

# **MINUTES OF THE BOARD MEETING, 15 OCTOBER 2008, AVIATION HOUSE, LONDON**

## **OPEN SESSION, 1400 – 1745**

### **Present:**

Dame Deirdre Hutton, Chair  
Ian Reynolds, Deputy Chair and Chair of the MHS Board  
Sue Atkinson  
Tim Bennett  
Maureen Edmondson, Chair of the Northern Ireland Food Advisory Committee  
Margaret Gilmore  
Clive Grundy  
Michael Parker  
Chris Pomfret, Chair of the FSA Risk Committee  
Bill Reilly  
Nancy Robson, Chair of the Board Succession and Development Committee  
John Spence, Chair of the Wales Food Advisory Committee

### **Officials attending:**

Tim Smith, Chief Executive  
Andrew Wadge, Chief Scientist and Director of Food Safety  
Richard Calvert, Director of Strategy and Resources  
Terrence Collis, Director of Communications  
Vivienne Collett, Director of Legal Services  
Gill Fine, Director of Consumer Choice and Dietary Health  
George Paterson, Director, FSA Scotland  
Gerry McCurdy, Director of FSA Northern Ireland  
Steve Wearne, Director of FSA Wales  
Philip Clarke, Head of Better Regulation Team (items 3.1 & 3.2)  
Rosemary Hignett, Head of Nutrition Division (item 3.3)  
David Carruthers, Head of TSE Policy (item 3.4)  
Alastair Cannon, Board Secretary  
Sue Johns, Secretariat  
Karen Dell, Minutes

### **Others attending:**

Professor Chris Higgins, Chair of Spongiform Encephalopathy Advisory Committee (item 3.4)  
Professor Graham Medley, Spongiform Encephalopathy Advisory Committee (item 3.4)

## **Chair's Introduction**

1. The Chair reminded Board members of their obligation to declare interests before discussion of relevant items, and added that apologies for absence had been received from Graeme Millar.
2. There were no items raised for discussion under Any Other Business.

## **Item 1 - Minutes and Actions Arising**

### **1.1 - Minutes of Meeting on 17 September 2008, Aviation House, London** (FSA 08/10/01)

3. The Board agreed the Minutes of the meeting held on 17 September 2008 as an accurate record subject to the following amendments:
  - Para 27 – at the end of the second bullet point add “this would, in practice, include a requirement to cover sustainability issues in the impact assessment of Board papers.”
  - Para 48 to read “A request had come from industry to use the vacuum method for removal of sheep spinal cord as specified-risk material (SRM) used in France and the Netherlands. However, this method did not guarantee removal of the whole spinal cord. Tim Smith noted that an investigation by the FVO had found that 25% of sheep carcasses audited had up to 5cm of spinal cord still remaining. The Chair requested that the FVO’s view be sought on whether this was acceptable.”

### **1.2 - Actions Arising** (FSA 08/10/02)

4. In considering the table of actions the following points were noted:
  - Action 17Oct07/0/348 (Improving engagement with food service sector) – this was to be covered under agenda item 3.3.
  - Action 7May08/0/373 - (Quarterly reports to the Board on Meat Hygiene Service transformation targets and performance) – these had been put back from December 2008 to February 2009 to allow the MHS Board time for further consideration.

## **Item 2 - Oral Reports**

### **2.1 - Chair's Report**

5. Details of engagements had been provided in the bound papers for this meeting. The Chair reported on her:
  - attendance at fringe meetings at the various party conferences. She emphasised that had she attended as she was not a civil servant and was not accompanied by FSA staff;
  - meeting with Klim McPherson, Chair of NICE, to talk about FSA involvement in NICE work on the prevention of cardiovascular disease; and
  - attendance at the WRAP (Waste & Resources Action Programme) dinner focussing on the reduction of food waste.
6. The Deputy Chair reported on his meeting with Michelle Gildernew, Minister of Agriculture and Rural Development in Northern Ireland, when cross-border trade, country of origin labelling and the encouragement of artisan food production were discussed. Matters relating to the MHS were discussed. There was support for time-based charging but also a recognition that general cost pressures would cause resistance.

### **2.2 - Chief Executive's Report**

*(FSA 08/10/03)*

#### Melamine in Chinese Milk Powder

7. Tim Smith reported on the latest developments on melamine in Chinese products, noting that the UK was ready to act on this issue when the European Commission adopted its Decision requiring Port Health Authorities and Local Authorities to sample and analyse relevant products. Revisions to this Decision discussed at a Standing Committee meeting on 10 October included:
  - application of the provisions of the Decision to both food and animal feed;
  - random checking of other high protein products ; and
  - removal of the 15% testing threshold and introduction of systematic checking of all products containing milk, not just those containing 15% or more milk product.
8. Apart from the cookies and sweets already mentioned in the written report, the UK had not been notified of the distribution of any further contaminated products. One enforcement authority had notified initial positive test results suggesting that a product contained melamine in excess of the level specified in the Decision. This product had been voluntarily withdrawn from the market.

9. The melamine incident prompted a wider discussion of the need for European-wide, market based intelligence to anticipate and combat food fraud. It was suggested that good intelligence could be more effective than testing regimes and members noted that the FSA was moving from a reactionary to proactive approach to handling food incidents. The Memoranda of Understanding, drawn up with the USA and other countries was cited which included provisions for the exchange of intelligence.

#### Explanation of the differences between UK countries in the percentage of premises not granted full approval during the VHMA approval visits

10. Tim Smith drew attention to the section of his report relating to differences between UK countries in the proportions of meat plants gaining full or conditional approval at the first formal assessment visit. It appeared that the differences in approval rates between England and Wales were due to differences in how the approvals programme was conducted. The approaches taken to approval in the different countries would be subject to a review starting in November and the findings would be reported to the Board via the Chief Executive's report at the December meeting.

**Action: Richard Calvert**

#### Front of Pack Nutrition Labelling

11. Tim Smith updated Board members on a stakeholder meeting held on 13 October 2008 regarding the independent signpost labelling evaluation. The meeting was successful with over 40 stakeholders attending. There was some helpful discussion and scenario modelling of what might happen as a result of the first (qualitative) stage of the study. Front of Pack nutrition labelling will be subject to a full public consultation in Spring 2009 before returning to the Board for discussion.

#### Business Interchange Programme

12. The Board was informed that there had been a good response to this programme of business/stakeholder secondments but that most of the organisations wanting to take part were from the food industry. The FSA was now looking to get more consumer groups involved. It was noted that this programme would bring benefits for stakeholders and the FSA, and would provide personal development opportunities for the individual staff involved. It was suggested that high calibre staff were needed for the programme to ensure the FSA's reputation and to facilitate comprehensive reporting back. It was noted that resource constraints could impact on the programme.

## Counterfeit Spar Imperial Vodka

13. In response to a request for clarification, Tim Smith confirmed where the labelling of alcoholic drinks is within the FSA's remit.

### **Item 3 - Discussion Items**

#### **3.1 –Simplification Report and Plan**

*(FSA 08/10/04)*

14. Richard Calvert introduced the paper noting that this was the FSA's third Simplification Report and Plan. The paper reported on what was delivered in 2008 as well as looking forward to 2009 at the FSA's wider work on better regulation. If agreed the Report would be published in early December, alongside those of other Government Departments with a foreword from the Chair and Executive Summary from the Chief Executive. Comments had been received already from other departments recognising the FSA's progress on simplification. The paper aimed to test assumptions on the impact of simplification, looking not just at the monetary figures but also at whether businesses were experiencing the benefit from the FSA's simplification work.
15. Philip Clarke noted that the savings of £340 million had been achieved without compromising consumer safety. The Chair emphasised that the Board and the Chief Executive were committed to delivering the better regulation agenda whilst maintaining consumer safety. It was noted that the FSA was on track to deliver some £125 million of admin burden reduction by 2010. This would represent a notable achievement by the organisation. Although the FSA would be approximately be £11 million short of the reduction target initially set, the Agency had been particularly disadvantaged by new regulations introduced after the baseline had been set in May 2005. Nevertheless the initiative helped the FSA manage risk better and the indicative admin burden figures helped it judge where effort was most needed.
16. Philip Clarke explained that better regulation was now embedded in many parts of the FSA helped by last year's simplification of the impact assessment process and training provided to staff. He went on to say that the Executive was taking a twin-track approach. It was tackling those regulations which imposed the greatest burden, alongside those regulations which caused businesses the most irritation. These might be low cost, but the benefits for business could be greater.
17. There was discussion about the desirability of a methodology that fully costed benefits, recognising that was not easy when avoidance of damage was often the greatest benefit of regulations. The important role of the FSA's economists and its stakeholders in calculating both costs and benefits was noted. The FSA was reliant on the accurate information it received on costs and benefits.

18. It was noted that the level of costs could vary with the timing of enactment and the timing of enforcement of provisions. Longer lead in times could mitigate costs, but could also delay benefits. Impact assessments incorporated these cost variables.
19. Overall the Board was positive about the report and the progress made by the FSA. However, some members thought that the report could go further in demonstrating the Agency's achievements. They felt that it would be important to consider the marketing of the report to stakeholders. It was noted that better regulation is an on-going process not a one-off review. Suggested amendments included:
- establishing a clearer link between the simplification agenda and the FSA's aim to be a world class regulator;
  - including public sector savings e.g. for FSA and MHS but also enforcement authorities;
  - more information on reducing burdens on the Third Sector;
  - providing further explanation as to why food assurance schemes do not apply to dairy or egg production - section 5.2.1;
  - page 13 & 14 (Meat Products Regulations) – re-examine the reference to senior management not having to spend time understanding and implementing these regulations.
20. It was agreed that further suggestions should be sent to Phillip Clarke and that the final version of the report, once approved by the Executive, would be agreed by the Chair and Deputy Chair.

**Action: Richard Calvert**

### **3.2 – FSA Response to Government Consultation on Regulatory Budgets** (FSA 08/10/05)

21. To assist in focussing discussion Tim Smith raised three questions on the system for the Board's consideration:
- would the system help the FSA be a better regulator?
  - would it improve the performance of those who regulate?
  - what impact resource constraints would have?
22. Richard Calvert introduced the paper reminding the Board of the background briefing it had received on this subject in September. He emphasised that the paper looked at the design of the regulatory budget system and was not seeking views on whether the FSA should opt into the system. He outlined the following key points in the draft FSA response:

- the need to recognise benefits as well as costs;
- acknowledgment that EU legislative requirements add an extra layer of complexity to the process and limits the FSA's flexibility;
- regulatory budgets apply only to England and therefore has the potential to create unhelpful inconsistencies for businesses across the four countries of the UK;
- need for flexibility – the ability to respond in an emergency should not be hampered.

23. The Board believed it was important to understand, and achieve reasonable limits on, the scale of burden that regulation placed on businesses and to have a rational approach to the prioritisation of regulation. However, in general the Board was not convinced that regulatory budgets, as proposed, were the best way to achieve those outcomes. It was thought that this system was too narrowly focused on financial costs and that a more rounded view was needed that considered other impacts too, for example benefits of regulation. The Board recognised the potential for inconsistencies amongst the UK countries and the fact that the vast majority of the FSA's legislation originated from the EU. There was confirmation that the FSA was not obliged to sign-up to regulatory budgets if, and when, they were introduced, although the Government would be keen for the FSA to participate. At that time the FSA would need to consider whether other approaches might deliver the same objectives but also reflect broader potential impacts and provide greater flexibility.

24. It was agreed that the FSA should respond to the specific questions in the consultation along the lines proposed at Annex 2 but subject to the amendments below. The response would be accompanied by a covering letter from the Chair outlining the Board's general views on the proposed system. The revised response and letter will go to the Chair and Deputy Chair for agreement. At the same time it will be copied to Board members for any urgent comments. The finalised response will be published on the FSA website.

25. The following changes were agreed:

- All responses should be couched in terms that reflect the Board's reservations about the approach.
- The term "contingency" budget in point 5 to be better explained.
- Expand the paragraphs relating to EU legislation to elaborate the full consequences of not complying with EU legislation – point 6.
- The system should not prevent the Agency from fulfilling its obligations in relation to food safety and other aspects of its remit – point 10.

**Action: Richard Calvert**

### **3.3 – Eating for Health**

*(FSA 08/10/06)*

[Tim Bennett declared an interest in this item. He was Chair of a new industry levy body that had a dairy sub-group. The Chair judged that this would not improperly influence his contribution to the discussion.]

26. Tim Smith emphasised that this paper was a progress report and stocktake. He drew the Board's attention to his concerns about the FSA's ability to respond to unforeseen requests for input into cross-Government initiatives such as the Cabinet Office's "Food Matters" report in light of current resource constraints.

27. Gill Fine gave an introductory presentation outlining the progress made on the Healthy Eating agenda during the last twelve months and looked forward to plans for the next twelve months. The highlights of the year included:

- a reduction in dietary salt intakes achieved;
- work started on providing consumers with healthier choices when eating out – FSA was working with some of the biggest catering providers;
- front of pack nutrition labelling was being progressed as part of negotiations on the Food Information Regulation;
- scoping work had started on the Integrated Advice to Consumers (IAC) which had come out of the "Food Matters" report; and
- the National Diet and Nutrition Survey (NDNS) started in April 2008 – the results of this survey were widely used internally as well as externally by a range of stakeholders.

She concluded that it had been a very busy time for her team but that good progress had been made.

28. The Board congratulated the Nutrition team on the quality of their work. They noted that the reduction in salt intake from the 2000/01 baseline represented a huge achievement and that further falls were expected following the FSA's work with the catering sector. Rosemary Hignett explained that both saturated fat and calorie intake reductions were being pursued and that the FSA were making their objectives clear when talking to stakeholders.

29. The Board was assured that there had been no delay to either the NDNS or the discussion on gathering evidence to identify gene nutrient interactions and were reassured by confirmation that FSA was now getting information from BioBank. It was also assured that the Executive was open minded about front of pack nutrition labelling and was awaiting the results of the independent evaluation before deciding how to proceed. The Board was informed that the FSA was already discussing how to use the 2012 Olympics to further the Healthy Eating agenda.

30. The Board was content with the forward plan as outlined in the paper. It was also supportive of FSA involvement in cross-Government initiatives but expressed concern about taking on these further commitments unless appropriate additional resource was allocated to the Agency.

### **3.4 – Proposed Increase in the Age at which Cattle are BSE Tested**

*(FSA 08/10/07)*

[Tim Bennett had declared an interest in this item in advance of the meeting. He owns a small farm including a small number of cattle. The Chair judged that this would not improperly influence his contribution to the discussion.]

31. The Chair welcomed Professor Chris Higgins, chair of SEAC, and Professor Graham Medley, SEAC member, to the table. Andrew Wadge introduced the paper setting it in the context of the earlier discussions on proportionality. He emphasised that the FSA's priority was food safety and that, with regard to BSE, the key control for ensuring this was the removal of Specified Risk Material (SRM) from cattle entering the food chain, not BSE testing. He said that the proposal to increase the age for BSE testing was proportionate and would not have a significant impact on current levels of risk to public health.

32. David Carruthers explained that the Board was being asked to agree the FSA's advice to Government on whether an increase in the age at which cattle, slaughtered for human consumption, were BSE tested would be acceptable on grounds of risk to consumers. BSE testing of cattle aged over 30 months had been operating in the UK since November 2005, when the Over Thirty Months Rule was lifted and these cattle were allowed back into the food supply. He noted that since then, nearly 1.4 million cattle slaughtered for consumption in the UK had been tested, of which 10 were positive for BSE. This testing formed part of the programme carried out under European law, mainly for the purpose of surveillance of BSE in cattle, but it was a requirement that only test negative cattle were allowed into the food supply. Prevention of human exposure to BSE relied fundamentally on SRM controls, which remove almost all of the risk if an animal was infected. It was also noted that, since BSE testing had been introduced, no animal under 48 months either in the UK or elsewhere in Europe, had tested positive.

33. In order to inform the Board's decision, the Veterinary Laboratories Agency (VLA) had been asked to estimate the risk to the food supply of changing the BSE testing age using their BSE control model. The modelling had indicated that raising the age for testing healthy slaughter cattle to 60 months would be unlikely to result in any missed BSE cases in Great Britain in the years 2008/2009 combined. The estimated increase in risk to human health from raising the testing age to 60 months was therefore extremely small.

34. SEAC had concluded its review of the results from the VLA model at its meeting earlier in the day. The Board was asked to note that Defra had recently announced their intention to cease paying for the laboratory costs of BSE testing from January 2009 (no announcements had yet been made in Scotland, Wales or Northern Ireland). Any increase in testing age would therefore seem most likely to result in a reduction in industry costs rather than savings in Government expenditure.
35. Prof. Higgins drew the Board's attention to SEAC's conclusion that increasing the age at which cattle were BSE tested was unlikely to add any significant risk to public safety as long as effective surveillance remains in place. He emphasised that the SEAC's view was based on the incidence of BSE remaining low in the UK and therefore it was essential to have adequate surveillance in place to monitor this position. Any increase in the incidence of BSE would affect the risk assessment.
36. The Board sought clarification as to the nature and adequacy of current surveillance. In response Prof. Higgins explained that, the surveillance by Defra, and the devolved equivalents, included BSE testing of cattle over 30 months slaughtered for human consumption and cattle over 24 months sent for emergency slaughter. The Board also noted that current surveillance systems were adequate but that they needed to be kept under review. There was a suggestion that the effectiveness of surveillance should be looked at on an EU-wide basis rather than a UK one. It could not be said with certainty that BSE testing would also detect new TSEs. It was also noted that there were no substantive proposals at present for a relaxation of the feed ban.
37. Prof. Higgins noted that the incidence of cases of vCJD in the UK was declining. This, given the high levels of infective material entering the food chain prior to 1996, suggested that there was a strong species barrier making it difficult to transmit this disease from animal to human. It was also noted that increasing the age of BSE testing would not impact on the number of vCJD cases expected in the future. Those who would manifest symptoms of the disease in the future would have already been infected and no change to current or future controls would affect this. Nonetheless, the Board recognised that this was a sensitive issue for the public and that it was important that the FSA communicated the reasoning behind its advice on BSE testing clearly and thoroughly. Tim Smith explained that the FSA had been tracking the level of consumer concern over BSE as part of its consumer research and that the percentage of consumers concerned about the disease has fallen from 57% in 2001 to 23% in 2008.
38. In summarising the discussion the Chair noted that, the Board accepted the view of SEAC that increasing the age at which cattle were BSE tested was unlikely to add any significant risk to public safety as long as effective surveillance remained in place. However, before agreeing to advise the Government to increase the age of testing, the Board wished to have assurance about the adequacy of both

current and future surveillance and to seek the views of the public on the issue. The Executive was asked to liaise with Defra and the relevant devolved departments over surveillance plans which would then be submitted to SEAC for its opinion, prior to returning to the Board for a decision.

**Action: Tim Smith**

**Item 4 - Information Items and Any Other Business**

39. There were no matters for discussion under this item.

**Date of next meeting**

40. The next open meeting would be held in London, on 10 December 2008.