

MINUTES OF THE BOARD MEETING, 12 MARCH 2008, RADISSON SAS HOTEL, EDINBURGH

OPEN SESSION, 13:00 – 17:30

Present:

Dame Deirdre Hutton, Chair
Ian Reynolds, Deputy Chair and Chair of the MHS Board
Tim Bennett
Maureen Edmondson, Chair of the Northern Ireland Food Advisory Committee
Margaret Gilmore
Clive Grundy
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
Bill Reilly
Nancy Robson
John Spence, Chair of the Welsh Food Advisory Committee
Sandra Walbran, Chair of the Board Succession and Development Committee

Officials attending:

John Harwood, Chief Executive
Andrew Wadge, Chief Scientist and Director of Food Safety
George Paterson, Director of FSA Scotland (item 3.1)
Lydia Wilkie, Assistant Director, Policy and Regulation Division, FSA Scotland (item 3.2)
Tom Murray, Head of Local Authority Liaison Division (item 3.3)
Paula Waldron, Local Authority Liaison Division (item 3.3)
Nick Tomlinson, Head of Chemical Safety and Incident Prevention Division (item 3.4)
Sarah Appleby, Head of Imported Food and Food Standards Enforcement Division (item 3.5)
Mark Davis, Imported Food and Food Standards Enforcement Division (item 3.5)
David Carruthers, Enforcement Science and Policy Division (item 3.6)
David Statham, Director of Consumer Protection and Enforcement (item 3.7)
Alastair Cannon, Board Secretary

Others attending:

Gillian Barclay, Head of Food Industry Unit, Scottish Government (item 3.2)

Chair's Introduction

1. Deirdre Hutton reminded Board members of their obligation to declare interests before discussion of relevant items, welcomed new Board member Margaret Gilmore to her first Board meeting and noted Sue Atkinson's apologies for absence.

2. Deirdre Hutton noted that this was John Harwood's last Board Meeting as Chief Executive and thanked him on behalf of the Board for the significant contribution he had made to the FSA during his two years with the FSA. There would be further opportunities over the next few weeks to thank John Harwood but Deirdre Hutton wanted to record the debt that the Agency owed him for his leadership over the last 2 years.
3. Deirdre Hutton noted certain changes to the Agenda. It had been hoped to bring a paper to this meeting on Certain Food Additives and Children's Behaviour. This would now be brought to an additional Open Board Meeting in April to enable the Board to consider its advice to Ministers in the light of the EFSA Scientific Panel's opinion, which was now expected to be published on 13 March.
4. There were no items raised for discussion under Any Other Business.

Item 1 - Minutes and Actions Arising

1.1 - Minutes of Meeting on 13 February 2008, Conference Centre, London

(FSA 08/03/01)

5. The Board agreed the Minutes of the meeting held on 13 February 2008 as an accurate record.

1.2 - Actions Arising

(FSA 08/03/02)

6. In considering the table of actions, the following were noted:
 - 13Feb/O/360: The meeting between Deirdre Hutton and the Head of Enforcement Science Policy Division had been delayed;
 - 13Feb/O/358(b): A short intersessional paper on what was being planned on developing 'HACCP for the whole food chain' was requested within the next few months.

Action: Andrew Wadge
 - 13Feb08/O/356: It was suggested that the planned paper on the Terms of Reference for the MHS Audit Committee should be considered by the FSA Audit Committee before being circulated to Board members. Graeme Millar noted that the FSA Audit Committee did not meet again until June and that it would be advisable to resolve this issue before then.

Item 2 - Reports

2.1 - Chair's Report

7. Details of Deirdre Hutton's engagements had been provided in the bound papers for this meeting¹. Deirdre Hutton reported on the briefing meetings she had attended with MEPs' researchers during her visit to Brussels, which had focussed on the EU labelling proposals. She had also met with Paul Lincoln and Klim McPherson, the new President of National Heart Forum, who had both been supportive of the FSA's work on front of pack traffic light labelling.
8. Deirdre Hutton had met with members of the General Advisory Committee on Science (GACS) and Advisory Committee on Consumer Engagement (ACCE) and had been impressed by the quality of their respective membership. Andrew Wadge noted that GACS had held its first meeting on 11 March followed by a panel discussion on 'why we should trust scientists about food'. There had been 80 people in the audience and the discussion had been lively and thought provoking.

2.2 - Chief Executive's Report

(FSA 08/03/03)

9. Referring Board members to his written report, John Harwood noted that
 - the Agency would be looking at what lessons might be learnt from the recent Judicial Review on the Infant Formula and Follow-on Formula Regulations 2007. He accepted, in response to a question, that it was possible that the Scottish judgement might reach different conclusions;
 - the end of the second line in paragraph 10 of the written report should read "...has been subjected to an unauthorised...";
 - the Agency was not planning to put graphic health warnings on cheese and butter, despite recent press reports;
 - discussions with the food and supplement industries on potential controls on voluntary folic acid fortification would continue and that FSA officials would be arranging a series of meetings over the next few months to discuss this further;
 - the National Consumer Council was to carry out a review of consumer facing regulators (mainly the utilities regulators) and that Lord Whitty (Chair of the NCC) would be writing to the Agency inviting its participation;

¹ standing order paper SO 08/03/04

- there was a need to avoid confusion when talking about nutrient profiling within the context of the Academic Workshop reported here and the work that EFSA was doing: nutrient profiling meant different things in different contexts and there was no single model but there should be read across of the same principles.

10. John Harwood thanked Board members past and present for the help and support they had provided. While he very much appreciated the Chair's kind words he pointed out that the credit for the considerable achievements of the Agency over the last two years really belonged to the management and staff. He wished to place on record his appreciation of what they had achieved.

Item 3 - Discussion Items

3.1 - Report from the Director of FSA Scotland

11. George Paterson reported to the Board on the wide range of activities undertaken by FSA Scotland over the last year (including implementing new food and feed hygiene regulations, consumer education, evidence gathering, engagement with Scottish industry and contributing to the Schools Agenda) and the challenges ahead (including delivering on both the Agency's and Scottish Ministers' strategic priorities). Graeme Millar noted that a tremendous amount had been achieved by FSA Scotland over the last three years and that the FSA was seen as a catalyst for change.

3.2 - National Food Policy for Scotland

(FSA 08/03/05)

12. Lydia Wilkie (Assistant Director of Policy and Regulation, FSA Scotland) introduced Gillian Barclay (Head of Food Industry Unit, Scottish Government) and invited her to give a presentation to the Board on the Scottish Government's discussion paper entitled "Choosing the Right Ingredients – The Future for Food in Scotland".

13. Gillian Barclay's presentation set out the Scottish Government's vision for a more successful Scotland: to make the nation healthier, wealthier and smarter, with production making communities stronger and encouraging responsible behaviour throughout the supply chain. The paper was a "discussion" rather than a "consultation" document aimed at promoting debate. Analysis of, and reflection on, these debates and discussions would lead to publication of a statement on priorities at the Royal Highland Show in June. No major inconsistencies were seen between this exercise and the Westminster Cabinet Office Project on Food.

14. Deirdre Hutton summarised the views expressed by Board members during the following discussion and noted that the Board had agreed that the Agency:

- strongly welcomed and supported the direction of travel as outlined in the discussion document and hoped to be fully involved in the development of policies that are taken forward following completion of the current consultation phase;
- supported the development of policies within its remit, ensuring they are linked to the FSA's strategic objectives in Scotland;
- particularly highlighted the importance of safe food, and the need for a strong skills (including scientific skills) base, in maintaining consumer confidence, while sustaining and promoting growth of the food sector;
- stressed the importance of recognising issues like food safety (including figures on the incidence and cost of foodborne illnesses), food fraud (which disadvantages honest businesses), the global food chain, food security, and evidence based policy making in taking these discussions forward;
- recognised the important role “better regulation” has in not hindering development; and
- recognised that emerging actions will benefit from full stakeholder consultation, and associated impact and sustainability assessments. This will ensure that the priorities for the food agenda in Scotland effectively will meet the need to improve the health of the Scottish population and assist the sustainability of a vibrant Scottish food industry.

3.3 - Scores on the Doors

(FSA 08/03/06)

[Prior to discussion of this item, John Spence declared an interest as a family member owns a restaurant. Deirdre Hutton considered this to be a material conflict of interest and that he should not participate in the discussion and determination of this issue; she requested that he leave the Board table, which he did. Sandra Walbran declared an interest as working for a local authority running a Scores on the Doors scheme. Deirdre Hutton did not consider this to be a material conflict of interest and agreed that she could participate in the discussion and determination of this issue. Clive Grundy remained at the Board table and did not declare an interest but chose not to participate in the discussion and determination of this issue as he was aware that his shareholdings in Graysons Limited (a food services company) may constitute a material conflict of interest.]

15. This paper set out the key findings of the Agency's evaluation of the 100+ Scores on the Doors schemes operated by UK local authorities, which showed strong support for a UK-wide scheme to avoid continued proliferation of different local authority arrangements. The paper proposed a UK-wide scheme based on the following principles:

- a 4 tier system (3 tiers + “fail”);
- a star system rating (with accompanying descriptor);
- effective local authority appeals procedures;
- arrangements to allow opportunities for rescoring; and
- voluntary display of scores on business premises.

It was noted that a number of emails had been sent to the Board on this subject promoting an alternative (5 tier + ‘fail’) scheme as currently operated by a number of local authorities.

16. It was generally agreed that a UK-wide scheme should be pursued and that this would need to be simple and relevant for consumers and would need to be effectively marketed to ensure that businesses and consumers understand what it means. There was discussion about whether this would be best achieved by different tiered approaches.

17. In summary Deirdre Hutton noted that the Board had recognised the tension between recognising different levels of compliance and simplicity and agreed that

- the adoption of a single UK-wide scheme was desirable;
- the Agency should consult on two options for a single UK-wide scheme based on the Scottish scheme and the 4-tier approach proposed in the paper;
- it would be important to include effective revisits and appeals procedures in whatever scheme was adopted;
- the UK-wide scheme would need clear definitions and appropriate training would need to be available;
- there was a clear need for effective marketing of the final scheme by the FSA;
- it would be important to review the effectiveness and take up of the scheme after 2 or 3 years before looking at the advisability of making the display of scores on the doors mandatory.

3.4 - Food Incident Prevention: Update

(FSA 08/03/08)

18. This paper described the rationale behind the incident prevention strategy: making prevention the primary means of ensuring food safety backed up by

appropriate surveillance and enforcement action focussed on areas of highest risk.

19. During the discussion, the mixed reactions from external stakeholders to the earned recognition project (referred to in paragraph 20) and the references in paragraph 10 to the food industry's reluctance to share information were noted. Board members welcomed the opportunities being sought to share information anonymously via independent third parties but stressed there should be no compromise on the Agency's openness policy and the need to make consumers aware of potential risks.

20. Deirdre Hutton, summarising the discussion, noted that the Board had:

- broadly supported the strategy;
- noted its importance with regard to cross-FSA integration;
- welcomed the opportunities being sought to share information and made clear there should be no "safe harbour" guarantees;
- noted a progress report would be provided in 12 months; and
- noted that a separate detailed paper setting out options on earned recognition would be brought to the Board at a future meeting

Action: Nick Tomlinson

3.5 - Food Fraud Task Force: Response to Recommendations

(FSA 08/03/07)

21. This paper sought the Board's agreement to the proposed response to the recommendations made by the Food Fraud Task Force and highlighted the work currently being carried out to tackle food fraud.

22. Board Members were generally content with the responses set out in Annex A to the paper and commented on

- encouraging whistle-blowing from members of the public (Annex A item 12);
- the handling of "vexatious" complaints;
- establishing preferred methods for whistle-blowing;
- the sharing of food fraud intelligence; and
- the importance of effective forensic economic intelligence in combating food fraud.

23. Deirdre Hutton summarised the discussion, noting that the Board had agreed that

- industry as well as consumers should be encouraged to make use of effective whistle-blowing procedures;
- criteria should be adopted for handling “vexatious” complaints;
- it would be important to have a proper understanding of food chain economics and effective forensic economic intelligence in combating food fraud.
- as it had been assessed already as not required, there was no need for a further review of the need for setting up a Rapid Response Team (Annex A, item 10).

3.6 - Atypical Scrapie in Small Ruminants: Contingency Planning

(FSA 08/03/09)

[Prior to discussion of this item, Ian Reynolds declared an interest as he has a sister and brother-in-law who own and run a sheep farm. Tim Bennett declared his ownership of a farm but made clear he did not keep sheep. Deirdre Hutton did not consider these to be material conflicts of interest and agreed that both could participate in the discussion and determination of this issue.]

24. This paper set out the current position on contingency planning for any developments that change the current assessment of the risk to consumers from atypical scrapie.

25. Deirdre Hutton noted that, during the discussion, Board members had generally agreed that

- Annex A could be published on the Agency’s website as a position statement;
- the flow chart of actions when new results become available provided a useful contingency tool;
- the Agency’s advice on atypical scrapie should be clearly stated; and
- contingency planning would need to reflect the significance of the sheep industry for Scotland and Wales.

3.7 - Annual Report from the Director of Consumer Protection and Enforcement

(FSA 08/03/10)

26. David Statham presented his first Annual Report highlighting the work of the Consumer Protection and Enforcement Group and the key influences and

challenges impacting on that work. He confirmed that a paper on the work of the FSA Regional Unit would be brought to the Board in July.

27. During the discussion, the Board

- noted that a paper assessing the impact of the FSA Regional Offices would come to the Board in July;
- noted the FSA's dependence on others, notably local authorities, to deliver its commitments;
- stressed the importance of consistency across the UK, of earned autonomy, and of developing more effective partnership working with enforcement bodies; and
- noted that the UK's approach to enforcement of hygiene legislation (broad compliance), whilst providing appropriate consumer protection, was not entirely consistent with EU legislation (full compliance).

Item 4 - Information Items and Any Other Business

(INFO 08/03/01; INFO 08/03/02; INFO 08/03/03; INFO 08/03/04; INFO 08/03/05)

28. Deirdre Hutton drew Board members' attention to the standing order papers provided for this open meeting, the information papers on Improving Folate Intakes of Women of Reproductive Age and Preventing Neural Tube defects (INFO 08/03/01) and Local Authority Monitoring Data (INFO 08/03/02) and to the usual reports from the Chairs of the SWANI Advisory Committees (INFO 08/03/03 - 05).

Budget Update

29. John Harwood briefly updated the Board on the Budget announcements. A White Paper on Enterprise was to be published which would include a section on regulation. Two areas were of particular interest for the Agency:

- the government would consult on a new system for setting departmental regulatory budgets; and
- there would be a new approach to regulating small businesses which would require departments to consider exempting SMEs from new regulatory requirements.

Date of next meeting

30. The next open meeting will be held in London on 10 April 2008.