

**A REVIEW OF THE PROPOSED ARRANGEMENTS FOR THE
APPROVAL OF MEAT ESTABLISHMENTS**

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1. INTRODUCTION

1.1 This Report has been commissioned by the Chief Executive of the Food Standards Agency. The Terms of Reference of the review are:-

To conduct an independent review of the intended governance of the process for the Food Standards Agency's granting, suspending and withdrawing approval of meat establishments in Great Britain where there is Meat Hygiene Service attendance as responsibility for these decisions transfers from the FSA to the MHS in October 2009. The review will have particular regard to whether the proposed governance arrangements for the oversight of approval decisions and appeals is appropriate, and to make recommendations.

Scope

The review will include a comparison between the arrangements for approval decisions (and appeals against them) for FSA and Local Authority enforced establishments.

Specifically excluded from the scope of this review is:

- *Any examination of the criteria for assessing whether a business is 'Persistently Non-compliant'.*
- *The operational guidance that will be used to help determine decisions for granting, suspension or withdrawal of Approval.*
- *The arrangements/triggers/criteria for post approval verification visits.*
- *Consideration of the arrangements for granting, suspending or withdrawing Approvals in NI.*

1.2 In conducting this review I received considerable assistance from several FSA Board members, some 20 staff of the FSA and its Executive Agency the Meat Hygiene Service, representatives of the main industry stakeholder bodies, local authority representatives and a number of senior individuals with valuable experience in this area. I would like to thank all of them for the time that they gave to this review and the open and thoughtful contributions they made. Details of those I spoke to in May and June 2009 are at Annex A.

1.3 The purpose of this review was to examine the proposed governance of the process for the Food Standards Agency's granting, suspending and withdrawing approval of meat establishments in Great Britain (referred to in this Report for brevity's sake as the Approvals System). In particular, the review looked at the governance arrangements being put in place to oversee the ongoing Approvals System work that was being transferred to the MHS. The one-off exercise conducted by the FSA during the period 2006 to date to re-approve all premises following new EU legislation has not transferred to the MHS and was not the subject of recommendations in the Report. The research for this review was conducted largely in May and June 2009.

1.4 There is no single definition of governance in the public sector but having examined a number of those in use I identified two that seemed particularly relevant to this situation

1.5 The Corporate Governance Code for Central Government Departments (HM Treasury 2005)¹ states that “*governance is the way in which organisations are directed and controlled. It defines the distribution of rights and responsibilities among the different stakeholders and participants in the organisation, determines the rules and procedures for making decisions on corporate affairs including the process through which the organisation’s objectives are set, and provides the means of attaining those objectives and monitoring performance.*”

1.6 The Langlands Report² of 2004 ‘Good Governance Standard for Public Services’ defines good governance using 6 criteria, of which 4 are listed here (the others relate to the role of individual Board members and so are not relevant to this Report). It states that “*good governance means*

- *focusing on the organisation’s purpose and on outcomes for citizens and service users;*
- *performing effectively in clearly defined functions and roles;*
- *taking informed, transparent decisions and managing risk;*
- *engaging stakeholders and making accountability real.*”

1.7 While neither definition is wholly applicable to governance of the Approvals System, I have adopted their principles and so structured the review and this Report under the following headings –

- ◆ **OUTCOMES** (pages 14-15)
- ◆ **ACCOUNTABILITY** (pages 16-21)
- ◆ **MANAGEMENT INFORMATION** (page 22)
- ◆ **ROLE OF AUDIT** (pages 23-24)
- ◆ **CONFLICTS OF INTEREST** (pages 25-26)
- ◆ **APPEAL MECHANISM** (pages 27-28).

1.8 A summary of the recommendations in this Report can be found on pages 4-7.

¹ Corporate governance in central government departments: Code of practice; July 2005 HM Treasury

² The Good Governance Standard for Public Services; The Independent Commission on Good Governance in Public Services, OPM and CIPFA 2004

2. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

2.1 This Report recommends a number of changes to the governance of the Approvals System which are individually relatively small but, together, should provide a much stronger governance framework. Many of the recommendations I have made were suggested to me by FSA staff and Board Members or by stakeholders and most are designed to reinforce and complement the organisation's existing direction of travel.

2.2 It was very noticeable during my research that many of the issues raised about the Approvals System actually had their roots in wider concerns. In particular, it became very evident that the tensions that have arisen around the proposed changes to the delivery of the Approvals System are actually symptoms of a larger issue. That issue is one of trust, or rather the lack of it. Person after person explained to me that, historically, the FSA has not really trusted the MHS, the MHS in turn has not trusted the FSA or its stakeholders and stakeholders have developed a distrust of both but especially the MHS. Several of the people I spoke to also characterised the relationships as one of parents and children with the FSA parent seeing the MHS as a child and MHS staff viewing the industry as children. I suspect these comments will not be a surprise to most of those involved in the system but it is perhaps worth reflecting on how far those cultural issues are affecting operational systems and relationships. Many of the recommendations within this Report are specifically designed to help rebuild trust and address those underlying causes.

2.3 The One Agency restructuring that has been launched³ by the FSA Chief Executive is clearly seeking to address those same issues and I know that some executive staff and non-executives have made considerable efforts in the last year or two to rebuild trust with stakeholders. I have sought, through the recommendations in this Report, to complement those actions.

2.4 The recommendations made in this Report are summarised here -

RECOMMENDATIONS	See Paragraph in Report
<p><u>Outcomes</u></p> <ul style="list-style-type: none">■ I recommend that a set of outcomes is agreed urgently by the FSA Board which defines what the new Approvals System is intended to achieve. The Board should also agree a set of measures which will provide the appropriate assurances of progress towards those outcomes.	4.7

³ Announcement 30 July 2009 www.food.gov.uk

<ul style="list-style-type: none"> ■ Policy staff within the FSA should define, in consultation with their delivery colleagues, what additional outcomes or measures they need for tracking progress and identifying the pressure points in the System. 	4.8
<p><u>Accountability</u></p>	
<ul style="list-style-type: none"> ■ I recommend that the role of FSA policy staff be strengthened so that they take clear ownership of and are accountable for the delivery of the outcomes for the Approvals System agreed by the Board. 	5.10
<ul style="list-style-type: none"> ■ I recommend that the strengthening of the policy role include ensuring that staff have the right skills for that role, particularly the ability to engage with stakeholders engagement, and also considering where policy responsibility would best lie within the Food Safety Group. 	5.13
<ul style="list-style-type: none"> ■ Given the importance of the decisions to businesses as well as the reputation of the FSA, I recommend that the people who take the final decisions on Approvals (i.e. approvals, withdrawals and suspensions) sit within the FSA policy team, rather than the MHS delivery staff. 	5.19
<ul style="list-style-type: none"> ■ To avoid any question of an inconsistent approach to the Approvals System and to build confidence in the new System, FSA staff should draw up and agree with the FSA Board a clear and transparent framework to guide decisions on the granting, suspension and withdrawal of approvals that reflects all the relevant legal, political and technical issues; 	5.20
<ul style="list-style-type: none"> ■ If decisions on approvals, withdrawals and suspensions are taken by senior policy staff, as recommended above, I recommend that responsibility should lie with the FSA Veterinary Director in England and with the relevant Scottish and Welsh Directors in Scotland and Wales, all working within a transparent GB policy framework. 	5.21
<ul style="list-style-type: none"> ■ If a Minister from one part of the UK requests in future that the FSA Board take a particular approach to the Approvals System in their part of the UK, and assuming this is consistent with the FSA’s legal duties as competent authority, I recommend that the difference should be made explicit in the written policy framework so that there are no ‘unwritten understandings’ and accountability remains clear. 	5.23
<ul style="list-style-type: none"> ■ I recommend that accountability for delivery of the outcomes agreed with the Board runs from the Head of the Food Safety 	5.27

<p>Group through the relevant Head of Division within that Group to the MHS delivery team, and not through the MHS Chief Executive.</p>	
<ul style="list-style-type: none"> ■ The role originally envisaged for the Veterinary Technical Division of the MHS in the Approvals System is inappropriate if the recommendations elsewhere in this Report on the functions of an independent audit team, the strengthened policy role of FSA staff and the level at which Approvals decisions are taken are accepted; I recommend that the role of MHS staff is reduced accordingly. 	5.31
<p><u>Management Information</u></p>	
<ul style="list-style-type: none"> ■ I recommend that the FSA policy team decide urgently what management information on the Approvals System will be required by them and agree with the Board what it needs; and ensure that it is available for when the new arrangements start. 	6.4
<ul style="list-style-type: none"> ■ In order to move away from a culture of using anecdotal information and to build confidence in the FSA’s internal information systems, I recommend that stakeholders from the meat industry and consumer interests are consulted on what management information they think would be helpful. 	6.6
<p><u>Role of Audit</u></p>	
<ul style="list-style-type: none"> ■ I recommend that responsibility for the new periodic unannounced ‘post approval’ verification visits to food businesses is given to the new FSA internal audit team which reports directly to the Audit Committee and Chief Executive. 	7.7
<ul style="list-style-type: none"> ■ I recommend that discussions are held with industry and consumer stakeholders to agree the annual programme of issue or cross cutting audits that take place with regard to the Approvals System. It will be important in maintaining stakeholder trust, especially in the early years of the new Approvals System, that the FSA works in partnership with the industry to collect impartial information on any areas of controversy or on aspects of the meat sector which cause particular concerns. 	7.9
<p><u>Conflicts of Interest</u></p>	
<ul style="list-style-type: none"> ■ I recommend that action is taken to avoid the potential for any conflict of interest between an individual’s role as an Inspector in the Approvals System and any other role they may undertake. In particular Inspectors should not have line management responsibility for an OV or LV who is or has recently worked in 	8.8

<p>a food business that he or she is inspecting.</p>	
<ul style="list-style-type: none"> ■ In order to avoid any question of conflict of interest I recommend that LVs are not involved in the Approvals System other than to undertake initial advisory visits to new businesses with which they have had no previous dealings. 	8.11
<p><u>Appeal Mechanisms</u></p>	
<ul style="list-style-type: none"> ■ If all the changes recommended in this Report are implemented leading to the reassurance of industry stakeholders over the quality of the Approvals System going forward, I recommend that there is no need for an appeals or interim review process. 	9.5
<ul style="list-style-type: none"> ■ If an appeals or interim review process is required for the Approvals System I recommend that it takes the form of a report to the FSA by an independent person or body who is experienced in implementation of food safety regulations. This person or body should have an opportunity to review the facts of the case, visit the premises concerned and speak to both the operator and FSA staff involved. That report should then be considered by the FSA Chief Executive who takes a final decision. 	9.7

3. BACKGROUND

History of the Approvals System

3.1 The requirement to register and approve all establishments that carry out “any of the stages of production, processing and distribution of food” is set out in EU law. The main legislation covering the Approvals System is contained in EU Regulations 882/2004 and 852/2004⁴. This legislation has then been reflected in separate implementing regulations for England, Scotland, Wales and Northern Ireland⁵. The relevant extracts from the EU legislation are set out in Annex B.

3.2 The FSA, as the UK competent authority with responsibility for ensuring compliance of EU legislation, must ensure that all food establishments required to be approved are approved. It delegates responsibility for some 80% of those premises to local authorities who undertake the approval and enforcement of a wide range of establishments, including those producing fishery products, raw milk, dairy products and eggs. In the case of meat products, local authorities have responsibility for overseeing establishments which produce minced meat, meat preparations, mechanically separated meat and other meat products if they do not require veterinary attendance or are not co-located with meat businesses approved by the FSA. All other establishments that produce meat and meat products, including those that slaughter animals, are overseen directly by the FSA. Approval inspections for the FSA are currently carried out by Veterinary Meat Hygiene Advisors who work within the Food Safety Group of the FSA. Final decisions on those approvals are taken by the FSA Veterinary Director for premises in England and by the respective FSA regional Director in Scotland, Wales and Northern Ireland.

3.3 The exercise to approve meat establishments under the 2004 Regulations began in 2006. Once establishments apply for approval they are approved, refused or given conditional approval subject to specified remedial action being agreed. Any food business operator who is refused approval is entitled to appeal that decision in the Magistrates’ Court or the Sheriff Court. The vast majority of premises have now been approved.

3.4 Amongst the meat premises approved by the FSA there were some concerns that progress appeared to be significantly quicker for establishments in Scotland, Northern Ireland and Wales than in England and that the rates of approval after a first approval visit varied substantially across the UK. As a result, the FSA Chief Executive instigated a report into the progress of the meat approvals process in

⁴ Regulation (EC) 852/2004 on the Hygiene of Food Stuffs
Regulation (EC) 882/2004 the Official Feed and Food Controls

⁵ Food Hygiene (England) Regulations 2006 (SI 2006/14); Food Hygiene (Scotland) Regulations 2006 (SSI 2006/3); Food Hygiene (Wales) Regulations 2006 (SI 2006/31 (W.5)); Food Hygiene (Northern Ireland) Regulations 2006 (SR 2006 No3); Official Feed and Food Controls (England) Regulations 2007 (SI 2007/3185); Official Feed and Food Controls (Scotland) Regulations 2007 (SSI 2007/522); Official Feed and Food Controls (Wales) Regulations 2007 (SI 2007/3294); Official Feed and Food Controls Regulations (Northern Ireland) 2007 (SR 2007/482)

autumn 2008. That report⁶, which was undertaken by an FSA internal audit team, reported in January 2009. It found that

- greater staff resources in Scotland, Wales and Northern Ireland pro rata to the number of establishments was the significant factor in the backlog of work in England;
- those higher staffing ratios also meant that there had been more opportunity to visit premises in Scotland, Wales and Northern Ireland before the formal appraisal visit. As a result more were approved on the first formal visit;
- grants were available in Wales to help food business operators improve their premises, but not elsewhere in the UK;
- there were no major differences between the countries of the UK in the broad implementation of the Approvals Strategy although there were variations in the effectiveness of the management arrangements.

3.5 Following this report the Executive Management Board of the FSA considered the future options for delivery of the Approvals System by the FSA. It decided that the delivery and administration of the ongoing work of granting, withdrawal and suspension of approvals in GB (excluding Northern Ireland) should be transferred to the MHS in October 2009. The aim was to achieve a more efficient use of resources across GB and a consistent approach to inspections. The task of completing the initial round of approvals, largely restricted now to catering butchers that have moved from being the responsibility of local authorities to the FSA, will remain with the Food Safety Group in the FSA.

3.6 The Executive Management Board also agreed that a system of ‘post approval’ verification visits should be established to fulfil the requirement in EU legislation that approvals are kept under review. I understand that this work has now started.

FSA Structure

3.7 The FSA is in the process of a significant restructuring aimed at producing a flatter and more efficient structure. Separately, a ‘One Agency’ restructuring programme has been launched which will bring together staff in the FSA and the MHS so that they work more closely together and “*truly become one organisation delivering the best possible outcomes for stakeholders*”⁷. While the MHS identity and brand are being retained for the delivery of official controls, the aim is that “*all staff work together as a single Agency*”⁸. Details of the new senior management structure of the FSA are shown at Annex C.

3.8 As part of the One Agency initiative, the Corporate Services teams of the FSA and MHS are being combined, including their internal audit functions. The new Internal Audit Team will sit within the FSA Corporate Affairs Group and so be separate from both the policy and delivery staff involved in the Approvals System. Details of the proposed Internal Audit Structure are shown at Annex D.

⁶ Review of the Food Standards Agency Approvals Programme for Meat Establishments in the United Kingdom, January 2009

⁷ Taken from FSA intranet web pages

3.9 Policy responsibility for the Approvals System will be held by the newly created Food Safety Group which brings together the work previously done by seven Divisions in two different Groups. This will contain

- two Divisions that “*address the agents that can cause food to become unsafe*”⁸, the Hygiene and Microbiological Division and Contaminants Division;
- a Division that deals with the implementation and delivery of effective controls on both those aspects of food safety;
- an Economics and Analysis Division that provides advice across the whole Agency; and
- a Science Support Team.

3.10 It is proposed that the Hygiene and Microbiological Division will have responsibility for policy on the Approvals System.

The Proposed Arrangements for the New Approvals System

3.11 It is proposed that responsibility for the delivery of the new Approvals System should transfer to the MHS from October 2009 where the work will be carried out by its Veterinary and Technical Division, headed up by the MHS Veterinary Director. This is one of seven Divisions that currently report to the MHS Chief Executive although a number of those will, I understand, be moving to the single FSA Corporate Services Group under the One Agency initiative. The other two main Divisions are those responsible for the delivery of official controls in meat premises. See Annex E for details of the current senior management structure of the MHS.

3.12 The Veterinary and Technical Division currently employs five Grade 7 Veterinary Managers, a Business support team and the MHS internal audit team. The internal audit team will be moving out of the MHS when it is merged with the new single FSA Internal Audit Team. It is proposed that an additional three veterinarian posts be created to cope with the Approvals System although I am told by the Veterinary Director that the work on Approvals is likely to be spread across a number of the Grade 7 Veterinary Managers. Details of the Veterinary and Technical Division structure before the addition of the 3 new veterinarians is shown at Annex F.

3.13 In addition to the Approvals work, this Division is responsible for a range of functions including

- The technical competency and CPD training of Lead Veterinarians(LVs) and Official Veterinarians(OVs) working for the Business Manager Division Heads;
- Driving consistency and standards amongst the LVs and OVs;
- Frontline support to the Business Managers, LVs and OVs on official controls;
- Strategy for Persistently Non-Compliant Businesses;
- Production of the Manual of Official Controls;
- Enforcement Adviser;
- Managing change projects;

⁸ Taken from FSA intranet web pages

- Co-ordination of SLAs and MOUs with other Government customers (including the FSA).

3.14 For premises in Scotland I understand that some of the existing arrangement will continue whereby an experienced Veterinary Manager employed by the Scottish Government will undertake all the Approvals System visits. In future it is proposed that this individual's recommendations be passed to the MHS Veterinary Director.

3.15 The precise process of decision making was still being debated when I spoke to the staff concerned but it was envisaged that it would be carried out as shown in Figures 1 & 2.

Figure 1 – Process for the Approval of New Premises Proposed by MHS

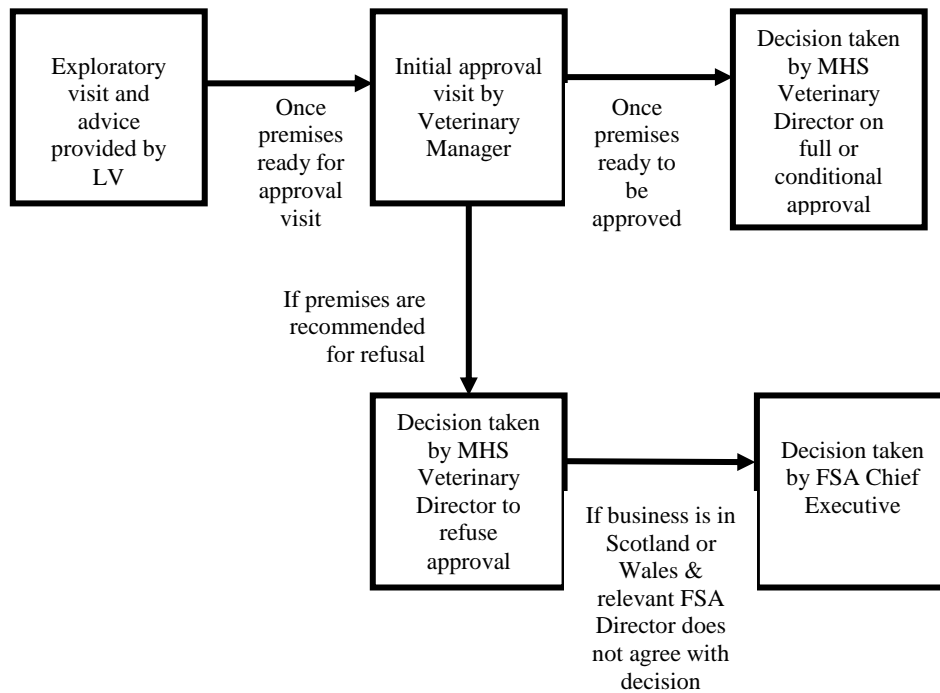
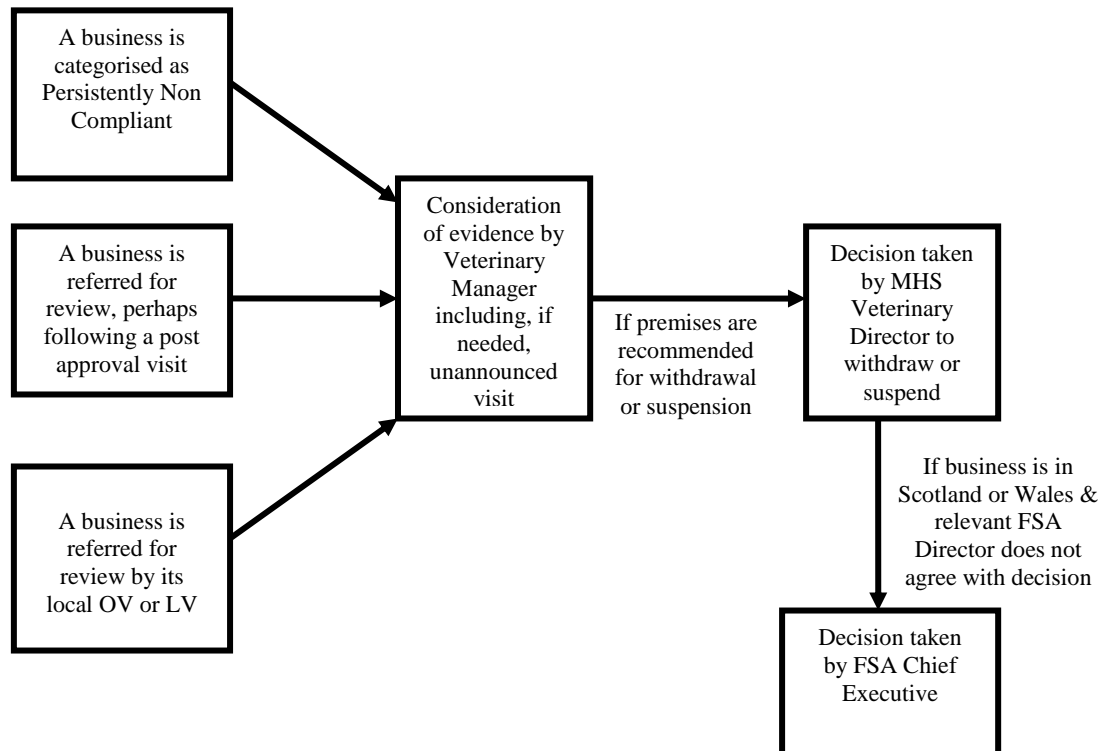


Figure 2 – Process for the Withdrawal or Suspension of Approvals Proposed by MHS



3.16 A business may be referred for review of its approvals status in a number of circumstances. The main source of establishments that will require review is thought likely to be those classified by the MHS as *Persistently Non-Compliant Businesses*. The current definition for this is an establishment with

- A prosecution in the last 3 years; and
- A current confidence in management score awarded by the OV of weak (15 points) or poor (30 points).

As stated above, EU legislation requires also approvals to be kept under review. If a serious deficiency is found or production has to be stopped repeatedly the MHS has adopted a procedure whereby it initiates steps to withdraw approval. If the food business offers guarantees to resolve deficiencies in a reasonable time, the Agency may decide to suspend approval as an alternative to withdrawal. Guidance offered to Veterinary Managers on the criteria to be used is at Annex G.

Pennington Report

3.17 While it is not directly linked to this review, I have been very mindful of the recently published Report by Professor Hugh Pennington on the Public Inquiry into the September 2005 outbreak of *E.coli* in South Wales⁹. A number of those I spoke to also emphasised the importance of ensuring the new arrangements for the Approvals System helped to minimise the risks of any future incidents of serious food poisoning arising from the standards in food premises.

- 3.18 Professor Pennington's Report was critical of the fact that
- when the FSA visited the food business in question as part of its audit of local authority enforcement a 'systems based' audit was carried out rather than one which assessed the effectiveness of the enforcement;
 - over a long period of time the MHS allowed the abattoir concerned to continue to operate in breach of legislative requirements;
 - problems with the abattoir were notified up the line in the MHS but it was allowed to continue operating;
 - the 'light touch' approach to enforcement evident in the MHS actions was ineffective in achieving compliance with legislative requirements.

3.19 The issues arising from Professor Pennington's Report were being considered by the FSA while this review was being conducted and the FSA Board agreed a strategic framework and work plan¹⁰ in response to the Report at its 14 July 2009 meeting. The recommendations in this Report are intended to support the key messages in the Pennington Report.

⁹ The Public Inquiry into the September 2005 Outbreak of *E.coli* 0157 in South Wales, March 2009

¹⁰ FSA Board Paper 09/07/07

4. OUTCOMES

4.1 One of the most critical pre-requisites of good governance is that everyone, at every level, is clear about what outcomes are required and how success in achieving them will be measured. Outcomes are defined as what needs to be achieved, which is different from what is usually measured in the public sector – what it does.

4.2 The use of outcomes is not easy in any area of public policy but it is something that has attracted renewed interest in recent years as it refocuses activity on things which actually make a difference in the real world, rather than simply emphasising efficiency of public sector activity. Bodies across the public sector are therefore moving towards a more outcome focussed approach. The vast majority of those I spoke to during this review believed that it would be a major step forward to have clear and measurable outcomes for the Approvals System. That would allow the Board to hold the FSA staff to account for the delivery of the outcomes that the System is intended to produce and also mean that staff had a clear steer as to what the Approvals System was intended to achieve.

4.3 In talking to those involved with the Approvals System I found a noticeable mismatch between those who saw the System primarily as one of a range of tools for achieving greater levels of food safety and those who saw it as an essentially technical process for enforcing a set of regulations. The latter group of people were those who typically told me that “we have no flexibility in what we do” or “this is just an issue of implementation”. This difference may sound esoteric, but it is actually at the core of good governance because those who saw the Approvals System as a technical process of enforcement found it difficult to see that those further up the organisation had a legitimate role in influencing their work and had difficulty in understanding what scope they had for adjusting their approach. This mindset is a major block to good governance.

4.4 In the context of the Approvals System, it is especially important that the role of everyone at every level is respected. In particular there needs to be a very clear ‘line of sight’ from the outcomes agreed by the Board, all the way through those staff involved in formulating policy options to the decisions being taken by individual inspectors in individual business premises. Given the sensitive nature of the Approvals System, the actions taken with regard to individual food businesses should be clearly explicable in terms that link back through the policy framework to the requirements agreed by the Board.

4.5 That means the Board needs to think hard about what a successful Approvals System will look like and how it will measure its success. For example, how will the Board know it has a ‘good’ Approvals System? This is not straightforward but there are recognised techniques for helping organisations to address those questions and avoiding perverse behaviour when the wrong targets are set. Examples of outcomes and their progress measures for the Approvals System might include:-

- No Persistently Non-Compliant Business remains in that category for more than * months/year. It either improves and is lifted out of that category or its approval is suspended or withdrawn;

- A business applying for approval for the first time can expect to receive advice on what it needs to do to become approved within * weeks of its application;
- The Courts uphold the FSA decision in *% of appeals against approval withdrawals.

4.6 The FSA staff with policy responsibility for the Approvals System will also need to consider what additional criteria they wish to monitor. Again it is useful to ask the question – what will a successful Approvals System look like and how will we know that it is successful? Conversations with staff confirmed that thinking on this issue has still to be developed. I understand that exploratory discussions have taken place with stakeholders to identify possible outcomes and measures of success for more general enforcement activity in meat plants and the same should be done for the Approvals System.

4.7 I recommend that a set of outcomes is agreed urgently by the FSA Board which defines what the new Approvals System is intended to achieve. The Board should also agree a set of measures which will provide the appropriate assurances of progress towards those outcomes.

4.8 Policy staff within the FSA should define, in consultation with their delivery colleagues, what additional outcomes or measures they need for tracking progress and identifying the pressure points in the System.

5. ACCOUNTABILITY

5.1 In addition to having clear outcomes, good governance requires clarity over who is accountable for achieving them. Ultimately of course the FSA Board is accountable for progress being made but its Members are not the people who make it happen. The staff who actually deliver the results are a mixture of policy, delivery, technical and legal personnel. Each of them needs to know what their role is and what they are accountable for delivering. It became evident from my discussions that while a large number of people were working hard to make the Approvals System work well, there was some uncertainty over precisely who will be accountable for what in the new system and how those people will be held to account.

Policy Role

5.2 In particular the future role of policy staff was unclear to many and the crucial role that they can play in providing a link between the outcomes required by the Board and the day to day work of those on the ground was not understood by everyone. By ‘delegating’ the Approvals System to the MHS, some assumed that accountability for its success now transferred to the senior staff and Chief Executive of the MHS. Senior policy staff within the FSA were however clear that they retained ultimate accountability for the “success” of the Approvals System – although no-one was yet clear about what that would mean. There was also debate amongst some I spoke to about where the Approvals System should sit within the FSA Food Safety Group.

5.3 A number of staff raised a specific question about which policy team would be responsible for advising the legal staff on, for example, the appropriate balance between withdrawing and suspending approvals and risking the FSA reputation from large numbers of appeals to the Courts. It was also pointed out to me that the legal and practical interface between the normal enforcement mechanisms such as improvement notices or emergency prohibition notices and the Approval System is ‘intricate’ to the say the least with a range of approaches possible depending on the policy requirements. While decisions on this can only be taken with advice from legal and delivery colleagues, there needs to be a clear lead taken by someone within the policy team who is then accountable for the results.

5.4 More generally, a number of MHS staff also mentioned that they sometimes feel that they are dealing with a ‘policy vacuum’ and when they cannot gain guidance from FSA colleagues, they end up developing their own MHS policies instead. At the same time, the development of ‘MHS policies’ were mentioned by a number of Board members and stakeholders as sometimes adding to confusion about why events on the ground did not always appear to reflect Board expectations. There were concerns that this culture, if continued, would result in MHS staff developing their own policies for the Approvals System.

5.5 There is no single definition of what policy is or how it links with delivery but, in essence, it is the process by which choices are made and means are adopted to achieve the outcomes set by Ministers, or in this case the FSA Board . In a small

team, policy and delivery can be done by the same people. In a bigger organisation like the FSA, the key is to ensure that the individuals involved work closely together, recognising their separate roles but using each others' knowledge and seeing themselves as partners in achieving a common goal.

5.6 Some suggested to me that there was little scope for a policy role in the Approvals System as activity is governed by regulation. This is incorrect. Indeed, good governance requires a strong policy role which makes a transparent link between the Board's overarching requirements and the day to day decisions in plants. Of course, actions taken must be within the scope of a legal framework (that is the same in every aspect of government) but it still leaves considerable scope for judgement and choice. Indeed the details of, for example, statutory instruments are a policy tool which can be adjusted if they are acting as a barrier to achieving the policy outcomes required. In the context of the Approvals System I would suggest that the particular role of the policy maker is to take decisions on and keep under review issues like –

- will the existing system deliver the outcomes required by the Board; if not, why not and what needs to change;
- what are the range of policy tools available to us to deliver the required outcomes;
- what are the key risks and judgement points in the Approvals System that may require guidance/decisions from us;
- what guidance needs drawn up, for example, on the issues to be taken into account when withdrawing or suspending approvals, or the interface between ongoing enforcement tools and the use of the Approvals system;
- what information do we need from delivery staff and lawyers and what guidance or decisions do they need from us;
- how do we ensure work is taken forward on a GB basis, taking account of the input of those with policy lead in Wales and Scotland;
- how can we work with stakeholders to benefit from their knowledge and build their confidence in and support for the System;
- if the existing legal framework is making delivery of the Board's outcomes difficult what, if anything, can be done about it either at a UK or EU level;
- what research do we need to instigate to increase our knowledge of best/bad practice and how to improve the effectiveness of the Approvals system;
- what information does the Board need to allow it to fulfil its accountability responsibilities.

5.7 It is not, of course, the job of policy makers to second guess the delivery managers or to seek to micro manage them. Delivery managers must be left to make their own decisions about how to deliver the desired outcomes in the real world but they should be able to do so within a partnership that uses their knowledge and tackles the barriers they face.

5.8 A great deal of work has already been done by policy staff over the last few years and it is undoubtedly the case that some of the uncertainty over the policy function that I observed is due to the fact that the main policy teams within FSA are in the midst of a major restructuring. It may also be due to the traditional distance between the FSA and MHS and the fact that the MHS, until recently, was viewed virtually as an independent entity. I suspect however that some of it is also longer

term and may be due to the understandable weight given to veterinary and scientific skills when the FSA was first established, rather than the policy skills of managing stakeholders and developing approaches that acknowledge and deal with competing issues.

5.9 Whatever it's cause, the governance of the Approvals System would be improved considerably if the role of the policy staff were strengthened and made much clearer, including their accountability to the Board for delivery of the required outcomes.

5.10 I recommend that the role of FSA policy staff be strengthened so that they take clear ownership of and are accountable for the delivery of the outcomes for the Approvals System agreed by the Board.

5.11 I agree with the senior FSA staff who said that accountability to the Board should lie with the Food Safety Group, not with MHS staff. But in addition, and while the restructuring is ongoing, I think it would be helpful to consider where day to day responsibility for the Approvals System should sit within the Food Safety Group.

5.12 At present responsibility lies with the Hygiene and Microbiological Division but conversations with staff within the Food Safety Group indicated that there was at least a question over whether the Implementation & Delivery Division should have a role. I do not know where the necessary policy skills mentioned above lie within the Food Safety Group but I noted that the Implementation & Delivery Division is already accountable for the delivery of the Feed and Food Control Regulations in local authorities and so has considerable expertise in this area.

5.13 I recommend that the strengthening of the policy role include ensuring that staff have the right skills for that role, particularly the ability to engage with stakeholders, and also considering where policy responsibility would best lie within the Food Safety Group.

Accountability for Taking Approvals Decisions

5.14 I encountered a number of views on the particular merits of 'delegating' accountability for decisions on the granting, suspension or withdrawal of approvals for individual plants to MHS veterinary and technical personnel. Some argued that this was very sensible as it took the decision making out of the hands of policy makers and gave it to those who would take a purely 'technical' decision. Those people suggested that the existing Approvals System had been too subjective and resulted in varying standards in the past. They pointed to the recent Report¹¹ by Professor Pennington into an *E-coli* outbreak in South Wales as an example of where decisions on whether or not to close premises had been taken on 'policy' grounds rather than just technical criteria, resulting in a lack of clarity over the approach to be taken to enforcement. Those same people also argued that there is no scope for judgements in this work as it is governed by regulation.

¹¹ The Public Inquiry into the September 2005 Outbreak of *E.coli* 0157 in South Wales, March 2009

5.15 Others, both inside and outside the FSA, pointed out that there was no widespread evidence from the recent Audit Report¹² that the existing Approvals System had been inconsistent. Indeed some argued that the System had been seen as successful precisely because it was based on the judgement of a few highly experienced and respected staff. In addition the final decisions in Scotland and Wales were taken by senior policy personnel who felt that their awareness of the bigger policy picture had been positively helpful. Some of those I spoke to were deeply concerned that transferring accountability for decisions to a technical team within the MHS who viewed their role in very narrow terms would weaken the link with the policy framework agreed with stakeholders and would leave the Board in a more vulnerable position.

5.16 I was also struck by the proposal put to me by the MHS that decision making under the new arrangements should move from the Head of the MHS Veterinary and Technical Division to the FSA Chief Executive if policy staff in Scotland or Wales had any difficulty with a decision to withdraw or suspend approvals from establishments in their countries. In my view this would result in an unwarranted escalation of the decision making.

5.17 Any decision to refuse, withdraw or suspend an approval will have a serious impact on the livelihoods of those owning and employed by the meat companies concerned. Those decisions are also one of the main instruments available to deliver safe food and so have a major impact on the reputation of the FSA. They cannot therefore be viewed as a technical tick box exercise.

5.18 I fully understand the argument from some that the Pennington Report suggested that enforcement decisions in the past may have been fudged for what some see as unacknowledged 'political' reasons. This appeared to result in an unacknowledged 'light touch' approach to enforcement in some quarters. The answer to that however is to not to turn the decision making into a technical process where those making those decisions simply explain them by saying they have 'no choice' in implementing a regulation. Good governance principles require that those taking such important decisions are clearly and personally accountable for them and that they do so within a transparent policy framework which takes full and explicit account of the political, legal and technical issues deemed relevant by the FSA. Any decisions can then be defended with reference to that policy framework. Such a framework would also deal with concerns about consistency of decision making.

5.19 Given the importance of the decisions to businesses as well as the reputation of the FSA, I recommend that the people who take the final decisions on Approvals (i.e. approvals, withdrawals and suspensions) sit within the FSA policy team, rather than the MHS delivery staff.

5.20 To avoid any question of an inconsistent approach to the Approvals System and to build confidence in the new System, FSA staff should draw up and agree with the FSA Board a clear and transparent framework to guide decisions

¹² Review of the Food Standards Agency Approvals Programme for Meat Establishments in the United Kingdom, January 2009

on the granting, suspension and withdrawal of approvals that reflects all the relevant legal, political and technical issues;

5.21 If decisions on approvals, withdrawals and suspensions are taken by senior policy staff, as recommended above, I recommend that responsibility should lie with the FSA Veterinary Director in England and with the relevant Scottish and Welsh Directors in Scotland and Wales, all working within a transparent GB policy framework.

5.22 It has been pointed out to me that policy responsibility for food safety in Wales and Scotland lies with the relevant devolved Government and that this needs to be kept in mind in the governance arrangements for the Approvals System. I fully accept that but devolution should not mean any lessening of clear lines of accountability.

5.23 If a Minister from one part of the UK requests in future that the FSA Board take a particular approach to the Approvals System in their part of the UK, and assuming this is consistent with the FSA's legal duties as competent authority, I recommend that the difference should be made explicit in the written policy framework so that there are no 'unwritten understandings' and accountability remains clear.

FSA and MHS Interface

5.24 An ongoing theme of my discussions with staff of the FSA and MHS, as well as external stakeholders, was the complexities and dangers of duplication inherent in operating within a structure which involves two organisations with two sets of senior managers and two chains of line management responsibility. In that regard the move to One Agency should be immensely helpful but it became clear during my discussions that some of the proposed governance arrangements for the Approvals System were still based on the old model of two organisations. This was understandable as the arrangements had been drawn up before the full impact of the One Agency was known to staff.

5.25 I discussed with a number of staff how the proposed governance arrangements could be clarified to take full advantage of the One Agency model, providing clearer accountability and line of sight in the interface between FSA and MHS staff. In particular staff raised with me the potential problem of who the MHS staff would be answerable to. Would it be the Chief Executive of the MHS or the FSA policy lead for Approvals?

5.26 This problem is not unique to the FSA. Professional or technical staff who operate within a wider organisation will often face a similar issue when they are working in a multi functional team to deliver organisational outcomes. While they have to operate within the resource framework set by their line management, they are accountable to policy colleagues for delivering their part of the desired outcomes. A similar approach is necessary in this case.

5.27 I recommend that accountability for delivery of the outcomes agreed with the Board runs from the Head of the Food Safety Group through the relevant

Head of Division within that Group to the MHS delivery team, and not through the MHS Chief Executive.

5.28 I appreciate that this may be thought by some to cut across the responsibilities of the MHS Chief Executive who remains accountable for the performance and resourcing of the organisation as a whole, but MHS staff need to know who they are accountable to for the delivery of the policy outcomes required. Furthermore the policy staff need to know that the buck stops with them.

5.29 A number of people, both within the organisation and wider stakeholders, raised with me the role envisaged for the Veterinary Technical Division of the MHS in the Approvals System. All accepted that the staff who undertake the Approvals inspections need to be managed carefully and their work coordinated. Many also felt that the Approvals System would benefit from a more planned and delivery focused approach. There were however also widespread concerns expressed about the extent to which this Division would ‘take control’ of the System, thus reducing transparency and making it harder for policy colleagues in London and the devolved areas, Board members and external stakeholders to understand what was happening. I was given several illustrations by staff of where the central role played by this Division in implementing various policy initiatives has, on occasion, restricted the dialogue and the information flows across the two organisations or, in the terminology of this Report, blocked the line of sight.

5.30 Some might argue that this weakening of the line of sight is unavoidable in a relatively long delivery chain but the move to a One Agency offers an opportunity to avoid that risk in future. When the changes to the Approvals System were first envisaged they were seen by many as ‘delegating’ the Approvals System to the MHS who would assume ‘ownership’ of it. This is no longer valid. Furthermore the recommendations elsewhere in this Report for a strengthened policy role, a change of the level at which Approval decisions are taken and a wider role for the FSA Audit Team are designed to create wider ownership of the Approvals System. Assuming these recommendations are implemented, the role of the MHS delivery team changes significantly from that originally envisaged. There will still be a need for someone to coordinate the inspections and to be accountable for the quality and quantity of inspections that take place but the MHS team will not have policy responsibility and they will be operating as part of a joined up One Agency team accountable to the Board for the delivery of the required outcomes.

5.31 The role originally envisaged for the Veterinary Technical Division of the MHS in the Approvals System is inappropriate if the recommendations elsewhere in this Report on the functions of an independent audit team, the strengthened policy role of FSA staff and the level at which Approvals decisions are taken are accepted; I recommend that the role of MHS staff is reduced accordingly.

6. MANAGEMENT INFORMATION

6.1 The ability to monitor progress towards the required outcomes and to fulfil the FSA's accountability responsibilities are both crucially dependent on having good management information. That can take many forms – financial information, performance against targets, reports on individual cases, regular meetings to discuss practical issues with policy and delivery colleagues, information from stakeholders etc. It is difficult to offer much comment in this Report on what management information is needed as the Board has yet to define the outcomes it requires and so what a successful system might look like.

6.2 It is perhaps worth saying however that it can be useful to separate management information into two categories

- measures of what is being achieved i.e. what progress is being made towards the outcomes desired from the system and,
- measures of what is being done e.g. how many resources are being used or how many cases are reaching court.

6.3 Staff in both the FSA and MHS were clear in their conversations with me about the need to identify what management information is required. They were both however also aware that the MHS management information systems have been rather weak in the past and that promises to deliver new IT systems have not always materialised on time.

6.4 I recommend that the FSA policy team decide urgently what management information on the Approvals System will be required by them and agree with the Board what it needs; and ensure that it is available for when the new arrangements start.

6.5 Another purpose of management information is to form the basis of dialogue with stakeholders. The type of management information produced can have a significant impact on relations. Failure to have appropriate management information that is trusted by all often leads to undue emphasis being put on anecdotal information which may or may not be accurate. I know from my conversations that this can be a particular problem in this sector.

6.6 In order to move away from a culture of using anecdotal information and to build confidence in the FSA's internal information systems, I recommend that stakeholders from the meat industry and consumer interests are consulted on what management information they think would be helpful.

7. ROLE OF AUDIT

7.1 Audit is recognised as being a fundamental pillar of good governance in both the public and private sectors. The content of audit reports is an important source of management information for the Board, as well as for managers and stakeholders. HM Treasury's Audit Committee Handbook¹³ states that the role of an Audit Committee is to “*support the Board and Accounting Officer by reviewing the comprehensiveness of assurances in meeting the Board and Accounting Officer's assurance needs and reviewing the reliability and integrity of these measures*”. It is clear that while it is not the role of the Audit Committee to have any executive responsibility or make or endorse any decisions (that is the role of the Board), it has a crucial role in advising the Board.

7.2 Given the high profile nature of the Approvals system, and following the recent Report by Professor Pennington, it will be very important that the Audit Committee and the Internal Audit Team that supports it pay close attention to how the Approvals System operates in practice. While the number of new approvals will be significantly lower than in the past, decisions to grant, withdraw or suspend approvals will continue to be viewed as crucial by all concerned.

7.3 The move towards a One Agency model includes the establishment of a single audit team within the FSA which will cover all of the work of the FSA and the MHS as well as undertaking audits of local authorities. This was welcomed by many of those I spoke to. As I understand it the team will have two main roles

- undertaking audits to ensure that the FSA and MHS are fulfilling their statutory duties; and
- undertaking single issue or crosscutting audits of particular areas chosen by the Audit Committee.

7.4 There is also a third type of work which should be given to this new audit team. If the proposed new post approval verification visits were undertaken by the Internal Audit Team rather than MHS staff and were unannounced inspections that focussed on whether food is being produced safely and hygienically rather than on the processes being followed by FSA and MHS staff, they could fulfil a range of important functions

- they would help to address one of the concerns (the absence of unannounced inspections) raised by Professor Pennington in his recent Report¹⁴;
- they could address his request for ‘reality check’ inspections which are designed to check whether food is being produced safely and hygienically, rather than systems checks of whether FSA and MHS staff are following proper procedures;
- they would feed into the FSA Board's need to measure outcomes rather than just the activity and processes put in place; and

¹³ Audit Committee Handbook; HM Treasury March 2007

¹⁴ The Public Inquiry into the September 2005 Outbreak of *E.coli* 0157 in South Wales, March 2009

- they would offer an early warning system for the FSA Board and senior managers of problems on the ground rather than having to await an FVO mission or, worse still, a food safety scare.

7.5 At present the plan is for these post approval audits to be carried out by the staff who undertake the approvals work. Some have suggested that this could be a conflict of interest and I agree with them. The post approval inspections would be more powerful and could serve a wider purpose (as described above) if they are carried out by the independent Internal Audit Team.

7.6 It has been pointed out to me that, for this arrangement to work, the resources available to the audit team would need to be increased and the type of staff who undertake this work would need to be different from traditional audit staff. In particular, it would require very experienced individuals who would attract the respect of the FSA staff and the industry alike. I fully accept both points but I think that forming such a group within the Internal Audit Team would bring immense benefits for the FSA and could go a long way to developing a mutual understanding and rebuilding trust with the industry.

7.7 I recommend that responsibility for the new periodic unannounced ‘post approval’ verification visits to food businesses is given to the new FSA internal audit team which reports directly to the Audit Committee and Chief Executive.

7.8 Audits can also provide stakeholders with important information on how the system operates in practice rather than them having to rely on anecdotal stories. For that reason, it would be useful if stakeholders were involved in discussions on what the annual programme of single issue or cross cutting audits would be for the Approvals System. Some of those I spoke to suggested that this could be done through a standalone subgroup of the Audit Committee; others suggested using the existing Advisory Committee chaired by Professor Patrick Wall to put advice to the Audit Committee. Whichever is used, the key is the quality of that engagement.

7.9 I recommend that discussions are held with industry and consumer stakeholders to agree the annual programme of issue or cross cutting audits that take place with regard to the Approvals System. It will be important in maintaining stakeholder trust, especially in the early years of the new Approvals System, that the FSA works in partnership with the industry to collect impartial information on any areas of controversy or on aspects of the meat sector which cause particular concerns.

8. CONFLICTS OF INTEREST

8.1 One of the main topics of discussion during this review has been whether it is appropriate for the same staff who carry out the day to day enforcement of meat plants to also be responsible for the granting, withdrawal or suspension of approvals. As I understand it, there is no legal bar to the same people doing both as long as the criteria used for the two activities are clearly separate. Indeed I understand that this is what happens in local authorities.

8.2 The argument appears to be that while local authority staff visit food premises only occasionally, MHS staff necessarily have a very close relationship with individual food businesses and the people who run them because they are on the premises much more often. There is a concern that this could skew judgements when it comes to decisions on the Approvals System.

8.3 Interestingly I heard the same argument from two different angles. Some stakeholder bodies were concerned that if there was already a bad relationship between an Official Veterinarian (OV) and the Lead Veterinarian (LV) and a food business, this could make enforcement staff inclined to use the Approvals System 'against' the business. On the other hand, some FSA personnel expressed concern that staff involved in long term enforcement of a plant may be reluctant to consider suspending or withdrawing its approval if it appeared to call into question the ongoing enforcement record.

8.4 I have no means of knowing if either concern is likely to materialise but, for the purposes of good governance, it is not relevant. The public sector operates on a general principle of good governance that seeks to avoid real or potential conflicts of interest in the delivery of its duties. A conflict of interest is deemed relevant if it would be thought by a 'reasonable' person to exist. Given the number of people who mentioned this issue to me there does appear to be the potential for a conflict of interest. It may be that over time, concerns about this will diminish but they clearly exist at present and so must be addressed.

8.5 As I understand it the proposal is that those staff who would be undertaking inspection visits as part of the Approvals System will also undertake other tasks. This will include providing advice to the OVs and LVs that undertake day to day enforcement on technical issues and some will be the immediate line managers for LVs on technical matters, writing up that aspect of their appraisals etc.

8.6 I cannot see that the role of adviser to OVs and LVs involves a significant conflict of interest but I can understand the argument that those Inspectors who are the line managers or who contribute to the appraisals of LVs may appear to have a conflict of interest if they were to inspect their staff's plants.

8.7 There are a number of ways in which this potential conflict of interest can be addressed. Many are already in operation elsewhere in the public sector and include

- Assign line management responsibility to staff who are not involved in the Approvals System;

- Introduce a rule that no Inspector can assess a food businesses in an area for which they are or have recently been the line manager of the relevant LV; or
- Put in place ‘peer review’ assessments so that Inspectors undertake periodic reviews of their colleagues’ work to ensure consistency of approach.

8.8 I recommend that action is taken to avoid the potential for any conflict of interest between an individual’s role as an Inspector in the Approvals System and any other role they may undertake. In particular Inspectors should not have line management responsibility for an OV or LV who is or has recently worked in a food business that he or she is inspecting.

8.9 I understand that it is also envisaged that some LVs should be asked to assist with the approval of new food businesses which have never held an approval before. I was asked by some staff whether this would be appropriate given the concerns mentioned above. Ideally the work of the Approvals System, including initial advisory visits, would be undertaken by the same staff, if only to ensure that the food business receives a consistent quality of advice. However resource constraints may mean that an LV is used to undertake the initial visit to a new business with which it has had no relationship in the past. I cannot see that this is a problem as long as it is done under the supervision of the Inspector who will subsequently visit the plant and undertake the formal approval assessment. The important thing must be to ensure that the food business receives the same quality of advice, irrespective of who makes the initial visit.

8.10 There was however a suggestion in some working papers that I saw that LVs could have a more substantial role in, for example, approving changes in activity or assessing premises for suspension or withdrawal of approvals. This cannot be appropriate as, given the reasoning set out earlier in this section, there must be a considerable chance of a conflict of interest if an LV is involved in the approval assessment of premises in his or her area.

8.11 In order to avoid any question of conflict of interest I recommend that LVs are not involved in the Approvals System other than to undertake initial advisory visits to new businesses with which they have had no previous dealings.

8.12 Finally, I am aware that some of those who expressed concern about potential conflicts of interest were primarily worried that Inspectors would be put under general pressure to reach conclusions on an individual food business which were consistent with its MHS enforcement history so as not to damage the reputation of the MHS as a whole. I have no way of knowing whether this is a realistic concern but the fact that it exists says a great deal about the historic ‘them and us’ relationship between FSA and MHS and underlines the importance of the One Agency initiative. If the range of recommendations in this Report which are designed to reinforce One Agency ownership rather than MHS ownership of the Approvals System are implemented I believe these concerns will be addressed.

9. APPEAL MECHANISM

9.1 The Terms of Reference for this review asked for consideration to be given to whether the “*governance arrangements for the oversight of appeals is appropriate*”. The current proposal is that the arrangements for appeals against approval, withdrawal or suspensions should not change. I.e. the existing right of food businesses to appeal decisions by the FSA in the Magistrates or Sheriff Court remain. That is accepted by all parties. The only issue that was put to me by some industry stakeholders was that there should be an intermediate right to appeal a decision before referring it to the Courts.

9.2 In law only a Court has the right to overturn a decision by the FSA as the ‘competent authority’ for the UK. Any appeal mechanism short of the Courts would, more accurately, be described as an intermediate review as it would simply allow the FSA to reflect on its original decision. The responsibility for taking the final decision would however remain with the FSA.

9.3 Views differed a great deal on this matter. Those who advocated an intermediate review mechanism did so because they were worried about the quality of the original decision making. Those who opposed it did so on the basis that it would drag out an already elongated process as any appeal to the Courts is likely to take many months already. As it is the practice to generally allow businesses to remain in operation until any appeal is held, (unless there is a clear and imminent danger to health) those opposed to an interim process argued that it would be better for food safety to keep the time between a decision and an appeal as short as possible. They pointed out that it was not unknown for a food business to continue operations right up until the Court case and then come to an arrangement with the FSA at the last moment.

9.4 It was evident to me that the key issue is confidence in the Approvals System. The industry has been generally content with the quality of the process to date and only the proposed changes have caused some to call for an interim review process. As far as the consumer and taxpayer are concerned any new interim review process will mean additional cost and delay in a final decision being taken and so the need for it has to be clearly demonstrated.

9.5 If all the changes recommended in this Report are implemented leading to the reassurance of industry stakeholders over the quality of the Approvals System going forward, I recommend that there is no need for an appeal or interim review process.

9.6 In the time available FSA staff were unable to tell me whether there are equivalent review mechanisms in any other European countries. They were however able to give me details of a system with some similarities that is being established by the FSA to review decisions where a food business operator and the MHS disagree on the resources required to carry out chargeable official controls.

9.7 If an appeal or interim review process is required for the Approvals System I recommend that it takes the form of a report to the FSA by an

independent person or body who is experienced in implementation of food safety regulations. This person or body should have an opportunity to review the facts of the case, visit the premises concerned and speak to both the operator and FSA staff involved. That report should then be considered by the FSA Chief Executive who takes a final decision.

9.8 Unlike some review systems that already exist within the FSA I do not think it would be appropriate to suggest that the Chief Executive is bound by this report as the FSA must be free to take its own decisions as the UK's competent authority.

9.9 A number of individuals or bodies could be suitable to undertake the review. The key would be to ensure that the individuals had

- sufficient experience and standing to have the respect of all parties; and
- the flexibility to undertake the work quickly and at short notice.

9.10 I know the FSA is already exploring the use of retired Chief Veterinary Officers to provide independent reviews in other aspects of its business. If it is decided to put in place an interim review process, others who might also be able to provide the independent service include the BRC accredited certification and inspection bodies that already inspect meat plants on behalf of commercial clients.

October 2009

LIST OF INDIVIDUALS SPOKEN TO DURING THE COURSE OF THE REVIEW

FSA Board Members

Deirdre Hutton, FSA Chair
Ian Reynolds, FSA Deputy Chair and Chair MHS Board
Maureen Edmondson, FSA & MHS Board Member
Tim Bennett, FSA & MHS Board Member

FSA and MHS Staff

Tim Smith, FSA Chief Executive
Steve McGrath, MHS Chief Executive
Andrew Wadge, FSA Chief Scientist and Head Food Safety Group
Steve Wearne, Director FSA Wales
Charles Milne, Director FSA Scotland
Vivienne Collett, Director of Legal Services
Liz Redmond, FSA Veterinary Director and Head Hygiene & Microbiological Division
Alex Rae, Deputy Director Legal Services
Sarah Appleby, Head of Implementation and Delivery Division
Jane Downes, MHS Veterinary Director and Head of Veterinary Technical Division
Peter Styler, MHS Business Director
Geoff Ogle, MHS Business Director
Javier Dominguez, FSA Deputy Veterinary Director
John Barnes, Head of Local Authority and Liaison Division
Joyti Sharma, Head of Internal Audit
Elspeth MacDonald, FSA Scotland
Philip Clarke, Head of Private Office
David Hart, Deputy Head Meat Hygiene and Veterinary Division
John Cragg, Approved Meat Plant Controls
Patrick Otto, Audit and Policy Branch
Laureano Garcia, Audit and Policy Branch
Richard Collier, MHS Finance Executive

Others

Professor Patrick Wall, Associate Professor of Public Health, University College Dublin and Chair of MHS Advisory Committee
Alick Simmons, Deputy Chief Veterinary Officer, DEFRA
Kevin Gosling, Commercial Team Manager, Winchester City Council
Sue Davies MBE, Principal Policy Officer *Which?*
Stuart Roberts, Director, British Meat Processors Association
Norman Bagley, Association of Independent Meat Suppliers
Ian Anderson, Executive Manager, Scottish Association of Meat Wholesalers
Peter Bradnock, Chief Executive, British Poultry Council

EXTRACTS FROM RELEVANT EU REGULATIONS**EXTRACT FROM EU REGULATION 882/2004****Article 31 Registration/approval of feed and food business establishments**

1. (a) Competent authorities shall establish procedures for feed and food business operators to follow when applying for the registration of their establishments in accordance with Regulation (EC) No 852/2004, Directive 95/69/EC, or with the future Regulation on feed hygiene;

(b) They shall draw up and keep up-to-date a list of feed and food business operators which have been registered. Where such a list already exists for other purposes, it may also be used for the purposes of this Regulation.

2. (a) Competent authorities shall establish procedures for feed and food business operators to follow when applying for the approval of their establishments in accordance with Regulation (EC) No 852/2004, Directive 95/69/EC or with the future Regulation on feed hygiene;

(b) Upon receipt of an application for approval from a feed or food business operator, the competent authority shall make an on-site visit;

(c) It shall approve an establishment for the activities concerned only if the feed or food business operator has demonstrated that it complies with the relevant requirements of feed or food law;

(d) The competent authority may grant conditional approval if it appears that the establishment meets all the infrastructure and equipment requirements. It shall grant full approval only if it appears from a new official control of the establishment, carried out within three months of granting conditional approval, that the establishment meets the other relevant requirements of feed or food law. If clear progress has been made but the establishment still does not meet all of the relevant requirements, the competent authority may prolong conditional approval. However, conditional approval shall not exceed a total of six months;

(e) The competent authority shall keep the approval of establishments under review when carrying out official controls. If the competent authority identifies serious deficiencies or has to stop production at an establishment repeatedly and the feed or food business operator is not able to provide adequate guarantees regarding future production, the competent authority shall initiate procedures to withdraw the establishment's approval. However, the competent authority may suspend an establishment's approval if the feed or food business operator can guarantee that it will resolve deficiencies within a reasonable time;

(f) The competent authorities shall maintain up-to-date lists of approved establishments and make them available to other Member States and to the public in a manner that may be specified in accordance with the procedure referred to in Article 62(3).

EXTRACT FROM EU REGULATION 852/2004**Article 6 Official controls, registration and approval**

1. Food business operators shall cooperate with the competent authorities in accordance with other applicable Community legislation or, if it does not exist, with national law.

2. In particular, every food business operator shall notify the appropriate competent authority, in the manner that the latter requires, of each establishment under its control that carries out any of the stages of production, processing and distribution of food, with a view to the registration of each such establishment. Food business operators shall also ensure that the competent authority always has up-to-date information on establishments, including by notifying any significant change in activities and any closure of an existing establishment.

3. However, food business operators shall ensure that establishments are approved by the competent authority, following at least one on-site visit, when approval is required:

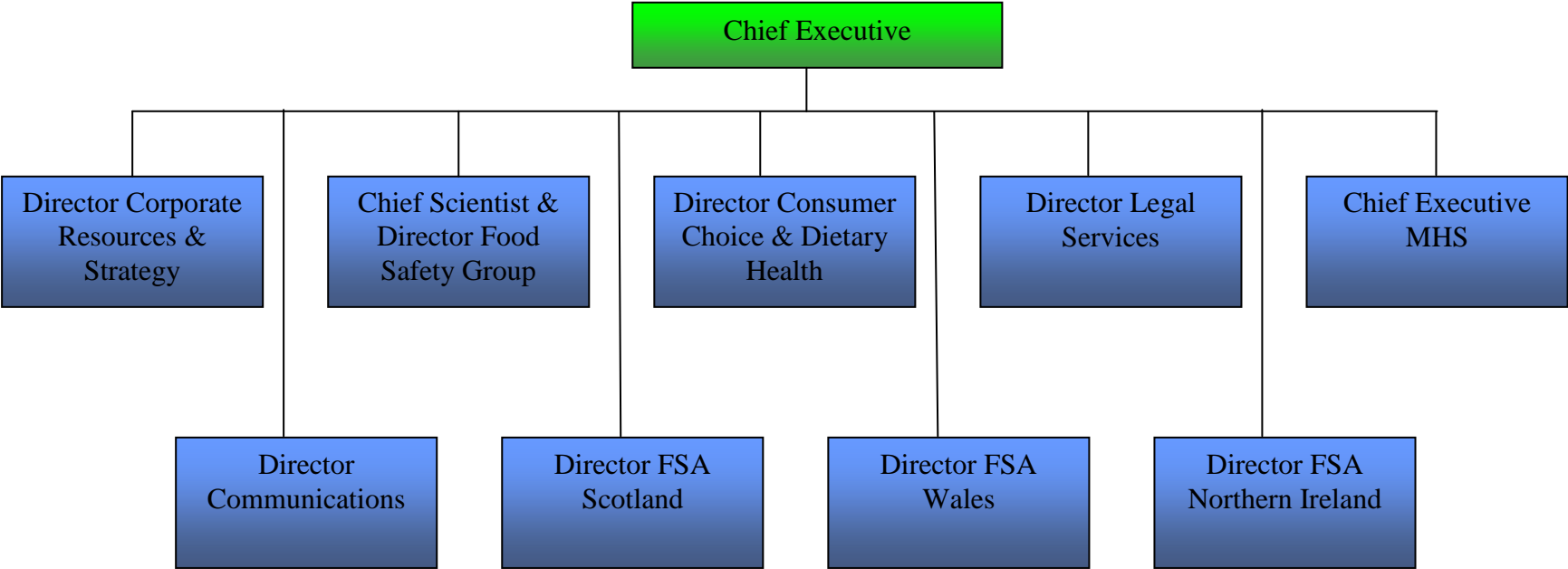
(a) under the national law of the Member State in which the establishment is located;

(b) under Regulation (EC) No/2004 *; or

(c) by a decision adopted in accordance with the procedure referred to in Article 14(2).

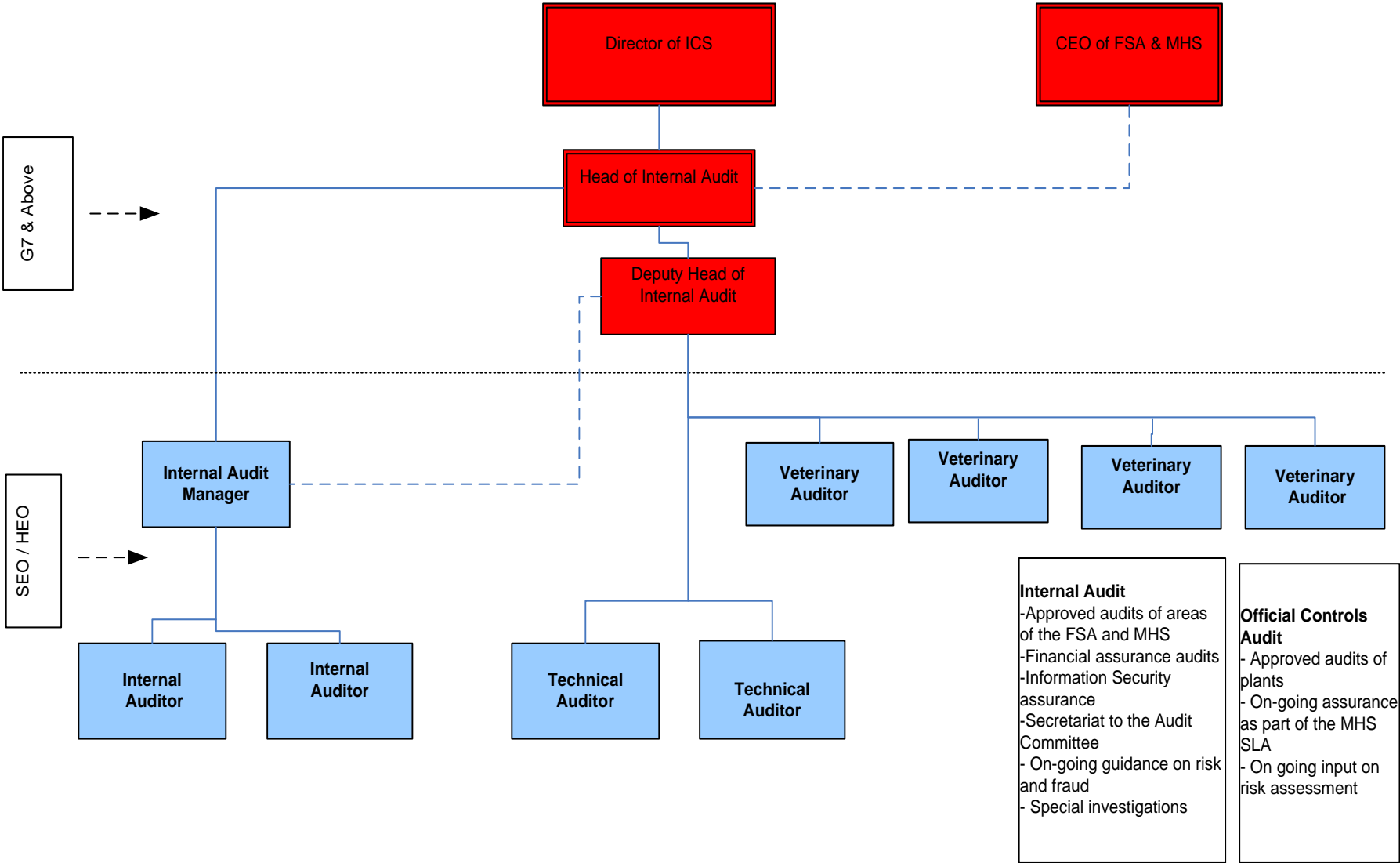
Any Member State requiring the approval of certain establishments located on its territory under national law, as provided for in subparagraph (a), shall inform the Commission and other Member States of the relevant national rules.

FSA SENIOR MANAGEMENT STRUCTURE JUNE 2009

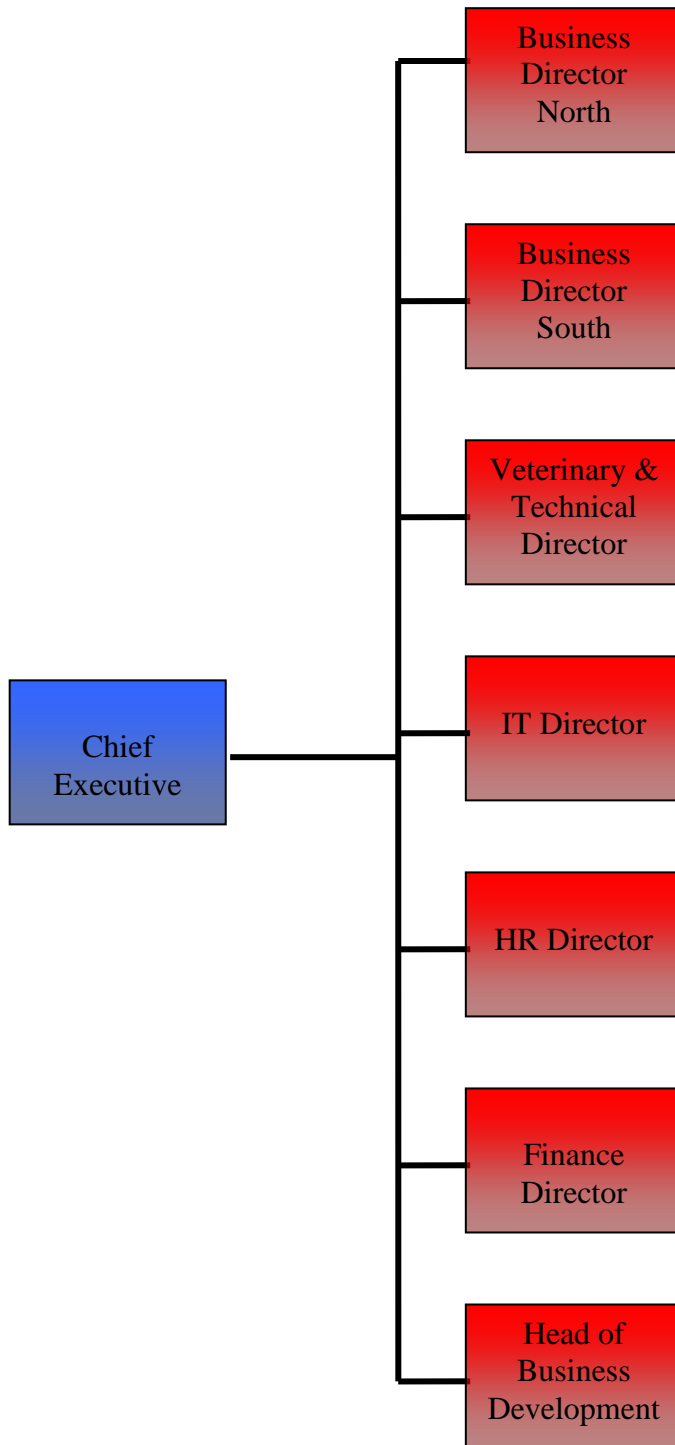


NEW FSA INTERNAL AUDIT STRUCTURE PROPOSED AS PART OF ONE AGENCY RESTRUCTURING JUNE 2009

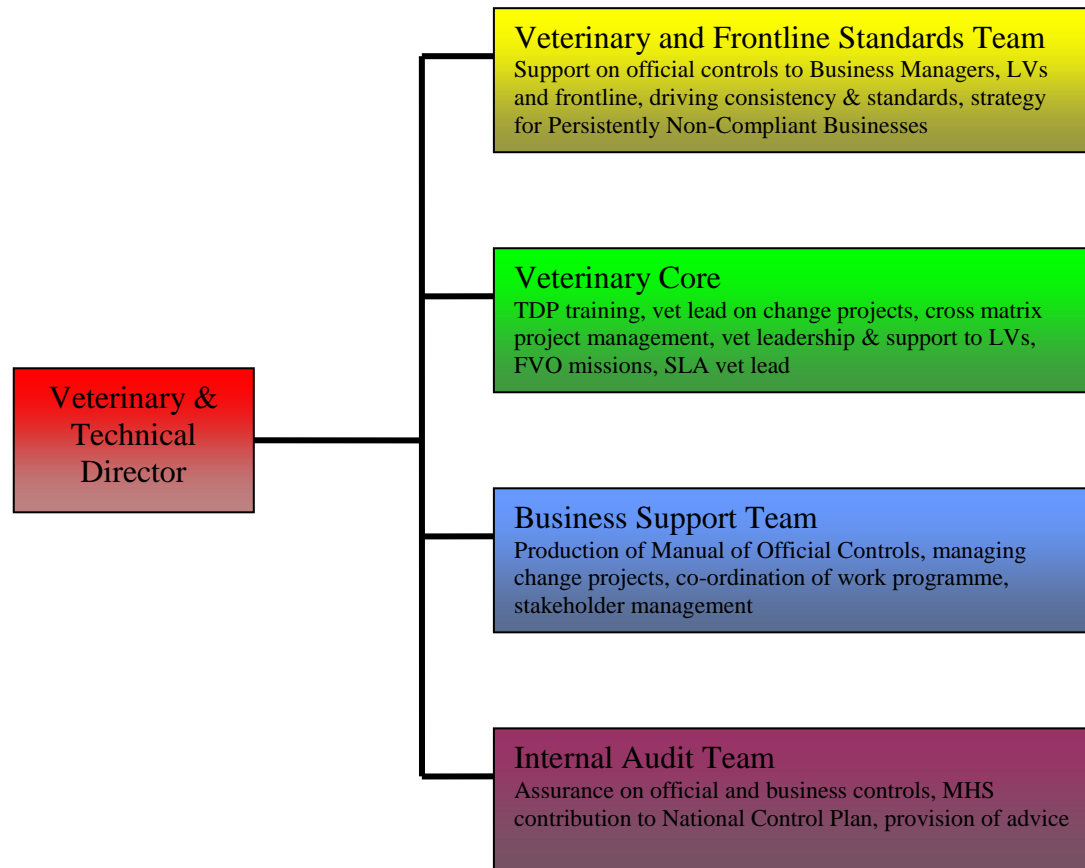
ANNEX D



EXISTING MHS SENIOR MANAGEMENT STRUCTURE – NOV 2008 (Prior to One Agency Restructuring and Approvals Changes)



**EXISTING MHS VETERINARY AND TECHNICAL DIVISION STRUCTURE
– JUNE 2009 (Prior to One Agency Restructuring and Approvals Changes)**



GUIDANCE FOR VETERINARY MANAGERS ON WITHDRAWAL AND SUSPENSION OF APPROVALS

SERIOUS DEFICIENCY

General requirement

Actual or potential risk to public health

Structure

- Major structural deficiency – e.g. capacity renders not fit for use
- Poor maintenance preventing effective cleaning

Contamination

- Extensive and frequent contamination of carcasses or products
- Failure to control contamination from any source
- Visibly contaminated product without action from FBO
- Inadequate separation between products of different risk categories

Temperature control

- Lack of temperature control

Pest control

- Serious rodent infestation

Water

- No potable water supply

Animal welfare

- Regular abuse of animal welfare

Failure to develop, implement or maintain food safety controls (Ref Article 8)

- Management attitude & commitment
- PRPs
- Failure of HACCP based controls

REPEATED STOPPAGE

(Dictionary definition of repeated: “Again and again”)

General requirement

Failure to take corrective actions despite advice/notification

- Persistent failure to take corrective action
- Frequency depends on deficiency:
 - Several times per day
 - Several days per (appropriate period)