

Minutes of the FSA Business Committee Meeting on 23 September 2022

FSA 22-12-10 - Via Zoom

Present

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

Boardroom Apprentice

Judith Hanvey

Apologies

Ruth Hussey; Timothy Riley, Justin Varney

Officials Attending

Emily Miles - Chief Executive

Diane Barlow - Chief Information Officer (For Julie Pierce)

Jenny Desira - Head of Knowledge Information Management and Security (for FSA 22/09/16)

Maria Jennings - Director of Regulatory Compliance, People & NI

Junior Johnson - Director of Operations

Kevin Maher - Head of Animal Welfare & Delivery Assurance (for FSA 22/09/18)

Robin May - Chief Scientific Adviser

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

Darren Whitby - Head of Incidents & Resilience (for FSA 22/09/17)

Richard Wynn-Davies - Head of Operational Transformation (for FSA 22/09/18)

Apologies

Julie Pierce - Director of Wales, Information and Science

Anjali Juneja - Director of International & UK Affairs

Rick Mumford - Head of Science Evidence and Research

1. Welcome and Introductions

1.1 The Chair welcomed everyone 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 Business Committee meeting since their appointment to the FSA Board on 1 September 2022. Judith Harvey was welcomed to the meeting for her first Business Committee meeting since being appointed as a Boardroom apprentice for a period of 1 year on 1 September 2022. Justin Varney, who had also been appointed to the FSA Board on 1 September 2022 had given apologies for this meeting.

1.3 Apologies had been received from Ruth Hussey, Timothy Riley, Julie Pierce, Anjali Juneja and Rick Mumford. Diane Barlow attended to deputise for Julie Pierce for this meeting.

1.4 No new external interests were raised by Board Members and no Board Members indicated any existing interests that represented a conflict of interest with any items on the agenda.

1.5 No other business was raised for addressing at the end of the meeting's agenda.

2. Minutes of 15 June 2022 (FSA 22/09/10)

2.1 No comments were raised on the minutes of the Business Committee meeting of 15 June 2022, and they were approved as an accurate record of that meeting.

3. Actions Arising (FSA 22/09/11)

3.1 No comments were raised on the actions. The Chair said she was pleased that work was ongoing in relation to food-borne disease. All other actions were noted as complete.

4. Chief Executive's Report to the Business Committee (FSA 22/09/12)

4.1 The Chief Executive (CE) gave an overview of her report: an update on incidents; veterinary resourcing and temporary registration; the FSA's financial position; and the pay award for staff.

4.2 Margaret Gilmore welcomed the Royal College of Veterinary Surgeons' extension of the arrangements for temporary registration of vets and the Cabinet Office's support for alien exemption certificates. She noted changes in circumstances meant former plans may not work as expected and asked whether this was the reason for carrying out a review of the approach. The CE said an in principle decision was made to in-source a proportion of vets in December 2021 and further work had been done to understand the implications. The increase in the cost of vets due to the vet shortage, and legal advice regarding TUPE arrangements, meant a review was necessary to ensure that approach was still the right one.

4.3 The Chair asked whether there had been any impact from the Cabinet Office and HM Treasury's commission to model headcount reductions. The CE said the modelling had been done and a return submitted to Cabinet Office and Treasury, explaining the significant implications for the FSA. A response to that submission had not yet been received. In the meantime, the FSA had continued with plans to deliver the intended business for the year, including recruitment, noting the Board's desire that the FSA not underspend. Tara Smith added there had been a brief period where the FSA had been more cautious, but recruitment had still been quite significant with 215 people recruited in 12 months. This figure represented gross recruitment rather than the net change in headcount. There were plans to take on more in 2022 and the FSA was increasingly confident in those plans.

5. Performance and Resources Q1 2022-23 (FSA 22/09/13)

5.1 Tara Smith gave an overview of highlights from the report including: the new style of the report and the emphasis on forward-looking information; measures of trust and confidence in the food system; food safety compliance levels; animal welfare; audit levels; local authority performance; the performance of the National Food Crime Unit (NFCU); recruitment and attrition; and finances.

5.2 Mark Rolfe welcomed the reduction in the number of unrated businesses under the food hygiene rating scheme and asked whether it was a result of an increase in inspections or work to remove businesses that were not operating. Maria Jennings said that the FSA was seeing an increase in inspections and the removal of closed businesses. The FSA had also provided funding to local authorities to help them with triaging businesses, which had helped remove businesses from the system which had never opened or had opened for a short time before closing down.

5.3 Mark noted the importance to local authorities of the FSA's engagement, with clear expectations set by the FSA for local authorities, which differed from some other legislative frameworks local authorities needed to work to concerning non-food matters. He emphasised the importance for the delivery of those expectations of adequate resourcing and asked what was involved in the escalation process for local authorities. Maria highlighted the distinction between local authority engagement and performance management, highlighting the good relationships established through engagement with the Food Liaison Groups.

5.4 The FSA also sets clear expectations relating to the performance of Local Authorities. When concerns are identified relating to inspection levels or staffing within Local Authorities the FSA ensures that the local authority is addressing these issues. At stage 2 of the performance escalation process the Head of Service receives formal correspondence from the FSA to provide clarity on the remedial action required.

5.5 Mark asked for further information about the successes of the NFCU noted in the report. Junior Johnson said he would need to provide the specific information about how the 28 successes translated into disruptions and outcomes outside of the meeting but noted that the decrease in outcomes and the increase in disruptions was positive.

Action 1 - Junior Johnson to provide information to Board Members about the 28 successes for the NFCU noted in the P&R Report.

5.6 Lord Blencathra noted there were 11 major investigations under way with successes in getting prosecutions and removing ill-gotten gains. He said the rising cost of living meant people were consequently seeking cheaper food, which presented an opportunity for criminals to exploit; the NFCU would need to be alert to this. The Chair said the NFCU were conscious of this risk and had increased the size of the team from less than 20 to more than 80.

5.7 Margaret Gilmore asked about the segmentation referred to in the report relating to operational transformation. Junior explained in the initial segmentation model, which related to how the FSA targeted its audit work for meat businesses, it was found that some businesses were being targeted incorrectly. The methodology was being reviewed to produce a revised segmentation. Engagement with businesses that had been started based on the original segmentation would continue but had been paused while these issues were being addressed.

5.8 Margaret asked about deliverability and delays that had occurred in some workstreams including on healthier and more sustainable food, raising questions about the inclusion of healthier and more sustainable food in the FSA's Strategy, which was outside of the FSA's core remit and could have a lower priority with a new government. The CE noted that a new Prime Minister may have new priorities and their work programme would impact on how the FSA carried out its Strategy. This would be discussed in greater detail in the Board meeting on 26 September 2022.

5.9 Judith Hanvey noted the excellent figures relating to trust compared to the target ambitions of 75%. She asked whether this was an area of focus or whether 75% was a reasonable target level. Steven Pollock said that given the number of shocks the food system had sustained in the period, it was welcome that trust in the food system remained so high, adding that there would not be any complacency around this, and the FSA had been proactive with media engagement about its work along with other engagement and briefing for Parliamentarians to ensure that these levels of trust could be maintained and built upon.

5.10 The Chair noted the important role played by FSA staff in maintaining trust and that she had asked new Board Member Hayley Campbell-Gibbons to take a particular interest in 'People.' Hayley said that she would be undertaking initial meetings with Maria Jennings and Tara Smith and would look at issues of concern including the Cabinet Office review and the headcount commission.

5.11 The Chair noted the improved style of the report and the Business Committee's endorsement of the direction of travel outlined.

6. Risk Analysis Process: Update to Business Committee (FSA 22/09/14)

6.1 The Chair invited Peter Quigley to introduce the paper. Peter gave an overview of the paper, focusing on performance reporting measures.

6.2 Margaret Gilmore asked about the level of collaboration with Food Standards Scotland (FSS). Peter said with the Risk Analysis Process, the common frameworks ensured the FSA was working as closely as possible with colleagues in Scotland with continuous dialogue between officials. Work driven by teams in England, Wales or Northern Ireland, could then be aligned with colleagues in Scotland. Officials would then report to their respective Boards in the FSA and FSS

6.3 The Chair asked about the general process for risk assessment including determining which things would come to the Board. Rebecca Sudworth said that, as previously agreed, the Board would be consulted about non-routine issues. Previous papers to the Board explained what was considered routine and non-routine.

6.4 Margaret asked about some of the specific risks highlighted including from bamboo-plastic composite materials and asked if there were mechanisms within this way of working to get ahead of emerging risks. The Chief Scientific Adviser (CSA) said that there was regular contact with funders of innovative food processes, such as Innovate UK, to get early sight of products before they came on to the market. Rebecca added that international links with other regulators could also alert the FSA to emerging trends. On bamboo composite food contact materials, there were two aspects. Firstly, bamboo products needed to be authorised to be food contact materials and were not covered by current authorisations. Secondly the FSA needed to ensure it was giving the right advice to consumers about any risks there might be in using unauthorised products. The need for proportionality was key.

6.5 Margaret asked how many unlisted CBD products were still on the market. Peter said that the FSA did not hold a complete list of every single product on shelves in the UK. The FSA did hold a list of about 12,000 products progressing through the FSA's application system and had given advice to retailers and local authorities that products not on that list should be removed from the shelves.

6.6 Anthony Harbinson asked about the timescales for how long risk analysis issues could take to work through the process. Peter explained the order in which different issues progressed through

the system could be linked to legislative requirements or food safety concerns and could result in products being fast-tracked through the system. Accordingly, other things could be slowed if less concerning. Risk analysis covered a range of different issues requiring various response times.

6.7 The Chair asked whether any feedback had been received from stakeholders about the FSA's handling of the Risk Analysis Process. Peter said there had been engagement with industry around regulated products and the FSA was expanding its stakeholder engagement function to ensure forums were available for stakeholders; positive feedback had been received. Rebecca added that companies applying to the regulated product service had noted a duplication of process between applying through the EU and applying to the FSA. That was a function of having left the EU and had been frustrating for some applicants.

6.8 The Chair asked when the development phase for Key performance indicators on risk analysis would be completed and when the process could focus on monitoring. Peter said the measures required for this would be brought forward and covered in the next Risk Analysis update to the Business Committee in December 2022.

Action 2 - Risk Analysis Update to December 2022 Business Committee to include final proposals for key performance indicators on risk analysis.

6.9 Fiona Gately asked what needed to be replaced in order to create the new system following EU Exit. Rebecca said that while it was a new system, the starting point had been the approach that was followed while the UK had been a member of the EU.

6.10 The Chair noted that the Business Committee were content with the direction of travel and welcomed that the Risk Analysis Process appeared to be working well.

7. Regulated Products Service: regular update to Business Committee (FSA 22/09/15)

7.1 The Chair invited Peter Quigley to introduce the paper. Peter gave a brief introduction covering key points including: the new format of the update; the proportion of applications relating to Cannabidiol (CBD); applications relating to genetically modified organisms (GMOs) and potential consultations; and the online application system.

7.2 Lord Blencathra asked whether revised guidance for applicants would ensure that all relevant information would be provided to the FSA. Peter said work was underway linked to the content management system, designed to find unsatisfactory applications. This would capture inappropriate applications as well as genuine, but inadequate applications. Application guidebooks were being prepared through the content management system, to help with the production of higher quality applications.

7.3 Peter Price asked about feedback received on the current guidance. Peter Quigley said there were a range of views among stakeholders. Engagement had consisted primarily of group discussions with around 20 to 30 stakeholders at a time. Positive feedback had been received on the usability of the system, but the FSA would continue to be alert to any potential improvements, including the development of more sophisticated IT to allow closer monitoring of applications' progress.

7.4 Fiona asked whether the guidance would be sufficient to ensure optimal use of the additional resources allocated to the regulated products team. Peter Quigley said written guidance would not address all the challenges and other ways to encourage higher quality applications would also be considered.

7.5 Lord Blencathra asked for further information about the applications relating to animal feed. Peter Quigley said many of the feed additive applications were connected to renewals due to the 10-year renewal cycle for feed additive applications. There were also some new additives being considered within the system, for uses such as the reduction of methane from cattle.

7.6 Lord Blencathra asked about the applications relating to GMOs, as he had believed that GMOs were not permitted for sale within the UK. Rebecca Sudworth clarified that GMOs were not banned. There was a thorough authorisation process through which GMOs must progress before they were allowed to be used in food or feed. There were no GMOs in food marketed in the UK, but they could be authorised, and GMOs were used in animal feed. Peter explained the genetically modified food and feed element of the regime of regulated products had been inherited from the EU. The Chair confirmed that the FSA had not made any changes to that process since EU Exit. During Any Other Business later in the meeting, Rebecca Sudworth clarified that there were a small number of food products, containing GMO ingredients, on sale in the UK. These were mainly imported and included a small number of things including American candy and at least one brand of cooking oil. Any product on sale in the UK needed to go through the appropriate authorisation process and all GMO ingredients were appropriately authorised.

7.7 Fiona Gately welcomed the additional resource allocated to the team. The Chair identified the potential for reform following EU Exit. Rebecca Sudworth noted novel foods were included in the Brexit Opportunities Review and work was ongoing to seek additional external resource to help with this.

7.8 The Chair noted that the Regulated Products Service had been tested at an early stage by CBD. The process was now on track and the Business Committee were content that the service was now working well.

8. Annual Report: Freedom of Information Requests, External Complaints and Internal Whistleblowing Cases (FSA 22/09/16)

8.1 The Chair highlighted the importance of the issues covered in the paper for the FSA's commitment to openness and transparency. She said the Audit and Risk Assurance Committee (ARAC) also considered this issue in detail and had responsibility for oversight of external complaints and whistleblowing. She asked Maria Jennings to introduce the paper. Maria Jennings gave a brief introduction and asked Jenny Desira to give an overview of the Freedom of Information section of the paper. Jenny gave an update on the role of the Information Governance team; numbers of Freedom Of Information and Business As Usual requests answered; feedback enacted from previous Business Committee meetings; and lessons learnt to improve the handling of requests.

8.2 Maria gave an update on external complaints and internal whistleblowing covering the reduction in numbers of complaints; the shift toward Business As Usual responses; the role of ARAC; the new complaints standard for Government departments due to launch in October 2022; staff confidence to raise issues; resources diverted to address the challenges of COVID-19; and the communications plan to raise awareness on the importance of whistleblowing.

8.3 Anthony Harbinson welcomed the increase in Business As Usual responses and asked whether recipients of these responses were content with them. Jenny explained that the appropriate response to each case was considered on its own merits and Business As Usual responses usually addressed requests for information already in the public domain or information easily accessible elsewhere. It was important to ensure the question was answered as efficiently as possible. When a requester wanted unpublished information provided in a Business As Usual request to be put in the public domain, this would be considered, and a decision made based on

relevant factors.

8.4 Peter Price asked about the extent to which new starters to the FSA may have impacted on the figures in the Civil Service People Survey results for the three questions relating to the Civil Service Code, which were each 3-4% lower than in 2020 at 91%, 74% and 76% respectively.

Maria said it was not clear that new starters had skewed the figures in any particular direction. Issues relating to whistleblowing and internal complaints were covered in the induction material for new staff and the procedures were laid out clearly on the FSA's intranet.

8.5 Margaret Gilmore asked whether senior management knew the procedures for dealing with complaints and were alert to the importance of seeking assistance rather than trying to deal with issues themselves which could risk creating problems further down the line. Maria said the annual Speak Up campaign which had run throughout September had been highlighted in all-staff calls. During this campaign, managers were reminded of their responsibilities and how their direct reports could be encouraged to raise issues.

8.6 That Chair confirmed the Business Committee were content with the simplifications and improvements to the FOI system outlined in the paper. The Business Committee had welcomed the Speak Up campaign and expressed a desire to see an improvement in the relevant figures from the People Survey.

9. Incidents & Resilience Annual Report 2021/22 (FSA 22/09/17)

9.1 The Chair welcomed Darren Whitby to the meeting and explained that, as the report focussed on the work of the previous financial year, there was no reference included to supply shortages caused by the conflict in Ukraine. She asked Darren to introduce the paper. Darren gave an overview covering: work with FSS and the four-nation approach to incidents; major incidents over the reporting period; opportunities and challenges from whole genome sequencing and closer working with the UK Health Security Agency (UK HSA); and access to EU data sources. The Chair said the close relationship with UK HSA had good results for public health and provided an opportunity for the FSA to demonstrate its expertise in incidents handling.

9.2 Mark Rolfe welcomed the case studies featured in the report and noted the case study around divergence. He asked about the potential risks which divergence could present to the FSA's incidents handling. Darren said divergence already existed as part of incidents risk management and was always kept under review.

9.3 Mark asked about the Receipt and Management (RAM) function, whether the quality of information received matched the quantity, and whether the quality of information received had been lost by no longer having access to the International Food Safety Authorities Network (INFOSAN). Darren said the team had not noticed a significant decline in the quality of information received. He noted a challenge in the way the FSA accessed information from the Rapid Alert System for Food and Feed (RASFF) and how that information could be used.

9.4 Mark asked about the reviews of incidents, and learning gained from them. Darren said the team was working on these and more information would be available later in the year.

Action 3 - Darren Whitby to provide the Business Committee with information on lessons learned from Incidents exercises by the end of 2022.

9.5 Peter Price noted the rise in goods failing border checks since EU Exit and asked about the potential impact on food safety and the level of FSA participation in cross-agency responses.

Darren said there had been a specific issue when border controls were changing. The main cause of the issue had been administrative, relating to paperwork. It had been handled as an

incident with local authorities being asked to make additional checks. The issue was not a continuous problem, but one that had occurred during EU Transition and had created incidents which were now resolved.

9.6 Margaret Gilmore asked whether laboratory capacity issues had hindered the FSA's incidents response. Darren said he was not aware of any issues in relation to lab capacity.

9.7 The CE said the FSA handled around 2,000 incidents a year, most of which were quite small-scale as well as a small number of larger incidents. If there were to be a significant large-scale food borne disease incident the FSA would face serious resourcing challenges. Darren added that resource capacity for incidents was included on the FSA's corporate risk register.

9.8 The Chair confirmed there would be a paper on laboratory capacity at the Board meeting on 26 September 2022. The Business Committee had welcomed the incident team's ability to adapt to new working methods and were pleased to hear that they remained effective.

10. Annual Animal Welfare Report 2021/22 (FSA 22/09/18)

10.1 The Chair welcomed Kevin Maher and Richard Wynn-Davies to the meeting and reminded Committee Members that food business operators held responsibility for animal welfare on their premises and during the processing of animals and Defra held the overall policy responsibility for animal welfare. The FSA's remit related to controls at the slaughterhouse but extended to passing information on other areas to relevant authorities. She asked Junior Johnson to introduce the paper. Junior gave an overview covering: the increase in compliance levels at slaughterhouses and the reduction in on-farm and in-transit incidents; and the delivery of planned actions; including improved communication between the FSA and other regulators.

10.2 Kevin highlighted other key items from the report including: the Carbon Dioxide (CO₂) shortage continuing from the previous year; working with local authorities and Defra to establish data sharing forums; identifying repeat offenders; the completion of the slaughter sector survey; and the handling of undercover filming incidents.

10.3 Hayley Campbell-Gibbons noted the possibility of a further CO₂ shortage and plans for a ring-fenced supply for slaughterhouses and asked whether there was confidence in the continued supply. Kevin explained the Defra-led contingency planning group had continued to meet regularly, and the FSA's animal welfare team was a key member. There were currently no supply issues across food businesses. Since the previous shortage, alternative supply routes from Europe had been identified.

10.4 Mark Rolfe asked about possible alternatives to the use of CO₂. Kevin said that using alternatives to CO₂ was a decision for industry but that if a business did want to change the method of stun, the FSA would be ready to discuss with them, including undertaking site visits and pilots. No requests had yet been received.

10.5 Mark mentioned comments in the report about a rise in critical non-compliance in slaughterhouses. Kevin highlighted the impact of the COVID-19 pandemic on the ability to accurately make year on year comparisons of non-compliances and that the reintroduction of welfare assurance team visits could have been partly behind the apparent increase. Mark asked for assurance that the improvements being made were having an impact on animal welfare. Junior said there were teams of auditors, and the team would follow up on identified issues and areas identified for improvement as a priority.

10.6 Lord Blencathra advocated a "zero tolerance" approach to animal welfare abuses and noted the numbers of animals arriving at slaughterhouses with broken legs and other injuries,

suggesting that most non-compliances were taking place in transit and on farm rather than at the slaughterhouse. He asked if there was more that could be done to consider naming and shaming those people responsible. Kevin agreed and said the FSA was identifying and flagging repeat offenders to the Animal & Plant Health Agency (APHA) and local authorities.

10.7 Mark asked if the team had staff who engaged with Trading Standards teams in the local authorities. Kevin said repeat offenders, particularly in the transport sectors would be highlighted and the team would pursue this with Trading Standards going forward.

10.8 Anthony Harbinson noted that animal welfare was not part of the FSA's remit in Northern Ireland where the role was filled by the Department of Agriculture, Environment, and Rural Affairs (DAERA) and asked about the relationship with DAERA for issues covered in the report. Kevin said there were good connections between colleagues in FSA Northern Ireland and DAERA and the paper, as well as other reports the FSA produced, were shared with DAERA officials as a matter of course.

10.9 The Chair noted the levels for non-stun slaughter and the demonstration of life protocol. She asked if more could be done to be sure that non-stun slaughter was being practiced only where there was no other option. Kevin said there had been a small reduction in non-stun slaughter since the 2022 survey. The availability of the demonstration of life protocol was considered a success for the team, but it was industry's responsibility to use it. The FSA was promoting it and needed to remain neutral so could not mandate its use.

10.10 Richard said it was frustrating that uptake of the demonstration of life protocol had not been as high as had been hoped. Non-stun slaughter was legal, but the FSA was continuing to work, with Defra and industry, to encourage the use of demonstration of life protocols. He said he would take this point and have a conversation outside the meeting on how this could be improved and the role for the Business Committee and Board in achieving that.

Action 4 - Richard Wynn-Davies to consider how the FSA can accelerate progress in levels of non stun slaughter by utilising Board level discussions with industry and Defra.

10.11 The Chair noted that the Business Committee supported the work in this area and said there could be value in picking up issues with the new Ministers in Defra, as this was an important area where joined-up working was required. She noted that overall levels of non-compliance were very low, and a good job was being done, but the commitment to improve it even further should be maintained.

11. Any Other Business

11.1 The Chair asked Rebecca Sudworth to pick up some of the comments from the earlier discussion on GMOs and GE products. Rebecca gave a clarification which has been added in these Minutes to item FSA 22/09/15.

11.2 The Chair thanked the Board, Executive and officials, especially the new Board Members for the quality of the discussions at the meeting. The Board meeting would take place on the morning of Monday 26 September 2022 and the next Board and Business Committee meetings were scheduled to take place in London on 7 December 2022.