

MINUTES OF THE BOARD MEETING, 10 DECEMBER 2008, AVIATION HOUSE, LONDON

OPEN SESSION, 13:00 - 17:30

Present:

Dame Deirdre Hutton, Chair
Dr Ian Reynolds, Deputy Chair and Chair of the MHS Board
Tim Bennett
Professor Maureen Edmondson, Chair of the Northern Ireland Food Advisory Committee
Margaret Gilmore
Clive Grundy
Professor Graeme Millar, Chair of the FSA Audit Committee & Chair of the Scottish Food Advisory Committee
Michael Parker
Chris Pomfret, Chair of the FSA Risk Committee
Professor Bill Reilly, Deputy Chair of Scottish Food Advisory Committee
Nancy Robson, Chair of the Board Succession and Development Committee
John Spence, Chair of the Welsh Food Advisory Committee

Officials attending:

Tim Smith, Chief Executive
Andrew Wadge, Chief Scientist and Director of Food Safety
Terrence Collis, Director of Communications
Sarah Appleby, Head of Imported Food Division (Item 3.1)
Catriona Stewart, Official Controls and Enforcement Policy (Item 3.1)
Judith Hilton, Head of Microbiological Safety and TSE Division (Item 3.4)
David Carruthers, Head of TSE Policy (Item 3.4)
Alastair Cannon, Board Secretary
Sue Johns, Secretariat
Debbie Coles, Minutes

Others attending:

Philip Cullum, Chair, Advisory Committee on Consumer Engagement
Katrina Williams, Director-General Food and Farming, Defra,
Alick Simmons, Deputy Chief Veterinary Officer, Defra

Chair's Introduction

1. The Chair reminded Board members of their obligation to declare interests before discussion of relevant items and noted that apologies for absence had been received from Sue Atkinson.

Item 1 - Minutes and Actions Arising

1.1 - Minutes of Meeting on 15 October 2008, Aviation House, London

(FSA 08/12/01)

2. The Board agreed the Minutes of the meeting held on 15 October 2008 as an accurate record.

1.2 - Actions Arising

(FSA 08/12/02)

3. In considering the table of actions, the following point was noted:

- *Index 11Jun08/O/377 (intersessional paper on revised principles on Publication, survey guidelines, and an explanation of open access publication was planned to be circulated to Board members and published on website before December Board meeting)* This paper had been delayed but would be circulated before Christmas.

Action: Richard Calvert

Item 2 - Oral Reports

2.1 - Chair's Report

4. Details of engagements had been provided in the bound papers for this meeting¹. The Chair reported attending the stakeholder launch event for "Healthy Weight, Healthy Lives" with the Minister of State for Health.
5. The Chair had also met the newly appointed Chinese Health Minister, Chen Zhu. She noted that he was very interested in how the Agency was organised and how it dealt with incidents. The Minister was a scientist of international renown and had just been awarded an Honorary Fellowship of the Academy of Medical Science.

2.2 - Chief Executive's Report

(FSA 08/12/03)

[Prior to discussion of the item on peanuts and pregnancy, Margaret Gilmore had given notice of a personal interest: her husband is a member of the Anaphylaxis Campaign. The Chair was grateful for the advance notice of this interest but noted that this would not give rise to a perception of bias and was content for her to take part in the discussion.]

6. The Chief Executive referred Board members to his written report. The following clarifications and updates were provided:

¹ Standing Order paper SO 08/12/04

Update on Food Incident: Irish Pork and Beef

7. The food incident had started the previous weekend and was a fast-moving issue requiring regular updates to the FSA's website. The source was thought to have been animal feed contaminated with fuel oil used as heat source during the drying process. To date it had affected 23 farms and 12 processors in the Republic of Ireland, and 12 establishments in Northern Ireland were supplied with potentially contaminated feed and pork. On a precautionary basis the Agency had advised withdrawal of products and advised the public not to eat the affected products. Pigs from Northern Ireland were not affected, however as there was cross-border movement, pork and pork products from Northern Ireland were also covered by Agency advice. It was hoped that the restrictions on pork from Ireland and Northern Ireland would soon be lifted.
8. With respect to beef, the Republic of Ireland had withdrawn carcasses from animals on 3 farms and there were 45 other farms currently under restriction. In Northern Ireland 12 farms were implicated and were being tested. The results were anticipated early next week.
9. The Chief Executive stated that current evidence indicated that this incident did not affect poultry and all the contamination came from one feed source.

Publication of Simplification Plan 2008

10. The third annual Simplification Plan was published on 10 December 2008. The report showed how the FSA continued to make progress in simplifying food regulations and guidance, continuing to protect public health and consumer interests while reducing the burden we impose on businesses, which is especially important during the current economic climate.

Update on Melamine

11. The Chief Executive informed the Board that, following melamine being found in further food products, the Commission had published a new Decision that prohibited the import into the Community of products from China containing soya or soya products "...intended for the particular nutritional use of infants and young children". Imports of contaminated organic soya animal feed had been found recently. The FSA's risk assessment suggested that the level of melamine in milk from cows fed contaminated feed was likely to be low but the test results were awaited. The position was being monitored and the Agency would advise the public via the website should there be a change in advice to consumers.

Healthier Options in Catering Outlets

12. The FSA recognised that wherever the public eat; at home, socially or at work they should be able to make a sound judgement based on appropriate nutritional information. The Chief Executive noted that the publication of the first commitments was only the start of a process but he commended the work of the FSA team and stakeholders. This initiative was welcomed by the Board as a major step forward.

Antimicrobial Treatments: Update

13. The Chief Executive highlighted paragraph 9 of his written report and noted that, whilst the expectation was for the Council to reject the Commission's proposal to allow antimicrobial treatments, once the various concerns had been addressed the proposal would be reintroduced. Prior to that, the FSA would need to seek the views of consumers and stakeholders before coming to any conclusions about the possible risk management options.

Advice to Pregnant Women on Caffeine Consumption

14. The Chief Executive explained that the FSA decided to bring forward publication of its revised advice to Monday 3 November once it learnt that the Sunday Times was planning to run a front page story on Sunday 2 November. The BMJ brought forward publication of the research paper on their website to noon on 3 November. The initial article and subsequent media coverage was well balanced. A copy of a presentation by an FSA colleague, Natalie Thatcher, on the subject had been circulated to Board members and would be published on the website.

Recovery of Assets from Abattoir Operator

15. The Chief Executive reported that this was the first time such action to recover assets from a food business prosecuted for non-compliance had been taken by the FSA. Its successful outcome was important in also serving as an example to the industry.

Committee on Toxicity (COT) Advice on Peanut Allergy

16. The Board welcomed the COT report and agreed that the FSA should write to Health Ministers and Chief Medical officers recommending that the Government advice on peanut avoidance, where there is a family history of allergic disease, be amended to reflect the COT recommendations. Margaret Gilmore congratulated the FSA on its work on this issue but regretted that there was little support from other funding partners to assist the Agency in commissioning research on food allergy.

Action: Andrew Wadge

European Food Information Council Survey (EUFIC)

17. The Chief Executive referred to the findings from a recent EUFIC survey of nutrition knowledge and labelling in a number of European countries. The UK scored highly on nutrition knowledge. The CE invited any stakeholders with further information on consumer understanding of nutrition labelling to share this with the FSA.

Collaboration with US Department of Agriculture

18. The Board welcomed the new agreement in the written report and noted the potential benefits of similar schemes with third country importers in particular.

Item 3 - Discussion Items

3.1 - UK-Wide 'Scores On The Doors' Scheme For Rating Of Hygiene Standards In Food Businesses

(FSA 08/12/04)

[In advance of the meeting, Deirdre Hutton and Chris Pomfret had declared their family holding of shares in Tesco's and Wm Morrison's respectively. John Spence had declared his son-in-law's management of a restaurant; Clive Grundy had declared his investment in Graysons Ltd, a food services company. The Deputy Chair, did not consider this to be a material conflict of interest and agreed that they could all participate in the discussion of this issue: he had considered carefully whether any of these interests could give rise to a perception that there was a real possibility of bias in the way the Board members would approach the issues. He had taken into account, in particular, the size and nature of the interest in each case, the fact that a wide range of views had been expressed by industry in the consultation and whether there were benefits which the Board members might unfairly derive from participating. He was satisfied that none of the interests would give rise to a perception of bias and that the Board members should remain at the table. However if it came to a vote of the Board, Clive Grundy would be excluded from that process.]

19. The Chief Executive introduced the paper by stating that the FSA's under-pinning principles were to:

- allow consumers to make informed choices about where they eat; and
- encourage food businesses to make real and measurable improvements to their hygiene standards

20. The Chief Executive was grateful to the Local Authorities (LAs) that had taken part in the pilot schemes. A great deal of information had been gleaned from them and that had been supplemented by the experience of other LAs that had introduced schemes independently. He assured the Board that careful consideration was given to all the views expressed in the consultation.

21. He reassured LAs that, in making the recommendation in the paper, the FSA did not take the view that current schemes were not working or ineffective and he commended them for their efforts and the improvement to hygiene standards. He concluded by recognising that delivery depended on LAs and the FSA would be working closely with them and the Local Government Association and the Local Better Regulation Office to ensure that a scheme could be introduced that made a real difference to the UK consumer.

22. Sarah Appleby, Head of Enforcement Support Division, stated that the recommendations in the paper reflected due consideration of the responses to the public consultation on proposals for a UK-wide scheme that had taken place

over the summer. She outlined the reasoning behind the recommendation of a four tier system, namely; to allow consumers an informed choice; and encourage businesses to improve hygiene standards. A scheme should be implemented consistently by LAs; not attempt to “gold plate” the legal requirements yet it must be consistent with the Food Law Code of Practice. In order to be effective, it should be easy to understand and operate a transparent scoring system that allowed businesses to identify the differences between tiers and what must be done to move up from one tier to the next. Despite other differences it was clear from the consultation responses that there was wide support for a UK-wide scheme.

23. The Chair thanked the LAs who had hosted her own visits to a variety of schemes. She also thanked the Executive team for their tremendous efforts in analysing over 400 consultation responses. She proposed handling the discussion by going through each of the recommendations set out on pages 12 – 14 of the paper.

UK Wide Scheme

24. Board members reaffirmed that, ideally, there should be a single UK wide scheme. Further the Board supported the proposed Scores on the Doors (SotD) Steering Group and its membership comprising local authority, industry and consumer representation from across the UK, and Agency officials to work out the various practical elements of Agency supported schemes in partnership with local authorities, the food industry and with consumers.

Element: Scope

Recommendation by the Executive:

- *Businesses supplying food direct to consumers should be included within the scheme at this stage:*
 - *this includes restaurants, cafes, takeaways, sandwich shops and other places that consumers are eating food prepared outside of the home;*
 - *it also includes retailers as many now also provide 'takeaway' food at deli/salad counters and hot food counters, which should be treated in the same way as other takeaways.*

25. Decision: The Board fully supported the recommendation.

Element: System for Deriving Hygiene Score

Recommendation by the Executive:

- *A numerical hygiene score should be derived from the 'food hygiene intervention-rating scheme' in the Food Law Code of Practice using the scores for:*
 - *level of compliance with food safety and hygiene procedures;*
 - *level of compliance with structural requirements; and*
 - *confidence in management/control procedures that compliance will be maintained.*

26. Currently there were two schemes for scoring in use in the UK; the 'food hygiene intervention rating scheme' in the Food Law Code of Practice used in Wales, Northern Ireland and England whilst in Scotland a direct assessment was made of compliance against the requirements of the Food Hygiene Regulations at the time of inspection.

27. The Chair summarised the Board's discussion of this Element:

- The underpinning framework that the Local Authorities use should not go further than legal compliance.
- The Board recognised the current differences that existed in how the hygiene scores were derived between Scotland and the rest of the UK but took the view that the Steering Group should work to produce a consistent method of scoring acceptable to all.
- The Steering Group should be empowered to resolve the differences, only returning the issue to the Board if there was a material and irresolvable difference between the two scoring schemes.

Element: Number of Tiers

Recommendation by the Executive:

- *The scheme should have four tiers with the top tier representing full compliance with the legal requirements.*
- *For each of the other tiers, non-compliances and/or issues about confidence in management/procedures will have been identified and improvements will be needed. These tiers will be differentiated on the basis of the nature of these non-compliances or issues and the potential risk to public health. In the bottom tier, it is likely that formal enforcement action is being considered.*
- *Where a business is closed because of an imminent risk to public health it will not be given a 'score on the door' whilst it remains closed (i.e. is not trading).*

28. After considerable discussion, the Board did not agree with the Executive's recommendation to implement a four tier system. The consensus was that, as 83% of LAs with SotD schemes operated a six tier system and that these six tier schemes covered 48% of the population, the pragmatic approach that would lead

to the greatest improvement for the greatest number of the population in the shortest time would be to recommend the six tier system. (Scottish members preference was for a pass/fail scheme, however, within multi-tiered schemes they too also indicated a preference for the six tier scheme). The paper had not sufficiently convinced Board members that the benefits of a four tier system outweighed the disbenefits of shifting from the significant number of existing six tier schemes. The Board acknowledged that Scotland was unlikely at this point to move from its current two tier scheme.

29. On that assumption, it was agreed that the Steering Group should review both the schemes, after a period of time that the Executive deemed appropriate. The membership of the Steering Group should include representatives from the devolved countries.

30. The Chair summarised the Board's discussion of this Element:

- They did not support the Executive's recommendation for a four tier scheme.
- The choice of a six tier scheme would be cheaper, easier and quicker to implement.
- The Board was mindful that participation in the scheme by local authorities remained voluntary, and display of notices at premises also remained voluntary.
- The Board also noted the clear and consistent view across all stakeholder constituencies in Scotland in favour of a two-tier scheme and recognised the strong views of Scottish members and agreed that Scotland should be able to adopt a two tier scheme if so wished.
- However, recognising the benefits to both consumers and industry that would accrue, the Board again expressed its firm preference for a single scheme to operate throughout the UK at some point in the future.

Element: Symbols/Descriptors

Recommendation by the Executive:

- i. In order to give the Agency's scheme its own distinct identity and to avoid confusion with 'local' SotD schemes using stars (which will be particularly important in the early stages), it is recommended that stars are not used.*
- ii. The term 'fail' should not be used as a descriptor as consumers assume that such businesses should be closed, and because the use of negative terms should be avoided.*
- iii. Consumer research should be undertaken in order to establish the symbols and descriptors that should be used to denote each tier.*

31. The Board agreed recommendations (ii) and (iii) above but rejected (i). A number of Board members favoured stars as it was already a familiar symbol, however it was recognised that consumer research would provide a greater evidence base.

Element: Visibility

Recommendation by the Executive:

- *Voluntary display at the premises of the most recent score for each registered food business is recommended at this stage.*
- *Voluntary display at premises should be kept under review and mandatory display, which would require the introduction of new legislation, may be considered in the future if necessary.*
- *There should be web access to the most recent score for all businesses covered by the scheme.*

32. The Board agreed the recommendation but added that the display should be in a prominent position and visible from outside the premises.

Element: Safeguards: re-inspection/re-visit for re-scoring

Recommendation by the Executive:

- *To ensure that up-to-date information is provided to consumers and to ensure that businesses are treated fairly, businesses should be able to request re-inspections/re-visits for the purposes of re-scoring (though not for changing the intervention frequency) where action has been taken to rectify identified non-compliances.*
- *Conditions for this should be set out in the guidance referred to above.*
- *Local authorities should be able to charge for such re-inspections/re-visits in order to recover costs.*

33. Decision: The Board agreed the recommendation.

Element: Safeguards: appeals

Recommendation by the Executive:

- *Businesses must be able to appeal the score through the local authority's formal complaints procedure.*
- *Where appeals are not resolved through this mechanism, the business has the right to refer the matter to the Local Government Ombudsman.*

34. Decision: The Board agreed the recommendation

Element: Local Authority support

Recommendation by the Executive:

- *As well as the guidance referred to above, a programme of free 'start-up' training for local authorities should be undertaken and associated training materials should be developed in partnership with stakeholders.*
- *A national web-based platform should be put in place to support the scheme, and to maximise accessibility and understanding by consumers.*
- *Centrally-funded IT assistance should be made available to local authorities linking to the web-based platform.*

35. The Board agreed the recommendation but made it clear that Agency resource would be used only to support the six tier scheme in England, Wales and Northern Ireland and in Scotland if such a scheme evolved there. The Agency would continue to partner with local authorities in Scotland that use or are intending to use the two-tier scheme. The Board agreed that support should be used to encourage maximum coverage, maximum take-up, consistency, accuracy and to help inform consumers. The Chair noted that it was for the Executive to decide how to deploy the resource package.

36. The Chair thanked Sarah and her team for a paper that had facilitated a good discussion.

3.2 - REPORT FROM THE ADVISORY COMMITTEE ON CONSUMER ENGAGEMENT (ACCE)

(FSA 08/12/05)

37. Phillip Cullum, Chair of the ACCE introduced the report and its recommendations.

38. Board Members welcomed the report and commented that:

- it was a good, thought provoking, enjoyable and educational report;
- it was important to embed the values of consumer engagement in the organisation;
- the Consumer branch was a valuable resource to the Agency; and
- the Executive should consider involving policy branches more in consumer engagement.

39. In summary the Chair:

- noted that it was for the Executive to take forward the recommendations;
- suggested that the Executive include consumer engagement as an integral part of the new Strategic Plan.

40. The Chair thanked the ACCE for their work and looked forward to the next annual report.

Action: Terrence Collis

3.3 - COMMUNICATIONS – ANNUAL UPDATE TO BOARD

(FSA 08/12/06)

41. Terrence Collis, Director of Communications, introduced the paper with a short DVD that highlighted the main achievements over the last year and noted that the Group worked in collaboration with the rest of the FSA to deliver clear, accessible messages for the consumer.

42. The Board thanked Terrence for his report, congratulated the team on their innovative approach, commended the Chief Scientist's blog and the new allergy alert service as particular examples of excellence.

43. Terrence agreed to include in his next annual report a section on how better consumer engagement had been embedded in the FSA in the next annual report:

3.4 - PROPOSED INCREASE IN THE AGE OVER WHICH UK CATTLE ARE BSE TESTED

(FSA 08/12/07)

[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.]

44. The Chair welcomed Katrina Williams, Director General, Food and Farming, Defra and Alick Simmons, Deputy Chief Veterinary Food and Farming, Defra, and David Carruthers, Head of TSE Policy and Judith Hilton, Head of Microbiological Safety and TSE Division, to the table. The Chair reminded the Board that this item was discussed at the October Board meeting and had requested further information on future surveillance.

45. The Chief Executive introduced the item. He invited the Board to note the Defra policy statement on surveillance for BSE, the letter from the Chair of SEAC and asked them to consider whether to advise the Ministers that a move to testing cattle slaughtered for human consumption at 48 months could be implemented in the UK.

46. Katrina Williams added that Defra Ministers had reaffirmed the commitments that had been made in the statement. Their aim was for an approach that was precautionary yet proportional. They were also committed to meet the statutory obligations and would only consider any changes to surveillance once the risks had been assessed by, and therefore, on the advice of, SEAC.

47. The Board agreed to advise Ministers that a move to testing cattle slaughtered for human consumption at 48 months should now be implemented in the UK.

Action: Andrew Wadge

3.5 - REPORT FROM THE DIRECTOR OF FSA NORTHERN IRELAND

(FSA 08/12/08)

48. The Chair explained that Gerry McCurdy was unable to attend the meeting because he was handling the pork and beef dioxin incident. The Chair was grateful to Maureen Edmondson for agreeing to introduce this paper at short notice.

49. Maureen Edmondson highlighted the following:

- the complexity of the Northern Ireland environment:

- key social issues around poverty and the percentage of income spent on food; and

- the imminent reorganisation of public administration; 26 local authorities were due to be reduced to 15.

50. The Board welcomed the report and asked Maureen to convey their thanks and congratulations to Gerry on this and his handling of the dioxin incident.

Item 4 - Information Items and Any Other Business

51. The Chair drew Board members' attention to the standing order papers provided for this open meeting (SO 08/12/01-06 and the reports from the Chairs of the Scottish, Welsh and Northern Ireland Food Advisory Committees (INFO 08/12/01-03).

52. The Chair noted that this was Professor Bill Reilly's last Open Board Meeting and thanked him on behalf of the Board for the contribution he had made during his long association with the FSA. He was leaving to become President of the British Veterinary Association. She noted that prior to becoming a board member he was chair of Advisory Committee on the Microbiological Safety of Food tackling such complex and high profile subjects as aviation influenza, and hepatitis E.

Date of next meeting

53. The next Open meeting would be held in London on 10 February 2009.