

# Minutes of the FSA Board Meeting on 26 September 2022

FSA 22-12-01 - Via Zoom.

## Present:

Susan Jebb, Chair; Ruth Hussey, Deputy Chair; Lord Blencathra; Hayley Campbell-Gibbons; Fiona Gately; Margaret Gilmore; Anthony Harbinson Peter Price; Timothy Riley; Mark Rolfe

## Boardroom Apprentice:

Judith Hanvey

## Apologies:

Justin Varney

## Officials Attending:

Emily Miles - Chief Executive

Sushma Acharya - Head of Policy & Strategy for Food Hypersensitivity (For FSA 22/09/07)

Nathan Barnhouse - Director Of Wales (For FSA 22/09/09)

David Franklin - Scientific Sampling and Laboratory Policy Team Leader(For FSA 22/09/06)

Matthew Harriman-Brady - Senior Laboratory Review Lead (For FSA 22/09/06)

Maria Jennings - Director of Regulatory Compliance, People & NI

Junior Johnson - Director of Operations

Carmel Lynskey - Head of Achieving Business Compliance Programme (For FSA 22/09/05)

Robin May - Chief Scientific Adviser

Rick Mumford - Head of Science Evidence and Research

Michelle Patel - Deputy Director of SERD (For FSA 22/09/04)

Katie Pettifer - Director of Strategy, Legal, Communications and Governance

Steven Pollock - Director of Communications

Peter Quigley - Deputy Director of Regulatory Services (for FSA 22/09/14 & FSA 22/09/15)

Tara Smith - Director of Resources & People

Rebecca Sudworth - Director of Policy

Ruth Willis - Head of Regulated Products (For FSA 22/09/04)

## Apologies:

Anjali Juneja - Director of International & UK Affairs

Julie Pierce - Director of Online, Data & Digital, Wales and Science

## 1. Welcome and Introductions

1.1 The Chair welcomed everyone to the meeting and explained the meeting had originally been planned to take place in Belfast on 14 September, however with the passing of Queen Elizabeth II, the meeting had been postponed until after the mourning period.

1.2 The Chair welcomed Anthony Harbinson and Hayley Campbell-Gibbons to their first meeting of the FSA Board since their appointment on 1 September and Judith Hanvey, the FSA's Board Apprentice who had been appointed for one year on 1 September. Apologies had been received from new Board Member Justin Varney, Director of Openness Data, Digital and Science Julie Pierce and from Director of International & UK Affairs Anjali Juneja. The Chief Scientific Adviser had given notice that he would leave the meeting after the discussion of the Food Hypersensitivity Programme: Outline Plans for Phase Two (FSA 22/09/07).

1.3 The Board did not raise any new declarations of interest, but Mark Rolfe said that his temporary role leading trading standards in Hampshire had now come to an end. His register of interests on the FSA website had been updated accordingly. Mark added that in relation to the agenda item Public Analyst Official Laboratory System: Our Approach to Building a Resilient System (FSA 22/09/06), he would recuse himself from discussions due to a potential conflict of interest arising from his role running a public analysts laboratory.

1.4 The Chair noted that there was also some overlap between Mark's role and the item Achieving Business Compliance Programme (FSA 22/09/05) but she was content for Mark to remain at the table for that discussion.

1.5 For item Food Hypersensitivity Programme: Outline Plans for Phase Two (FSA 22/09/07) Margaret Gilmore said that she had an adult son who had a nut allergy. Ruth Hussey said that she had an adult onset food hypersensitivity and Peter Price said that his wife had a dairy sensitivity.

1.6 The Chair explained that questions received ahead of the meeting would be dealt with differently than at previous meetings. The question would be read out at the start of the relevant item but rather than being asked to address the question immediately, discussion of the item would proceed as normal and issues pertinent to the question addressed as they were discussed. If the question had not been dealt with, the Chair would ask a member of the Executive for a response. A written response would also be provided to ensure people were clear on the answer to their question. Both the questions and the responses would be published alongside the minutes.

1.7 The Chair said that a working group established to address the recommendations of the recent Board Effectiveness Review would consider the process for how questions would be most effectively dealt with for future meetings.

1.8 No additional items of business were raised by the Board.

## **2. Minutes of 15 June 2022 Board Meeting (FSA 22/09/01)**

2.1 The Chair asked if the Board were content that the minutes of the 15 June Board meeting represented a true account of the discussions. Margaret Gilmore said the request for further information on the Irish survey on allergens on menus should be included as an action. The Chair said she was aware work was being undertaken by Rebecca Sudworth's team to take this forward and it should be recorded as an official action.

2.2 No further comments were received, and with that amendment, the minutes were agreed as an accurate record of the meeting.

**Action 1 – Board Secretariat to amend Minutes and Action Arising document to include the request for the further information on the Irish survey on allergens on menus.**

### **3. Actions Arising (FSA 22/09/02)**

3.1 The Chair noted that all of the actions from the previous meeting were complete. No comments on the actions were raised by the Board.

### **4. Chair's Report**

4.1 The Chair delivered an update on activity since the previous meeting including the publication of the inaugural joint report on Food Standards with Food Standards Scotland (FSS); the Chair's and Deputy Chair's visits to community food redistribution schemes in Manchester and Liverpool; and recent changes in Government.

4.2 On the joint report on Food Standards with FSS, the Chair noted the success in collating large quantities of data to create a ready source of intelligence for key issues in the food system. It had been well received by stakeholders and demonstrated that food standards had been maintained since EU Exit. Risks, including local authority resourcing and the lack of border controls for food imported from the EU were also noted. The launch of the report included FSA stakeholder events in England, Wales and Northern Ireland.

4.3 On the visits to the community food redistribution schemes in Manchester and Liverpool, the Chair thanked the local MPs Kate Green and Ian Byrne who had hosted the visits. The Chair mentioned the FSA's monthly tracker which showed a concerning increase in the proportion of households who had used foodbanks. The FSA was continuing to work with WRAP to develop guidance on best before dates. Recent moves by supermarkets to remove best before dates where they were unnecessary were welcomed and the CSA had written a recent article for The Grocer explaining the FSA's ambition to minimise food waste.

4.4 On the recent changes in Government, the Chair had written to the new Secretary of State for Health and Social Care and to the Secretary of State for Department for the Environment, Food and Rural Affairs (Defra) and would make it a priority to try to meet with them and other relevant Ministers.

4.5 The Chair said she had recently met with Mark Spencer, the new Minister for Farming. This would be captured on the record of her engagements to be published ahead of the next Board meeting.

### **5. Chief Executive's Report to the Board (FSA 22/09/03)**

5.1 The Chair invited the Chief Executive (CE) to introduce her report. The CE gave an overview of key items mentioned in her report including the passing of Queen Elizabeth II and the royal succession; the change in Prime Minister; the FSA's priorities such as the Genetic Technology (Precision Breeding) Bill, the Financial Services Commission, the Borders Targeted Operating Model, and the Bill on Retained EU Law (REUL); the deprioritisation of work including the one-year review of the foodborne disease framework, engagement on regulated products, and the FSA's people plan; and the Civil Service headcount commission.

5.2 The Chair noted the scale of the expected impact of the REUL Bill. It would not be appropriate for the FSA to sunset all the laws for which the FSA was responsible. These were necessary for maintaining public health as well as for international trade and were part of a complex system linked to legislation held by Defra, Department for Health and Social Care (DHSC) and others. The Chair's view was that there needed to be a Food and Feed Bill to

replace some EU law. It would be a priority to engage with Ministers to discuss plans and gauge their expectations over the rate of change as well as hearing the views from the devolved administrations. Protecting public health would remain the focus for the FSA.

5.3 The Chair said it would be important to have a paper on the agenda for the December Board on REUL and the FSA's planned approach.

**Action 2 – Board Secretariat to add paper on REUL to the agenda for the December Board.**

5.4 Peter Price noted the opportunity to remove rules, which hindered the FSA's effectiveness but cautioned about the potential for divergence within the internal UK market. There was also some concern in Wales that the devolved administrations were being overlooked with powers repatriated to the UK from the EU being taken by Westminster when they more properly related to areas of devolved competence.

5.5 Anthony Harbinson noted the risk of dual regulatory systems emerging as Northern Ireland continued to operate under EU rules as a part of the Northern Ireland Protocol.

5.6 Timothy Riley welcomed the prospect of a new Food and Feed Bill, which could give clarity in how the FSA communicated with the public about what they could reasonably expect from the FSA. The Chair agreed there were opportunities but noted the challenging timescales that could be impossible to meet and the need for discussions around the balance of speed and reform.

5.7 Ruth Hussey said it was essential the FSA did not compromise its commitment to protect the public from health risks. The FSA should seek to maintain its high standards to protect public health and put consumers first. This message must remain at the centre of discussions with Ministers.

5.8 Hayley Campbell-Gibbons asked whether the Treasury's headcount commission was likely to remain part of the new Government's agenda and when there could be clarity about any necessary action as the uncertainty could impact staff morale. The CE said there had been no recent update on the issue from His Majesty's Treasury (HMT).

5.9 Regarding the deprioritisation of certain workstreams, Mark Rolfe said, given the substantial engagement the FSA had with businesses and local authorities, there was significant reputational risk in stopping or slowing some of that work now.

5.10 The Chair said the FSA's priorities would be discussed further at the Board's retreat in October and the Board would be in a better position to set a course by the time of the December Board meeting in London. The Chair invited comments on other areas of the CE's report.

5.11 Ruth commented on the end of labelling easements in relation to sunflower oil substitutions, urging a continued focus on the return to fully accurate labelling before the end of the year. The CE said that the Regulatory Compliance Division was working closely with local authorities and businesses, ensuring clarity around the FSA's expectations for a return to accurate labelling.

5.12 Ruth noted that despite the recent increase, Class A shellfish harvesting waters still accounted for a small proportion of total waters. She asked how those areas had become Class A and whether more information could be shared with water companies and others responsible to encourage progress towards more shellfish beds becoming Class A. Rebecca Sudworth said there was variation from year to year in the quality of water and there had not been any noticeable change in the usual trends. The classification system had been improved to better inform proportionate decision making. There were close links with the Environment Agency and in the event of an incident linked to a rise in contamination levels, the relevant authorities would work together to address the issue swiftly. The CE added that the FSA did not have responsibility

for water quality.

5.13 Mark said he was disappointed to note the delay to proposals for the Food Hygiene Ratings Scheme (FHRS) ratings in England, leaving English consumers with less information than those in Wales and Northern Ireland. The CE confirmed for the Board that primary legislation was required. It was possible the consultation on mandatory display in England could go ahead.

Maria Jennings added it would be possible for the measures to be included in another Bill and one had been identified as a potential vehicle for mandatory display. The Chair noted the strength of feeling on the issue and that this was an area where the public were likely to see more regulation as being in their interests.

5.14 Mark asked whether progress was being made with the target operating model for border controls in understanding the risk of food coming from the EU. Maria Jennings confirmed high levels of pre-notifications were being received and evidence gathering was improving.

5.15 Fiona Gately asked whether there could be efficiencies in the way the food data transparency partnership was structured to enable it to overlay with other reporting management work and the extent to which it might segment the industry into larger and smaller businesses where data would be more difficult to collect. The CE confirmed much was already being done on food data including aggregated food sample data used by the national Food Crime Unit (NFCU), but the food data transparency partnership was a more comprehensive approach to food data and additional work would be required.

5.16 The CE explained that the REUL Bill work impacted particularly on the policy team; the legal team; Wales and Northern Ireland policy colleagues; and the Regulatory Compliance Division, rather than the data team. Prioritisation was most acutely required in those teams and would therefore include FHRS mandation. The scale of the impact of REUL on FHRS mandation was not yet known.

5.17 The Chair said the discussion had highlighted the need for the FSA to be agile and the Board acknowledged that decisions made on subsequent items on the agenda would impact the work of the Executive.

## **6. The Genetic Technology (Precision Breeding) Bill (FSA 22/09/04)**

6.1 The Chair welcomed Peter Quigley, Michelle Patel and Ruth Willis to the meeting and invited them to introduce the paper. Peter gave an overview of the paper covering work to improve the evidence base; the commissioning of a subgroup of the Advisory Committee on Novel Foods and Processes (ACNFP); consumer perceptions; the tiered approach to the FSA's authorisation of Precision Bred (PB) products; and building a product register.

6.2 The Chair noted the Board had received questions from stakeholders in relation to this item ahead of the meeting and invited Steven Pollock to read them out.

6.3 Steven explained that there had been seven questions received ahead of the meeting for this item:

6.4 Q1 from Ian Mortimer related to the impact of trade with Wales and Scotland due to those nations requiring clear genetically modified labelling and suggested that such a labelling requirement could disadvantage businesses there selling their products in England with compared to equivalent foods that were sold only in England and would not require labelling as contain GMO.

6.5 Q2 from Liz O'Neill, director with GM Freeze, noted confusion over whether the PB organisms in the Bill text excluded the presence of exogenous genetic material and asked whether, when consulting, the FSA informed people that the insertion of exogenous genetic material was the first step in all gene editing processes and that some gene editing techniques intentionally incorporated material into the organism's genome.

6.6 Q3 from Joe Ryan noted the Precision Breeding Bill set out a list of scientific interventions that would be classed as traditional processes and asked whether the FSA explained that traditional breeding wasn't limited to sexual reproduction when asking members of the public for their views on how these things should be regulated and if not, why not.

6.7 Q4 from Pat Walters said he would like to know whether the FSA was going to commit to developing and supporting mandatory labelling for the so called precision bred organisms and said that the FSA's claim that these could not be detected was inaccurate.

6.8 Q5 from Leonie Nimmo, a director of Ethical Consumer magazine, noted the consultations and research showing the public wanted transparent labelling and the importance of maintaining consumer trust and asked why the FSA was considering options that did not involve clear labelling and was considering the use of QR codes, which consumers may not have time to scan as items were going into the supermarket trolley. The question highlighted a judgment against the US Department of Agriculture which was found to have broken the law by using QR codes for GMO labels.

6.9 Q6 from Christopher Stopes of the EcoS Consultancy, related to the impression being given that PB organisms were not genetically modified organisms. This could create the wrong impression. The Bill was seeking to create a new category of GMOs which would receive a different regulatory approach but did not change the fact these products were GMOs. The FSA was giving a highly misleading impression to stake holders and public. He asked the Board to take immediate action to cease doing that and to take steps to correct the impression it had created, including correcting all material and presentations, including the paper coming before the Board.

6.10 Q7 from Jacqueline Pearce-Dickens said the FSA previously had a policy of publishing all advice and information it gave to the Government and asked whether the FSA would publish all the advice and information it had given to DEFRA and any other government agency or advisory body relating to the genetic technology Precision Breeding Bill.

6.11 Margaret Gilmore noted that the paper mentioned the need to ensure PB products were safe but also mentioned future potential risks. She said the more scientific advice the FSA could publish on this, the better for consumers. The CSA said funding for research would be likely to come from the commercial sector and when the research became available it would be harnessed by the FSA.

6.12 Margaret said labelling could be an emotive issue and clarity for the public over whether it was needed for safety reasons was important. Peter Price said the Welsh Food Advisory Committee (WFAC) had raised the issue of traceability and ensuring that consumers had access to the information they wanted, noting the difference between what was required for food safety and what was required to enable consumer choice. Peter Quigley said part of the work around consumer information was considering what consumers wanted to know and why, as well as what they needed to know, and labelling was one way in which that could be communicated.

6.13 Fiona Gately asked if it were possible to have more information on how a traceability system could work through the supply chain, as distinct from identifying products by their genetic footprint. The CSA noted this had relevance for Question 3. Traditional breeding often introduced mutations in order to create new varieties and this presented issues for traceability since, using available genetic techniques, it could not currently be known if a change in a single

DNA 'letter' was created by a traditional process or by precision breeding.

6.14 The CSA said there was substantial interest in developing techniques that may allow traceability by looking at other genetic elements in the organism to assess the probability of the edit being made by precision breeding or another method. In relation to Question 4, it was accurate to say precision bred edits and traditionally created changes could not currently be distinguished, but the FSA would be interested to look at techniques that might allow that if such methods are developed in the future.

6.15 Peter said the WFAC had raised the issue of regulatory divergence within the UK and also between the UK and the EU. The use of informal channels to keep apprised of the EU position would be important in order to minimise divergence. Anthony Harbison said the Northern Ireland Food Advisory Committee (NIFAC) had considered the paper and noted that PB goods would not be approved for sale in Northern Ireland due to the Northern Ireland Protocol. Peter Quigley said the team were looking at what was happening in the EU where a consultation on a similar policy area was held earlier in the year. It was not yet known how the EU would address issues around PB products. The team was working closely with colleagues in Wales to ensure that the implications of potential divergence there was understood. The Chair asked whether there was any indication of the timeframe for decision-making in the EU. Peter Quigley said there was no conclusive intelligence, but something was expected by summer 2023.

6.16 Peter said all consumer information should be available in Welsh as well as in English. The Chair confirmed the FSA took its responsibilities on the use of the Welsh language seriously.

6.17 Anthony said NIFAC had raised a concern about the accelerated pace of the programme and whether the risks for consumers and the need for consumer information had been adequately addressed. Fiona said that to have a system consumers could trust, more information about how organisms could be traced back through the system would be required. The CSA said that businesses that had spent time and money developing products they would usually want to demonstrate ownership, so traceability is in the interests of both business and consumers.

6.18 Anthony asked whether there were plans for training to enable staff to address questions around PB if asked by consumers. Peter Quigley said the team would consider ways to ensure there was training across the FSA to help explain the issues to stakeholders.

6.19 Timothy raised the issue of compound edits, where small edits were not traceable and the organism was edited repeatedly, noting that the impacts from this were not known. It would be important to treat risk proportionately but currently, small edits had a low likelihood of detection and, though small, could have significant implications, which were unknown. The Chair said she expected the ACNFP would advise on this.

6.20 The CE said the FSA was committed to the principle of openness and transparency and routinely published risk assessments, risk management advice, recommendations to Ministers, and research reports. Previously the FSA had also published the Chair's formal advice to Ministers on particular issues and this practice would continue, particularly with the Board's views on divergence.

6.21 The CSA said that, in relation to Question 2 received ahead of the meeting, it was not the case that all precision breeding techniques introduced exogenous DNA but that some edits could introduce small sections of exogenous DNA. This also happened in traditional breeding and natural processes.

6.22 The Chair said the Board supported the tiered approach and the public register and would be interested to see proposals on consumer information as the position developed. The Board welcomed the development of the regulatory framework.

## **7. Achieving Business Compliance Programme (FSA 22/09/05)**

7.1 The Chair welcomed Carmel Lynskey to the meeting and noted that a question from a stakeholder had been received ahead of the meeting. She invited Steven Pollock to read it out.

7.2 Steven said that Question 8 came from Mike Wilson of Cascade Associates who felt encouraged by the proposals to modernise food hygiene inspection, particularly to see proposals for the use of remote technologies, where these might be appropriate and could contribute towards better efficiency and reduce carbon footprint. The 2021 study carried out by ICF was a standard survey based on a small sample size and did not examine the assessment techniques in depth. The question asked whether the Board agreed a more extensive evidence gathering exercise around each of the remote methods needed to be undertaken, together with a comprehensive evaluation before approving any proposals to deploy such technologies in the field on a regular basis.

7.3 The Chair invited Katie Pettifer to introduce the paper. Katie gave an overview of issues covered in the paper including evaluation of the pilots for intelligence led food standards assurance; a proposed new approach on food hygiene; planned pilots with five of the biggest retailers; and proposals for a food safety charter.

7.4 Mark Rolfe asked about enterprise level regulation and where it added value to the pre-existing Primary Authority structure. Katie said a three-way relationship was being proposed between the FSA, the Primary Authority, and the retailer. The FSA already had good relationships with some of the large retailers, and a standardised model could help build better understanding and resilience.

7.5 Lord Blencathra said that larger retailers should not be allowed to set a regulatory system benefitting them to the detriment of smaller businesses. Margaret Gilmore noted that small businesses were also often the source of risk for consumers and that local authority inspection could make a difference to the performances of these businesses.

7.6 Fiona noted that the proposed food standards model was mooted for introduction at the beginning of the next financial year and urged thoroughness to ensure the effectiveness of the underlying systems. Maria Jennings said the consultation in October would help inform the roll-out of the new food standards model.

7.7 Mark said Key Performance Indicators (KPIs) for the food standards model would be important to see what was being achieved. Maria Jennings said the aim was to deliver more intensive interventions for businesses posing the greatest risk, or persistently non-compliant businesses. KPIs would be developed based on the outcomes delivered by local authorities rather than the inputs, as currently was the case. This would be brought back to the Board in a future paper on ABC.

7.8 Ruth Hussey welcomed the KPIs for the food standards model and added that it would also be important to demonstrate the new model was more efficient. She was keen to see a business case showing how the success of the programme could be evaluated. The Chair said that it would be helpful to hear more on this in a future paper.

7.9 Ruth noted that by supplying information to local authorities, the FSA would not only be regulating the system but would be part of it and asked about the governance structures. Fiona Gately said that using an intelligence-based system was the right approach, and the guidance would be key to its function to ensure that everyone understood what was aimed for and what success looked like. Maria said it was important to continue providing advice and guidance, and many food businesses would not see a difference in the way food standards inspections were



carried out.

7.10 Ruth noted engagement with local authorities demonstrating an interest in Permit to Trade. This was something that had been considered under the previous Regulating Our Future programme and had merit.

7.11 Peter Price said WFAC was supportive of the ABC programme but were concerned about the use of the phrase “influential businesses”, which could raise the question whether their influence was over the FSA. The Chair acknowledged the ambiguity, noted that the influence was in relation to the supply chain, and said that this wording should be reconsidered.

7.12 Anthony Harbinson noted the shortage of key resources in local authorities and asked how the FSA would prioritise their allocation. Fiona asked whether, following reprioritisation the ABC programme would cost more money or require a reallocation of resources.

7.13 Lord Blencathra expressed concern about online aggregators, noting scope for fraud. The Chair said more detail about the voluntary charter from the delivery companies would be welcome in a future update.

7.14 The Chair said that in the interests of time she would not ask the Executive to respond to all the points made. She noted the Board’s support for the new Food Standards and Food Hygiene models with the cautions around parity of burden on larger and smaller businesses and the FSA’s role within the models. Katie said the point about small businesses was understood and a regulatory system was not being tailored to their benefit of larger businesses, rather the FSA was working with the latter as a leverage point in the rest of the system. The Charter would help influence the behaviour of smaller business as aggregators made a big difference to what these businesses did.

## **8. Public Analyst Official Laboratory System: Our Approach to Building a Resilient System (FSA 22/09/06)**

8.1 The Chair noted that Mark Rolfe had recused himself from this discussion due to a conflict of interest from his role in running a Public Analyst Official Laboratory. She welcomed David Franklin and Matthew Harriman-Brady to the meeting and invited Steven Pollock to read out a question that had been received ahead of the meeting relating to this item:

8.2 Q9 from Katie Doherty of the International Meat Trade Association mentioned that laboratory capacity in the UK had been highlighted by her association as an area in need of review for some time and the review of the UK official lab system was welcome. The question asked how industry’s needs would be included within the review.

8.3 Rick Mumford gave an overview of the paper covering the complexity of the system; the decline in the lab capacity and capability; and a vision to rebuild the capabilities within the national lab system.

8.4 Ruth Hussey urged clarity on the FSA’s ambitions to give confidence in the achievable benefits. Cross-government working would be important to provide a joined-up picture of these ambitions. Margaret Gilmore added that on the long-term aims, cross-government solutions could be more productive and cost effective and help maintain specialist skills. The CSA agreed, noting PATH-SAFE as a programme where multiple agencies worked together successfully on a single problem and there was more that could be done. He noted that the legislative framework, which described specific sampling regimes that were sometimes incompatible with each other (for instance, in requiring different animal tissues to be tested), created challenges for cross-government working.

8.5 The CSA mentioned a recent visit to the Netherlands to hear about their system and noted there was a lot that could be done around the specialist skills mentioned in Question 9. It was not possible for all countries to have a large capacity for a particular skill set and careful consideration of how national capacity could benefit from international exchange and training could be useful.

Rick added that work was ongoing through the Government Chemist including a survey on capability gaps. These would be the areas the FSA would target to bolster capability. The paper was focussed on the statutory requirement for testing however, with the right infrastructure in place, there could be spare capacity to sell to industry, creating benefits for Government and industry.

8.6 Peter Price noted recent commercial investment in a laboratory in Cardiff. Rick said the FSA was open to various ownership models and welcomed more capability within the UK.

8.7 Ruth said she was reassured that work was ongoing to evaluate outputs and outcomes and the Board would need to consider the delivery aspects in the next update.

8.8 The Chair said the Board were content with the short to medium term approach and looked forward to hearing more about government's wider plans around lab capacity for the longer term.

## **9. Food Hypersensitivity Programme: Outline Plans for Phase Two (FSA 22/09/07)**

9.1 The Chair extended the Board's sympathies to the family of Celia Marsh who died in 2017 after eating a flatbread which was contaminated with milk. The inquest had now concluded, and the FSA would look carefully at the coroner's findings to see whether further action may be needed to reduce the risk of similar tragedies occurring. The case highlighted the importance of the ongoing work to ensure that businesses provided accurate information to consumers about allergens in food. The Chair welcomed Sushma Acharya to the meeting and asked Steven Pollock to read out the questions that had been received from stakeholders in relation to this paper.

9.2 Steven said that Question 10 came from Paul Carey, the father of Owen Carey who died tragically in April 2017 as a result of an allergic reaction caused by a burger that had been contaminated with milk during cooking. Paul asked if the FSA's Board could reiterate to the FSA's executive the request from the meeting on 15 June, that information about allergens in food offered by businesses had to be in writing, supported by a conversation if the consumer required it and would they further confirm the most logical place for such information to be provided was on the menu, whether on paper or on an electronic device.

9.3 Question 11 was from Brett Smith and asked the FSA's Board to raise the request from the 15 June meeting to the Executive, that information about allergens in food offered by food businesses had to be in writing supported by a conversation, and would they further confirm the most logical place for such information to be provided was on the menu be that on paper or on an electronic device.

9.4 The Chair said that, in June, the Board had not taken a firm decision but had requested further evidence about written information and allergen labelling. This would be presented for discussion at a future meeting.

9.5 Sushma gave an overview of the paper covering the key priorities, key activities and timelines; the proposed timelines for phase two of the work; training for staff in the non-prepacked sector; standardisation of information; further research into gaps requiring consideration for written allergen information; and precautionary allergen labelling.

9.6 Margaret Gilmore welcomed the work on compliance by the online food aggregators and training for staff. Research showed people with allergens preferred written information in all circumstances so the word "written" should be included in the title for Priority One. Rebecca Sudworth said written information was a priority focus but that both written and verbal information was being considered, which was why it did not just have 'written' in the title.

9.7 Margaret said that for Priority Three, on precautionary allergen labelling research showed 'may contain' notices were considered to be meaningless but the inclusion of an explanation of why the allergen may be present would be likely to be taken more seriously. Rebecca said that this would happen through the work around standardising the wording for precautionary allergen labelling. She agreed that the language used in the statements was not currently consistent and consumers did not always know how to interpret the information.

9.8 Peter Price said the WFAC had noted the 14 listed allergens did not include some that had previously caused significant harm. Rebecca said that it would be important to keep this under review and noted that full ingredient labels were present on all pre-packed food.

9.9 Peter said that the WFAC raised the different inspection regime in Wales and emphasised the importance of alignment to ensure inspections in Wales included allergen controls. Rebecca said there was a more integrated system in Wales than in England and the team were working closely with colleagues in Wales and with Welsh local authorities to ensure allergen controls were taken into account through local authority inspections.

9.10 Judith Hanvey acknowledged that written information would be part of a future discussion at the Board but asked about the scoping work to support businesses to access the correct information and whether there was consistency between that information and front of pack declarations. Rebecca said this was an important aspect of ensuring businesses had the right information and was one of the things highlighted in the sad case of Celia Marsh. Margaret noted that at the inquest of the death of Celia Marsh, the coroner said they would be writing to the FSA, to say there was no safe level of an undeclared allergen and that better labelling was required.

9.11 Ruth Hussey noted the pressure on resources and emphasised the importance of the issues involved and the need for confidence that the work would continue. Rebecca said labelling and consumer information was an area where consumer safety aspects would be protected. Pressure on resources meant capacity for reform could be more limited than it would otherwise have been, but public health remained the first priority.

9.12 Ruth welcomed the prioritisation of Level One training enabling staff to ask consumers about food hypersensitivity and noted it would take time to complete. She asked the team to comment on the thinking behind the timescales included in the paper, which would mean that the training package would not be available until 2024. Rebecca said that training would be a priority and it was intended that some of the work would be brought forward. The aim would be to produce training that had maximum impact, tailored to the audience. External suppliers would deliver the training, and it took time to select the right supplier, and test the materials with the intended audience. There would be a balance between pace and ensuring efficacy and the Board would be closely involved in setting the right balance.

9.13 The Chair said it had been useful for the Board to see the detailed plans and noted that the issue would come back to the Board in December or March. Rebecca added that regular reporting to the Business Committee would also recommence.

## **10. Annual Report from the Chair of the Audit and Risk Assurance Committee (ARAC) (FSA 22/09/08)**

10.1 The Chair explained that the paper had been largely drafted during former Board Member Colm McKenna's chairmanship of ARAC. The Chairmanship of ARAC had now passed to Board Member Timothy Riley and the Chair invited Timothy to introduce the report.

10.2 Timothy introduced the paper noting its retrospective nature; the delay of the September ARAC meeting; delays to the Annual Report and Accounts (ARAs) from the evaluation around the Local Government Pension Scheme evaluation; the impacts of COVID-19 and EU Exit; and the end of Mazars role in providing external audit for the FSA.

10.3 The CE said the FSA was thinking through the approach to the outsourcing of the contract to a service delivery partner and ARAC's scrutiny in the decision was very helpful. The cost of living crisis was raising the risk level within the food system and would feature when the Board came to consider the risk appetite in a retreat session in January and then formally at the March Board meeting. Tara Smith noted the uncertainty of the period ahead and said it would be necessary to take account of many of the issues raised in the updated risk register.

## **11. Report from the Director of the FSA in Wales (FSA 22/09/09)**

11.1 The Chair welcomed Nathan Barnhouse to the meeting and said that over the past year, she had met on a number of occasions with the Deputy Minister for Health and Wellbeing Lynne Neagle, and with the Minister of Affairs for North Wales Lesley Griffiths.

11.2 The Welsh Government had confirmed that the planned review of the work of the FSA in Wales, would go ahead this year. The Chair welcomed this review and the opportunity to contribute.

11.3 Nathan Barnhouse gave a summary of the paper noting progress against priorities and the value of the contribution of the staff in Wales to the work of the FSA.

11.4 Ruth Hussey welcomed the planned evaluation of the stands at the Royal Welsh Show and said there was an opportunity to consider other opportunities for stakeholder engagement. The Welsh Government review represented an opportunity to work with the Welsh Government to further strengthen the FSA's work in Wales. There would be uncertainty created for staff from the Welsh Government review and it would be important keep them informed so they were aware of the implications.

11.5 Peter Price congratulated Ruth on her admission to the Gorsedd of the Bards at this year's National Eisteddfod in Tregaron, mid-Wales noting her previous chairmanship of the WFAC. Peter noted challenges from divergence and the need for extra work by the Welsh team and welcomed the efforts of staff in Wales to ensure that the FSA remained one organisation working across the three countries.

## **12. Reports from the Chairs of the Food Advisory Committees (Oral Reports)**

12.1 The Chair invited Peter Price to give an update of the work of the WFAC. Peter said the WFAC had made comments on the papers discussed at this meeting to assist the Board's considerations. Peter mentioned the Chair's visit to Cardiff for the Welsh launch of the Annual Report on Food Standards and her engagement with the Members of the WFAC. WFAC's July meeting had been themed around Precision Breeding and Peter had accompanied Nathan Barnhouse and the Chair to a meeting with Minister Lynne Neagle to discuss that topic. The WFAC would meet again on 20 October in North Wales to look at the food landscape from a

North Welsh perspective and to hear about relevant upcoming scientific developments from speakers from Bangor University.

12.2 The Chair invited Anthony Harbinson to update the Board on the work of the NIFAC.

Anthony noted the sad circumstances that precluded the Board's travel to Belfast to hold this meeting and said that the NIFAC Members had been keen to meet with the Board. He paid tribute to the work of his predecessor as Chair of NIFAC, Colm McKenna, and to the work of the Robyn McNeilly as NIFAC Secretariat who had also now moved on to another job.

12.3 Anthony chaired his first NIFAC meeting on 6 September to discuss the Board papers and views expressed at that meeting had informed his comments made on the papers throughout this meeting. The next NIFAC meeting would be on 10 November when a themed plan would be discussed to ensure relevant work was undertaken going forward.

## **13. Any Other Business**

13.1 The Chair noted that no other business had been raised and closed the meeting. The next meeting of the FSA Board would take place on 7 December in London.