

OPENNESS

Executive Summary

1. The Food Standards Agency was established in 2000 with openness and accessibility considered to be key to the effective operation of the Agency. It is clear that one of the important factors in securing the current level of trust in the FSA has been the Agency's commitment to this approach. However, organisations evolve, new requirements come into play, and the memory of early influences can be superseded by recent experiences and new dilemmas. This paper asks the Board to discuss and agree actions to be taken in order to ensure that the FSA – Board and Executive – continues to live up to its core value of being open and accessible, does so in an effective and efficient way, and is an organisation that others look to for a lead.
2. The paper proposes that the following principles guide us, and should continue to do so:
 - the FSA is **answerable to the public**, who indirectly fund the Agency and who have a key interest in its effective operation – the organisation therefore needs to hold itself open to **scrutiny**, allowing stakeholders to question and challenge any aspect of our policy and regulatory decision-making;
 - the FSA **must be impartial** in the way it acts to protect consumers and their interests, reaching balanced and evidence-based decisions and acting according to its founding statute – openness allows the organisation to both illustrate its impartiality and protect itself from undue pressures; and
 - the FSA, as an unelected regulator, is most effective when it **operates by consent** – openness allows stakeholders to make reasoned judgements on the extent to which the Agency demonstrates the characteristics of fairness, competence and efficiency that underpin public confidence and stakeholder trust in any regulator and its decisions;
3. The paper presents a coherent programme of actions to further develop the FSA's policy and practices of openness in order to deliver against these expectations. Specifically, the Board is asked to:
 - **consider** potential changes to the conduct of Board meetings, and:
 - in relation to open meetings, **commission** a feasibility study of different models of universal access open meetings, taking account of costs and sustainability, to report to the Board by October 2007 (paragraph 16);

- in relation to closed meetings, **agree** that: (i) the FSA should publish the criteria that it applies to deciding whether papers should be taken at closed or open meetings; (ii) that each closed Board paper should include an introductory paragraph setting out the rationale for its discussion in closed session (with the Board able to challenge that rationale); and (iii) the FSA should publish the agendas of its closed meetings on the website, with a short note on the issues discussed (paragraph 18); and
- in relation to Board briefings, **note** that the Chief Scientist will advise the board further, by July 2007, on how we might deliver a consistent approach to the openness of scientific advisory committee meetings and of scientific and technical briefings to the Board, in line with our aims of delivering transparency of operation (paragraph 20).
- **consider** the means by which the FSA should further improve engagement with, and accountability to, stakeholders and:
 - **commission** costed proposals for (i) regular themed meetings, with Board members attendance, at which a synthesised picture of policy development could be presented on a particular issue, for comment and question by a range of stakeholders; and (ii) an annual accountability meeting, to report to the Board by October 2007 (paragraph 32); and
 - **note** that the Executive will contributing further proposals, subsequent to the review to be undertaken by the new Head of External Affairs of the opportunities for more effective engagement at Board and senior executive level with stakeholder groups (paragraph 14).
- **note** that the Chief Executive will develop and implement actions to improve the transparency of decision-making across the FSA, and provide the Board with a progress report by December 2007 (paragraph 23); and
- **agree** to establish a Task Force including membership from the food industries as well as from the Agency's other stakeholder communities, in order to consider criteria that the FSA might apply to the publication, release or non-disclosure of any information received from, or relating to, food companies and food products (paragraph 37).

REGULATION, INTERNATIONAL AND OPENNESS DIVISION

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OPENNESS

Issue

1. This paper asks the Board to discuss and agree actions to be taken in order to ensure that the FSA – Board and Executive – continues to live up to its core value of being open and accessible, does so in an effective and efficient way, and is an organisation that others look to for a lead. The paper is informed by the FSA's own experience in operating openly, and by an external review of openness in the FSA and other organisations commissioned by the Executive.

Strategic Aims

2. "To be open and accessible" has been a core value of the FSA since the organisation was established in April 2000.

Background

The rationale for openness

3. The Food Standards Agency was established in 2000 with openness and accessibility as one of its core values, underpinned by a published Code of Practice on Openness. We have at various times reviewed the Code of Practice on Openness, its application to specific policy areas, the conduct of Board meetings and the publication of information and advice to the public and Ministers (see Annex A). The Board agreed in June 2006 that it should review openness in the round, and agreed the scope of the review in September 2006.
4. This review provides the FSA with the opportunity to look again at our policy and practices of openness, to ask why the FSA should be committed to openness, and to ask what openness delivers. We propose that the FSA's policy and practices of openness are built on the following principles:
 - the FSA is **answerable to the public**, who indirectly fund the Agency and who have a key interest in its effective operation – the organisation therefore needs to hold itself open to **scrutiny**, allowing stakeholders to question and challenge any aspect of our policy and regulatory decision-making;
 - the FSA **must be impartial** in the way it acts to protect consumers and their interests, reaching balanced and evidence-based decisions and acting according to its founding statute – openness allows the organisation to both illustrate its impartiality and protect itself from undue pressures; and

- the FSA, as an unelected regulator, is most effective when it **operates by consent** – openness allows stakeholders to make reasoned judgements on the extent to which the Agency demonstrates the characteristics of fairness, competence and efficiency¹ that underpin public confidence and stakeholder trust in any regulator and its decisions;
5. If this is the rationale for openness in the FSA, how does the organisation measure up to the expectations of impartial decision-making; operating fairly, competently and efficiently; and allowing question and challenge?

An Assessment of Performance to Date

6. The overall conclusion of the review commissioned by the Executive is that the FSA has performed well and has fulfilled initial expectations in the way in which it has delivered its commitment to openness. However, it is clear that there is no room for complacency; some areas of performance require attention, and some of the reputational advantage gained by the FSA's approach to openness is being eroded as other organisations become equally innovative.
7. Recent feedback from stakeholders also continues to mirror some of the comments lodged by stakeholders in the 2005 Dean review.² The Board received an update on measures to address the Dean review recommendations as an intersessional paper in May 2006. The measures taken to date have not yet delivered a wholesale change in stakeholder impressions of the Agency's performance on openness, though it should be noted that a number of the examples mentioned most recently by stakeholders still predate the Dean report. This paper proposes a programme of further actions.

Discussion

8. This paper does not intend to define openness. Instead it takes as a working definition the characteristics of openness rated most highly by respondents to the review commissioned by the Executive:
- **accessibility and receptiveness** – both accessibility of information, and the accessibility of the Board and executive for external stakeholders and our receptiveness to external ideas;
 - **transparency** of decision making – including the need to explain changes in thinking and why different views and evidence are given different weights in our policy judgements; and

¹ "In some cases, for example, the public will trust regulators even if they do not agree with a regulation as long as they understand the process itself to be credible... If the public perceives the regulator to be **competent, fair and efficient** based on previous decisions, the public is highly likely to trust these regulatory bodies in the future". Ragnar Löfstedt (2005) in *Risk Management in Post-Trust Societies*, publ. Palgrave Macmillan.

² www.food.gov.uk/multimedia/pdfs/deanreviewfinalreport.pdf

- **openness and accountability** – characterised by engagement with stakeholders as policy develops and an approach to openness that is truly embedded within the culture of the organisation.
9. Each of these three areas continues to pose challenges as the expectations of stakeholders and of the FSA itself rise. However, maintaining and improving the receptiveness of the FSA to external ideas appears to be a particular current challenge.

Accessibility and Receptiveness

10. Openness is two-way. As Baroness Dean noted in her review “a number of stakeholders from across the groups felt that the Agency does not always pay due regard to externally-produced information – scientific and non-scientific”³. The new model for consumer engagement agreed by the Board in October 2006⁴ takes into account the needs of individual consumers, consumer stakeholders and wider civic society and aims to provide routes through which consumers can ask questions, seek connections and make suggestions for further research from the earliest stages of policy development. More recent comments by industry stakeholders suggest that more work is needed to deliver appropriate and effective channels for that stakeholder community to access the FSA.
11. These comments suggest that the FSA as a whole – Board and Executive alike – needs to ensure that it welcomes, listens and responds to views from all stakeholders. However, we need to recognise the risk that increased accessibility without any structure may lead to confused and inconsistent messages being received by and issued from the FSA.
12. The FSA is recruiting to a new post – the Head of External Affairs – within the Executive team, whose main responsibilities will include:
- providing a strategic overview of the Agency’s relationships with all its stakeholders;
 - sharing knowledge of stakeholder activities across the Agency; and
 - ensuring that all contact with stakeholders is conducted in an open and accessible way and, for example, all minutes of meetings are placed on the Agency’s website.
13. The postholder will need to have an overview of all our stakeholder relationships and keep abreast of the needs of policy divisions within the Agency and the demands of particular stakeholder groups. The creation of this new post will not,

³ Section 4.1.6, *2005 Review of the Food Standards Agency*

⁴ Paper FSA 06/10/04, *Consumer Engagement Model*

however, restrict the access of our stakeholders to the Board and senior executive team where, despite the range of opportunities for engagement through a range of fora and ad hoc meetings, the perception of some stakeholders is that accessibility could be improved.

14. **The Board is asked to note that the new Head of External Affairs will be tasked with reviewing the opportunities for more effective engagement at Board and senior executive level with stakeholder groups, integrating current initiatives such as the Chief Executive's fora with consumer, enforcement and stakeholder communities⁵.** Options (not mutually exclusive) might include, but are not limited to, standing panels of various stakeholder interests, a programme of meetings to gather views from different stakeholder groups, or workshops at early stages of policy development. There are also innovative approaches used by other organisations from which the FSA might learn.

Transparency

15. Open Board meetings continue to be important in demonstrating transparency of the FSA's decision-making, given the Board's continuing undertaking only to take decisions on food safety and consumer policy in public. Open Board meetings also have a totemic significance, being a defining characteristic of the FSA for many stakeholders. However, we need to consider whether our current public attendance model of open Board meetings, with the need to book suitable venues and make travel and infrastructure arrangements some months in advance:

- is compatible with the need to deal properly with urgent business – although the need to act swiftly to ensure consumer protection will sometimes require the Chair to act on behalf of (and with the authority of) the whole Board in endorsing proposed action by the Executive, an effective non-Ministerial Government department should aim to ensure that the Board as a whole can take major policy decisions in a timely fashion;
- confers advantage on those organisations and individuals with the resources to attend meetings in person and, in particular, disadvantages stakeholders based in the devolved countries as the FSA Board holds only one public attendance meeting in each of these countries each year;
- provides value for money; and
- is consistent with FSA policy on sustainability.

⁵ http://www.food.gov.uk/aboutus/how_we_work/stakeholderforums/

16. Universal (remote) access meetings would provide an alternative to our current public attendance model for open Board meetings. The FSA already has relevant experience from webcasting open Board meetings, archiving the webcasts for video-on-demand access through its website, and (more recently) podcasting open Board meetings. These innovations have had a significant impact on stakeholder perceptions of the FSA's openness. They have also delivered greater openness, as access to open Board meetings in 2006 (Annex B) shows that considerably more people access the Board meeting remotely (an average of 880 per meeting), than attend in person (an average of 32 per meeting). **The Board is asked to consider the case for moving away from public attendance and towards universal access for its Board meetings and that, to inform its further discussions, the Executive undertakes a feasibility study of different models of remote universal access open meetings, with their relative costs, to report to the Board by October 2007.** Universal access models could, for example, retain the existing 'question and answer' session at the end of meetings in order to supplement proposals elsewhere in this paper to maintain and improve the accessibility and public accountability of the FSA. The feasibility study will seek the views of the Advisory Committees in Scotland, Wales and Northern Ireland.

17. Notwithstanding the Board's continuing undertaking only to take decisions on food safety and consumer policy in public, there remains a perception that the practice of holding closed sessions of the Board in advance of open meetings reduces the transparency of the policy process. Closed sessions of the Board receive briefings on matters related to food safety and standards, but they do not take or rehearse decisions on these matters. Nevertheless, these perceptions remain, and may be driven by either or both of:

- lack of clarity to our stakeholders of the criteria for deciding whether an issue should be discussed at a closed or open meeting of the Board, and how these criteria are then applied;
- the practice of inviting experts and stakeholders to brief the Board in closed session to facilitate subsequent debate at an open meeting.

18. The FSA remains clear that closed meetings include discussion and decision of issues related to the running of the organisation (such as HR and finance issues), and open meetings consist of discussion and decision on matters of food safety and standards. However, when a paper falls outside of these non-exhaustive descriptions, the basis for the decision on whether the paper should be taken to a closed or open Board meeting is not always clear to stakeholders outside the FSA. **The Board is asked to agree that: (i) the FSA should publish the criteria that it applies to deciding whether papers should be taken at closed or open meetings; (ii) that each closed Board paper should include an introductory paragraph setting out the rationale for its discussion in closed session (with the Board able to challenge that rationale); and (iii) the FSA**

should publish the agendas of its closed meetings on the website, with a short note on the issues discussed.

19. In December 2003, the Board agreed to improve transparency by publishing the subjects of its briefing sessions together with the names of the people (subject to their agreement) or organisations briefing the Board. However, the Scottish Food Advisory Committee recently recommended that such briefings should in future be held in public. Before proceeding, we would need to consider and resolve issues such as:

- the propriety of putting any (as yet) unpublished research findings into the public domain in this way; and
- the most economical and effective options, for example holding briefings on FSA premises (with the need then to limit attendance and require advance bookings from attendees).

20. Similar issues, including those relating to handling unpublished research findings, are relevant to the openness of meetings of the FSA's scientific advisory committees. **The Board is asked to note that the Chief Scientist will consider further the openness of scientific advisory committee meetings and of scientific and technical briefings to the Board, and will advise the Board by July 2007 on how we might deliver a consistent approach to openness of these meetings and briefings, in line with our aims of delivering transparency of operation and the general principles on publication of research outcomes set out in the FSA Science Strategy⁶.**

21. Two particular themes identified by the 2005 Review conducted by Baroness Dean were echoed in the recent review commissioned by the Executive. The first of these is the suggestion that mechanisms should be found to enable stakeholders to see how technical evidence is considered and used by the Board in arriving at a policy decision. Greater openness of Board briefing sessions should deliver this, in part. However, the Agency's approach to the governance of science⁷ also provides transparency and assurance, in particular through the following measures:

- since May 2005, where proposals or papers being considered by the Board rest on scientific evidence, the Chair of the relevant scientific advisory committee has been invited to the Board table to provide assurances relating to the quality of the science base, to answer questions from the Board on the science, and to provide an independent view of how their committee's advice has been reflected in relevant policy proposals;

⁶ www.food.gov.uk/multimedia/pdfs/sciencestrategy.pdf

⁷ See paper FSA 06/02/07, *The Governance of Science*

- a science checklist has been developed and published, and is used by Board members as an aide-memoire of the points they should expect to have been addressed in any scientific evidence presented to the Board;

22. The second theme from the Dean review echoed in the recent review is the need to improve the transparency of decision-making in the FSA, particularly where the Agency's views change, where the Agency has weighted different stakeholder views or pieces of evidence differently in the decision-making process, or where there is a political context to the decision. The FSA's Code of Practice on Openness⁸ already includes the undertaking that "we will keep and make available records of our decisions, to enable consumers and other stakeholders to:

- see the basis on which decisions have been made; and
- make an informed judgement about the quality of our processes and decisions."

23. The views expressed by some stakeholders in these reviews indicates that although this policy is sound, our practices do not always allow stakeholders to make these judgements. There are a range of practices which contribute to transparent decision-making, including stakeholder engagement throughout the policy process, and publication of responses to formal consultations together with a summary of the action the FSA will take as a result⁹. **The Chief Executive will develop and implement actions to improve the transparency of our decision-making, and provide the Board with a progress report by December 2007.** The collated responses to a recent questionnaire survey of FSA and MHS staff indicate very positive attitudes towards and genuine commitment to openness amongst the staff, combined with a willingness to seek new and innovative approaches to the delivery of openness. The Chief Executive may therefore focus on internal systems and practices, rather than needing to change the culture of the Executive.

Openness and Accountability

General considerations of openness

24. It is possible to consider openness in terms of a hierarchy of actions. At the pinnacle is stakeholder engagement and the stated aim of the FSA "to blend expert advice (with all the limits of uncertainty) with participatory decision-making, in order to reach a judgement on what action, if any, should be taken in each case"¹⁰. Below engagement is proactive publication of information – "where there

⁸ http://www.food.gov.uk/aboutus/how_we_work/copopenbranch/

⁹ <http://www.food.gov.uk/consultations/>

¹⁰ House of Lords Select Committee of Economic Affairs, 5th Report of Session 2005-06, *Government Policy on the Management of Risk, Volume II: Evidence*. pp 183-191, memorandum by the Food Standards Agency.

are meaningful choices to be made, the importance of giving people information on which they can make their own judgements about handling of risk, communicating clearly what a complex technical risk means in terms of practical action”¹¹. Below proactive publication is disclosure – with the presumption that, if not proactively published, information will be disclosed unless it falls within certain specific exemptions. There is an understandable tendency in any organisation committed to openness to push the handling of as many issues as possible up this hierarchy. However, there are two practical constraints that apply.

25. First, we need to draw the line between information that is legitimately open, and that which is legitimately protected. For example:

- the Board will continue to consider the balance between open discussion of specific enforcement issues and the risk of jeopardising future legal action; and
- the Agency will continue to give due consideration to issues related to breach of confidence and legal professional privilege.

26. Second, we need to consider the resource and opportunity costs of moving from proactive publication of information to deeper engagement throughout the policy process. As is argued below, deeper engagement is demanding, and can be resource-hungry.

Developing new Channels for Delivery of Open Engagement and Accountability

27. The status and powers given to the FSA in its founding legislation have been critical in enabling it to develop an open and transparent approach to the assessment, management and communication of risks to consumers. The Agency’s practical experience shows that public trust and confidence are built through being open about risks and uncertainty: saying what we know, what we don’t know and what we are doing about it; and offering considered advice in non-technical language. The Agency believes that this approach has helped achieve significant successes in the management of public health risks related to food and drink. It has also generated consumer confidence in the ways in which food safety and standards are assured¹² and has thereby contributed to market stability.

28. However, although consumer confidence aids market stability, it does not translate directly into the confidence of the food industries in the FSA. Certainly, some industry stakeholders are now less inclined to work collaboratively with the FSA, perhaps as a result of recent issues on which some industry stakeholders have not supported FSA policy decisions despite their sound evidence base.

¹¹ Ibid.

¹² <http://www.food.gov.uk/multimedia/pdfs/casuk05.pdf>

Furthermore, the Agency has already noted that “the work of the Food Incident Task force has illustrated the need to improve the level of trust between the food industry and the Agency on food safety issues”¹³. The FSA has therefore agreed a new objective that “by the end of 2010, we will build and maintain the trust of stakeholders in our handling of food safety issues”.

29. The experience of the FSA shows that stakeholder engagement, when carried out through the policy process, can help deliver robust policies on difficult issues (for example, in the review of the Over Thirty Month put in place in 1996 as a component of the BSE controls to protect people from vCJD, which excluded cattle aged over 30 months from the food supply). Some commentators suggest that this level of engagement is more important than transparency in delivering trust – Professor Onora O’Neill proposed that “informed consent can provide a basis for trust provided that those who are to consent are not offered a flood of uncheckable information, but rather information whose accuracy they can check and assess for themselves”¹⁴. Engagement on this scale is, however, resource-intensive (as Professor O’Neill remarked, “This is demanding”!).
30. Engagement is often not continuous throughout the policy process and is delivered, for example, through consultations at relatively few points along the process, or discussions over several Board meetings as an issue develops. In these situations, the overall direction and objectives of the policy may be unclear to stakeholders, as may the incrementally changing evidence base.
31. Openness also provides opportunities for the FSA to deliver public accountability, for example through the question and answer sessions at each open Board meeting. However, there is currently no opportunity for the public to hold the FSA to account for its work in an organised way.
32. These considerations suggest that the FSA should develop mechanisms to further improve the organisation’s engagement with, and accountability to, stakeholders, and deliver opportunities for different stakeholder groups to discuss issues of concern directly with each other. **The Board is therefore asked to consider commissioning proposals, balancing benefits against resource and opportunity costs, for the following new channels for the delivery of open engagement and accountability, to report to the Board in October 2007:**
 - **regular themed meetings, with Board members attendance, at which a synthesised picture of policy development could be presented on a particular issue, for comment and question by a range of stakeholders; and**

¹³ Paper FSA 06/12/07, *Review of Progress with Delivering the 2005/2010 Strategic Plan*

¹⁴ Professor Onora O’Neill, *Trust and Transparency*, BBC Radio 4 Reith Lectures 2002

- **an annual accountability meeting - current plans are to publish the FSA annual report in May each year and the FSA accounts in July, which would suggest that an annual accountability meeting might be held each September.**

Publication of names of Companies or Products not following Best Practice Guidance

33. This issue was held over from the June 2006 meeting to this broader discussion of openness. It has been the custom for the Agency to publish the results of surveys it conducts, including the brands and provenance of the products surveyed. This practice has applied equally to surveys that investigate compliance with the law, and surveys that investigate the extent to which good or best practice guidance is being observed.
34. There is widespread acceptance that where a company or product has failed to comply with the law, publishing their name not only discharges our objective of informing consumers so they may make meaningful choices, but also applies a reasonable reputational sanction. However, there is less support for applying the same sanction to companies and products that do not follow best practice guidance - the then Better Regulation Task Force viewed such a practice as “regulatory creep”¹⁵. In responding to the BRTF, the FSA commented “we... will give further thought as to the way that we present survey findings on best practice in future”.
35. Subsequent consultation on this issue¹⁶ has indicated that stakeholder views are mixed (see Annex C for summary) and, in general, those in favour of publishing names of companies or products not following best practice guidance tended to be consumer or campaign organisations whilst those strongly against this practice tended to be food industry and its representatives. Both the Scottish Food Advisory Committee and the Northern Ireland Food Advisory Committee have recently advised¹⁷ that surveys set up on a non-attributable basis do encourage more industry participation, reducing the risks of inadequate coverage. The issue continues to feature in stakeholder comments.
36. It is clear from discussions with industry stakeholders that the issue of publishing the names of companies or products not following best practice guidance is part of a broader issue regarding the release of information held by the FSA relating to companies or products. It is also clear that this broader issue impacts on the degree of trust that the food industries have in the Agency (see above).

¹⁵ Better Regulation Task Force, October 2004, *Avoiding Regulatory Creep*

¹⁶ Annex 1 to Paper FSA 05/10/02, *Protecting Consumers: The Food Standards Agency Role as a Regulator*

¹⁷ Scottish Food Advisory Committee, April 2006, and Northern Ireland Food Advisory Committee, May 2006.

37. The Board is therefore asked to consider establishing a Task Force, chaired by a Board member or eminent external person, and including membership from the food industries as well as from the Agency's other stakeholder communities, in order to consider criteria¹⁸ that the FSA might apply to the publication, release or non-disclosure of any information received from, or relating to, food companies and food products.

Resource Implications

38. This paper proposes three feasibility studies – of universal access Board meetings, themed meetings, and an annual accountability meeting. Each of these is additional to current programmed activity, and would require external support in order for it to be completed within the timescale proposed. Initial scoping assumptions suggest that the studies of themed meetings and an annual accountability meeting might each cost of the order of £50,000 to conduct, and that of universal access Board meetings (due to its greater specialist technical content) might cost of the order of £100,000. The administrative costs of commissioning these studies and the staff resource needed to manage them would be met from existing internal delegations.

39. This paper also proposes some new work activities within the Executive team, not previously envisaged. The most significant of these would be: the development and implementation of actions to improve the transparency of decision-making (paragraph 23); and establishment of a Task Force (paragraph 37). These activities, if agreed, would be prioritised within business plans at some resultant opportunity cost.

Impact

40. Our stakeholders continue to expect the FSA to deliver openness across the whole organisation, and across all policy areas. As we take forward the actions that the Board agree, we will need to continue to engage and discuss with stakeholders in order that our actions in total align with their expectations of an open organisation.

41. Our stakeholders also rightly expect the FSA to deliver openness across the whole of the UK. The proposals for universal access should remove any disadvantage felt by stakeholders in the devolved countries due to the relatively infrequent nature of the public attendance Board meetings held in those countries (paragraph 15). In taking forward both this proposal and the other feasibility studies suggested in this paper – of themed meetings and of an annual accountability meeting (paragraph 32) – the needs of stakeholders across the UK will be considered.

¹⁸ Such criteria would need to be consistent with the statutory framework provided by, for example, Freedom of Information and Environmental Information legislation.

42. The various proposals above have internal impacts relating to staffing, skills and opportunity costs, which will need to be incorporated into subsequent recommendations to the Board.

Risks

43. The largest risk is to the FSA's reputation, should the organisation fail to take this opportunity to review and develop the way in which it lives up to its core value of openness and accessibility.

Board Action Required

44. The Board is invited to take a view on the rationale for openness in the FSA, and how the organisation measures up to the expectations of how we should act that derive from this rationale – independent yet participatory decision-making; operating fairly, competently and efficiently; and allowing question and challenge (paragraphs 4 and 5).

45. This paper presents a coherent programme of actions to further develop the FSA's policy and practices of openness in order to deliver against these expectations. Specifically, the Board is asked to:

- **consider** potential changes to the conduct of Board meetings, and:
 - in relation to open meetings, **commission** a feasibility study of different models of universal access open meetings, taking account of costs and sustainability, to report to the Board by October 2007 (paragraph 16);
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 - **commission** costed proposals for (i) regular themed meetings, with Board members attendance, at which a synthesised picture of policy development could be presented on a particular issue, for comment and question by a range of stakeholders; and (ii) an annual accountability meeting, to report to the Board by October 2007 (paragraph 32); and
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PREVIOUS BOARD DISCUSSIONS OF OPENNESS AND RELATED ISSUES

September 2006

The Board agreed the scope for the review of openness (Paper FSA 06/09/05) that it requested at the June 2006 meeting:

- establishing what openness means for the FSA;
- benchmarking the FSA's performance on openness against that of other comparable organisations;
- analysing the extent to which the FSA has met its statutory obligations and other relevant expectations; and
- identifying the costs, benefits and risks of how the FSA currently demonstrates openness.

June 2006

The Board delayed consideration of issues relating to public attendance at Board briefings and publication of survey results (Paper FSA 06/06/07) pending the current wider consideration of openness. These issues are covered in the current paper.

February 2004

The Board considered options for future Board meetings (Paper 04/02/03), including open "progress review" meetings and opportunities for informal engagement with the public and other stakeholders.

June 2002

The Board received the results of an external review of its policy-making to that time on BSE and sheep (Paper FSA 02/06/03), applying for the first time a framework for measuring food risk management against the lessons of Lord Phillips' BSE inquiry.¹⁹ The review made nine recommendations relating to open reviews of policy and the use of stakeholder groups, including that "the Agency should continue to develop and explore further the best ways of using Stakeholder Groups in risk management and policymaking".

December 2001

The Board noted revisions to the Agency's Code of Practice on Openness, in the light of a review of its operation (Information Note 01/08/03).

March 2001

The Board agreed the FSA's policy on making public its substantive advice to Ministers (Paper FSA 01/02/04), exercising the powers provided in the Food Standards Act 1999 to inform consumer choice and protect the public at large, while

¹⁹ The Board had previously agreed that the framework (information paper 02/02/05, 14 February 2002) should be used as the basis for external reviews of policy areas

enabling the normal business of government to function effectively between departments.²⁰

The Board also discussed the FSA's approach to publishing information and advice to consumers on food safety and standards matters. It agreed that it was often good practice to delay publication of information for a brief period of a few days so that the Agency's views and advice to the public could be formulated and the information and advice published simultaneously. The Board recommended that, where a significant delay in providing advice was envisaged, information should be published immediately.

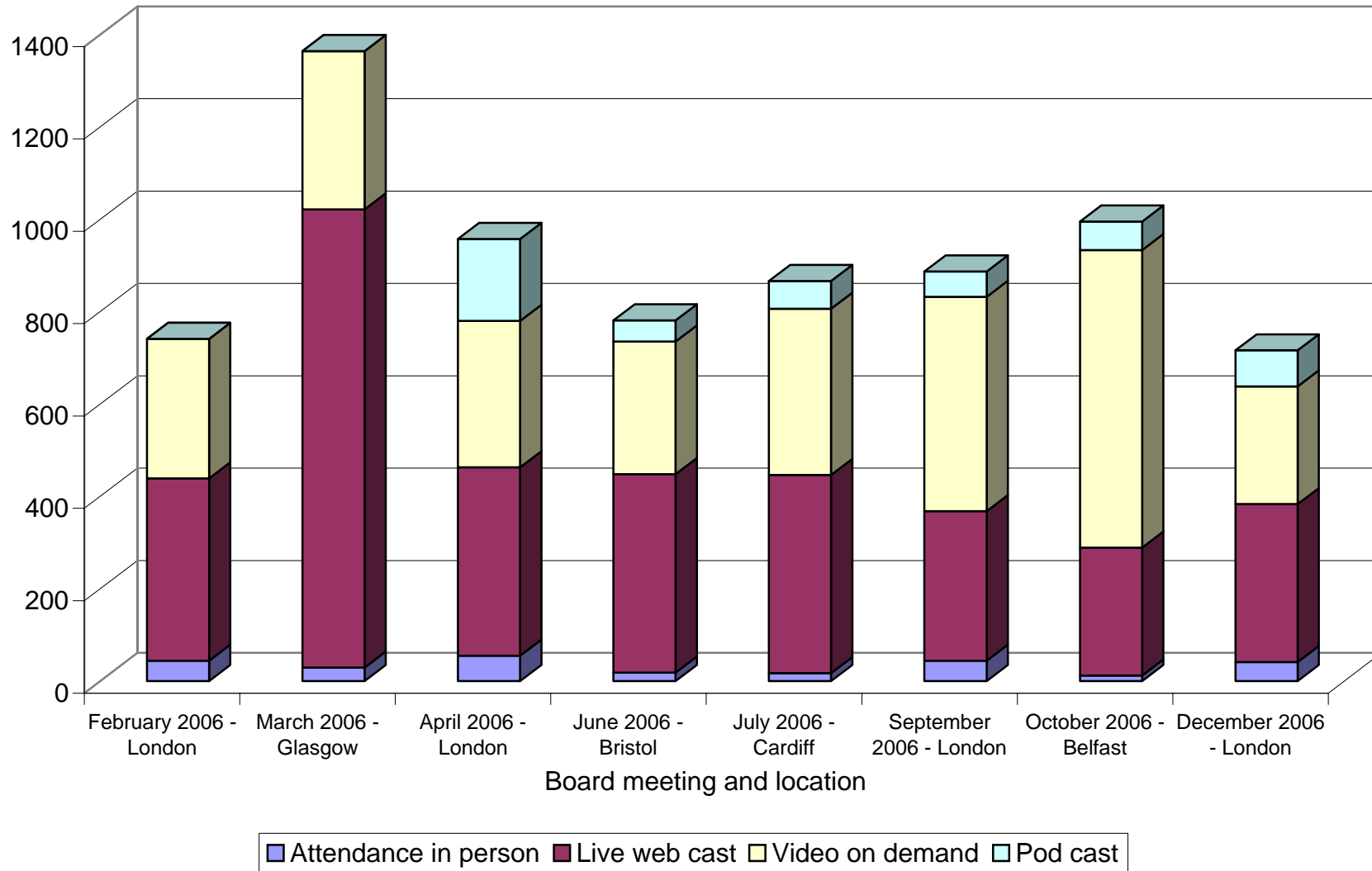
June 2000

The Board considered a report from the open forum held by the FSA at Villa Park, Birmingham on 31 May 2000, at which ninety members of the public expressed their views on how they wanted the Agency to operate and what they saw as its priorities (Paper FSA 00/02/05). This was the first event of its kind held by the FSA, and was experimental in nature. The Board suggested alternative approaches for future events, such as focusing on local groups and building on existing events, and delivering a more directed message.

²⁰ http://www.food.gov.uk/aboutus/how_we_work/copopenbranch/pubminister

Participation in FSA Board meetings, 2006

ANNEX B



EXCERPT FROM SUMMARY OF RESPONSES TO THE CONSULTATION ON THE DRAFT POLICY STATEMENT OF THE FSA'S APPROACH TO REGULATORY DECISION-MAKING (PAPER FSA 05/10/02)

We publish the results of our surveys, including the brands of the foods that are surveyed. Some surveys look at compliance with the law, whilst others look at the extent to which best practice guidance is being followed. Some commentators have suggested that if the FSA publishes the extent to which individual companies follow best practice guidance this could be argued to amount to regulatory creep. However, we believe it is reasonable for consumers to expect the FSA to inform them about the extent to which best practice is being followed. Do you agree that we should publish results of surveys showing the extent to which best practice is being followed?

Comments fell into 3 main areas:

1. Those in favour of publishing results (tended to be consumer/campaign organisations);
2. Those making specific comments on aspects on our current practice on publication; and
3. Those strongly against the publication of surveys (tended to be food industry and its representatives). Specific comments included:
 - All survey results should be published, including all information and brand names, to enable consumers to make informed decisions.
 - Is not regulatory creep, instead transparency in practice.
 - The FSA is fully justified in naming offending companies where public safety might be compromised or where illegality has occurred.
 - Whilst publishing results does encourage transparency, it is essential to avoid public health scares.
 - Survey results only effective if all companies producing a particular product are included, allowing consumers to compare like-for-like.
 - Need to distinguish between 'good' and 'best' practice, in order to achieve highest possible standards.
 - Need to distinguish between reporting on best practice and statutory compliance.
 - Must ensure information published is accurate.

- Survey results uncovering breaches of legislation should not be published until the offenders have the opportunity to discuss the findings and agree actions.
- 'Name and shame' should be complemented by 'name and praise'.
- Full surveys should not be published, only the extent to which guidance is being followed.
- Small firms often suffer the most from 'name and shame', as it is often ineffective and out of context.
- The publishing of survey results is an unacceptable method of supplying consumers with "accurate and factual" information.
- Regulatory intervention should be designed to compensate for market failures. Disclosure of information which helps consumers to assess risks is not 'regulatory creep' but minimal regulatory action.