

## **MINUTES OF THE FSA OPEN BOARD MEETING HELD ON 5 NOVEMBER 2013 AT AVIATION HOUSE, LONDON, FROM 13.00 TO 17.30**

### **Present:**

Tim Bennett, Chair; Henrietta Campbell, Deputy Chair; Sue Atkinson; Liz Breckenridge; Margaret Gilmore; Jeff Halliwell; Roland Salmon; Jim Wildgoose; Paul Wiles.

### **Officials attending:**

Catherine Brown, FSA Chief Executive  
Andrew Rhodes, FSA Chief Operating Officer  
John Barnes, FSA, Operational Delivery Group  
Steve Wearne, FSA Director of Policy  
Liz Olney, FSA Head of Central Operations  
Chris Walding, FSA, TSE Policy Manager  
Rod Ainsworth FSA, Director of Regulatory and Legal Strategy  
Tim Franck, FSA, Animal Feed Policy Manager  
Keith Millar, FSA, Head of Animal Feed and Animal By-Products  
Maria Jennings FSA, Director of Northern Ireland  
Susan Pryde, FSA, Branch Head Healthier Eating and Food Standards  
Rebecca Merritt, FSA Head of Private Office Group  
Rob Hann, FSA Head of Secretariat

### **Also attending for the item on Local Authority Audit Rating Scheme in Wales:**

Graham Perry (Public Protection Manager, Monmouthshire County Council)

### **WELCOME AND ANNOUNCEMENTS**

1. The Chair welcomed everyone to the meeting including observers both in the room and online.
2. The Chair reminded Board Members to declare any relevant conflicts of interest before discussions. No interests were declared.
3. No items for Any Other Business were raised for later discussion.

### **MINUTES OF MEETING HELD ON 11 SEPTEMBER 2013 (FSA 13/11/01)**

4. The Chair read out a change requested from Alan McNaughton who attended the meeting for the item concerning compliance in the meat industry. It was agreed that the statement should be included in the Minutes of the Open Board meeting on 11 September and the Minutes were agreed as an accurate record.

**Action: Board Secretariat**

### **ACTIONS ARISING (FSA 13/11/02)**

5. A Board Member asked about the proposed charge for carrier bags in supermarkets and whether the FSA had a clear policy on bags for life. Steve Wearne advised that the cross contamination question when re-using bags had been the subject of three separate reports. It was agreed that the FSA should engage with retailers to ensure guidance was clear to consumers and that the consumer guidance on the FSA website should be reviewed.

**Action: FSA Head of Policy**

6. The actions arising from the 11 September 2013 Open Board Meeting were accepted with no changes.

### **CHAIR'S ORAL REPORT**

7. The Chair reminded the Board that the process of recruiting a new Chief Scientific Advisor was underway and reassured the Board that although there was no Chief Scientist at the Board today the same procedures and checks on science governance which the Board agreed in July 2012 continued to be applied, and that this would provide the basis for assurance on the use of science in papers brought to the Board in the interim before the appointment.

These included: the use of the Science Checklist; the inclusion of an Evidence Section in Board papers to highlight key scientific evidence; and input from the Chief Scientist Team in the drafting of all papers with a significant science element, to provide an independent check that evidence is properly presented.

In terms of general questions on science in discussion at today's meeting, Steve Wearne would respond, reflecting his overall accountability for the use of science in policy; where Steve wished to consult colleagues on the detail to be able to provide a full and accurate answer, he may offer to take an action to respond to the Board after the meeting.

8. The Chair reported that he had:
- Been to the launch of the FSA Chief Scientist Annual Report at the Royal Society in London.
  - Attended the Farmers Weekly Awards in London
  - Attended the Association of Independent Meat Suppliers annual dinner and Conference, where he spoke about partnerships and how the FSA and the meat industry could work best together in the future in areas such as future meat controls, pig meat inspections, reforms on the current discount system for charging for official meat controls and Campylobacter.
  - Attended the Public Chairs Forum in London where relationships between departments and public bodies were discussed.
  - Attended the Food Safety, Risk and Modern Supply Networks conference at the

Lithuanian Embassy in London. This was hosted in partnership between the Lithuanian Embassy and the FSA and focused on the European Commission proposals to replace EU regulation 882/2004 on official controls for feed and food law. Steve Wearne gave a presentation and the Chair gave a welcome speech congratulating the Ambassador on Lithuania's first presidency of the EU.

- Met with Edwin Poots, Health Minister for Northern Ireland on the 1st October, Jane Ellison the new Public Health Minister for England on the 17th October and Mark Drakeford the Minister for Health and Social Services for Wales on the 30th October.
- Planned to meet with George Eustice, the new DEFRA Minister on Monday 11 November

The Chair also reminded the Board that the Health Select Committee had postponed the pre-appointment hearing for the new Chair of the Food Standards Agency. A Board Member expressed their concern about the length of time it was taking to appoint a new Chair and suggested that the Board should write to Ministers. The Chair agreed to liaise further with DH and express the Board's concern at lack of progress.

**Action: Chair to raise concern with Ministers**

#### **CHIEF EXECUTIVE'S REPORT (FSA 13/11/03)**

9. The Chief Executive referred to the CE Report already circulated and asked for any questions.
10. A Board Member asked about the engagement with senior representatives of the major retailers referred to in para 1.2 regarding their efforts to reduce campylobacter. The Chief Executive responded that discussions had focused on obtaining commitment from the retailers to reduce Campylobacter, as well as establishing good communication channels. Board Members also enquired about the Food Fraud Update in para. 9.1. They sought clarification on what happened to information entered onto the National Food Fraud Database. The Chief Executive responded that the data collection allowed immediate and aggregated information to be analysed but that further work to ensure that the maximum value was gained was underway as part of thinking on the development of the information hub. The Board remained keen to have the opportunity to engage directly with senior figures in retail on the subject of their plans for dealing with Campylobacter.

**Action: Chief Executive and Chair to consider opportunity of engagement with retail sector**

11. In reference to the Update on Hepatitis E cases (in pigs and raw pork products), the Chief Executive took a question on whether a specific piece of work was planned in relation to the education of consumers, particularly those in high risk groups on this issue. She clarified that there was no basis on which to change our existing advice but that the possibility of risk-segmented, tougher advice was under consideration more widely as part of strategy review.
12. A Board Member enquired why it fell to the FSA to respond on the sale of 2, 4-

Dinitrophenol (DNP). The Chief Executive replied that clearly Government wanted to respond and the FSA's capabilities with LA's social media meant that the FSA were best placed to do so, and that this had been undertaken on the basis it was not a material demand on resources and had no negative effect on our core work.

13. Discussion took place about the Judicial Review Proceedings by Newby Foods Ltd. against the FSA. In summary, the Chief Executive stated that the Commission remained concerned and committed to making sure they enforce the view they have always taken. The Chair asked about the 51 tonnes of lamb meat and whether we should restate the view about safety for the benefit of the public. Steve Wearne replied that the risks were very low even if the meat was to be used in human food which is not proposed.
14. A Board Member asked about the Outbreak Control Team (OCT) in relation to the E-Coli outbreak (para7.1) and enquired whether it was normal that Public Health England set up the OCT. The Chief Executive confirmed that it was and that the FSA worked closely with PHE during the process and the relationship is working and developing very well. Board Members welcomed the openness of publication of evidence into the public domain.
15. A Board Member raised their concern about the NAO report in para 2.2. The report stated that impact of the Machinery of Government changes that split the responsibilities for food policy between the FSA, Defra and DH had caused confusion for stakeholders. It was their opinion that Board Members should continue to reflect and remind Ministers of the Board's views whenever the opportunity arose. The Chair and Chief Executive confirmed this was what occurred.

#### **LOCAL AUTHORITY AUDIT RATING SCHEME IN WALES (FSA 13/11/04)**

16. The Chair welcomed Graham Perry, Public Protection Manager, Monmouthshire County Council and Geoff Ogle, Director FSA Wales to the table.
17. Geoff Ogle introduced the paper and reminded the Board that this was an update on progress to introduce an audit scheme for Local Authorities in Wales. The paper provided feedback on the pilots to test proposals for the award of a single banded "rating" to local authority food and feed law enforcement services following audit by the FSA. It also outlined changes to the initial proposals arrived at in light of the pilots and feedback from local authorities and consumers in Wales. The update had been prepared collaboratively, with the two local authorities involved in piloting the audit rating scheme in Wales and provided more transparency for consumers.
18. Graham Perry thanked Geoff and his Team for the work they had undertaken to date in driving this work forward. He welcomed the narrative rating system that met the need for clarity and transparency, but that did not oversimplify relatively complex issues, and particularly looked towards future performance as well as considering historic performance.

Graham Perry said LAs welcomed the opportunity for review following the initial pilot findings and reinforced the LA's commitment to work closer with the FSA to ensure delivery in the future. He also advised that LA's felt engaged in the process and saw

the collaborative approach on this project to be positive.

19. Board Members welcomed the collaborative approach as outlined in para 4.5 of the paper. Proposals to review the approach after the first six full audits would provide an opportunity to review the narrative approach and address any outstanding concerns.
20. Roland Salmon (WFAC Chair) welcomed the collaborative working and LA's contributions, given the FSA's dependence on LA's for delivery. He also reported that WFAC supported the narrative approach and agreed that the publication of LA audit findings in an effective, consistent and transparent way that consumers could understand was not an issue unique to Wales and that other LA's could learn from the progress being made in Wales.
21. The Board explained the importance of consistency and the use of clear unequivocal language comprehensible to consumers.
22. A Board Member reminded the Board that when consulted previously, consumers said they were highly unlikely to use anything other than a simple A-D rating system. The CE fed back that this has been considered but that the view was ultimately taken that a simple rating oversimplified performance and was not conducive to supporting improvements in performance.
23. In summing up, the Chair said the Board were supportive of the proposals and way forward as outlined in the paper, but one Board Member expressed some reservations in terms of whether this would increase transparency and accessibility of audit findings for consumers. It was agreed the Board would receive an update in due course on the learnings from the pilot phase.

**Action: FSA Interim Director of Wales**

#### **UPDATE ON HORSEMEAT ACTION PLAN (FSA 13/09/05)**

24. Andrew Rhodes provided an oral update on the FSA's Horsemeat action plan that addressed Professor Troop's independent review of the FSA response to the horsemeat incident.

Andrew Rhodes said the Scottish Government had published the report of its Expert Advisory Group in July. Since then, the FSA has had detailed discussions with Scottish Government to consider and agree the response to the 69 recommendations. Andrew Rhodes also said the National Audit Office published its Value For Money report on food safety and authenticity on 10 October. This made recommendations to Government in the areas of responsibilities, food intelligence, testing, targeting activity and efficiency. He noted that the FSA are looking forward to the publication of Professor Elliot's interim report of his review into the integrity and assurance of food supply networks, expected in December.

Finally, Andrew Rhodes updated on the progress with the actions against the four themes in the Troop Review –improving intelligence; major incident plan; clarity of roles and powers.

25. The Chair thanked Andrew Rhodes for his report.
26. Board Members asked about the current levels of LA's testing and whether the FSA could provide further assurance that the processed-product chain was still being policed. Andrew Rhodes responded that testing was still regularly being undertaken and results shared.
27. A Board Member enquired about the current situation regarding prosecutions following the horsemeat incident. Andrew Rhodes replied that investigations are continuing both in Europe and the UK. At present, there have been five arrests and no charges; we await any further decisions from the Crown Prosecution Service.

**BSE – A REPORT ON SURVEILLANCE AND ENFORCEMENT OF CONTROLS  
ON SPECIFIED RISK MATERIAL AND ANIMAL FEED – MARCH TO AUGUST  
2013  
(FSA 13/11/05)**

28. The Chair welcomed Chris Walding, (TSE Policy Manager) to the table to join Steve Wearne in presenting the paper.

The Chair also declared to the Board that it is usual practice, where the Board discusses issues which incorporate an assessment of public health risk that draws on advice from one of the scientific advisory Committees, that the Chair of the committee is invited to the table. In the case of this paper, and the assessment of public health risk from BSE, the Acting Chair of the Advisory Committee on Dangerous Pathogens (ACDP) is currently Dr Roland Salmon, who is also a member of this Board. To ensure that that the usual convention of functional separation between risk assessment and risk management could be respected, the Chair asked Roland, for the purposes of this agenda item, to make it clear when he was speaking as Acting Chair of the Advisory Group, and when he was speaking as a Board Member.

29. The Chair also read out a joint statement from the Director of British Meat Processors Association and referred to a letter circulated to Board Members that had just been received from Norman Bagley - (Association of Independent Meat Suppliers – AIMS) . He requested that both sets of correspondence be published.

**Action: Board Secretariat (completed)**

30. Steve Wearne, FSA Director of Policy explained that BSE risks are very low and reducing and that changes to controls are co-ordinated across the European Union as the risk reduced. He said that the latest change was stopping testing of healthy cattle slaughtered in the UK for human consumption, from 1 March this year, in line with the Board's advice to Ministers. Steve Wearne said that as the changes are implemented it's important that the level of compliance should be checked and if non-compliance found, the FSA would assess whether this might lead to an increased consumer risk.

In the six months since the testing changes were introduced, checks included:

- BSE testing of over 95,000 cattle, and cross-checks to ensure that no animal that should have been tested had missed tests and entered the food chain;
- Over 1,000 inspections of animal feed premises and over 2,300 tests of animal feed;
- Records of compliance regarding the slaughter of over a million cattle;
- Checks and audits in 189 authorised cutting plants.

Steve Wearne explained that this is the first report on results of monitoring and enforcement since the change in testing requirements on 1 March, and that he intended to bring a further report to the Board in another six months' time.

**Action: Secretariat to note for Forward agenda plan.**

Steve noted that one breach had been identified, where consumers had been exposed to beef containing vertebral column SRM. He felt that it was important to draw a distinction between spinal cord from cattle and sheep over 12 months of age, and vertebral column from cattle over 30 months of age, both of which were specified risk material. The breach identified, which led to consumer exposure, related to vertebral column SRM. The FSA concluded that the potential BSE health risk was extremely low. Nevertheless, all such breaches were taken seriously and a current investigation into the circumstances surrounding this breach was underway.

31. Roland Salmon (Acting Chair ACDP) responded that, from a risk management perspective, the report provided an assurance that there was little risk from the SRM material due to the other controls in place. However, they noted that further discussion may be required in the future about total removal of SRM material from the food chain which may not always be proportionate and justified by the risk.
32. Jim Wildgoose, in his role as SFAC Chair, explained that most of the SFAC discussion on this issue, had centred around the breach of controls on the removal and disposal of SRM material as noted at para 5.12. He asked why it had taken 22 months to discover the breach of controls and what the modifications are which are referred to in 5.13.

In response, Andrew Rhodes informed the Board that it was a requirement of the food business operators to notify the FSA where a carcass is transported to for the removal of the vertebral column. If the food business operator failed to notify the FSA the breach would not be identified until the audit stage, and if a FBO are compliant, the audit may not happen for up to 12 months and if SRM is not being processed on the occasion of the audit visit, breaches may well go undetected.

Andrew Rhodes said that the FSA now insist that all transferrable vertebral columns are notified to the official veterinarians and receipted. He also advised that this would continue for the time being and an assessment of the changed controls and any impact on charging would follow.

Some Board Members expressed their concern about the ability to resource the additional surveillance. Andrew Rhodes responded that a full assessment after three months will provide some idea of the impact.

The Chair reported that the perception for consumers may be that we are coming to the end of the surveillance period following the BSE crisis. The Board needed to ensure that consumers felt safe and confident that all the necessary measures and controls were in place. Some of the TSE rules had been relaxed and perhaps there was a need to explain in context why certain changes had occurred as well as need for lessons learned to be assessed to keep the BSE issue in the public domain. He suggested that perhaps a seminar of all parties may provide a vehicle for consumers to understand why and how changes have been made and what the timetable for current and future changes has been.

A Board Member noted the recent announcement that the Canadian and US markets were opening up to EU beef exports. This would lead to new business opportunities so it was important that these control measures were enforced to protect industry as well as the consumer.

In summary, the Chair confirmed that a six monthly report would be brought to the Board as already agreed. In addition the Chair asked for assurance that any breaches identified would be reported to the Board immediately via the CE's report

**Action: Steve Wearne and Andrew Rhodes**

#### **UK GOVERNMENT'S RED TAPE CHALLENGE (FSA 13/11/06)**

33. The Chair welcomed Tim Franck, Animal Feed Policy Manager and Keith Millar, Head of Animal Feed and Animal By-products, to the table to assist Rod Ainsworth presenting the paper.
34. Discussion took place about the definition of "due diligence" in the Food Safety Act, sustainability and the impact of the legislation on the devolved administrations. Board Members sought clarification on para 5.1 relating to the "removal of burdens" on business. Rod Ainsworth explained that this did not imply a lessening of consumer protection but it would mean an easier way of achieving compliance that translated into consumer benefit. The Chair request a redrafting of 5.1 so that the wording states that consumer protection remained the primary FSA priority.

In summing up the Chair said the Board noted the recommendations, subject to the changes/additions requested.

**Action: Rod Ainsworth**

**NUTRITION ANNUAL UPDATE: SCOTLAND & NORTHERN IRELAND (FSA 13/11/07)**

35. The Chair welcomed Susan Pryde, Head of Nutrition Science and Policy to the table to assist Maria Jennings presenting the paper.
36. Maria Jennings explained that the paper was an annual update on the progress against the FSA's strategic plan relating to nutrition.
37. Board Members raised a number of questions relating to the National Diet and Nutrition Survey (NDNS) and the transfer of data to the newly developed computerised database INTAKE 24, including how the evaluation of differing methodologies for reporting on dietary intakes would take place. Maria Jennings replied that the FSA was working closely with both Social Science colleagues and other countries in terms of their individual strategies before a full evaluation takes place.

Board Members also enquired about how well informed our nutrition work is by developments internationally e.g. in New York. Maria said links with New York were good at Ministerial level and a number of ideas had been taken into Northern Ireland thinking and reaffirmed the importance of international links. Susan Pryde advised that INTAKE 24 was a dietary monitoring database based on the NDNS system but, subject to evaluation, may well provide more robust sets of data at a quicker pace and better cost.

38. Further discussion took place about the metrics that support the paper, in terms of spend, consumer reach and consumer awareness. Maria Jennings agreed to provide the Board with further detail on the metrics.

**Action: Maria Jennings**

39. A Board Member asked if access to SACN remained satisfactory and Maria said it did and that this would be kept under review.

In summing up the Chair noted the progress on Nutrition in Scotland and Northern Ireland under outcomes three and four of the strategic plan and plans for future work. He also noted the likely timings for future Board evidence based discussions on salt.

**UK LOCAL AUTHORITY FOOD LAW ENFORCEMENT ANNUAL REPORT (13/11/08)**

40. The Chair welcomed John Barnes (Operational Delivery Group) to the table to assist Andrew Rhodes presenting the paper.
41. Andrew Rhodes said the detailed report was the official Government statistics for the enforcement of food law by UK Local Authorities and credited John Barnes and his

Team for getting the LA's to respond with the data and for the completion of the report within the deadline. Overall, the report showed that food safety compliance was still improving but resourcing of food standards work remained a concern.

42. John Barnes highlighted that for this year a stand-alone report with case studies had been included which highlighted the collaborative work between the FSA and Local Authorities. He also summarised the main highlights of the report for the Board that included over 500,000 food standards and food hygiene checks to protect consumer safety as well as LA's now targeting high risk businesses where levels of compliance are particularly poor.
43. Board Members congratulated the Team on the report and advised that FHRs continued to be the smart way to empower the consumer but Members remained concerned at the limited ability, due to the wider government limits imposed by on advertising to be able to promote the FHRs scheme, especially as display remained non-mandatory in England. Board members asked how schemes similar to FHRs or what alternative arrangements were in place within the EU. The Chief Executive advised that the FSA would be co-hosting a workshop on this issue for European Agencies and that this would be explored further then.
44. In summing up, the Chair said the Board noted the official statistics, considered the trends and issues and noted that the data would be made available on the FSA website.

#### **OPERATIONS GROUP QUARTER 1 (APRIL TO JUNE) 2013/14 PERFORMANCE UPDATE (FSA 13/11/09)**

45. The Chair welcomed Liz Olney, Head of operations Assurance to the table to assist Andrew Rhodes presenting the paper.
46. Liz Olney presented the performance report for quarter 1 of 2013/14. She highlighted the information provided on compliance in the meat industry, linked to throughput as requested by the Board following the meeting in September and drew the Board's attention to the new information included on the Food Hygiene Rating Scheme (England, Wales and Northern Ireland) and Food Hygiene Information Scheme (Scotland).
47. The Audit review was progressing well and stakeholder meetings were contributing and working to support future auditing improvements. Good progress was also being made on who would carry out future audits and how risks were managed. It was noted that proposals for the FSA's review of Food Business Operators audits would be presented to the Board in early 2014.
48. A Board Member noted that the dairy hygiene compliance figures were disappointing. Andrew Rhodes accepted that the dairy hygiene compliance did look of concern, but was able to reassure Board Members that in reality most of the non-compliance / incidents were very minor.
49. A Board Member highlighted the inconsistencies in compliance levels in egg production across the four countries and questioned whether this was a result of

inspections being undertaken by different bodies in the four countries. Andrew Rhodes agreed there was a need for standardisation to ensure greater consistency but noted that the majority of non-compliance was low level. In summing up the Chair noted the performance information.

**REPORTS FROM THE CHAIRS OF THE FOOD ADVISORY COMMITTEES (INFO 13/11/01-03)**

50. The Board accepted the reports from the Chairs of the NIFAC, SFAC and WFAC.
51. **ANY OTHER BUSINESS**
52. There was no other business to report, however the Chair took the opportunity to thank Sue Atkinson both personally and on behalf of the Board for her work for the FSA as this was her last Open Board; he wished well for the future.

**DATE OF NEXT MEETING**

The next open meeting of the FSA Board will be held on 21 January 2014 in London.