

# Memorandum of Understanding

This Memorandum of Understanding (MoU) sets out the working relationship between the Food Standards Agency (FSA) and Food Standards Scotland (FSS) and the principles that FSA and FSS will follow in the course of day-to-day working relationships.

- The FSA and FSS agree to co-operate and closely collaborate at all levels across both organisations to ensure that consumers in Scotland, the rest of the UK and more widely remain protected.
- The senior officials responsible for all sections of the MoU, and the executive, will meet at least once a quarter (or more frequently if required).
- “Senior officials” refers to the director or head of each area; in the case of ‘executive’, it refers to the Chief Executive Officer of each organisation.
- The location of senior officials meetings will alternate between England and Scotland (or otherwise, as agreed by both FSA and FSS senior officials. This includes the option of a virtual meeting).
- The FSA Chair and FSS Chair will meet at least twice a year and the location of each meeting will alternate between England and Scotland (or otherwise, as agreed by both Chairs, including the option of a virtual meeting).

## Incident handling and resilience

- Both the FSA and FSS agree to ensure they have the capability and capacity to handle food and feed incidents and that they will work in partnership and share resources as necessary to ensure the robust detection, response, recovery and prevention to all food and feed incidents (for ‘incidents’ read ‘incidents and outbreaks’).
- Incident management will take place on a four nation basis to ensure common principles of approach, whilst recognising the need for flexibility to respond locally based on devolved government / industry requirements.
- Both bodies agree to ensure that the other is notified, at the earliest possible opportunity, of the details of actual or potential food or feed incidents. This includes receipt and management signals.
- Both bodies agree to arrange necessary incident management data sharing arrangements as soon as practical. This includes providing each organisation access to the other’s internal databases where necessary and possible and within the technical ability of each organisation, and where not, sharing incident reports.
- Details of the management of, and communications associated with, food incidents and alerts are contained in the ‘Protocol on Incident Handling’ (Annex A) and ‘Communications Protocol’ (Annex E). Both bodies agree to follow the guidance set out in the protocols.
- Both the FSA and FSS agree to co-operate and work collaboratively with each other to ensure a robust response to all food and feed safety incidents and, where necessary, to review such incidents and complete ‘lessons learnt’ exercises.
- In UK-wide incidents, being led by either FSS or FSA, both agree to ensure representatives from respective organisations are involved in any established incident response teams and the development of communications/briefings/ guidance from the outset.
- Where food or feed products pose (or may pose) a risk to consumers, both the FSA and FSS agree to facilitate appropriate food or feed control measures, and, where necessary, to do so in line with the guidance contained in the ‘Protocol on Incident Handling’ (in Annex A).

- To ensure Incident Management Plans (IMP) are robust, the FSA and FSS will liaise on emergency exercises to test the integrity and effectiveness of incident response plans.
- The emphasis of the resilience exercises will be to test the arrangements set out in the incident handling protocol to provide assurance that there is effective co-ordination between the FSA and FSS, and to provide assurance that consumer safety in the UK has not been compromised.

## Data and information sharing

- The 'Data Sharing Protocol' (Annex B) sets out the mechanisms to ensure food and feed safety and standards intelligence, data and information are shared promptly, efficiently, and in a way that complies with legislation. Both the FSA and FSS agree to follow the guidance set out in the protocol to ensure the free flow of food and feed data, information, knowledge and intelligence between the two organisations.
- Further information on how FSA and FSS will work collaboratively to share data and intelligence generated through research and surveillance activities, risk assessment and horizon scanning activities is provided in the 'Science and Evidence Protocol' (Annex C), 'Food Crime Protocol' (Annex F) and 'Risk Analysis Protocol' (Annex G).

## Collaboration on science, evidence and advice

- The FSA and FSS will co-operate and collaborate on collecting, developing and sharing scientific research, surveillance and the analysis of evidence in line with the guidance contained in the 'Science and Evidence Protocol' (Annex C). Furthermore, both bodies agree to encourage close working relationships and strong co-ordination and collaboration between the FSA and FSS staff.
- Further information on the collaborative working arrangements for undertaking risk assessment and analysing other forms of evidence needed to inform the risk management responsibilities of either or both parties is provided in the 'Risk Analysis Protocol' (Annex G).

## Common Frameworks

The UK Common Framework on Food and Feed Safety and Hygiene (FFSH) is an agreement between the UK Government and devolved governments to work together in developing food and feed safety policy approaches.

- The Provisional FFSH Framework which has been agreed by Ministers in each of the four UK nations, comprises of two agreements - a Concordat and Framework Outline Agreement and its delivery is facilitated by this MoU.
- The FFSH Framework scope describes the policy areas subject to its terms and is narrower in scope relative to the issues covered by this MoU. For the areas both in scope of this MoU and the FFSH Framework, the Framework underpins FSA-FSS collective working arrangements.
- Certain MoU sections are out of scope of the FFSH Framework but are still areas where the FSA and FSS wish to follow formal collaborative working approaches. Such areas are covered in the MoU to allow greater flexibility for frequent review and revision.
- This MoU does not cover the Food Compositional Standards and Labelling (FCSL) and Nutrition-related Labelling, Composition and Standards (NLCS) Common Frameworks. These policy areas are covered by arrangements between the four nations that are covered in the respective Common Framework Outline Agreements.

## Policy development

- Both the FSA and FSS agree to share and discuss policy initiatives at an early stage to help identify scope for joint working and areas where agreed approaches may have to be tailored to meet and respect devolved considerations. This collaboration should not be limited to retained EU and national legislation and could include, for example, sharing intelligence aimed at safeguarding consumers' interests.
- Where either organisation intends to initiate a change or review in policy approach (thus creating a potential divergence), it will notify the other of its intentions at the earliest possible opportunity. For matters within scope of the FFSH Framework, this will be undertaken in accordance with the agreed four country governance processes managing divergence contained therein.
- In working together, both bodies will take into account the differing remits in the four countries, such as the fact that departmental responsibility for food labelling, composition standards and nutrition advice varies across the UK.
- Both the FSA and FSS agree to work together in order to fulfil the UK's international obligations. This includes international engagement on food and feed safety and hygiene standards with the EU and in wider international fora such as Codex and the World Trade Organisation (WTO), as well as bilateral discussions (see Annex D for more information).  
Close collaboration between the FSA and FSS will also be needed to support areas where the UK has taken the lead at the international level (see Annex D).

## Operational delivery

- The FSA and FSS agree to share best practice and expertise to ensure official controls are sufficiently robust, and to make certain that consumers' interests with regard to food safety and standards in Scotland, across the UK, and more widely, remain protected, within the remit of EU and UK legislation. This includes taking into account capability and capacity where the FSA and FSS directly provide resource for the delivery of controls.
- In particular, the FSA and FSS agree to collaborate in the following ways:
  1. Include and share information with respect to Technical Portfolio work and events, and provide technical support when required on ongoing or emerging issues affecting both organisations.
  2. Mutually consult each other during the development of Manuals for Official Controls.
  3. Meet regularly (at least annually) to discuss and share information produced in the areas of business planning, risk management and performance management.
  4. Meet regularly to share approvals and audits 'lessons learnt'.
  5. Collaborate with regard to the MoU for Earned Recognition Feed Hygiene and Medicated Feed between the FSA, Veterinary Medicines Directorate (VMD), FSS and The Agricultural Industries Confederation (AIC).
  6. Work together in relation to the ongoing roll out of FSA/FSS imported food E-learning courses.

## International matters

- The FSA and FSS agree to collaborate on international matters to enable the free flow of information and ensure that UK positions and lines take into account Scottish interests.
- In doing so, they will not only follow the established processes for interdepartmental liaison on matters of international relations laid out in The Memorandum of Understanding and Supplementary Agreements on Devolution, but also the general guidance setting out the roles and responsibilities of FSA and FSS in Annex D.

## Communications

- Both bodies agree to work with each other on a whole raft of communication subjects, not just to ensure a 'no surprise approach' to external communications but also to share, co-operate, and collaborate on incidents, campaigns, policy initiatives and issues of mutual interest. Details of how both bodies will work together are set out in the 'Communications Protocol' (Annex E).

## Food crime

- The FSA and FSS are committed to assisting each other in the fight against food crime and, in doing so, demonstrate their understanding of the importance of collaborative working to protect the general public. Both organisations will recognise the clear lines of jurisdiction that are present within the UK and dictate how food crime investigations are led. Further information on how the FSA and FSS will work together in this area can be found in the 'Protocol on Food Crime' (Annex F).

## Risk analysis and Risk Management

- The risk analysis process provides for a four nation model to support delivery of food and animal feed safety risk management recommendations for the UK Government and devolved administrations in Wales, Northern Ireland and Scotland, that are effective for the UK as a whole, or for individual countries as needed.
- The risk analysis process underpins the FFSH Framework. It can also be applied as appropriate to areas that are out of the Framework's scope, for example in the provision of food safety advice to the public.
- Both bodies will undertake risk analysis functions in accordance with the principles, guidelines and working arrangements set out in the 'Protocol on Risk Analysis' (Annex G).

## Costs

- Costs fall into one of two categories: significant (>£1000) or minor (<£250).
- When one body incurs significant cost(s) to provide goods or services which benefit the other, the benefitting body will contribute to the costs associated with these goods or services, provided they have been agreed in advance by both parties. Whether or not a cost is significant is to be agreed between representatives of both organisations.
- Each body will be expected to cover minor costs associated with collaborative activities between the two organisations.

## Dispute resolution

- Where disputes do arise, they should be managed with adherence to the following principles:
  1. Commitment to evidence-based approaches to resolution
  2. Transparency
  3. Timely resolution
  4. Compliance with process
- Where officials are unable to reach agreement on an issue, the following dispute resolution process will be followed:

1. Depending on the issue in question officials will raise the issue to either a senior officials group overseeing four nation working, or to the relevant Director or Head of Department for resolution.
2. Should it not be possible to resolve an issue at senior official or Director / Head of Department level the dispute will be raised for discussion or agreement between the Chief Executive Officers and/or the respective Chairs of each Board.
3. In the event that a dispute is raised, devolution teams in both the FSA and FSS should be kept informed.

## **Working Level Agreements (WLAs)**

- The FSA and FSS agree to supplement this MoU with WLAs when both bodies agree that their relationship would be enhanced through greater collaboration in areas not covered by the MoU and associated protocols.
- A list of current WLAs will be set out in Annex H of this MoU and reviews of this MoU and associated protocols should include a review of WLAs.
- MoU review
- Whilst this MoU includes matters out of the scope of the FFSH Common Framework, FSA and FSS will include the MoU within regular joint Framework reviews.

The review process will involve:

1. The joint FSA and FSS Frameworks Management Group (FMG) will commission section leads to review the MoU on an annual basis.
2. Section leads will consider the MoU content with a view to establishing if existing aspects of the MoU require amendment or new content should be added to the MoU.
3. The FMG will collate suggested changes and send the revised MoU to the FSA and FSS CEOs for final approval and sign-off.

## **Terms of agreement**

These arrangements are to work within:

- the legal framework for devolution;
- the UK and Scottish Government's obligations under international law and treaties; and
- the 2013 MoU on Devolution, the Memorandum on Europe and associated protocols and any agreements that amend or supersede it.

Date: 10th May 2023

**Emily Miles, Chief Executive Officer, Food Standards Agency**

Date: 10th May 2023

**Geoffrey M Ogle, Chief Executive Officer, Food Standards Scotland**