

Minutes of the FSA Business Committee Meeting on 7 December 2022

FSA BC 23-03-01
Church House, London

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; Justin Varney

Apologies:

Judith Hanvey, Boardroom Apprentice

Officials Attending:

Emily Miles - Chief Executive
Darren Davies - Head of National Food Crime Unit (For FSA 22/12/15 and FSA 22/12/16)
Justin Everard - Senior Head of External Communications (For FSA 22/12/14)
Michael Jackson - Head of Regulatory Compliance Division (For FSA 22/12/13)
Maria Jennings - Director of Regulatory Compliance and People
Junior Johnson - Director of Operations
Anjali Juneja - Director of International & UK Affairs
Robin May - Chief Scientific Adviser
Rick Mumford - Head of Science Evidence and Research
Katie Pettifer - Director of Strategy, Legal, Communications and Governance
Julie Pierce - Director of Online, Data & Digital and Science
Steven Pollock - Director of Communications
Peter Quigley - Deputy Director of Regulatory Services (For FSA 22/12/17)
Lexi Rees - Head of Regulated Services Delivery (For FSA 22/12/17)
Tara Smith - Director of Resources & People
Rebecca Sudworth - Director of Policy

Guest Speakers:

Keith Bristow - Vice Chairman of Arcanum, Former Director General of the National Crime Agency and Lead for the Review of the National Food Crime Unit (for FSA 22/12/15)

1. Welcome and Introductions

1.1 The Chair welcomed everyone to the meeting. No new declarations of interest were made by members of the Business Committee and no conflicts of interest were raised relating to the agenda.

2. Minutes of 23 September 2022 (FSA 22/12/10)

2.1 No comments were raised on the minute of the Business Committee meeting of 23 September 2022 and it was agreed as an accurate record of the discussion at that meeting.

3. Actions Arising (FSA 22/12/11)

3.1 The Chair noted the actions completed in the paper and those that were currently underway. No comments were raised from members.

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

4.1 The Chair invited the Chief Executive (CE) to summarise some highlights from her report. The CE gave an overview covering work that the Incidents and Resilience Unit (IRU) had managed over the period of the report; the decision to pause the in-sourcing of vets; and the departure of Maria Jennings, paying tribute to her work.

4.2 Margaret Gilmore said there were items within the report that were of significant public interest and noted the discussion of FSA 22/12/08 from the Board meeting on changes to the Business Committee. The Chair explained that the CE report to the Business Committee, the Performance and Resources report and any other papers being considered by the Business Committee would continue to be published. The CE added that some items that would currently be included within her report to the Business Committee would be included within the report to the Board instead.

4.3 Fiona Gately congratulated the FSA on the successfully facilitated inspection missions to the UK from the US, which had resulted in opening a new export market for lamb to the US. The remote inspection from the USA was extremely positive, and two premises had been approved with three to five further approvals in progress. The CE said offering assurance to third countries before the UK exported food was a new line of work for the FSA that had emerged following EU Exit and required resources from within field operations and elsewhere in the FSA. She noted that the more British meat companies exported, the more that the UK would be subject to rules from abroad, and the greater external scrutiny the UK would be subjected to.

4.4 The Chair noted the volume of work highlighted in the report and welcomed the progress demonstrated.

5. Performance and Resources Q2 2022-23 (FSA 22/12/13)

5.1 The Chair invited Tara Smith to introduce this item and, explained that, following the reform of the Business Committee, it was anticipated that this report would continue to be discussed by the Business Committee.

5.2 Tara gave an overview of the paper covering prioritisation; the audit target for meat food businesses; results from the October 2022 local authority survey; de-escalation of interventions; Environmental Health Officer (EHO) recruitment; the forecast, potential overspend and plans to reduce spending; key metrics on the workforce diversity and inclusion; and the Disability Smart audit.

5.3 Justin Varney said that for events such as the Commonwealth Games in Birmingham, where a significant number of new businesses registered, the local authority would need the capacity scale-up. This coupled with the evolving nature of food businesses with increasing numbers of small food stalls, changed the demands on Environmental Health. He asked whether, if benchmarking was based on turnover of food businesses, this was accounted for in assessing

local authorities that appeared to be performing less well. Fiona Gately suggested considering whether the recovery plan should be revised or whether the current level of risk should be accepted in order to help address the backlog with inspections. Maria Jennings acknowledged that innovative business models were a source of new challenges for local authorities. Michael Jackson said the volume of change in terms of ownership of businesses was a cause for concern within the number of new businesses awaiting inspection and that instability was causing stress within the system.

5.4 Ruth Hussey noted that newly registered establishments awaiting inspection were still at roughly double pre-pandemic levels with an increase in the risk category awaiting inspection. She asked what could be done to help local authorities with EHO recruitment to address these issues. Maria Jennings said inspection rates had returned to around pre-pandemic levels, and this had been considered an ambitious rate prior to the pandemic with additional challenges now present.

5.5 Mark said it would be important to think carefully about changing the Food Hygiene delivery model to ensure that the response to a diminished workforce was not to reduce the quality of the staff required to deliver official controls. Maria said that local authorities were finding it difficult to recruit fully competent staff. Michael said the FSA's approach to who delivers official controls was based on competence, with a competency framework introduced in 2021 and baseline qualifications required. The Business Committee had previously been told that there were plans to carry out some research into workforce planning. That work had not progressed at the speed intended as the third party contracted to carry out the research had not delivered to the set standard and so a contract with a new provider was to be signed imminently. However, work around consideration of other qualifications had been brought in-house and it was anticipated that there would be more to report on this, by the end of the financial year.

5.6 Ruth said workforce planning for local authorities was not the FSA's responsibility but the FSA had a role in highlighting these issues. She asked how the FSA could help stimulate discussion within professional bodies to encourage solutions. Katie Pettifer said it would be important to balance holding local authorities to account for their performance and ensuring a focus on workforce planning. It would be important to recognise performance levels were not 100% before the pandemic particularly in respect of low risk establishments. The previous model was not considered achievable within available resources and this was one reason why it had been necessary to review the model to consider where resources would best be allocated to keep people safe.

5.7 Mark noted the report said most local authorities were meeting the requirements of the recovery plan but not some of the targets which were set for three months previously. He asked what the reasons for this were. Michael said some of the local authorities had not progressed as hoped but the figures represented a snapshot of the end of quarter two and overall, local authorities continued to make good progress towards achieving the recovery plan targets.

5.8 Mark asked whether the data in the report included Food Standards. Michael said it did, but a decision had been taken to only focus on the highest risk businesses within the recovery plan and not hold local authorities to account for lower risk food standards inspections given that we plan to introduce the new Food Standards delivery model in 2023.

5.9 Lord Blencathra asked about the extent to which technology could improve and streamline the inspections process. Mark said technology could help but local authorities could find adopting new technologies challenging and often relied on others to demonstrate efficacy first.

5.10 The Chair said the Business Committee understood the challenges for local authorities and recognised the changing nature of the food system but accepted the need to act. They were supportive of the review of the Food Hygiene Delivery Model and wanted it to accelerate, finding

actions that could have impacts sooner particularly around the high-risk and the medium-risk businesses. The next update on local authorities should focus on what the FSA could do to positively impact on the system in the short-term with the urgency the Committee had indicated.

Action 1 - Katie Pettifer to ensure next Performance and Resources report included consideration of actions available to the FSA to address short-term issues with local authority delivery of official controls.

5.11 Hayley Campbell-Gibbons noted the People section of the report and said that she would be scheduling a quarterly check-in with Tara to discuss issues in this area, noting that the people plan may not proceed as quickly as had been previously hoped. The Chair was concerned to see that the FSA was below the Civil Service average for employment of people with disabilities but was encouraged by the ongoing work to address this, including a series of activities for International Disability Week that month.

5.12 Mark noted the report suggested there was the potential for a loss of pace in the Achieving Business Compliance (ABC) programme, as a result of additional pressures and cited a loss of pace as one of the reasons for the loss of credibility in the previous Regulating Our Future (ROF) programme. Katie said that projects within ABC were progressing well, including enterprise level regulation, the review of the Food Hygiene delivery model review and moving towards introduction of the new Food Standards model. Pace was being maintained but this required focussing on a smaller number of projects.

5.13 Mark asked what the FSA could do within the resources available to try to bring about improvements in engagement with the Food Hygiene Rating Scheme (FHRS) in England in the absence of pursuing mandation. Katie said communications campaigns for FHRS would be subject to the prioritisation exercise. Within ABC, the charter with the online aggregators meant that businesses with a score of less than three would not feature on their sites. This was a good driver to ensure compliance with FHRS.

5.14 Lord Blencathra expressed scepticism about the numbers reporting that they checked FHRS scores before deciding where to eat and suggested that many would be more likely to check the TripAdvisor rating. Mark suggested that similar engagement to that with aggregators be considered with sites such as TripAdvisor. Timothy Riley agreed and said this could be a direction for development of FHRS. Margaret Gilmore said that FHRS was one of the FSA's biggest successes for changing behaviour and driving compliance with food hygiene regulations. She urged careful consideration when looking to adapt something that was already working well. Timothy asked if there was anything that could be done to further encourage the stigma attached to low FHRS ratings. The Chair suggested reporting in regional press of restaurants that had scored poorly could be encouraged.

5.15 The Chair concluded although the Business Committee had not discussed all areas of the report, they welcomed the breadth and style of the paper which allowed a wide range of information to be easily understood so that the Boiard could focus their questions on areas of concern.

6. Annual Communications Update (FSA 22/12/14)

6.1 The Chair invited Steven Pollock and Justin Everard to introduce this update. Steven Pollock delivered an overview of the paper including the role of communications in the FSA; the operating context; supporting the FSA's priorities; progress since the last update; media engagement; efficient use of resources; social media; briefings with parliamentarians and other government departments; and internal engagement with FSA staff.

6.2 Margaret Gilmore asked how messaging to the public was being directed and whether this had changed to incorporate consumer concerns around things such as energy use arising from the cost of living crisis. Steven said the FSA had built up a good relationship with the Press Association, which fed copy into local news outlets, online and in print; as well as with the news organisation Reach, the UK's largest commercial publisher. The FSA had developed good partnerships with non-government organisations (NGOs) such as WRAP around community food distribution and was working with them to issue food safety guidance.

6.3 Ruth Hussey noted the "always on" style of working. She asked whether formal stand-alone, campaigns would still be a part of the communications strategy or whether the FSA was adapting its methods to be more efficient through more responsive types of communication. Justin said there was a move toward a more responsive style of communications that could be more reactive to changing events, faster and at a lower cost. Larger, planned campaigns had not been stopped but had become a smaller part of how the FSA engaged with consumers. Steven added spending had been significantly reduced and, where possible, the FSA operated on a no cost/low-cost model, making greater use of social media. On FHRs the FSA were continuing to enhance the FSA's social media activity revamping the website for carrying messages. Engagement with aggregators and delivery services to influence behaviours was also a part of this approach.

6.4 The Chair concluded the Business Committee were supportive of the approach outlined in the paper, and endorsed the bolder, more engaging approach that had been discussed by the Committee the previous year.

7. External Review of the National Food Crime Unit (FSA 22/12/15)

7.1 The Chair welcomed Keith Bristow, who led the review of the National Food Crime Unit (NFCU), as well as Darren Davies, to the meeting and asked Keith to introduce the paper. Keith summarised key aspects of the review, made some personal observations and outlined some of the main challenges. His summary covered the leadership of the NFCU; high quality of the workforce; openness about successes and areas for improvement; stakeholder views; the nature of the threat from food crime; recommendations; and the quality of engagement with the review.

7.2 Keith said a huge amount of information had been collected for the report. The unit was well-led and had a motivated workforce focused on delivering results. It was important to ensure that stakeholders also recognised the importance of the NFCU and very little negativity was detected among them in compiling the report. It would be a mistake to see tackling criminality as just enforcing the law and a whole system approach would be required to have a significant impact as food crime involved interdependencies that reached beyond law enforcement. The recommendations would have a cost and Keith urged the FSA to consider the importance of the recommendations when making choices around priorities adding that, particularly around use of data and digital media, impacts could be disproportionate to investment.

7.3 Keith added that he considered the threat from food crime to be poorly understood and work in this area could encounter terrorism or organised crime. the threat was both acute and chronic and the more visibility that could be afforded to the work of the NFCU, without causing disproportionate alarm, would be helpful in raising awareness of the importance of the unit.

7.4 Peter Price said publicising the threat from food crime could help people to stay alert but would also help lend weight to the FSA's case when seeking additional powers for the NFCU. Keith said the best way of ensuring that the law was complied with was for it to be seen as legitimate and the bodies enforcing that law must be seen to be proportionate and legitimate so that people chose to comply with the law.

7.5 Peter noted the financial impact of implementing the recommendations and asked whether a comprehensive costing would be carried out to enable the necessary prioritisation to allow the recommendations to be followed. The Chair said the Executive would respond to that issue when they returned to the Business Committee to discuss the adoption of the recommendations.

Action 2 - Executive to provide costings for the implementation of the NFCU Reviews recommendations in next Business Committee update.

7.6 Anthony Harbinson noted that if the NFCU was to be truly national, it would be important to ensure that the unique issues that pertained to Northern Ireland were accommodated. Keith said he was aware of the challenges in Northern Ireland as well as the structure whereby the food crime function was part of the FSA in Northern Ireland but not elsewhere. This represented a compromise position but was structured around threats and capabilities to deliver results for the public.

7.7 Lord Blencathra noted the high calibre of the former police officers recruited by the NFCU enabling the excellent work of the Unit and urged the NFCU to remain within the FSA. Keith said the reason the review team felt that the National Food Crime Unit should sit where it did was that the Unit could not deliver reduction in food crime and improvement in safety without its relationships in a wider contextual understanding of the food industry.

7.8 Lord Blencathra said the cost-of-living crisis would likely exacerbate food crime levels at a time when the NFCU lacked the necessary legislation to execute PACE powers, noting that the level of food crime was underestimated by the public as well as by the police force. He suggested partnerships should be strengthened to ensure better protection across the whole food sector and demonstrate the seriousness of food crime to Government and wider stakeholders.

Margaret Gilmore asked whether there was anything more the FSA could do to help the Unit get the powers that it needed faster. Keith noted that if officers were charged with a power of arrest, they must also have the ability to use force. There would then need to be a route for complaints and a process for those complaints to be investigated. Careful consideration of the need for PACE powers was recommended. He said he would want the NFCU to have the powers to do the job, but this would require training, accountability and recourse for complaints.

7.9 Timothy Riley noted the proposal to consider third-party audits to further reassure the Board that the NFCU was performing as required. He asked whether further information could be provided to ensure the metrics used had value beyond the food industry, including public health interests and economic impacts to further give legitimacy to the message that the FSA, through the NFCU, was delivering on its objectives.

7.10 The Chair said the timeline for the implementation of the recommendations would be brought to the Business Committee at a future meeting and noted the positive tone of the review and expressed thanks for the review team.

8. Annual National Food Crime Unit Report (FSA 22/12/16)

8.1 The Chair asked Darren Davies to introduce this item. Darren gave an overview of the report including how the NFCU works with partners, including liaison with the Regional Organised Crime Unit network; work in Northern Ireland (addressing the point raised in the previous agenda item) and Wales; progress since the previous annual report; communication with local authorities including support to execute warrants; the increased pace of activities; and incidents relating to 2,4-Dinitrophenol (DNP) and the anticipated imminent reclassifying of this substance as a poison.

8.2 The Chair said the Business Committee welcomed the progress on PACE powers and invited comments from Committee Members. Lord Blencathra noted that "Operation Hawk", outlined in the report involved the review of around 1.3 million documents. This gave an indication of the

difficulty of bringing a case to prosecution.

8.3 The Chair said that through the discussion of the previous item, the Business Committee had indicated strong support for the work of the NFCU and urged a continuation of effort.

9. Risk Analysis Process and Regulated Products Service: regular updates to Business Committee (FSA 22/12/17)

9.1 The Chair noted future regular updates on the Risk Analysis Process and Regulated Products Service would be considered by the Board rather than being brought to the reformed Business Committee. She invited Lexi Rees and Ruth Willis to introduce the item. Lexi gave a summary of the paper covering progress since the previous update including on the authorisation of regulated products; food safety risks; the Retained EU Law (Revocation and Reform) Bill; the Fukushima incident; and the system for monitoring Key Performance Indicators (KPIs).

9.2 The Chair noted the high proportion of the work of the Regulated Products Service dedicated to Cannabidiol (CBD) products. Ruth said a few of the applications were in the assessment phase. The team were looking at the large volume of data provided by the applicants and were doing that in the most efficient way possible, noting that each case would be considered on its own merits.

9.3 The Chair noted the increase in stakeholder engagement adding that on a recent visit to Singapore, she had discussed their regulated products service and had heard about the amount of pre-submission guidance they provided for applicants. She asked whether there had been engagement with stakeholders about the FSA's new application portal. Lexi said the use of the portal had currently only been tested internally within the FSA but it was being extended to include stakeholders in the new year.

9.4 Rebecca Sudworth said regulated products and approvals would continue to remain a priority for the FSA and were not subject to slowing or stopping specifically, as part of the current reprioritisation exercise the FSA was carrying out. Areas that might be subject to slowing down in Regulatory Services would be routine monitoring of changes in international regulatory practice where the changing of thresholds for certain ingredients may require products to be considered as there would be no change in the risk level for food safety as a result of this.

9.5 Timothy Riley asked whether there could be an opportunity to explore whether or not the regulated products service could be charged for. The CE said that she would like the FSA to look at that possibility.

9.6 Ruth Hussey noted the 'stop-the-clock' tool where applicants were required to provide additional information and asked whether this was a current problem. Lexi said the new case management system would help with this by ensuring the right guidance was being provided. Ruth Willis confirmed that the stop the clock function was being used with applicants to provide opportunities for them to provide additional information and clarification. This was not seen as an issue as it supported a proportionate assessment of the dossier and was actively managed. Ruth Hussey suggested the use of the stop the clock and the overall time for assessment might be a useful measure of whether actions to improve the quality of dossiers were proving effective.

9.7 Ruth Hussey asked how it could be known that FSA decisions on CBD were being enforced. Rebecca said that none of the CBD products were currently authorised. It was the responsibility of local authorities to provide enforcement and the FSA had been working with them on this.

9.8 The Chair concluded the Business Committee had noted that the system was currently working well, endorsed the need for reform in the medium-term and looked forward to a future

external review of the service.

10. Any Other Business

10.1 The Chair noted that no further business had been raised. The next meeting of the Business Committee would be in a reformed format, ahead of the March Board meeting on a date to be confirmed.