

**MINUTES OF THE MEETING OF THE FOOD STANDARDS SCOTLAND BOARD
HELD 21 JUNE 2023 – 10:30 – 15:00
HYBRID – 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
Garry Mournian, Director of Policy and Science
Kate Smith, Head of Comms & Marketing
Emma Scott, Head of Private Office
Joanne Smith, Board Secretary

Apologies

Ian McWatt, Deputy Chief Executive
Garry McEwan, Head of Governance and Infrastructure
David Gally, Chief Scientific Advisor

1. Introduction, apologies, matters arising

1.1 The Chair welcomed everyone to the Food Standards Scotland Board meeting, in particular Kate Richards, Christina Bichan and Paula Charlesworth attending their first public meeting since joining the Board. She also welcomed everyone attending via Teams and in the public gallery.

1.2 Apologies were received from Ian McWatt, Garry McEwan, David Gally and Stuart Keith.

2. Declaration of Conflict of Interest

2.1 No conflicts of interest were declared by Board members.

3. Risk Analysis and Regulated Products Update – 230601

3.1 The Chair invited Garry Mournian to introduce the Risk Analysis and Regulated Products Update paper which provides a routine update on the progress of issues in the joint Food Standards Scotland (FSS) and Food Standards Agency (FSA) risk analysis process and GB regulated products service.

3.2 Garry highlighted in particular the discussions ongoing with FSA which include initial proposals for: a common application gateway and standardised regulatory pathways for the different regimes; a quicker process through which authorisations

come into force; and a more efficient process to record and communicate which products have been authorised.

3.3 Garry reminded the Board of the challenges facing FSS with regards to existing resource and budget constraints and the need to prioritise consideration of any regulatory reforms which will bring greater efficiencies and improvements to the GB Regulated Products Service.

3.4 The Chair thanked Garry and Steve Hardie for their paper and invited questions from Board members.

3.5 The Board asked for clarification of figures mentioned in Para 6.2, where it suggests we should expect round 150 regulated product applications per year and whether this equates to 150 individual risk assessments. Garry explained that applications are batched into tranches whereby applications with the same chemical components would be grouped under one risk assessment. Garry also highlighted he expects numbers to peak around 490 come 2025.

3.6 The Board suggested application processing time seemed unacceptably long. Garry explained we are aware that the current process lacks efficiencies, but again highlighted that since Brexit FSS have not had the resources to fulfil the volume of applications, and that Ministers may need to make hard choices.

3.7 The Board asked whether the risk assessment self-assessment tool has been embedded yet, and Garry explained that Regulated Products have taken priority. However the Risk Assessment Forum, which was introduced post-Brexit, has been re-established bringing science and policy together to work in collaboration. Garry also spoke of a new portal for businesses to apply for regulated products, which had been launched the previous day.

3.8 The Board asked whether artificial sweeteners, where new evidence of health risks is beginning to surface, would fit within regulated products and Garry explained that because this a previously authorised product, no. New evidence would need to be looked at from a safety perspective and FSS and FSA would work together to analyse the requirement via the existing triage system, of high, medium and low priority.

3.9 Following discussion the Board:

- **Noted** the update on issues undergoing risk analysis and the status of the GB regulated products service;
- **Noted and provided early views** on areas that have been identified for regulatory reform; and
- **Noted** that FSS capacity for continued delivery of core risk analysis regulated productions functions, alongside any regulatory reform that is agreed with FSA, remains challenging

4. **Retained EU Law (Revocation and Reform) Bill – Update – 230602**

4.1 The Chair invited Jenny Howie, UK Frameworks and Inter-Governmental Relations Lead to present a paper setting out the latest position on REUL. Jenny

advised that significant progress had been made since last discussed at a Board Meeting. Over and above the paper provided by Jenny, she was able to provide an update from a meeting held the previous day.

4.2 The Bill is currently going back and forth in UK parliament with the most recent step having taken place in the House of Lords on 20 June. The main discussion points related to those Lords sponsored amendments left standing, namely that there should be a non-regression clause in relation to environmental standards and that the use of the revocation powers in the Bill should be subject to far more parliamentary scrutiny than is on the face of the Bill currently.

4.3 The original non-regression clause on environmental standards also included food standards, however as a compromise to the Commons, and following discussions with the FSA, Lord Krebs removed the food element.

4.4 Legislative consent for the revised Bill was refused by the Scottish Parliament again on 8 June.

4.5 The Chair thanked Jenny for her update and invited questions from Board members.

4.6 The Board asked whether the risk, which remains despite removal of the 'sunset' clause, has been adequately captured and has contingencies been explored. Geoff explained that REUL is captured on the Strategic Risk Register and will be reviewed dependent on how the final Act lands.

4.7 It was noted that Scottish Government and Ministers have welcomed FSS analysis and debate and would presumably continue to support our recommendations.

4.8 Following discussion the Board:

- **Noted** the update; and
- **Agreed** that FSS should continue to raise concerns as appropriate with Ministers, key stakeholders and Parliamentarians.

5. Update on FSS's Foodborne Illness Reduction Strategy – 230603

5.1 The Chair invited Jane Horne, Head of Food Protection, Science and Surveillance, and Emma Agnew, Senior Scientific Advisor, to present a paper updating the Board on the current status of foodborne illness in Scotland, describing FSS's current and future priorities for reducing the public health risks associated with pathogen transmission through the food chain.

5.2 Jane explained that the overall framework for delivering the strategy for reducing foodborne illness in Scotland will remain unchanged, however the focus of the strategy over the coming period will predominantly be on five key work areas, to ensure maximum impact, these being:

- i. Reviewing and strengthening the uptake of interventions to support campylobacter reduction

- ii. Supporting businesses and consumers to minimise the risks of *Listeria monocytogenes*
- iii. Understanding the epidemiology of foodborne infection in Scotland
- iv. Improved targeting of consumer advice aimed at educating the public on the particular risks to vulnerable groups and how they can be avoided
- v. Exploring the use of targets based on the number of reported infections of key pathogens as a means of monitoring trends and triggers for action

5.3 The Chair thanked Jane and Emma for their paper and invited questions from Board members

5.4 The Board asked what percentage of foodborne illness is actually reported and Jane advised that the figures available are cases reported via national surveillance through a GP. The number of cases of illness is under-reported with an estimated 9 cases of campylobacter occurring in the community for every 1 case reported through national surveillance. Cases of illness also aren't always due to consumption of food, it may be due to other exposure routes such as direct contact with animals or the environment, eg petting farms or through person to person spread.

5.5 The Board asked why there continued to be such a focus on listeria in public health settings and Jane explained that, whilst relatively few cases of listeria are reported each year in comparison to other foodborne pathogens, the severity of illness and mortality rates are high. Following a large scale listeria outbreak in 2019, which was traced back to pre-packed sandwiches, a review of hospital food served and sold in hospital was instigated and recommendations from the subsequent enquiry are still being put in place. However she also pointed out that Scotland procures hospital food differently to elsewhere in the UK, but FSS are considering the recommendations and also undertaking a review of its existing guidance for preventing listeriosis in healthcare settings to ensure everything is still fit for purpose.

5.6 The Board asked whether analysis has been looked at from an equalities point of view, ie is the cost of living crisis leading to risky behaviours? Jane advised that all the work undertaken to date to understand the epidemiology of foodborne illness in Scotland has undertaken analysis of the data with regards to the Scottish Index of Multiple Deprivation (SIMD). The work on campylobacter shows that more cases of illness are reported from those living in less deprived areas than those from more deprived areas, but that those from more deprived areas tend to have worse outcomes. Equality Impact Assessments are carried out for all work undertaken and social scientists are involved from the outset.

5.7 Following discussion the Board:

- **Noted** the current profile of foodborne illness in Scotland and work undertaken to date to support the strategy;
- **Noted** the proposed future priorities and direction of our strategy for tackling foodborne illness in Scotland; and
- **Agreed** that FSS should explore further the introduction of thresholds for action for each of the pathogens based on either a UK or Scottish specific threshold, although recognised it will be a challenge to get right.

6. FSS Progress on the Out of Home Action Plan – 230604

6.1 The Chair invited Laura Wilson, Head of Public Health Nutrition to present on the progress of the FSS Out of Home Action Plan. Laura explained that that of the 9 sections in the Action Plan, 6, 7 and 8 are Scottish Government (SG) led, and the rest are being led by FSS.

6.2 The Chair thanked Laura for her very informative presentation and invited questions from the Board.

6.3 The Board asked whether there is a way of differentiating between ‘empty’ and ‘non-empty’ calories on menus and Laura explained that displaying full nutrition information is challenging but that we also don’t want consumers to focus on calories alone. Gillian Purdon, Head of Nutrition, also highlighted that the nutrition team are aware of the emerging evidence related to sweeteners and are taking this into account. The bottom line is that discretionary foods are not required as part of a healthy diet and that is where messaging needs to focus.

6.4 The Board asked what factors led to an 8% calorie reduction (the largest reduction) as per the slide ‘Randomised Control Trial of Calorie Labelling’ and Laura explained that the 8% reduction in calories ordered was achieved from two different test conditions, one where participants could switch off the calorie information, and one from where they could switch it on.

6.5 The Board asked for figures for business uptake of the healthy eating guides and MenuCal and Laura will share these.

ACTION : 2023/01 : Laura Wilson

6.6 The Board asked whether the work being undertaken will identify key actions that can make a difference to the out of home food environment and how this impacts on individuals choices when eating out of home. Gillian responded that to make change across the piece requires legislation, however it is hoped that the monitoring and evaluation, which is still being built, will monitor purchasing behaviour robustly enough to demonstrate what produces desirable outcomes.

6.7 The Chair noted the availability of strong evidence emerging from the Out of Home pilot in relation to business operating conditions and barriers and facilitators to change, and continuing engagement with stakeholders, and thanked everyone for their input and contributions.

Break

7. Scottish Veterinary Service – oral update

7.1 The Chair invited Geoff Ogle, Chief Executive and Bryan Campbell, Head of Operational Delivery, to provide a short update regarding the status of the proposed Scottish Veterinary Service.

Geoff explained that discussion continues with SG officials on what the proposals should be that are going to ministers. Further Board discussion would take place in the closed session.

8. Shellfish Monitoring Programme and Shetland Proof of Concept / Pilot – Update – 230605

8.1 The Chair invited Graham Ewan, SLA & Contracts Manager and Bryan Campbell, Head of Operational Delivery, to present an update on the Shellfish Monitoring and Shetland Proof of Concept pilot.

8.2 The Board heard about the monitoring programmes in place to ensure FSS, as Competent Authority, carry out Official Controls to determine the safety of marine waters used to harvest bivalve molluscs in Scotland. In 2018 FSS entered into a government to government agreement with Centre for Environment, Fisheries and Aquaculture Science (Cefas) to provide a fully managed service for all elements of the shellfish monitoring.

8.3 The strategic aim of the ‘Shetland pilot’ was to introduce an improved method of sample validation and verification for shellfish sampling across Scotland. Initially a proof of concept study will be carried out before deciding whether a full pilot is feasible.

8.4 Next steps for FSS are:

- Liaise with Cefas to commence work on the study;
- Work to develop a ‘remote witness app’ to allow harvesters to carry out the sampling requirements; and
- Appoint and train an FSS officer to carry out sampling verification audits at the harvesting areas involved in the study

8.5 There were no questions from the Board and the Chair thanked Graham and Bryan for the valuable work that has already taken place.

9. Budget Update for 2023/24 – 230606

9.1 The Chair invited Elaine McLaughlin, Head of Finance and Procurement, to present an update on FSS’s budget allocation as a result of developments since the Board discussed the 2023/24 budget at the March meeting.

9.2 Elaine explained that the budget is currently over allocated by £2.2m at the start of the financial year but reassured the Board that this will be monitored closely during the year through monthly financial reports.

9.3 Staff costs in the budget allocation reflect a provisional 2% pay settlement and any pay progression as staff move up their pay grades. Public sector pay policy for 2023/24 is currently under review and once the pay policy is confirmed updates will be made to the forecast as necessary.

9.4 The Chair thanked Elaine for her paper and invited questions from Board members.

9.5 The Board expressed nervousness around the over-allocation of the budget, which had also been done in previous years but were conscious that the financial challenges this year were even more severe than in previous years.

9.6 Geoff provided assurance, from past experience that he does not envisage there being a £1.5m over-spend. The work undertaken monthly by Heads of Department and the Senior Leadership Team to profile the budget ensures accurate forecasting and reallocation of money but the senior executive will be monitoring expenditure closely.

9.7 Following discussion it was agreed that all Board members understood the extent of the financial challenges facing the organisation and requested that FBC give Board oversight to this issue at their regular meetings. All Board members will be given access to the Finance and Business committee papers on Objective Connect and Joanne will send invites to all.

ACTION : 2023/02 : Joanne Smith

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

10.1 The Chair invited Alban Denton, Chair of FBC, to provide an oral update on the FBC meeting, his first as Chair, which took place on 31 May 2023 via Teams.

10.2 The FBC received the financial performance update for quarter 4 of the financial year and out turn for 2022/23 as a whole. At the meeting Elaine McLaughlin had explained that there is a ministerial commitment of 10 days target time for payment of invoices, despite the standard term being 30 days.

10.3 The FBC heard that FSS have invested extra money to recruit an additional member of staff to help with procurement work due to projects being delayed due to procurement timelines. A resourcing panel has been put in place due to tight budgets in the last financial year and a recruitment freeze which resulted in underspend in the staff budget.

10.4 The FBC heard about the changes to the lease for Pilgrim House relating to IFRS16. Elaine explained that to tie in with the private sector the public sector now class this as an asset and not a liability, with the lease being both in the accounts, and the transactions offsetting each other. The FBC had asked whether there was an opportunity for the lease to be reviewed, however FSS are legally tied into the contract until 2029 and liable for the remaining amount.

10.5 Staff turnover figures were discussed and the committee asked whether exit interviews are carried out and were told that these are voluntary. FBC expressed an interest in seeing figures for personnel leaving to take up positions elsewhere in SG and Garry McEwan is to provide these at the next FBC meeting.

10.6 The FBC had asked whether FSS are, on occasion, paying more to recover debt than the actual cost of the invoice and were advised no, Elaine had also explained there is work being done to review debt costs and work undertaken internally to recover costs

- 10.7 The FBC heard that FSS draw down funding on a monthly basis from SG based on cash flow forecast, with an indication of monies required provided to SG a month in advance. Should there ever be an emergency where cash was running low FSS are confident that funds would be allocated within a week.
- 10.8 The FBC was provided with some background on the FSS Charge Rate Model, which was developed between FSA and industry before FSS existed. Garry McEwan had explained that FSS could perhaps look at other delivery models for charging as part of the Public Sector Reform Programme. The FBC stated they wished to be involved in the charging process at an earlier stage in future.
- 10.9 The FBC received a presentation on the Consumer Tracker Wave 15 from Kate Smith, Head of Communications and Marketing and they requested that this be shared with the wider Board at a future meeting.
- 10.10 The FBC received a presentation on the Performance against the Corporate Plan from Garry McEwan, Director of Corporate Services and were advised that Geoff has approved an additional £300k for Garry Mournian and his team to use on retained EU law to tackle the 32% delay in deliverables from the Corporate Plan.
- 10.11 The FBC heard that the FSS Chair wrote to SG Ministers following the Boards decision following the prioritisation exercise. The Minister noted the letter and on that basis Ministers have acknowledged that the risk exists and solutions for it do not necessarily rest solely with FSS.
- 10.12 The Chair thanked the Finance and Business Committee for their work on this important committee.

Audit and Risk Committee (ARC) Annual Report to the Board – 230607

- 10.13 The Chair invited Aileen Brown, Chair of ARC, to present the Annual Report to the Board from ARC for the period April 2022 to March 2023.
- 10.14 Aileen highlighted the following points:
- There will be a reduction in Official Controls Audits taking place in 2023-24, with 3 being carried out rather than the usual 4.
 - FSS received a 'substantial' audit assurance rating from SGIAAD for 2021-22.
 - Following a proposal at the ARC meeting in September, risks that have materialised are now tracked by way of a new Strategic Issues Register, this was a welcomed new development.
 - FSS Environmental Performance shows excellent progress towards net zero.
 - Regarding Health and Safety FSS are not meeting some of the KPI's in relation to HSE however steps are being put in place to address this. The level of injury remains very low, although there was one RIDDOR reportable incident.
 - The Annual Report on Cases of Fraud and Significant Losses showed no cases of fraud having been reported during the year
 - The report into non-competitive actions (NCA) showed the majority related to the provision of veterinary services.
 - The Chair thanked the ARC for their excellent work and continued diligence throughout the year.

11. Audit and Risk Committee – Oral Update

11.1 The Chair invited Phil Couser, Board Member, who deputised as Chair of ARC following apologies from Aileen Brown, to provide an oral update on the ARC meeting which took place on 07 June 2023 in Saughton House.

11.2 The ARC received an update from David Stark who advised that the internal audit (IA) plan for 2022-23 has been completed in full and the assurance level proposed is 'Substantial'. IA have commenced the Annual Audit Plan for 2023-24 with the Local Authority Stakeholder Engagement review underway, and planning having commenced for the HR, Workforce Planning and People Strategy Review.

11.3 David explained that due to a Directorate for Internal Audit and Assurance (DIAA) management restructure this was he and Steven's final meeting, and they were being replaced by Dougie Shepherd and Alison Thomson.

11.4 The Delivery of Feed Official Controls audit has concluded and the report, incorporating an action plan, finalised. The ARC noted the 'Insufficient' audit opinion due to significant weaknesses in the current risk, governance and controls procedures, with the primary issue being down to lack of resource and capacity, and noted that ongoing monitoring and liaison will take place against timescales provided. A further update will be made at the September meeting.

11.5 The Export Health Certification (Seafood Hubs) audit has concluded and the report incorporating an action plan, finalised. The ARC noted the 'Reasonable' assurance outcome assigned. ARC noted that FSS took the decision to exit service from the remaining two seafood hubs with an exit date of 30 June 2023.

11.6 The ARC noted the successful conclusion of the 2022-23 Official Controls Audit Programme.

11.7 The ARC noted that the 2023-24 Audit Programme has commenced with the Allergen Controls audit scheduled for completion by the end of July 2023.

11.8 The ARC discussed risk matters and were generally content.

11.9 The ARC received a verbal update on the external audit plan from Karlyn Watt, Senior Manager Deloitte. ARC heard that Deloitte are on track to commence the audit on 19 June and a timeline has been agreed. ARC noted that as part of the audit work assurance is needed from the London Pension Authority and they may not be able to meet the October timeline, however Karlyn assured ARC that this should not impact the Annual Report and Accounts being ready for the September meeting, although final signing of the accounts may have to be done via correspondence.

11.10 ARC noted the Health and Safety Annual Report and were content with the position, noting the positive safety culture and awareness across the organisation.

11.11 ARC were content with the Review of Unaudited Annual Report and Accounts (ARA) for 2022-23, which they had already had the opportunity to comment on.

11.12 ARC were content with the annual update on cases of fraud and significant losses within FSS.

11.13 The ARC received the annual update of Non Competitive Actions (NCAs) and were generally content however requested some more narrative in future to assist audit trail.

11.14 Finally the ARC discussed the pros and cons of meetings in person versus hybrid meetings and requested a mixture of both if possible.

12. Minutes of meeting held 22 March 2023, and matters arising – 230308

12.1 The Board asked whether the grant of £200k had been made to food labs for sampling purposes and were advised that it had, and had been well received.

12.2 The Minutes of the meeting held 22 March 2023 were agreed as an accurate record.

13. Action Log

13.1 There were no outstanding actions on the Action Log to be discussed.

14. Chair and Chief Executive Reports – 230309

14.1 In the period between 22 March 2023 to present day the Chair attended meetings and events as per the [Chairs Report](#).

14.2 Heather advised that the joint FSS and FSA annual report on food safety is progressing well. It is hoped that Board members will join Heather and the Exec for its launch at Holyrood later in the year, invites will be forthcoming.

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

14.4 Geoff advised that FSS have been working with FSA to review the Memorandum of Understanding, which was last reviewed in 2020, both organisations are content and it has been signed off.

14.5 Ron McNaughton, Head of Food Crime and Incidents Unit is in the process of developing a risk profiling tool. We are planning discussions with BRC GS and UKAS on whether there is scope for recognition of the tool as part of audit and indeed whether UKAS accreditation might be an option: it is very early days on the latter though.

14.6 Geoff had his usual regular meeting with Jenni Minto, Minister for Public Health and Women's Health, and she has agreed to speak about priorities from the public health side at the September Board meeting.

14.7 The Board noted the oral reports.

15. Questions from Public

15.1 It was asked whether meat inspections would be included as part of the proposed Scottish Veterinary Service and Geoff responded yes, it would, but a decision from Ministers is still awaited.

15.2 Eville & Jones have recently been given a contract to provide official veterinarians and meat hygiene inspectors as part of contingency arrangements, however Geoff explained that FSS are currently recruiting, and managing to retain, staff, and tapping into this contract would be a last resort.

15.3 It was asked whether the audit of Official Veterinarian and Meat Hygiene Inspector Training, which received limited assurance, has been published on our website. FSS will publish the report once all outstanding recommendations are completed, which is expected to be towards the end of July 2023.

16. AOB

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