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## GOVERNANCE REVIEW

### Report by Heather Hancock and Rod Ainsworth

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## 1 SUMMARY

1.1 The Board is asked to:

- discuss and **agree** the governance and assurance framework for the Food Standards Agency, including the implications for the Board of the UK's exit from the EU;
- agree to **update** the Terms of Reference for the Board accordingly, as proposed;
- **agree** to amend the Terms of Reference for the Business Committee as proposed;
- **agree** to amend the Terms of Reference for the Audit and Risk Assurance Committee, as proposed by the Committee in July 2018;
- **agree** to amend the Standing Orders for Board and Committee meetings as proposed; and
- **provide** guidance to inform proposals for a new advisory committee, currently termed the 'Regulatory Forum', the Terms of Reference for which will be put to the Board for approval later this year.

## 2 INTRODUCTION

2.1 The Food Standards Act 1999 provides that the Agency may regulate its own proceedings. Good governance requires that the Board and its Committees operate to clear, agreed Terms of Reference (ToR) and in accordance with Standing Orders. Since 2014, the Board has reviewed its suite of ToR and Standing Orders annually.

2.2 We also consider annually the effectiveness of the Board: this year, the focus of that has been on how to adjust, clarify and confirm the governance and assurance roles of the Board and its Committees in the light of significant implications for the FSA of the UK's Exit from the EU.

2.3 The current ToR for the Board were updated and agreed by the Board in September 2017 (**Annex A**). The Standing Orders, which govern Board and Board Committee meetings, are attached at **Annex B**. The Board delegates specific functions to two Committees: the Business and the Audit and Risk Assurance Committees (ARAC).

2.4 This year, the annual review of Terms of Reference is a wider process, to ensure that the governance and assurance framework for the FSA, and the implications for the role of the Board, continue to be fit for purpose. The analysis and recommendations reflect changes flowing from EU Exit, the direction of the

Regulating our Future (RoF) programme, the creation of the Science Council, and the strengthened assurance role of the Chief Scientific Adviser.

- 2.5 When the UK is outside the EU, the FSA will play a more significant role in risk assessment, risk communications and risk management.

### 3 GOVERNANCE AND ASSURANCE AT THE FSA

- 3.1 There are three components of the governance and assurance framework:

Governance: *“the arrangements put in place to ensure the intended outcomes for stakeholders are defined and achieved”*

Assurance: *“actions designed to establish the levels of confidence about an outcome, measure or decision”*

Accountability: *“obligation to account to Parliament & citizens for policies, decisions and actions, particularly in relation to public finance”*

- 3.2 Three structures or roles deliver against these requirements: the FSA Board, Committees of the Board and the Accounting Officer. The Board focuses on governance (what outcomes are sought, how is it intended to achieve them, and strategic/corporate risk), and assurance (how we will know that has happened, and how sure we can be). The Business Committee supports and scrutinises the decisions of the Accounting Officer about how we use our resources to optimise the achievement of agreed outcomes, including addressing operational risk. The Audit and Risk Assurance Committee provides scrutiny of the assurance, compliance and accountability systems and processes that the FSA uses to identify, manage and mitigate risk.
- 3.3 We gain additional expertise, advice or assurance from our Chief Scientific Adviser, the Science Council, and the Food Advisory Committees. Our expert science advisory committees may occasionally be called upon for Board-level assurance. These are central to the risk assessment function. None of them have a governance role of their own.

### 4 THE ROLE OF THE BOARD

- 4.1 The FSA is an independent non-Ministerial government department working across England, Wales and Northern Ireland. Our statutory objectives are to protect public health from risks which may arise in connection with the consumption of food (including risks caused by the way food is produced or supplied), and to protect the interests of consumers in relation to food.
- 4.2 The Board **sets the strategy** for fulfilling these statutory purposes. The Board agrees **medium term priorities** to deliver that strategy. The Board agrees measures for the **outcomes** that we aim to achieve, and it sets **targets** for these outcomes to measure our progress. The Terms of Reference should reflect these central obligations of the Board.
- 4.3 The FSA Board’s current Terms of Reference state that the Board:
- sets strategy;
  - takes major decisions on policy and on key issues of principle, including when advice is to be given to Ministers;

- has collective responsibility for FSA activities and discharge of its statutory duties; and
- through the Chair, appoints the Chief Executive and holds him/her accountable.

- 4.4 The Terms of Reference are silent about the role of the Board on risk. Every Board has an essential core responsibility for risk, a role that is distinct from the support provided to the Board by an audit or risk committee, and a role that should not be delegated. It is proposed that the ToR specifically provide for the Board to: set the risk appetite for the FSA; to establish and monitor risk at the strategic, corporate and reputational level. Strategic risk includes risks that arise because of external factors, such as changes in the global food system as they affect our jurisdiction, and risks that arise as a result of our own strategy. Corporate risk, in this context, means the combined top level impact of risks that in themselves are at the operational or delivery level. An example of that would be the total impact of delivery, operational and strategic risks on the performance of local authorities in relation to the food safety and standards regime. Reputational risk speaks for itself. These are the key areas of 'top down' risk where the Board focuses. They are distinct from regulatory risk management (i.e. the decisions and controls for managing the risk of food borne illness) and 'bottom up' risks, such as operational and delivery risk management, including risks associated with technology, people, premises etc. Those are identified and managed by our executive, may (rarely) become significant enough for the Board to take an interest, and rely on the Business Committee at an oversight level. Finally, the Board looks to ARAC to provide us with assurance on the risk management and mitigation processes and controls being operated by the executive.
- 4.5 The FSA pursues its statutory objective of protecting consumers by ensuring that there is a robust and effective regulatory regime which maintains the safety and authenticity of food, for the benefit of our consumers and our industry. This can be seen as having six components: surveillance; risk assessment; risk communications; risk management; official controls; compliance regime. The Board has important governance and assurance responsibilities to play in relation to each of these. The Board Terms of Reference identify the scope and mechanisms for the Board to discharge those responsibilities (taking major decisions, determine key principles, advice to Ministers, discharge of statutory functions).
- 4.6 The 'compliance regime' – the design, implementation and oversight of the system for assuring FBO compliance with rules for food and feed safety and standards - is at the heart of our regulatory reforms. Research internationally suggests that in regulatory bodies there is a lack of governance and accountability for regulatory risk management at the senior level. Whilst this is in practice very visible within the FSA including at Board level, not least given the RoF programme, it is not recognised in the ToR. It is proposed that the ToR should specifically cover the Board's role in relation to the effectiveness of the compliance regime. This would encompass actions the Board already takes on reviewing local authority performance, considering the design of RoF, annual reviews of animal welfare, official controls etc.

4.7 It is therefore proposed to revise the FSA Board Terms of Reference, so that the Board:

- sets strategy, strategic priorities and strategic outcomes;
- *identifies and monitors strategic, reputational and corporate risk; determines the FSA risk appetite;*
- *takes major decisions on the regulatory and controls framework;*
- takes major decisions on policy and key issues of principle;
- informs advice to Ministers, and on more prominent issues provides advice to Ministers;
- has collective responsibility for FSA activities and discharge of our statutory duties; and
- through the Chair, appoints the CEO and holds him/her accountable.

## **5 RISK MANAGEMENT, ASSESSMENT AND COMMUNICATION: BOARD ROLE POST-EXIT**

5.1 The UK's exit from the EU means that functions in risk management, risk communications and risk assessment will return to the UK.

5.2 As reported at the June Board meeting and following the Chair's discussions with Ministers at the Department of Health and Social Care (DHSC), the Department for the Environment, Food and Rural Affairs (Defra) and the Department for Exiting the European Union (DExEU) the FSA understands that the intention is:

- For the FSA, in due course, to have responsibility for technical risk management decisions, referring more prominent issues with wider public policy implications to be decided by Ministers;
- That any Ministerial decision on risk management would come from Health Ministers, maintaining the separation between public health concerns and economic interests arising from food;
- That the FSA's proposal to establish a regulatory forum to provide input to risk management advice is welcomed;
- And that until the point described above, on a transitional basis, it is proposed that all risk management decisions would be made by relevant health Ministers on the basis of FSA advice and in consultation with other Ministers as necessary.

5.3 On each issue (likely to be over 150 matters a year), the FSA will provide a full package of risk analysis to Ministers, together with a recommendation for risk management measures. Our risk analysis will cover the risk assessment (the scientific assessment of a food or feed safety risk), risk communications and risk management considerations (bringing into play wider consumer interests, the position of business, ethical and other issues, for example).

5.4 The FSA Board does not have a technical interpretive role on the scientific or expert risk management and mitigation issues. The Board's role is to provide public confidence that a consistent, appropriate, risk-based approach is taken to

all food and feed safety issues, and that this is based on science and evidence. Critically, the Board ensures that this approach puts public health first and that it takes fully into account the consumers' wider interests in relation to food.

- 5.5 On risk assessment, post-EU Exit, the Board will want to be confident that the capacity, capability and structure of the scientific and technical resource used for risk assessment is appropriate. The Board will also require assurance about the quality, value and impact of the science we commission and rely upon. The assurance required by the Board will be supported by the Business Committee and by the Audit and Risk Assurance Committee. Some of the assurance will also come from our Chief Scientific Adviser, the Science Council, and our scientific advisory committees (SACs).
- 5.6 The Board must have a central role in how the FSA determines its risk assessment priorities – what food or feed risks should we prioritise for scientific investigation? These should reflect our strategic assessment about the impact on UK consumers of risks in the global food and feed system. The priorities should reflect what we learn from surveillance and wider insight, and the likely public health impact. A consistent approach is required so that we can understand the relative impact/value of the priorities we could focus upon.
- 5.7 For the most part, risk communication is an operational process. The Board's role on risk communications will form part of its oversight of overall stakeholder management and engagement, of the communications function, etc. The key issue for the Board – and a lesson learned in the 2015 triennial review of the SACs – is the quality of communication between the risk assessment and risk management functions. In simple terms, is the right question being asked, with the right context explained, so that the science we get is as targeted as possible to address the issue at hand? There is a key assurance role here for our Chief Scientific Adviser to play.
- 5.8 Turning to risk management recommendations being put to Ministers, very many of these decisions are highly technical in nature. **Annex C** has examples of the kinds of decisions made every month in the EU Standing Committee on Plant and Animal Food and Feed. These decisions have rested at official level in the EU.
- 5.9 The Board's current Terms of Reference require that the Board "*takes major decisions on policy/principle including advice to Ministers*". In relation to risk management matters, it is not realistic for the FSA Board to get involved in making each of these individual risk management decisions or recommendations. The Board hasn't the technical expertise to do so, the decision-making process would be unwieldy, and the Board does not exercise this role today in relation to matters FSA officials take to the EU Standing Committee via a Ministerial approval process.
- 5.10 The proper role for the Board in the risk management process for this kind of technical matter is to:
  - set the risk appetite;

- ensure that an appropriate and consistent framework for the risk management process exists, is approved by the Board as fit for purpose, is applied consistently, operates to our established standards of openness and transparency, and is regularly reviewed and improved;
- ensure that there is a sound evidence base for the consumer interest, as an input to risk management;
- advise on the balance between consumer protection and wider consumer interests/benefits, and non-consumer interests, and in doing so ensure that this is transparent and accountability for it is clear; and
- ensure that the comparative interests and needs of populations across all three countries are properly considered, so that risk management recommendations can be as consistent as possible across England, Wales and Northern Ireland

5.12 Then, for non-controversial, technical risk management recommendations put to Ministers, the Board will receive a written summary at each Board meeting of (a) matters currently under consideration, (b) advice formally submitted to Ministers and (c) Ministerial decisions. So long as the submissions to Ministers are developed and delivered in accordance with the arrangements that the FSA Board has approved, including the Board activities in paragraph 5.10, this would translate into Terms of Reference for the Board to *inform* advice to Ministers. It provides the wider assurance and governance for the technical risk management function.

5.13 In relation to more prominent food and feed safety issues, the Board would have more engagement in the specifics. The Board would provide formal advice to Ministers, on the basis of the same risk analysis process described in this paper. In the last couple of years, the Board has established an effective pattern in relation to higher profile issues – an initial Board discussion to establish all the relevant factors and evidence required, and a subsequent Board discussion to consider officials' advice and to reach a risk management conclusion. For these more prominent issues, we would follow the same two-stage approach. The recommendations of the Board would then become our formal advice to Ministers, supported by the risk analysis package.

5.14 This twin track approach from the Board is then captured in the adjustment to the Terms of Reference to say:

- Informs FSA advice to Ministers, and on more prominent issues provides advice to Ministers.

5.15 One of the founding principles of the FSA is to operate with openness and transparency. It is essential that this commitment carries forward into new arrangements for risk assessment and risk management. Obviously, any FSA Committees considering the detail of risk assessment and risk management inputs will operate publicly, and our commitment to consultation commitments will not change. We believe that these arrangements for Board oversight, input and scrutiny ensure that openness and transparency continues to extend into risk analysis and decision making.

5.16 In developing proposals to deal with the consequences of the UK exiting the EU, and particularly to enable the most complete set of inputs to risk management, officials have proposed the creation of a new advisory committee, currently called a 'regulatory forum'. The value of this new committee is to ensure the FSA/FSS has a full understanding of relevant risk management considerations, to help address any devolved concerns, or issues from other relevant government departments and to reach a UK wide consensus wherever possible. The Terms of Reference and working protocol for the new committee are still in development, and will require consultation with the "appropriate authorities"<sup>1</sup> and approval by the Board before it can be formally established. The Board may, at this stage, wish to offer guidance on its expectations of the proposed new advisory committee.

## 6 BUSINESS COMMITTEE TERMS OF REFERENCE

6.1 The Business Committee Terms of Reference are at **Annex D**, and were agreed in September 2017. The Business Committee plays a critical role at the interface between the Board's strategic and governance role, and the Accounting Officer/Executive responsibilities for operational decisions and delivery, management of the department, and ensuring value for money in the use of public funds.

6.2 The adjustment to the Board ToR proposed in this paper require one deletion from the Business Committee's Terms of Reference. The Business Committee currently is expected to "*consider and advise on strategic risks*" on behalf of the Board. The Board is the proper place for strategic risk to be discussed and monitored, and this is now included in the revised ToR for the Board set out in paragraphs 4.4 and 4.7. Therefore, the Business Committee ToR should be amended to say:

- *Identifies & monitors operational and delivery risks*

6.3 Other consequences of EU exit will affect the agenda of the Business Committee but are already possible under the existing Terms of Reference - for example, tracking implementation of risk management decisions taken by Ministers. The Business Committee's role in the annual planning process may also strengthen, given the need to take more significant decisions on funding for science priorities. The Board will review the Business Committee's ToR again in 2019.

## 7 AUDIT AND RISK ASSURANCE COMMITTEE TERMS OF REFERENCE

7.1 The adjustments described above will require further oversight from ARAC. ARAC's focus is on assurance and the Board relies on it for confidence about the controls and processes for strategic, corporate and operational risk management. In future, for example, the internal audit process might review a

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<sup>1</sup> The Food Standards Agency Act (1999), under schedule 2, states: "...appropriate authority, in relation to any committee, means the appropriate authority for the part of the United Kingdom for which the committee is established." (<https://www.legislation.gov.uk/ukpga/1999/28/schedule/2>).

number of risk analysis packages on technical issues submitted for Ministerial decision, to ensure that they followed the agreed policy and decision frameworks. ARAC considering the outcome of such a review does not require an adjustment to the Committee's Terms of Reference.

- 7.2 The current ToR for ARAC were most recently reviewed by the Committee, on the Board's behalf, in June 2018. Updates were made in relation to: clarifying the status of ARAC in relation to the FSA Board under the 'Purpose' sub heading; the training and development of ARAC members under the 'Membership' sub heading; and the inclusion of LA audit system scrutiny and the scrutiny of other external assurance reports under the 'Responsibilities' sub heading (also reflected under the 'Information Requirements' sub heading).
- 7.3 If the Board are content with the proposed updated ARAC ToR (**Annex E**), they will remain as the Committee agreed them in June 2018 and the Committee and the Board will review them again in summer 2019.

## 8 REVIEW OF BOARD EFFECTIVENESS

- 8.1 Every year, the FSA Board is expected to undergo a review of effectiveness. Last year the Board agreed that this should await the conclusion of discussions about the role of the FSA and the Board when the UK has exited the EU. This year, the review has focused on the detailed consideration of how to adjust, clarify and confirm the governance and assurance roles of the Board and its Committees in the light of changes likely to flow from the UK's exit from the EU. The Board has discussed the consequences of EU exit in two Board meetings in the last 12 months, each time looking at the governance impacts we might have to respond to. The proposals in this paper clearly set out for the benefit of all participants, and stakeholders, the role the Board intends to play under what we *expect* to be the new arrangements for risk management. Significant shifts are still taking place in relation to post-exit arrangements. Twelve months from now, with enough time to bed in and test the updated Terms of Reference, a full external review of Board effectiveness should be commissioned.

## 9 REVIEW OF STANDING ORDERS

- 9.1 The Standing Orders for Board and Committee meetings (**Annex B**) were most recently reviewed and agreed by the Board in September 2017. No changes are proposed to the Standing Orders, and these will be reviewed again in September 2019.

## 10 CONCLUSION AND RECOMMENDATIONS

- 10.1 The Board is asked to:

- discuss and **agree** the governance and assurance framework for the Food Standards Agency, including the implications for the Board of the UK's exit from the EU
- agree to **update** the Terms of Reference for the Board accordingly, as proposed;

- **agree** to amend the Terms of Reference for the Business Committee as proposed;
- **agree** to amend the Terms of Reference for the Audit and Risk Assurance Committee, as proposed by the Committee in July 2018;
- **agree** to amend the Standing Orders for Board and Committee meetings as proposed; and
- **provide** guidance to inform proposals for a new advisory committee, currently termed the 'Regulatory Forum', the terms of reference for which will be put to the Board for approval later this year.

## ANNEX A

### TERMS OF REFERENCE FOR THE FSA BOARD

(AS AGREED AT THE BOARD MEETING ON WEDNESDAY 20 SEPTEMBER 2017)

**Purpose:** The Board is established by the legislation that established the FSA and constituted in line with the Food Standards Act 1999. It exists to represent the public interest and ensure that the organisation puts consumers first, to set strategy for the FSA, and to take major decisions on policy and key issues of principle, informing advice given to Ministers in Westminster and Wales and Northern Ireland. The Board has overall collective responsibility for the activities of the Food Standards Agency in England, Wales and Northern Ireland, and for ensuring that the FSA discharges its statutory duties to protect public health and consumers' interests in relation to food. The Board also, through the Chair, appoints the Chief Executive and holds her/him accountable, and supports the Chief Executive in the discharge of her/his role as Accounting Officer.

**Devolution:** The interests of Wales and Northern Ireland are taken into account in Board decisions and deliberations through advice from the Food Advisory Committees of these countries. Board papers are normally the subject of FAC consideration prior to their consideration in the Board.

**Delegation:** The Board may delegate to Committees certain functions mainly associated with implementation and corporate governance of the Agency. Committees currently constituted under this power are the Business and Audit and Risk Assurance Committees.

**Transparency:** The Board meets in the open so that it is clear to interested parties and the public on what basis it has taken its decisions and what evidence it has taken into account in reaching them, unless there are particular reasons why something cannot be considered in public. For example, since the FSA leads for the UK Government in negotiations on matters of food and animal feed law in Europe, discussions on the approach to be taken in those negotiations are held in private. Committees of the Board will also be held in public or will have their minutes published unless there are particular reasons why specific issues cannot be considered in public.

**Membership:** In line with the 1999 Food Standards Act the Board will consist of a Chair, Deputy Chair and between 6 and 10 other members of whom 1 shall be appointed by the Welsh Government and 1 shall be appointed by the Department of Health for Northern Ireland; the others shall be appointed by the Secretary of State.

**Chairman:** The Chair and Deputy Chair of the FSA are appointed by Ministers in England, Wales and Northern Ireland acting jointly.

**Quorum:** Five Board Members, of whom one to be one of the Members from Northern Ireland or Wales plus the Chair of the meeting.

**Attendance:** Members of the Executive shall also be required to attend and participate in Board meetings.

**Reporting:** The Board will approve an annual report of our activities and performance which will be laid before the Westminster Parliament, the Welsh Government and the Northern Ireland Assembly.

**Effectiveness:** The Board will undertake a formal and rigorous annual evaluation of its own performance and that of its committees and individual members in line with best practice outlined in the UK Corporate Governance Code.

**Meetings:** The Board shall meet at least 4 times a year.

As part of their meetings the members of the Board will meet three times each year in closed session to discuss issues related to governance, the performance of the Chief Executive, and the functioning of the relationship with the Executive from the perspective of the Board.

**Responsibilities:**

The Board will:

1. Set the strategic direction for the FSA within a framework of prudent and effective controls which enable risk to be assessed and managed.
2. Lay out the Agency's standards and values and be responsible for ensuring that the FSA's obligations to its stakeholders and the wider community are understood and met.
3. Establish such Committees as it sees fit. The Terms of Reference of all such Committees will be agreed by the Board and reviewed together along with the Terms of Reference and Standing Orders for the Board annually. The Business Committee will advise the Board on the overall disposition and allocation of resources in support of delivery of the strategy.
4. Take decisions on key issues of principle and policy, including those on which advice is to be given to Ministers.
5. Receive regular reports from its Committees.
6. Appoint the Chief Executive in line with the relevant Civil Service rules and, through the Chair hold the Chief Executive accountable for the Agency's performance.
7. Approve the Annual Report.

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**ANNEX B**

**STANDING ORDERS FOR FOOD STANDARDS AGENCY BOARD MEETINGS (AS AGREED AT THE BOARD MEETING ON WEDNESDAY 20 SEPTEMBER 2017)**

**Preamble**

1. These Standing Orders apply to all Committees exercising powers or functions delegated by the Board (currently the Business and Audit and Risk Assurance Committees). They do not apply to the Scientific Advisory Committees.
2. Unless otherwise stated, any action required by these Standing Orders to be undertaken by the Chair may, in his/her absence, also be undertaken by the Deputy Chair.
3. Any reference to a Board meeting means an Open Board meeting and a Business Committee meeting, unless otherwise stated.

**Date and Time of Meetings**

4. The FSA Chair (Chair) shall, by Easter of each year, annually determine the dates, times and places of ordinary Board and Business Committee meetings for the year following, but the Board shall meet at least four times in each calendar year. The Chair may re-arrange the date, time and place of any ordinary Board meeting, convene an additional meeting or cancel any meeting where there are no matters for decision or discussion.
5. The locations for Board meetings shall be set so as to ensure that at least one meeting every year is held in Wales or Northern Ireland.
6. Any Board meeting may be conducted wholly or in part by electronic means including by video conference, an internet video facility or telephone conference.
7. The location of a meeting held by electronic means shall be deemed to take place where the largest group of those Board members participating is assembled or, if there is no group which is larger than any other group, where the Chair of the meeting is located.

**Agenda**

8. The Board Secretary shall send an agenda for each Board meeting by email and/or by post to every Board member at least ten clear working days before the date of the meeting or, in the event of urgency, at the earliest possible opportunity.

9. Failure to send or deliver an agenda to any Board member shall not invalidate the proceedings.
10. A copy of the agenda for each Board meeting shall be published on the FSA website at least three clear working days before the meeting.

### **Business to be transacted**

11. The Board Secretary shall maintain a list of future agenda items for the year ahead. This list shall be compiled following discussion with the Chair, other Board members and the Chief Executive. However, the Board Secretary shall additionally consult the Chair and the Chief Executive on the business to be transacted at each meeting prior to the distribution of the agenda.
12. Any Board member may request the Chair to consider including an item on an agenda provided he or she has given at least 15 clear working days' notice before the meeting to the Chair or the Board Secretary.
13. Only the business specified in the agenda for the meeting may be transacted save that business of an urgent nature that is not included in the agenda may also be discussed and determined at any meeting.

### **Chairing of Meetings**

14. Board meetings shall be chaired by the Chair of the FSA or, in his/her absence, the Deputy Chair. In the event that neither the Chair nor Deputy Chair is present, the Board members present may appoint one of their number to chair the meeting. The decision of the meeting Chair on any question of procedure raised at a meeting shall be final.

### **Quorum**

15. The quorum for Board meetings shall be the Chair of the meeting plus five other Board members of whom one must be one of the members for Wales or Northern Ireland.
16. If there is no quorum within 30 minutes of the scheduled start of a Board meeting, or if the meeting becomes inquorate during the proceedings, the meeting shall be adjourned and the business postponed either to: a. a date, time and place fixed by the Chair of the meeting at the adjournment; or b. the next ordinary Board meeting.
17. Where Board members are not able to attend a meeting, they shall send their apologies in advance to the Board Secretariat. A Board member shall not be

absent from more than two consecutive meetings without the prior agreement of the Chair.

### **Interests to be declared at meetings**

18. A Board member shall notify the Chair (or the Deputy Chair in the case of the Chair having an interest) in advance of the meeting of any interest that they may have in any agenda item and declare the nature of the interest at the meeting before the matter is discussed. In accordance with the provisions of the Code of Conduct, the Chair shall decide whether the Board member may remain present at the meeting for the discussion on that item and any decision thereon.
19. The Board Secretary or such other person present to take the minutes of the meeting shall record the declaration of interest, its nature and whether the individual left the room in the minutes of the meeting.

### **Minutes of Board meetings**

20. The Board Secretary shall arrange for minutes to be prepared for all Board meetings. The minutes of a meeting shall be confirmed as a correct record at the next following Board meeting. When the next meeting is an additional meeting, the minutes may be confirmed at the next ordinary Board meeting. Once confirmed, the minutes are conclusive evidence of the decisions of the Board.
21. A copy of the minutes of Board meetings shall be published on the FSA website.

### **Decisions and voting**

22. Decisions of the Board shall be taken by such method as the Chair chooses to ascertain the views of those present at the meeting. Where any matter is voted upon, it shall be decided by a majority of those present.
23. In the event that a vote is tied, the Chair shall have a second or casting vote.
24. Any Board member may request that his or her vote or abstention is recorded in the minutes.
25. The Board Secretary or such other person present to take the minutes of the meeting shall record all Board decisions in the minutes of the meeting.

### **Written Resolutions**

26. A written resolution signed by at least three quarters of appointed Board members shall be as valid as if it had been agreed at a Board meeting. Such a resolution may consist of several documents in the same form each signed by one or more Board members including electronic signatures.

### **Delegation of powers and inter-sessional work**

27. The Board has authorised the Chair to discharge such powers of the Board as he/she deems necessary in order to deal with the business of the Agency between Board meetings. Where, in the opinion of the Chair, significant operational or other matters require approval by the Board between meetings papers shall be circulated for approval by written resolution. Where, in the opinion of the Chair, full Board consideration is not justified or when circumstances make it impractical or unnecessary to consult the Board collectively, the Chair shall report to the Board at the earliest opportunity on any action that he or she may take.

### **Variation or Suspension of these Standing Orders**

28. The Board shall review these Standing Orders annually, along with the terms of reference for the Board and each of its Committees, to ensure their continued effectiveness.
29. These Standing Orders shall not be varied or suspended unless a majority of those present at the meeting where the matter is considered so agree.

### **COMMITTEES OF THE BOARD WHICH EXERCISE POWERS OR FUNCTIONS ON ITS BEHALF**

#### **Application to Committees - General**

30. Standing Orders 7, 9, 10, 11, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25 and 26 shall apply to Committees with any necessary modifications and subject to the provisions of Standing Orders 31 to 36 below.

#### **Date and Time of Meetings**

31. Each Committee shall annually determine the dates, times and places of its ordinary meetings for the year ahead, but shall meet at least once each year or on such number of occasions as the Board might specify in terms of reference for each Committee.
32. The Committee Chair may re-arrange the date, time and place of any ordinary meeting, convene an additional meeting or cancel any meeting where there are no matters for decision.

#### **Agenda**

33. The Board Secretariat shall send an agenda for each Committee meeting by email and/ or by post to every Committee member at least five clear working days

before the date of the meeting or, in the event of urgency, at the earliest possible opportunity.

### **Chairing of Meetings**

34. The Chair of each Committee shall be appointed by the FSA Chair for such term as he/she may determine, but ordinarily to run concurrent with the remainder of a Board member's term of office.
35. In the absence of the Chair, the other Committee members present shall appoint one of their number to chair the meeting.
36. Business Committee meetings shall be chaired by the Chair of the FSA or, in his/her absence, the Deputy Chair. In the event that neither the Chair nor Deputy Chair is present, the Board members present may appoint one of their number to chair the meeting. The decision of the meeting Chair on any question of procedure raised at a meeting shall be final.

### **Membership**

37. Membership of each Committee shall be in accordance with the terms of reference for each Committee.
38. All members of the Board are members of the Business Committee. The Chief Executive and members of the Executive Team are also members of the Business Committee up to a number equivalent to the Non-Executive members of the Board excluding the Chair.

### **Quorum**

39. Unless otherwise stated the quorum for any Committee meeting shall be a minimum of three or such greater number as the Board may state in the terms of reference for the Committee.
40. The quorum for the Business Committee shall be five Non-Executive members, of whom one to be one of the members from Northern Ireland or Wales plus the Chair of the meeting, plus three Executive Team members including the Chief Executive or their nominated deputy.

### **Definitions**

**Agenda** – means the reports or papers for the meeting together with the cover sheet listing the items for consideration at a meeting

**Clear Working Days** – excludes the day on which the Agenda is distributed, the day of the meeting, Saturdays, Sundays and Public Holidays.

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**ANNEX C**

**EU STANDING COMMITTEE ON PLANT AND ANIMAL FOOD AND FEED**

The FSA has reviewed the decisions taken in relevant meetings of the Standing Committee on Plants, Animals, Food and Feed (PAFF Committee) and associated Working/Expert Group meetings for the last six months (start November 17 to end April 18).

In total, 434 food safety items were taken to Working Groups during this period. The PAFF Committees made 79 final decisions, most leading to regulation but some endorsing guidance.

These risk management food safety decisions vary from technical approvals of feed/feed additives, limits for microbiological/chemical contaminants, guidance to support implementation of the legislation and textual amendments clarifying and updating legislation.

Typical items included:

- Endorsement of EURL *Listeria monocytogenes* guidance on evaluating the competence of laboratories implementing challenge tests and durability studies related to *Listeria monocytogenes* in ready-to-eat foods.
- Amending Annex II to Regulation (EC) No 1333/2008 as regards the use of polyglycerol polyricinoleate (E 476) in emulsified sauces
- Authorising the placing on the market of feed additives for - a group of iron compounds (trace elements)
- Amending the authorisation for oil produced from *M.Schizochytrium* strain T18 to allow its use in vegetable and fruit puree.

## ANNEX D

### TERMS OF REFERENCE FOR THE FSA BUSINESS COMMITTEE

(AS AGREED AT THE BOARD MEETING ON WEDNESDAY 20 SEPTEMBER 2017)

**Purpose:** The Business Committee is a committee to which the FSA Board has delegated functions as detailed below. It exists to provide appropriate high-level oversight of financial and operational matters at Board level and support the translation of policy into effective results.

**Transparency:** It meets in the open so that it is clear to interested parties and the public on what basis it has taken its decisions and what evidence it has taken into account in reaching them. There are some issues that need to be discussed in private, because they relate to issues that are commercial in confidence, are the subject of live negotiations in which the public interest could be adversely affected, or relate to individuals.

**Membership:** All members of the Board are members of the Business Committee. The Chief Executive and members of the Executive Team are also members of the Business Committee up to a number equivalent to the Non-Executive members of the Board excluding the Chair. The Chief Executive will be responsible for determining which members of the Executive are members of the Business Committee.

**Chair:** The Chair of the FSA.

**Quorum:** Five Non Executive Board Members, of whom one to be one of the Members from Northern Ireland or Wales plus the Chair of the meeting, plus three Executive Team members including the Chief Executive or their nominated deputy.

**Reporting:** The Business Committee will publish its minutes. The Terms of Reference for the Business Committee will be reviewed annually by the Board together along with the Terms of Reference and Standing Orders for the Board.

**Meetings:** The Business Committee shall meet at least 4 times a year.

### Responsibilities:

The Business Committee will on behalf of the Board:

1. Scrutinise the financial and other performance information relating to the FSA and advise the Chief Executive in the discharge of the Accounting Officer responsibilities
2. Consider and advise on strategic risks
3. Approve the annual business plan and maintain oversight of major financial decisions in line with that plan

4. In private, consider confidential matters relating to the position to be adopted on behalf of the UK in international discussions concerning food and animal feed law
5. Consider such other matters as may from time to time be delegated to the Business Committee by the main Board.

The Chair may decide that specific issues must be remitted to the Board for decision.

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**ANNEX E**

**TERMS OF REFERENCE FOR THE FSA AUDIT AND RISK ASSURANCE COMMITTEE**  
**(June 2018)**

**Purpose**

The Audit and Risk Assurance Committee is an advisory Committee of the FSA Board with no executive powers. It is responsible for reviewing, in a non-executive capacity, the comprehensiveness and reliability of assurances on governance, risk management and the control environment. It is also responsible for reviewing the integrity of financial statements and the annual report.

**Membership**

A minimum of four Members of the FSA Board appointed by the FSA Chair under delegated powers following consultation with the Committee Chair. At least one of those appointed will be a Board Member for Wales or Northern Ireland.

The term of appointment will normally be coterminous with an individual's term of appointment to the FSA Board and will automatically cease if an individual ceases to be a Board Member.

At least one of the Committee members should have recent and relevant financial experience.

All new members will be provided with induction training and the FSA will provide for any additional development which is deemed necessary for the member to fulfil their role on the Committee. The Chair of the Audit and Risk Assurance Committee will hold an annual review with each member and any training or development needs will be taken forward with the agreement of the Chair and Accounting Officer.

**Committee Chair**

Appointed from the membership of the Committee by the Chair of the FSA under delegated powers. The term of appointment will normally be coterminous with an individual's term of appointment to the FSA Board.

**Co-option**

The Committee may co-opt additional members (whether members of the FSA Board or not) for a period of up to one year to provide specialist skills, knowledge or experience. Co-opted members will have a right to speak, but not vote. Co-opted members will not be included in any calculation of the quorum.

**Quorum**

Three Non-Executive Board Members.

**Attendance**

The Chief Executive, as Accounting Officer, the Director of Finance and Performance, the Planning Manager, the Head of Internal Audit, and a representative of the External Auditors (National Audit Office) would normally be invited to attend.

Directors and other officials will be invited to attend as required.

### **Reporting**

The Audit & Risk Assurance Committee Chair will provide the Chair of the FSA and the Board with an oral update on the key elements of Committee meetings. The Audit & Risk Assurance Committee will report formally in writing to the Board, annually, to support the finalisation of the accounts and the Governance Statement and to update the Board on the work of the Committee, Internal and External Audit and any areas requiring specific attention.

### **Meetings**

The Audit & Risk Assurance Committee will meet at least four times a year. The Chair of the Committee will convene additional meetings as necessary. The Committee has the right to sit privately without any non-members present for all or part of a meeting.

Additionally, the members of the Committee will meet with the Head of Internal Audit and, separately, the External Auditors, annually, in closed meetings when the efficacy of the processes, trust, co-operation and any other issues can be discussed and future action agreed.

The FSA Chair, the Board or the Accounting Officer may ask the Audit and Risk Assurance Committee to convene further meetings to discuss specific issues on which they want the Committee's advice.

### **Responsibilities**

The Audit & Risk Assurance Committee will advise the FSA Board and Chief Executive on:

1. The strategic processes for risk management, the high-level control and governance framework and the effectiveness of its operation in practice;
2. The contents of the Governance Statement;
3. The accounting policies, the accounts, and the annual report of the FSA, including the judgements used in producing the accounts, the adequacy of disclosures, the process for review of the accounts prior to submission for audit, levels of error identified, and management's letter of representation to the external auditors;
4. The effectiveness of the design and operation of financial systems and controls;
5. The planned activity and results of both internal and external audit and the results of other, external assurance reports;
6. The resourcing and effectiveness of the Internal Audit function;
7. Provide independent scrutiny of the audit process of the Local Authority audit system;

8. The adequacy of the management response to issues identified by audit activity, including external audit management letters;
9. Assurances relating to the corporate governance requirements for the organisation;
10. Proposals for tendering for either Internal or External Audit services or for the purchase of non-audit services from contractors who provide audit services;
11. Anti-fraud policies and whistle-blowing processes, and arrangements for special investigations; and
12. The Committee's effectiveness having reviewed its own performance, constitution and terms of reference and recommending any changes it considers necessary.

### **Information Requirements**

The Audit & Risk Assurance Committee will be provided with, where appropriate:

1. Any changes to the organisation's Corporate Risk Register that are relevant to the responsibilities of the Committee;
2. The risk management strategy
3. Management assurance reports, and report on the management of major incidents, 'near misses' and lessons learned;
4. Progress reports from the Head of Internal Audit summarising:
  - a. work performed (and a comparison with work planned)
  - b. key issues emerging from Internal and Local Authority Audit work
  - c. management action in response to issues identified and agreed
  - d. changes to the Internal Audit Plans
  - e. any resourcing issues affecting the delivery of Internal Audit objectives
5. Progress reports from the External Audit representatives summarising work done and emerging findings;
6. External assurance and compliance reports in relation to the FSA's activities;
7. Internal Audit Strategies and annual plans;
8. The Head of Internal Audit's Annual Opinion and Report;
9. Quality Assurance reports on the internal audit function;

10. The draft accounts of the organisation;
11. The draft Governance Statement
12. Any changes to accounting policies;
13. Proposals to tender for audit functions;
14. Summary of findings of every Internal Audit report;
15. External audit's management letter; and
16. A report on cooperation between the FSA auditors and external auditors.

The Audit & Risk Assurance Committee will work with the FSA's Executive Management Team to ensure that the Board can be confident that risk management processes, content, mitigating and recovery actions are appropriate and correctly resourced.

#### **Notes**

1. The Chair of the Audit & Risk Assurance Committee will have free and confidential access to the Chair and Chief Executive of the FSA whenever appropriate.
2. The Head of Internal Audit and the representatives of External Audit will have free and confidential access to the Chair of the Committee.
3. The Committee may procure specialist ad-hoc advice at the expense of the FSA, subject to the cost being agreed by the Chief Executive as Accounting Officer.