FSA 22-09-01 - Minutes of the FSA Board Meeting on 15 June 2022

The Core, Bath Lane, Newcastle Upon Tyne NE4 5TF

Present:

Susan Jebb, Chair; Ruth Hussey, Deputy Chair; Lord Blencathra, Fiona Gately; Margaret Gilmore; Colm McKenna; Peter Price; Timothy Riley; Mark Rolfe

Officials Attending

Emily Miles - Chief Executive (CE)

Sushma Acharya - Head of Policy & Strategy for Food Hypersensitivity (For FSA 22/06/07)

Sam Faulkner - Head of Strategy Unit (For FSA 22/06/09 and FSA 22/06/06)

Maria Jennings - Director of Regulatory Compliance, People and Northern Ireland (NI)

Anjali Juneja - Director of International & UK Affairs

Professor Robin May - Chief Scientific Adviser (CSA)

Michelle Patel - Deputy Director of SERD (For FSA 22/06/09 and FSA 22/06/06)

Katie Pettifer - Director of Strategy, Legal, Communications and Governance

Julie Pierce - Director Openness, Data, Digital, Science and Wales

Laura Phelps - Head of Regulatory, International and Legislative Strategy Unit (For FSA 22/06/10)

Steven Pollock - Director of Communications

Peter Quigley - Head of Chemical Safety Policy (For FSA 22/06/08)

Sabrina Roberts - Head of Genetically Modified Organisms and Genome Editing Policy (For FSA 22/06/08) via Zoom

Tara Smith - Director of Resources & People

Rebecca Sudworth - Director of Policy

Simon Tunnicliffe - Deputy Director of Operations (For FSA 22/06/03) via Zoom

Darren Whitby - Head of Incidents & Resilience (For FSA 22/06/04) via Zoom

Guests

Jo Clift - Jo Clift Consulting (For FSA 22/06/12) via zoom

Apologies

Junior Johnson - Director of Operations

1. Welcome and Introductions

1.1 The Chair welcomed everyone to the meeting noting this was the first Board meeting for Tara Smith, the Director of People and Resources. It was also the first Board meeting since the appointment of Junior Johnson as Director of Operations. Junior had given apologies for this meeting and would join, via Zoom, for the subsequent Business Committee meeting. It was the first meeting for Anjali Juneja since her appointment as Director of International & UK Affairs.

1.2 Ruth Hussey declared that since the last Board meeting, she had become a member of the UK Food Safety Research Network, External Advisory Board, hosted by Quadram Institute Bioscience. Timothy Riley declared he was Non-Executive Director of the Veterinary Medicine's Directorate, which had relevance for the discussion of FSA 22-06-05. The Chair said Timothy's appointment complemented the discussion and did not require Timothy to recuse himself for that item.

2. Minutes of the FSA Board Meeting on 9 March 2022 (FSA 22-06-01)

2.1 No comments were raised on the minutes of the 9 March Board meeting, and they were approved as an accurate record of the discussions at that meeting.

3. Actions Arising – Board Meeting (FSA 22-06-02)

3.1 No comments were raised on the status of the actions noted in the paper.

4. Chair's Update (Oral Report)

4.1 The Chair noted a list of her engagements since the last meeting, including engagement with Ministers, had been published on the FSA website. This included the launch of the new FSA strategy and the FSA staff awards, which showcased excellent work that had been carried out by FSA staff.

4.2 The Chair had met with Victoria Prentis, Minister of State at the Department for Environment, Food and Rural Affairs (DEFRA), Minister for Vaccines and Public Health, Maggie Throup and Welsh Government Deputy Minister for Mental Health and Wellbeing, Lynne Neagle. Those meetings had focussed on supply chain issues and the Genetic Technology (Precision Breeding) Bill.

4.3 The Chair highlighted her attendance at the Balmoral show in Northern Ireland including meeting organisations which work closely with the FSA.

4.4 The Chair had met with the new Chair of Food Standards Scotland (FSS), Heather Kelman ahead of the launch of the joint FSA/FSS report on Food Standards later in June.

4.5 Chair mentioned three major pieces of FSA research around household food insecurity, which had been launched, and her appearance to discuss them on the BBC Radio 4 You and Yours programme.

4.6 Interviews for new appointments to the Board through the Department of Health and Social Care (DHSC) had concluded and interviews for the next Board Member for Northern Ireland, to be appointed by the Northern Ireland Minister of Health, would take place on 17 June. The Chair paid tribute to the contribution to the FSA that the outgoing Board Member for Northern Ireland and Chair of the Northern Ireland Food Advisory Committee (NIFAC), Colm McKenna, had made since his appointment in 2016 and in his role as the Chair of the Audit and Risk Assurance Committee (ARAC).

5. Chief Executive's Report to the Board (FSA 22-06-03)

5.1 Steven Pollock read out a question which had been received ahead of the meeting relating to an item in the Chief Executive's (CE's) report:

- 1. How will the proposed Civil Service Workforce reductions impact the FSA's intention to directly employ up to 50% of Official Veterinarians reported in March 2022, and when will the competition for a Service Delivery Partner to deliver the residual veterinary services begin?

  Many thanks
  Simon Dawson
  AIMS

5.2 The Chair invited the CE to introduce her report and address the question. The CE said the FSA had been asked to model cuts to staff headcount of 20%, 30% and 40% in line with the Government's aspiration to reduce staffing to 2016 levels by 2025. In response to this request, the FSA had included on its risk register the risks to the FSA's ability to continue to deliver its functions, including potential backlogs on regulated products, a lack of capacity for reforming retained EU law, and the possibility of being unprepared for the introduction of import controls.

5.3The FSA's current headcount was around 1,200, which had grown from around 960 in 2016. This growth had been necessary to take on the additional functions required because of leaving the EU such as work around regulated products, the growth of the National Food Crime Unit (NFCU) and expansion of the teams in Wales and Northern Ireland.

5.4 In response to the question, the CE said, at present, the FSA had only been asked to model the scenarios and no cuts had been formally requested, but if they were to be, this would impact significantly on the FSA's plans to directly employ 25% of vets. The timing of the competition for a Service Delivery Partner would be linked to the extent to which vets could be directly employed.

5.5 The CE highlighted the volume of issues the FSA had dealt with since the previous Board meeting including the consequences for the FSA of the conflict in Ukraine; preparation of policy on Food Hypersensitivity (FHS) and Household Food Insecurity; contributions to the Genetic Technology (Precision Breeding) Bill; the FSA's first section 42 reports; the publication of the CBD products list; product recalls; the Government's Food Strategy White Paper; and her recent appearance at the Public Accounts Committee, where resourcing issues and the recommendations of the National Audit Office (NAO) report were raised.

5.6 Colm McKenna expressed concern about the potential impact of a reduction in the FSA's headcount on the ability of the FSA to effectively carry out its functions, noting the FSA's responsibility to protect the public in relation to food standards and safety. He noted the three-nation jurisdiction of the FSA and the value placed on the FSA by devolved Ministers and

suggested this point needed to be emphasised to the Government. A return to 2016 levels, would be a return to levels required to carry out the reduced functions which the FSA held whilst the UK was part of the EU. Some Departments might be able to make headcount reductions safely, but he considered that the FSA could not.

5.7 Peter Price said there was an assumption that developments in technology could help to reduce staff requirements but, especially in areas such as food crime, the widespread availability of more sophisticated technology meant that more resource, rather than less, was required to address new challenges this technology could bring.

5.8 Timothy Riley said the operating landscape for the FSA was now very different to that in 2016 and innovations in food and technology meant there was now more for the FSA to regulate.

5.9 Mark Rolfe added that a lot of the FSA's work was enabling work which allowed other bodies to carry out their functions. Businesses were able to operate in the knowledge that the public, and by extension their organisations, were protected, thereby creating consumer confidence.

5.10 The Chair said the Board acknowledged the need to be cautious with taxpayers money, but the FSA would need more resource now for functions that were not required prior to leaving the EU and for projects that the FSA would now be expected to deliver. To seize opportunities from EU Exit, a properly resourced regulatory system would be key to maintaining and increasing the UK's global reputation for food safety, standards, innovation, and trade.

5.11 Margaret Gilmore noted paragraph 12 of the report on Cannabidiol (CBD) products, asking about the difference between FSA and EFSA approaches. Rebecca Sudworth explained EFSA had now come to the same conclusion as the FSA, that a paper process was not sufficient to provide all the required evidence for a risk assessment and had currently halted accepting new applications. This was a similar approach to the one taken by the FSA.

5.12 Mark asked about import controls and support for Port Health Authorities (PHAs) which had recruited significantly in order to deliver controls. The CE explained that the recruitment of staff to deliver the controls was largely funded by DEFRA, who were in conversation with PHAs about the best approach going forward.

5.13 Mark asked whether there had been any evidence of unsafe food originating from the EU coming into the UK. The CE noted the absence of insight from EU Member states which the FSA had previously received from the Rapid Alert System for Food and Feed (RASFF). As a third of food available in the UK originated in the EU, the absence of this information presented a challenge for the FSA. The introduction of import controls on higher risk food would give the FSA the dynamic information it needed. The risk of unsafe food from the EU was low but in the absence of information, additional investigatory work would be useful.

5.14 Mark asked about the impact on businesses trading with the EU, given import controls were applied to British exporters but not to EU importers. The CE said it was not for the FSA to come to a view on whether this was fair or unfair, as the decision on import controls was made by the Government. The FSA would continue to work to ensure that food available in the UK was safe.

5.15 The Chair said she shared Board Members' concerns that things may be being missed in the absence of border controls. The lack of controls meant the FSA Board could not assure the public they were as well protected now as when the UK was part of the EU. It would be essential for the new controls to be put in place, as planned, in 2023 as risks would become more significant over time. Plans for surveillance were welcomed and an update on this at the next Board meeting in September was requested.

Action 1 - Executive to include update on plans for surveillance to confirm safety of food imported from the EU in the absence of border import controls at September Board

meeting.

6. FSA Response to Ukraine Conflict Supply Chain Disruption: Ingredient Substitution and Labelling (FSA 22-06-04)

6.1 The Chair invited Rebecca Sudworth and Darren Whitby to introduce this item. Darren gave an overview of issues covered in the paper including the challenges of de-escalating the incident; lessons learnt; the action laid-out in the paper's Annex A; and guidance to industry on flexibilities.

6.2 Rebecca gave an update on the tests applied in the case of oil substitutions and their relationship to the FSA's risk appetite; information to consumers; and the joint agreement with FSS.

6.3 Maria Jennings explained the guidance provided to local authorities; industry's desire to ensure that they were compliant; the impact of the volatility of the oil market; and the feasibility of a return to full compliance.

6.4 The Chair asked about action required for other impacted commodities; Rebecca said there were none that required an immediate response of the kind made for cooking oils.

6.5 Board Members noted the potential environmental impacts of the inclusion of palm oil and highlighted the inclusion of sustainability on the FSA's new strategy. The CE said it was for businesses to choose the type of oil substituted and take responsibility for its origins, given there was no statutory requirement that businesses choose more sustainable oils. The FSA's role was to ensure that information included on labelling was accurate and the FSA would continue to champion consumers' interests within its remit.

6.6 Colm McKenna reported that ARAC had discussed the issue in the context of the risk appetite the Board had set for 'food is what it says it is'. He asked whether the end date of 31 October was flexible or whether this was a hard deadline. Maria said local authorities were making decisions on a case-by-case basis based on the FSA's advice. If this advice were withdrawn on 31 October, local authorities would continue to engage with businesses, assessing the steps they were taking to comply. If local authorities told the FSA that businesses were unable to access reliable supplies and that flexibilities were required into 2023, steps would be taken to ensure that businesses were as compliant as they could be within those restrictions.

6.7 Ruth Hussey asked about the extent to which the tests being applied depended on the volatility of the market and if there was clarity about where flexibilities could be used. Timothy Riley added the issue went beyond the supply of sunflower oil because of the conflict in Ukraine, highlighting a 30% reduction in global olive oil production due to diseases that were affecting olive trees. The CE agreed, adding that current labelling law was not well suited to supply-chain shocks and that issues such as that with olive oil were likely to increase due to climate change; a review of labelling law may be needed.

6.8 The Chair said the Board agreed the wording and principles for the tests were still appropriate. The Board noted the scale of work that businesses were doing to ensure compliance. It was the FSA's role to ensure that incidences of inaccurate labelling were kept to a minimum. The Chair asked for an update on the feasibility of a 31 October deadline in the CE report to the September Board meeting.

Action 2 - CE Report to the September Board to include update on the feasibility of the 31 October deadline for a return to compliance.

7. Annual Science Update from FSA's Chief Scientific Adviser (FSA 22-06-05)

7.1 The Chair invited the Chief Scientific Adviser (CSA) to introduce his annual science update. The CSA gave an overview highlighting how the emergence from COVID-19 restrictions had increased opportunities for engagement and relationship building with external research partners; independent fellowships conducting critical FSA research; laboratory and sampling infrastructure and post EU Exit controls; and the collaborative and convening roles of the CSA.

7.2 The Chair asked about national sampling capacity. The CSA said retaining surge capacity outside of emergencies was always challenging. Conversations were actively underway about repurposing some of the laboratory capacity that had been created to deal with the COVID-19 pandemic. This would need to be coordinated with other departments since FSA requirements alone were unlikely to be sufficient to maintain such facilities outside of times of 'surge'. To future proof both the physical infrastructure and expertise, it would remain key that the UK retained access to the best science. Recent engagement between the FSA and stakeholders on opportunities to build training capacity and exchange programmes would hopefully help ensure this.

7.3 Peter Price said the Members of the Welsh Food Advisory Committee (WFAC) had welcomed the greater advertising of collaborative research opportunities with the FSA. Members had offered to amplify these messages through their own networks particularly given the current absence of a CSA to the Welsh Government. The CSA agreed and said this would be important not only for visibility but also to ensure access to the best science.

7.4 Lord Blencathra asked about the scope of technology to meet some of the challenges outlined in the update. The CSA said there was a lot that could be done through technological innovation. He used the example of DNA sequencing which had several applications and explained the challenge was being able to innovate to enable this technology to move from the laboratory to the field.

7.5 Ruth Hussey mentioned the visit Board Members had undertaken to the University of Newcastle the day before and extended thanks to those who had hosted them. She highlighted the need for the FSA to continue to have access to the right talent, for instance in areas such as risk assessment. The CSA said in the context of a potential headcount reduction access to the right talent and expertise externally would become even more important. The FSA was revising its list of areas of research interest and would publish it soon.

7.6 Margaret Gilmore congratulated the CSA on the successes of the Pathogen Surveillance in Agriculture, Food and the Environment (PATH-SAFE) project and asked about risks arising from a lack of information from the EU. The CSA said lack of access to both information and testing facilities from the EU was an issue and there were some concerns about what would happen in the event of a serious incident. The international scientific community remained open to collaboration, but direct access to expertise from across Europe (for instance, via European Reference Laboratories) for areas such as gene editing and lab grown meat was no longer straightforward.

7.7 Colm McKenna noted the quality of the research institutions in Northern Ireland and the current process to appoint a CSA to the Northern Ireland Civil Service. He encouraged engagement once the NICS CSA had been appointed. The CSA noted the CSAs from all devolved administrations had full participation in weekly interdepartmental CSA meetings, which was an excellent vehicle to ensure science engagement across all four nations. The Chair added she had recently held a meeting with safefood and had highlighted that the next FSA Board meeting would be held in Belfast and would be an opportunity for further engagement

7.8 The Chair noted the Government's White Paper, which mentioned additional research into healthier and more sustainable food, including a substantial investment in agri-food innovation. The CSA explained this was DEFRA-led research and involved activity on farms; it could be expanded further as the projects developed.

7.9 Julie Pierce said the Food Data Transparency Partnership (FDTP) focussed on collecting and transporting data through the food system. This, along with PATH-SAFE, was underpinning capabilities for the FSA. Rebecca added this had been key to moving novel foods applications swiftly through the process.

7.10 Fiona Gately asked about the regulatory frameworks, noting that new ones would be required for the novel foods sector within a short time. The CSA said engagement with relevant stakeholders would be a key part of that. Rebecca added the existing novel foods framework was flexible and responsive but acknowledged it might not be suitable for all the new information that came onstream. The CE added there were opportunities for future regulatory reform and an opportunity to effectively protect the consumer interest but that headcount cuts could preclude that work being taken forward.

7.11 The Chair noted the Board's interest in the update and the broad range of the discussion was illustrative of the importance of the work of the CSA and the Science Evidence and Research Division (SERD).

8. Foresight Function and Horizon Scanning – Annual Update to the Board (FSA 22-06-06)

8.1 The Chair welcomed Michelle Patel and Sam Faulkner to the meeting and invited Julie Pierce to introduce the item. Julie said the foresight function was an initiative that had emerged from a Science Council recommendation following the pandemic response. The function was starting to yield insights, which could be applied. Michelle added the paper was a joint update from both the Science and Strategy Units.

8.2 The Chair asked how insights arising from the function were prioritised. Julie said this was a challenge, but the fact that the function was working represented an achievement. Sam added near-term issues tended to be given priority, citing oil substitutions arising from sunflower oil shortages caused by the conflict in Ukraine as a case in point. The foresight function had also influenced the FSAs approach to strategic risk. In terms of emerging issues, household food insecurity was something that had been informed by the FSA's foresight function and was included on the agenda for this meeting.

8.3 Margaret Gilmore noted the unpredictability of some of the issues that had arisen over the past six years and asked whether the FSA was well positioned to anticipate similar events in the future. Michelle said there would always be disruptive events that were not predictable, but it was possible to consider where such disruptions might occur. The team had commissioned a map of the food system from Oxford University to help consider where shocks might come from. Julie added this live food system model would be a useful tool in ensuring we were aware of where the risk points were for disruptive shocks to the food system.

8.4 Colm McKenna was conscious of the need for input on some issues from other parts of government and asked who the FSA was working with around emerging technology. Michelle said there had been an initial assessment published on emerging technology with Cambridge University's Institute of Manufacturing and further work was in train on alternative proteins and on alternatives to plastics.

8.5 Mark Rolfe noted that the immediate concerns highlighted in the strategic assessment, such as healthy food and sustainable food, may not be priority issues across all sectors of society. He asked about the value of the strategic assessment in driving the FSA's priorities. Michelle said there had been value from the initial assessment in highlighting the gaps that existed in the FSA's knowledge about emerging technologies.

8.6 Timothy Riley noted issues were often driven by areas that the market considered good for investment due to consumer trends or socio-demographic changes but also because of financial changes from economic shifts and hedge-fund investments. He asked how this kind of assessment could be integrated into the foresight function. Michelle said financial monitoring was not currently built into the assessments, but such issues were being considered among the signals that should be watched within the monitoring framework.

8.7 The Chair said the Board welcomed hearing examples of how the foresight function work had enabled a strategic approach for example on Household Food Insecurity. The small scale of the team meant it was important to ensure there were good links across government to ensure assessments from others' horizon scanning work were accessible. The Chair agreed with Board Members that challenges likely to emerge from climate change and interdependencies across the food system were examples of where access to the assessments of other departments and continued cross-governmental engagement would be key.

9. Food Hypersensitivity (FHS) – Update on Workstreams and Recommended Next Steps (FSA 22-06-07)

9.1 The Chair welcomed Sushma Acharya to the meeting to introduce a paper on the Food Hypersensitivity (FHS) Programme and the proposed approach for the next phase. She noted there had been two questions received ahead of the meeting relating to this paper and invited Steven Pollock to read them out.

- 2. Food and Drink Federation (FDF) Question:
  Based on the FSA's scientific and risk-based approach to allergen management, does the FSA intend to standardise Precautionary Allergen Labelling (PAL) through regulation to give the necessary support and impetus to make the required changes throughout the entire food supply chain? Also does the FSA have any plans to create an aligned workstream to resolve the policy gap in terms of 'Free From' allergen claims that would improve consumer confidence in food industry's provision of safe food for allergic consumers?

  Many thanks
  Alex Turtle
  Food Law, Labelling and Enforcement Manager

- 3. Concerning the paper "FSA 22-06-07 Food Hypersensitivity (FHS) – Update on Workstreams and Recommended Next Steps: main report" whilst very happy to see the recommendations on training etc in the paper, The Campaign for Owen's Law is concerned that the recommendations do not include adopting legislation to ensure that allergens are stated on the face of restaurant menus, as called for by our campaign.

  The paper suggests that the research carried out by consultants for the FSA found that food hypersensitive consumers did not want this. This is at complete odds with similar

research carried out by the Anaphylaxis Campaign in 2021 (see attached paper).

The report by the consultants has not been made available in time for proper analysis and so the Campaign for Owen's Law asks the FSA Board to postpone accepting this key recommendation (as stated in paragraph 4.25) for three months, and to allow it sufficient time to review the consultants' report and make representations about it.

The Campaign for Owen's Law also requests an opportunity to make a presentation to the FSA Board at its meeting in September 2022, prior to any further consideration of this key recommendation.

Regards
Paul Carey, Owen's Father

9.2 In response to Question 3, Rebecca Sudworth said she understood that the Owen's Law Campaign would be disappointed the FSA was not recommending changing the law about labelling on menus at this time. The reasons for that were laid out in the paper. The FSA had not ruled out future legislation about written allergen information, and the discussion of this paper would inform next steps.

9.3 It had been helpful to see the survey carried out by the Anaphylaxis Campaign in 2021. The FSA had guidelines and standards for third party evidence, and these had been shared with the Owen's Law Campaign should they wish to submit a survey to the FSA, using these guidelines. The full report on the FSA research on consumer information would be published shortly. The Chair said that she was happy to meet with the Carey family, and other stakeholders, to talk further about those findings and how they would inform plans.

9.4 In response to Question 2, Rebecca Sudworth said that the FSA wanted to see more standardisation in precautionary allergen labelling but did not propose legislating at this stage. The FSA would be considering 'free-from' claims as part of ongoing work on precautionary allergen labelling.

9.5 Rebecca then gave a brief introduction to the paper covering the importance of clear, consistent, and accurate written information about allergens for consumers; the challenge of finding solutions; and the options for introducing further legislation.

9.6 Ruth Hussey noted it was helpful to see updates on the progress on the development of a food allergy safety scheme and it was clear that such a scheme was unfortunately not going to be practicable.

9.7 Colm McKenna asked where the responsibility for delivering staff training lay and, if this was with the FSA, whether there was capacity to deliver this training. Ruth Hussey added she was concerned the training package would not be in place until the end of 2025 and encouraged prioritising level one training for people at the frontline at an earlier stage. The training could be assessed as part of the Food Hygiene Rating Scheme (FHRS) assessments.

9.8 Margaret Gilmore noted there was a requirement for written information in Ireland and asked whether there was any reason not to have a similar legal requirement in the UK. Peter Price added he had been impressed on a recent trip to Ireland that information was commonly available on restaurant menus. Margaret asked for further detail on the 2017 Irish survey. Sushma said an audit conducted in 2017 found no significant cultural change had emerged from the measures in place. Some businesses were unable to comply with the requirement for written information for the 14 allergens. It was not specified that information should be on menus, but only that "written information be provided". The audit found that 88% of businesses audited were not complying and of those who did provide written information and were complying (68%), 76% were providing inaccurate information. Correct and accurate information was the most important thing and also

the challenge. The Board requested information on any developments or subsequent research since the 2017 survey.

9.9 Margaret noted the Board Members' visit the previous day hosted by Greggs where management had mentioned they prioritised written information. Verbal communication of allergen information could place the responsibility for communicating vital information onto junior staff. Their processes emphasised a combination of written, supported by verbal information would be optimal, but written was essential. She added she could not agree that actively asking consumers about allergies was best practice as noted in paragraph 4.27 of the paper; written information was best practice, with actively asking consumers about allergens a useful secondary backup. Colm noted that NIFAC had discussed the paper and had expressed a nervousness about the lack of written information.

9.10 Sushma said there were benefits of written information, but it was important for it to be accurate if consumers were to be able to reply upon it. The range of different structures within businesses created a challenge to maintain the accuracy of written information. Ruth added in patient safety systems, having multiple layers of assurance helped to ensure issues were captured. Both written and verbal communication of allergen information had their benefits and drawbacks and reliance on one or the other was not encouraged. This could be supplemented further with online information to create a package that would give the best results.

9.11 Margaret noted the changes that had already taken place because of Natasha's Law and asked whether there was a risk that this paper could be interpreted as favouring businesses at the expense of the consumer. Rebecca said the evaluation of the implementation of Natasha's Law would help understand how effectively additional labelling requirements were implemented. Concerns were raised from businesses at the time around the accuracy of the information provided and the scale of the consequences of making errors.

9.12 Peter said WFAC had noted the use of civil sanctions with enthusiasm as the revenue from the sanctions, could help local authorities to carry out their enforcement. Mark Rolfe urged caution as from experience, local authorities found these to be expensive and complex, and often the revenue did not cover the cost of bringing the sanction. There were fixed notices in the criminal system that were more effective.

9.13 Timothy Riley noted the number of unregistered food businesses appearing post-COVID and encouraged the FSA to be ambitious in upholding the consumer interest so registered businesses could be used to demonstrate the fulfilment of responsibilities on FHS to newly establishing businesses by example. Peter mentioned the need to ensure that measures were not disproportionately difficult for small businesses to comply with and noted the need to ensure that they could be helped in this regard.

9.14 On Precautionary Allergen Labelling (PAL), Margaret said research suggested "may contain" labels were thought of as meaningless and were largely ignored and that work to improve PAL should be speeded up where possible. She added that messages stating 'may contain because of production methods at the factory,' which explained why the label was necessary, could work, and labels saying "not suitable for" could also be effective.

9.15 Fiona Gately highlighted the importance of a successful communications campaign as a cost-effective and valuable means of creating awareness of the risks and how to avoid them until the full infrastructure was in place.

9.16 In summary, the Chair said the paper covered a lot of ground, and the discussion had revealed that the Board felt the future approach was not yet quite right and more work was needed.

9.17 She noted that no concerns had been raised about the work that would not be prioritised: the Board had previously thought that a food allergy safety scheme and a central reporting mechanism had been good ideas to consider but were content that these proposals had not worked out in the way it had been hoped.

9.18 The Board wanted people with food hypersensitivity to feel confident they could get reliable allergen information and make safe choices when eating out and agreed a whole system approach involving both written and verbal communication was the most effective. The Board endorsed the need for training, particularly for small businesses, and asked the Executive to work to a more ambitious timetable, prioritising the level one training.

9.19 Deciding on the best approach for written information required a balanced judgement, recognising the additional burdens on the hospitality sector as well as the benefits for consumers. The Board noted concerns about what could go wrong, even in the best-run kitchens, and the risk of consumers over-relying on written information. The Board acknowledged that it would need to take responsibility for making judgments on the balance of risk and would like to return to this on the basis of more detailed exploration of policy options, allowing time for the Executive to do further work before bringing a paper back to the Board on this specific issue.

9.20 The CE agreed it would be beneficial to focus on the specific issue of written information, and suggested a timeline was prepared setting out a roadmap for future work and when the Board would receive future papers for decision.

Action 3 - Executive to prepare a timeline for when the issues raised in discussion could be presented to the Board for consideration.

10. The Genetic Technology (Precision Breeding) Bill (FSA 22-06-08)

10.1 The Chair welcomed Peter Quigley and Sabrina Roberts to the meeting to give an update on the Genetic Technology (Precision Breeding) Bill, announced in the Queen's Speech on 10 May 2022, and to outline the parliamentary process and timelines involved. Five questions had been received ahead of the meeting relating to this paper and the Chair invited Steven Pollock to read them out:

- 4. Given the ACRE technical guidance on Qualifying Higher Plants (published 11 April 2022), which is expected to set the criteria for precision bred organism confirmation in the Genetic Technology (Precision Breeding) Bill, which is in line with international expert scientific opinion (eg European Food Safety Authority, Health Canada), and which also cites many peer reviewed sources that can be summarised as confirming that PBO genetic changes mimic those that occur in nature and present no additional food safety risks compared to genetic changes generated by traditional breeding;

  Why is the FSA proposing a GM-style regulatory regime for PBOs for food and feed marketing in Section 3 of the Bill?

  Given the definition of PBO, ACRE's advice, peer reviewed studies and international scientific opinions from expert food safety organisations such as EFSA and Health Canada referred to above, how can such a proposal be proportionate?

  Following a detailed scientific review of this issue, Health Canada stated in May 2022:

  "..it is the scientific opinion of Health Canada that gene editing technologies do not present any unique or specifically identifiable food safety concerns as compared to

other technologies of plant development. Therefore, gene-edited plant products should be regulated like all other products of plant breeding."

Can the FSA Board explain the scientific basis for its proposal to regulate PBOs differently from other products of plant breeding in England?

Kindest regards

Samantha Brooke

Chief Executive

The British Society of Plant Breeders Ltd

- 5. There are a number of inconsistencies and lack of clarity in the paper on the Genetic Technology Bill presented to the Board.

  The most worrying being the lack of detail in how the FSA's "Principles for GE regulation" are going to be taken account of in practice in the Bill. Especially given the fact that as currently drafted the Bill does not commit to the nature and extent of the FSA's (Part 3 of Bill uses terms like "may" in relation to the FSA). In particular, and noting the points made by the ACNFP (3.2 in the paper) that possible adverse impact of gene editing is dependent on site and size of off-target effects and the DNA fragments – in other words relating to specific methods – how is the FSA going to address food and safety and environmental concerns and will the systems put in place be the result of open and transparent engagement with citizens and civil society rather than an opaque and narrow engagement with experts and vested interest focussed stakeholders?

  I am not a member of any organisation but am a very concerned citizen.

  With Thanks
  Pat Walters

- 6. The notion, put forward in the Genetic Technology Bill, that so-called 'precision-bred' organisms could have occurred naturally is contested. The current ACRE advice remains the only guidance for identifying such organisms and this suggests that even those created using foreign DNA, which clearly could not have arisen via "natural transformation" and were not commonly consumed before May 1997, could, in some circumstances, be exempted from assessment and labelling under the new legislation. I note that the Board largely supports the Advisory Committee on Novel Foods and Processes' (ACNFP) view on the safety 'precision bred' organisms in food and feed. Can the Board clarify whether this indicates the FSA's intention to revise its novel foods classification to exclude precision-bred foods and ingredients and, if so, provide a justification for this?

  Regards
  Pat Thomas
  Director
  Beyond GM/A Bigger Conversation

- 7. As the largest certifier of organic land in the UK Organic Farmers & Growers CIC is deeply concerned that the Genetic Technology Bill does not provide sufficient regulatory oversight to maintain food supply chain integrity.

  Our questions relate to the market for food and for food producers. We represent farmers and food businesses who have been working within a very clear and very successful regulatory framework for decades.
  Their livelihoods, the food that they produce and the framework they depend upon are all intrinsically linked and are all fundamental to the support of healthy food and healthy ecosystems across this United Kingdom.

1. Does the Board believe that labelling rules are or will be sufficiently strong for precision bred or genome edited (GE) produce?
2. In a market where food labelling is key to public health and public understanding how will the FSA deliver on the remit to maintain customer choice?
3. What measures will the FSA be taking to deliver thorough regulation and transparency should GE foods be placed on the UK market?

The Welsh Government have stated that genetic technologies will not be allowed into Welsh food production. Recently the Scottish Government have been very clear in their rejection of the Bill and of proposals to deregulate genetic engineering technologies.

Will the FSA and FSA Scotland be promoting GE labelling in order to deliver on their remit to maintain choice and trust

I hope these questions are all clear and comprehensible

Do please contact us should you need any further clarification. If at all possible we would very much like to have a copy of FSA board responses to our questions.

Regards

Steven Jacobs

Business Development Manager

OF&G

- 8. The FSA's principles for the regulation of gene edited GMOs include at point 2 "Transparency – the regulatory framework must be clearly communicated and accessible to consumers and other stakeholders, with stakeholder participation in the development and operation of the framework, maximising open access to information" As it stands the Genetic Technology Bill has no provisions to effectively implement this principle. Does the FSA intend to stick by that principle and if so, what changes is it seeking in the Bill?

  Thanks

  Liz O'Neill

  Director

10.2 The Chair thanked Steven and asked the CSA to address some of the scientific issues that were raised in the questions. The CSA said the difference between Gene Editing (GE) and Genetic Modification (GM) was the precision involved and the scale of the possible changes. He gave an analogy of changing the plot of a book saying that GM allowed you to pull out a chapter and replace it while GE allowed single words or letters to be edited to achieve a much more precise change. The Advisory Committee on Novel Foods and Processes (ACNFP) had responded formally to the consultation on the Bill and their response was on the FSA website. The ACNFP response highlighted that the key consideration for the FSA was not the technology used, but the nature of the final product ; that the main difference with traditional breeding was speed which limited the scope to consider each step in multiple generations from a safety perspective; and noted that consumers were cautiously interested in the potential benefits of precision breeding but were in favour of regulation to maintain their trust in food.

10.3 Rebecca Sudworth noted the questions covered a range of different points such as proportionality, transparency, labelling, consumer choice and citizen engagement. The FSA aimed to design a regulatory framework for food and feed produced by precision breeding that was proportionate, and where specific circumstances were considered. Once precision breeding products were removed from the GMO regulations they would fall into the novel foods' regimen, which the Board had previously considered would not be proportionate. The Bill included powers in line with the principles previously agreed by the Board, which enabled the FSA to check that products were safe, allowed products to be traced through the food chain, and ensured consumers got the information they needed. There was no proposal for mandatory labelling for GE products, because there would be no safety justification for doing so assuming products had passed though a safety assessment of the risk as part of the new regime. Further consumer engagement would take place in the coming months to inform the approach and further detail about plans for the design of the regimen would be published.

10.4 Peter Quigley gave an overview of the paper covering the second reading of the Bill; the aim to exclude certain products from GMO legislation; and the jurisdiction of the Bill solely within England and the interaction with the UK Internal Markets Act.

10.5 Colm McKenna noted NIFAC had discussed the paper at their recent meeting and noted the risk of divergence where Northern Ireland remains under EU regulations. He asked what consumer engagement was taking place. Sabrina said research carried out last year showed that consumer awareness of GE was low and acknowledged it was the FSA's responsibility to ensure that it was engaging with consumers on the issue. The FSA would be engaging with consumers in several ways to ensure they understood the technology and what it was used for.

10.6 Peter Price said WFAC had also considered the paper and would be holding a deep dive meeting on the issue in July. He explained the Welsh Government had no fixed position on GE foods yet and there was a risk of regulatory divergence.

10.7 Timothy Riley asked whether the approach set out in the paper was consistent with the FSA's position that 'food is what it says it is'. Ruth Hussey asked whether laboratories had the technology and capacity to give assurances on this. The CSA said because GE involved small-scale edits, they would not necessarily be detectable, but some in industry would likely want to make their edits detectable to protect their intellectual property, which could be done with the use of specific genetic markers. In terms of lab capacity, this was feasible as genome sequencing was common practice and, along with supply chain validation, surveillance would be possible.

10.8 Ruth asked what measures should be considered for ongoing surveillance of products once they were on the market. Peter Quigley said the FSA had sought the creation of powers to create a proportionate authorisation process and the specifics would be dealt with through secondary legislation to ensure there was a rigorous, proportionate, approach in place, including

consideration of things like post-market surveillance, where that was required.

10.9 The Chair said the new regulatory regime would be important to maintain high standards for food safety and authenticity, and that proportionality, would be key to this. The Board had agreed principles at the previous Board meeting but wanted to be sighted on thinking within the Executive about the details of the new framework. Another paper should therefore be brought to the next Board meeting including significant consumer insight from engagement work and progress on the framework, future-proofed to cover animal, as well as plant genome edits.

Action 4 - Executive to bring paper to the September Board meeting outlining progress on the framework and outputs from consumer engagement.

11. Household Food Insecurity (FSA 22-06-09)

11.1 The Chair welcomed Sam Faulkner and Michelle Patel to the meeting to discuss a paper summarising the evidence about levels of household food insecurity, the impact on consumers and the food system, and drawing out the consequences for the FSA. She stressed the root of this problem was poverty, which was not within the FSA remit to solve, but the paper did set out some possible measures where the FSA might help to mitigate some of the impact on consumers.

11.2 The Chair noted some Board Members had visited FareShare the previous day and noted the scale of the logistics involved in carrying out that work, which sought to prevent food waste and food insecurity. She noted the FSA's work with WRAP, who estimated there were 200,000 tons or 500 million meals, potentially going to waste. It was important to ensure the FSA did not do anything to exacerbate this, and that the regulatory burden was not prohibitive on these organisations taking action to redistribute food that was safe to eat. The Chair invited Katie Pettifer to introduce the paper.

11.3 Katie highlighted the pace at which the issue had been developing; and the context created by the issue for other work within the FSA. She then asked Sam to give an overview of the issues covered in the paper. Sam outlined the FSA's commitment to food-safety; the ways in which people access food when affordability becomes an issue for them; research done to generate evidence; cost-of-living pressures; and the asks of the Board.

11.4 The Chair said the proposed activities outlined in Annex A were supported and should be taken forward.

11.5 Ruth Hussey said the data presented in the paper was concerning and the impact on vulnerable people was worrying. She noted the importance of prioritising work that could only be done by the FSA and sharing information generated across the food system. The suggestions for measures included in the table in the paper seemed reasonable and shedding light on the lived experience was a good way of helping policymakers to understand the combined consequences of food insecurity.

11.6 Mark Rolfe asked about the costs of deprioritising other work to implement measures mentioned in the paper. Katie said the planned activity was achievable within the current resources. Michelle added some partner organisations had made it clear that, when considering areas to deprioritise, care should be taken that work that addressed wider concerns around sustainability, the impact to climate change, and long-term nutritional risks, should not subsumed into the cost-of-living crisis.

11.7 Margaret Gilmore said it was important to understand the trade-offs that consumers make when they cannot afford food. She asked whether it was possible to identify specific risk points for intervention. Fiona said it would be useful to explore information around pockets of risk.

11.8 Board Members discussed whether cheap food was poor quality and whether food insecurity could result in lower food standards. Board Members had heard at FareShare that 50% of food they received was because the best before date had been exceeded. Rebecca Sudworth said best before dates related to quality, which was important for consumers to know if a product would be of the expected quality. It was understandable that a food waste charity received products beyond the best before dates, which retailers may not want, and also correct that people using that charity should have access to the same quality food as others. The FSA could help by clarifying what the best before date meant and ensuring guidance was clear.

11.9 The Chair said the Board broadly agreed the approach noting that food sold more cheaply should not be of a lower quality than would be expected and consumer confusion about best before dates exacerbated this issue. This could be a more general issue about understanding that needed to be addressed, especially as those consumers who were more comfortable with exceeding best before dates, were often also more casual about use by dates. Conversations would be required with businesses about what dates they were putting on their products and why.

Action 5 - Executive to re-engage with businesses around Best Before dates on food and how these were used.

12. The FSA's International Objectives and Priorities (FSA 22-06-10)

12.1 The Chair invited Anjali Juneja and Laura Phelps to present a paper setting out the FSA's international objectives and priorities for the next 12-18 months emphasising the need to focus on the priorities identified to help inform whether those priorities were correct.

12.2 Anjali gave a brief introduction noting the three objectives: consumer protection; knowledge sharing; and being an effective regulator. The objectives would form the framework for the focus for the next 12 to 18 months.

12.3 The Chair said it would be important to identify what was sought through international engagement and suggested novel foods as an example where it was important to understand the international regulatory environment and how it would impact on business behaviour.

12.4 Timothy Riley said the UK had been a leader internationally, particularly around Codex, and this could be used in the continuing approach to regulation. This could produce opportunities to export our approaches in the context of innovation, efficiency, and generating revenue. Colm McKenna added the UK had been a large contributor to the EFSA and there was an opportunity now to build a global network, help others learn, and create relationships. There was a strong Northern Ireland office in Brussels with a recently appointed Director which could also open doors.

12.5 The Chair said the highest priority issues should be those where the FSA had a unique responsibility such as regulated products and work with Codex. Other areas such as eco labelling were also important but were not the FSA's unique responsibility. Food standards were an important area for international work and one where the FSA could add value to the work of other departments.

13. Report from the Director of the FSA in Northern Ireland (FSA 22-06-11)

13.1 The Chair invited Maria Jennings to present a paper outlining some areas of focus for the Food Standards Agency in Northern Ireland since the last report to the Board from the NI Director

in September 2021.

13.2 Maria Jennings highlighted work on the four-country framework; national reference laboratories; successful funding bids; engagement across government; current priorities; and the Northern Ireland Food Strategy.

13.3 On cross-government working, Maria noted it primarily referred to work with the Department of Health and DAERA but also the establishment of a food base within the Department for the Economy, illustrating that the FSA's collaborative approach extended across the Northern Ireland Executive.

13.4 Colm McKenna said NIFAC had had no comment on the paper only that Maria and the FSA team in Northern Ireland continued to deliver excellent work.

13.5 The Chair highlighted the significance of the FSA's role in relation to dietary health in Northern Ireland which may provide important insights for the rest of FSA considering the inclusion of healthier diets in the FSA's new strategy.

13.6 The CE highlighted the symbiotic nature of the relationship between the FSA's central teams and the office in Belfast, noting that the NI team drew greatly on the expertise within GB-based teams and in return were able to offer perspectives on issues where they were uniquely placed through their experience and areas of expertise.

14. Final Report from the External Effectiveness Review of the FSA Board (FSA 22-06-12)

14.1 The Chair welcomed Jo Clift to the meeting to present an independent evaluation of the way the FSA Board and its Committees conducted their business.

14.2 Jo introduced her report, providing context for the findings; the importance of clear metrics with which to measure success; conversations with Board Members and Executive; the Board's focus on risk; and engagement between the Board and the Executive.

14.3 Margaret Gilmore noted the areas where the review had made recommendations and welcomed the review's encouragement of a strong culture of respect between the Board and Executive.

14.4 Ruth Hussey welcomed the external perspective and noted how the Board had adapted to working through the pandemic and the new roles taken on since EU Exit. Ruth approved the recommendations, noting that, with the resumption of face-to-face Board meetings the relationship between Board Members and the Executive had improved since the information was gathered for the review. Jo agreed but cautioned that the challenge of new people coming on to the Board should not be underestimated.

14.5 Colm McKenna said he agreed with the review's comments on risk and highlighted the advisory nature of ARAC's role. The Board held responsibility for risk and could consider its risk appetite more frequently than at its annual risk workshop. Jo agreed and said broadly the FSA's approach to risk was right.

14.6 Peter Price noted a comment on the review that WFAC took a cautious approach out of concern of 'treading on toes'. This comment was met with surprise when WFAC considered the paper and did not match with his experience of the Committee who felt confident in expressing their views

14.7 The Chair said the Board welcomed the review and proposed that Mark Rolfe and Fiona Gately establish a group with the Chair, Kate Pettifer as the Director of Governance, and the Board Secretariat to work through the recommendations and establish a response.

Action 6 - Working Group to meet to consider and respond to the Effectiveness Review Recommendations

15. Report from Meeting of Audit and Risk Assurance Committee (ARAC) (INFO 22-06-01)

15.1 The Chair invited Colm McKenna to present his report giving a summary of discussions at the ARAC meeting that took place on 17 May 2022. She noted this would be Colm's final report to the Board and paid tribute to his chairmanship of ARAC. She announced that Timothy Riley had agreed to take on the ARAC chairmanship following the end of Colm's term of appointment at the end of August.

15.2 Colm noted ARAC would normally bring the recommendation that the Accounting Officer sign the annual accounts to the June meeting, but this was not currently possible due to the NAO audit timetable. It would now be October before ARAC would be able to advise the CE to sign the accounts, but the accounts would be considered in detail at the June ARAC meeting. He gave an overview of the report noting the risk management update as well as changes in circumstances for the FSA over the period of his ARAC chairmanship and the impacts they had had on levels of risk.

15.3 Margaret Gilmore also paid tribute to Colm's chairmanship of ARAC and noted the increase in the levels of risk post-EU Exit, along with the FSA's increased responsibilities, would be important points to make in discussions about headcount.

16. Reports from the Chairs of the Food Advisory Committees (Oral Reports)

16.1 The Chair asked Colm McKenna to update on the work of NIFAC since the last Board meeting. Colm said NIFAC had had several discussions, most recently on 13 June to discuss the Board papers. NIFAC's June meeting was planned for the day after the publication of the Annual Report on Food Standards and would focus on issues relating to the Northern Ireland Protocol. He noted that following successful rounds of recruitment, NIFAC membership would be stable for his successor as NIFAC Chair.

16.2 Maria Jennings said she would like to pay tribute to Colm's chairmanship of NIFAC noting the strength of the relationship he had established with the FSA team in NI team and his breadth of understanding of the Northern Ireland administration.

16.3 Peter Price also paid tribute to Colm's chairmanship of NIFAC. Peter gave an update on issues covered at previous WFAC meetings including deep dives on food insecurity and precision breeding. The food insecurity deep-dive was followed up by a roundtable convened by the Welsh Minister for Social Justice. He noted the forthcoming participation with the FSA's stall at the Royal Welsh Show and then at the national Eisteddfod in August. The FSA Chair would soon be visiting the Senedd giving an opportunity for Members of the Senedd to engage with the FSA.

17. Any Other Business

17.1 No other business was raised, and the Board meeting was closed. The next FSA Board meeting would take place on 14 September 2022 in Belfast.