MINUTES OF THE FSA BOARD MEETING ON 19 JUNE 2019

Maple House, 150 Corporation Street, Birmingham B4 6TB

Present:
Heather Hancock, Chair; David Brooks; Stuart Reid; Ruth Hussey; Colm McKenna; Mary Quicke.

Officials attending:
Jason Feeney - Chief Executive
Alice Biggins - Joint Head of EU Exit, Regulatory & International Strategy Unit (FSA 19/06/10)
Catherine Bowles - Deputy Director - EU Exit, Regulatory & International Strategy
Chun-Han Chan - Food Allergy and Intolerance Policy (FSA 19/06/05)
Mark Davis - Head of Delivery Support (FSA 19/06/08)
Chris Hitchen - Director of Finance and Performance
Michael Jackson - Head of Regulatory Compliance Division (FSA 19/06/06)
Maria Jennings - Director of Regulatory Compliance, People and Northern Ireland (NI)
Chris McGarvey - Head of Legal Advisory Services (FSA 19/06/10)
Rick Mumford - Head of Science, Evidence & Research (FSA 19/06/07 and FSA 19/06/09)
Julie Pierce - Director of Openness, Data & Digital and Wales
Steven Pollock - Director of Communications (for Questions)
Guy Poppy - Chief Scientific Adviser
Rebecca Sudworth - Director of Policy
Colin Sullivan - Chief Operating Officer
Steve Wearne - Director of Science

Apologies
Rod Ainsworth - Director of Strategy Legal & Governance

Guests
John O’Brien - Chair of the Science Council Working Group on Food System Risks and Horizon Scanning (FSA 19/06/07)

1. Welcome and Announcements

1.1 The Chair welcomed everyone to the meeting. One apology had been received from Rod Ainsworth, Director of Regulatory and Legal Strategy, and Deputy Director, Catherine Bowles, would represent that directorate at this meeting. The Chair noted following the Board meeting, there would be the usual meeting of the FSA Business Committee, and that would include, unusually, one item of closed business; this was due to commercial sensitivities involved in the discussion.
1.2 The Chair explained questions had been submitted by members of the public and these would be read out by Steven Pollock, Director of Communications. There would be an opportunity for members of the audience to ask questions at the end of the meeting.

1.3 Steven said three questions had been received and read them out. The questions along with their answers would be posted on the FSA website when the minutes for the June meeting were published.

2. Minutes of FSA Board Meetings on 13 March and 8 May 2019 (FSA 19/06/01 and FSA 19/06/02)

2.1 The minutes of the 13 March 2019 meeting were agreed as a true record.

2.2 The minutes of the Board’s extraordinary meeting of 8 May 2019 were agreed as a true record.

3. Actions Arising (FSA 19/06/03)

3.1 The Chair noted that the first action, for the Chair, Chief Executive (CE) and Chief Scientific Adviser (CSA) to discuss how to refine the specific requests from the Board to the Science Council, had been carried out through discussions with Professor Thomas, Chair of the Science Council. The Council would focus on data as well as allergens and food hypersensitivity as had been discussed at the Board’s extraordinary meeting in May. It would also be asked to look at the presentation of uncertainty and what quality threshold the FSA could set for science and evidence from third parties to reach if it were to be formally considered by the FSA or its Scientific Advisory Committees (SACs). The Science Council would maintain its focus on the FSA's science infrastructure and assurance, as well as considering atypical issues that were not in the remit of the SACs.

**Action 1** - Board Secretariat to close Action 1 on the Actions Arising list.

3.2 The Chair noted action 2 was completed and action 3, relating to the expansion of recommendations for the management of interests of SAC members to cover members of all the FSA's Advisory Committees was ongoing and would be monitored through the Audit and Risk Assurance Committee (ARAC).

4. Chair’s Report

4.1 The Chair noted that a full list of her engagements since March 2019 had been added to the FSA website. The Chair highlighted Ministerial meetings with Vaughan Gething AM, the Welsh Assembly Minister for Health and Social Services; the Rt Hon Michael Gove MP Secretary of State for Environment, Food and Rural Affairs (Defra); David Rutley MP, Parliamentary Under Secretary of State at Defra; Seema Kennedy MP, the Parliamentary Under
4.2 The Chair recorded that the previous day the Board had received briefing sessions on cyber security, the Spending Review 2019, UK Frameworks and trade issues with a high-profile food component. These had taken place at the FSA’s offices in Apex House, Birmingham. The Board had also been joined for dinner by Darren Davis, Head of the National Food Crime Unit (NFCU), to hear his perspective after some months in post.

4.3 The process to appoint new members to the FSA Board was in train. The Chair commented on a strong field for Board membership, and for the Deputy Chair. Recommendations of the Selection Panel were now with the Secretary of State for Health and Social Care.

4.4 The Chair updated the Board on the progress in appointing a new Chief Executive. The recruitment process was complete, and the Board’s proposed appointment had been sent to Ministers. Approval had been received from Wales and Northern Ireland and the FSA was awaiting a response from DHSC. She explained the FSA was doing everything it could to expedite the process and given the delays, the Board had decided to appoint an Interim Accounting Officer. It was hoped that an announcement about the interim arrangements could be made to staff by the end of the week.

4.5 The Chair updated the Board on the Assembly Reception planned for Welsh Assembly members in Cardiff in July, which was similar to the annual Westminster Parliamentary Reception.

4.6 Mary Quicke asked whether there had been delays in the appointments process for new Board Members. The Chair explained there had been delays in initiating the process but there had not been delays since then. Colm McKenna welcomed the interim arrangements to ensure there would always be an Accounting Officer in place and asked if there was anything that could be done from within the Devolved Administrations to further expedite proceedings. The Chair explained she felt the FSA was already doing all it could to ensure the process was concluded quickly.

5. Chief Executive’s Report (FSA 19/06/04)

5.1 The CE highlighted some key areas of his Report. He commented on the amount of international work apparent within the Report, led by Steve Wearne, Director of Science, in his role within Codex, with a focus on issues that were presenting a challenge for regulators globally, such as internet sales of food.

5.2 The CE then addressed the issue around cannabidiol (CBD), which had been raised in two of the public questions to the Board. The CE explained that the
FSA’s focus with regard to CBD was to ensure that there was effective cross-government regulation of CBD products and a clear demarcation of responsibility for the regulation of the various products. He stressed there was no plan for the FSA to remove CBD products from sale. Rebecca Sudworth, Director of Policy, confirmed this was accurate and emphasised the need for a sensible joined-up approach.

5.3 Colin Sullivan, Chief Operating Officer, delivered an update on the recent outbreak of listeria and emphasised the seriousness of the issue. He expressed sympathy, on behalf of the FSA, for the families of those affected. He noted there had been nine confirmed cases and, tragically, five fatalities linked to the outbreak and all cases could now be confirmed to have had a common source. This had been confirmed through whole genome sequencing.

5.4 He explained that in 2016 the FSA developed guidance for healthcare and social care organisations seeking to protect those in their care from contracting listeriosis and he emphasised that the risk to the general population was low. He mentioned that the DHSC Secretary of State indicated that his Review of food served on site and served in hospitals would cover not only food safety but would also address issues of nutrition.

5.5 Colin explained the FSA had worked with Local Authorities (LAs) and hospital trusts to ensure the affected products had been immediately removed from sale and he expressed his thanks to staff who had worked a significant number of additional hours in helping to progress the investigation.

5.6 The Chair echoed Colin’s condolences on behalf of the Board for the families of those affected by the outbreak. Ruth Hussey noted the broad range of the Review and asked if there were any immediate steps that could be immediately applied across the food sector. The Chair asked whether there was clarity about the FSA’s role in the DHSC Secretary of State’s Review. Colin explained that the terms of reference had not yet been published.

5.7 The Chair suggested that the FSA was keen to play its part in the Review. The CE added throughout the investigation, nothing had been uncovered so far which indicated that changes were required to the guidance the FSA had previously issued on avoiding listeriosis and this would continually be considered as the Review progressed.

5.8 Mary Quicke mentioned an article about the ‘chill-chain’ in healthcare settings coming under LA oversight. She asked whether there were any concerns about the capacity of LAs to inspect such organisations. Maria Jennings, the Director of Regulatory Compliance, People and Northern Ireland (NI), explained this would be considered and there would be a review of how institutions were inspected.

5.9 David Brooks noted the scale of the NHS as food service distributor and the complexity of the supply chains involved. He cautioned that any early lessons from the Review would need to be implemented quickly as there was a risk of a
gradual further widening of the scope of the Review resulting from the scale and complexity of food systems involved.

6. **Update on FSA’s Work on Food Hypersensitivity and the Government’s Allergen Labelling Review (FSA 19/06/05)**

6.1 The Chair invited Rebecca Sudworth and Chun-Han Chan to introduce this item. Rebecca explained an ambition had been outlined at the Board’s extraordinary meeting in May 2019 for the UK to be the best place in the world to be a food-hypersensitive consumer and the Board had expressed support for Option 4 as laid out in the Government’s consultation, requiring full ingredient labelling for Pre-Packed for Direct Sale (PPDS) foods.

6.2 She highlighted the diverse range of activities outlined in the paper, noting that some were underway and some planned and that there would be a further update to the Board in September 2019. Rebecca noted the Science Council would also be discussing issues around food hypersensitivity at a meeting on 26 June 2019 to consider ways they could support this work.

6.3 The Chair noted that, just as EU Exit had become a standing feature of the Board’s agendas, the Board wished to receive an update on food hypersensitivity at every meeting. Rebecca confirmed that her role as Senior Responsible Officer for allergy meant the FSA Executive Team would have continuous oversight of the issue, ensuring that expertise from across the organisation could be drawn upon where needed.

6.4 The Chair asked whether Rebecca considered enough resources were currently being devoted to achieving the FSA’s ambitions. Rebecca explained the need to respond to the labelling review had been anticipated and accounted for. She explained as the work developed, there would be a clearer picture of the resources required but she was conscious that an awareness of this would need to be maintained.

6.5 Chris Hitchen, Director of Finance and Performance reinforced the point that the work was being progressed in discussion with all the Executive Team and there had been constant reprioritisation for the current year working on the basis that this would be a multi-year programme to deliver what was needed. Rebecca added that as evidence of the expected economic and financial impact emerged, this would support the case for taking ambitious action.

6.6 David Brooks asked if it was known when feedback would be received from Defra on the FSA’s advice and their view on implementation; what feedback the FSA had been receiving from industry; and what feedback had been received from LAs who would have responsibility for enforcement. He added the recommendation closed a significant gap on labelling and noted there would continue to be gaps, around items such as foods sold loose. It would therefore be important to continue to ensure there was a communications plan in place to
inform consumers about where responsibilities lay, particularly those pertaining to consumers and food businesses.

6.7 The Chair explained she had received follow up correspondence from the British Sandwich and Food-To-Go Association reiterating their concerns over full ingredient labelling for PPDS foods. She added they had also joined the FSA’s distributors’ forum on this issue, which was an important step. Their concerns had not been overlooked by the FSA, rather they had been balanced and recognised in the discussion at the extraordinary Board meeting in May 2019. The Chair noted the importance of having industry bodies at the table to ensure effective implementation.

6.8 Rebecca explained it was expected that the Defra Secretary of State would make an announcement soon indicating whether full ingredient labelling was the chosen option. She added there had been considerable engagement with industry and feedback had been received outlining their concerns about the challenges around implementation. If full ingredient labelling was the preferred option then the FSA would be ready to publish short guidance to sit alongside the new legislation and would work with industry to develop that into best practice guidance, particularly to enable lessons from larger businesses to be passed on to smaller businesses.

6.9 In terms of communications, she emphasised that the discussion at the May Board meeting had reflected the need to consider communication that went beyond labelling and related to the food system in its entirety and the need to ensure that lines of responsibility were clearly demarcated. Chun-Han Chan added the team were working with relevant stakeholders to ensure the current system and processes were thoroughly reviewed to identify gaps and the need for support to enable a successful implementation.

6.10 The Chair added there had been good feedback received from those groups who had campaigned strongly on the issue and they had felt that the discussion in May demonstrated well that the FSA Board and Executive were engaged with the issues and understood the challenges and the need for action. David asked about feedback from Trading Standards enforcement officers. Maria Jennings suggested this was something that could be raised in discussion of the next item on Delivering a Modernised Model for Food Standards Official Controls.

6.11 The Chair confirmed that the Board agreed the steps outlined in the paper and expected that the FSA’s progress on work around food hypersensitivity would become a standing feature of future Board agendas.

7. Delivering a Modernised Model for Food Standards Official Controls (FSA 19/06/06)

7.1 The Chair invited Michael Jackson to introduce this item. Michael explained that this paper represented a progress report on the process for developing a modernised model for food standards official controls. Michael emphasised the
complexity of the landscape for food standards arising from the variation between the enforcement models in England, Wales and Northern Ireland. Michael noted the level of ambition of the proposal, explaining the aim was to design the best possible model that would ensure that food is safe and is what it says it is, giving confidence and protection to consumers.

7.2 He outlined the short-term workplan, noting the appearance that the FSA was seeking to sustain the current model rather than focusing on modernisation. He explained the elements being sustained would help in the implementation of the new model, giving an example of the development of a food standards manual for England, which would be required irrespective of the final model. He noted the closeness of the working relationship with LAs and explained a working group had been set up with LAs to look at specific proposals. He explained LAs recognised the case for change in this area.

7.3 Michael then outlined the co-dependencies with other FSA workstreams involved in developing a new model for food standards, particularly in terms of the sampling strategy and the work of the NFCU. He noted the key deliverables in section three of the paper and outlined some of the insight gained from the feedback of the implementation advisory group, which was created to give strategic oversight of some of the potential consequences and issues that would need to be considered as the new model was developed.

7.4 This feedback had been supportive of the suggested approach particularly around the planned work on competency and developing key performance indicators for inclusion in the Balanced Score Card (BSC) to enable the FSA to measure its success, which had been highlighted as a critical ability by the National Audit Office (NAO) in their recent Report.

7.5 There had also been support for the development of a single risk assessment scheme to drive food standards interventions. There had been some concerns around the level of both financial and human resources that would be required to operate the model. Michael explained that developing the model was more complex than it appeared from the paper due to the co-dependencies, both across the FSA and with other government departments due to shared responsibilities in the Food Standards space. Michael explained the development of the food standards manual was now at an advanced stage and manuals for Wales and Northern Ireland would also be developed.

7.6 Stuart Reid noted Michael had suggested the development of the new model was more complex than it appeared to be in the paper. This had surprised him as he considered the paper to be very complex containing a substantial number of acronyms and language specific to enforcement activities. Ruth Hussey noted the development of a food standards manual for Wales as a positive step and emphasised the need for clarity on the resource question to allow LAs to prioritise effectively.

7.7 Colm McKenna reported that the Northern Ireland Food Advisory Committee (NIFAC) had noted the different system that operated in Northern Ireland and the different outcomes in terms of food standards enforcement. He asked,
considering the greater level of complexity in standards official controls delivery in England and LA resourcing, how far it was practicable to apply learning from Northern Ireland to elsewhere in the UK.

7.8 Michael explained the CE of the Chartered Institute for Environmental Health (CIEH) in Northern Ireland, whose members were responsible or the delivery of standards official controls in Northern Ireland, was a member of the implementation advisory group. He explained the practicability of applying lessons from Northern Ireland more widely related to the allocation of resources in England and whether they were allocated to the trading standards or environmental health function of LA enforcement. He added the other issue was the competency of those delivering environmental health official controls to carry out standards official controls, which could limit the scope for the application of learning from Northern Ireland across LAs in England.

7.9 David Brooks welcomed the paper. He noted there had been many papers on regulatory reform in recent years and asked about the level of confidence that the scale of the whole programme of regulatory reform was deliverable and that LAs would be able to cope with the level of change. He cautioned that regulating this level of change would be easier than the delivery of the regulation.

7.10 The Chair commented that the FSA had committed to developing a new model by the middle of 2020 and would work with partner organisations on implementation. She also noted the NAO Report had highlighted this issue as an area where the FSA was working in the right direction and it would be important to assure partners it would be done carefully and properly. She added this should not be considered a reason to go slower on regulatory reform and it was apparent through the FSA’s work on EU Exit, what could be achieved at pace.

7.11 The CE explained it was incumbent on the FSA in its role as a Central Competent Authority, not only to oversee the system but also to design it and to demonstrate what a modern, intelligence led, regulatory system should look like. On David’s point about the rate of change, he explained the main issue to get right was the sequencing of changes to ensure the landscape was prepared for each change as it occurred. He added the case for change was well made and had been endorsed by the NAO. He explained that any Chief Executive would be concerned about capacity with such a significant change programme being carried out but, in this instance, he was confident that the sequencing had been well considered to allow the change to take place.

7.12 David suggested he was concerned that some elements of the roll-out could be viewed as overly prosaic and questioned whether it was better to implement fewer changes very quickly than to attempt a more major reform over a decade. He cautioned against holding off on some elements while other, more minor reforms were made to allow for them, and asked whether it might be worth accelerating some already live elements of the reform programme rather than starting new workstreams.
7.13 Maria Jennings explained that over the previous months, efforts had been ongoing to consolidate the Regulating Our Future (ROF) programme, noting four key priorities. These were: the digital registration platform; the work around food standards official controls; the national inspection strategy; and the meat modernisation programme. She explained there were certain dependencies within these priority areas, highlighting the sampling programme, surveillance, the NFCU expansion and capability and work around allergens. This had created complexity in terms of prioritisation but there was clarity on the ROF priorities.

7.14 Maria noted there were good relationships with many of the FSA's key delivery partners and they would be able to help with understanding which areas were subject to pressure and how the FSA could help. The Board would receive a further update in September 2019 about the registration system and he was confident that there would be significant progress within the next six months.

7.15 Mary Quicke said that it was easy to see the individual workstreams within the ROF programme, but it was clear that the FSA was taking a holistic approach to regulatory reform and that this was welcome.

7.16 In concluding the Chair confirmed that the Board endorsed the methodology for delivering the elements required for a modernised approach to food standards official controls and supported the care being taken to work collaboratively with delivery partners whilst continuing to set a clear direction.

7.17 Finally, the Chair said in the context of the NAO Report, it was unusual for a department to receive a report that so clearly recognised the direction that had been set and the steps taken to achieve objectives and congratulated the team on this outcome. The Chair said the NAO Report included some constructive recommendations for the FSA to take forward; in particular the need for a funding solution which was not borne solely by the FSA.

8. Final Report from Science Council Working Group on Food System Risks and Horizon Scanning and FSA Response (FSA 19/06/07)

8.1 The Chair introduced John O'Brien and Rick Mumford and welcomed them to the meeting. She invited questions for John and Rick from the Board and began by asking how the Board could gain assurance that the new approach to horizon scanning was being appropriately and adequately embraced by the FSA.

8.2 John explained the horizon scanning process itself was not difficult but interpreting the signals gleaned from that process could be more complicated. He added the FSA Executive’s response also comprehensively covered an approach to fact-checking. Rick added there would be a need to ensure that it was an approach embedded across the FSA and not just concentrated in one team. He explained there would be question about how that could be made to work in a way which gave coherence across the FSA. It would be incumbent upon all areas of the FSA to feed into the process.
8.3 Ruth Hussey suggested there was an art to horizon scanning. There was a question around how to answer both the ‘so what?’ and ‘so when?’ questions that arose from the signals received, as the answer to the ‘so when?’ question provided the triggers for when something should be considered high profile and urgent.

8.4 Ruth suggested areas such as animal feed and seafood were areas that would be worthy of consideration with regard to horizon scanning. She praised the engagement with the science community apparent in the paper. Ruth also raised the issue of the Wellbeing of Future Generations Act in Wales, which had a focus on long-term planning and the consequences of current actions. This showed the importance of having this focus to ensure that when considering the ‘so what?’ question, regard was paid to the impacts of future generations, not just current emerging issues.

8.5 The CSA stressed a crucial factor for horizon scanning would be that once it became an organisational feature, the necessary pace was gained to allow the organisation to know what it could offer in a timely fashion. He noted the power of a workshop that had been held on horizon scanning in which people were asked to raise what they considered to be their top five issues. The idea of repeating this exercise on an annual basis allowed for a constant watch of the trends in people’s priorities. In terms of horizon scanning being an art, the CSA explained it was something the SACs are asked to do on a regular basis but there had previously been no prescribed way for the horizon scanning to be carried out. Having an exercise such as that carried out on an annual basis would provide a greater structure to the enable better scrutiny of emerging trends.

8.6 Stuart Reid suggested that in some ways horizon scanning could be considered the easy part but looking beyond that, into foresight work would also be critical. He asked whether thought had been given to foresight work. John explained that foresight was very much a part of the proposed horizon scanning activities explaining there had been a need to find an appropriate timeframe between short term and the very-long term which could become impractical in terms of actions. This was why a five year to 10-year period had been decided on.

8.7 He explained the discussion paper did look further ahead into foresight and the potential impacts of emerging technologies as both risks and opportunities. He explained the proposed process would be a dynamic one and the strategic evidence fund could be used to deep-dive into topics that were considered worthy of investigation.

8.8 Julie Pierce, Director of Openness, Data & Digital and Wales, added in response to Stuart’s question about foresight that in the strategic surveillance programme, the FSA was moving into determining issues that were previously not known to be unknown. She added there was an acceptance among the FSA Executive Team that there was a need to improve with regard to flexibility.
8.9 Rick explained the other key issue would be ensuring the FSA was not working in isolation as issues which impacted on the FSA would likely impact on other government departments too and vice versa. He explained this was happening and they had been discussing with partner organisations how they conduct their horizon scanning.

8.10 The CSA commented horizon scanning, and foresight were often discussed in terms of emerging technologies yet some of the most significant disruption tended to come from social trends. These were often prompted by technological developments but resulted in behaviours of consumers that could be difficult to keep pace with.

8.11 Mary Quicke suggested there should be a retrospective element to horizon scanning to act as a check on whether the right things were being picked up and the signals read correctly. Colm McKenna mentioned there was likely to be a great deal of very effective horizon scanning work in existence which had been carried out by big business, but this was often difficult to access due to commercial sensitivities. He asked whether any reluctance had been encountered from bigger business to share their intelligence.

8.12 Colm also noted the work which had been carried out in terms of foresight in both Northern Ireland as well as in the Republic of Ireland by institutions such as the Agri Food Biosciences Institute (AFBI), Queen’s University Belfast and Teagasc and asked about the level of engagement with these institutions. The Chair added there could be a question to consider over how to ensure that high profile businesses received recognition for their contribution to make participation attractive to them.

8.13 John addressed Mary’s point about retrospective analysis, explaining that if horizon scanning was working effectively, the signals that indicated there was an unaddressed issue should disappear. The question then would be justifying the action taken to achieve the solution for a problem that was prevented from manifesting. He noted the success of the horizon scanning workshop mentioned by the CSA and attributed its success in part to the carefully thought out questions addressed in the workshop.

8.14 Rick expressed his gratitude to John and the Science Council the way they had undertaken this work on behalf of the FSA. The Chair confirmed that the Board accepted the Science Council report and agreed the Executive action plan in response to it, acknowledging the challenges inherent in horizon scanning.

9. **Delivery of Official Controls for Animal Feed (FSA 19/06/08)**

9.1 The Chair invited Mark Davis to give an update on official controls for animal feed. Mark explained this was a welcome opportunity to update the Board on feed law official controls in England, Wales and Northern Ireland, recognising significant changes had taken place in recent years. He explained feed had not been a core part of the ROF programme, but many of the changes that had been introduced were in line with the principles of that programme. Mark
explained feed represented a key part of the food system and from the experience of past major incidents, the consequences of a breakdown in controls were apparent.

9.2 He noted the degree of change required to the animal feed controls varied between the three countries, reflecting the existing variation that existed between England, Wales and Northern Ireland. In Northern Ireland, a single body, the Department of Agriculture, Environment and Rural Affairs (DAERA), oversaw the controls, while across England and Wales the controls were delivered by LAs. These different models were nevertheless underpinned by a common framework of documents and processes to ensure consistency.

9.3 Mark explained responsibility for the budgets for England and Wales had been given to the FSA to ensure dedicated funding for the official controls work. This was already the case in Northern Ireland. In Wales the programme was managed by FSA officials and in England it was managed jointly between the FSA and National Trading Standards.

9.4 Mark noted the fundamental changes to the feed law code of practice and the equivalent Northern Ireland guidance, modernising the risk assessment process including a formal process for recognition of feed business membership of industry assurance schemes. This approach was taken to supplement, rather than replace official controls. The FSA’s approach to the recognition of industry assurance schemes had been the subject of a fact-finding visit by the European Commission in 2016 and had been cited as good practice.

9.5 Mark outlined the intelligence led approach to feed controls, explaining this was underpinned by annual national enforcement priorities which were set to give direction to LAs and DAERA on areas of perceived risk. He explained a comprehensive review of the arrangements in England had been carried out in 2016 to enable an assessment of the success of the changes which had been made. This review had been broadly positive, and recommendations for further improvements had informed the development of a four-year strategy. A similar review would be carried out in Wales this year.

9.6 Mark highlighted the scale of the shortcomings that existed with the system of official controls prior to the implementation of changes in 2014 and explained there was an appetite to build on the improvements that had been made, including using available data to better understand the impact of official controls on business compliance and public and animal health outcomes. The Chair commented that thankfully incidents related to animal feed were rare, which given the scale of their impact on food safety and trade was to be welcomed, highlighting BSE - a significant incident arising from feed - that had precipitated the creation of the FSA.

9.7 Colm McKenna explained that NIFAC had held a meeting themed around animal feed in March 2019 and highlighted the examples of good practice that had been evident from that meeting and lessons from the Food Fortress programme which operated in Northern Ireland. He asked a question about the
potential impacts of EU Exit on this area, particularly for Northern Ireland, noting that Northern Ireland had more livestock per hectare than any other region of the UK.

9.8 Mark explained that in terms of EU Exit preparations, much of the work to prepare was done in readiness for the end of March 2019. He noted the endorsement from the Commission on the system of UK feed controls, which would help with any post-EU Exit arrangements.

9.9 Mary Quicke noted the feed system relied on a lot of imported feed from around the world, some of which was by-products of the human food chain. She asked how the effective inspection and auditing of those imports could be ensured following EU Exit. Mark explained there were relatively few industry assurance schemes representing a large proportion of the UK feed industry and the approach to earned recognition for FSA ‘approved’ assurance schemes in the feed sector included a robust assessment to enable there to be confidence in the scheme assessments. He explained a significant proportion of feed, whether produced domestically or imported, was covered through these schemes, noting that LA controls would supplement this assurance.

9.10 Stuart Reid asked whether the quantity of inspections indicated in Annex 4, covering 1% of establishments, provided the necessary level of assurance. Mark recognised this was a low proportion but explained a large amount of the businesses within the sector were farms and, along with Defra, the FSA had been looking at the range of regulatory functions which operated on a farm and how the coordination between those could be improved. He added as a part of a feed threat assessment and the national enforcement priorities, consideration was given to what information could be drawn from other regulators which were present in these locations to ensure FSA funded activity was targeted appropriately.

9.11 The CSA asked whether historic data could be used to carry out a sensitivity analysis and whether this could pick up on issues that could be otherwise missed. Mark suggested that this was something that he would be happy to discuss further.

9.12 Ruth Hussey asked about the impact of choices that were being made because of earned recognition or table-top exercises noting the way to ensure effectiveness would be to focus on outcomes. She suggested the Board would like assurance, not just that the inspections were happening but that they were having an impact and leading to improved outcomes. Mark explained information around this was now becoming available and he hoped to be able to report on this in early 2020.

9.13 Steve Wearne noted the paper asked the Board to assess the alignment of the approach to the ROF principles. He explained this request should not be interpreted as an indication that animal feed was in any way lagging in terms of official control modernisation and in many ways was at the vanguard of that process. On the use of data from third party assurance schemes, he explained by ensuring the robustness and good governance of those schemes, the data
could be used with confidence in decision making. He noted the experience in the feed sector had been key in informing UK led discussions at Codex to develop a framework for this approach to be applied more broadly in the context of an effective model of controls.

9.14 The Chair noted this was a good demonstration of the FSA's ability to recognise where something was not working, to recognise the operation of different models across the UK and to develop new models that were appropriate and met requirements for delivering effective official controls, aligned with regulatory reform principles. She confirmed that the Board had agreed the next steps in the paper, and that the Board saw this as evidence of the FSA acting as a Central Competent Authority, accommodating devolution in the appropriate way.

10. FSA Sampling Strategy: Our Future Approach to Sampling (FSA 19/06/09)

10.1 The Chair welcomed Rick Mumford back to the table to discuss the FSA's sampling strategy. Rick explained he would cover three key points from the paper. Firstly, the paper represented a distillation of a complicated issue, covering several areas within the FSA as well as interactions with LAs. He emphasised the need to account for the variation across the three countries. Secondly, he explained the paper was a synthesis of ongoing and completed workstreams. Thirdly, he explained the sampling strategy was a means to an end and was a part of the overall surveillance system.

10.2 David Brooks noted the paper referred to implementation and review phases of the strategy. He asked if consideration had been given to what success would look like and the outcomes which would indicate a successful sampling strategy. He also noted the large amounts of sampling work being carried out within industry and asked how this work could be used to enhance the FSA's sampling data. Rick explained on the second point, the FSA was trying to cover a lot of areas that were not within direct control. It was the FSA's aim to steer and set the direction but achieving effective data sharing with industry would be key. In terms of indicators of success, he considered an examination of lessons learned from past programmes and being fed into new activities would be valuable.

10.3 Julie Pierce re-emphasised Rick's point about sampling being part of a wider surveillance programme, rather than end in itself. Steve Wearne added his agreement and explained in order to know what a good sampling strategy would look like, it was important to know what the role of sampling was within the broader surveillance strategy, noting that sampling would not drive improved public health outcomes on its own.

10.4 The Chair noted that with the previous national sampling process, sampling had not been done consistently and there seemed to be a gap in the information gained being assessed and then used to make something actually happen. The CSA explained success could appear different in different areas of the surveillance system. He suggested a potential starting point would be to look at
the sampling strategy in place during the fipronil in eggs incident to determine whether UK eggs were contaminated in the same way that Dutch eggs were. This demonstrated a sampling strategy that produced information that could then be used to inform action. Conversely, what a good sampling strategy would not look like would be doing the sampling work and being assured by virtue of the fact it was being done.

10.5 Mary Quicke noted the sampling strategy appeared to fit well into the ROF programme of assessing risk, enabling a true validation of activities. Stuart Reid suggested success would look different depending upon the context and emphasised that sampling was a tool for helping to achieve successful surveillance. He acknowledged the need to maximise the utility of the sampling which was carried out, and to take care that the approach to sampling established for one area was appropriate for use elsewhere.

10.6 Ruth Hussey commented that as the FSA set out its strategic framework, decision making points and clarity around who would make those decisions, the high degree of local engagement in Wales about agreeing sampling strategies would need to be part of that framework. Rick confirmed this was recognised and there was good practice in this area. The Chair asked for clarification over whether it was FSA funding that was being given to LAs in Wales to carry out sampling work. Ruth explained that it was Welsh Government funding that was made available to Welsh LAs through the FSA in Wales.

10.7 The CSA explained the FSA was moving towards working with a network of industry and academia in Data Trusts. He hoped to be in a position soon to announce how that would happen and encouraged industry representatives to participate in the initiative.

10.8 The Chair confirmed the Board’s support for the approach to sampling as outlined in the paper.

11. FSA Approach to Regulatory Enforcement and Sanctions (FSA 19/06/10)

11.1 The Chair introduced Alice Biggins and Chris McGarvey to the table to deliver an update on the FSA’s approach to regulatory enforcement and sanctions. Alice explained the paper set out the role of the FSA in relation to sanctions for food and feed and described the wider Westminster government context concerning criminal sanctions. She explained the aim was to have a suite of sanctions available that were effective, proportionate and dissuasive. She noted the NAO Report had included a recommendation about addressing gaps in the FSA’s enforcement powers and gaps had been identified in relation to sanctions in the FSA’s research base.

11.2 Chris illustrated some of the issues highlighted in the paper by giving an example of the way the FSA used regulatory sanctions in England for Novel Foods regulation compliance issues. He explained the FSA had moved from reliance on criminal sanctions for domestic enforcement of the regulations and had incorporated the use of stop notices, compliance notices and fixed penalty notices. This mirrored the approach advocated by central government. He
added the use of different types of sanctions was being made available to LAs who had called for a wider range of enforcement tools to be made available to them.

11.3 The Chair set out the Board’s responsibilities, to make sure that: there was a full and effective suite of available sanctions; they supported the FSA’s regulatory ambition; they helped businesses comply with regulation; and there was no constraint on the FSA’s power to use them appropriately. She emphasised it was not for the Board to decide what sanction should be used in any instance.

11.4 Colm McKenna asked if there was satisfaction that the sanctions were being used to deliver the outcomes that the FSA would seek as a regulator. Alice explained there was no reason to consider that the current outcomes were not what was hoped for, but this could not be confirmed without research to demonstrate.

11.5 The Chair asked whether it would be helpful for the Board to take a stronger line to complete the range of available sanctions to provide the balance between civil and criminal sanction. Chris agreed this would be helpful. He noted the Statutory Instrument regarding novel foods came into operation in March 2018 and it was difficult to gauge how well those provisions had been used in that area. He explained part of what they were seeking was the Board’s agreement to do some work to analyse how well these provisions had been used so that this could be scaled up appropriately.

11.6 The Chair asked whether the Board would receive information on how well Remedial Action Notices were working in areas other than novel foods, since this was an area where our suite of sanctions might be usefully expanded. Chris confirmed this would be the case.

**Action 2** - Chris McGarvey to provide the Board with information on how well Remedial Action Notices were working in areas other than novel foods.

11.7 David Brooks noted sanctions had been mentioned at previous meetings of the Business Committee and asked whether those sanctions had been made under civil or criminal law. Chris explained that previously, sanctions generally relied on criminal law and that only now were the FSA seeking to move toward more extensive use of civil sanctions. David asked about the severity of the sanction in either case. Chris explained that in civil cases, both the severity of the sanction as well as the burden of proof were lower. David asked whether it would be at the FSA’s discretion whether to use criminal or civil law in a particular case. Chris confirmed that it would be, explaining that the objective would be to retain the use of criminal sanctions where the severity of the offence warranted it.

11.8 The Chair noted the paper reflected some of the issues that had been raised previously in Board discussions, noting it appeared sensible to broaden the suite of sanctions available. Ruth Hussey asked whether the FSA was drawing
on the use of sanctions by other regulators and the evidence of impact in parallel sectors. Alice confirmed this was the case.

11.9 The Chair confirmed the Board agreed with the approach set out in the paper and encouraged officials to conclude their research and evaluation into other tools to support our regulatory direction.

11.10 The Chair also noted this was the first occasion in a long time that Chris McGarvey had attended a Board meeting and took the opportunity to thank him on behalf of the Board for the work that he, and the team, had done around EU Exit in preparing the Statutory Instruments as well as in many other areas, to ensure that the FSA would be ready for day one of EU Exit. She also complimented Alice on her leadership role in handling the NAO Review, explaining that the effort was noted and very welcome.

12. Reports from the Chairs of the Food Advisory Committees (FACs)

12.1 The Chair invited Ruth Hussey to update the Board on the discussions of the Welsh Food Advisory Committee (WFAC). Ruth explained WFAC had met in April 2019 to discuss animal feed and had also held a teleconference ahead of this Board meeting to discuss the Board papers. The next meeting of WFAC would be around the FSA’s Strategy.

12.2 The Chair invited Colm McKenna to update the Board on discussions and work of NIFAC. Colm explained NIFAC were now six months into the operation of the new working arrangements for the FACs and it was considered that these were working well. NIFAC had met, in that time, on four occasions, as part of their regular, face-to-face meetings to discuss allergens and animal feed, as well as teleconferences ahead of Board meetings to discuss the Board papers. He explained that similarly to WFAC, NIFAC were planning to meet in late July 2019 to discuss the FSA’s strategy.

13. Report from the Chair of the Audit and Risk Assurance Committee (INFO 19/06/01)

13.1 The Chair invited Colm McKenna to introduce the Report from ARAC. Colm explained a Report from the ARAC meeting of the 22 May 2019 was included in the papers and a teleconference had also been held on the 11 June 2019 to sign off the accounts. ARAC had been able to sign off the accounts for Northern Ireland and Wales and had also been able to recommend the sign-off for the Westminster and consolidated accounts.

13.2 He added there was a small technical issue to be resolved around a revaluation of a pension scheme. ARAC were pressing for completion by the end of June but were confident, in any event that it would happen before Parliament rose in July. The Chair thanked Colm and clarified that the technical issue in relation to the pension scheme was not one of the FSA’s making. There were no other questions on the ARAC report.
14. Quorums for the FSA Board and Committees (FSA 19/06/19)

14.1 The Chair introduced the paper on quorums for the FSA Board and Committees, explaining that because of delays in appointing new Members to the Board, and with the current changes in political leadership risking further delays to the process, she felt it wise to temporarily adjust the quorums in the 2018 Standing Orders for the Board and Business Committee. This would ensure there could be no question about the ability for the Board and Business Committee to operate. She asked the Board if they were content for the 2018 Standing Orders for the FSA Board to be adjusted. The Board signalled they were content for this adjustment to be made. The adjustments would come back to the Board for further consideration once the FSA Board was back at full strength.

**Action 3** - Board Secretariat to amend the 2018 Standing Orders for the FSA Board in accordance with the recommendations in paper FSA 19-06-19

**Action 4** - Board Secretariat to add review of Standing Orders to the Forward Look.

15. Any Other Business

15.1 The Chair said that this was the final Board meeting for Jason Feeney before his retirement as CE. She paid tribute to the way in which Jason had led the organisation and the improved relationships with stakeholders that had developed because of his leadership.

15.2 The CE thanked the Chair for this tribute, explaining he had worked in the Civil Service for a long time and noted the changes in the working environment between when he first joined and now. He commented on a hugely enjoyable and rewarding career and his good fortune to have worked with some very highly skilled people. He extended his thanks to the Board and members of the Executive Team and especially to FSA staff, noting there were some exceptional people working for the FSA.

15.3 No further items of business were raised, and the meeting was closed. The next meeting of the FSA Board would take place on 18 September 2019 in Belfast.