes.

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