

**MINUTES OF THE MEETING OF THE FOOD STANDARDS SCOTLAND BOARD
HELD 13 DECEMBER 2023 – 10:30 – 15:45
PILGRIM HOUSE, ABERDEEN**

Present

FSS Board

Heather Kelman, Chair
Alban Denton, Deputy Chair
Aileen Brown
Carol Evans
Phillip Couser
Kate Richards
Christina Bichan
Paula Charlesworth

FSS Executive

Geoff Ogle, Chief Executive
Julie Hesketh-Laird, Deputy Chief Executive
David Gally, Chief Scientific Advisor
Garry Mournian, Director of Policy and Science
Garry McEwan, Head of Governance and Infrastructure
Kate Smith, Head of Comms & Marketing
Emma Scott, Head of Private Office
Joanne Smith, Board Secretary

Apologies

Ian McWatt, Deputy Chief Executive

1. Introduction, apologies, matters arising

1.1 The Chair welcomed everyone to the Food Standards Scotland Board meeting, she also welcomed everyone attending via Teams and in the public gallery.

1.2 Apologies were received from Ian McWatt.

2. Declaration of Conflict of Interest

2.1 No conflicts of interest were declared by Board members.

3. Scottish Authority Food Enforcement Re-build (SAFER) – 231201

3.1 The Chair invited Geoff Ogle to introduce the paper regarding SAFER, which represents the highest risk to the organisation on the Risk Issue Register. Geoff explained that he and Ian McWatt had had a very positive meeting last week with Jane O'Donnell, the new COSLA Chief Executive. Geoff then asked Lorna Murray, Head of Local Authority Delivery Division to present the paper.

3.2 Lorna explained the purpose of SAFER, explaining that it aims to undertake a wide ranging and radical revision of the food law delivery regime across three broad categories, these being:

- Increasing resources; through a revision of competencies, qualifications, and pathways into the profession, combined with options for raising additional revenue.
- Decreasing demand through using data and intelligence to focus on the highest risk activities combined with a move to greater degree of business self-service in demonstrating compliance with legal requirements.

- Increased efficiencies through enhanced inspection techniques, greater use of digital technology and the introduction of a range of novel interventions.

3.3 Lorna also explained that eight workstreams will be undertaken, and the Board is being asked to discuss and accept the proposed work packages and timelines. Lorna advised that the Terms of Reference are still being worked up, and that FSS continue to be in discussions with SG lawyers as should a bill need implemented this could impact the timeline.

3.4 Lorna also specifically drew attention to the suggestion to hold a Risk Summit with key stakeholders early next year.

3.5 The Chair thanked Lorna for her paper and invited questions from Board members.

3.6 The Board welcomed the focus on data and digital but asked whether there is still room for an agile approach to solutions. Lorna advised that data and digital solutions are still very much at the exploration stage and that our Head of Digital Transformation is working with SG to scope existing systems and to look at best practice.

3.7 The Board asked how the benefits to stakeholders will be articulated and were advised that the Comms branch are assisting with best ways of engagement with stakeholders and businesses.

3.8 The Board voiced some concerns regarding being asked to consider their risk appetite given a lack of investment could result in prolonged timescales and lack of delivery. Lorna explained that without knowing what funding might be available it is difficult to pin down a timescale, potentially the programme of work would have to be done within current staffing remit, diverting to business as usual where necessary.

3.9 The Board asked whether programme office disciplines are in place and were advised that a Programme Manager is in place, the whole team have been through project management training, and the project has staff with the correct qualifications and competencies.

3.10 The Board noted the suggested SAFER Governance Group at Annex 1 and were advised that initial discussions have taken place with them and they are all keen to be involved, however this is also funding dependent. Lorna also advised that the group will encompass COSLA, SOLACE and various relevant Scottish Government Directorates.

3.11 The Board asked what investment the group need in order to put in place an IT system and Lorna responded that this could be anything from £1m to £30m, but a ball park figure of £2.5-3m is envisaged plus whatever capital costs for any IT solution. Until exploration works are complete it is very difficult to pin down an exact figure. Garry McEwan advised that three specialist staff have been employed since April 2023, however budget challenges mean FSS cannot currently commit to their employment beyond April 2024.

3.12 In relation to the data and digital project, the Board asked how scope creep will be handled and were advised by Lorna that a steering group will be formed, and they, along with the Programme Board, will provide robust challenge.

3.13 Following discussion, the Board all agreed that the risk appetite level should remain as is.

3.14 Following discussion the Board:

- **Commissioned** the Executive to work in partnership with key stakeholders, to develop the future vision of delivery of food and feed official controls;
- **Discussed and accepted** the proposed work packages and timelines;
- **Discussed** their risk appetite to accepting that investment failure will result in the SAFER Programme taking longer and limit its level of ambition and were all in agreement that the risk appetite level should remain as is; and
- **Agreed** to the proposal for a Risk Summit with key stakeholders if required

4. Genome Editing – 230602

4.1 The Chair invited Stephen Hendry Head of Labelling, Standards & Regulated Products and Siobhan Watt, Food Policy Officer Labelling and Standards to present a paper setting out the latest position on the UK Government's Genetic Technology (Precision Breeding) Act 2023 and the EU's proposed Regulation on plants obtained by certain new genomic techniques, including food and feed derived from them.

4.2 The Chair thanked Stephen and Siobhan for their update and invited questions from Board members.

4.3 The Board noted the interesting results of research undertaken which suggests consumer attitudes shifting to that of more acceptance.

4.4 The Board noted changes in England and the EU and asked about the differences between the two proposals and divergence. Siobhan explained that the way a precision bred organism will be categorised between the EU and England are similar, but there are very slight differences. Siobhan also explained that at the moment it is likely that divergence will occur between England and the EU and Scotland could well be aligned with neither.

4.5 The Board noted that the focus so far has been on plants and asked whether research shows the public being more concerned about animals. Siobhan confirmed that the public have lots of concerns with regards animals, ie animal welfare, and that more detailed analysis is required, and that all science, policy and evidence work will inform advice to Ministers.

4.6 Siobhan informed the Board that FSA's consultation is due to end early January, with the FSS Board receiving an update later in the year.

4.7 The Chair thanked Stephen and Siobhan and passed on positive feedback to the Policy Branch which she had received from Susan Jebb, Chief Executive at FSA.

4.8 Following discussion the Board:

- **Noted** the update on the proposed legislative changes in England and the EU;
- **Noted** the intention to work with the Scottish Government to consider the impacts of these changes on Scotland with a view to developing advice on future policy options. FSS will return to the Board in Summer 2024;
- **Noted** the outcome of consumer research recently undertaken by FSS to better understand consumer attitudes towards gene edited food in Scotland; and
- **Agreed** that, given the complexity, challenges, reputational risks and differences between UK administrations, that regular updates should be provided to the Board as appropriate.

5. Risk Analysis and Regulated Products Service – 231203

5.1 The Chair invited Garry Mournian, Director of Policy and Science to introduce, and Stephen Hendry Head of Labelling, Standards & Regulated Products to present, key highlights of the routine quarterly performance update on the FSS and FSA risk analysis process and GB regulated products service. Garry provided some context around the report, in particular reminding the Board on the challenges faced by both FSS and the FSA in implementing an EU system in a GB/UK context. Garry highlighted that at a working level it could be seen as a good example of four-country working to collectively use best resource and expertise per subject. The paper also included an update on progress made on continuous improvement to the current system and a high-level update on future regulatory reform.

5.2 As of 30 September 2023, 29 issues have been recorded on the public risk analysis register, this includes issues completed, of these there were 22 actively progressing. Changes in the register since the last update include three new issues at the stage of Risk Assessment and evidence, these being:

- the safety of the use of Titanium Dioxide as a feed additive
- the safety of Bisphenol A (BPA) in food
- the risk of allergic reaction from fortification of non-wholemeal wheat flour with folic acid

5.3 There are currently seven 'non-routine' issues (as per Annex A).

5.4 The Risk Analysis issue relating to the assessment of the risk to vulnerable consumers from *Listeria monocytogenes* in smoked fish is now marked complete on the public register. FSS had a lead role in this work which in turn led to the updating of advice to vulnerable consumers.

5.5 As of 30 September 2023 the caseload of regulated products service was 450, this included 26 new applications in this reporting period with sufficient information to progress.

5.6 Sixteen applications related to novel foods, a food flavouring, food additives and Genetically Modified products have been completed since April 2023, and progress has been made towards authorising 13 Feed Additive products. Following consultation, advice was issued to Ministers and legislation laid in the Scottish Parliament, and, subject to parliamentary scrutiny, this will come into force in December.

5.7 The Chair thanked Garry and Stephen for their paper and invited questions from Board members

5.8 The Board asked whether a KPI structure exists and Garry responded that some do at GB level, however these are mainly related to volume rather than timelines.

5.9 Garry advised that the first Regulated Products Programme Board meeting takes place on Friday and the Board will again be updated on the progress of the reform work at the Board meeting in March 2024. At this point options will be presented to both FSS and the FSA Board meetings, with a view to providing recommendations for Ministerial decision. The Board will also be notified should the FSA Board wish to take a different approach.

5.10 The Deputy Chair proposed that, with the Board's agreement, that the senior leadership team should focus on reform, rather than refinement, of the present system where there are clear limits on the scale of efficiency that can be achieved. FSS had not had the funding to replicate the EU model and we should not try to do so at the expense of other FSS obligations. The Chair asked whether the Board endorsed this position and the Board confirmed they were content to proceed in this manner.

5.11 Following discussion the Board:

- **Reviewed** the update on the performance of the risk analysis process and regulated products service;
- **Noted** the progress made on continuous improvement; and
- **Noted** the update on longer term work.

6. Annual Science Update – 231204

6.1 The Chair invited Jacqui McElhiney, Head of Science to present her paper providing the Board with an update on outputs from FSS's science and evidence programme over the past year, and an early indication of proposed priorities for research in 2024/24 for FSS.

6.2 Jacqui presented key highlights and achievements for the FSS science teams during 2023/24 and reminded the Board that David Gally, FSS Chief Scientific Advisor had made a recommendation that FSS should form a cross office group enabling evidence needs to be assessed across the whole organisation. The group met for the first time on the 04 December 2023 where the existing pipeline of projects and further evidence needs were reviewed to support the corporate plan commitments for 2024/25.

6.3 Initial discussions have identified the following as priority areas for consideration in next year's Food and Health Research Programme (FHRP):

- enhanced food surveillance programmes to provide assurance over food safety and standards in Scotland, and inform our understanding of pathogen transmission and antimicrobial resistance in the food chain;
- updates to our analyses of the diet and food environment in Scotland;

- reviews to support future research on interventions for reducing Campylobacter and Listeria risks;
- the generation of data and evidence to support risk assessment needed to inform standards for naturally occurring and synthetic chemicals in food; and
- improved tracking of public attitudes and behaviours through our own surveys and participation in FSA's Food and You 2 programme, and social research to understand consumer views on novel food technologies.

6.4 The Chair thanked Jacqui for her very comprehensive report, in particular the social and public science insights, and invited questions from the Board.

6.5 The Board asked whether the recruitment of a dedicated epidemiologist within Public Health Scotland (PHS) had helped with access to aggregated patient data. Jacqui confirmed this anonymised data had been hugely beneficial and opens up more opportunities to access datasets on foodborne illness. A previous arrangement to procure epidemiologist support from PHS had enabled us to generate novel evidence on the profile of Campylobacter infection in Scotland which has been used to target out communication activities to priority groups, and it is hoped that further work undertaken through the current appointment will generate a similar evidence base for other foodborne pathogens, with a project already underway to understand trends in salmonella.

6.6 When questioned on overall resourcing for FSS science functions, Jacqui noted that gaps still exist, but that further recruitment is ongoing and that we continue to work closely with FSA to share expertise where possible.

6.7 The Board asked whether any work has been undertaken regarding companion animal feed given the amount of dogs being fed raw meat and Jacqui advised that guidance is available on our website regarding the handling of raw pet food.

6.8 The Chair also noted the paper highlighted that FSS continues to work collaboratively with Julie Fitzpatrick, Scottish Government Chief Scientific Advisor, and to explore partnership opportunities with agencies such as SEPA, SEFARI etc. Heather took the opportunity to pass on Julie Fitzpatrick's thanks and compliments to both Science and Nutrition for their work during 2023.

6.9 The Board:

- **Noted** progress in delivering FSS's science and evidence programme during 2023, and our key achievements for the year;
- **Noted** the status of the Food and Health Research Programme (FHRP) and **discussed** the balance of activities across each of the FHRP themes in light of FSS's current strategic priorities; and
- **Considered and provided views** on initial proposals for research priorities in 2024/24.

7. **CLOSED SESSION – Modelling the impact of reduction in meat and dairy intakes – 231205**

Break

8. Progress with the Public Health Nutrition Strategy and forward look – 231206

8.1 The Chair re-opened the public session and invited Gillian Purdon, Head of Nutrition, and Laura Wilson, Head of Public Health Nutrition, to present a paper describing progress with the Public Health Nutrition Strategy during 2023, the paper also sets out plans for the following two years.

8.2 The Board heard about the need for the food industry to support the transition towards a food environment that supports healthier and more sustainable options for everyone.

8.3 The Chair thanked Gillian and Laura for their update and invited questions from the Board.

8.4 The Board received assurance that there is UK wide guidance and targets for the reformulation of high fat, salt and sugar foods (HFSS) and businesses in Scotland are encouraged to adopt these through the support from the Reformulation for Health Programme.

8.5 The Board asked whether progress will be measured by data and digital alone and were advised that other metrics will be taken into account, such as media and press reach, and engagement with stakeholders.

8.6 The Board asked whether there is a requirement to state a product has been reformulated on packaging and were advised that all ingredients need to be listed, and legal thresholds about what can be declared before making a specific health claim such as reduced fat, but it is up to the business to decide whether to communicate a change in formulation and nutritional content to their customers, some may choose to do this as a selling point, whereas others may not.

8.7 With regards to mandatory calorie labelling, it was noted that a very small proportion of the population have a diagnosis of an eating disorder which is important to recognise but that concerns remain regarding the very high proportion (two thirds) of the population living with overweight / obesity. It is anticipated that research commissioned by Public Health Scotland will provide further insights into this area, this will be published early 2024.

8.8 The Board heard of the work underway to further disseminate the Eat Well Your Way resource, and were asked if research had been undertaken to understand how consumers use the resources. There is also work being done to encourage health professionals to use these resources with their clients. Christina Bichan offered to facilitate an introduction between FSS and NHS Education for Scotland colleagues.

8.9 Following discussion the Board **noted** the progress on our implementation plan and **approved** the direction of travel for the forthcoming years 2024-26. The Board also considered and provided views on PHN activities for 2025-26 to support

delivery of the PHN strategy. The Board noted the body of work and achievements delivered so far.

9. Audit and Risk Committee – Oral Update

9.1 The Chair invited Aileen Brown, Chair of ARC to provide an oral update on the ARC meeting which took place on 29 November 2023 in Saughton House.

9.2 The ARC received a verbal update from Geoff Ogle, he advised that the decision regarding SVS is expected soon.

9.3 The ARC heard that budget for the current year remains tight, but a clear path to financial balance at year end looks positive.

9.4 The ARC heard that migration to a new Human Resources and Finance system (SSP) has been added to the risk register.

9.5 The ARC received an update from Alison Thomson who advised that the Annual Audit Plan for 2023-24 is progressing well. The HR, Workforce Planning and People Strategy report has been issued, with a substantial assurance being awarded. The report outlined a series of improvement opportunities on linkages to strategic objectives, monitoring and HR resources. The ARC discussed the rating and the fact that these recommendations were not included in an action plan, and Alison had advised that they felt that the organisational risk was not necessarily impaired as a result of the recommendations, hence the rating. The ARC noted the areas on good practice.

9.6 Marion McArthur presented the Allergen Controls in FSS Approved Establishments final report and the ARC noted the limited assurance awarded. Controls are developing but weak. The ARC noted that no previous audit had taken place specifically on the topic of allergen management. An action plan, which includes eight recommendations, has been implemented.

9.7 Marion confirmed that the Feed Audit action plan is progressing well.

9.8 The ARC discussed the Strategic Risk Register and agreed to several changes to risk scores, as follows: Risk 5 – Misinformation, reduced from 100 to 75; Risk 7 – Changes to FSS role and remit, increased from 100 to 200 specifically due to concerns about decisions on SVS and the Food Commission; and Risk 2 description and new wording agreed, changed from 'public sector resourcing' to 'local authority food law delivery model', ARC also noted new mitigation for change in systems.

9.9 The ARC heard that the annual discussion on risk appetite would take place at the December board meeting and discussed risk more generally, and it was agreed that an assessment refresh would be useful alongside the Corporate Plan. ARC observed that much risk arose from the external environment, specifically the food environment, OC delivery pressures such as industry costs, vet shortages and requirements, external policy pressures and public service reform.

9.10 The ARC received the Annual Environmental Report presented by Mike Houston, Health and Safety Manager. ARC had concerns regarding the significant increase in emissions in 2022/23, however management explained that the increase was not against a steady baseline as working patterns had changed during the pandemic, and also conversion factors for home working had been refined by SG. The ARC heard that there is an expectation that emissions will increase again in the current year due to long-haul flights. There are plans for FSS to deliver to the SG 2030 target, specifically the FSS Carbon Management Plan 2024-29 and the Policy Implementation Plan with clear linkages to the Sustainability Plan. Internal Audit recommended preparing now for the disclosures required by IFRS.

9.11 The ARC conducted an Annual Effectiveness Review prior to the meeting proper, and the main concern raised was the delay in finalising the Annual Report and Accounts, this was as a result of slippage in the pension authority providing audit evidence to Deloitte. It will be important to follow up with Deloitte to establish whether we should plan for completing later next year.

10. Annual Risk Appetite Review – 231207

10.1 The Chair invited Garry McEwan, Head of Finance and Procurement, and Natalie Greenland, Head of Corporate Support to present the Annual Risk Appetite review.

10.2 The Board were asked to note the proposal at Paragraph 4.2 proposing to include a new statement under Financial to read ‘hungry to be working with Scottish Government and partner agencies to scope, consider and invest in spend to save transformational opportunities’. The Board were all supportive of the proposal, suggesting it would bring opportunities.

10.3 It was agreed that the wording at 3.5.1 be amended slightly to read ‘averse to risks that have detrimental impact on animal health and welfare’.

ACTION : 2023/05 : Garry McEwan / Natalie Greenland

10.4 Following a run through of Annex A – FSS Risk Appetite, the Chair noted the following:

- ‘Operational Delivery’ – to be changed to ‘Organisational Delivery’ as this will encompass all staff, and will incorporate learning, wellbeing etc
- ‘Relationships / Partnerships’ – the categories will be updated from ‘open’ to ‘hungry’
- ‘Financial’ – the Board asked for some clarification, and for the word ‘sustainability’ to be included in ‘Policy / Legal / Regulation / Enforcement’.

10.5 The Board were happy to approve the FSS Risk Appetite on this basis.

10.6 Regarding the suggestion of a facilitated training session for Board members on risk appetite, the Board would be happy for this to be arranged.

11. Annual Review of Strategic Risk Register and Strategic Issue Register – 231208

11.1 The Chair invited Garry McEwan, Head of Finance and Procurement, and Natalie Greenland, Head of Corporate Support to present the Annual Review of the Strategic Risk and Issues Registers.

11.2 The Board noted, in line with the FSS Risk Management Policy and Guidance, that risks and issues are reviewed and discussed at Directorate Level and SLT for proposed escalation, with subsequent reviews at the quarterly Strategic Risk Management Forum, prior to submission to the Audit and Risk Committee.

11.3 Garry explained that the Strategic Risk Register includes Integrated Assurance using the Three Lines of Defence Model, these being:

- First line – contains the day to day arrangements that have been implemented to ensure risks are identified and managed;
- Second line – oversees the first line via strategic measures or management, and
- Third line – comes from Internal Audit providing independent assurance

11.4 Garry advised that we are now in the final two years of our five year strategy, and that strategy and risks will be reviewed in line with the new corporate plan currently being developed, and due to be presented to the Board in March.

11.5 The Board discussed and noted the information provided within the reports and within the two annexes.

11.6 The Board raised concerns regarding the timeline for SG to complete an exploration of opportunities and threats presented by artificial intelligence, and were advised that this is a longer term programme of work, however regular updates would be made to the ARC.

11.7 The Board asked for some further explanation with regards scoring Risk 8 – External Policy Pressures, as the target risk likelihood was higher than the current risk likelihood, the reasoning for this was discussed and no changes were required.

It was noted there was erroneous wording on the integrated assurance section (Risk 8 – External Policy pressures, under Gaps in Assurance) and this has now been removed.

ACTION : 2023/06 : Garry McEwan / Natalie Greenland

11.8 The Chair thanked Garry and Natalie for presenting their papers.

12. Finance and Business Committee (FBC) – Oral Update

12.1 The Chair invited Alban Denton, Chair of FBC, to provide an oral update on the FBC meeting which took place on 15 November 2023 via Teams.

12.2 The FBC received the financial performance update for quarter two of the financial year. At the meeting Elaine McLaughlin had stated that although there was an overspend of £670k (3%), this is being monitored and forecast each month, and

that significant progress has been made. At the end of Q2 FSS is reporting a full year forecast spend of £23.5m against the resource budget of £22.8m, however since the end of Q2 overspend reduced by around £40k and the total amount included the pay award.

12.3 The FBC heard that reconfiguration of the structure of the organisation will start at the beginning of 2024, but were reassured to hear that whatever structure is proposed, the Corporate Plan will reflect this thereby ensuring delivery of objectives. The FBC will take primary responsibility to sign off the shape and form of the new structure.

12.4 The FBC heard about the challenge in managing the pay award within budget. Geoff has made Caroline Lamb aware that FSS would have come within forecast without the pay award, which has meant FSS having had to absorb an additional £600k into forecasted costs.

12.5 The FBC heard that 89% of FSS employees participated in the People Survey and that the results would be reported to the Board next year.

12.6 Alban advised that FBC will take a summary of the 2024/25 budget to the Board for final sign off.

12.7 The Chair thanked the Finance and Business Committee for their work on this important committee.

13. Minutes of meetings and matters arising: 20 September 2023 – 231209 and 22 November 2023 – 231210

13.1 With the exception of some very minor changes, the Minutes of the meetings held 20 September and 22 November 2023 were agreed as an accurate record.

14. Action Log – 231211

14.1 Actions 2023/03 and 2023/04 were agreed as complete.

15. Chair and Chief Executive Reports – 231212

15.1 In the period between 20 September 2023 to present day the Chair attended meetings and events as per the [Chairs Report](#).

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

15.3 Geoff advised that the people survey had closed and that FSS had recorded an 89% completion rate, 8% above civil service median.

15.4 Geoff advised that with the departure of Julie Hesketh-Laird, work is being undertaken to put in place a new structure.

15.5 Geoff met recently with the COSLA Chief Executive, and also with SOLACE to discuss SAFER proposals.

15.6 Geoff explained that the budget for 2024/25 is currently £97k over predicted and therefore requires further work to bring it within budget.

15.7 The Board noted the oral reports.

16. Questions from Public

16.1 There were no public in attendance and therefore no questions.

17. AOB

17.1 The Chair acknowledged this was Julie's last meeting and thanked her profusely for her personal and professional input to FSS, noting that she had been a breath of fresh air, also noting in particular the positive influence Julie had had in her work with Nutrition and Operations colleagues.

17.2 No other business was discussed and the meeting was closed.