

Minutes of the FSA Business Committee Meeting on 8 December 2021

The Coal Exchange Hotel, Cardiff

Present:

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

Officials Attending

Emily Miles	-	Chief Executive (CE)
Pam Beadman	-	Director of Finance and Performance (via Zoom)
Justin Everard	-	Senior Head of External Communications (For FSA 21/12/15 via Zoom)
Sarah Gibbons	-	Senior Head of Communications (for FSA 21/12/15 via Zoom)
Michael Jackson	-	Head of Regulatory Compliance Division (For FSA 21/12/14 via Zoom)
Maria Jennings	-	Director of Regulatory Compliance, People and Northern Ireland (NI)
Professor Robin May	-	Chief Scientific Adviser (CSA)
Rick Mumford	-	Deputy Director of Science, Evidence and Research
Katie Pettifer	-	Director of Strategy, Legal, Communications and Governance
Julie Pierce	-	Director Openness, Data, Digital, Science and Wales
Steven Pollock	-	Director of Communications
Rebecca Sudworth	-	Director of Policy
Colin Sullivan	-	Chief Operating Officer

1. Welcome and Introductions

- 1.1 The Chair welcomed everyone to the meeting and asked Business Committee Members if they had any conflicts of interest in relation to any of the items on the agenda. None were raised. No items of Any Other Business were raised.
- 1.2 The Chair said Phillip Randles, the FSA's Head of Incidents had now retired. She paid tribute to Phillip's work with the FSA and said he would be greatly missed. Philip would be succeeded in the role by Darren Whitby.

2. Minutes of 15 September 2021 (FSA 21/12/09)

- 2.1 No comments were raised on the Minutes of the Business Committee meeting of 15 September 2021, and the Board agreed they were an accurate record of the meeting.

3. Actions Arising (FSA 21/12/10)

3.1 The Chair noted that all the actions listed were complete or on course and no comments or questions were raised by Business Committee Members.

4. Chief Executive's Report to the Business Committee (FSA 21/12/11)

4.1 The Chief Executive (CE) gave an overview of her report included in the papers covering: the 2021 Spending Review (SR21) outcome; field operations and the veterinary shortage; incidents including feeder mice and oysters; the National Food Crime Unit's (NFCU's) first end-to-end investigation and prosecution result; staffing including the departures of Colin Sullivan and Phillip Randles; Steve Wearne's appointment to the chairmanship of CODEX Alimentarius; and the Deep Dive on Diversity and Inclusion; and work around race in particular.

4.2 The Chair noted the achievement of maintaining 100% service delivery throughout the challenges arising from the veterinary shortage and expressed her gratitude to the Meat Hygiene inspectors (MHIs) and Official Veterinarians (OVs) as well as the staff responsible for the strategic planning. She welcomed engagement with the Royal College of Veterinary Surgeons, noting this was a long-term solution.

4.3 Colm McKenna asked about arrangements with the FSA's Service Delivery Partner Eville and Jones (E&J) and concerns about maintaining service over the Christmas period and until the beginning of January. Colin Sullivan said it was expected that by the end of December, there would be sufficient MHIs to carry out the necessary work to maintain service delivery, but this was based on projections made prior to the discovery of the Omicron variant of COVID-19. He also noted that E&J currently sourced MHIs mainly from West Africa, many of whom were coming from red-list countries. OVs had been sourced from Turkey, which was not currently red-listed, but this would also be subject to the same issues around the Omicron variant.

4.4 Margaret Gilmore asked about the impact on morale of the veterinary shortage and how that could be managed. The CE said morale had been an issue, especially for MHIs who often had to help newly recruited OVs get settled in, and where the OVs were being paid at a more senior level. The Civil Service pay freeze had also had an impact with staff employed through E&J receiving pay increases that could not be matched for those directly employed by the FSA. Colin also noted that OVs and MHIs often felt that, due to the hours they worked, and being away from desk activities, they often missed opportunities afforded to other FSA staff for training and all-staff calls, which would otherwise help them progress and feel more included within the organisation.

4.5 Margaret asked how Board recruitment could be factored into the FSA's work around Diversity and Inclusion. The Chair noted the Board's profile was not as diverse as it could be. The FSA would be recruiting new Board Members in 2022 and encouraged anyone listening to the meeting, who thought they might be able to contribute to apply. Ruth Hussey said the FSA should consider new ways to reach out to other government departments who had had success in

attracting a more diverse pool of applicants to see what lessons would be applicable for the FSA.

- 4.6 Fiona Gately asked about the Global Food Security Conference mentioned in the paper and asked what the FSA could learn from what other countries were doing. The CE noted a gap around consumer information around sustainability where work was ongoing but there was still no common scheme between regulators in different countries and this hindered progress in this area. This could be a question for CODEX to look at as it would be necessary for there to be some international standard setting.
- 4.7 The Chair welcomed the update and noted issues arising from the veterinary shortage, urging consideration of the relationship with E&J and inviting an update on what would happen next after the contract expired. The outcome from SR21 was welcomed and the Board commended the quality of the case the FSA had put forward and how it had presented it to Treasury.

5. Performance and Resources Q2 2021-22 (FSA 21/12/12)

- 5.1 Pam Beadman gave an overview of issues in the report covering: Official Controls delivery; the Food Hygiene Rating Scheme (FHRS); and finances, including the reduction in the FSA's underspend. The Chair noted the information in the report around the FHRS reinforced the FSA's position in relation to mandation of the display of ratings in England.
- 5.2 Colm raised the issue of the underspend, noting that the risk appetite had been adjusted last year to encourage the FSA to be less cautious about allocating and spending its budget. He noted that, though the amount had reduced since this was last reported to the Board, an underspend was still being forecast. Pam said the Executive Management Team (EMT) was working to bring forward spend, particularly on evidence and research where there was some flexibility, which would also help next year. A significant part of the underspend had arisen from recruitment pressures. Measures such as reserve lists and pooled recruitment were now being implemented to help address this as well as a greater use of contract and temporary staff, where appropriate. The CE noted significant activity by the Executive had been done to help address the underspend which included overprogramming for the first time and such things as providing additional funding to Local Authorities (LAs).
- 5.3 Colm noted the 7% uplift in SR21 reported by the Chief Executive to the Business Committee (FSA 21/12/11) and asked about plans to manage the implications for years two and three of that settlement given the broadly flat profile and likely additional responsibilities, such as salary increases. Pam mentioned an ongoing prioritisation exercise to see what activity could be reduced, stopped or delayed, and there was consideration of whether some assumptions made in the bid should be revised, especially around recruitment profiles. We were also internally monitoring the impact on Full Time Equivalent numbers for future years. The CE said the FSA was currently considering the allocation for year one. There would be some reprioritisation to reflect the

steers received from the Board. The consequences for years two and three would then be considered further. There was confidence about the budget setting for 2022/23 and the Business Committee would hear more about this in March.

- 5.4 Mark asked about the Achieving Business Compliance (ABC) programme, noting that the milestones in the programme were all either complete or on track and whether the FSA was being sufficiently ambitious with the timescales for implementation. The CE said manageable targets were deliberately chosen for this year due to the previous year's progress having been impeded by the COVID-19 pandemic. Next year would be more ambitious following the training and recruitment that had now taken place.
- 5.5 Mark noted the demographics of staff in the FSA were significantly older than the Civil Service average. He asked whether enough was being done to attract younger people to the FSA to build their career. The CE noted the figures around the age of FSA staff were affected significantly by the large numbers of field operations staff, who generally had an older profile than office-based staff. Efforts were being made to attract a more diverse workforce across all characteristics within all areas of the FSA.
- 5.6 Lord Blencathra noted the LA assessment backlog and asked if there was confidence that unchecked premises were not selling through delivery services. Maria Jennings said food businesses selling through aggregator sites often put pressure on Local Authorities to carry out inspections that would result in a food hygiene rating so that the rating can be displayed on these platforms.

6. National Food Crime Unit (NFCU) – Annual Update (FSA 21/12/13)

- 6.1 The Chair highlighted the successful prosecution the NFCU had brought, noting this was a good outcome but sad that it was not brought in time to have saved more lives. Colin Sullivan and Darren Davies were invited to introduce the paper. Colin gave an overview of issues raised in the paper including: the development of the functions of the NFCU; the need for powers under the Police and Criminal Evidence Act 1984 (PACE powers); a breakdown of the work being pursued; strategic threat assessment; and the external review of the NFCU.
- 6.2 Lord Blencathra noted that, within government, there were often units and functions that did not fit perfectly within their parent departments and there could be a temptation for an external review to suggest that the NFCU would fit better as part of a different body, which should be resisted, emphasising that a focus on cross-government communication and cooperation was the key to ensuring effectiveness. The Chair noted this highlighted the importance of ensuring the external review had appropriate Terms of Reference (TORs).
- 6.3 Fiona Gately suggested the TORs were missing an outline of how the work of the NFCU explicitly contributed to the priorities of the FSA. She suggested the

inclusion of something that could demonstrate those connections to work around food safety and authenticity.

Action 1 - Director of Operations to include a reference to support for the FSA's objectives of food safety and authenticity in the Terms of Reference for the NFCU.

6.4 Margaret Gilmore suggested that the words "or alternative arrangements" be removed from the final bullet point to allow the panel to offer alternative arrangements without openly inviting that they should. She asked whether the review would consider what the impact of the NFCU having PACE powers would be. The Chair supported the amendment to the final bullet and agreed the FSA should seek more from the review in terms of the likely effect of PACE powers as well as other things the NFCU could do to be more impactful.

Action 2 - Director of Operations to remove the words "or alternative arrangements" from the final bullet point of the Terms of Reference.

6.5 Mark noted that in paragraph 5.2 of the paper it stated the majority of actions had a minor or moderate impact when judged against National Crime Agency metrics. He asked whether the impacts really were minor or moderate or whether the National Crime Agency (NCA) standards were not the right ones by which to measure the impact of the NFCU. Darren said the National Audit Office (NAO) had undertaken work to review the FSA and had recommended that best practice was sought from the NCA, amongst others. He said he was open to maximising the impacts but also wanted to be able to ensure a read-across to other areas of law enforcement to enable the ability to demonstrate to them the impacts of the work when their cooperation was being sought.

6.6 Mark suggested the membership of the review team should be considered to ensure that it included some independent members. Colin explained that the membership of the review panel was within the gift of the Chair and that he would be happy to provide recommendations for independent members. The membership of the review panel had been envisaged as involving a team including members with backgrounds in law enforcement as well as in food. Colm suggested the important factor would be for the panel to have a credible Chair, with whom the FSA could work to appoint the rest of the panel. The Chair asked Committee Members to submit suggestions for individuals who could potentially chair the review panel before the end of the month.

Action 3 - Business Committee Members to make suggestions about an appropriate Chair for the NFCU review panel by end of December.

6.7 The Chair suggested she could then meet with FSA officials to discuss the suggestions as well as the process for appointments and how best to involve other interested departments in the process. Timothy Riley said the appropriate qualities of the Chair were to be decided but someone with a broad range of skills, both in terms of science as well as an understanding of the

practical side of enforcement and some knowledge of the legal framework would be welcome.

- 6.8 Colin said that the Committee's comments on the TORs had been useful, and the latter would be revised accordingly.

7. Local Authority Recovery Plan Update (FSA 21/12/14)

- 7.1 The Chair invited Maria to introduce this item. Maria gave an overview of the paper covering the prioritisation of new and high-risk businesses; FHRS data and evidence of activity levels; cause for concern LAs; early stage review of the recovery plan; and the audit team.
- 7.2 Mark noted that paragraph 2.3 of the paper referred to an expectation on LAs to move at a faster pace and asked whose expectation that referred to. Maria said the FSA had explicitly said to LAs they could go faster if they were able, and it had been made clear to them that the FSA expected them to go as fast as they could to return to the levels of interventions they would have had prior to the pandemic. The expectation was there to give them the option to do that if they were able.
- 7.3 Mark noted that paragraph 4.3 said the wording around self-reporting of good performance being challenged was too broad and asked for assurance that where self-reporting of good performance was challenged and found to be correct, this was given appropriate recognition. Maria said this was a good point and would be borne in mind as the plan was implemented. Michael Jackson said the dynamic nature of the situation meant the more sophisticated approach now being taken could highlight discrepancies in LA reporting, necessitating engagement to assess whether there was a cause for concern.
- 7.4 Mark noted that paragraph 5.6 said LAs were reporting higher levels of non-compliance. He said it would be important to recognise this would create more work for LAs. Maria noted it would take LAs longer to get businesses back into compliance in these circumstances. This was a concern the FSA was aware of and would be monitoring.
- 7.5 Mark welcomed the consideration of what could be done to bring more people into roles as Environmental Health Officers (EHOs) and Trading Standards Officers (TSOs) outlined in paragraph 5.8. The Chair noted both the short-term shortage of inspectors and the longer-term issue of attracting people into the profession were issues that needed to be addressed. She observed that having attended inspections and seen the work first-hand, it was an interesting job that made a clear difference to people's lives and should be an attractive proposition to people considering their career path. Mark supported that observation but added that funding for apprenticeships qualifications within these professions was not easily obtainable.
- 7.6 Ruth Hussey asked whether the performance management framework was England specific or would be used across all three nations. Maria said that it was a three-nation approach.

- 7.7 Ruth noted the importance of starting to increase inspections after two years of the COVID-19 pandemic and said that the assessment in March needed to consider escalation plans if recovery was not progressing as hoped. Maria said it was important to maintain focus on increasing inspections again but noted LAs were still concerned about their capacity to do that.
- 7.8 Ruth said performance management was important, but an audit programme that looked at qualitative measures would be useful. Maria said the role audit played was important and LAs needed credit for the quality of the work they were doing. Michael said audit activity would be resumed but it was critical to ensure the timing was right to allow verification checks to take place to ensure LAs had appropriate recovery plans in place. This would allow for more evidence for consideration of qualitative aspects to emerge by the start of the next financial year.
- 7.9 Margaret noted lower inspection rates in Wales than elsewhere and asked what the reasons for that might be. Maria said EHOs in Welsh LAs were still being called upon to execute other duties, but FSA in Wales colleagues were monitoring the situation. Peter Price added that the FSA in Wales had good connections with Welsh LAs and assurances had been received that although a higher number of resources had needed to be diverted due to COVID-19 restrictions and higher infection rates, LAs had confidence they would be able to return to the expected numbers of inspections and the FSA was monitoring this carefully.
- 7.10 Fiona noted an ongoing mapping exercise to see whether qualifications could be changed to allow more people to carry out necessary duties and asked when this exercise was likely to be concluded. Michael said the FSA would be looking to better understand what barriers there were in the system around staffing and to conclude the work as quickly as possible. Traditionally, LAs had recruited from the available pool of existing EHOs and TSOs when faced with shortages but as this had become more limited, LAs had increasingly employed graduate EHOs, as well as taking on apprenticeships.
- 7.11 The Chair said it was encouraging that the outlook was becoming more positive. It would be important to communicate to LAs that the FSA was doing everything it could to support their recovery but by the Board meeting in March, a summative assessment would be required. It would be interesting to see whether the different systems operating in the different UK nations led to different outcomes. Ruth said this would be followed up through the work of the Audit and Risk Assurance Committee (ARAC). The Business Committee supported the direction of travel in relation to the longer-term proposals.
- 7.12 Fiona asked if there had been any ideas emerging from the ways in which the money the FSA had given to LAs had been spent that would help with the staffing situation. The Chair suggested a response to that question was considered outside of the meeting.

Action 4 - Maria Jennings to respond to Fiona Gately with information on ideas emerging from the ways in which the money the FSA had given to LAs had been spent that would help with the staffing situation in relation to EHOs.

8. Communications Update (FSA 21/12/15)

- 8.1 The Chair invited Steven Pollock, Sarah Gibbons and Justin Everard to deliver the annual Communications update. Steven, Sarah and Justin delivered a presentation that covered: the operating context for communications work; headline metrics from the past year's activity; contributions through media including social and online media; the proactive media approach; campaigns and awards; parliamentary engagement; internal communications; priorities for the next six months; and collaborative work with an influencer through TikTok.
- 8.2 Timothy noted the parliamentary engagement and asked if there had been any engagement through metropolitan mayors. Steven said there had been no direct engagement with city mayors, but this was something that could be considered for future.
- 8.3 Margaret noted the proactive approach to media engagement and asked whether it was possible to be more proactive around communications on issues such as current staff shortages in LAs. Steven said there had been work, through the EMT and the Business Delivery Group (BDG) to look at the best way of managing these challenges proactively.
- 8.4 Ruth asked about the Government Communications Service (GCS) reform and the impact this had on the choice of campaigns that the FSA, as an independent regulator, pursued. Steven said there were ongoing conversations with GCS about campaign funding in individual departments. The FSA had not been inhibited from pursuing the campaigns it considered appropriate and he was confident that this would remain the case.
- 8.5 Mark said that in the earlier discussion of Performance and Resources Q2 2021-22 (FSA 21/12/12), he had noticed in the figures on FHRS and consumer awareness, that only 51% checked or used the scheme. He asked what could be done to encourage consumers to engage with the scheme as public awareness was a key element in the case for the mandation of the display of ratings. Steven said that communications would continue to support the FSA's push for mandatory display of FHRS ratings in England and seasonal work was undertaken to raise awareness of the scheme, acknowledging that consumer power could be key to making the case for mandation.
- 8.6 The Chair said the Committee welcomed the presentation and were pleased to see the work outlined. The Committee had urged the Communications team to be bolder. Parliamentary engagement was noted as a work in progress and consideration and engagement with city mayors was recommended. The Chair also urged prioritisation of issues around Cannabidiol (CBD) and welcomed the successes outlined with nominations for FSA staff awards.

9. Any Other Business

- 9.1 No other business was raised, and the Chair closed the meeting. The next meeting would take place on 9 March 2022 and was being planned for Birmingham.