

**DRAFT MINUTES OF THE BOARD MEETING, 25 MARCH 2009, RADISSON SAS HOTEL, EDINBURGH**

**EXECUTIVE SUMMARY**

1. Draft Minutes of the open session held on 25 March 2009 at Radisson SAS Hotel, Edinburgh, are attached. The full web cast of the meeting is available on the FSA's website.
2. The Board is asked to **confirm** that the Minutes are a true and accurate record of the meeting.

**BOARD SECRETARIAT**

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**DRAFT MINUTES OF THE BOARD MEETING, 25 MARCH 2009, RADISSON SAS HOTEL, EDINBURGH**

**OPEN SESSION, 09:00 – 13:30**

**Present:**

Dame Deirdre Hutton, Chair  
Dr Ian Reynolds, Deputy Chair and Chair of the MHS Board  
Professor Sue Atkinson  
Tim Bennett  
Dr David Cameron, Deputy Chair of Scottish Food Advisory Committee  
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  
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  
Dr George Patterson, Director of FSA Scotland  
Gill Fine, Director of Consumer Choice and Dietary Health  
Rosemary Hignett, Head of Nutrition Division  
Claire Boville, Head of Nutrition Labelling, Promotions and Dietetic Foods  
Alastair Cannon, Board Secretary  
Debbie Coles, Board Secretariat  
Chrissie Tsampazi, Board Secretariat Minutes

**Others attending:**

Professor Mike Kelly, Chair of NICE  
Professor Alan Jackson, Chair of SACN

## **Chair's Introduction**

1. The Chair welcomed the Board members and the audience to the meeting, and reminded Board members of their obligation to declare interests before discussion of relevant items.
2. No apologies for absence had been received.

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

### **1.1 - Minutes of Meeting on 10 February 2009, Aviation House, London**

*(FSA 09/03/01)*

3. The Board agreed the Minutes of the meeting held on 10 February 2009 as an accurate record.

### **1.2 - Actions Arising**

*(FSA 09/03/02)*

4. The Board was content with the schedule of actions arising.

## **Item 2 - Oral Reports**

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

5. The Chair reported receipt of a letter from the British Hospitality Association, British Beer and Pub Association, and British Retail Consortium asking the Board to revisit their decision on Scores on the Doors, particularly regarding the number of tiers in the scheme. The letter was circulated to Board members, who did not see any cause to revisit their decision. They considered that the Executive presented a well written, comprehensive paper that was valuable in enabling them to have a full discussion of the issues in December 2008. The Board's chief concern in reaching their decision had been to agree a scheme which would be genuinely helpful to consumers.
6. The Chair noted that the consultation on the new FSA Strategy for 2010 – 2015 was launched on 16 March. The Agency is now actively seeking stakeholders' views and will be holding stakeholder events, consumer engagement workshops, and an event to seek the views of the scientific community on the Agency's science and evidence strategy.
7. The Chair and the Chief Executive met Prue Leith and Judy Hargadon, the Chair and Chief Executive of the School Foods Trust respectively. It proved a useful

meeting at which areas of co-operation and ways for the two organisations to work together were discussed.

8. The Chair spoke at the Markets Committee dinner in London. This Committee is responsible for Smithfields Market, all tenants of which have now been Approved. The event was an opportunity for the Chair to reinforce the Agency's message that all UK food establishments must come up to scratch and meet the required standards on a continuing basis.

#### Pennington Report

9. The Chair concluded her report by addressing the Pennington Report into the *E.coli* outbreak in South Wales in 2005. She reassured consumers and in particular the parents of affected children that the FSA will endeavour to make food as safe as possible, and gave condolences to the parents of Mason Jones, who tragically died as a consequence of this outbreak. Hugh Pennington's well written report placed the responsibility primarily on the butcher, Mr. Tudor, who as a result of his actions spent 12 months in gaol and has been prohibited from conducting any further food business. However, there are a number of recommendations addressed to the FSA and MHS. The Agency had issued a statement and gave an initial response to the Report on 19 March, the day of its publication. Since the outbreak, in 2005, the Board has led work internally on improving the operations of both the FSA and the MHS. Indeed a large number of Board meetings since the incident had items on MHS improvement.
10. The Chair invited the Chief Executive to contribute at this point. He explained that the Agency's response, which will be jointly with the MHS, will be presented to the Board in April and will:
  - (i) acknowledge where Hugh Pennington says "We should have done better" in 2005;
  - (ii) present the steps that the Agency plans to take to implement Pennington's recommendations and the time scale for implementation (roadmap to delivery);
  - (iii) explain the effect of the steps that have already been taken since the incident and their effect.
11. The Agency's response will cover both those recommendations addressed directly to it, but also those directed at others which will require FSA involvement.
12. The Chief Executive acknowledged that the Pennington Report was commissioned by the Welsh Assembly. The Welsh First Minister, Rhodri Morgan, had stated during a plenary session to the Welsh Assembly that he is keen to work with the FSA to help deliver safe food in Wales. The Chief Executive made clear that any action required by the Agency as a result of this Report to better protect consumers will be applied UK-wide. The UK-wide approach was welcomed by the Board, particularly given that whilst the MHS does not have a

remit in Northern Ireland, where the FSA's responsibilities are carried out by DARD, the principles of consumer protection must be applied to the whole of the UK.

13. The Board commended the Chief Executive on the proposed approach and the positive nature of the Agency's planned response. They emphasised that risks in the food chain should be minimised as far as possible, although acknowledging that they can never be completely eliminated. However, the Board was clear that the Agency should take all the steps it reasonably can to prevent such an incident in the future.
14. The Board requested that the Executive's response considers the similar incident which occurred in Scotland in 1996 and whether there were lessons that should have been learned from the Inquiry into that incident that could have prevented the 2005 incident in South Wales. Board members also requested that the Agency's initial response to the incident in 2005 be included in the Executive's response to the Board.
15. The Chair of the Welsh Food Advisory Committee asked Board members to read the Pennington report thoroughly, and to bring to the attention of the Executive any additional points they would like to see addressed in the Agency's report.

**Action: Board members**

16. The Chair acknowledged the challenging job that local authorities (LA) have in enforcement and emphasised the importance of good partnership working between LAs and the Agency. She urged the Executive to ensure that legal powers are fully exploited to ensure that businesses do not operate when they should not.

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

*(FSA 09/02/03)*

17. The Chief Executive updated the Board on the outcome of the decision to refuse to grant approval to a previously licensed premises, Maddock Kembery Meats, to operate as a red meat slaughterhouse under EU Food Hygiene Regulations, in May 2008. Maddock Kembery Meats appealed that decision, in the same month, and continued to operate as provided for in regulations.
18. Judgement in the case was given at Bridgend Magistrates Court on 19 March. The food business operator's appeal was dismissed and it had been ordered to pay the Agency's legal costs. The dismissal means that Maddock Kembery Meats must cease operations until the Agency grants approval or, in the event of their lodging an appeal to the Crown Court, the Crown Court allows the appeal. An appeal to the Crown Court must be brought within 21 days.

19. As the establishment is not approved by the Agency, enforcement responsibility reverts to the local authority, Bridgend Country Borough Council. The Agency has confirmed with Bridgend Borough Council that the premise is no longer operating as a slaughterhouse. The Agency will continue to liaise with the local authority.

#### Dioxins in Irish Pork and Beef

20. The Chief Executive expanded on his written report, on this issue. The independent Steelhenge report, commissioned by the Agency into its handling of the incident, currently does not address in enough detail two important elements of the handling of the dioxins incident. Namely, the interaction between the Agency, the European Union (EU) and other Member States; and the 'machinery of government' aspects. Both these issues will be explored further, (either by Steelhenge or the Agency), and will be included in the final report which will be circulated to the Board in due course.

**Action: Chief Executive**

21. The Steelhenge report will reflect particularly on the Agency's handling of the incident in the first couple of days. This was an opportunity to test the framework for dealing with large scale, complex incidents which was drawn up by the Agency a couple of years ago. The handling demonstrated that the framework is robust, however there are areas for improvement, such as dealing with incidents that start in other Member States and the Agency's ability to react to such incidents at the weekends. The Chief Executive acknowledged that there were lessons to learn, including by himself and other Directors, however wished to recognise the volume and quality of the work carried out by the FSA teams in Northern Ireland and Aviation House during the incident.

22. The Steelhenge report will be shared with the EU, who are also expecting a report from the Republic on Ireland on their handling of the incident.

23. Amongst other issues, this incident has raised further the profile of country of origin labelling of meat in Europe. The Board asked to be kept informed on developments on this issue.

**Action: Gill Fine**

24. Finally, the Chief Executive informed the Board that all affected cattle in Northern Ireland are in the process of being culled and incinerated, as compensation for farmers has been agreed. This will bring the incident to a close in the UK.

#### Scores on the Doors (SotD)

25. The UK-wide SotD steering group, chaired by Steven Esom, met for the first time on 24 March in London. The group, which consist of representatives from consumer groups, industry, local authorities, and the FSA, had a constructive

discussion. They had agreed that there were a number of challenges ahead and that collaborative working would be needed to tackle these. The steering group's workplan will be published on the Agency's website soon.

#### Healthier Catering: Pubs, Coffee and Sandwich Shops

26. The Board was pleased with the good news for consumers from the commitments made by 13 of the largest companies in the quick service sector to encourage healthier eating. They noted that healthy options should not only be made available, they should be effectively promoted and reasonably priced.

#### Consumer Focus Report

27. The Board welcomed this report, which noted in particular the lead the Agency takes in government in being open in its decision making.

28. The Agency has commissioned a report on the effects of the recession on the Agency's work, as the Executive is attempting to understand how consumer behaviour is changing in the current economic climate. The paper will be presented to the Board in due course.

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

#### **3.1 – ANNUAL REPORT FROM THE CHAIR OF THE SCOTTISH FOOD ADVISORY COMMITTEE (SFAC)**

*(FSA 09/03/04)*

29. Graeme Millar, Chair of SFAC, introduced the paper and expanded on some of the achievements of SFAC in the past year. In particular, he highlighted that the work of both SFAC and FSA Scotland (FSA-S) is well recognised in Scotland, by both the government and consumers.

30. Graeme assured the Board that SFAC will not spend more than required to achieve its objectives. Reflecting the quality of appointments recently made, it is unlikely that there will be new appointments to the Committee this year, and thus the costs of the Committee will be less than those that appear in annex B of the paper. The Chief Executive urged all the Food Advisory Committees to consider their recurring costs, as the rest of the Agency currently is being required to do.

31. It was noted that the Audit Advisory Committee Scotland, which advises FSA-S, is considered by stakeholders, partners, and FSA-S as a valuable tool.

32. The Chair acknowledged the work that the Food Advisory Committees (FACs), which are statutory bodies, do in advising the Agency especially regarding particular issues in the devolved countries. She commended the FACs on the transparency with which they operate, mirroring the transparency with which the Board operates.

### **3.2 – REPORT FROM THE DIRECTOR OF FSA SCOTLAND**

*(FSA 09/03/05)*

33. George Paterson introduced the paper to the Board. He highlighted some of the achievements of FSA-S in the last year and described some of the challenges facing the team in years to come. He expanded on the successful working with the Scottish Government to deliver on common FSA and Scottish Government objectives, such as healthy eating and the ongoing work to ensure delivery of safe food.
34. Board members commented on the utility of the stakeholder visits they attended, organised by FSA-S. Specifically Board members were impressed by the excellent work FSA-S is doing in educating young children on food safety and nutrition, and the potential to have long term impact, change behaviour, and make a real difference to future generations, by working in partnership with schools, local authorities, and sports clubs, through the delivery the HHEAPS initiative.
35. The Board sought clarification on the issue of non-conformity referred to in para 16 of the Director's written report, and requested also the figure for the number of deaths in Scotland caused by foodborne infections (para 7). If the figure is not available, the Board would be interested to know the reason.

**Action: George Paterson**

36. The Chair noted that this was George's last report to the Board as Director of FSA-S. She welcomed Charles Milne, who will take over the role in June. The Board acknowledged the contribution that George has made to the Agency, for which he was awarded a CBE. They thanked him for his good work in raising the profile of the Agency, and most importantly for his role in protecting Scottish consumers.

### **3.3 – REVIEW OF THE AGENCY'S NUTRIENT PROFILING (NP) MODEL**

*(FSA 09/03/06)*

David Cameron declared that the training company previously owned by him, and now owned by his wife, has in the past year received payment of £300 from Sodexo, a catering company and one of the respondent to the Agency's consultation, for Sodexo employees to attend a training course. The Chair did not consider this to be a material conflict of interest and agreed that David could participate in the discussion of this issue.

Tim Bennett declared that he is the Chair of Dairy Co, the statutory levy Board for the dairy industry. In this role Tim has responsibility for the Dairy Council and its assets. The Dairy Council has responded to the Agency's consultation. After careful consideration the Chair concluded that there could be a real perception of bias if Tim took part in the discussion. Tim left the table prior to the commencement of the item.

Maureen Edmondson declared that she is a member of the Communications Members Panel, a body separate from but hosted by Ofcom. The Chair decided that it would be difficult for Maureen to discuss this issue at both places, however as NP will not be discussed by the Communication Member's Panel, it would be proper for Maureen as a FSA Board member to take part in this discussion.

37. Rosemary Hignett introduced the paper by giving a short presentation on the background for the NP model and the rationale for the commissioning the Review of the model. She clarified that the model was developed solely to assist Ofcom apply TV advertising controls which seek to improve the balance of foods being advertised to children.

38. Professor Mike Kelly, Chair of the Review Panel, summarised in some detail the work of the Panel and explained the recommendations of the Panel. The Review Panel considered the scientific evidence and arrived at the following conclusions:

- the NP model generally is robust and a good tool for classifying high fat, sugar and salt foods;
- however, the protein cap should be removed from the model;
- removal of the protein cap will have limited effect on the classification of foods;
- the impact of the removal of the protein cap, should be assessed no less than 12 months after its implementation; and
- with the removal of the protein cap the NP model will continue to differentiate food and drink products on the basis of their nutritional composition.

39. Professor Alan Jackson presented SACN's view, in particular its concerns regarding the Review Panel's recommendation to remove the protein cap from the model, on the grounds of public health.

40. Claire Boville spoke of the work carried out to address the concerns of stakeholders regarding the application of the NP model to recipe and serving suggestion advertisements.

41. The Chief Executive added that the Board should consider, alongside the scientific evidence of the Review Panel, the wider context of their decision specifically the impact on public health and the industry. The signals that removing the protein cap would send would be undesirable in the wider

Government agenda of reducing the risks associated with the high incidence of childhood obesity.

42. There is a strong case to suggest that the industry values certainty. Removing the protein cap would not help those manufacturers who want to reformulate and in good faith expect to have a set of rules they can rely on being fixed for a substantial period of time. New product development teams and those responsible for innovating to create products within the guidelines do not want those boundaries to be moved with any sort of frequency.
43. The Board thanked Prof. Kelly for the good work of the Review panel, and welcomed the reassurance from independent experts that the NP model is scientifically robust.
44. The Board had a full discussion on whether the Agency should recommend to Ministers that the protein cap be removed from the Agency's NP model. In their discussions they considered in detail the scientific evidence and the difference in opinion between the Review Panel and SACN. They debated whether removing the cap would or would not assist product reformulation and possibly increase choice of healthier products for children. It was argued that removal could be a disincentive to product reformulation, especially given the proposal to review removal of the cap in at least 12 months time, adding further uncertainty about the definitive state of the model. Other Board members suggested removal of the cap would penalise those in industry who moved early and reformulated when the model was introduced.
45. The Board expressed concern over 'demonising' certain categories of foods, and noted that the model is based on determining the status of an individual products and not entire categories of products.
46. The Board accepted that portion size is a difficult issue, and recognised the risk that if the model was modified and based on portion size then once a food is classified as healthy by the NP model allowing it be advertised to children, there would be no barrier to later increasing the portion size of the product available on supermarket shelves.
47. The Board was also conscious of the fact that the European Commission is developing an EU NP model and Ofcom's review of the impact of the Agency's NP model is expected in 2010, both of which may impact on the Agency's NP model.
48. Finally the Board acknowledged that its role is not about simply endorsing the science. Their decision must take note of the science, however, ultimately the Board's role is to take a risk management decision and address the wider policy objective to protect consumers.

49. The Board accepted the work of the independent Review Panel and its findings that the NP model was generally scientifically robust and fit for purpose. However, the Board also decided, by a clear majority, that the protein cap should remain in place. In making this decision, the Board reinforced its message that they take the diet of children seriously, and do not feel it is appropriate at present to relax the NP model. Furthermore, to promote certainty for businesses, the Board decided that there was no need to further review this decision until the model had been operated for considerably longer and until the impacts were clearer.

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

50. The Chair informed the Board that the usual information papers from SFAC and WFAC were absent from this month's agenda. SFAC met later than usual, on the 19 March, and WFAC postponed its meeting until this until 3 April as it had been due to meet on the day that the Pennington Report was published.

51. The Board thanked Maria Jennings, Assistant Director of FSA Northern Ireland for her good work in the absence of Gerry McCurdy due to illness, and wished Gerry a speedy recovery.

#### **Date of next meeting**

52. The next Open meeting will be on 21 April, 2009.