Food Standards Scotland
Inbhe Bìdh Alba

CODE of GOVERNANCE

for

FOOD STANDARDS SCOTLAND

CONTENTS

Commented [CH1]: Annexes E-H will be added once agreed by the Board

1. INTRODUCTION

Founding legislation and status

1.1. Food Standards Scotland (FSS) was established by the Food (Scotland) Act 2015 (the 2015 Act). It is a non-ministerial public body, and part of the Scottish Administration.

Statutory objectives and functions

1.2. The 2015 Act gives FSS three statutory objectives:

- To protect the public from risks to health which may arise in connection with the consumption of food, including risks caused by the way in which food is produced or supplied;
- To improve the extent to which members of the public have diets which are conducive to good health; and
- To protect the other interests of consumers in relation to food.

1.3. The general functions of FSS are to:

- develop (and assist the Scottish Ministers and public bodies and officeholders to develop) policies in relation to food matters and animal feeding stuffs matters;
- advise, inform and assist the Scottish Ministers and public bodies and officeholders and other persons in relation to food matters and animal feeding stuffs matters;
- keep the public adequately informed about and advised in relation to matters which significantly affect their capacity to make informed decisions about food matters;
- keep users of animal feeding stuffs adequately informed about and advised in relation to matters which significantly affect their capacity to make informed decisions about animal feeding stuffs matters; and
- monitor the performance of, and promote best practice by, enforcement authorities in enforcing food legislation.

1.4. In addition, the 2015 Act gives FSS powers to act as an enforcement authority or regulator. Where the Scottish Ministers make regulations under a number of relevant Acts such as the 2015 Act and the Food Safety Act 1990, FSS can be signified by Ministers as being a competent authority or enforcement authority for the regulations. FSS is also signified as a competent authority and enforcement authority under retained EU food and animal feed law in Scotland.

The Code of Governance

1.5. The 2015 Act requires FSS to operate in a way that is proportionate, transparent and accountable, constitutes good decision-making practice, and is consistent with best practice principles of good governance. This Code has been developed to bring together the core elements of FSS governance and is updated to reflect FSS's current strategy and responsibilities. It has been approved by the FSS Board. The code will be subject to regular review and may be supplemented or revised as appropriate at any time, subject to the approval of the Board.

1.6. The code sets out the responsibilities and structure of FSS, its decision-making processes, and the standards of conduct that will be expected of its members.

RESPONSIBILITIES, STRUCTURE AND ACCOUNTABILITY

2.1. The accountability framework for FSS, including the responsibilities of the FSS Board, the Scottish Ministers, and the Chief Executive and Accountable Officer, is set out in the **Framework Document** (Annex A).

2.2. FSS is a corporate body, comprising a Chair and between 3 and 7 other members (informally known as the Board). FSS is accountable directly to the Scottish Parliament for performance against its objectives and functions. FSS is responsible for, among other things, producing a corporate plan and an annual report on its activities, both of which are to be laid before the Scottish Parliament.

The purpose and responsibilities of the Board are set out in the **Terms of Reference for the Board** (Annex B).

2.3. The Audit and Risk Committee (ARC) is a standing committee of the Board, with delegated responsibility for reviewing, in a non-executive capacity, the comprehensiveness and reliability of assurances on governance, risk management and the control environment. It is also responsible for reviewing the integrity of financial statements and the annual report. The purpose and responsibilities of the ARC are set out in the **Terms of Reference for the Audit and Risk Committee** (Annex C).

The Finance and Business Committee (FBC) is a standing committee of the Board with delegated responsibility to give appropriate high-level oversight of financial and operational matters at Board level and support the translation of policy into effective results through a process of constructive challenge. The purpose and responsibilities of the FBC are set out in the **Terms of Reference for the Finance and Business Committee** (Annex D)

2.4. FSS employs its Chief Executive (CE) and its staff. The CE is accountable to the Board for the leadership and performance of FSS. As Accountable Officer, the CE is personally answerable to the Parliament for the effective and efficient operation of FSS, for safeguarding the public funds for which they have charge, and for ensuring propriety and regularity in the handling of those funds. The CE should act in accordance with relevant guidance in the Scottish Public Finance Manual (SPFM) and other instructions and guidance issues by the Scottish Ministers, and in particular in accordance with the Memorandum to Accountable Officers (Annex 2 of the Accountability section of the SPFM).

2.5. The **Scheme of Delegation** (Annex E) sets out information on decisions reserved to the Board and those that are delegated or otherwise the responsibility of the CE.

2.6. The Scottish Ministers are responsible for appointing the Members of FSS and set the FSS budget. They may request FSS to provide advice and may give specific directions where they think that there has been a serious failure of FSS to exercise any of its functions. The Scottish Ministers also approve a **Statement on Performance of Functions** (Annex F), which sets out how FSS intends to meet its objectives and operate within the principles of good governance and decision-making practice.

DECISION MAKING

3.1. The **Standing Orders** (Annex G) specify the conduct and proceedings of the Board and any committee established by the Board and the right of access for the public and the press.

STANDARDS OF CONDUCT

4.1. The FSS Board has adopted a **Code of Conduct** (annex H) for FSS Board Members modelled on the Code of Conduct for Members of Devolved Public

Bodies, produced pursuant to the Ethical Standards in Public Life etc. (Scotland) Act 2000 and overseen by the Standards Commission for Scotland.

4.2. The interests of the consumer and the general public will be the primary concern of each member. None of the members are ‘stakeholder members’ or will represent the interests of a particular sector or sectors. Each member will adhere to the processes for registering interests and dealing with conflicts of interest which are set out in the Code of Conduct.

Annex A

FSS / SG Framework Document

Annex B

Terms of Reference for the Board

FOOD STANDARDS SCOTLAND BOARD

TERMS OF REFERENCE

Purpose

1. ‘The Board’ is the informal term which designates the collective Members of Food Standards Scotland (FSS), who, in accordance with the Food (Scotland) Act 2015 (“the 2015 Act”), were appointed through the public appointments process by the Scottish Ministers. The Board exists to represent the public interest and ensure consumer focus, to set strategy for FSS, and to take major decisions on policy and key issues of principle, informing advice given to the Scottish Ministers.

2. The Board has overall collective responsibility for the actions and decisions of FSS. It is responsible for ensuring that FSS achieves its statutory objectives to protect and improve public health and consumers’ interests in relation to food, and that it carries out its functions effectively, economically and efficiently. The Board is accountable directly to the Scottish Parliament for policy delivery, compliance with statutory duties and performance against agreed strategic objectives.

3. The Board also, through the Chair, appoints the Chief Executive and holds them accountable, and supports the Chief Executive in the discharge of their role as Accountable Officer.

Delegation

4. The Board may delegate to Committees certain functions mainly associated with corporate governance of FSS.

Responsibilities:

5. The Board will:

- Set the strategic direction for FSS within a framework of prudent and effective controls which enable risk to be assessed and managed;
- Lay out FSS's standards and values and be responsible for ensuring that FSS's obligations to its stakeholders and the wider community are understood and met;
- Approve the Corporate Plan;
- Ensure that FSS achieves its statutory objectives to protect and improve public health and consumers' interests in relation to food;
- Consider and advise on strategic risks;
- Take decisions on key issues of principle and policy, including those on which advice is to be given to Ministers;

- Approve the annual business plan and maintain oversight of major financial decisions in line with that plan;

- Establish such committees as it sees fit. The terms of reference and reporting arrangements of such Committees will be agreed by the Board and reviewed annually;

- Receive regular reports from Committees and approve recommendations of Board Committees (where powers are not delegated);

- Approve Standing Orders for the Board and any Committees of the Board; and

- Approve the Annual Report.

- Appoint the Chief Executive in line with the relevant Civil Service rules and, through the Chair hold the Chief Executive accountable for FSS's performance;

- Scrutinise the financial and other performance information relating to FSS and advise the Chief Executive in the discharge of the Accountable Officer responsibilities;

Annex C Terms of Reference for the Audit and Risk Committee

FOOD STANDARDS SCOTLAND AUDIT AND RISK COMMITTEE

TERMS OF REFERENCE

Purpose

1. The Board has established an Audit and Risk Committee ('the ARC') as a Committee of the Board to support it and advise the Accountable Officer in their respective responsibilities for issues of risk, control and governance and associated assurance through a process of constructive challenge.

Membership

2. The ARC is appointed by the Board. The ARC will include at least one member with recent and relevant financial and / or governance experience and may include as a member an independent and external person who is not a member of the Food Standards Scotland Board. The ARC shall be composed of at least four non-executive Board members, or at least three non-executive members and one independent external member, where such a person is appointed. One of the non-executive members shall act as Chair. Non-executive ARC members will be appointed for terms no longer than to coincide with their terms of Board appointment. ARC terms will normally be for between two and four years, to manage succession and provide continuity.

3. The Chair of the ARC will be appointed from the membership of the ARC by the FSS Chair under delegated powers.

4. The ARC will be provided with a secretariat function by the FSS Board secretariat.

Rights

5. The ARC may:

- co-opt additional members for a period not exceeding a year to provide specialist skills, knowledge and experience; and
- procure specialist ad-hoc advice at the expense of FSS, subject to budgets agreed by the Board or Accountable Officer.

Access

6. The Head of Audit Assurance, our Internal Auditors for corporate systems and the representative of External Audit will have free and confidential access to the Chair of the ARC.

7. The Chair of the ARC will have free and confidential access to the Chair and Chief Executive of FSS whenever appropriate.

Reporting

8. The ARC will formally report to the Board after each meeting.

9. A copy of the ARC minutes will be provided to the Board once agreed by the ARC. Furthermore, a copy of the FSS Strategic Risk and Issues Register Report, Risk Register and Issues Register will be provided, for ratification only, within the open FSS Board Meeting papers.

10. The ARC will provide the Board with an Annual Report, outlining its work during the previous financial year.

11. The ARC will provide an assurance statement to the Board and the Accountable Officer for use in the Board's consideration of the Annual Report and Accounts. This statement will incorporate the consideration of the assurance reports of the Head of Audit Assurance and our Internal Auditors for Corporate Systems, and the views expressed by our Internal Auditors.

Meetings

12. The procedures for meetings are:

- the ARC will meet four times a year. The Chair of the ARC may convene additional meetings, as they deem necessary;

- a minimum of three members of the ARC will be present for the meeting to be deemed quorate for decision-making;

- ARC meetings will normally be attended by the Accountable Officer, the Director of Corporate Services, the Head of Audit Assurance, a representative of our Internal Auditors for corporate systems and the External Auditors;

- the ARC or Accountable Officer may ask any other officials of the organisation to attend to assist it with its discussions on any particular matter;

- the ARC may ask any or all of those who normally attend but who are not members to withdraw to facilitate open and frank discussion of particular matters;

- the members of the ARC will meet separately with each of the Head of Audit Assurance, our Internal Auditors for corporate systems and the External Auditors, annually in closed meetings where the efficacy of the processes, trust, co-operation and any other issues can be discussed and future action agreed; and

- the Board or Accountable Officer may ask the ARC to convene further meetings to discuss issues on which they want the Committee's advice.

Responsibilities

13. The ARC will advise the Board and Accountable Officer on:

- the strategic processes for risk, control and governance, including reviewing the risk profile and register and considering FSS's risk appetite, and advising on the practical effectiveness of the governance framework;

- the governance statement;

- the accounting policies, the accounts, and the annual report of the organisation, including the judgements used in the producing the accounts, the adequacy of disclosures, the process for review of the accounts prior to submission for audit, levels of error identified, and management's letter of representation to the external auditors;

- the effectiveness of the design and operation of financial systems and levels of compliance with controls;

- the planned activity and results of both internal and external audit;

- the adequacy of management response to issues identified by audit

- activity, including external audit's management letter/report;

- the resourcing and effectiveness of the internal control environment;

- assurances relating to the corporate governance requirements for the organisation;

- (where appropriate) proposals for tendering for internal audit services or for purchase of non-audit services from contractors who provide audit services; and

- anti-fraud policies, whistle-blowing processes, and arrangements for special investigations.

14. The ARC will work with FSS's Senior Management Team to ensure that the Board can be confident that risk management processes, content, mitigating and recovery actions are appropriate and correctly resourced.

15. The ARC will also periodically review its own effectiveness, including performance, constitution and terms of reference, and report the results

of that review to the Board and Accountable Officer, recommending any changes it considers necessary.

16. **The table below** details the role/scope of the FSS Board, ARC and FBC committees to ensure no unintended overlap or gaps.

Information Requirements

17. For each meeting the ARC will be provided with:

- a report summarising any significant changes to the organisation's Corporate Risk Register and associated documents.
- a progress report from each of the Head of Audit Assurance and the Head of Internal Audit summarising:
    - work performed (and a comparison with work planned);
    - key issues emerging from Internal Audit work;
    - management response to audit recommendations, including action in response to issues identified and agreed;
    - significant changes to the audit plan;
    - any resourcing issues affecting the delivery of Internal Audit objectives;
    - a progress report from the External Audit representative summarising work done and emerging findings.

18. As and when appropriate the Committee will also be provided with:

- the risk management strategy;
- management assurance reports, and report on the management of major health and safety incidents, 'near misses' and lessons learned;
- external assurance and compliance reports in relation to FSS's activities;
- proposals for the procurement of the Internal Audit services;
- the Internal Audit Strategy and annual plans;
- the Annual Opinion and Report of the Head of Audit Assurance and Head of Internal Audit;
- customer satisfaction reports on the Internal Audit function;
- a summary of findings of every Internal Audit report;
- the draft annual report and accounts of the organisation;
- the draft governance statement;
- a report on any changes to accounting policies;
- External Audit's management letter/report;
- a report on any proposals to tender for audit.

The above lists are minimum requirements for the inputs which should be provided to the ARC. In some cases, more may be provided.

Governance

BOARD	ARC	FBC
The Board will: • Set the strategic direction for FSS within a framework of prudent and effective controls which enable risk to be assessed and managed; • Lay out FSS's standards and values and be responsible for ensuring that FSS's obligations to its stakeholders and the wider community are understood and met; • Approve the Corporate Plan; • Ensure that FSS achieves its statutory objectives to protect and improve public health and consumers' interests in relation to food; • Consider and advise on strategic risks; • Take decisions on key issues of principle and policy, including those on which advice is to be given to Ministers; • Appoint the Chief Executive in line with the relevant Civil Service rules and, through the Chair hold the Chief Executive accountable for FSS's performance; • Scrutinise the financial and other performance information relating to FSS and advise the Chief Executive in the discharge of the Accountable Officer responsibilities; • Approve the annual business plan and maintain oversight of major financial decisions in line with that plan; • It is the responsibility of the whole FSS Board to set the Board's risk appetite • Establish such committees as it sees fit. The terms of reference and reporting arrangements of such Committees will be agreed by the Board and reviewed annually; • Receive regular reports from Committees and approve recommendations of Board Committees (where powers are not delegated); • Approve Standing Orders for the Board and any Committees of the Board; and • Approve the Annual Report	**The ARC will advise the Board and Accountable Officer on:** • the strategic processes for risk, control and governance, including reviewing the risk profile and register and considering FSS's risk appetite, and advising on the practical effectiveness of the governance framework; • the governance statement; • the accounting policies, the accounts, and the annual report of the organisation, including the judgements used in the producing the accounts, the adequacy of disclosures, the process for review of the accounts prior to submission for audit, levels of error identified, and management's letter of representation to the external auditors; • the effectiveness of the design and operation of financial systems and levels of compliance with controls; • the planned activity and results of both internal and external audit; • the adequacy of management response to issues identified by audit activity, including external audit's management letter/report; • the resourcing and effectiveness of the internal control environment; • the ARC is responsible for oversight of how the Board manages it's risk appetite throughout each year • assurances relating to the corporate governance requirements for the organisation; • (where appropriate) proposals for tendering for internal audit services or for purchase of non-audit services from contractors who provide audit services; and • anti-fraud policies, whistle-blowing processes, and arrangements for special investigations.	**The FBC will seek assurance of finance and business delivery on behalf of the Board to:** • support the Board in strategic oversight of the financial performance of the organisation; • oversee financial planning and annual budgets to support delivery of the FSS Strategy and Corporate Plan; • scrutinise the financial and other performance information relating to FSS; • review the annual budget allocation process undertaken by the Executive and consider associated strategic risks and issues arising as part of the budget allocation and refer appropriate strategic risks to the Board; • support the Board in strategic oversight of operational performance and staff resourcing including recruitment challenges, staff turnover and review of the Workforce Plan and the Staff Engagement Survey; and • give appropriate high-level oversight and advice on the in-year Corporate Plan

Annex D – Terms of Reference for the Finance and Business Committee

FINANCE AND BUSINESS COMMITTEE

TERMS OF REFERENCE

Purpose

1. The Board has established a Finance and Business Committee ('the FBC') as a Committee of the Board to give appropriate high-level oversight of financial and operational matters at Board level and support the translation of policy into effective results through a process of constructive challenge.

Membership

2. The members of the FBC are appointed by the Board from its membership. This will include at least one member with appropriate financial knowledge. The FBC shall include at least three Board members. One of the members shall act as Chair. FBC members will normally be appointed for terms that coincide with their terms of appointment, or for two or four years, in order to manage succession and provide continuity.

3. The executive attendees of the FBC will include the Chief Executive, who is the Accountable Officer, and members of the Executive Team. The Chief Executive will be responsible for determining which members of the Executive are attendees of the FBC.

4. The Chair of the FBC will be appointed from the membership of the FBC by the FSS Chair under delegated powers.

5. The FBC will be provided with a secretariat function by the FSS Board secretariat.

Rights

6. The FBC may request the procurement of specialist ad-hoc advice at the expense of FSS, subject to budget agreement by the Chief Executive.

Access

7. The Chair of the FBC will have free and confidential access to the Chair and Chief Executive of FSS whenever appropriate.

Reporting

8. The FBC will report to the Board after each meeting.

9. A copy of the report summarising the financial performance of FSS up to the end of the previous quarter including identification of risks, issues and highlights taken to each FBC will be provided for ratification within the open FSS Board meeting papers.

10. The FBC will provide the Board with an Annual Report, outlining its work during the previous financial year.

Meetings

11. The procedures for meetings are:

- the FBC will meet four times a year. The Chair of the FBC may convene additional meetings, as they deem necessary;
- meetings will be scheduled to enable timeous review of quarterly financial reports;
- a minimum of two members of the FBC and the Chief Executive or their nominated deputy will be present for the meeting to be deemed quorate;
- FBC meetings will normally be attended by the Head of Governance and Infrastructure and the Head of Finance and Procurement;
- the Chair or the Chief Executive may ask any other officials of the organisation to attend to assist it with its discussions on any particular matter;
- the FBC may ask any or all of those who normally attend but who are not members to withdraw to facilitate open and frank discussion of particular matters; and
- the Board or the Chief Executive may ask the FBC to convene further meetings to discuss issues on which they want the Committee's advice.

Responsibilities

12. The FBC will seek assurance of finance and business delivery on behalf of the Board to:

- support the Board in strategic oversight of the financial performance of the organisation;

- oversee financial planning and annual budgets to support delivery of the FSS Strategy and Corporate Plan;

- scrutinise the financial and other performance information relating to FSS;

- review the annual budget allocation process undertaken by the Executive and consider associated strategic risks and issues arising as part of the budget allocation and refer appropriate strategic risks to the Board;

- support the Board in strategic oversight of operational performance and staff resourcing including recruitment challenges, staff turnover and review of the Workforce Plan and the Staff Engagement Survey; and

- give appropriate high-level oversight and advice on the in-year Corporate Plan.

13. The FBC will also periodically review its own effectiveness, including performance, constitution and terms of reference, and report the results of that review to the Board and the Chief Executive, recommending any changes it considers necessary.

Information Requirements

14. For each meeting the FBC will be provided with:

    - a report summarising the financial performance of FSS up to the end of the previous quarter including identification of risks, issues and highlights;

    - a performance report summarising corporate performance *(e.g. staff vacancies, anything impacting on the delivery of the Corporate Plan)*

    - As and when appropriate the Committee will also be provided with:

    - a report summarising the process undertaken by the Executive with regards to the budget allocation for following financial year;

    - a copy of the Workforce Plan;

    - a copy of the Staff Engagement Survey results.

15. The above lists are minimum requirements for the inputs which should be provided to the FBC. In some cases, more may be provided.

Annex E

Scheme of Delegation

Annex F

Statement on Performance of Functions

Annex G

Standing Orders

Annex H

Code of Conduct for FSS Staff