
**MINUTES OF THE FSA BOARD MEETING HELD ON 9 September 2015 AT
AVIATION HOUSE, LONDON FROM 09:00-12:45**

Present:

Tim Bennett, Chair; Henrietta Campbell, Deputy Chair; Ram Gidoomal; Jeff Halliwell; Heather Peck; Roland Salmon; Jim Smart; Paul Wiles

Officials attending:

Catherine Brown, FSA Chief Executive
Jason Feeney, FSA Chief Operating Officer
Steve Wearne, FSA Director of Policy
Professor Guy Poppy, FSA Chief Scientific Adviser (CSA)
Michael Jackson, Head of Local Authority Policy and Delivery
Paul Cook, Head of Microbiological Risk Assessment
Chris Hitchen, FSA Director Finance and Strategic Planning
Will Creswell, FSA Head of Consumer Protection & Commercial Support
Javier Dominguez (Veterinary Director and Head of Foodborne Disease Control
Rebecca Merritt, FSA Head of Private Office

WELCOME AND ANNOUNCEMENTS

1. The Chair welcomed everyone to the meeting and invited the Deputy Chair to introduce the meeting.
2. There were no apologies given on behalf of Board members. The Chair reminded all Board members to declare any relevant conflicts of interest before discussions.

MINUTES OF MEETING HELD ON 15 JULY 2015 (FSA 15/09/01)

3. The Minutes were agreed as an accurate record of the 15 July meeting.

ACTIONS ARISING (FSA 15/09/02)

4. All actions arising were accepted.

CHAIR'S REPORT

5. The Chair noted that following the formation of Food Standards Scotland (FSS) on 1 April 2015, the FSA had committed to keeping communications with FSS active at all levels. The Chairs and Chief Executives of the FSA and FSS agreed to meet twice a year and a productive meeting had taken place in August 2015.
6. The Chair updated on his trip with Jennifer MacDonald, the CEO of Dairy Food Safety, Victoria, Australia, on 20 August 2015 to a raw dairy milk farm. He thanked the farm for their hospitality and said it was interesting to discuss shared issues with international colleagues.

CHIEF EXECUTIVE'S REPORT (FSA 15/09/03)

7. The Chief Executive drew attention to the work with the Department of Health which had taken place to allow consumers to have online access to a 'scorecard' of information about care homes in England, including their food hygiene ratings. She noted that this is a good example of collaborative working and further application of the Food Hygiene Rating Scheme (FHRS).
8. A Board member asked how long a food hygiene rating lasted for. The Chief Executive said it was valid until the next inspection. She added that the time between inspections was dependent on the characteristics of the Food Business Operator (FBO); however issues around Local Authority enforcement delivery mean that actual times between inspections may vary.
9. The Chair of Wales Food Advisory Committee noted that proposed regulations in Wales will create offences for publishing invalid food hygiene ratings. He gave an example of where a publication contains a food hygiene rating which is subsequently changed and enquired as to whether this would then become illegal. The Chief Executive said there were still practicalities to iron out, but that she was pleased with the progress we were making jointly with Welsh Government on requiring businesses to publish their ratings.
10. The Chair highlighted that the Triennial Review of the six Scientific Advisory Committees for which the FSA is lead sponsor will be launched formally in September. An Advisory Group of 'critical friends' will be chaired by Professor Guy Poppy, and Board member Paul Wiles has agreed to be a member of the group.

DEVELOPMENT OF THE FRAMEWORK FOR CONTROLS RELATING TO FOODS WHERE RISKS PER SERVING ARE SIGNIFICANT, AND ITS FURTHER APPLICATION TO BURGERS SERVED RARE¹ IN CATERING OUTLETS (FSA 15/09/04)

11. The Chair welcomed Michael Jackson and Paul Cook to the table and invited Steve Wearne, to introduce the first two of the three areas the Board had been asked to discuss, namely the revised framework and FSA advice on the consumption of rare burgers.
12. The Board agreed that the framework should be applied to foods with an elevated risk per serving. The Board proposed that in prioritising foods for consideration the executive should assess evidence not only on the risk per serving of different foods, but also on the severity of the hazard and the proportion of the population likely to be exposed. In this way, priority for consideration would be given to those foods where appropriate controls could provide the greatest overall gains in protecting consumers and their interests.

¹ For the purposes of this paper, the term rare refers to burgers that would be considered to be deliberately less than "fully cooked".

13. One Board member raised a concern about the reference in footnote 9 to some divergent views that had been expressed by stakeholders, suggesting that it was unfortunate to give them publicity. Overall, though the view was taken that our commitment to openness meant that we should seek out, and give serious consideration to divergent views. The Deputy Chair said that she found it helpful to see the views in footnote 9 and to have the opportunity to hear the feedback that some were suspicious of the FSA's motives, and that she hoped that the adoption of the framework would make clear to concerned stakeholders that we were driven by a fair and rational set of factors relating to consumer interests and risks and not any prejudice against traditional foods. She also raised the importance of balancing considerations of different consumer interests and not over-privileging choice as against nutrition, for example. Steve confirmed that the intention was to bring all the aspects of consumer interests the Board had discussed and agreed in framing the FSA strategy to 2020 to bear when proposing appropriate controls for different foods.
14. There was some discussion about the wording of the framework as it related to the intermediate area of risk – initially described as “unacceptable unless”. Steve explained that the intention in using this wording was to be clear that our default position for food risks in this intermediate area is that in the absence of specific and appropriate controls they are unacceptable. It was agreed that the language of the framework and later language relating to rare burgers specifically should be made as clear and unambiguous as possible.
15. The Board agreed that application and use of the framework and associated decision tree should help to make transparent the evidence and factors which will be taken into account when considering foods with an elevated risk per serving, and it also offers the opportunity to bring further consistency to decision making. The Board agreed that these tools should be seen as supporting transparent decision making rather than constraining it.
16. The Board then moved on to affirm the FSA's advice on rare burgers specifically. Throughout the discussion it was emphasised by Steve, the Chair and others that there is no change to the FSA's advice on the consumption of rare burgers, which remains that when cooking burgers consumers should ensure that they are cooked until the juices run clear and there is no pink visible, and it was particularly important that consumers follow this advice consistently when cooking at home.
17. Steve then introduced the application of the framework to rare burgers and asked Michael Jackson and Paul Cook respectively to summarise our work with local authorities to date, and the microbiological and epidemiological evidence base. Paul pointed to the nature of contamination with food pathogens, which would lead to absence or low levels of food pathogens in most batches of meat for mincing, with occasional and unpredictable spikes of contamination.
18. The Chief Scientific Advisor welcomed the use of a source-pathway-receptor model to describe risks related to rare burgers and their control as this supported adoption of a farm to fork approach in controlling food risk, focusing on each stage in the food supply chain and its role in achieving risk reduction.

19. A Board member suggested that the FSA would be inconsistent if it concluded that rare burgers were unacceptable under all circumstances given that steak tartare is allowed to be served in catering establishments providing appropriate controls were in place. She expressed concern though that new establishments serving rare burgers might start up without registering with their local authority and without applying appropriate controls, and asked what steps might be taken to ensure that establishments intending to serve rare burgers gave prior notification to their local authority. Michael outlined the current statutory requirements on food businesses to register with their local authorities when starting up and when making material difference to their practices. There was general agreement that the executive should explore the scope for making prior notification the expected practice, as part of the suite of appropriate controls.
20. The Chair of the Welsh Food Advisory Committee (WFAC) informed the Board that, despite him having not influenced them on the issue, the WFAC were uneasy about the proposals in the paper and, in particular, how enforceable the proposed controls were. The Committee had noted that individual choice is a complicated concept and that as food pathogens may be easily transmissible from person to person, not only the person making the choice bears a risk. The Chair of WFAC noted the consumer research summarised in the paper that suggested two thirds of the population are rejecters of rare burgers and the other third may well change their view given the evidence. He saw this as supporting a clear message that the practice of serving burgers rare is not acceptable in catering establishments.
21. A Board member reminded the Board that Public Health England and its equivalent bodies in the devolved nations closely monitored the incidence of confirmed human cases of pathogens, including priority food pathogens, and had not identified any upward trends or material divergence from expected number of cases for STEC, despite a significant increase in the practice of serving rare burgers over recent years.
22. There was general agreement that consumer advisory statements should form part of any control framework, and a discussion, some of which was highly critical, on the appropriateness of the various statements that had already been adopted by various chains that serve burgers rare. Several contributors felt that it was important that only clear statements that met criteria set out by the FSA on the basis of the recent research we have carried out with consumers on the effectiveness of different forms of advice should be accepted as meeting this element of the requirements. Steve reminded Board members that, in line with the Board's conclusions in its initial discussion of burgers served rare in January, we had asked restaurants to develop and implement wording in advance of completion of the consumer research which now gave a basis for development of a good practice guide to consumer advisory statements.
23. In response to a Board member who expressed his dissatisfaction with the lack of market analysis, the Chair reminded the Board that at their request the paper had been brought forward by two months, limiting the availability of the analysis the FSA had commissioned. Steve said that although not available at the time of writing the

Board paper, market intelligence research has now been completed, the headline findings of which were:

- the number of outlets among the 13 main gourmet burger operators stood at 209 in July 2015 and was predicted to increase to 265 by 2018;
 - gourmet burger bar usage has its core in the 15-34 age group, and the usage of individual brands within the sector continues to rise with income up to and above £50,000 p.a.
24. A Board member was concerned that the practice of cooking rare burgers is already becoming widely established and that if the FSA does not act quickly any subsequent FSA guidance will be less effective and more difficult to enforce. Steve reiterated the executive's view that if food business operators cannot achieve the controls outlined in the paper then product should not be sold and, in this way, the proposals from the executive have been designed to support and enforceable approach to consumer protection in those circumstances.
25. A Board member said she felt the proposals in the paper did not yet go far enough and there was more work to do on further reducing the risk from *E coli* O157. She would be happier if we looked at what further controls could be applied before we said we were content for consumers to eat rare burgers. In the meantime she felt there was more work to do on making consumers aware of the risks from eating rare burgers.
26. The Chair of WFAC stated that the Committee had explicitly disagreed with the third recommendation as set out in the paper and a Board member said he felt that until a clear best practice statement had been agreed, we should not agree to the third recommendation.
27. The Chair acknowledged the difference in opinion among the Board and called for a vote on the proposal.
28. It was proposed that the risk posed by rare burgers served in catering establishments is acceptable only if:
- businesses intending to serve burgers rare pre-notify their local authority as part of the registration required by law;
 - a validated and verified food safety management plan is applied by the food business operator that combines:
 - source control" through the sourcing of meat only from establishments approved under EU legislation for the supply of minced meat intended to be eaten raw or lightly cooked and whose sampling is carried out in accordance with microbiological criteria for mince to be consumed raw; and
 - specific identification of Salmonella and STEC, among other pathogens, as particular hazards within food safety management plans, with evidence that controls for these organisms have been validated and their effective application is verified. Sampling and testing regimes should be established within those plans to validate and verify controls, with specific corrective action in the event of adverse results; and

- “pathway management”, in which any prior treatment in the catering establishment (such as steam treatment or searing), together with cooking lead to a combined reduction of at least 4-log in the load of microbiological flora (demonstrated by challenge testing or alternative validation); and
 - “receptor protection” through the adoption of an appropriate consumer advisory statement in line with FSA good practice guidelines at the point of ordering food, for example on menus, and the practice that children are only served burgers that are well-done.
 - Where these controls are absent, or are not consistently and effectively applied, we would consider the resultant risks to be unacceptable and enforcement action should follow at a level of the enforcement hierarchy that is appropriate to the significance and severity of the hazard associated with STEC
 - The Board agreed by 4 votes to 3 with the proposal.
29. The Board agreed that, in parallel to implementation of the above, the executive should:
- provide them with assurances on the controls that have been put in place by suppliers of minced meat intended for consumption raw or lightly cooked, their maintenance, and the effectiveness of these controls in reducing pathogen prevalence and/or load in minced meat, through exploring the use of a combination of source reduction and pathway options (for example as mentioned in the Canadian evidence referenced to in the Board discussion) to facilitate the reduction, in terms of microbiological safety, equivalent to that achieved by subjecting burgers made from standard sourced mince to a 6-log reduction by thorough cooking;
 - secure advice from the Chief Scientific Adviser and, as necessary, the Advisory Committee on Microbiological Safety of Food on impactful interventions that may be used in either source control or pathway management; and
 - identify measures we would use to track the impacts of the application of these new controls (for example, lab-confirmed human STEC cases), and the levels of each of these measures that would trigger referral of the issue back to the Board.
30. In terms of risk communication, the Board agreed that the FSA should:
- develop and implement a communication plan to explain these risks and controls to the public, including reinforcing the message that burgers and similar products should always be thoroughly cooked at home; and
 - take a lead in ensuring consumer advisory statements used by catering establishments are consistent, draw on the newly available consumer research described in the Board paper, and are applied wherever rare burgers are served.
31. The Chair proposed that the executive should bring forward a separate paper to the Board on consumer advisory statements and information available to consumers at point of sale in general.

STOW PROJECT - PHASE 2 (FSA 15/09/05)

32. The Chair welcomed Jason Feeney and Chris Hitchen to the table and invited Jason Feeney to introduce the paper
33. Jason said this was an update on the reforms of the discounting scheme for meat official control charges. Current proposals were being submitted to the Regulatory Policy Committee (RPC) and the Reducing Regulation Committee (RRC). If these were approved the changes would take effect in April 2016. The IT system to support these changes is currently being built. Phase 2 will be taken forward by current Steering Group chair, Bill Stow. The Board are to, through the commissioning of a scope; ask the Steering Group what they believe they are capable of in Phase 2.
34. A Board member highlighted that the paper stated ‘that if Phase 1 cannot be implemented the overall strategy around meat official controls charging should be brought back to the Board for re-evaluation’ and asked if it would be possible to move to Phase 2 without delivering Phase 1. They also commended The Chief Executive on her appointment of Bill Stow and in turn commended Bill for his delivery. The FSA Analytics team was, they noted, instrumental in this work and as a consequence of all of the above there is a good basis from which to work from.
35. Jason said that whilst this work was challenging there is an appetite within industry to move to a sustainable funding model.
36. The Chair reiterated that it was a complex issue: the FSA had inherited this system and was determined to develop it. He proposed that Board member Jeff Halliwell continued to participate in the Steering Group for Phase 2, as he had done in Phase 1. This was accepted.
37. A Board member said that Phase 2 will have to be delivered within greater future funding constraints and that the new strategy changes the FSA’s relationship with FBOs. This means the FSA can encourage others to come up with answers, which are acceptable to consumers, as opposed to doing it themselves.
38. The Chair recalled a recent talk he had given at the British Meat Producers Association where he had said that businesses and industry have a responsibility not to wait for the FSA to propose options but to be active in developing systems.
39. Jason Feeney said that it was the FSA’s obligation to engage in a constructive dialogue with industry.
40. Chris Hitchen said that Phase 1 would hold the current cost to industry at the same level, with no loss to industry as a collective. This would give a platform to drive efficiencies in Phase 2, where a new delivery model would be developed.
41. The Chair thanked Jeff Halliwell for his continued involvement with the Steering Group and noted the Board approved the proposals in the paper.

PROGRESS UPDATE ON DEVELOPMENT OF THE NATIONAL FOOD CRIME UNIT AND OTHER KEY RECOMMENDATIONS OF THE POST HORSEMEAT REVIEWS (FSA 15/09/06)

42. The Chair opened by highlighting that it is important to have the FSA openness policy published into the public domain and stating that this paper does not indicate a change to the openness policy. He welcomed Jason Feeney and Will Creswell to the table and invited Jason to introduce the paper.
43. Jason said that the paper was a detailed update on the progress of the National Food Crime Unit (NFCU), including intelligence gathering and supporting investigations. As the Chair had previously mentioned the paper also includes the FSA openness policy.
44. Will Creswell said that the paper provided reassurance that the FSA will abide by policy when pursuing criminal justice outcomes. However there are exceptions around law enforcement and legal privilege. Decisions around exceptions will take place in accordance with the FSA's existing policy and will be checked by the Audit and Risk Assurance Committee.
45. A Board member said that there is a difficult balance between openness and operational effectiveness because of prejudicing or jeopardising operations. They proposed that having a consumer representative involvement may help achieve this balance. They were concerned that there was no Welsh Government member in the Food Integrity or Food Crime Teams. They said that they were having discussions with Environmental Health, Trading Standards and the Head of Food Safety Wales regarding joined up working. They said it would be useful to know how the Welsh Food Fraud Coordination Unit's and Food Safety Wales' work fits in to the NFCU's work.

ACTION: Director of Wales & Local Delivery

46. Jason Feeney agreed that a consumer representative would be useful, and would explore options.

ACTION: Chief Operating Officer

47. A Board member said they supported the openness policy and that it showed we wanted to open about why we have to hold some discussions in private. They asked when the annual assessment of the NFCU would be available. Will said it would be available in December 2015.
48. A Board member stated that this was the start of the FSA being involved in policing operations and that in doing so we do not want to undermine public trust. They welcomed the clarity of the paper in reassuring the Board about how decisions will be conducted through the Audit and Risk Assurance Committee. They noted that law enforcement is not an effective way of reducing crime and that crime prevention is critical as the potential for crime is designed out. The use of human intelligence can potentially be very damaging to public trust and executive oversight is required in order to maintain strict control.
49. The Chief Executive said that on the subject of human intelligence, herself and Rod Ainsworth had had recent discussions with a judge regarding the use of human intelligence, and he was very complimentary of the FSA's processes.

50. The Chair added that because of the role of the NFCU, the FSA might be pushed down the route of using human intelligence as a source of information, but that other, more appropriate sources may exist.
51. A Board member noted that this work is resource intensive, and asked if suitability skilled staff had been recruited. They enquired about work taking place in Northern Ireland and any engagement with Food Safety Ireland, as they have well established systems to monitor current crime.
52. Will said that Phase 1 will be reviewed after 2 years to look at the evidence obtained and the scope of criminality exposed. With regards to Northern Ireland he said there are good links between relevant organisations. He pointed to work tackling fake vodka as an example.
53. Jason answered the query around resourcing by saying there was no problem in finding people with the right skills to fill posts. There are funding discussions currently taking place as part of the wider Spending Review. Jason is having discussions with the Directors of Wales and Northern Ireland regarding their role. It was important not to lose the local focus whilst addressing cross-border fraud. He also highlighted that there are good relationships with FSS too.
54. The Chief Executive reinforced that the Unit has the right skills to deliver, however funding reductions will mean this will need to be reviewed.
55. Jason added that additional funding will be required to move to Phase 2
56. A Board member said that after meeting staff in the Unit on the day before the Board meeting, they were encouraged by how staff with a background outside the food sector were working with those possessing food expertise. Because of the size of the food sector, they asked what is being done to manage expectations to allow stakeholders to understand the scope of the work. The international aspect of this work is potentially large too. They accepted that whilst the Board may not be privy to information during operations the Audit and Risk Assurance Committee must approve systems. An important aspect of this work is establishing trust, particularly with FBOs.
57. A Board member voiced their support for openly detailing what discussions will be open and what will be private and drew parallels to this sort of practice in NHS trusts. They asked how the Board could add value to this work, drawing attention to the fact the Board had a range of expertise, and could aid in designing out risks. They appreciated that they were operational issues and suggested that the Board can exercise governance responsibility without getting in the way of work.
58. The Chair then asked how the Board can help set priorities and for this to be considered. The Chief Executive responded by saying there is an opportunity during the Annual Review of Strategic Risk and that there is a governance role for the Board around defining the scope and managing expectations. She highlighted that

Phase 2 would not be delivered as all-encompassing interventions but would be targeted activities based on priorities.

59. The Chair thanked the Board for a good discussion and commented that safeguarding of openness was highly important and that there will be an interest in how the systems surrounding it have been used.

UPDATE ON EUROPEAN COMMISSION'S AMENDMENTS TO THE TSE REGULATIONS – IMPLICATIONS FOR THE UK (FSA 15/09/06)

60. The Chair opened by reiterating the FSA's commitment to ensure that changes to TSE regulations are always reviewed in the public domain to ensure consumers are well-informed. He then welcomed Javier Dominguez to the table and invited Steve Wearne to introduce the paper. Roland Salmon declared an interest as the interim Chair of the Advisory Committee of Dangerous Pathogens (ACDP) and Chair of ACDP's Transmissible Spongiform Encephalopathy Subgroup.
61. Steve reminded the Board of the numerous controls put in place to reduce the prevalence of BSE and control the associated risks. As case numbers declined, controls have been relaxed but as the Board has affirmed during a previous discussion it remains critical that three areas of control continue to operate effectively when considered in combination: the removal of Specified Risk Material (SRM); controls over animal feed; and surveillance to spot any re-emergence of disease. The paper notes the legislative changes on SRM and progress on the European Commission's TSE Roadmap, and puts on public record breaches of TSE compliance.
62. The Board discussed the paper and reiterated the critical importance of the three areas of control. The Deputy Chair asked whether there was any threat to the sustainability of surveillance in particular as Defra's budgets came under increasing pressure.
63. Steve replied that advice from ACDP indicated they were generally content with the current situation, notwithstanding some concern regarding the incomplete state of knowledge relating to atypical BSE..
64. A Board member said that further relaxation of controls was inevitable as BSE and vCJD cases decrease but surveillance is required because this relaxation may set up conditions where BSE and vCJD can re-emerge. They reaffirmed their support and WFAC's support for FSA work and research in this area. They also noted that it would take 16 years before a 10% increase in cases could be shown and 36 years for 3 cases to show up, so further research was needed to develop a 'live test' which could identify cases earlier.
65. The Chair said there was still no evidence of a suitable 'live test' which could identify cases. He asked for an update on progress in this area.
66. Javier noted that during European negotiations atypical BSE data was not available, but better data will be available by the end of the year. A research wash up is also being held to gain an understanding of research need. Research at the EU into a live

test has been stopped due to a low number of cases, but this will be revisited at the wash up.

67. The Chief Executive recommended the Board should reaffirm importance of the 3 strands of controls, but cautioned that any recommendations for further research would need to be considered against other priorities for future programme expenditure.
68. The Chair agreed and noted that the Board continued to support work in this area.

AUDIT AND RISK ASSURANCE COMMITTEE (ORAL REPORT)

69. The Chair invited Paul Wiles, Chair of the Audit and Risk Assurance Committee (ARAC), to present his oral report to the Board.
70. The Chair said that the ARAC meeting the previous day had covered four main areas. Firstly, the actions that the Executive Management Team have put in place to mitigate risks in the corporate risk register were discussed and that the risk appetite of different risks are being differentiated. The Chair said that he could reassure the Board that identified risks are being properly addressed. The Board, as a whole, will discuss the risk register at the January 2016 session.
71. The Committee received an update from the Head of Internal Audit on the delivery of the internal audit plan, and heard from management about implementation of actions on recent audits
72. Thirdly, the ARAC reviewed their Terms of Reference and has performed a self-assessment, its first since its creation in 2014. The terms of reference were amended to reflect the changes required following the creation of Food Standards Scotland
73. For the self-assessment, whilst the members thought that the Committee was performing its role well, the Chair acknowledged that this was not an impartial view and has asked the FSA's National Audit Office Director to report to the Committee good practice observed on comparative ARACs.
74. Finally, whilst the internal audit strategy is risk-based and agreed by the Committee, there are some areas of FSA work that are unlikely to be audited due to their size and current risk rating. This year, for the first time, assurance over some of these areas is being provided directly to the Committee. This was the first meeting when this had happened and had been appreciated by ARAC members.
75. The Board Chair thanked the ARAC Chair for his report, and reminded Board members that the corporate risk register would be sent to all members for information, as agreed previously, so that non-ARAC members were aware of the corporate risks, and the mitigating actions being taken.

REPORTS FROM THE CHAIRS OF THE FOOD ADVISORY COMMITTEES (INFO 15/09/01–02)

76. Henrietta Campbell, chair of NIFAC, noted MenuCal, a free online tool to help food businesses calculate and display the calorie and allergen content for their foods, has been developed and was presented to the committee ahead of its launch on 24th September 2015.
77. Roland Salmon, Chair of WFAC, reported that he had attended the Transatlantic Trade and Investment Partnership conference organised by Public Health Wales and the Faculty of Public Health.

ANY OTHER BUSINESS

78. The Chair advised that there was no other business and closed the Board meeting

DATE OF NEXT MEETING

79. The next meeting of the FSA Board would take place on Wednesday 18 November 2015 in Aviation House, London.