

MINUTES OF THE MEETING OF THE FOOD STANDARDS SCOTLAND BOARD HELD ON 20th FEBRUARY 2019 FROM 10.30 AM TO 13.20 PM AT PILGRIM HOUSE, ABERDEEN**Present:****FSS Board**

Ross Finnie, Chair
Marieke Dwarshuis
Heather Kelman
Carrie Ruxton
Sue Walker
Anne Maree Wallace
Louise Welsh, Deputy Chair

FSS Executive

Geoff Ogle, Chief Executive
Elspeth MacDonald, Deputy Chief Executive
Ian McWatt, Chief Operating Officer
Garry Mournian, Corporate Services Director
Katherine Goodwin, Head of Communications and Marketing
Karen McCallum-Smith, Head of Private Office
Norval Strachan, Chief Scientific Adviser
Hazel Stead, Board Secretary

1 Introduction, Apologies

- 1.1 The Chair welcomed everyone to the Food Standards Scotland (FSS) Board meeting.
- 1.2 Apologies were received from George Brechin.

2 Declaration of Conflict of Interest

- 2.1 The Chair asked for any conflicts of interest to be declared. None was declared.

3 Minutes and Actions Log - 19/02/01 & 19/02/02

- 3.1 There was a minor amendment to the draft minutes at paragraph 7.2, page 3 to read the "draft withdrawal agreement". There were no amendments to the actions log. The Board agreed the minutes as an accurate record of the meeting.

4 Chair's Report

- 4.1 The Chair noted that he and the Chief Executive, Deputy Chief Executive and Corporate Services Director had attended the Health and Sport Committee meeting. The meeting had gone well and inevitably there was a high level of interest in the consequence of EU exit on FSS and the consequences for consumers. The Chair had no other matters to report.

5 Chief Executive's Report – 19/02/03

- 5.1 The Chair invited Geoff Ogle, Chief Executive (CE) to update on a number of topics. Geoff referred to the discussion on allergens at the board meeting in November 2018 and advised that the allergens consultation was underway. He advised that once all responses to the consultation are considered, the executive will bring a paper to the board for a decision and to recommend what advice on allergens labelling FSS should provide to Scottish Ministers.

- 5.2 Geoff referred to the FSS marketing campaigns - Kitchen Crimes and the Great Turkey Defrost Live which were both successful in delivering food safety messages to consumers, without spending a vast sum of money. Geoff noted Ian McWatt Chief Operating Officer's participation in the BBC's, Defenders UK series. He noted the viewer statistics showed that the series was a success and effectively raised the public profile of FSS with the main resource implication being time not cost.

5.3 Geoff explained the purpose of the FSS Public Information statement was to clarify FSS's position on protecting the public from the risk of Shiga Toxin producing *E.coli* (STEC). He noted that the statement was supported by a range of public health bodies and the Chief Medical Officer for Scotland. It had received press coverage in Scotland and Norval Strachan, Chief Scientific Adviser was interviewed by STV and BBC Radio Scotland.

5.4 In respect of no-deal planning for Brexit, Geoff advised he is working with a number of departments within the Scottish Government including Agriculture, Animal Health, Marine, Transport and Local Government.

5.5 In discussion, Board members sought and received clarification from the Executive that the Animal Feed legislation would be enacted immediately once the Scottish Parliamentary process is complete. Board members congratulated the Executive on the Public Interest Statement and asked what the next steps for FSS would be. The Executive provided further details on the next steps and would consider asking public health bodies to publish the public interest statement on their websites.

6 Preparations for Leaving the European Union – 19/02/04

6.1 The Chair invited Elspeth MacDonald, Deputy Chief Executive to introduce the paper. Elspeth noted that good progress had been made since the last board update and that FSS had secured the consent of the Scottish Parliament to 16 Statutory Instruments, with another 4 in progress.

6.2 She noted that the executive had been working with the FSA on the process for risk analysis, as part of proposals for a UK-wide framework on food and feed safety and hygiene for functions that will be repatriated to the UK when the UK leaves the EU. This includes scientific risk assessment, and propose that FSS supplements existing risk assessment capacity by accessing capacity and capability within FSA. FSA has made clear that in line with the MoU between the two organisations, that FSS will continue to have access to its enhanced risk assessment resource in future. On risk management, she highlighted the proposed Advisory Forum on Food and Feed (AFFF), the intended purpose of the AFFF being to assist the food safety bodies in the UK in delivering their core objectives of public health protection in making risk management recommendations. In supporting a future framework on food and feed safety, the AFFF would provide a view on whether the evidence supports a single risk management approach, or if different approaches in different parts of the UK would be more appropriate. The Board asked for more information on the risk analysis process, and for a further paper to come to the Board considering the constitution of the AFFF and relevant governance arrangements that would be required.

6.3 In discussion, Board members sought and received clarification from the Executive on resourcing; risk management decision making; asked about any potential downsides to this approach and how it is to be funded. Elspeth advised that at this stage it is difficult to identify specific downsides, and that this is a new model which will need to be trialled, but this approach is based on an existing informal UK model which has been an effective way of working across the UK (e.g. interdepartmental group on food labelling). The Chair noted that the Memorandum of Understanding between FSS and FSA as discussed between the respective Chief Executive Officers is the basis of building a good working relationship between both bodies. The Executive noted that the funding of the AFFF and details of how conflicting or differing priorities would be resolved would be included in the further board paper.

6.4 The Board:

- **noted** progress on preparations for the UK's exit from the EU including

- legislative 'fixes' to ensure a functioning statute book in the event of a no-deal exit;
 - development of the proposals for longer-term UK-wide frameworks in line with the Joint Ministerial Committee (European Negotiations) principles, without prejudice to the views of Ministers
 - cross-government contingency planning for no-deal exit
- **agreed** that the Executive continues to work collaboratively with the FSA on future arrangements for risk analysis in the UK and including capacity for risk assessment
 - **agreed** that the proposed Advisory Forum for Food and Feed (AFFF), would provide Food Standards Scotland, alongside FSA, with a formal mechanism for considering risk management interventions to support any future UK-wide framework on food and feed safety;
 - **agreed** that the Executive will bring a further paper to the Board to review in March 2019 and consider the AFFF in the context of FSS's wider governance

7 Financial approach for 2019/20 and managing the short term financial consequences of Brexit – 19/02/05

7.1 The Chair invited Garry Mournian, Corporate Services Director to introduce the paper. Garry drew attention to the budget of £15.6 m 2019/20 allocated. to delivering essential core activity.

7.2 Geoff noted that FSA had received significant additional funding of £14 m for Brexit and had recruited 160 additional members of staff. This gave an indication of the impact of Brexit for example through no longer having access to EU institutions. He explained that FSS had received no additional funding for 2019/20 and that it would be extremely difficult to allocate the current budget to meet all our obligations, our current plans and subsume the Brexit consequential. Geoff noted with the budget remaining static next year this would present serious consequences on the work that FSS can continue to do.

7.3 In discussion, board members sought and received clarification from the Executive on the what the new costs incurred are; does FSS have to stop core work and can we meet our statutory requirements; and ensuring we have the right type of resources to meet the scope of the challenge.

7.4 The Board:

- **agreed** the current approach to budgetary management made by the Executive for 2019/20
- **agreed** that the unallocated budget be prioritised for Brexit work
- **noted** the significant risks posed by the diversion of resources to Brexit, with further work on risk management and the consequential impact this may have on continued delivery of our statutory functions
- **noted** that its views and decisions made will be taken into account when the Executive update the Financial Management Plan
- **agreed** that the executive should undertake further work on the budget for 2019/20 to inform future board decisions.

8 Financial Performance Update – 19/02/06

8.1 The Chair invited Elaine McLaughlin, Senior Finance Manager to introduce the paper. Elaine explained that the full year forecast is explained that for the third quarter, a full year forecast of £15.9 million is being reported against the allocated budget of £16.2 million, representing a projected 1% underspend against the budget.

8.2 In discussion, the board sought and received clarification that FSS could not refund the underspend to Scottish Government, as it is allocated as part of an SG-wide portfolio budget. A concern was raised about the levels of debt recovery and the executive confirmed that overall debt recovery is improving and the classification of invoices paid is to be streamlined. Board members suggested that the Executive consider increasing income from delivery of shellfish official controls and look at organisational design of FSS.

8.3 The Board:

- **noted** the financial information as at 31st December 2018
- **noted** the current forecast underspend and the reasons provided
- **noted** the revised Financial Management Plan which will be updated to reflect the decisions made on the 2019/20 budget allocation

9 Audit and Risk Committee – Oral Report

9.1 The Chair invited Sue Walker, Chair of the Audit and Risk Committee (ARC) to provide an oral update on the meeting held on 28th November 2018. The ARC members completed their annual effectiveness review, which had involved input from internal and external auditors. The overall conclusion is that ARC works well and non-executive members are confident in the lines of assurance provided by the Executive. The deep dives are to continue, in terms of risk profile and provide further assurance to ARC members. Sue noted that key FSS staff would be invited to attend future ARC meetings to answer questions on relevant audit reports and the executive would develop terms of engagement.

9.2 Sue advised that the Scottish Government Internal Audit Directorate (SGIAD) and Food Standards Agency audit plans 2018/19 are on schedule. In October 2018, she and Garry had participated in the Assessment of Service Quality Review which was conducted by a SG Non- Executive Director and senior member of SGIAD staff.

9.3 Sue advised that following the FSS Board annual discussion on risk matters and it was agreed that the executive are to draft a new risk on incidents which the ARC agreed intersessionally and would be included in the risk registers for the March 2019 ARC meeting. A discussion was held on the risk ratings and risk course trajectory and the ARC were content that these remained the same. She noted the good progress in the Audit Implementation Group report and that further details were to be provided intersessionally. Sue noted that new Audit Scotland auditors had been appointed for FSS and one of whom, Jim Rundell was in attendance at the board meeting. The next ARC meeting would take place on the 27th March 2019.

10 Appointments to the Audit and Risk Committee

10.1 The Chair explained he had discussed the matter of ARC appointments with Sue Walker, ARC Chair. In noting that George Brechin, Marieke Dwarshuis and Anne Maree Wallace were due to end their appointments in 2021, this is an opportunity to conduct succession planning of ARC members. The Chair explained that Marieke Dwarshuis had agreed to stand down as a member of the ARC with immediate effect. Anne Maree Wallace will stand down in March 2020 and George Brechin will stand down in March 2021. In noting that the ARC terms of reference provide that the ARC membership consists of at least four board members the Chair proposed to appoint Heather Kelman and Carrie Ruxton as new members of the ARC. Sue Walker thanked Marieke Dwarshuis for her effort since the ARC was established and her experience of corporate governance had been extremely valuable since the early days of FSS.

10.2 The Board :

- **agreed** the changes to the membership of the ARC

11 Question and Answers

11.1 Graeme Anderson, representing the Association of Meat Hygiene Inspectors, asked two questions, firstly whether Phase 2 of the future meat controls work had started and secondly in noting the age profile of Meat Hygiene Inspectors (MHI) whether budget was allocated for recruitment of new staff. Ian McWatt, Chief Operating Officer confirmed that Phase 2 of the future meat controls work had not yet started, however a programme manager had been recently recruited to take this work forward. Ian advised that no budget had been allocated for recruitment of new MHI's, but it is part of workforce planning being conducted by the Head of Operational Delivery.

12 Motion

12.1 The Chair informed the Board that the Executive had information to impart to the Board which was confidential due to its legal and contractual nature. The Chair moved this to be taken in closed session.

12.2 The Board:

- **agreed** to take business in private session

12.3 The Chair closed the open session of the meeting and asked members of the public to leave.

13 Legal and Contractual Issues

13.1 The Chief Operating Officer updated the Board on the Executive's considerations with respect to the meat hygiene contract and the procurement for the delivery of animal feed official controls.

13.2 The Chief Executive updated the Board on the Executive's considerations with respect to a request for additional funding relating to court proceedings.

13.3 The Chief Executive updated the board on legal request to withdraw the guidance for Local Authority Enforcement Officers on the Production of Cheese from unpasteurised milk.

13.4 The Board:

- **noted** the information provided.

13.5 No other business was discussed, and the meeting closed at 13:45 p.m.