

## **MINUTES OF AN FSA OPEN BOARD MEETING HELD ON 12 OCTOBER 2010 AT AVIATION HOUSE, LONDON, FROM 13.00 to 15.55**

### **Present:**

Jeff Rooker, Chair; Ian Reynolds, Deputy Chair; Sue Atkinson; Tim Bennett; David Cameron; Henrietta Campbell; Margaret Gilmore; Clive Grundy; Graeme Millar; Michael Parker; Chris Pomfret; Nancy Robson and John Spence.

### **Officials Attending:**

Tim Smith, Chief Executive

Andrew Wadge, Chief Scientist

Veronica Martell, Interim Board Secretary

Andrew Rhodes, Director of Operations (Minutes 24 to 33)

Terrence Collis, Director, Communications, (Minutes 51 to 58)

Alison Spalding, Head of Better Regulations and Sustainability (Minutes 34 to 45)

Rod Ainsworth, Director, Legal Services (Minutes 46 to 50)

Derrick Jones, Head of Analysis and Research (Minutes 51 to 58)

### **Guests Attending**

Alick Simmons, DEFRA Deputy Chief Veterinary Officer, attended the meeting for Minutes 24 to 33

Peter Jackson, Chair, Social Science Research Committee for Minutes 51 to 58

### **Apology for absence:**

There were no apologies for absence.

## **CHAIR'S INTRODUCTION**

### **Agenda – any other business**

1. The Deputy Chair gave notice that under any other business he would be asking for a response from the Executive on how the Board would, in future, deal with Diet and Nutrition in Scotland and Northern Ireland following the recent Machinery of Government changes.

## **MINUTES OF THE MEETING HELD ON 15 SEPTEMBER 2010**

2. A Board member questioned whether the claim in minute 48 that consumers “had little appetite for food from cloned animals” could be substantiated and therefore asked if it should be deleted. The Chief Executive said that the statement was based on findings from the FSA’s research into consumer attitudes. The Board member accepted the clarification.
3. The minutes of the meeting held on 15 September were agreed as an accurate record.

## **ACTIONS ARISING**

4. With regard to action number 20Jul10/O/15 regarding the GM dialogue, a Board member asked if General Advisory Committee on Science (GACS) would be examining the integrity of the GM dialogue model. The Chief Scientist said that the next GACS meeting would receive an update on the decision taken by the

Government not to proceed with the dialogue, but that GACS would not be asked to look at the model.

5. The Board noted the Actions Arising report.

#### **CHAIR'S REPORT**

6. The Chair reminded Board members that details of their engagements and interests were available on the FSA website.
7. The Chair reported that he had attended a meeting with Jim Paice, Minister for Agriculture and Food, together with the Chief Executive and the Deputy Chair, and that these meetings would be held regularly to discuss matters of mutual interest.
8. The Chair informed the Board that he had attended all three main Westminster political party conferences to ensure that, at appropriate discussions relating to food and food matters, the FSA view was put.
9. The Chair reported that he had recently attended the Shropshire Food Enterprise Centre where he had explained the work of the FSA.
10. The Chair informed the Board that Michael Parker had been appointed as the Chair of the Audit Committee and thanked him for taking on the post.

#### **CHIEF EXECUTIVE'S REPORT**

11. The Board received the written report of the Chief Executive (FSA 10/10/03).

#### **12. Frontline Visits**

The Chief Executive informed the Board that he had recently visited FSA Operational Staff in Gloucestershire and Herefordshire. The meetings had covered a varied agenda including: control of staff absenteeism and absence, animal welfare, health and safety, reporting on key projects and the future of meat controls. He said that he would be investigating where improvements from the centre could be made, particularly in the communications process. He was grateful to all the staff he met over the two days for giving up their time and for the frankness of the discussions. He said that he was looking forward to repeating this process over the coming months in other parts of the UK.

The Chief Executive provided an oral report on a number of issues:

#### **13. New Director of Food Safety**

The Chief Executive said that he was pleased to announce last week the appointment of Alison Gleadle as the FSA's Director of Food Safety. The Board joined him in wishing her every success for the future.

#### **14. Cross-Contamination Consultation**

The Chief Executive informed the Board that the 12-week public consultation on 'Reducing Risk from E.coli O157 – Controlling Cross Contamination had ended on 5 October 2010. The consultation set out the FSA's proposed approach to

addressing the issues relating to cross contamination highlighted in the South Wales E.coli Outbreak Inquiry Report (also known as the Pennington Report). He provided the Board with an overview of the key points highlighted in the responses to this consultation. The Chief Executive informed the Board that in line with Cabinet Office Guidance, a summary of all the responses received and the FSA's response would be put on the website within 3 months. In the meantime, officials would be producing a more detailed analysis of the consultation responses for consideration at the December Board meeting.

#### **15. Meat Charging Project**

The Chief Executive reminded the Board that it last considered charging for meat controls in November 2009. At that time the Board said that the FSA should consult with industry and government stakeholders on proposals for implementing the Board's decision to recover full costs for official meat controls. He said that since then, there had been a great deal of work, led by Charles Milne (Director of FSA Scotland), and a consultation document was to be launched in November. He informed the Board that he would like to highlight four issues in relation to the consultation:

- The document would contain options for the timing of the introduction of full cost recovery for the industry
- The document would show the considerable savings the FSA had already made in reducing the cost of delivering official meat controls, and the financial benefits of proposed future efficiencies
- The consultation was about cost recovery of meat controls, not about governance i.e. the control body option previously rejected by the Board.
- The FSA pressing at European level for a more risk based approach to official meat controls.

#### **16. Shetland Salmon Farm**

The Chief Executive reported that, since his oral report at the September Board meeting on deaths of salmon in Shetland, officials of Shetland Islands Council had met with industry representatives locally and had followed this up with focused sampling at local processors. The results had confirmed that products sampled met food safety requirements with respect to chemical residues. The Scottish Environmental Protection Agency had permitted the resumption of production at a neighbouring site, following voluntarily suspension, based on satisfactory sample results. He informed the Board that fish had not been harvested from the site where the fish deaths occurred and that he would update the Board on this as necessary in the future.

#### **17. Bisphenol A (BPA)**

The Chief Executive provided an oral update to his written report. He referred to the publication on the 30 September of the European Food Safety Authority (EFSA) opinion on the safety of BPA. EFSA's expert panel of scientists had concluded that they could not identify any new evidence that would lead them to revise the current tolerable daily intake (TDI) for BPA. The FSA had welcomed this latest opinion from EFSA and the Agency position therefore remained unchanged: *'based on current scientific evidence, exposure to BPA from food contact materials does not represent a risk to consumers'*. The European

Commission had organised a meeting on 8 October of the Food Contact Material working group at which discussions had commenced on ways to limit exposure of BPA to infants from polycarbonate baby bottles. He would update the Board and stakeholders on developments as discussions progressed.

**ACTION: Chief Executive**

#### **18. Morpholine**

The Chief Executive said that while the Board would have seen advice to consumers on the FSA website regarding fruit glazed with wax containing morpholine he thought it would be useful to repeat this in the open meeting. Morpholine was an emulsifier that enabled wax to be mixed with water, but it was not permitted for use within the European Union. Sampling had shown that morpholine had been used on some waxed apples imported to the UK from Chile. The consignment of apples was detained. Industry then also told the FSA that waxes containing morpholine had been applied to some citrus fruit imported into the UK and possibly some other Member States.

19. The FSA had undertaken an initial risk assessment based on information currently available and found that exposure to morpholine from the reported use was likely to be of low risk to consumers. The FSA had asked industry to remove treated apples and pears from the food chain because they were usually eaten unpeeled but had advised that citrus fruits could be supplied because they were generally peeled before eating. This remained the FSA advice. Industry had assured the FSA that it had now put systems in place that would ensure that waxed produce entering the country was compliant with EU legislation. The continued to liaise with the European Commission during this incident. The actions the FSA had taken were aligned with the position adopted by all Member States.

#### **20. Scientific Advisory Committees**

At the conclusion of the report the Chair asked the Board for further questions. The Chair of WFAC requested advice and guidance from the Chair and the Chief Executive on a recently leaked list of public bodies that were under threat, including some of the bodies that provided scientific advice or worked closely with the FSA. There was a risk, if the list were accurate, to the Agency's ability to fulfil its obligations.

21. The Chief Executive informed the Board that the Executive was in discussions with Defra and DH about those scientific committees where leadership was shared.
22. In response to a further concern on this issue expressed by a Board member, the Chair said that the Board needed greater assurance about the future of the scientific committees that dealt with food. The FSA used scientific evidence to make decisions and therefore needed a constant, seamless flow of scientific evidence. It was agreed that the Chair would write to the Minister for the Cabinet Office (copied to the Government Chief Scientist) reminding them of the FSA's legal responsibilities under sections 1, 6, 7 and 8 of the Food Standards Act 1999, together with the FSA's responsibilities regarding nutrition policy for Scotland and Northern Ireland.

**ACTION: Chair's Office**

23. The Chief Scientist added that both the Science Minister and the Government's Chief Scientific Adviser had made it clear that any changes to the status or function of science advisory bodies over the forthcoming months must be in line with the Principles of Science Advice to Government, which are enshrined in the Ministerial Code, and with the Code of Practice for Scientific Advisory Committees.

**CCTV IN SLAUGHTERHOUSES (FSA 10/10/04)**

24. The Chair welcomed to the meeting Alick Simmons, Deputy Chief Veterinary Officer, DEFRA, and Andrew Rhodes, FSA Director of Operations.

25. The Chief Executive opened this item by informing the Board that he had been personally associated with the campaign for use of CCTV in slaughterhouses and that it had been the biggest item in his post bag during his two and a half years as CEO. He informed the Board that he had approached the issue from a consumer point of view with the expectation that the Government/FSA would 'do the right thing', ensuring safe meat while also ensuring that animals entering the food chain were treated with due respect and dignity. He accepted that this was a difficult area to monitor by nature of the design features of abattoirs. CCTV appeared to be a cost effective measure with significant deterrent effect. It would be entirely reasonable for retailers or caterers to ask for installation of this equipment to give everyone in the supply chain extra confidence in British food. Having seen a number of examples of footage showing animal cruelty, it appeared that the problems were not isolated.

26. The Director of Operations introduced his paper to the Board. He added that the installation of CCTV would not reduce the FSA's resolve to improve industry compliance with animal welfare legislation. A recent survey had shown that CCTV was currently in use in 7% of slaughterhouses in the UK, but this low number covered up to 40% of poultry slaughtered and 42% of pigs. The Director of Operations said that there were a number of challenges and questions outlined in the paper that had to be considered, including that CCTV was not a legal requirement and was something that the FSA could not legally mandate; who would monitor the CCTV footage and how rigorously, and for how long the footage should be kept. He said that the FSA would continue to work with industry and Defra to resolve these issues.

27. Alick Simmons emphasised that this was an issue that Defra took very seriously, as evidenced by the comprehensive advice and legislation in place regarding slaughter. Defra's view was that the use of CCTV could add value to monitoring slaughterhouses, but should not be a substitute for proper training, monitoring and supervision. Responsibility remained with the FBO to ensure that the job was done properly. He said that Defra had received legal advice on this issue to the effect that covert filming was a breach of human rights and was inadmissible as evidence in the UK Courts. In addition the footage appeared to have had been acquired by trespass. He said that Defra was currently considering the

implementation of EU regulation 1099/ 2009 in the UK which would introduce a number of welfare improvements.

28. The Chair of the Scottish Food Advisory Committee (SFAC) reported comments from his committee, including the need for clarity on whether the issue was within the remit of the FSA. SFAC supported the voluntary use of CCTV in slaughterhouses, but questioned whether this was a disproportionate response to the problem. It was cheap to install but expensive to monitor. He also questioned why the Board was relying on evidence supplied by Animal Aid.
29. The Chair of the Northern Ireland Food Advisory Committee (NIFAC) reported that her committee considered CCTV to be a useful adjunct to management systems within slaughterhouses and its voluntary use was therefore wholeheartedly supported. However, NIFAC felt that the evidence base within the paper was not strong and therefore was unsure of the outcome for animal welfare. CCTV could not and should not replace effective management and strong leadership from the FBOs that set animal welfare at their core.
30. The Chair of the Welsh Food Advisory Committee (WFAC) reiterated Board comments that the responsibility for animal welfare remained with the FBO. He said that the Board needed to be satisfied that the FSA's regulatory role within slaughterhouses was being properly discharged. He said that WFAC broadly welcomed this report but also recognised that CCTV was not the only answer. He felt that part of the solution was to ensure the responsibility and obligations remained firmly with the FBOs, and that the culture that had pervaded in slaughterhouses in the footage was eradicated.
31. Alick Simmons further pointed out that CCTV was also widely installed in areas where poultry and pigs were slaughtered by gas, where it was too dangerous for operatives to be present. This footage was therefore not being recorded for welfare reasons.
32. The Board discussion highlighted a number of issues that needed to be resolved. There was general support for using CCTV as a tool, although it was recognised that there might be other solutions, and it was felt that the Agency needed to gather more evidence to determine how useful CCTV could be. It was also recognised that the majority of slaughtermen working in the UK were doing a difficult job very well.
33. The Board agreed to endorse the principle of encouraging the installation of CCTV by FBOs as a further management tool to protect animal welfare. The Board agreed that a programme of work to establish an evidence base was to be set up by the Director of Operations working with the industry and Defra, including and that a further report be given to the Board in one year's time.

**ACTION: Director of Operations**

#### **MACRORY SANCTIONS (FSA 10/10/05)**

34. The Director of Food Policy introduced the paper and informed the Board that Macrory civil sanctions were a set of modern and proportionate sanctions that

could offer flexibility to regulators. They were as yet relatively untested in terms of raising compliance and there would be significant challenges for the Agency in obtaining access to them.

35. The Board was asked to agree that Macrory civil sanctions were potentially a useful tool for achieving compliance, but because other options appeared to be more practical at the current time, the Agency should not seek access to Macrory sanctions at present. This position should be kept under review and brought back to the Board in 12 months' time.
36. One Board member felt that the approach of the executive in the presentation of the paper had been too negative and felt that the sanctions had something to offer to the FSA and could replace the often lengthy and costly court process. The Director of Food Policy said that his approach to the paper was to consider the most effective enforcement options available and the balance of evidence did not support the use of Macrory at this time.
37. A number of Board members had revised their position from that taken at the previous Open meeting discussion on the subject and concluded that Macrory sanctions were not necessary as there were sufficient enforcement tools at the FSA's disposal.
38. The Board agreed that the Agency already faced difficulties in achieving Hampton Compliance, due to the extent and burden of EU food regulations, and therefore access to Macrory sanctions would involve a considerable amount of work. Macrory civil sanctions were potentially a useful tool for achieving compliance, but because other options appeared to be more practical at the current time, the Board agreed not seek access to Macrory sanctions at present.
39. The Board agreed that, rather than considering Macrory Sanctions again after a further 12 months (as set out in 10.3(b)), the Executive would keep the issue under review and return to the Board only if the situation changed.

**ACTION: Board Secretariat**

#### **GOVERNMENT'S ONE IN ONE OUT INITIATIVE (FSA 10/10/06)**

40. The Director of Food Policy explained that the Secretary of State for Business, Innovation and Skills was expected to write inviting the FSA, as an independent regulator, to participate in the Government's One in One Out Initiative (OIOO) to reduce regulation and achieve a culture change whereby regulation, and especially legislation, was used as a last resort only. OIOO, which started on 1 September 2010, required that no regulatory measures imposing burdens on business or the third sector could be brought in without at least equivalent savings being found.
41. The Director of Food Policy asked the Board to agree to the Food Standards Agency's (FSA) participation in the UK coalition Government's 'One-In, One-Out' (OIOO) initiative.
42. A Board member noted that while he supported the paper, this was not going to be an easy initiative for the FSA to participate in due to the quantity of European legislation dealt with. Another Board member noted that the key to the success of this would be the strength and quality of the FSA's impact assessments.

43. The Chair of NIFAC noted two major issues: firstly the impact of EU legislation and secondly emergency measures and the FSA's ability to protect the consumer.
44. The Chair of WFAC raised the risk of inconsistencies regarding devolved countries, the significant resource input required from policy teams and the subsequent impact on the delivery of other initiatives that may be more important to consumers.
45. The Board agreed to inform Ministers of the FSA's participation in the UK Coalition Government's OIOO initiative, providing that all actions were consistent with Section 1 of the Food Standards Act 1999, allowing the FSA to put the interests of consumers first at all times and not restricting the FSA's ability to take emergency measures.

**ACTION: Director of Legal Services**

#### **REVISED STANDING ORDERS FOR BOARD MEETINGS (FSA 10/10/07)**

46. The Board Secretary invited the Board to adopt new standing orders for Board meetings. It was noted that the Board Standing Orders were the overarching document governing Board operations. The Committees' terms of reference should not be inconsistent with the Standing Orders but fit within them.
47. The Board agreed to adopt these, subject to the following changes to para 4:
  - the minimum number of meetings per year being amended from twice to four times, and
  - that the rolling programme of Board meeting dates should be released by Easter the preceding year.

**ACTION: Board Secretary**

#### **REVISED CODE OF CONDUCT FOR BOARD MEETINGS (FSA 10/10/08)**

48. The Board Secretary invited the Board to review and agree changes to the Code of Conduct for Board members.
49. A Board member sought clarity on the role of the Engagements Planning Team in relation to invitations. The Chair informed the Board that the Engagement Planning team advised both the Executive and the Chair and Deputy Chair as and when invitations arrive.
50. The Board agreed the revised Code of Conduct for Board members.

**ACTION: Board Secretary**

#### **PUBLIC ATTITUDES AND BEHAVIOUR - THE WORK OF THE SOCIAL SCIENCE UNIT (SSRU) (FSA 10/09/09)**

51. The Chair welcomed Peter Jackson, Chair of the Social Science Research Committee, Derrick Jones, Head of Analysis and Research and Terrence Collis, Director of Communications.

52. The Chair reminded the Board that briefing on this topic was requested at their January 2010 discussion, specifically in the context of the FSA as a regulator that needed a good understanding of public attitudes and drivers of behaviour in relation to food safety and nutrition.

53. The Chief Scientist informed the Board that social science research provided an important part of the Agency's evidence base. It used scientific methods of enquiry (including surveys, qualitative research, statistical analysis, case studies and trials) to seek to understand and measure what influenced the behaviour of individuals and groups in society, using a range of contributory disciplines (eg psychology, anthropology, sociology). Good social science research helped the development of good policy and effective delivery and evaluation.

54. The Chair of the SSRC raised the following points to inform the discussion:

- FSA needed robust social science research evidence as much as it did natural and biological science evidence
- This committee's work covered a wide range of subject matters across the Agency's remit, including meat controls, Front of Pack labelling and Listeria
- SSRC had introduced the 'Food and You' survey to replace the Consumer Attitudes Survey in order to look at consumer behaviours as well as attitudes
- SSRC and the unit had formed a joint programme of work with the Economic and Social Research Council (ESRC)
- SSRC believed that while recent changes to Agency remit posed a risk this was also seen as an opportunity to engage in more joined up work with Defra and the Department of Health (DH). SSRC was keen to continue to advise on matters of diet and nutrition as well as food safety, and was working on the mechanisms to make that happen.

55. A number of points were made by the Board during the discussion:

- Concern was expressed regarding the split of the unit between DH and the FSA and whether consideration had been given to its retention as a single unit
- Research of SSRC and the unit had informed both food safety and nutrition policy and very important cross government links had been established
- whether the 'Food and You' survey would be of use with hard to reach groups
- the value of observation of behavioural change and what the drivers were;
- The importance of maintaining the link between both social and biological science research
- The sharing of relevant information with partner countries across EU and the need to look beyond UK borders
- The scope for looking at data already gathered by industry relating to 'claimed and stated' behaviour in order to better understand unconscious behaviour and consumer habits.

56. The Chair of the SSRC raised the issue of uncertainty around the funding of the second wave of the 'Food and You' survey. The SSRC was keen for this work to continue and the FSA might be asked to consider the future funding of the survey.

57. The Chief Scientist informed the Board that the success of the unit so far had been due to its ability to build links and said that he was confident that this success would continue. The Chief Executive said that resources would be reviewed after the strategy review in November.

58. The Chair thanked the Chief Scientist and Peter Jackson for the very useful paper and for stimulating an interesting discussion. He acknowledged the challenges that remained around resourcing and noted that there would be more to discuss on this as the various policy initiatives flowed from the research that was currently underway.

#### **NORTHERN IRELAND FOOD ADVISORY COMMITTEE (INFO 10/10/01)**

59. The Board received the report of the Chair of the Northern Ireland Food Advisory Committee.

60. The Chair of NIFAC drew the Board's attention to the Nutrition Awards for Caterers (2.9) and proposed that visits to caterers be included in the Programme of Board visits when the Board sits in Belfast in March. The Board agreed.

**Action: Board Secretary**

#### **ANY OTHER BUSINESS**

61. The Deputy Chair asked the Executive for a proposal on how future Board meetings should ensure the work on diet and nutrition that remained with the Agency following the recent Machinery of Government Changes, stayed in focus.

62. The Chief Executive informed the Board that information would flow through his updates to the Board, through updates from Advisory Committees and the Directors of the three devolved nations, and agenda items raised by Board Members and the Executive in the usual way. The Board agreed that diet and nutrition work in Scotland and Northern Ireland was to be included in future agendas to assure Ministers in Scotland and Northern Ireland that this work remained a key focus for the Board.

**Action: Board Secretary**

#### **DATE OF NEXT MEETING**

63. The next open meeting of the Board would be held in London on 7 December 2010.