

## Minutes of the FSA Business Committee meeting on 21 January 2020

Convocation Hall, Church House, Dean's Yard, Westminster, London

### Present:

Heather Hancock, Chair; David Brooks; Margaret Gilmore; Ruth Hussey; Colm McKenna; Mary Quicke; Timothy Riley; Mark Rolfe.

### Officials attending:

Emily Miles	-	Chief Executive
Darren Davies	-	Head of the National Food Crime Unit (for paper FSA 20-01-18)
Martin Evans	-	Head of Field Operations (for paper FSA 20-01-19)
Chris Hitchen	-	Director of Finance and Performance
Maria Jennings	-	Director of Regulatory Compliance, People & Northern Ireland (NI)
Carmel Lynskey	-	Interim Head of Regulatory Delivery and Operational Transformation (for paper FSA 20-01-19)
Rick Mumford	-	Director of Science, Evidence & Research
Julie Pierce	-	Director of Openness, Data & Digital and Wales
Guy Poppy	-	Chief Scientific Adviser
Rebecca Sudworth	-	Director of Policy
Colin Sullivan	-	Chief Operating Officer

### Apologies

Stuart Reid	-	Board Member
Paul Morrison	-	Director of Strategy, Legal and Governance

## 1. Welcome and announcements

- 1.1 The Chair welcomed everyone to the Business Committee meeting and noted apologies from Stuart Reid and Paul Morrison.

## 2. Minutes of 18 September 2019 (FSA 20/01/15)

- 2.1 The Business Committee approved the minutes without comment.

## 3. Actions arising (FSA 20/01/16)

- 3.1 The Business Committee noted the Annex relating to the timeline for transition to the Balanced Scorecard approach and that all actions were complete.

**4. CHIEF EXECUTIVE'S REPORT TO THE BUSINESS COMMITTEE (FSA 20/01/20)**

- 4.1 The Chair invited the Chief Executive (CE) to introduce her report to the Business Committee.
- 4.2 The CE noted that in addition to the minor structural changes mentioned at paragraph 3 of the report, a Strategy Unit was also being established.
- 4.3 In relation to the People Survey as mentioned in the report, team by team results had been available since the previous week and these were now being analysed and actioned by managers across the Agency.
- 4.4 The Chair offered congratulations for the 67% engagement score in the People Survey which classified the FSA as “high performing” in the top 25% of Civil Service Departments. This had been a long-held ambition of the Agency and it was great to see it realised.
- 4.5 Mary Quicke asked what had gone well to enable the Agency to achieve the high engagement score. The CE said the Our Ways of Working (OWOW) programme had had a major impact on results. OWOW gave staff the digital tools they needed to enable them to work remotely and improve their work life balance. The FSA's clarity of mission was also shared widely by staff across the Agency.
- 4.6 Colin Sullivan said there had been a 3% increase in engagement among field operations staff who accounted for more than half of all FSA staff. Field operations staff were mainly based in plants and so did not have flexibility about how they worked so the increase in engagement showed that the FSA's engagement activity with them had been successful.
- 4.7 Maria Jennings reminded the Committee that the FSA was in the third year of a three-year People Strategy and this was a good context in which to look at the increased engagement score. We had embedded the new change management framework; we had a good focus on, and support for, wellbeing; we had more engagement networks which enabled people to connect with each other easily; we had centralised our learning and development offering which made it easier to access; and there was a recognition among staff that we were trying to deal with the inadequate pay issue.

**5. PERFORMANCE AND RESOURCES REPORT Q2 2019/20 (FSA 20/01/17)**

- 5.1 The Chair invited Chris Hitchen to present this report.
- 5.2 Chris reminded the Committee that the figures in the report were for Q2 as of September 2019 and this was because the meeting and so the paper were coming later than originally planned on account of the recent General Election.
- 5.3 Nevertheless, the report reflected the discussions the Board had had throughout the day including the key priorities of EU Exit and ROF (Regulating

our Future) or the OCM (Official Control Modernisation) programme as we were now calling it.

- 5.4 Chris confirmed that the intention was to update the report to continue to reflect the FSA's priorities while not wishing to inflate the size of the report and bearing in mind that metrics like those for the National Food Crime Unit (NFCU) were available elsewhere and as such new pages on allergens and food standards, would likely be included in this report going forward.
- 5.5 Chris drew attention to slide 6 which had been mentioned during the Audit and Risk Assurance Committee (ARAC) Report and during the Board meeting and focused on the FSA's role as the Central Competent Authority (CCA) and focused on our interventions and discussions with local authorities (LAs) on their performance as Competent Authorities.
- 5.6 In terms of resources Chris said we were prioritising our work load to keep within Treasury limits for the rest of this year. We had already touched on the 20/21 pressures next year and the prioritisation decisions required to balance the budget which the CE was already leading. The Business Committee were also aware that the FSA had already started work on the next Comprehensive Spending Review, SR20.
- 5.7 Mark Rolfe raised two points in relation to the slide on LA performance. First that it was very hygiene focused and did we have the same information for standards and second that it identified the weak performers, but could we do something to encourage strong performers?
- 5.8 Chris said we were developing metrics for standards in line with the National Audit Office (NAO) report and the Public Accounts Committee (PAC) recommendations. Forthcoming Board discussions on sampling would be one of the routes to establishing food standards metrics. Maria noted that the Board agreed that expectations the FSA set around current standards were not the right ones. We were working on moving away from a premises-based inspection regime for food standards and official controls which was why there was currently no information on standards provided as there was for hygiene.
- 5.9 The Chair said the purpose of the set of indicators in this report was to focus on the most critical matters. There would be other opportunities for the Business Committee to have deep dives into the granular detail of certain topics such as the Balanced Scorecard. Maria Jennings said a lot of thought was being given to the Balanced Scorecard around how it would be presented to LAs and how they would use it. The Balanced Scorecard would provide the space to highlight good practice among LAs which would enable LAs to have conversations with, and learn from, those LAs which were performing well.
- 5.10 The CE drew attention to the Food Hygiene Rating Scheme (FHRS) statistics and how they showed that consumers in the three countries were being very differently served by the scheme. In England 4.6% of businesses had a rating of 2 or lower, while this was 3.7% in Wales and 1.1% in Northern Ireland. This reinforced the point made previously by the Committee that mandatory display

of ratings had had an impact on ratings in Wales and Northern Ireland. Moreover, ratings impacted on consumer safety and reinforced the Board's position on the need for mandatory display of ratings in England too.

5.11 The Chair concluded by saying that at the next meeting the Committee would be considering the following financial year's business plan and budget, and the tightness of resources would mean we would need to prioritise our efforts.

## **6. National Food Crime Unit – update on progress (FSA 20/01/18)**

6.1 The Chair welcomed Darren Davies to the table and invited Colin Sullivan to introduce the paper.

6.2 Colin said this annual report provided an update on the progress of the NFCU towards Full Operating Capability (FOC) for April 2020. In June 2018 the Board had agreed the expansion of the Unit, known as Phase 2. This required the Unit to quadruple in size to a full staffing complement of more than 80 FTEs to accommodate the additional investigative and prevention functions to the NFCU. Refining the outcomes of Phase 1 of the Unit's development and bringing more individuals into the team for Phase 2 had taken time.

6.3 The Unit had successfully procured and implemented an end-to-end intelligence and case management system; secured access to the Police National Computer (PNC) and Police National Database (PND); and secured an Information Sharing Agreement with the Food Industry Intelligence Network. With the infrastructure in place, the Unit continued to work on gaining access to the suitable legislative powers and a Memorandum of Understanding (MOU) with the Crown Prosecution Service (CPS) and the Public Prosecution Service in Northern Ireland (PPS).

6.4 Darren said although it had been challenging, the Unit had made great progress expanding in size and delivering operational activity at the same time.

6.5 Regarding the MOU with the Public Prosecution Service in Northern Ireland, Darren said there had been very productive engagement and, given the recent political changes in NI, he hoped the MOU would get sign off at the appropriate level soon.

6.6 In terms of the MOU with the CPS, Darren said the Unit had had several meetings with the CPS who were diligently checking the NFCU's level of staff training and competence and procedures for handling large volumes of data to ensure there would be no issues later on when it came to progressing prosecutions. Darren was hopeful of getting the MOU signed off soon. Meanwhile the CPS was continuing to provide the NFCU with support on live casework.

6.7 In response to Colm McKenna's question about securing support from the Police Service of Northern Ireland (PSNI), Darren said there was a very strong relationship but formal support had taken longer to finalise than from the

National Police Chief Council due to the additional measures required for staff safety given the operating landscape in NI compared to England and Wales.

- 6.8 The Chair welcomed the NFCU's work on DNP as detailed in the Annex to the paper which had also been mentioned in the CE's Report to the Board. The Chair drew attention to the need for greater cross-departmental coordination in combating the threat from DNP. DNP was a dangerous non-food product. The Committee supported the argument that awaiting its sale as a foodstuff rather than intervening earlier in the supply chain was unnecessarily exposing the public to risk.
- 6.9 The Committee continued to be concerned about DNP and supported the NFCU in giving priority to addressing this threat as there had been four fatalities in 2019, following the six fatalities in 2018. The Chair reinforced that the FSA alone could not address the threat from DNP.
- 6.10 Darren agreed that there was no safety net and the sale of DNP as a food did allow for potential tragedies to occur. He also agreed that there needed to be greater cross-government co-operation as supply was increasingly coming from overseas, due to a decrease in UK sellers, which meant sales of DNP were outside our food regulations and our jurisdiction.
- 6.11 Darren concurred with the CE that lack of direct access to powers under the Police and Criminal Evidence Act (PACE) was not impeding the Unit's ability to operate, rather it made it more complicated. The support from police chiefs and local authorities was very positive. The absence of direct access to powers added a delay of days to the Unit's ability to act, rather than prevented it from acting at all. The advice from Counsel had been reassuring but until cases progressed through the courts the extent of the Unit's vulnerability by not having direct access to the PACE powers remained to be seen.
- 6.12 The Chair concluded by thanking Darren for his leadership of the Unit under which impactful relationships had been built such as gaining access to the Police National Database.

## **7. Operational transformation delivery programme (FSA 20/01/19)**

- 7.1 The Chair welcomed Carmel Lynskey and Martin Evans to the table and invited Colin Sullivan to introduce the paper.
- 7.2 Colin said this paper followed on from a workshop the Board had had in October 2019 about how to take the Operational Transformation Delivery Programme (OTDP) forward. The programme sought to modernise the delivery of official controls by the FSA in meat, wine and dairy by moving to a proportionate and risk-based delivery of controls.
- 7.3 Colin said that while the FSA was keen to modernise the delivery model, it was important to remember that the current model continued to protect consumers. New technology, legislative changes and the availability of staff were among

the drivers for moving towards a more effective and sustainable model for the future.

- 7.4 Colin said the paper included a write up of the outcomes from the October workshop for comment prior to the full business case being submitted. Colin reminded the Committee of the significant proportion of human resources currently tied up in the delivery of official controls.
- 7.5 Colin said the paper sought the Business Committee's endorsement of the programme and asked how the Committee wished to chart progress and input into the programme of work. Finally, Colin stated that the FSA was committed to working with industry as the programme moved forward.
- 7.6 Colin assured Timothy Riley that field operations staff worked closely with FSA incidents staff and the NFCU to process intelligence and complaints to identify those engaging in food crime as opposed to regulatory non-compliance.
- 7.7 Martin Evans confirmed for Mary Quicke that the FSA would be working closely with Henry Dimbleby on the National Food Strategy, in response to her point about helping small abattoirs operate as sustainable businesses.
- 7.8 The Chair said the programme sought to strike the right balance of accountability between industry and the FSA, by recognising that it was industry's job to do the right thing to keep food safe. In dealing with less complaint Food Business Operators (FBOs) it was important for them to understand that the presence of the FSA in their premises did not abdicate them of their responsibility.
- 7.9 Accountability was integral to the FSA's consideration of roles and responsibilities across the wider food system, who should do what, with what accountability. It had long been the Board's view that the FSA existed to regulate not to subsidise the industry. That did not mean that subsidies should not be allowed, but it was for other parts of government to provide that subsidy, not the regulator. It created a conflict of interest when the burden of setting and funding subsidies fell to the FSA. The FSA was willing to help Defra and the Devolved Administrations in looking at how costs fell on industry.
- 7.10 Margaret Gilmore said the same conversations about value for money had been taking place a decade before and it would be challenging to make progress in this area. Colm McKenna emphasised the importance of the FSA, as the regulator, no longer being involved in subsidies to the industry as soon as possible. Colin assured the Committee that any progress on changing the funding model would be discussed with them.
- 7.11 The CE said previously the work of the OTDP had been part of the Regulating our Future (ROF) programme. While the OTDP had now been separated out from ROF in recognition of the distinct nature of the meat industry in relation to the rest of the food industry, there remained a close connection between the two programmes. They shared the same language, for example risk-based,

proportionate and segmentation, and they were part of a joined-up conversation.

- 7.12 Guy Poppy said as well as a driver for change, technology could also address other areas such as improving public health and increasing productivity. Projects like the 21st century abattoir and digital twins which combined cutting edge technology with knowledge of how real-world systems worked could also be helpful to the FSA in areas such as strategic surveillance and the NFCU.
- 7.13 Carmel and Martin both confirmed that the OTDP would need to embrace opportunities around data and technology through feasibility studies to address changes in production speeds and methods. Colin welcomed the enthusiasm there was amongst Operations colleagues for embracing new opportunities. He said that with limited resources available, the programme had to spend its resources on the most impactful projects, and it was the right time to conduct a programme stocktake.
- 7.14 Ruth Hussey welcomed the programme team's energetic response to embracing change and asked why therefore there was both an interim and a final operating model. An interim model suggested a model based on easy wins without full line of sight to the final model. Ruth suggested setting up only one model which could be tested along the way to the final outcome.
- 7.15 Carmel clarified that the interim model did not represent a line in the sand, rather it was part of an iterative process. She explained that the rationale for the piece by piece approach was based on benchmarking the experiences of other countries, such as New Zealand, in making similarly significant changes to their systems. Ruth welcomed Carmel's acknowledgement that the language the programme team used needed to make it clear that the interim model was not a fixed point and that the final model was the end goal throughout the change programme.
- 7.16 The Chair concluded by saying the Business Committee supported the direction of the programme as set out in the paper. There would be opportunities at the Business Committee to measure the operational progress of the programme. As the programme developed, the team would be able to bring any decisions of material significance to the Board for consideration. There was a standing item for regulatory reform on the Board forward agenda so there would always be space for it.

## **8. Any other business**

- 8.1 No further business was raised, and the Chair closed the meeting. The next meeting of the FSA Business Committee would take place on 11 March 2020.