

# FSA Board Meeting - December 2023: Agenda and Papers

Agenda and papers for the FSA Board meeting on 13 December 2023. Future Inn Bristol at Cabot Circus, Bond Street South, Bristol BS1 3EN

The agenda for this meeting includes:

- Annual Local Authority Performance Review
- Achieving Business Compliance Programme
- Border Target Operating Model
- Risk Analysis Process and Regulated Products Service Update
- Food Hypersensitivity: Update on Progress and Options for Improving the Provision of Allergy Information
- Annual FSA Science Update
- Annual Communications Report
- Annual National Food Crime Unit (NFCU) Update
- Annual Governance Report
- Report from the Chair of the Northern Ireland Food Advisory Committee

## 9:00 - Chair's Introduction

Professor Susan Jebb presents the minutes and actions from the previous FSA Board meeting in September 2023 and presents the Chair's report.

[FSA 23-12-01 - Minutes of the FSA Board Meeting on 20 September 2023](#)

[FSA 23-12-02 - Actions Arising - December 2023](#)

## 9:20 - Chief Executive's Report to the Board (FSA 23-09-03)

Emily Miles presents the Chief Executive's report to the FSA Board.

[FSA 23-12-03 - Chief Executive's Report to the Board](#)

## 9:50 - Annual Local Authority Performance Review (FSA 23-12-04)

Katie Pettifer and Rebecca Kirk present a paper giving an update on local authority performance in enforcing food law over the past year. It also explains how the FSA is performance managing local authorities and highlights some of the issues that have been identified and addressed.

[FSA 23-12-04 - Annual Local Authority Performance Review](#)

## **10:10 - Achieving Business Compliance Programme (FSA 23-12-05)**

Katie Pettifer and Carmel Lynskey introduce a paper, which provides a comprehensive update on the Achieving Business Compliance Programme

[FSA 23-12-05 - Achieving Business Compliance Programme](#)

## **10:40 - Border Target Operating Model (FSA 23-12-06)**

Anjali Juneja and Jane Clark introduce a paper, which provides an update on the commitments and key milestones in the Target Operating Model (TOM) publication and summarises the risk analysis and policy work that FSA has been involved in.

[FSA 23-12-06 - Border Target Operating Model](#)

## **11:00 - Break**

## **11:20 - Risk Analysis Process and Regulated Products Service Update (FSA 23-12-07)**

Rebecca Sudworth, Lexi Rees and Chris Rundle introduce a paper on the performance of the FSA's Risk Analysis process and the Regulated Products Service (RPS). It provides an update on the progress made on continuous improvements to the current system and a forward look on plans for future regulatory reform, including 'quick wins' that could be implemented to deliver benefits more quickly.

[FSA 23-12-07 - Risk Analysis and Regulated Products Service: Regular update to FSA Board](#)

## **11:50 - Food Hypersensitivity: Update on Progress and Options for Improving the Provision of Allergy Information (FSA 23-12-08)**

Rebecca Sudworth and James Cooper, introduce a paper providing an update to the FSA Board on progress against the plans for the Food Hypersensitivity (FHS) work set out at September 2022.

\*Please note that this paper was originally published on 30 November and was updated on 4 December following an amendment to paragraph 2.3.

[FSA 23-12-08 - Food Hypersensitivity: Update on Progress and Options for Improving the Provision of Allergy Information](#)

## **12:20 - Annual FSA Science Update (FSA 23-12-09)**

Julie Pierce and Rick Mumford present an annual update on the FSA's science.

[FSA 23-12-09 - Annual FSA Science Update](#)

## **12:40 - Annual Communications Report (FSA 23-12-10)**

Claire Forbes presents a paper which provides the annual update on communications and engagement.

[FSA 23-12-10 - Annual Communications Report](#)

**13:00 - Break**

## **13:45 - Annual National Food Crime Unit (NFCU) Update (FSA 23-12-11)**

Junior Johnson and Andrew Quinn present a paper covering NFCU Operational Delivery in 2023 and Progress Against the External Review Recommendations.

[FSA 23-12-11 - Annual National Food Crime Unit \(NFCU\) Update](#)

## **14:15 - Annual Governance Report (FSA 23-12-12)**

FSA Chair Susan Jebb introduces this annual report covering the Terms of Reference for the FSA's Business Committee and Audit and Risk Assurance Committee (ARAC), and the Code of Conduct for Board Members.

[FSA 23-12-12 - Annual Governance Report](#)

## **14:35 - Report from the Chair of the Northern Ireland Food Advisory Committee (FSA 23-12-13)**

Anthony Harbinson, FSA Board Member for Northern Ireland and Chair of the Northern Ireland Food Advisory Committee (NIFAC) introduces an update on the activity of the Committee from the period December 2022 to November 2023.

[FSA 23-12-13 - Report from the Chair of the Northern Ireland Food Advisory Committee](#)

## **14:50 - Report from the Chair of the Business Committee (INFO 23-12-01)**

The Chair of the Business Committee, Mark Rolfe, presents a report from the Business Committee meeting that took place on 4 December 2023. This paper will be added on 11 December 2023.

[FSA 23-12-01 - Report from the Chair of the Business Committee](#)

## **15:05 - Report from the Chair of the Audit and Risk Assurance Committee (ARAC) (INFO 23-12-02)**

The Chair of ARAC, Timothy Riley, presents a report from the Business Committee meeting that took place on 28 November 2023.

[INFO 23-12-02 - Report from the Chair of the Audit and Risk Assurance Committee \(ARAC\)](#)

## **15:15 - Reports from the Chairs of the Food Advisory Committees (Oral Reports)**

The Chairs of the Northern Ireland Food Advisory Committee (NIFAC), Anthony Harbinson, and the Wales Food Advisory Committee (WFAC), Rhian Hayward, deliver oral updates from the recent meetings of the two Committees.

## **15:20 - Any Other Business**

## **15:25 - Question and Answer Session**

## **15:35 - End of meeting**

## **Questions to the Board**

We are keen to ensure, as far as is practical, that questions are addressed in the discussion at the Board meeting. Notwithstanding discussions on the day, all questions will receive a written reply within 20 working days of the meeting.

Please note questions are not listed below in the order in which they were received.

They are grouped according to the Board paper with which they are concerned and in the order of the papers as they appear on the Board agenda.

### **Questions on the Local Authority Performance paper**

#### **Question 17 - We have received this question via correspondence from Ceri Edwards, Chair of Environmental Health Wales**

In my capacity as Chair of Environmental Health Wales (EHW), I write to inform you that I have been contacted by several colleagues across Wales (some who deliver food hygiene and food standards official controls concurrently, and some from both environmental health and trading standards disciplines that deliver them independently), regarding two matters of concern, detailed below:

##### **1. Temperature Check Surveys**

You will be aware, in October 2023 local authorities (LAs) submitted mid-year temperature check survey returns to the FSA. The survey prompted much discussion amongst professional officers as it was felt that it was not suitable for monitoring LA performance and progress against on-going recovery plans, and there was a risk that the data collected would be of limited value. It was felt that co-production of the survey with LA officers (via the Food Safety Expert Panel that has a detailed understanding of LA food delivery and reporting) would be of benefit and would generate better quality data and intelligence.

As a key stakeholder, Environmental Health Wales offered FSA colleagues assistance in developing the survey. The offer was accepted by FSA colleagues, but not subsequently taken up. Historically, and up to 2019/20 LAs provided end of year monitoring data to the FSA in an annual return (the Local Authority Enforcement Monitoring System - LAEMS return). This data was published and accessible to all via the FSAs website. It enabled detailed analysis of LA performance, resources and enforcement activity at an individual LA level, for comparisons to be made and trends to be identified. LAEMS data was also classed as 'official statistics'.

The discontinuation of LAEMS (without a detailed impact analysis or firm plans for a replacement) has resulted in an increased need for manual data extraction, which has significantly increased the burden on stretched LA frontline resources (LAEMS data was largely generated automatically by LA management system software which had been specifically configured).

The current survey is in addition to the bi-annual National Food Hygiene Rating Scheme data returns, and the submission of details of each individual appeal received by LAs across Wales to the FSA, plus additional ad hoc requests from the FSA which place additional demands on LAs at a time when resources are stretched. The work involved in manually extracting much of the data requested by the FSA is significant. While LAEMS was not perfect, it produced meaningful, transparent, accessible data and we maintain that it should continue to be used until the FSAs new Management Information System (MIS) work is clarified, consulted and finalised.

If the FSA is relying on the data from the survey to provide assurances on LA delivery of food official controls, we maintain that the current questions and data set is not fit for purpose. EHW therefore urges FSA Wales to work with our Expert Panel to produce an amended survey ahead of year end in order to:

- Ensure that the survey provides suitable questions and is capable of generating sufficient data to provide the necessary assurances around LA delivery of official controls
- Is not overly burdensome on LAs and we would encourage the FSA to engage with LAs to provide intelligence in a modern efficient manner
- Develop a return, in advance of setting next year's programme, to ensure that relevant data is captured to accurately respond to survey questions

It has been noted that different questions have been asked during each temperature check survey since the discontinuation of LAEMS, therefore there is no consistency or continuity to allow trends to be identified.

LAs plan their annual intervention programmes on 1 April each year and all businesses due an intervention during the year are tagged at that time which makes six monthly reporting difficult. Unfortunately, advance notice of the requirement for six monthly reporting was not provided by the FSA prior to LAs setting their annual intervention programmes.

The process for delivering and administering the survey is problematic. Links are automatically sent from accounts that are at high risk of being automatically sent into SPAM, letters from the FSA do not consistently contain the actual link to the survey, and "request a link" hyperlinks have been used which did not provide the link to the survey. The survey link was sent to "the person(s) who completed the last survey" which is not appropriate as that person may no longer be in post.

Examples include:

Q9. How many food hygiene interventions were due at each risk category during the last six months (including all overdue from previous reporting periods)?

Q10. In relation to the above numbers, how many of the due food hygiene interventions in each category were carried out during the last six months?\*

There are no questions to capture other relevant information, such as how many businesses have closed, ceased trading, seasonal closures, received follow up visits, requested re-rating inspections etc. There is no question to enable the percentage of due interventions achieved to be reported which is a significant omission.

Included below are real examples from LAs to illustrate the implications:

There were 75 C rated premises due for inspection between 01.04.23 – 30.09.23 of which 54 were inspected. The data would indicate that 21 had not been inspected. However, other than one premises that was closed due to seasonal trading (therefore no access), no other C rated inspections were actually outstanding. This is because the remaining premises had closed prior to inspection. If the collected data is taken at face value, it would indicate the achievement/performance would be  $54/75 = 72\%$ , however the reality is  $74/75 = 98\%$  (no access to one seasonal business).

Many premises cease trading but there was nowhere on the survey form to capture this data and nowhere to report outstanding interventions.

**Q9.7 How many food hygiene interventions were due outside the programme?**

LAs cannot plan how many 'outside the programme' premises are due to be inspected at the beginning of the year as they do not have insight into how many additional businesses will require intervention e.g. at one off events during the year.

It should also be noted that the calculation of estimated and actual FTEs is problematic, especially in LAs where hygiene and standards are delivered jointly.

The FSA is aware of ongoing Public Protection workforce recruitment pressures which are being addressed via an All Wales Public Protection Workforce Strategy and Action Plan. It is simply not an issue of finance and posts being available; some LAs have budget but are struggling to recruit against a paucity of suitably qualified, competent officers and trainees which is a national problem.

## **2. Audit Strategy**

Since April 2023, several requests have been made to the FSA to obtain details of their LA Audit Strategy, including requests made during recent SSAFW meetings.

Despite these requests, the strategy has not been shared with LAs. It should be noted that the FSAs Audit Manual, which is signposted on the FSA website, outlines the principles of the audit system and includes a commitment to disseminate audit prioritisations to stakeholders on an annual basis. In the interest of transparency, LAs would appreciate sight of the strategy without further delay.

The aim of FSA audits is to monitor LA performance and we would expect the temperature check survey data to influence the audit strategy and selection of LAs for audit. We are keen to better understand the process for selecting LAs for audit in Wales. Critically, by working together, we could gauge a better understanding as to the risk factors in Wales around food official control delivery, and support the FSA in delivering a risk-based approach to LA auditing.

LA colleagues across Wales are questioning the value of following up on outstanding FSA audit action plans, many of which are more than five years old, when there have been multiple changes to the Food Law Code of Practice and a major redeployment of staff to respond to the pandemic in the intervening years. The resources required to respond to these legacy items is disproportionate to any benefit.

EHW looks forward to hearing from you, and as always is happy to engage with the FSA to co-produce workstreams.

It is a concern that data from the Temperature Checks have been used to inform the FSA Board Paper on which conclusions are drawn about LA performance without scrutiny of the data or supporting context.

I welcome the opportunity for a meeting with you to discuss our concerns regarding the Board Paper relating to LA performance.

### **Question 17: Answer**

In your question to the Board, you raise some specific points about how data is collected, and about the audits carried out by the FSA.

I have asked FSA officials for advice on these issues and have addressed them in detail below. However, before I address the specific questions, I think it might be helpful to say something about our overall approach.

The FSA's statutory objectives are to protect public health, and otherwise protect the interests of consumers in relation to food. The official controls delivered by local authorities (and by the FSA itself in some parts of the food sector) play a critical role in delivering these objectives. Local authorities are vitally important partners in our shared work to make sure that food is safe, and is what it says it is. Our performance monitoring function enables us to identify areas in which local authorities are struggling to deliver these controls fully and to support local authority food teams in addressing problems. At a time when many local authorities are facing financial challenges, I believe the FSA can help to raise the importance of food safety and standards work amongst local authority leaders and those allocating resources, and to make sure food teams are enabled to make the best use of the resources they have.

The Board Member for Wales, the Chief Executive and I recently met with the Chief Executive of the Welsh Local Government Association and discussed the work being done by local authorities in Wales and the FSA. We talked about the public protection workforce pressures which, as you rightly say, are not solely financial but also about challenges in recruiting and retaining qualified staff. These pressures are complex and something that neither local authorities nor the FSA can fix in isolation. The FSA is collaborating with other government departments and relevant professional bodies, including the Directors of Public Protection Wales, to discuss the findings of our research and work collectively to shape and influence potential solutions.

I hope you will now have had the opportunity to watch the Board discussion about the paper, in which your question was acknowledged. I hope the Board discussion demonstrated that both FSA officials and FSA Board members appreciate the complexity of the local authority delivery picture and the challenges local authorities are facing. You'll have seen the FSA officials who presented the paper set out the limitations to the quantitative data that we have, and describe some of the feedback we had from local authority staff about their experiences on the ground. You will also have seen them acknowledge that we need more robust data, and mechanisms for collecting it that minimise the administrative burden on local authorities. We have a project underway within our Achieving Business Compliance Programme which is seeking to develop a new approach (described in section 5 of the ABC Board Paper.)

The specific points you raise about the temperature check surveys and FSA audits are addressed below.

#### **1. Performance Monitoring and Temperature Check Surveys**

Until the COVID-19 pandemic the FSA collected annual performance data from local authorities via the local authority enforcement monitoring system (LAEMS). During the pandemic, the FSA provided advice and guidance to local authorities to allow divergence from the Food Law Codes of Practice (the Codes) in support of the prioritised response to the emergency. Post-pandemic, the FSA updated its advice and guidance to support the recovery of official food controls in line with the Codes. During these periods it was necessary to collect monitoring data more frequently to provide timely support to local authorities where we identified that they may struggle to meet

the milestones in the advice and guidance and to enable the FSA to provide assurance to the FSA Board and Ministers in England, Wales and Northern Ireland that official food controls were being undertaken in a risk-based manner in line with the advice and guidance.

As an interim measure to cover the pandemic and recovery periods, the FSA designed and agreed a less onerous system of temperature check surveys with local authorities, and consequently the annual data reporting requirement of LAEMS was discontinued. The temperature check survey questions, along with the free text options, enable officials to review the information provided and have further conversations with individual local authorities where concerns are flagged. Together this provides assurance to the Board on local authority performance. Prior to the most recent survey to collect the data to inform the December 2023 annual performance report to the Board, the FSA worked with local authority representatives across England, Wales and Northern Ireland to obtain their feedback on the questions and understand the challenges that may be faced in obtaining the data. In relation to Wales, this was via the two expert panels: the Environmental Health Wales Food Safety Expert Panel and The Trading Standards Wales Food Standards Information and Labelling Group. Feedback from this, along with that from local authorities in England and Northern Ireland, resulted in amendments to the return frequency (from quarterly to every six months) and to the wording of the questions.

In your correspondence you raise specific problems with delivering and administering the process, such as named officers receiving the survey and no questions to capture other relevant information. These delivery problems, including named officers receiving the survey, are addressed in guidance issued through the smarter communications platform. This guidance also clarifies that each survey includes an “additional information” free text field that enables local authorities to provide additional context which the FSA uses when reviewing the survey information.

A new data reporting approach, which has been discussed at recent Board meetings, will replace the interim temperature check surveys. These Board discussions have covered the rationale for not returning to LAEMS at the end of March 2023. We require a new mechanism for collecting local authority data to enable more effective and timely performance and reporting data on the delivery of official controls than the LAEMS that was used to gather data prior to the pandemic. We need to replace LAEMS because it is a legacy system that does not lend itself to re-configuration to allow reporting of outcome-based performance KPIs, which we are planning to introduce. A working group with representatives from local authorities across England, Wales and Northern Ireland is feeding into the development of the new approach. Until LAEMS is replaced, the FSA will continue to issue the six-monthly returns to gather the information needed for performance monitoring and it is the intention that the questions will remain static so that comparisons can be made.

## **2. Audit Strategy**

The FSA has a statutory function to undertake audits of local authorities across England, Wales and Northern Ireland. Audit is undertaken by teams based in each country, following consistent principles, and assesses the extent to which local authority planned arrangements are suitable to achieve the objectives of relevant legal requirements and guidance.

The value of the independent audit of official food and feed controls is recognised by the Welsh Ministers, and the assurance it provides demonstrates that the extent to which the regulatory system in Wales is robust. The Welsh Government funds the FSA regulatory audit team in Wales to ensure an adequate coverage of all relevant official controls are audited at an appropriate risk-based frequency.

The FSA provides information on the approach to audit, which is available to all local authorities in the Audit Manual, which is published on the FSA website. The Audit Manual is being reviewed across England, Wales and Northern Ireland and will include a section on planning and the local



authority selection process. When the review has been completed, later this year, local authorities will be notified and the updated audit manual will be published.

Specifically in relation to the 2023/24 audit programme for local authorities in Wales, the FSA has engaged with representatives of Public Protection Wales, and feedback has been used to improve the audit process, inform the approach and ensure audits provide assurance as well as maximum value to local authorities and the FSA. At these discussions it has been explained that the audit programmes are determined following a detailed risk assessment which considers intelligence, areas of risk and uncertainty, and cover a range of local authorities to provide an assessment across the official control regime. Feedback from the local authorities who have been selected for audit to date has been positive.

The review of open audit actions is important to assess local authority progress against relevant outstanding recommendations from previous audits. This has been discussed with Public Protection Wales representatives, who acknowledged that full audits had not been closed off and local authorities had open audit actions outstanding. The requirements detailed in the open action plan remain current within the Code and Practice Guidance despite the revisions of these documents. Until evidence of compliance with these requirements is established, it is important that these open recommendations are reviewed to ensure they have been completed.

## **Questions on the Achieving Business Compliance Programme paper**

### **Question 1 - from Dr Mark Tallon, Managing Partner, Legal Products Group Ltd**

Over the past year we have complained to TSOs about the continued use of health claims that are also trademarks/brand names yet not in compliance with the law (e.g. those implying a rate of weight loss). [This is despite publication on the DHSC own site such claims should be prohibited.](#)

It should be noted it is almost 2 years since such health claims became illegal (1st Jan 2022). Companies and enforcement agencies have known this deadline was approaching for some 17 years as have failed to ensure a level playing field. Food businesses have no redress for financial damage caused by trading standards not enforcing health claims regulation in a manner that results in a level playing field.

There are 2 options here:

1. Enforcement has not occurred because the enforcement authority is captured by being dependent on the income from its primary authority relationship from big brands.
2. They don't believe such claims are none complaint despite not stating such.

The only option for business to ensure enforcement officers act (Article 137 of the official control regulation) is to seek internal review and then via local government ombudsman.

Q. Why are there no provision in law to take to court authorities that do not implement the law and seek redress for damage to a complaint businesses?

Q. What time frame should business have to ensure compliance with the health claims?

In the case above we still see new products launched with the same brand name well after a year suggesting the enforcement authorities to continue to fail in their statutory duties.

\*Please note every day we see TSOs target micro and small companies over health claims and novel foods yet larger companies with resources to engage solicitors are simply ignored or implement what they say is a pragmatic approach to enforcement (E.G. they will not enforce). We

invite the FSA chair to spend some time with the companies MD to see how the FSA are failing to ensure enforcement authorities act in a fair and consistent manner irrespective of size.

### **Question 1: Answer**

In drafting this response, FSA officials have liaised with colleagues in the Department of Health & Social Care (DHSC) as the policy lead in England for Nutrition and Health Claims.

[Article 28 of retained EU Legislation 1924/2006](#) (relating to nutrition and health claims made on food) covers the transitional period for the use of Trade Marks and Brand Names, which gave industry 16+ years notice of the change.

The transition period ended on 19 January 2022. DHSC produced a bulletin to remind industry of the end date. Food business operators using a trademark or brand name that is also a nutrition or health claim had to ensure that, from 19 January 2022, it is accompanied by a related claim that complies with the requirements of the Regulation.

DHSC have recently carried out a consultation, which closed on the 31 October 2023. Part of this consultation set out a proposal to reform nutrition and health claims enforcement in England by introducing an improvement notices regime and link to [Nutrition and health claims on food: proposed legislative reforms - GOV.UK](#)

Local authorities (LAs) are responsible for enforcing food law in the vast majority of food businesses, including those in the retail and catering sector. As central competent authority, the FSA monitors the delivery of official controls by LAs.

The FSA produces the statutory Food Law Code of Practice (FLCoP) and associated Practice Guidance establishing a set of expectations for the activities LAs are responsible for under food law and how these are to be delivered. This is supported by a range of training, advice and guidance to help food officers discharge their functions.

The FLCoP encourages LAs to adopt a risk-based approach to targeting premises and carrying out interventions, and to ensure any enforcement action is reasonable, proportionate, risk-based and consistent with good practice.

Where non-compliance is identified, decisions on appropriate enforcement action remain at the discretion of the LA, and LAs are expected to take a proportionate and risk-based approach when dealing with contraventions in line with the FLCoP. Cases may be escalated in line with individual LA enforcement policies and procedures.

If you wish to complain about a local authority (for example where they have failed to provide a service or not followed correct procedures), a complaint can be raised through the following link - [Complain about your council - GOV.UK](#)

### **Background**

The following background information has been provided by DHSC:

GB has [retained EU Legislation \(1924/2006\)](#) relating to nutrition and health claims made on food.

A nutrition claim is any claim which states, suggests or implies that a food has particular beneficial nutritional properties due to the presence, absence, increased or reduced levels of energy or of a particular nutrient or other substance, and includes claims such as "source of calcium", "low fat", "high fibre" and "reduced salt".

A health claim is any claim that states, suggests or implies that a relationship exists between a food category, a food or one of its constituents and health. This would include claims such as "calcium helps maintain normal bones". More general claims such as "good for you" may also be health claims, and the Regulation takes these into account.

It is ultimately the responsibility of individual businesses to ensure their compliance with the law. Businesses with specific queries may wish to seek the advice of their local enforcement agency, which in England and Wales will usually be the trading standards or environmental health department of the local authority or port health authority. In Northern Ireland it will be the environmental health department of the local district council. In Scotland it will be local authority environmental health departments.

The enquirer does not cite specific instances he believes are breaching Article 28, so it is difficult to consider. DHSC's position remains that any potential breaches would be for the Local Authority to consider in terms of enforcement action, or the Advertising Standards Authority if the complaint relates to advertising and a breach of the advertising code of practice.

DHSC has just finished consulting on the proposal to extend the use of Improvement Notices to the NHC legislation as the first line of enforcement in England. We are yet to publish the consultation response, but subject to usual clearances, we hope to lay legislation in 2024 to give effect to this. This would allow enforcement officers a proportionate response and achieve a higher level of compliance.

#### **Question 5 - Eve Thompson (private individual)**

Why is it not mandatory for restaurants and shops to display their food hygiene rating? This will force them to keep to a higher standard and make them more transparent. Making consumers more comfortable with the places they buy food.

#### **Question 5: Answer**

The Food Hygiene Rating Scheme already has a statutory basis in Wales and Northern Ireland, where it is mandatory to display ratings. We have long been supportive of extending the statutory scheme to England and our three-year Corporate Plan 2023-26 lays out our ambition to work toward primary legislation to make display of Food Hygiene Ratings mandatory in England.

However, a mandatory scheme in England requires new primary legislation and cross-Government support, so the decision on whether to consult on proposals and legislate is dependent on Government priorities and timetabling. We are committed to identifying opportunities to bring forward the appropriate legislation when an opportunity arises however, realistically there is unlikely to be any prospect of this within the current Parliament.

In the meantime, the FSA is continuing to work with its local authority partners to maintain and improve the impact and benefits of the Food Hygiene Rating Scheme, which remains a highly successful public health initiative.

#### **Questions on the Border Target Operating Model paper**

#### **Question 3 - Katie Doherty, CEO, The International Meat Trade Association**

Have the FSA seen how the system for customs holds (subject to Port health release) on EU imports from the EU will work from April 2023? Are you confident that SPS (IPAFFS & ALVS) & customs systems (CDS & GVMS) will work appropriately together to allow oversight of all POAO imports from the EU as happens for rest of world imports? Similarly has the driver messaging

system to advise hauliers to attend a BCP from April been sufficiently tested in your opinion?

### **Question 3: Answer**

Defra and HMRC lead on the introduction of customs holds on EU imports and how these will work from 30 Apr 2024, and we understand that Defra is working with HMRC and Cabinet Office to deliver a range of messaging services. The initial testing of Defra changes delivered by HMRC on CDS and GVMS have been reported to be positive, and the Cabinet Office are co-ordinating full end to end testing of messaging services in advance of 30 Apr 2024 to ensure an effective introduction of controls and the routing of consignments to the appropriate BCP.

### **Question 9 - Karin Goodburn, Chair, SPS Certification WG**

We have been seeking risk assessment (RA) methodology detail given that for an equivalent FSA-commissioned project it would be mandatory to state this. No such detail has been given despite months of requests. Does an FOI need to be submitted to obtain this in meaningful detail? What is IDM+? This is not a recognised term. Concerns include lack of a dedicated mechanism for FBOs to provide critical real time intelligence to FSA/UKG. The incidents form (used to report eg consumer concerns about a kebab shop) has been suggested as the route in. How responsive will the system actually be? Proposed timescales aren't sufficiently tight to effectively deal with 24/7/365 imports. Experience with slow handling of several years' of known issues with imports of eg Listeria/enoki mushrooms, Salmonellosis/Polish poultry/shell eggs, does not bode well for UK consumer protection.

Who are the people taking decisions? Their direct hands on experience of food supply chains, food production, food micro/chemical safety, practical risk management, data sources including grey literature and of course risk assessment are all needed to give confidence in decisions taken, of course with transparency and timely publication of key evidence as a mandatory requirement given trade and public health impacts. Giving 3 months' notice of changes just means product being identified as needing to be put up a category of risk will be shipped to the UK/GB early to avoid being caught by the change. It is also critical to record that UK FBOs are advising that EU suppliers are not preparing for this new BTOM deadline. Some MSs' sector associations advise that their members will not supply UK under BTOM owing to increased cost from new bureaucracy + lack of MSs' 24/7 OV cover given they are civil servants generally working 9 to 5 and on weekdays only, not in the private sector as in the UK. Lack of 24/7/365 OV cover means cessation of food supply chains.

There are also problems with GB EHCs which will stop exportation to UK of critical foods including egg products. Meaningful transparent engagement by UKG is needed to deal with these issues effectively.

### **Question 9: Answer**

The risk prioritisation tool "IDM+"- is the responsibility of Defra's UK Office for Sanitary and Phytosanitary (SPS) Trade Assurance (UKO). The IDM+ model or 'International Disease Model Plus' builds on the existing IDM framework that has been used to assess animal disease risks (Roberts et al., 2011 Vet Rec). The UKO commissioned the FSA and APHA to further develop the tool to assess the risks of SPS imports of animal origin. It is designed to provide the information to estimate a risk level that takes into account both the inherent risk a commodity poses and any risks or mitigations specific to the country of origin together with any available data on compliance levels.

The FSA has been responsible for providing the information covering food safety in the development of IDM+. Within the FSA this has been carried out by a team of experts in risk

assessment, taking advice from scientific experts. The combined food safety and animal health information was then further considered by a panel of experts to sense check the model outputs. The UKO is working closely with APHA and the FSA on plans to publish the revised underlying methodology for the IDM+ in 2024.

In order to ensure that businesses have adequate time to prepare for routine changes to risk categorisation and therefore import controls imposed at the border, Defra has committed to give at least 3 months to traders. This helps industry to prepare and also ensures that food supply chains do not cease due to short implementation timelines. Where there is an immediate risk to public health, Port Health Authorities, local authorities and the FSA will continue to implement additional measures immediately to address a food safety issue. Defra is leading on engagement with the European Commission and individual member states on their readiness for the introduction of export health certification. We'd welcome further details with regard to your concern about business readiness so we can feed this back.

The Incident report form is not a mechanism for raising issues of concern for the IDM+ tool. The IDM+ uses a wide range of data sources which are periodically updated. The incident report form remains the route for informing incidents team of known or suspected food safety issues affecting UK food or feed. Normal routes of information into the FSA from industry on food safety issues should continue and these routes are not affected by the new system.

The FSA is currently feeding into the next phase of the Ecosystem of Trust programme of work led by Cabinet Office (as part of ongoing UK Border Strategy development). As part of that work, a process is being piloted for industry and other stakeholders across the supply chain to share relevant intelligence amongst each other for mutual benefit.

You mention that there are some issues with Export Health Certificates (EHCs) that will stop egg products being exported to the UK. Defra is responsible for the policy that underpins the EHCs for imports, however, the FSA would welcome receipt of more information about the specific issues you refer to.

### **Question 31 – Diana Tumova, BRRG**

1. In 2023, a series of incidents concerning the quality and origin of meat and eggs, particularly those originating from Ukraine, gained widespread attention during the summer. These occurrences, extensively covered by mainstream EU media, implicated poultry products imported from Ukraine and other nations, which were subsequently rebranded in Slovakia and Poland. Notably, these events failed to elicit any response or intervention from the United Kingdom. It was only last week that the FSA, in its smarter communications, formally acknowledged the gravity of the issue. Reflecting on 2022, during the ASF intervention, multiple instances of substandard and unsafe meats were intercepted at Dover. However, no subsequent follow-up or additional interventions were undertaken. The question arises as to how the new regulatory framework can instil and sustain confidence when Europe-wide incidents of a repetitive nature did not prompt any discernible response. The lack of action in the face of these recurrent challenges raises concerns about the efficacy and responsiveness of the current regulatory regime.

### **Question 31 - part 1: Answer**

The BTOM aims to take a more proportionate and risk-based approach to import checks. SPS goods will be categorised into risk categories at a country/commodity level which will determine the import controls that will apply. The model is designed to be dynamic, reacting to risks as they change and evolve. The FSA is working closely with officials across the UK and devolved governments to develop and implement enhanced intelligence gathering and surveillance to ensure that import controls are kept under regular review and rapidly updated to target where risks are greatest. Improved data utilisation will also increase the effectiveness of how we monitor

and identify emerging risks and improve food and feed safety incident management processes.

Imported products of animal origin (POAO) from the Ukraine must be pre-notified on IPAFFS, Defra's electronic system for pre-notifying imports, and are subject to 100% documentary and identification checks and risk based physical checks. These are the same checks that we apply to any non-EU country that wishes to import POAO into GB. If an imported consignment is found not to comply with our food safety requirements it is not allowed to be placed on our market. Border Force is responsible for the detection of illegal imports, and this would include POAO.

In response to the issue of salmonella in chicken from Poland, there has been a great deal of work involving the EU, the Polish Authorities and working with industry ongoing since 2020. We continue to take proactive action, and the consumer, local authority and industry advice was part of this. Applying import restrictions is a possible option if the situation continues to cause concern.

2. Establishing a future regulatory framework encompassing checks, frequencies, and intelligence-driven processes prompts the need for joint reassurances from the FSA and Defra to consumers, especially considering the absence of a current dataset. The validity of claims grounded in intelligence is subject to debate, given the lack of checks on incoming trade from the EU. Furthermore, goods arriving from the EU may not necessarily originate from EU sources, as exemplified by incidents involving meat from Romania and eggs and poultry from non-EU countries. Drawing a parallel with roadside checks in the EU, such measures would yield authentic evidence, affording the UK an opportunity to obtain a snapshot view. The question is: what interventions are in place, and to what extent, to ensure that the envisaged changes to the regulatory regime are founded on accurate, authentic evidence, verifiable facts, and reliable data? Clarity on these matters is essential for instilling confidence in the proposed alterations to the check's regime.

#### **Question 31 - part 2: Answer**

Thank you for your email about establishing a future regulatory framework.

Whilst there haven't been routine checks on goods from the EU for over thirty years, the new Border Target Operating Model (BTOM) has been developed using intelligence from a variety of sources. The International Disease Model Plus (IDM+), which was developed according to FAO guidelines, utilises international data provided by the World Organisation for Animal Health, and reports of non-compliance made on international systems such as the EU's Rapid Alert System for Feed and Food Controls (RASFF). Risk managers have also considered other available data such as incidents and outbreak data. The model aligns with international guidelines for determining public health risks from imported foods, it is science, evidence and data-led, and designed to be responsive to target the highest risks.

The risk categorisation is a dynamic process and will be kept under review, based on evidence from checks at border controls posts as well as other surveillance activities undertaken by local authorities (LA), port health authorities (PHA) and other government departments. Regarding new and emerging threats, the FSA will continue to monitor compliance data (and undertake risk assessments where appropriate) and provide information to LA/PHAs via the monthly Early Warning System. It should also be noted that the approach to enforcement by local authorities and port health authorities outlined in the Food Law Code of Practice will continue to apply.

3. The contrast between allowing commercial entities without formal competency qualifications and the exclusion of Environmental Health Officers (EHOs) for Sanitary and Phytosanitary (SPS) checks is striking. The Trusted Trader Scheme (TTS) permits commercial subjects to self-certify

goods without formal competency qualifications or a specified linkage to individuals within the organization, raising concerns about potential risks and accountability. Conversely, EHOs, possessing expertise for SPS checks, are deemed unsuitable due to an asserted qualification and competency gap. This apparent contradiction, allowing entities without formal qualifications while dismissing EHOs, suggests a discrepancy in evaluating competencies. This prompts questions about the rationale behind these decisions and the strategy for ensuring the reliability of SPS checks amid evolving trade practices. Clarity on these matters is crucial for maintaining public confidence and regulatory integrity. How will the fact of unqualified personnel under TTS potentially undermine the credibility of standards for exported good back to EU and other blocks?

The trusted trader system empowers commercial entities to manage a significant portion of their own certification, with designations granted to the entity rather than an individual. The scope of auditing responsibilities remains undefined questions arise regarding who approves and audits whom, the methods employed in the auditing process, and the oversight of auditors, given the evident emergence of conflicted interests resembling "marking one's own homework." The perspective from Defra, asserting that Environmental Health Officers are not conducting post-mortem SPS checks due to competency and qualification gaps, appears somewhat contradictory when contrasted with the empowerment of trade to self-certify, irrespective of required competency or qualifications. During the engagement period, concerns were raised about who would be responsible for addressing the consequences of incidents or removing the TTS status in cases and what would define these processes- but no clarity was given. If changes to check rates and frequencies are being promised in a more flexible manner, a notable question arises: why were no actions taken in response to the ASF findings at Dover port or the discoveries of substandard EU meat, poultry, and eggs?

Clarification on these matters is crucial to ensure accountability and transparency in the implementation of the trusted trader or similar future schemes.

### **Question 31 - part 3: Answer**

The Trusted Trader pilots that the BTOM committed to are being developed with Defra as the lead department with close involvement from other departments including the FSA and FSS. The pilots are designed to explore the extent to which businesses are able to provide the same level of assurance as an official control. The pilots will be closely assessed to ensure that they meet this aim. It should be noted that issuing Export Health Certification is not an element of any of the pilots. Health certification should not be issued by anyone other than an official appointed by the relevant competent authority.

### **Question 32 – Diana Tumova, BRRG**

What is the FSA strategy to control the risk to human health presented by unchecked food imports?

As the implementation of SPS checks is delayed, it is timely to consider the adverse impact of this unresolved issue. Long term planned implementation of SPS checks affecting goods imported from EU will require additional OV capacity above already insufficient number of serving officials. Initial implementation of Export SPS checks for POAO goods heading to EU proved, that UK has limited capacity, with little planning for future demand.

### **Question 32: Answer**

In response to the recent Local Authority Capacity and Capability research the FSA has established a project to consider what can be done to manage challenges created by local authority/port health authority resourcing. One element of the project is to review the competency

framework and its implementation in relation to authorisation of local authority Environmental Health Officers and Food Safety Officers to make SPS checks on imported foods at the border by making some changes to the competency framework (subject to experience and additional training as appropriate). We would welcome your input into the project. We will be happy to provide you with a briefing on this project and will contact you to arrange this.

The FSA has pressed for implementation of the Border Target Operating model without further delay, however, in the meantime, urgent action in the way of safeguard measures remain available to government using existing legal powers in order to prevent goods with known issues entering Great Britain. Defra is leading on engagement with the European Commission and individual member states on their readiness for the introduction of export health certification and the OV resources required. We'd welcome further details with regard to your concern about business readiness so we can feed this back.

## **Questions on the Risk Analysis and Regulated Products paper**

### **Question 2 - Dr Mark Tallon, Managing Partner, Legal Products Group Ltd**

In relation to the opinion of the FSA for an ADI on CBD of 10 mg we ask the following:

Q1. Why on October 12th did the FSA accept the recommendation of the COT/ACNFP of a provisional ADI for Cannabidiol (CBD) of 10mg when in 2020 the FSA ignored the advice of a COT report stating "... a HBGV of 0.17 mg/kg bw/day (4mg/day in a 70 kg adult)". Based on this opinion the FSA advised a safe use of 70mg/day.

Q2. Why did the FSA not ask for a view from industry of the COT/ACNFP which was completed in mark (some 6 months before the FSA issued its provisional view on ADI)?

Q3. Finally, over that 6-months we had to very significant papers on CBD published before the opinion of the FSA including:

1. Henderson et al. 2023a (Published online August 2nd)
2. Henderson et al. 2023b (Published online April 25th)
3. Tallon & Child 2023 (Published online September 19th) – was on 97% isolate but highly relevant to the opinion on an ADI

Why given these publications especially that of Henderson et al. 2023b which provided an ADI in conflict with that of COT / ACNFP did the FSA not push back or reconsider the opinion resulting in a highly restrictive and likely economically damaging 10mg limit?

References:

- Henderson RG, Lefever TW, Heintz MM, Trexler KR, Borghoff SJ, Bonn-Miller MO. [Oral toxicity evaluation of cannabidiol](#). Food Chem Toxicol. 2023 Jun;176:113778. doi: 10.1016/j.fct.2023.113778. Epub 2023a Apr 25.
- Henderson RG, Vincent M, Rivera BN, Bonn-Miller MO, Doepker C. [Cannabidiol safety considerations: Development of a potential acceptable daily intake value and recommended upper intake limits for dietary supplement use](#). Regul Toxicol Pharmacol. 2023b Oct;144:105482. doi: 10.1016/j.yrtph.2023.105482. Epub 2023 Aug 2
- Tallon MJ, Child R. [Subchronic oral toxicity assessment of a cannabis extract](#). Regul Toxicol Pharmacol. 2023 Oct;144:105496. doi: 10.1016/j.yrtph.2023.105496.

### **Question 2: Answer**



The FSA advice in 2020 of 1 mg/kg body weight level for CBD (70 mg/day in an average adult) represented a pragmatic upper level of intake; above this level adverse effects could occur. The 2020 Committee on Toxicity (COT) advice on CBD intake was not an Acceptable Daily Intake (ADI). The COT also cautioned people taking medications (drug interactions) and that it should not be consumed by pregnant or lactating women until further data are available. It is important to understand that this was pragmatic guidance only; it was not a Health Based Guidance Value which would require significantly more information and does not apply to product authorisations.

The ADI that was published in October 2023 was based on the additional data provided from the novel food applications where sufficient data was available to reach a conclusion on a provisional ADI. A number of uncertainties remain as described in the statement and further developments in the evidence base will be reviewed.

It is not the usual practice to consult on the expert judgement provided by an independent scientific committee in relation to matters within their remit. There are exceptional cases where we would consult on available data or methodologies to support risk assessments, for example, where the evidence base is uncertain or new methodology is being used. However, in this case standard methodology was used and the basis for the approach to providing their opinion was detailed in the statement forming that expert judgement.

Informal consultation was undertaken with industry to understand the impact of the changes in the scientific understanding on industry. This engagement provided valuable feedback on the impact of the updated consumer advice. The ADI gives information on the likely conditions of any authorisation for the novel food applications currently under review but as yet no authorisations have been made and the products remain illegal.

In ensuring the assessments of the novel food applications are based on the latest evidence we welcome applicants sharing new literature, including adverse effects, where this is relevant to the assessment, including those funded by the CBD industry. These publications will be shared with the subgroup to understand to what extent these refine the uncertainties that were reflected in the ADI. However, the ADI is not based on any one dataset and reflects the sum weight of evidence both from the literature to date and the novel foods applications.

#### **Question 28 - Elizabeth Lewis, Secretary General, British Association of Feed Supplement and Additive Manufacturers**

BAFSAM wishes to raise concerns over the continued delays to the feed additive approval process. This is having a significant impact on the economy, on innovation and negative consequences for the future of the feed industry. GB is becoming effectively closed to innovation for feed additives which is disadvantageous to the UK feed industry, UK farmers and UK consumers.

Feed additive applications represent over 40% of regulated product submissions reflecting the size and importance of this industry. Where EFSA has published over 200 scientific opinions with authorisations issued within 3 to 6 months since January 2021, ACAF has published 43 opinions of which 34 were risk management procedures. The UK is an outlier relative to the United States, Canada and the EU in having no defined timeframes for key stages of the regulatory approval process (recognising information requests cannot be quantified). Regulatory timeframes allow companies to plan effectively for market entry. The lack of visibility on the progress of individual applications further hinders planning. We would encourage timely publication of ACAF minutes and scientific opinions to assist with this process.

BAFSAM requests that the Board address the root causes that are leading to these delays, including the time taken from publishing a scientific opinion by ACAF (e.g., September 2023 for Tranche 3) and the public consultation (e.g., Q2/Q3 of 2024 for Tranche 3). BAFSAM wishes to

offer its support in any way to the FSA and to the Board to resolve these issues. The pragmatic and effective approach taken by the FSA in provisionally renewing the Co(II) salts was an example of the opportunities available to GB. We appreciate our strong relationship with the feed additive teams at the FSA and understand there are challenges with setting up a new system. Please could the Board reassure BAFSAM members that improving the efficiency and transparency of the approvals process is being addressed as a matter of utmost urgency.

#### **Question 28: Answer**

Thank you for your question, that was submitted to the FSA Board ahead of our December Board meeting.

I am sorry to hear of your concerns and can understand the frustrations of your members and industry over the time it is taking to deliver feed additive authorisations. I can assure your members that we are constantly looking at ways we can improve and streamline the current process as well as considering opportunities for future reform of the authorisation process.

You will be aware that the current process was inherited from the EU and is set out in retained legislation. The process is heavily bureaucratic and requires authorisations to be set out and laid in Statutory Instruments across the three nations in Great Britain. For our current tranche of applications, the risk management stage has been more complex than anticipated in addressing legal and policy enquiries. There has also been pressure on resourcing in key teams, and we have had to complete additional high priority work during this period.

The feed additive applications that progressed to the Risk Management stage at the end of September, was the biggest batch we have processed to date. These also included our first applications where a full FSA/FSS safety assessment has been completed by us without the benefit of previous work undertaken as part of the EU. We are working towards publishing the applications for consultation in Q1 2024/25. Pending the outcome of the consultation and any responses we receive, we hope to advise Ministers after the consultation closes, and if there are decisions to authorise, the legislative process will follow.

We have a programme of continuous improvement to make the Regulated Products service more efficient. As part of this, and as you will be aware, we launched a new Case Management System in June, for new applications to be uploaded on to. We will be using the new platform to keep applicants better informed on the status of their application and to provide the relevant contact information at each phase of the application process. We have also started to make more efficient use of other regulators' opinions, particularly for renewal applications. This involves us validating the opinion of another regulator in specific circumstances such as for the re-authorisation of products.

We have an established streamlined process for publishing scientific opinions once they have been cleared by our independent committees. There is also work planned in this financial year to start building a new and improved register of Regulated Products Applications which, once complete, will provide more publicly available information on the progress of individual applications and links to the scientific opinions and consultations.

As part of our reform programme, we are considering how we can develop simpler, more transparent, and more accessible registers and lists of authorised regulated products. The current methods for listing authorised products, which vary by regime, include lists in legislation or having separate pieces of legislation for each authorisation. This change would significantly streamline legislation and provide a more efficient process to record and communicate which products have been authorised, thereby enhancing transparency and accessibility, and reducing the regulatory burden associated with maintaining and using multiple, complex sources of essential information.

We are also exploring how we best update and reform existing regulations to deliver service improvements benefitting consumers, businesses and other stakeholders. We are progressing a set of Priority Reforms with the aim of bringing products to market under a shortened timeframe, without compromising food safety or consumer confidence. Priority Reforms include removing renewal requirements and potentially establishing electronic registers for product authorisations. We are also exploring removing the legislative step for product authorisations, which would further streamline the process. As part of our commitment to this, we have focused resource within the FSA to look at options for more transformative reform of the food and feed regulatory system. We aim to present an update on this work to the FSA Board in March 2024.

I recognise your frustration with this process and I know my team will continue to engage with you as we progress with our programme of continuous improvement and of reform.

## **Questions on the Food Hypersensitivity paper**

### **Question 4 - Nick Cook (private individual)**

Please submit question I submitted in August/ September this year ( due to nature of this form I unfortunately don't have a copy but I'm sure you do! This was at the time referred to Officers, but I did not receive a satisfactory answer. I would like the Board to see my question please.

### **Question 4: Answer**

#### **September 2023 question:**

In the minutes of the June meeting ... (4.7) The Chair noted ... "the strength of feeling in Parliament and among stakeholders for the FSA to progress faster on food hypersensitivity."

My 18 year old daughter has a number of serious food allergies, and not all of them confined to the agreed list of the 14 most common ones covered by current regulations. Yesterday she tried to order lunch in Ponto Lounge in Hull, she chose her preferred option and then before placing an order provided a written list of her allergies and asked for the ingredients to be checked so that she could ensure that the choice was safe for her. The member of staff refused to give her this information, in spite of repeated pressing from my daughter. The member of staff, who my daughter believed to be the Manager, even conceded this was "to protect their backs" and said it was Company policy not to reveal ingredient lists.

My first point is this. Offering the customer the option to view the ingredients list on the food packaging is a simple low-cost task and couldn't be seen as placing unreasonable burdens on establishments. There is a danger that lazy/uncaring/ill-informed providers will increasingly use this tactic to avoid taking a responsible approach, and this incident clearly illustrates the need for more action on regulation. This is particularly disappointing from a national chain.

My second point relates to the likelihood that many young people will simply take risks when faced with this response. All the awareness raising and promotion will be defeated by these attitudes.

Of course the matter has been reported to our local trading standards office who will offer advice - but the current regulatory regime will not permit them to do more and I feel this situation should be changed as a matter of priority.

#### **September 2023 answer:**

Dear Nick Cook

Your question to the September FSA Board concerning legislation on food allergens in relation to requirements placed on restaurants has been passed to me as Deputy Director of Food Policy. Firstly, I am sorry to hear about the difficulties that your daughter has experienced in managing her multiple food allergies when eating outside of the home.

All food businesses have a duty to inform customers if they use any of the [14 mandatory allergens as ingredients](#); for restaurants this can be done either by providing the information upfront in writing, or through a written notice explaining how customers can obtain this information. The 14 allergens are those that are recognised as the most common ingredients or processing aids of public health concern across Europe, however I acknowledge that people can be allergic to foods outside of those 14 mandated allergens, as is the case for your daughter.

I can understand your frustration at the food business your daughter visited not providing information on the ingredients that your daughter is allergic to. We encourage food businesses to be reasonable and respond to such requests and have recently produced some social media communications on this.

To address your point regarding restaurants offering the customer the option to view the ingredients list: there is no requirement in law for businesses selling non-prepacked foods, such as meals in restaurants and food ordered from a bakery counter, to provide a full ingredients list. Research shows that both verbal and written allergen information is important, and we encourage people with an allergy to foodstuffs outside the 14 mandatory allergens to ask the person serving them if the food they wish to avoid is used in any of the dishes. If in doubt, or the information cannot be provided, our advice is not to eat at the premises.

It is the Department for Environment, Food & Rural Affairs (Defra), as the responsible body for general food labelling and food compositional standards, who is responsible for ingredients labelling legislation. However, the FSA, who is responsible for allergen labelling, work closely with Defra, and other Government Departments, to improve the quality of life for people living with food hypersensitivity and support them to make safe, informed food choices.

Ensuring people with allergies have access to clear and accurate information is a fundamental part of our role and remains a priority for the FSA. As part of this we have carried out work to help us better understand how this information can best be provided. This includes research on the provision of written and oral allergen information in the non-prepacked food sector, and work to ensure food businesses have access to effective allergen training.

Regarding your second point concerning young people with allergies – I agree that that young people are at a higher risk of experiencing food allergy reactions: FSA research shows that while many are confident about managing their food allergy in general, they are less likely to tell a food business about their allergy, particularly if they have eaten there before and we have a dedicated webpage on '[Advice for teenagers and young adults with a food allergy](#)' which your daughter may find helpful.

You may be interested to know that we plan to provide an update on our work on food hypersensitivity (the collective term for food allergies, intolerances, and Coeliac Disease) to the FSA Board on December 13th. [Members of the public can watch board meetings, and papers are published on the FSA website.](#)

Thank you for your question to the board and I hope I have addressed the points raised.

**September 2023 follow up question:**

Thank you for your reply of 5th October. I am grateful for the time you have taken to reply, but with respect you do not really answer the two key points I have made, and merely repeat what I

know already. I welcome your recent social media advice that businesses are encouraged to give information on allergens outside of the “List of 14” when requested, but my daughter was faced with a flat refusal. My point was that this should not be allowed, and that there should be regulations stopping these ill-informed and unhelpful behaviours. You say that you are reporting to the next FSA Board on 13th December with an update on your work on hypersensitivity. It would be the easiest thing in the world to bring the Committee’s attention to this growing problem, and to ask for them to consider taking action about it. This genuinely could save lives, and I believe proportionate regulations would not place an unreasonable burden on businesses.

**September 2023 follow up answer:**

I am very sorry for the delay in responding and that you considered that my reply did not deal with your points.

Our latest research on the provision of allergen information suggests that in the last five years, there has been a positive shift in food businesses’ attitudes to catering for people with food hypersensitivity, however I acknowledge more can be done.

Any changes to food law must be carefully considered to assess the impacts, risks, and benefits for both consumers and food businesses, and further research would be required before considering the introduction of a legal requirement for food businesses to inform consumers of the presence of allergens outside of the 14 regulated ones. At present we are not proposing this, but we continue to monitor the situation. We are also working to raise awareness about the responsibilities of food business and the seriousness if they get this wrong.

We continue to work with business and Local Authorities to improve the way in which allergen information is provided. Recent changes to the way Local Authorities carry out food standards controls (checks to make sure food is safe and what it says it is) give greater emphasis to the way in which allergen information is provided when assessing food businesses which will drive improvements, and we are considering what further work can be done.

Our aim is to improve the quality of life for people with a food hypersensitivity, to do this we need to enable a more pronounced culture shift in business practices to help consumers make safer choices through the better provision of both written and verbal information, which is what we are striving for.

**December 2023 FSA Response:**

Thank you for your question to the Food Standards Agency (FSA) Board in relation to the food hypersensitivity paper on the December Board agenda.

We are sorry that you feel our previous response did not answer your points. We can understand your frustration at the food business your daughter visited not providing information on the ingredients that your daughter is allergic to.

The FSA Board agreed at their meeting on Wednesday 13 December that they would like to strengthen allergen information for people with a food hypersensitivity. The Board would like to see written allergen information be mandated in the non-prepacked sector and have written to Ministers to outline the Board’s view.

In addition to providing written information, the Board also acknowledged that there should be an expectation for a verbal conversation to take place between customers and food business staff, to ensure an added layer of protection for people with a food hypersensitivity.

We encourage food businesses to be reasonable and respond to such requests and have recently produced some social media communications on this. There is no requirement in law for

businesses selling non-prepacked food to provide a full ingredients list, or allergen information beyond the 14 common allergens, however if a food business is made aware of a consumer's allergen requirements, and has agreed to provide a suitable meal, they have an obligation to ensure that the meal is safe, and that the relevant allergen is not present even if it is not one of the 14.

As highlighted previously, the FSA has responsibility for allergen labelling, whereas the Department for Food and Rural Affairs (DEFRA) are responsible for general food labelling which would include full ingredients lists. We work closely with DEFRA in this area but are not currently considering mandating full ingredients lists for non-prepacked food.

The FSA will work to develop strong guidance for food businesses on how to provide written allergen information to help drive up compliance and make it easier for people with a food hypersensitivity (food allergy, intolerance, or Coeliac Disease) to protect themselves when eating out.

We will also continue to work closely with DEFRA in this very important area.

Regarding your second point concerning young people with allergies, as mentioned previously, we agree that that young people are at a higher risk of experiencing food allergy reactions: FSA research shows that while many are confident about managing their food allergy in general, they are less likely to tell a food business about their allergy, particularly if they have eaten there before and we have a dedicated webpage on '[Advice for teenagers and young adults with a food allergy](#)' which your daughter may find helpful.

We hope this response covers the points you highlighted, albeit not in the way you may have hoped.

#### **Question 6 - Mr Nolan**

When will the FSA roll out the Level 1 FHS training they proposed in the 'Proposed activities to deliver change in the non-prepacked sector' section of [this FSA report published last year](#)?

Specifically it was mentioned as 'A structured, online training programme for staff in different roles within food businesses' 'Level 1 would be aimed at all food business staff with a particular emphasis on front-of-house staff and those who have interactions with customers to: ensure that they understand allergens and their importance; develop effective interpersonal and communication skills; understand the legal landscape; and know how to respond in an allergen emergency.'.

Better training on FHS in the catering/hospitality sector would be welcomed by allergy sufferers like me as it would help keep us safe. Thank you for your time.

#### **Question 6: Answer**

Thank you for your question to the Food Standards Agency (FSA) Board in relation to the food hypersensitivity paper on the December Board agenda.

We agree that allergen training for staff working in food businesses is important for keeping consumers with a food hypersensitivity (food allergy, intolerance, or Coeliac Disease) safe.

In September 2020 we launched [our allergen e-learning](#), available for free on the FSA website, which now has over half a million users. We have recently secured agreement that the larger food aggregators (e.g., Deliveroo and JustEat) will share the training with food businesses who sell food via their sites.

The training has been reviewed and updated a number of times since its launch, most recently in April 2023, however any further development of the training package will not take place until we have progressed other areas of work, such as the creation of new 'best practice guidance', as outlined in the board paper, to enable the outputs to be incorporated so any new training reflects the latest requirements.

**Question 7 - Michael Walker, Institute for Global Food Security, Queen's University, Belfast**

In June 2022 [ILSI-Europe published guidance on allergen quantitative risk assessment](#). I was co-chair of the expert group that developed the guidance, which was widely consulted upon and subjected to independent external peer review.

The purpose of the guidance is not to take an allergen labelling or risk management decision for the user, but rather is intended to help them decide when allergen QRA is appropriate or necessary, and how to decide if it can actually be performed and, if it is to be undertaken, what is the most suitable method. The intended audience is mainly industry wishing to understand and conduct food allergen risk assessments, and potentially QRA. However, the guidance could also be useful for others, including official control agencies. There are several open access webinars available on the above landing page to walk interested parties through the guidance.

My question is, do the Board consider it might be useful for FSA to have regard to the ILSI-Europe guidance in drawing up its own future guidance for dealing with unintended allergen presence in food that might (or might not), subject to a risk assessment, require PAL?

**Question 7: Answer**

The FSA is aware of the ILSI Europe's practical guidance on the application of food allergen quantitative risk assessment.

We are considering what approach should be taken in the UK for assessing the presence of unintended allergens due to cross-contact. We understand that a guide on food allergen risk assessment will inform a better use of precautionary allergen labelling (PAL), which is one of the FSA priorities.

We continue to gather the available evidence and work in conjunction with the Committee on Toxicity on food allergen thresholds, which will inform the risk assessment approach and potential guidelines for industry.

**Question 8 - Olivia Harper (private individual)**

Could the FSA prioritise implementing certain key aspects of Owen's Law, particularly those regarding mandatory allergen labeling on menus and server interaction? The Carey family have campaigned tirelessly for Owen's Law and I hope they succeed in getting all aspects of Owen's Law implemented, but given the lengthy process of changing regulations, what can the FSA make mandatory now?

**Question 8: Answer**

Ensuring people with a food hypersensitivity (the collective term for food allergies, intolerance, and Coeliac Disease) have clear and accurate allergen information when eating out of the home is fundamental to our work to enable people with a food hypersensitivity have trust in the food they eat.

Food businesses are already legally required to tell customers if any food they provide contains any of the 14 mandated allergens. Currently, for non-prepacked food, such as that served in a restaurant, food businesses can choose how they provide this information.

We recognise the importance of improving how allergen information is provided for non-prepacked food and have carried out significant research over the last couple of years and the paper to the Board set out a number of options for consideration based on the findings of the research.

After considering the papers the FSA Board agreed at their meeting on Wednesday 13 December that they would like to see the provision of written allergen information in the non-prepacked sector be mandated. The FSA has written to make this recommendation to Ministers in England, Wales, and Northern Ireland who would ultimately decide whether to take this forward.

In addition to providing written information, the Board also acknowledged that there should be an expectation for a verbal conversation to take place between customers and food business staff, to ensure an added layer of protection for consumers.

A growing number of businesses are already choosing to provide written information on a voluntary basis. The FSA will work to develop strong guidance for food businesses on how to provide written allergen information to help drive up compliance and to encourage businesses to make it easier for people with a food allergy, intolerance, and Coeliac Disease to protect themselves when eating out.

We will also continue to encourage people to ask businesses about food allergies when eating out. We hope this will lead to more businesses providing written information while Ministers consider whether to introduce legislation.

#### **Question 10 - Tony Matters, Director, Faber and Company**

We see so much variance in the provision of allergen information within restaurants, something we are directly involved in. Given the significant risk to life if information is not correctly communicated, and the (in our view) minimal downside to a business to be compliant, we would like to ask why this has been recommended as guidance rather than becoming law?

#### **Question 10: Answer**

Ensuring people with a food hypersensitivity (the collective term for food allergies, intolerance, and Coeliac Disease) have clear and accurate allergen information when eating out of the home is fundamental to our work to enable people with a food hypersensitivity have trust in the food they eat.

Food businesses are already legally required to tell customers if any food they provide contains any of the 14 mandated allergens. Currently, for non-prepacked food, such as that served in a restaurant, food businesses can choose how they provide this information.

We recognise the importance of improving how allergen information is provided for non-prepacked food and have carried out significant research over the last couple of years and the paper to the Board set out a number of options for consideration based on the findings of the research.

After considering the papers the FSA Board agreed at their meeting on Wednesday 13 December that they would like to see the provision of written allergen information in the non-prepacked sector be mandated. The FSA has written to make this recommendation to Ministers in England, Wales and Northern Ireland who would ultimately decide whether to take this forward.



In addition to providing written information, the Board also acknowledged that there should be an expectation for a verbal conversation to take place between customers and food business staff, to ensure an added layer of protection for consumers.

A growing number of businesses are already choosing to provide written information on a voluntary basis. The FSA will work to develop strong guidance for food businesses on how to provide written allergen information to help drive up compliance and to encourage businesses to make it easier for people with a food allergy, intolerance, and Coeliac Disease to protect themselves when eating out.

We will also continue to encourage people to ask businesses about food allergies when eating out. We hope this will lead to more businesses providing written information while Ministers consider whether to introduce legislation.

#### **Question 11 - Robert Allen (private individual)**

It is vital the provision of information on allergens in eateries is made mandatory rather than 'guidance', otherwise it will not be successful as it is in Ireland. My experience in industry is that 'guidance' will only be adopted by the minority. My question to the board is What is their view of the effectiveness of 'guidance' only documents as opposed to legislation?

#### **Question 11: Answer**

Ensuring people with a food hypersensitivity (the collective term for food allergies, intolerance, and Coeliac Disease) have clear and accurate allergen information when eating out of the home is fundamental to our work to enable people with a food hypersensitivity have trust in the food they eat.

Food businesses are already legally required to tell customers if any food they provide contains any of the 14 mandated allergens. Currently, for non-prepacked food, such as that served in a restaurant, food businesses can choose how they provide this information.

We recognise the importance of improving how allergen information is provided for non-prepacked food and have carried out significant research over the last couple of years and the paper to the Board set out a number of options for consideration based on the findings of the research.

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We will also continue to encourage people to ask businesses about food allergies when eating out. We hope this will lead to more businesses providing written information while Ministers consider whether to introduce legislation.

## **Question 12 - Caroline Lambert (private individual)**

Please can the requirement for information on allergens in restaurants to be provided in writing be enshrined in legislation, and not just guidance, to ensure maximum compliance and increased safety for people with food allergies?

### **Question 12: Answer**

Ensuring people with a food hypersensitivity (the collective term for food allergies, intolerance, and Coeliac Disease) have clear and accurate allergen information when eating out of the home is fundamental to our work to enable people with a food hypersensitivity have trust in the food they eat.

Food businesses are already legally required to tell customers if any food they provide contains any of the 14 mandated allergens. Currently, for non-prepacked food, such as that served in a restaurant, food businesses can choose how they provide this information.

We recognise the importance of improving how allergen information is provided for non-prepacked food and have carried out significant research over the last couple of years and the paper to the Board set out a number of options for consideration based on the findings of the research.

After considering the papers the FSA Board agreed at their meeting on Wednesday 13 December that they would like to see the provision of written allergen information in the non-prepacked sector be mandated. The FSA has written to make this recommendation to Ministers in England, Wales and Northern Ireland who would ultimately decide whether to take this forward.

In addition to providing written information, the Board also acknowledged that there should be an expectation for a verbal conversation to take place between customers and food business staff, to ensure an added layer of protection for consumers.

A growing number of businesses are already choosing to provide written information on a voluntary basis. The FSA will work to develop strong guidance for food businesses on how to provide written allergen information to help drive up compliance and to encourage businesses to make it easier for people with a food allergy, intolerance, and Coeliac Disease to protect themselves when eating out. We will also continue to encourage people to ask businesses about food allergies when eating out. We hope this will lead to more businesses providing written information while Ministers consider whether to introduce legislation.

## **Question 13 - Paul Carey, Campaign for Owen's Law**

Would you please tell the executive to recommend to the government that the recommendations in the paper are enshrined in legislation? If you are not minded to do so, would you please defer making a decision on this narrow point pending a meeting with the Campaign for Owen's Law and a review of the report on the provision of allergen information in Ireland?

### **Question 13: Answer**

Thank you for your question to the Food Standards Agency (FSA) Board in relation to the food hypersensitivity paper on the December Board agenda, and also for your work in highlighting the importance of this issue. We hope our work and the decisions made at Board demonstrate the importance the FSA places on this topic.

As you will know from attending the FSA Board meeting on Wednesday 13 December, the Board decided they would like to see written allergen information be mandated in the non-prepacked sector and have written to Ministers to outline the Board's view.

In addition to providing written information, the Board also acknowledged that there should be an expectation for a verbal conversation to take place between customers and food business staff, to ensure an added layer of protection for people with a food hypersensitivity.

A growing number of businesses are already choosing to provide written information on a voluntary basis. The FSA will work to develop strong guidance for food businesses on how to provide written allergen information to help drive up compliance and to encourage businesses to make it easier for people with a food allergy, intolerance, and Coeliac Disease to protect themselves when eating out. We will also continue to encourage people to ask businesses about food allergies when eating out. We hope this will lead to more businesses providing written information while Ministers consider whether to introduce legislation.

#### **Question 14 - Brett Smith (private individual)**

Natasha's Law has made the lives of millions of allergy sufferers better and safer. Owens Law is asking for restaurants to highlight allergens on their menus [paper and digital] which would once again make millions of allergy suffers lives safer and better. Why therefore is the FSA only looking to introduce Owen's Law as guidance rather than LAW as has been done successfully in Ireland?

#### **Question 14: Answer**

Ensuring people with a food hypersensitivity (the collective term for food allergies, intolerance, and Coeliac Disease) have clear and accurate allergen information when eating out of the home is fundamental to our work to enable people with a food hypersensitivity have trust in the food they eat.

Food businesses are already legally required to tell customers if any food they provide contains any of the 14 mandated allergens. Currently, for non-prepacked food, such as that served in a restaurant, food businesses can choose how they provide this information.

We recognise the importance of improving how allergen information is provided for non-prepacked food and have carried out significant research over the last couple of years and the paper to the Board set out a number of options for consideration based on the findings of the research. ???

After considering the papers the FSA Board agreed at their meeting on Wednesday 13 December that they would like to see the provision of written allergen information in the non-prepacked sector be mandated. The FSA has written to make this recommendation to Ministers in England, Wales and Northern Ireland who would ultimately decide whether to take this forward.

In addition to providing written information, the Board also acknowledged that there should be an expectation for a verbal conversation to take place between customers and food business staff, to ensure an added layer of protection for consumers.??  
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A growing number of businesses are already choosing to provide written information on a voluntary basis. The FSA will work to develop strong guidance for food businesses on how to provide written allergen information to help drive up compliance and to encourage businesses to make it easier for people with a food allergy, intolerance, and Coeliac Disease to protect themselves when eating out. We will also continue to encourage people to ask businesses about food allergies when eating out. We hope this will lead to more businesses providing written

information while Ministers consider whether to introduce legislation.

#### **Question 15 - Louise Marsh (private individual)**

Please please please must restaurants put allergen information IN WRITING and for this to be IN LAW and not just guidance. This has proved successful in Ireland. No one takes any notice of guidance - from experience. Going into restaurants with my child is like dicing with death - you are totally dependent on a very rushed, busy kitchen checking back of cooking packets trying to work out what's in the food (I know as this is what they tell me ie the waiters often not even the chef are looking and their food orders are mounting up. Please allow us the dignity to be able to look at a written list of ingredients. The shame of everyone getting annoyed waiting for the answers or everyone is finished theirs and you still don't know what's in the dishes to choose one. This is life threatening. Please let it be dignified. In Amsterdam it's so easy, quick and simple to look at written ingredients and SAFER.

#### **Question 15: Answer**

Ensuring people with a food hypersensitivity (the collective term for food allergies, intolerance, and Coeliac Disease) have clear and accurate allergen information when eating out of the home is fundamental to our work to enable people with a food hypersensitivity to have trust in the food they eat.

Food businesses are already legally required to tell customers if any food they provide contains any of the 14 mandated allergens. Currently, for non-prepacked food, such as that served in a restaurant, food businesses can choose how they provide this information.

We recognise the importance of improving how allergen information is provided for non-prepacked food and have carried out significant research over the last couple of years and the paper to the Board set out a number of options for consideration based on the findings of the research.

After considering the papers the FSA Board agreed at their meeting on Wednesday 13 December that they would like to see the provision of written allergen information in the non-prepacked sector be mandated. The FSA has written to make this recommendation to Ministers in England, Wales and Northern Ireland who would ultimately decide whether to take this forward.

In addition to providing written information, the Board also acknowledged that there should be an expectation for a verbal conversation to take place between customers and food business staff, to ensure an added layer of protection for consumers.

A growing number of businesses are already choosing to provide written information on a voluntary basis. The FSA will work to develop strong guidance for food businesses on how to provide written allergen information to help drive up compliance and to encourage businesses to make it easier for people with a food allergy, intolerance, and Coeliac Disease to protect themselves when eating out. We will also continue to encourage people to ask businesses about food allergies when eating out. We hope this will lead to more businesses providing written information while Ministers consider whether to introduce legislation.

#### **Question 16 - Nigel Harrison (private individual)**

As my wife is coeliac, we find eating out difficult, which also limits trips out and holidays. Will you be taking action to ensure menus display all the 14 key allergens, including gluten on menus and that gluten free status includes preparation and cross contamination? Will you ensure that unfair disclaimers like 'May contain' or 'Cannot guarantee' are outlawed?

### **Question 16: Answer**

We are sorry to hear of the difficulties your wife has experienced when eating outside of the home.

Improving the quality of life for those with a food hypersensitivity (food allergy, intolerance, or Coeliac Disease) is a priority for the FSA and we are working to ensure people with a food hypersensitivity have clear and accurate information that will enable them to understand and manage risk when eating out.???

The FSA Board agreed at their meeting on Wednesday 13 December that they would like written allergen information to be mandated. The FSA has written to make this recommendation to Ministers in England, Wales and Northern Ireland who would ultimately decide whether to take this forward.

In addition to providing written information, the Board also acknowledged that there should be an expectation for a verbal conversation to take place between customers and food business staff, to ensure an added layer of protection for people with a food hypersensitivity.

A growing number of businesses are already choosing to provide written information on a voluntary basis. The FSA will work to develop strong guidance for food businesses on how to provide written allergen information to help drive up compliance and to encourage businesses to make it easier for people with a food allergy, intolerance, and Coeliac Disease to protect themselves when eating out. We will also continue to encourage people to ask businesses about food allergies when eating out. We hope this will lead to more businesses providing written information while Ministers consider whether to introduce legislation.

Our aim to improve allergen information includes improvements in precautionary allergen labelling (PAL). These are voluntary statements that food businesses use to inform consumers about potential allergen cross-contact risks and are commonly seen as 'may contain allergen x' on packaging as referenced in your question.

There is no legislative framework for the application of PAL. However, the FSA is clear they should only be used when there is an unavoidable risk of allergen cross-contamination. The FSA has recently updated its guidance for businesses relating to PAL and will be carrying out further work to make improvements in this area.

With regards to 'gluten free' claims: food labelled as gluten-free must contain no more than 20 mg/kg of gluten and food businesses need to have controls in place to substantiate such a claim. This includes putting in place measures to reduce the risk of cross-contamination during preparation.

### **Question 18 - Sarah Ireland, Marketing Manager, Control Catering**

How can we ensure manufacturers provide up to date, consistent and reliable product information to caterers or SMEs. Over 1,000 products changed PER WEEK in 2022, the change was either an ingredient, pack size, nutrition information etc.? [Single source of truth?](#)

### **Question 18: Answer**

Ensuring people with a food hypersensitivity (the collective term for food allergies, intolerance, and Coeliac Disease) have clear and accurate allergen information when eating out of the home is fundamental to our work to enable people with a food hypersensitivity have trust in the food they eat.

This includes ensuring that allergen information is passed along the supply chain. Food businesses are already legally required to tell other food businesses if any food they provide contains any of the 14 mandated allergens and [recent research looking at SME allergen provision in the non-packed sector](#), found suppliers play a fundamental role in enabling SMEs to manage allergen cross-contact risks and provide accurate allergen information to customers.

We are considering how we can work with the wider supply chain to make it easier for SMEs to perform these roles effectively.

#### **Question 19 - Joanne Harrison (private individual)**

I'm Coeliac and very nervous to eat out so don't do so very often. Gluten has no flavour so it's not obvious it's there until later when the awful symptoms start. I like to eat at places that have an online menu and an ingredient list so I'm prepared with meal choices before I arrive. If I arrive at a restaurant and I'm faced with a menu with no allergen information, I don't know where to start. Staff are sometimes told they are not permitted to help with menu choices, only say whether a dish has no gluten containing ingredients but there is no guarantee the end dish is gluten free. Written allergen information on the menu would be much more reliable enabling choices to be made at the restaurant along with other guests. It's still important for the server to understand the menu information and to be able to inform the kitchen of any allergies so that cross contamination can't happen. I have been glutened when relying on verbal information and I've walked out of a restaurant when the server was not prepared to inform the kitchen. Of course wrongly serving an allergen can result in death if the customer consumes the problem ingredient or a coeliac can suffer the possibility of long term health problems if their gluten free diet is not strictly adhered to on all occasions.

Will a decision be made today to pass a regulation to have all allergen information in written form available to everyone at the venue they choose to eat at. And can there also be some form of guarantee from the kitchen that the food is safe to eat with the allergy sufferers meal served with some identification to show that their request has been understood and followed (a different coloured plate or a small label for instance to show the meal does not contain a particular allergen).

#### **Question 19: Answer**

We are sorry to hear of the difficulties you have experienced trying to obtain allergen information.

Improving the quality of life for those with a food hypersensitivity (food allergy, intolerance, or Coeliac Disease) is a priority for the FSA and we are working to ensure that you and others with related concerns have clear and accurate information that will enable you to understand and manage risk when eating out.

Food businesses are already legally required to tell customers if any food they provide contains any of the 14 mandated allergens, including cereals containing gluten. Currently, for non-prepacked (loose) food, such as that served in a restaurant, food businesses can choose how they provide this information, i.e., verbally or in writing.

We recognise the importance of improving how allergen information is provided for non-prepacked food and have carried out significant research over the last couple of years and the paper to the Board set out a number of options for consideration based on the findings of the research.

After considering the papers the FSA Board agreed at their meeting on Wednesday 13 December that they would like to see the provision of written allergen information in the non-prepacked sector be mandated. The FSA has written to make this recommendation to Ministers in England,

Wales and Northern Ireland who will ultimately decide whether to take this forward.

In addition to providing written information, the Board also acknowledged that there should be an expectation for a verbal conversation to take place between customers and food business staff, to ensure an added layer of protection for consumers.??

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A growing number of businesses are already choosing to provide written information on a voluntary basis. The FSA will work to develop strong guidance for food businesses on how to provide written allergen information to help drive up compliance and to encourage businesses to make it easier for people with a food allergy, intolerance, and Coeliac Disease to protect themselves when eating out. We will also continue to encourage people to ask businesses about food allergies when eating out. We hope this will lead to more businesses providing written information while Ministers consider whether to introduce legislation.

This work includes looking at how we can improve consistency and we are carrying out research looking at the potential to standardise the way in which information is provided, and how businesses let customers know that their requirements have been met.

### **Question 20 - William Ireland, Founder, Control Catering**

This Board Meeting can make changes that are drastically needed, this is possible with thinking long term into the future. As debated in Parliament Monday 15th May 2023 subject - Food Labelling and Allergies, Jon Cruddas MP confirmed 'over the past 20 years, Governments have not responded in a proactive way'. Referring to 'Research with micro and small food business operators' March 2023, looking at Factors influencing how information is communicated you state that this is an expensive task, however, I have spent the last six years working on how to solve the problems for SMEs. We are a small company and I believe we have found the solution by using technology and API's.

Under your Proposals for provision specifically 3.6 we would like to present and prove this is covered at value for money. Providing the solution of creating a single source of truth. Enforcing manufacturers to use technology, which already exists, that can be accessed by all caterers to make it safe for all ingredients to be placed on websites/booklets. Once built, the single source of truth which will combine calories, allergen information and food miles.

Companies such as Erudus already provide this information, however the Government needs to oversee and licence these software companies to prove their validity. This is a common sense approach which would deal with all the problems and not brush it under the carpet for the next 20 years. We also need to join the allergen world together using an idea such as 'Save Lives Campaign' which should include charities and businesses working together. Looking at McCance & Widdowson's composition of foods integrated dataset can this be adapted to include calories and allergens and exclude recipes? (This would fix Natasha's Law checking ingredients problem).

Why are you just providing guidance using the 14 legal allergens, why are people with allergies to other food items not included, e.g. garlic or pepper. So my question is, if your family member could die from an anaphylactic shock would you work harder to make this Legislation and not just guidance?

### **Question 20: Answer**

Ensuring people with a food hypersensitivity (the collective term for food allergies, intolerance, and Coeliac Disease) have clear and accurate allergen information when eating out of the home is fundamental to our work to enable people with a food hypersensitivity have trust in the food they eat.

The FSA Board agreed at their meeting on Wednesday 13 December that they would like to see written allergen information be mandated.

The FSA has written to make this recommendation to Ministers in England, Wales and Northern Ireland who will ultimately decide whether to take this forward.

A growing number of businesses are already choosing to provide written information on a voluntary basis. The FSA will work to develop strong guidance for food businesses on how to provide written allergen information to help drive up compliance and to encourage businesses to make it easier for people with a food allergy, intolerance, and Coeliac Disease to protect themselves when eating out. We will also continue to encourage people to ask businesses about food allergies when eating out. We hope this will lead to more businesses providing written information while Ministers consider whether to introduce legislation.

In your question you refer to our work looking at how food business provide allergen information - [recent research looking at SME allergen provision in the non-packed sector](#), identified a range of factors which influence the way which SME food businesses provide allergen information, this included cost but also other factors such as service model, business size, and environmental factors e.g. size of kitchen. The findings from this, and other research, formed the options put forward in the paper.

You also mention mandating food businesses to use APIs to provide information on food products - food delivered through the supply chain must be accompanied by accurate information on all ingredients, so this can be passed on to the final consumer. Manufacturers and suppliers have a legal responsibility to adhere to traceability rules and to ensure they provide accurate information to other businesses on the food they produce. The format of such information is a matter for the supply chain.

Regarding your point around requirements for allergens outside of the 14 mandated ones, there are a large number of potential food ingredients/products that people might be sensitive to. The current list of 14 major allergens is recognised as being the most common and potent ingredients of public health concern across the UK and Europe however we continue to monitor the situation closely but have no current plans to amend the 14 allergens list. Nonetheless, this does not remove the requirement for businesses to provide information on any allergen if requested.

#### **Question 21 - Claire Lacey-Taylor, Business Development Manager, Control Catering**

There were 46,248 Takeaway & Fast-Food Restaurants, 40,270 Full-Service Restaurants and 9,961 Hotels in the UK as of 2022. How is the Research with micro and small food business operators March 2023 a true reflection of SME's when you conducted online interviews with 30 SME food businesses and short (2-3 hr) face-to-face ethnographic deep dives with an additional 10 SME food businesses?

Surely it would be more accurate to open the research to more SMEs to obtain a broader range of information and in particular existing companies providing technological solutions to issues raised such as a cost effective API provider, I would welcome information on how many businesses said they couldn't afford digital ingredient integrations and then a cost comparison of these providers.

#### **Question 21: Answer**

The purpose of the research conducted with SMEs (small and micro enterprises) was to gain in-depth understanding from a sample of businesses into how they provide allergen information and the reasons why they use this approach, the challenges they face in providing accurate information and their response to a range of different provision options.



Qualitative research was chosen as this method enables a nuanced and deep understanding of this complex topic, which is not possible with a quantitative survey.

As such the sample size was appropriate for this method.

We also ensured that there was a spread of SMEs with different characteristics who took part in the research (stratified sampling). This included a range of; sizes of business (micro and small), sectors, service delivery models and businesses in different geographical regions. SMEs used a range of methods to communicate allergy information and may or may not have an allergen policy.

We recognise there is cost to providing good allergen management systems, but this was not a focus of our research to date, so we are unable to provide any specific information.

## **Question 22 - Alan Cooper (private individual)**

Does the FSA believe that the implementation of Owen's Law, specifically its requirements for clearer allergen labelling on menus and its requirement for restaurants to initiate a discussion with customers about allergies on all occasions, would have prevented the tragic case of Georgina Mansergh? Considering Georgina's mother is quoted saying this regarding the restaurant menu "The mushroom risotto was at the bottom of the page so the actual ingredients were not visible." and Georgina's father has suggested allergens should always be discussed when people make a restaurant booking, more prominent signage should be visible and any dishes that contain a non-standard ingredient should flag that up in the title or possibly even include an allergen flag, similar to symbols used to indicate if something is vegan.

## **Question 22: Answer**

We were sorry to hear of the tragic death of Georgina Mansergh and send our deepest condolences to her family. The circumstances of Ms Mansergh's death has been the subject of an Inquest, which has now concluded. However, the FSA were not part of the proceedings.

Ensuring people with a food hypersensitivity (the collective term for food allergies, intolerance, and Coeliac Disease) have clear and accurate allergen information when eating out of the home is fundamental to our work to enable people with a food hypersensitivity have trust in the food they eat.

Food businesses are already legally required to tell customers if any food they provide contains any of the 14 mandated allergens. For non-prepacked (loose) food, such as that served in a restaurant, food businesses can choose how they provide this information. The accuracy of information provided is key.

We recognise the importance of improving how allergen information is provided for non-prepacked food and have carried out significant research over the last couple of years and the paper to the Board set out a number of options for consideration based on the findings of the research.

After considering the papers the FSA Board agreed at their meeting on Wednesday 13 December that they would like to see the provision of written allergen information in the non-prepacked sector be mandated. The FSA has written to make this recommendation to Ministers in England, Wales and Northern Ireland who will ultimately decide whether to take this forward.??

In addition to providing written information, the Board also acknowledged that there should be an expectation for a verbal conversation to take place between customers and food business staff, to ensure an added layer of protection for consumers.??

A growing number of businesses are already choosing to provide written information on a voluntary basis. The FSA will work to develop strong guidance for food businesses on how to provide written allergen information to help drive up compliance and to encourage businesses to make it easier for people with a food allergy, intolerance, and Coeliac Disease to protect themselves when eating out.

We will also continue to encourage people to ask businesses about food allergies when eating out. We hope this will lead to more businesses providing written information while Ministers consider whether to introduce legislation.

This work includes looking at how we can improve consistency and we are carrying out research looking at the potential to standardise the way in which information is provided, for example through the use of number or symbols to denote a particular allergen which will assist those with allergies.

### **Question 23 - Nola Owers (private individual)**

To ask that the requirement to provide allergen information in writing is put into legislation, as I understand is the case in Ireland where there is very high degree of compliance, and not just guidance which food establishments may ignore, with the possibility of another avoidable death.

### **Question 23: Answer**

Ensuring people with a food hypersensitivity (the collective term for food allergies, intolerance, and Coeliac Disease) have clear and accurate allergen information when eating out of the home is fundamental to our work to enable people with a food hypersensitivity have trust in the food they eat.

Food businesses are already legally required to tell customers if any food they provide contains any of the 14 mandated allergens. Currently, for non-prepacked food, such as that served in a restaurant, food businesses can choose how they provide this information.

We recognise the importance of improving how allergen information is provided for non-prepacked food and have carried out significant research over the last couple of years and the paper to the Board set out a number of options for consideration based on the findings of the research.

After considering the papers the FSA Board agreed at their meeting on Wednesday 13 December that they would like to see the provision of written allergen information in the non-prepacked sector be mandated. The FSA has written to make this recommendation to Ministers in England, Wales and Northern Ireland who will ultimately decide whether to take this forward.

In addition to providing written information, the Board also acknowledged that there should be an expectation for a verbal conversation to take place between customers and food business staff, to ensure an added layer of protection for consumers.??

A growing number of businesses are already choosing to provide written information on a voluntary basis. The FSA will work to develop strong guidance for food businesses on how to provide written allergen information to help drive up compliance and to encourage businesses to make it easier for people with a food allergy, intolerance, and Coeliac Disease to protect themselves when eating out. We will also continue to encourage people to ask businesses about food allergies when eating out. We hope this will lead to more businesses providing written information while Ministers consider whether to introduce legislation.

#### **Question 24 - Holly Denoon (private individual)**

Please can you discuss the importance of restaurants having to state allergens in their menus and make this law. Every person who suffers with an allergy, some that can cause death, should feel safe when eating food. Restaurants need to state clearly and this would also ensure they know what's in their food.

#### **Question 24: Answer**

Ensuring people with a food hypersensitivity (the collective term for food allergies, intolerance, and Coeliac Disease) have clear and accurate allergen information when eating out of the home is fundamental to our work to enable people with a food hypersensitivity have trust in the food they eat.

Food businesses are already legally required to tell customers if any food they provide contains any of the 14 mandated allergens. Currently, for non-prepacked food, such as that served in a restaurant, food businesses can choose how they provide this information.

We recognise the importance of improving how allergen information is provided for non-prepacked food and have carried out significant research over the last couple of years and the paper to the Board set out a number of options for consideration based on the findings of the research.

After considering the papers the FSA Board agreed at their meeting on Wednesday 13 December that they would like to see the provision of written allergen information in the non-prepacked sector be mandated. The FSA has written to make this recommendation to Ministers in England, Wales and Northern Ireland who will ultimately decide whether to take this forward.

In addition to providing written information, the Board also acknowledged that there should be an expectation for a verbal conversation to take place between customers and food business staff, to ensure an added layer of protection for consumers.

A growing number of businesses are already choosing to provide written information on a voluntary basis. The FSA will work to develop strong guidance for food businesses on how to provide written allergen information to help drive up compliance and to encourage businesses to make it easier for people with a food allergy, intolerance, and Coeliac Disease to protect themselves when eating out.

We will also continue to encourage people to ask businesses about food allergies when eating out. We hope this will lead to more businesses providing written information while Ministers consider whether to introduce legislation.

#### **Question 25 - Ashish Dhanani (private individual)**

Can legislation be brought to require restaurants to include a full ingredients list for all items on a menu, like nandos for example currently do? Allergy sufferers who have allergies outside of the main 14 allergens are currently not safe when dining out. It is a simple measure that could save lives and is of no substantial cost to a restauranter as they would need to have the list of ingredients for inventory purposes. It would however hugely help allergy families feel safe, included and would surely help the economy as well. Natasha's law does not go far enough to protect allergy sufferers.

#### **Question 25: Answer**

Ensuring people with a food hypersensitivity (the collective term for food allergies, intolerance, and Coeliac Disease) have clear and accurate allergen information when eating out of the home is fundamental to our work to enable people with a food hypersensitivity have trust in the food they eat.

There are a large number of potential food ingredients/products that people might be sensitive to. The current list of 14 major allergens is recognised as being the most common and potent ingredients of public health concern across the UK and Europe however we recognise that people can have a food hypersensitivity to food outside of the 14 and it is harder to identify risky foods for those people.

All food businesses are under a legal obligation to provide information on the presence of the 14 major allergens as an ingredient in food. There is no requirement in law for businesses selling non-prepacked food to provide a full ingredients list, or allergen information beyond the 14 common allergens, however if a food business is made aware of a consumer's allergen requirements, and has agreed to provide a suitable meal, they have an obligation to ensure that the meal is safe, and that the relevant allergen is not present even if it is not one of the 14. We encourage food businesses to be reasonable and respond to such requests and have recently produced some social media communications on this.

We recognise the importance of improving how allergen information is provided for non-prepacked food and have carried out significant research over the last couple of years and the paper to the Board set out a number of options for consideration based on the findings of the research.

After considering the papers the FSA Board agreed at their meeting on Wednesday 13 December that they would like to see the provision of written allergen information in the non-prepacked sector be mandated. The FSA has written to make this recommendation to Ministers in England, Wales and Northern Ireland who will ultimately decide whether to take this forward.

In addition to providing written information, the Board also acknowledged that there should be an expectation for a verbal conversation to take place between customers and food business staff, to ensure an added layer of protection for people with a food hypersensitivity.

A growing number of businesses are already choosing to provide written information on a voluntary basis. The FSA will work to develop strong guidance for food businesses on how to provide written allergen information to help drive up compliance and to encourage businesses to make it easier for people with a food allergy, intolerance, and Coeliac Disease to protect themselves when eating out. We will also continue to encourage people to ask businesses about food allergies when eating out. We hope this will lead to more businesses providing written information while Ministers consider whether to introduce legislation.

#### **Question 26 - Julie Williams (private individual)**

How many children (& adults) have to die for this matter to be taken seriously? (Additional context: Please put yourself in the shoes of a parent of an eleven year old girl and the fear of your child going into anaphylactic shock in a restaurant despite every effort you have made to communicate the severity of the allergy)

#### **Question 26: Answer**

Ensuring people with a food hypersensitivity (the collective term for food allergies, intolerance, and Coeliac Disease) have clear and accurate allergen information when eating out of the home is fundamental to our work to enable people with a food hypersensitivity have trust in the food they eat, and we have worked closely with charities representing people with a food

hypersensitivity.

Food businesses are already legally required to tell customers if any food they provide contains any of the 14 mandated allergens. Currently, for non-prepacked food, such as that served in a restaurant, food businesses can choose how they provide this information.

We recognise the importance of improving how allergen information is provided for non-prepacked food and have carried out significant research over the last couple of years and the paper to the Board set out a number of options for consideration based on the findings of the research.

After considering the papers the FSA Board agreed at their meeting on Wednesday 13 December that they would like to see the provision of written allergen information in the non-prepacked sector be mandated. The FSA has written to make this recommendation to Ministers in England, Wales and Northern Ireland who will ultimately decide whether to take this forward.

In addition to providing written information, the Board also acknowledged that there should be an expectation for a verbal conversation to take place between customers and food business staff, to ensure an added layer of protection for consumers.

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#### **Question 27 - Emily Hampton, Head of Food Policy, Coeliac UK**

Dear FSA board, We appreciate the efforts made in the recent FSA board paper on Food Hypersensitivity, particularly the updates to the allergen labelling technical guidance. However, we have some concerns resulting from the latest update of that guidance which is having an impact on individuals with coeliac disease following a gluten free diet.

1. Gluten free labelling guidance. Regulation (EU) No. 828/2014 clearly specifies only 'gluten free' or 'very low gluten' can denote the absence of gluten. 'Very low gluten' applies to specially processed ingredients where gluten has been reduced like wheat starch or beer. However, 32% of our community reported encountering 'very low gluten' incorrectly used on products or menus. How will the FSA address and rectify this misinterpretation of the latest guidance to ensure accurate gluten free labelling?

2. Precautionary allergen labelling (PAL) and gluten free claims: The current guidance suggests a 'gluten free' claim can be used alongside a PAL statement such as 'may contain wheat.' Given the need for substantiating a gluten free claim through testing, but there are no current agreed thresholds for using PAL statements, how does the FSA plan to ensure that manufacturers don't misuse PAL statements in conjunction with gluten free claims, potentially causing confusion for coeliac consumers? Will the FSA develop clearer standards and guidance for PAL application to eliminate ambiguity to protect the coeliac consumer?

In a recent Coeliac UK survey, November 2023 (n=4545), 80% of respondents considered a product labelled gluten free, that also had a PAL for 'may contain wheat', to not be suitable for their gluten free diet and almost a further 9% were uncertain. How will the FSA address this and work to align PAL standards with the expectations of the gluten free community? These questions reflect our commitment to ensuring the best interests of our community. We look forward to your insights and collaborative efforts to address these concerns in the interest of public health.

## **Question 27: Answer**

We are sorry to hear of the difficulties some of your members have been encountering with gluten labelling.

Ensuring people with a food hypersensitivity (the collective term for food allergies, intolerance, and Coeliac Disease) have clear and accurate information that will enable them to understand and manage risk deciding what is safe to eat remains a priority for the FSA.

The '[FSA Food allergen labelling and information requirements technical guidance](#)', provides information on the criteria for making a 'gluten-free' or 'very low gluten' claim and references the requirements of Regulation (EU) No. 828/2014. Before considering any changes, we would need to understand what is being misinterpreted and would be happy to discuss this with you.

In regard to the use of precautionary allergen labelling (PAL) and 'gluten free' claims: the purpose of PAL is to communicate the risk of an unintentional presence of allergens in a food product. 'Gluten-free' statements differ from other 'free-from' statements in that they are not absolute claims but stipulate that levels of gluten in the food are below 20mg/kg. Therefore, while a food labelled as "free-from gluten" would be safe for someone with Coeliac Disease to eat, it may pose a risk to someone with an allergy to cereals such as wheat or barley, in which case the food business might deem it necessary to make consumers aware of that risk through application of PAL. Our guidance states that PAL statements should only be used following a risk assessment and that allergen information should specify which of the 14 regulated allergens it refers to i.e., cereals containing gluten should be declared in the ingredients list using the specific name of the cereal, e.g., wheat (such as spelt, Khorasan or Kamut), rye, barley, or oats.

We plan to carry out further work looking at how PAL is applied by business, and understood by consumers, and would be happy to discuss the potential for improvements in respect to cereals containing gluten as part of this work.

## **Question 29 - Gill Furniss MP for Sheffield Brightside and Hillsborough**

What assessment, if any, has the FSA made to make it a legal requirement that the provision of information relating to allergens in restaurants be made in writing?

## **Question 29: Answer**

Ensuring consumers have clear and accurate information that will enable them to understand and manage risk when eating out is a fundamental pillar of our FHS strategy and remains a priority for the FSA.???

Food businesses are already legally required to tell customers if any food they provide contains any of the 14 mandated allergens. For non-prepacked (loose) food, such as that served in a restaurant, food businesses can choose how they provide this information.

We recognise the importance of improving how allergen information is provided for non-prepacked food and have carried out significant research over the last couple of years and the paper to the Board set out a number of options for consideration based on the findings of the research.

After considering the papers the FSA Board agreed at their meeting on Wednesday 13 December that they would like to see the provision of written allergen information in the non-prepacked sector be mandated. The FSA has written to make this recommendation to Ministers in England, Wales and Northern Ireland who will ultimately decide whether to take this forward.

In addition to providing written information, the Board also acknowledged that there should be an expectation for a verbal conversation to take place between customers and food business staff, to ensure an added layer of protection for consumers.

In the meantime, the FSA will work to develop strong guidance for food businesses on how to provide written allergen information to help drive up compliance and make it easier for people with a food allergy, intolerance, and coeliac disease to protect themselves when eating out.

**Question 30 - Stella Holt, Founder, Director, Consultant, Trainer, Food Allergy Friends Limited**

As a trained chef with over 40 years of experience in hospitality, and a personal lifetime of dealing with allergies, and special dietary requirements, I have a lot of experience within the industry. With the benefit of that experience, I am of the opinion that there is a lot more that can be done through the advances of modern technology, to improve the provision of allergen information.

For the hospitality industry, there needs to be one source of reliable information, in the form of a central database (A Single Source of Truth). Manufacturers need to be responsible for providing allergen information to the suppliers, and on through the chain all the way from manufacturer to the final customer, through APIs. This will save many lives. What are the FSA proposing to do to make the best use of APIs and to make this happen?

**Question 30: Answer**

Ensuring people with a food hypersensitivity (the collective term for food allergies, intolerance, and Coeliac Disease) have clear and accurate allergen information when eating out of the home is fundamental to our work to enable people with a food hypersensitivity have trust in the food they eat.

Food delivered through the supply chain, from manufacturers to wholesalers and caterers, and then on to the final consumers, must be accompanied by accurate information on all ingredients, so this can be passed on to the consumer.

Manufacturers and suppliers have a legal responsibility to adhere to traceability rules and to ensure they provide accurate information to other businesses on the food they produce. How this information is obtained is a matter for the supply chain.