

Minutes of 10 June 2024 Business Committee Meeting

FSA BC 24/09/01 - Via Teams

Present

Timothy Riley, Chair; Lord Blencathra; Fiona Gately; Rhian Hayward; Susan Jebb; Mark Rolfe.

Apologies

Hayley Campbell-Gibbons

Officials Attending

Emily Miles	? Chief Executive
Jo Bushnell	? People Director (for FSA BC 24/06/06)
James Cooper	? Deputy Director of Food Policy (for FSA BC 24/06/05)
Claire Forbes	? Director of Communications
Junior Johnson	? Director of Operations
Anjali Juneja	? Director of UK & International Affairs
Robin May	? Chief Scientific Adviser
Ruth Nolan	? Director of People and Resources
Katie Pettifer	? Director of Strategy, Legal, Communications and Governance
Julie Pierce	? Director of Information and Science
James Robinson	? Head of Legal Services (for FSA BC 24/06/03)
Rebecca Sudworth	? Director of Policy
Richard Wynn-Davies	? Head of Operational Assurance and Excellence (for FSA BC 24/06/07)

1. Welcome and Introductions

1.1 The Committee Chair welcomed everyone to the meeting noting apologies from Hayley Campell-Gibbons. The Committee Chair said that since the last meeting, he had been elected as a fellow to the Royal Agricultural Society of England. No other new interests were raised by Committee Members and no interests were raised in respect of the agenda. No other items of business were raised.

2. Minutes of 11 March 2024 Business Committee Meeting (FSA BC 24/06/01)

2.1 The minutes of the Business Committee meeting of 11 March were agreed as an accurate record of the discussions.

3. Actions Arising (FSA BC 24/06/02)

3.1 On the actions log it was noted that the second Action 2 from the March Business Committee meeting for information on any possible unsuccessful prosecutions to be clarified at the June Business Committee meeting, would be covered in the Chief Executive's update. No further comments were made on the actions.

4. Chief Executive's Report to the Business Committee (FSA BC 24/06/03)

4.1 The Chief Executive (CE) provided further detail in relation to items noted in her written report including new outbreaks of Shiga toxin-producing E. coli (STEC) and Listeria; Import arrangements and the six-monthly dynamic review of checks; prosecutions; and finance.

4.2 STEC cases had increased in the previous week but were now abating and the current working assumption was that it was attributed to a supplier of sandwiches. The Listeria outbreak was also connected to pre-packed sandwiches that were distributed in hospitals.

4.3 On the dynamic reviews of import checks, Emily explained that what had been included in the report to the Business Committee as an account of what the FSA would recommend to Ministers. The changes to risk categorisations would hopefully come into force in November if legislation could be laid swiftly, and this would result in changes to the levels of checks applied to those imported commodities.

4.4 On prosecutions, it was noted that an evidential file had been submitted to the Crown Prosecution Service relating to Operation Hawk. There had been no prosecutions other than those included in the report. The monk-fruit judicial review loss had been significant, and the judge had been critical of the FSA. Lessons learned had been implemented to prevent repeating errors.

4.5 The Committee commented on the monk fruit judgement; the evidential file submitted to the Crown Prosecution Service (CPS) relating to Operation Hawk; directed sampling; listeria in ready-to eat chicken; and bird flu.

4.6 It was explained that there were two aspects to the monk fruit judgement: firstly, on the point of principle about the FSA's interpretation of the guidance and the weight given to different types of evidence. The FSA was now looking again at how evidence would be taken into account in decision making. The judge had also been critical of record keeping, and of disclosed correspondence which had appeared to pre-judge the outcome. Training around record keeping had recently been a feature of the Directorate's away-day. Revised recommendations would be brought forward within the court's timetable.

4.7 The court had required the FSA to reconsider its decision and there would be a deadline, which the FSA would meet. This would not impact on liability as this consisted of court costs. If the FSA's revised decision agreed with the previous one that the application should be refused, there would be a risk of further legal action though it was noted that it was the FSA's adherence to the process, rather than its outcome, that had been questioned by the judge. The costs were a reflection of the reality of the costs involved in commercial litigation.

4.8 The FSA Chair had been kept informed as the case progressed. The CE updated the Committee on two other judicial reviews underway. There was a threatened judicial review from harvesters in the Menai Strait who questioned the FSA's classification of shellfish beds, and another related to the Association of Independent Meat Suppliers (AIMS) over whether the FSA had the jurisdiction to carry out some of its activities.

4.9 On the evidential file provided to the CPS, court delays had impacted on some cases brought by the FSA, but it was not known whether this would have an impact on Operation Hawk. There had been instances of judges over-listing on some cases due to people not showing up at court. There was an indication that this had now stopped happening, which should be helpful for avoiding longer delays.

4.10 On the £0.18m underspend for directed sampling, it was a concern that there had been an underspend and that local authorities did not have the capacity to do the sampling required. It was important for the FSA to better understand the issues around capacity to ensure that the amount dedicated to directed sampling was more accurate.

4.11 It was suggested that information could be provided outside of the meeting on the local authority involved in the listeria in ready-to-eat chicken case, but there were variable levels of local authority capacity and capability involved in different incidents and the incidents team worked very closely with the relevant local authorities. The fact that there had been an outbreak was not necessarily indicative of a regulatory offence.

Action 1 - Katie Pettifer to provide information to Board Members on the issues around the listeria in ready-to-eat chicken incident.

4.12 Bulk sampling had begun on bird flu and the protocol was that the FSA would only hear if there was a positive test. The sampling process would run for five weeks in total. Concerns around the unhelpful length of time it had taken to initiate sampling had been discussed with Defra and APHA.

4.13 The Committee Chair said that the monk fruit incident demonstrated the importance of ensuring processes were clear and robust both from the FSA's perspective and that of the applicant; the demonstration of objectivity in those processes would be key.

5. Performance and Resources Q4 2023-24 (FSA BC 24/06/04)

5.1 The Committee Chair invited Ruth Nolan to introduce the report. Ruth explained the data was present up until the 31 March. The General Election could impact on data included in upcoming reports due to some programmes needing to be paused during the Election period. Ruth invited relevant Directors to cover the information within the key areas of the paper.

Science

5.2 Julie Pierce gave an overview of the science section of the report covering the Key Performance Indicators (KPIs) and how they could be made to represent the FSA's science work; the Scholastica tool; measuring impacts for long-term results; people and skills; sampling; and

financial management. She invited questions and advice from Committee Members.

5.3 The Committee recommended gathering data on the number of citations of FSA science work rather than the number of publications to give a better indication of impact and asked for further information on the Scholastica tool. Publications were a small part of FSA science work, and it would be useful to know whether citations of FSA work were being made by academics or by other regulators and government departments.

Action 2 - Julie Pierce to provide additional information on the Scholastica tool.

5.4 There were other comments from the Committee covering the KPI for the risk analysis process; sampling figures for targeted surveillance showing non-compliance; Red/Amber/Green (RAG) ratings for consistency across measures; and social science use.

5.5 It was suggested that information on sampling could be provided to the Committee separately. The answer would feed into a wider question across the FSA about how data was collated in a useful way. Targeted sampling could change depending on the issue at hand, so a food crime issue could involve targeted sampling around authenticity while a food safety issue might involve sampling around Foodborne Disease.

Action 3 - Julie Pierce to provide further information about sampling figures for targeted surveillance showing non-compliance.

5.6 Risk assessment was an area where the science team worked closely with the Policy unit and the Incidents team, so it was important to note the outputs from that science work in respective reports from those directorates to allow the process to be seen from all sides.

5.7 On RAG ratings, it was intended that there would be a rating given for the present time as well as a trend that would show the risk over several quarters. For the next iteration of the report, it was suggested that the reflection on performance be reduced to a single RAG rating removing the one on trends to ensure consistency.

5.8 Julie confirmed that social science use was included within the FSA's science research.

Reputation, Communications, and Trust in the FSA

5.9 Claire Forbes introduced this section of the report covering the figures from the Food and You 2 survey; the drop figures around in consumer trust 78% to 69%; initial thinking of factors that could be impacting on trust.

5.10 On the Trust figures, additional research indicated that trust was stable, so there would be more work to do to draw firm conclusions. The drop in figures arose mostly from an increase in neutral responses rather than an increase in negative views of the FSA.

5.11 Issues that could be affecting the Trust scores included a general distrust in government as shown by the Eidelman Trust Barometer, the current point in the electoral cycle, and negative media coverage about the food system.

5.12 The Committee noted that even if Trust in government was declining, the FSA could not afford to lose public confidence. The focus for the FSA in communications should be on familiarity and visibility as drivers of Trust. FHRS ratings and product recalls were a part of building familiarity.

5.13 Communications were looking at the more effective use of video to get messages out to the public with a range of different spokespeople to humanise the FSA. Publishing the work of the National Food Crime Unit (NFCU) and work around incidents, particularly to vulnerable groups through organisations such as Age UK could help build trust among those consumers. Social

media advertising was also noted as a cost-effective way to disseminate FSA messages.

Regulated Products

5.14 Susan Jebb noted that regulated products continued to be a challenge, acknowledging that the FSA had progressed as intended. The Committee asked about the impact of the Election and delays for Statutory Instruments (SIs); renewals for smoke flavourings and the use of Other Regulators Opinions (OROs); and resources within the FSA.

5.15 There would be an inevitable delay to renewals and SIs as a result of the Election and this would have an impact on how quickly the FSA was able to manage down the caseload. Renewals would have the most significant impact on reducing the caseload. The team intended to continue as planned and to be ready, following the Election to engage with Ministers on moving ahead with renewals and SIs quickly.

5.16 On smoke flavourings, a change in the evidence base had led to a change in the requirements for evidence that applicants needed to provide. The outcome of the EU risk assessment on these products could be taken into account but the FSA's own review would also need to be carried out. A fuller explanation of the risk assessment process for these products could be provided following discussions with the Science Evidence and Research Department (SERD).

5.17 The FSA had started to use OROs for renewals as well as some other applications, but care needed to be taken over how heavily OROs could be relied upon in cases where the outcomes were likely to be controversial. In the case of smoke flavourings, there was a reasonable chance that the FSA would not agree with the EU's opinion, as smoke flavourings were being used in place of natural smoking which was unlikely to be safer but had not been risk assessed.

Action 4 - Rebecca Sudworth to provide further information on the risk assessment process for smoke flavourings to the FSA Chair to ensure that the Board were kept informed.

5.18 On resources, it was explained that drafting SIs was a significant part of what the FSA's lawyers did and the inability to release that resource would have an impact on future reforms, where they could otherwise be committed.

5.19 The Committee said it would be useful to see updated projections on the caseloads at the September Board meeting.

Action 5 - Katie Pettifer to update Board on caseload projections in September.

5.20 Even if there were not a change in Government following the Election, it was unlikely the Government would move legislation straight away. If there were a change in Government, there could be a longer delay. It would be important to emphasise to Ministers that these particular SIs were not likely to be contentious and would not interfere with their programme.

5.21 The Committee heard that the SIs had now been laid on the eight applications that were going through the authorisation process. Seventy-one applicants, where there had been no change in the risk associated with their products, had been written to in May to inform them that the applications on their renewals were being paused and that their products could stay on the market in the meantime.

Local Authorities

5.22 Committee Members asked about the data included in consecutive reports; apprenticeship training; and feedback from the CE's letter to local authority Chief Executives; and the rollout of

the new Food Standards Model.

5.23 The collection of the next set of data was being concluded and would be included in the September Board paper. The data was not yet fully cleansed but there were indications that it was encouraging in terms of providing the necessary assurance.

5.24 The new Trading Standards apprenticeships had been well received and the Committee expressed congratulations to those involved for what had been a very welcome piece of work.

5.25 The feedback from the Chief Executive's letter to the Chief Executives of local authorities had led to local authority food teams being able to argue for additional resource with their seniors.

5.26 The rollout of the new food standards model would be taking place soon with the first local authority due to go live with it within the following week.

6. Precision Breeding - Delivery Plan (FSA BC 24/06/05)

6.1 The Committee Chair invited James Cooper to introduce this item. James gave an update covering the impact of the General Election on passing the regulations; and the use existing resources to support work on risk assessment and risk management.

6.2 The Committee noted concern about the timelines and the risk noting that the General Election actually gave the FSA more time.

6.3 There was a discussion about the interaction with the regulated product service and the time taken for Tier 2 products.

6.4 It was explained that it was possible that Tier 2 products could take as long as 18 months and it would not be possible to commit to a shorter timeframe. In reality, however, it was expected that they would not take this long. The challenge would be in managing the expectations of applicants. More clarity was needed about the timelines for authorisation, especially for Tier 2, and it would be important to be able to communicate expected timings clearly to applicants. It was noted that guidance should be clear about the 90-day period for Defra to consider the application before it came to the FSA to give clarity to businesses about the overall process between Defra and the FSA, not just for the FSA.

6.5 Rebecca Sudworth agreed that she would present the revised case flow forecasts in the Autumn.

Action 6 - Rebecca Sudworth to present revised case flow forecasts to the September Business Committee meeting.

7. Annual Report on Human Resources (FSA BC 24/06/06)

7.1 The Committee Chair invited Jo Bushnell to introduce the paper. Jo gave an overview of the themes covered in the paper including an overview of our workforce and its diversity; achievements throughout 2023/24; and upcoming priorities and risks over the next year.

7.2 The Committee noted this was the first annual report on Human Resources. The Business Committee were pleased to see the paper and noted its contents.

8. Operational Modernisation Programme Update (FSA BC 24/06/07)

8.1 The Committee Chair invited Richard Wynn-Davies to introduce this item. Richard gave an overview of the paper covering the milestones delivered over the financial year; the accuracy and efficiency of inspection data collection; the establishment of an automated data transfer mechanism; the tender exercise for and implementation of desktop remote assessment software; a new dairy inspection application; progress on the FBO account project. Richard also laid out the challenges with competing priorities across Operations Change Delivery.

8.2 The Committee commented on the rate of progress and its incremental nature; prioritisation of effort and the achievement of more visible progress; and the extent to which digitisation could create better scrutiny.

8.3 From the digital delivery point of view, good progress had been made and more could be done to demonstrate what had been achieved. The work had been incremental in the approach by design, which could make it difficult to identify specific impacts.

8.4 Understanding data would be important before building new digital systems to ensure that the information from the systems could be relied upon. A data audit was being designed to make sure that the data landscape was understood; the focus could then move to delivery of the digital tools.

8.5 The Committee Chair thanked Richard for the paper and noted the Committee's desire for visible progress.

9. Any Other Business

9.1 No other business was raised, and the meeting was closed. The next meeting of the Business Committee would take place on 9 September 2024 via Teams.