

FSA EU TRANSITION PROGRAMME UPDATE

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1. Summary

1.1 The Board is invited to:

- consider this update report on end of EU Transition Preparations and note its contents
- confirm its agreement to the proposals outlined in the food compositional standards and labelling framework.

2. Introduction

2.1 In June 2020, the FSA Board noted the progress that had been made on arrangements for the end of the EU Transition Period on 31 December 2020, and reconfirmed its position that:

- we should preserve our approach to the analysis of risk;
- we should continue to be open and sharing with our science and evidence; and
- we should weigh NI Protocol issues in the context of consumers' wider interests.

2.2 This report provides an update on the progress we have made since June 2020 and provides an update on the current position and readiness as we enter the final month of 2020. Furthermore, this report outlines the key areas of focus as we implement our end of Transition Period workstreams and activities and move into business as usual in 2021.

2.3 Finally, this report additionally updates the FSA Board on the proposals for the food compositional standards and labelling framework.

3. Background

3.1 Since commencing our EU Exit and Transition work, the FSA has firmly framed its approach around ensuring that public health protection and consumers' interests are put first. The core principles have remained throughout that the FSA will:

- ensure there is no reduction in public health protection for UK consumers, including maintaining and upholding the current regulatory regime
- enable improvement of public health protection for UK consumers, where appropriate
- safeguard consumer confidence and interests by putting the consumer first.

3.2 To reflect these commitments, in 2017, the Board set out that any future regulatory system should:

- be at least as effective, or more effective, in protecting public health
- maintain or increase confidence in food safety, and in the regulatory regime
- minimise disruption for consumers and industry
- seek to achieve as unified a system as possible, in the consumer interest, whilst respecting devolution arrangements.

3.3 These core principles and commitments by the FSA have been at the fore of the work undertaken throughout the EU Transition period and have fulfilled their purpose in guiding our work.

4. Discussion

Readiness for end of transition period

- 4.1 From the start of EU Exit preparations, the FSA identified a number of core workstreams that encompass the wide range of changes that will take effect from 1 January 2021. Between them these workstreams capture the majority of the FSA's EU Exit related work.
- 4.2 Whilst some of these areas of work remain solely under our remit, many others have interdependencies across Government and we continue to work closely with other relevant departments, agencies and our colleagues in the devolved administrations to ensure a joined-up system.
- 4.3 As we undertake final preparations for the end of the Transition Period, most of the FSA's workstreams are broadly ready for day one and beyond, although there do remain some key challenges and risks which are detailed in subsequent paragraphs. In some areas such as health and identification marks, the FSA is supportive of discussions with the EU that seek to enable flexibilities. In contrast, the lack of access to relevant networks, systems and databases, in the context of NI, creates significant challenges.
- 4.4 At the time of writing this paper there also remain on-going negotiations with the EU. The FSA has from the beginning centred its planning on a 'no deal' scenario and hence changes to some aspects (for example retaining some degree of information sharing with the EU) would not be detrimental to our work and preparations.
- 4.5 As we move closer to the end of the Transition Period and look towards 2021, the FSA continues to review and ensure that projects are on track to deliver their key outputs. We are mindful that these changes are part of a wider sense of change across the food chain. The FSA continues to monitor programme and project risks in this context. In addition, the FSA Audit and Risk Committee (ARAC) have also reviewed the impacts of the totality of FSA risk, e.g. winter planning, COVID-19 spike as captured in the Corporate Risk Register.

Imports and Exports

- 4.6 From 1 January 2021 there will be some significant changes to the imports and exports of food and feed. The central-Government led [Border Operating model](#) (BOM) provides for the proposed phased introduction of checks and controls post-Transition period. The second iteration of the BOM was published on 8 October 2020. Many of these changes fall within the remit of Defra who lead on this area, whilst the FSA remain the competent authority for safety of these products.
- 4.7 In relation to imports, to facilitate a smooth transition to the UK's new imports systems, IPAFFS, a phased approach is being taken for imports from the EU. Although the establishment of this system is being undertaken and led by Defra, the FSA has a key role in ensuring that imported food and feed is safe. We are working closely with Defra colleagues and IPAFFS is scheduled to be available imminently.
- 4.8 From 1 January 2021, high-risk food and feed from a third country will require notification on IPAFFS. Subsequently from 1 April 2021 EU high-risk food and feed will also require notification on IPAFFS, and finally from 1 July 2021 risk-based checks and controls will be introduced on high-risk food and feed.
- 4.9 In relation to exports, whilst much of this area remains the responsibility of Defra, the FSA leads on areas of food and feed safety. Many of the changes have particular impact in relation to certain products where additional controls or documentation is needed to enable goods to move between GB and the EU. For example, for the control of trichinella in fresh pork, such products must originate from controlled housing conditions. The FSA is continuing to support Defra colleagues in seeking appropriate resolutions to limit the impact of this and other challenges.
- 4.10 For products which carry health and identification marks the FSA published updated guidance on 12 October. We updated this guidance on 6 and 18 November to include arrangements for the [NI market](#) and more detailed guidance on the [application of ID marks](#) which covers the advance application of the identification mark. We are working with Government departments including Defra, DAERA and district councils in Northern Ireland on a proportionate and risk-based enforcement approach to new labelling requirements on the Northern Ireland market. We are aware that stakeholders continue to have questions about the practical application of strategies to help manage the changes and we will continue to work with them to ensure they have the information they need to meet new requirements.
- 4.11 In preparing and contributing to business readiness, an important aspect is the FSA's import and export preparation activities. The Imports Exports Team is contributing to central-government-led activities through the Cabinet Office Border Protocols and Delivery Group (BPDG) and Defra. This has included contributing to a series of BPDG webinars aimed at EU member states and rest of world (RoW) countries importing into the UK, and strengthening the BOM

guidance on high-risk food not of animal origin (HRFNAO) to distinguish it from Defra-led guidance on regulated plant products.

- 4.12 The FSA will continue to work with industry where the need for guidance is identified and we are currently working with colleagues in Defra as they clarify the certification process for the movement of HRFNAO from GB to EU. Our Imports Exports team has also developed and is delivering a suit of training events for Port Health Authorities and Local Authorities. This includes imported HRFNAO training (legislation, enforcement and sampling) and imported fish and fishery products training (Official Fish inspectors training). The HRFNAO training is available online and on webinar sessions, with a video format being developed for the sampling component. The fish and fishery products training is available online, with a video format/face-to-face workshop being developed.

Northern Ireland Protocol

- 4.13 Under the NI Protocol EU food and feed law will continue to apply within Northern Ireland. This means that NI will be adhering to EU legislation whilst GB will be adhering to GB legislation.
- 4.14 This workstream continues to demonstrate some outstanding challenges and there remain issues that are not yet fully resolved. With a short timeline until the end of the Transition Period, and the NI Protocol reaching far beyond the FSA's remit, our focus has remained on ensuring that the systems in place on day one ensure safe food in NI.
- 4.15 Under food and feed law, the FSA coordinates public health controls on food and feed products moving into NI, whilst DAERA retain oversight of the provision of the facilities needed to accommodate these controls. NI Ports of Entry will continue to utilise the EU's importation pre-notification & control system 'Trade Control & Expert System' (TRACES NT), whilst GB will implement the use of the 'Import of Products, Animals, Food and Feed System (IPAFFS).
- 4.16 In addition to the provision of facilities, most challenges relate to enhanced controls in relation to specific products. The FSA is working with colleagues in Defra/DAERA who own many of these challenges in order to provide day one ready systems to facilitate trade movements from GB to NI.
- 4.17 To aid the prioritisation of limited resources in NI, the FSA has reviewed the public health risks associated with movements into NI from GB of commodities subject to checks by port health authorities (district councils in NI), supported the recruitment district council port health staff in NI and supplied training for new recruits.
- 4.18 A further remaining challenge is in relation to access to networks, systems and databases in NI such as the EU's Rapid Alert System for Food and Feed (RASFF). Not having full NI access to RASFF would pose additional challenges for the FSA. However, GB measures to compensate for the loss of EU systems and databases for incidents are already operational and could be

applied to NI as well as GB. We have been undertaking final testing of contingency arrangements across the UK to ensure continued levels of protection for GB and NI consumers, and these systems are ready to go live from the end of December.

4.19 The FSA is working with Defra to provide a suite of guidance and support. The FSA is supporting the Defra Trader Readiness campaign to provide businesses with the key information on the export of goods from 1 January 2021, an overview of the exporter journey for the movement of goods from GB to EU and GB to NI and provide businesses with a platform to ask questions and raise concerns. The key FSA areas of support are HRFNAO and the exporting journey with a focus on animal feed. The Defra webinars are scheduled to take place in early December. The FSA is also issuing stakeholder guidance in relation to the changes required after 1 January 2021 for applications for regulated products (e.g. novel foods or food additives).

Legislation

4.20 The practical changes taking effect from the end of December 2020 are underpinned and implemented by changes to our legislation.

4.21 Since the last FSA Board in September, the Statutory Instrument containing the majority of changes necessary for 1 January 2021 was laid in Parliament on 14 October 2020 as planned. The Food and Feed Safety and Hygiene (Miscellaneous Amendments) (EU Exit) Regulations 2020 has, at the time of writing, progressed successfully through the House of Commons and is due to be debated in the House of Lords. When it comes into effect, it will ensure that the necessary changes are made to a broad range of specific food and feed regulations, updating our Exit legislation that was made in 2019.

4.22 Separate domestic legislation is progressing to implement these changes in Wales. The FSA will be making further amendments to NI domestic legislation. This reflects that the majority of law relating to food and feed hygiene and safety and food standards (compositional and labelling) within the FSA's policy remit in NI will continue to follow EU law as required under the terms of NIP at the end of the Transition Period.

4.23 In addition, Defra lead on the underpinning Official Feed and Food Controls (Amendment) (EU Exit) Regulations 2020. The necessary changes are currently passing through Parliament, and once implemented should ensure that the remaining essential requirements are in place for the end the year.

4.24 The FSA is liaising closely with DEFRA, DHSC and colleagues in the devolved administrations regarding any necessary input to potential legislation should there be a trade agreement with the EU.

Risk Analysis

4.25 At the end of the Transition Period, our processes for undertaking our risk assessment, risk management and risk communication will change as many

aspects of this work is returned from the European Commission and the European Food Safety Authority.

- 4.26 Our risk analysis process has been strengthened in line with the direction provided by the FSA Board in previous meetings. It forms the backbone for our work in this area and guides our decision-making processes as we assess and react appropriately to food and feed risks. We have conducted internal testing of the risk analysis process and the process responded well with no significant issues identified. This exercise has built additional understanding of the how the process will be implemented in practice when presented with significant challenges. Following the completion of the exercise, a full set of recommendations is being drafted for further considerations by EMT. We are confident that the risk analysis process can be delivered; it is ready to go from January 2021.
- 4.27 Within the remit of our new risk analysis process is the consideration of applications for approval of regulated products. Regulated products, such as additives, are those substances that require a pre-market safety evaluation and need to be approved by Ministers across the four nations before they can be used. Online access to the UK application service is ready to go live at the start of 2021 and we will continue to test and refine our procedures through experience of live running. We have hosted a number of webinars to inform stakeholders about these changes and developed a suite of communication materials tailored to different audiences.
- 4.28 It is not yet clear how many applications for regulated products will be received and this may have an impact on the resources that are needed to service this. As was noted in the September 2020 Board paper the FSA has included a request for additional resource for this are in its Spending Review 2020.

Incidents and Resilience

- 4.29 In its work to ensure the high levels of consumer protection are maintained, the Incidents and Resilience Unit updated the FSA's Business Committee in September on the recent progress and successes as part of incidents planning for the end of the transition period.
- 4.30 The key focus of the remaining incidents preparedness work is around ensuring a consistent four nations approach to incidents management is maintained. Furthermore, that it takes into account amended practices for communicating internationally with counterparts in other countries, whilst meeting conditions of the NI Protocol. This work is on track to be completed and fully implemented by the end of December 2020.
- 4.31 The FSA recognises that the end of the Transition Period is not occurring in isolation from other potential impacts. On 16 November 2020, we stood up our emergency response arrangements (Winter Plan) in preparation for the end of the Transition Period potentially coinciding with a further wave of COVID-19 in additional to other seasonal factors. It is not realistic to predict every risk or eventuality that could impact on food safety or food crime.

4.32 In preparation for this, a multi-disciplinary Contingency Planning Group worked to an ambitious timeline throughout October to consider the major issues that the FSA and its stakeholders may face, both in the upcoming months as well as in the future. This includes considering the key risks, monitoring methods and options for action. We are now responding to issues as they arise to ensure the FSA remains agile yet resilient in ensuring the safety and standards of food and feed.

National Food Crime Unit (NFCU)

4.33 In addition to the emergency response arrangements, the NFCU within the FSA has adopted a co-ordinated approach between the four nations to ensure readiness as we approach the end of the transition period. A rolling analytical assessment of the additional food crime risks arising from the transition is underway with a supporting mitigation plan. Alternative legal gateways for information sharing with EU law enforcement partners are being developed.

UK Frameworks

4.34 From 1 January 2021, the UK will be undertaking food and feed responsibilities that were previously undertaken within various EU bodies. With responsibility for food and feed devolved across the four UK nations, the FSA is taking a consistent approach to the development of three common frameworks; Food and Feed Safety and Hygiene; Food Compositional Standards and Labelling; and Nutrition Claims, Composition and Nutrition Labelling.

Food and Feed Safety and Hygiene (FFSH) Framework

4.35 The FFSH Framework is going through the final stages of phase three which includes provisional sign off at the JMC(EN). As part of this phase, we successfully held a four-country external stakeholder engagement session on the framework proposals. Stakeholders were very supportive of the proposals to establish clear mechanisms for joint working and considered them an effective means of achieving a unified regulatory regime (allowing for the particular circumstances of Northern Ireland). The framework has been approved via the necessary joint UK-DA official-level processes and approval has been received from portfolio Ministers in each of the four nations. As a part of the wider work in developing the framework, the FSA-FSS MoU is also being revised in order to incorporate framework-specific collaborative working arrangements into the text.

4.36 The provisional Framework Outline and Framework Concordat will be laid in UK parliament, and the process of parliamentary scrutiny will begin. Ahead of committee scrutiny formally beginning, the House of Lords Committee has already written twice to the FSA seeking information on elements of the Framework. A delay to the start of the formal scrutiny period by parliamentary committees means the Framework is now not likely to be finalised until early January.

Nutrition Labelling, Composition and Standards (NLCS) Framework

4.37 The NLCS Framework has received provisional approval from JMC(EN) and is in the phase of Parliamentary Scrutiny. The Framework Outline Document and Concordat has been shared with the NI Health Committee for scrutiny. The NI Health Committee called the FSA CEO for oral questions on 5 November. A brief overview of the framework was provided, and the Committee asked questions on the framework's processes for managing divergence and the framework's connection with the NI Protocol. The Committee further showed an interest in engagement that had taken place with the Food Safety Authority of Ireland and industry stakeholder consultations.

Food Compositional Standards and Labelling (FCSL) Framework

4.38 Annex 1 updates the Board on the progress of the development of the Framework on Food Compositional Standards and Labelling (FCSL Framework). The framework is intended to be provisionally agreed by Ministers in all four nations by the end of the transition period.

4.39 This Framework is a Defra lead but falls within the FSA's remit in Wales and Northern Ireland and Food Standards Scotland in Scotland. The FCSL framework seeks to build on four country working in relation to policy development. Annex 1 details the proposed role of the Board in the Framework and sets out the next steps. Annex 2 provides a summary of the Framework, which has been developed in line with the JMC(EN) Principles on Common Frameworks, available at Annex 3.

4.40 The FCSL framework proposals align with and deliver on the strategic objectives for EU transition the Board set in 2017 to protect public health, maintain consumer confidence, and deliver as unified a regulatory regime as possible with minimal disruption to the benefit of consumer and businesses.

4.41 As Frameworks are one element of a wider intergovernmental post-transition approach, the FCSL framework will need to align with other cross-cutting elements, once clear outcomes are reached. Following provisional agreement, a further review of the Framework proposals will take place, considering the implications of these cross-cutting elements, including the UK Internal Market, the review of Intergovernmental arrangements and the outcomes of UK-EU FTA negotiations.

Trade update

4.42 In January 2020, as the UK embarked on trade negotiations with countries from around the world following its exit from the EU, the Board set out its approach to future trade negotiations. It agreed a clear set of principles to guide FSA officials' input into the UK Government's negotiations of free trade agreements.

4.43 Over 2020, the FSA has inputted advice on agri-food into a broad range of trade negotiations, most notably the EU-UK negotiations and the UK-USA negotiations. The agri-food free trade negotiations work is led by Defra. We

have contributed to the preparations for all rounds of the negotiations and participated in most formal rounds.

- 4.44 In October, the UK–Japan Comprehensive Economic Partnership Agreement (CEPA) became the first deal that the UK has struck as an independent trading nation. CEPA’s SPS arrangements are consistent with the existing arrangements between the EU and Japan and in line with the principles agreed by the FSA Board.
- 4.45 Ensuring that the benefits for consumer protection from FTAs are fully realised will require ongoing input from the FSA. This work will need to be taken forward alongside work required to input into the ongoing trade negotiations with other third countries.

Trade and Agriculture Commission

- 4.46 The Government announced on 1 November it will be putting the Trade and Agriculture Commission on a statutory footing for up to three years, after which it will be reviewed. The Trade Bill will be used as the vehicle to achieve this. The Agriculture Act, which received royal assent on 11 November, will require Ministers to report to Parliament on the impact of UK trade agreements on maintaining our existing food, animal welfare and environmental standards. The FSA continues to support and engage with colleagues across Whitehall as this progresses. In addition, we are developing plans to publish an annual report on food safety and standards, providing an independent, evidence-based assessment and taking into account wider consumer interests according to our statutory remit.

Approach to business engagement and communications

- 4.47 We are keenly aware of the need to give businesses and delivery partners as much information as possible on any changes to existing processes. In the past month we have been able to [publish more detailed guidance on health and ID marks](#). We have also been working very closely with Defra on their communications to importers and exporters and have participated in a number of webinars for traders which have been well attended and well received.
- 4.48 We have ensured that FSA guidance is accessible to anybody using the government’s transition checker at www.gov.uk/transition as this is the key channel for government communications on UK transition.
- 4.49 Our communications priorities for the remainder of the year is to help industry and delivery partners prepare for the end of the transition period. The timetable for this is very much dependent on the outcome of negotiations and so we will continue to work with colleagues across government to make sure that we are able to communicate in a timely and joined up way.

Next steps for the EU Transition Programme

- 4.50 The varied EU Transition work highlighted above is nearing completion. Whilst some aspects, such as imports from the EU, will have a phased introduction, many other changes will take effect from 1 January 2021. This work is broadly on track to be ready for the end of December 2020. Where outstanding challenges remain, such as NI Protocol and exports, we are confident that these do not create additional food safety risks to consumers.
- 4.51 From 1 January 2021 the UK will be past the EU Transition Period. The FSA will be closely monitoring implementation of the range of projects and workstreams which form the EU Transition Programme to ensure that they operate appropriately. To ensure that we are able to address any additional challenges that may arise, we have already stood up our winter contingency arrangements, which this year includes both EU Transition and COVID-19 aspects.
- 4.52 As we move into 2021 and the new processes and systems embed, many aspects of the programme will move into business as usual (BAU). However not all aspects of the programme are scheduled to be fully implemented from day one. Where we are taking a phased approach, the FSA will continue to progress with the delivery steps as scheduled and report on these matters as bespoke projects.
- 4.53 The EU Transition Programme will begin to close BAU aspects initially, moving towards closure of the EU Transition Programme as outstanding aspects are implemented. The processes and workstreams making up the Programme will be embedded into FSA business as usual.
- 4.54 Prior to closing the Programme in full, a review of its lifespan will take place. This will seek to identify lessons to learn which will be incorporated into future work programmes.

5. Conclusion

- 5.1 The Board is asked **to note**:
- The delivery areas solely within FSA's remit are fully on track or on target to be fully in place by the end of the Transition Period.
 - Whilst outstanding challenges remain in relation to both the NIP and imports and exports, the FSA is working with other relevant government departments to ensure progress is made and contingency plans are in place.
 - That as the EU Transition Programme moves to business as usual, lessons learnt will be incorporated into future programmes of work. these remain subject to on-going UK-EU negotiations

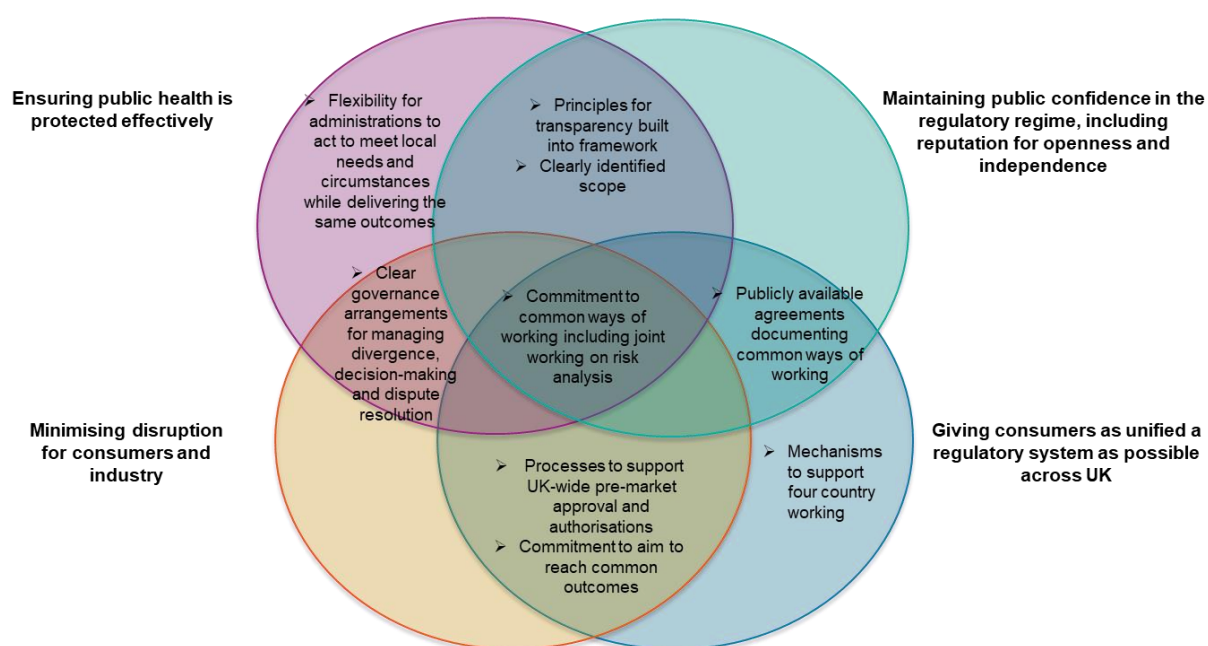
5.2 The Board is asked to:

- **Agree** that the FCSL framework proposals appropriately meet its strategic objectives for EU transition.
- **Agree** that the FCSL Framework proposals appropriately account for the Boards proposed role in the framework's governance processes.

Annex 1 – The FCSL Framework

FCSL Framework and the FSA Board’s Strategic Objectives for EU Transition

In October 2017, the FSA Board set criteria against which the post-EU transition regulatory regime would be assessed. The FSA Executive has ensured that the FFSH framework proposals meet these key criteria. The FCSL framework will facilitate the delivery of a robust and effective regulatory regime that is as unified as possible for the benefit of UK consumers and the maintenance of public confidence in food, while allowing for evidence-based divergence where this is in the public interest. The diagram below illustrates in detail how the FCSL framework will achieve this.



The Role of the FSA in developing Common Frameworks

The FSA is involved in the development of three common frameworks – Food and Feed Safety and Hygiene; Food Compositional Standards and Labelling; and Nutrition Claims, Composition and Nutrition Labelling. The FSA is taking a consistent approach to the development of Frameworks. The FSA Board has a key role to play in ensuring that common frameworks are developed in line with the strategic objectives it set, and in the governance of the common frameworks once they are implemented.

During the development of Common Frameworks, the FSA Board’s input and agreement on the recommendations to Ministers on frameworks will be sought.

Post Implementation:

- The Board will challenge the FSA to deliver for consumers (through Framework mechanisms) where appropriate a unified a regulatory system across the UK.
- The FSA will provide ARAC with an annual report on frameworks and will report to the Board on substantive issues arising.
- The FSA Board will consider advice and evidence available, as appropriate, to provide recommendations and finalise advice prior to informing respective Ministers.

The Role of the FSA Board in the FCSL Common Framework

The FCSL framework builds on the significant level of intra-UK collaboration that exists already in this policy area. Through the framework, Ministers and officials will be committed to working together to maintain common approaches to food compositional standards and labelling policy, unless a decision is taken that there is a need for different approaches. The framework will commit all parties to early engagement and collaboration at every stage of policy development.

Through this joint working at all stages, it is likely that across UK, common approaches to food compositional standards and labelling policy will normally be reached, thereby minimising regulatory complexity, maintaining consumer and business confidence and limiting scope for confusion. However, the FCSL framework will not guarantee that common outcomes on all decisions will be reached: where evidence justifies different policy recommendations, these may be made to Ministers following discussions by the FSA and FSS boards. Furthermore, even where consistent recommendations are made by the FSA and FSS, Ministers will not be bound to follow this advice. Where this is of concern to one or more party, there is a mechanism for managing disputes. This mechanism will allow Ministers to challenge the approaches taken in other countries if they consider divergent approaches to be inappropriate.

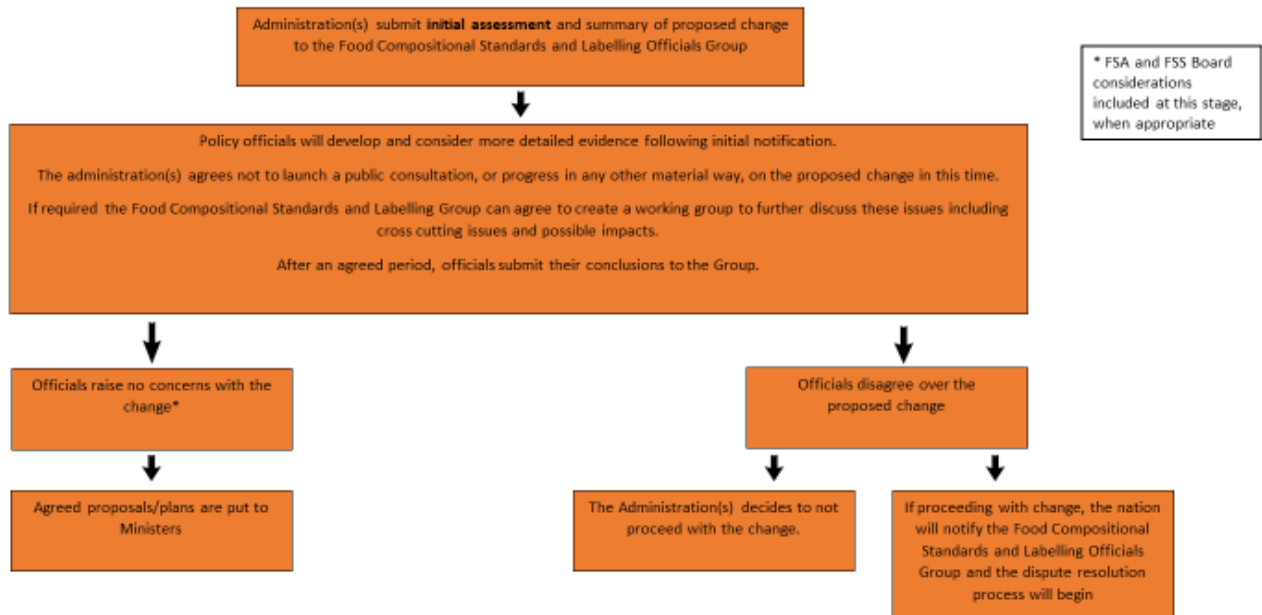
The Northern Ireland Protocol will create different circumstances in Northern Ireland from the other three countries. The implementation of the Protocol means that in some instances Northern Ireland will be unable to implement the same policy approaches as the GB countries (England, Scotland and Wales). However, Northern Ireland will continue to play a role under the FCSL framework, and therefore the FSA Board will continue to have a role in relation to Northern Ireland. Food compositional standards and labelling issues will continue to be considered on a four-country basis: officials and Ministers in Northern Ireland will continue to be involved in all stages of policy development and discussions to resolve disputes.

FCSL Framework Decision Making Processes

The FSA Board will consider advice and evidence available, as appropriate, to provide recommendations and finalise advice prior to informing respective Ministers.

It is proposed that the Board will have the opportunity at different stages in the process to inform the position, as appropriate. For example, the Board will have the opportunity to inform the position that FSA policy leads put forward to the Food Compositional Standards and Labelling Officials group. FSA officials may require the independent consideration of the Board to agree recommendations to Ministers.

The draft decision-making process is below:



Annex 2 – FC SL Framework Summary

Framework scope

During the transition period, existing EU regulations under which the four countries had been operating were transferred into GB legislation. This is what is known as 'retained EU law'. The food compositional standards and labelling policy area encompasses policies and regulations relating to:

- Food information to consumers
- Fish labelling
- Dairy designations and spreadable fats
- Caseins and caseinates
- Cocoa & chocolate products
- Coffee extracts & chicory extracts
- Condensed milk and dried milk
- Fruit juices and fruit nectars
- Honey and honey products
- Jam and similar products
- Natural mineral, spring and bottled water
- Specified sugar products

This framework does not cover those areas covered by other frameworks and specifically:

- Nutrition labelling policy, covered in the Nutrition Related Labelling and Compositional Standards (NLCS) Framework developed by the Department for Health and Social Care (DHSC) FSA NI, FSS, and the Welsh Government (covered within EU 1169/2011 Section 3, articles 29-35).
- Allergen labelling policy, covered in the Food and Feed Safety and Hygiene (FFSH) Framework developed by FSA England, Wales and NI and FSS Scotland.

There are no areas of retained harmonised EU legislation within scope of this framework where it has been identified as undesirable to maintain shared ways of working for the development of relevant policy.

Some areas of food compositional standards and labelling however are covered by existing domestic legislative arrangements across each of the administrations, rather than harmonised EU derived legislation. Whilst these areas and any related policy changes are not within scope of the framework's dispute resolution mechanism, all four administrations have agreed that any proposed changes to such arrangements should be presented to the standing policy group for discussion.

Furthermore, the enforcement of these regulations is delegated to local authorities and powers for enforcement are provided by domestic legislation in each of the four UK countries. Enforcement remains to be devolved across all four nations and is thus not in scope of this framework. All parties agree however that a level of commonality is beneficial, particularly for those businesses who operate across UK borders, and close collaboration between the administrations will continue.

The FSA, FSS and Defra have made significant progress in agreeing where common ways of working across the UK are needed and what these arrangements should look like. Progress made so far remains without prejudice to final Ministerial views in all four countries of the UK. There are also outstanding cross-cutting issues, the outcomes of which will need to be understood and accounted for in the Framework Agreements. These include:

- Any requirements for four country engagement resulting directly from the outcomes of ongoing negotiations with the EU.
- The links between the Framework and the UK Internal Market proposals. These issues will be considered during the final phases of the framework's development over the coming months.

Legislative arrangements

The arrangements within this agreement do not require additional legislation. This framework will be implemented through a non-legislative agreement in the form of a concordat.

Northern Ireland

The FCSL Framework will be a four-country agreement. However, the specific circumstances of Northern Ireland are respected and will be reflected throughout the framework outline.

This includes the provisions of the Belfast Agreement (including the North/South dimension highlighted in Strand 2 of that Agreement). These provisions will be respected.

Further to this, the framework ensures that Northern Ireland continues to contribute to the formulation of UK policy on food compositional standards and labelling. Northern Ireland's involvement in policy making will ensure that the economic and social linkages between Northern Ireland and Ireland will be recognised and incorporated into policy outcomes.

The FSA's role in respect to Northern Ireland within the framework will also reflect the requirements of the Northern Ireland Protocol. The legislation within the scope of the Framework is detailed within Annex 2 of the NIP, and therefore EU legislation will continue to be directly applicable in NI whilst the rest of the UK will set its own regulatory regime at the end of the transition period.

While the circumstances in Northern Ireland will be different as a result of the Northern Ireland Protocol, officials and Ministers will continue to be involved in the framework's processes and governance structures. How the specific circumstances in Northern Ireland will be reflected in ways of working is detailed throughout the framework outline.

Key principles

All parties have agreed a number of principles regarding ways of working contained within the concordat. These are:

- The devolution settlements of all administrations and the democratic accountability of the devolved government will be respected, including the provisions of the Belfast Agreement, with the inclusion of the North/South dimension highlighted in Strand 2 of that Agreement. Current devolution agreements will be preserved; this agreement will provide for full and continuing involvement of the Welsh/Scottish/NI Ministers and their officials in the processes of policy formulation, negotiation and implementation, for issues which touch on devolved matters in accordance with the Devolution: Memorandum of Understanding.
- Open communications will be maintained, and information shared, to the extent permitted by law, at the earliest appropriate opportunity. This may include but is not confined to: policy issues; stakeholder views; preparations for, and outcomes of, consultations and research; media interest and lines to take; emerging issues and intelligence; local authority or enforcement issues, and food crime.
- All parties agree to respect the dispute resolution process outlined in the Framework Outline Agreement, when agreement cannot be reached at policy level.
- All administrations will consider advice and evidence available, as appropriate, to provide recommendations and finalise advice prior to informing respective Ministers. In Wales and Northern Ireland this work shall be conducted by the board of the Food Standards Agency, in Scotland by the board of Food Standards Scotland and in England by the Department for Environment, Food and Rural Affairs.
- The framework for changing UK food information to consumers, fish labelling and food composition legislation would be expected to respect the JMC principles, devolved responsibilities and accountability across the UK. The four countries should work together to develop evidence-based approaches for ensuring wider consumer interests, with the aim being to have common approaches to UK labelling and compositional standards policy developed and agreed by all four countries where evidence presented supports that position.
- Within the framework, all four administrations should have the ability to diverge within their territory (having followed the principles set out in the framework for managing divergence) where evidence is clear that divergence is both necessary and proportionate to meet local needs.
- Governance arrangements should be effective and proportionate whilst keeping administrative complexity and burdens to the minimum.
- This framework should operate transparently: the framework's governance arrangements should be publicly available, and principles for transparency should be built into the framework where appropriate.

Decision-making fora

The main forum for official level discussion and decision-making will be the Food Compositional Standards and Labelling Officials Group.

The role of this group will be to examine proposed amendments to, or entirely new legislation in, the area of food compositional standards and food labelling. All parties will seek, where agreeable, to develop and agree upon the anticipated impact of a proposed policy change and the approach to take. Disagreements and issues will be escalated via the dispute resolution process.

Officials will have the ability to bring proposals for policy changes to the Food Compositional Standards and Labelling Officials Group.

Should this group decide further work is required on an issue, it will have the ability to set up sub-groups on a specific proposal, with relevant officials from each nation part of these groups. These sub-groups can be created at the request of one nation to assist in further policy development.

Without prejudice to the above process, Policy officials across the four administrations will consider the impact of potential divergence in NI, implemented due to the responsibilities arising from the NI Protocol.

It is envisaged that recommendations for the majority of proposals will be agreed at official level.

Engagement with consumer and industry stakeholders

In order to ensure that the majority of decision making is made at official level, officials will be required to provide robust evidence in support of their proposed policy change. Where appropriate, this will include feedback and evidence from external stakeholders.

Similarly, if policy officials require additional evidence in order to aid decision making, external stakeholders and well as relevant legal and analytical professionals may be requested to submit evidence to aid decision making.

Where existing relationships and streams of communication already exist between officials and sector stakeholders these will be maintained, with communication as a result of new decision-making processes only adding to this.

The outcomes of any agreed changes to food compositional standards and labelling policy in either one or more UK nations will be communicated to stakeholders in an appropriate manner.

Managing divergence

In most cases, countries will work together to agree the anticipated impact of policy changes and develop common approaches for making changes to retained EU FCSL legislation within scope of the framework (notwithstanding the implementation of changes required under the Northern Ireland Protocol).

Where it is considered that a common approach is not suitable, the following proposals have been developed to manage divergence:

- Where one country wishes to take a different approach to food compositional standards and labelling issue from one or more of the other countries, they must first attempt to agree a common approach that accommodates the individual country's desired outcomes.

- In Northern Ireland, officials and Ministers will still be involved in discussions on managing potential divergence for issues in scope of the Northern Ireland Protocol.
- The dispute resolution mechanism should be engaged when a common approach across cannot be agreed and divergence is not considered acceptable by one or more countries, and normal policy routes for reaching agreement have been exhausted.

Dispute resolution

Ministers will retain the right to take individual decisions for their country (notwithstanding the obligations of Northern Ireland under the Northern Ireland Protocol), however for areas within scope of the framework a consensus at official level will be sought, and efforts made to resolve or pre-empt any disputes arising.

If there is a disagreement on a proposed approach, an effort will be made to resolve this issue at the lowest possible level.

Notification of disputes will be sent to the Food Compositional Standards and Labelling Officials Group. If required it will convene the members of the Working Group, administrations involved and any other organisation who are party to this framework.

All parties have agreed that if there is a disagreement on a decision, an effort will be made to resolve this issue at the lowest possible level. However, if required, a senior official from each nation will be nominated to participate in official level dispute resolution meetings

Issues that cannot be resolved at official level will be escalated to Ministers.

Monitoring

The Food Compositional Standards and Labelling Officials Group will meet quarterly to monitor the framework. The purpose of monitoring is to assess intergovernmental cooperation as a result of the framework, compliance and/or divergence with the framework and whether harmful divergence has taken place that impacts on the policy area covered by the framework.

The outcome of this monitoring will be used to inform joint decision-making going forward and the next review and amendment process.

Review and amendment

The Review and Amendment Mechanism (RAM) ensures the framework can adapt to changing policy and governance environments in the future.

The RAM relies on consensus at each stage of the process from the Ministers responsible for the food labelling and compositional standards policy areas. If agreement is not reached in either the review or amendment stage, parties to the framework can raise it as a dispute through the framework's dispute avoidance and resolution mechanism.

A periodic review of the framework will take place every 3 years, wherein parties to the framework will discuss the governance and operational aspects of the framework

and whether decisions made over the previous 3 years need to be reflected in an updated non-legislative agreement.

An exceptional review of the framework is triggered by a 'significant issue' which must be time sensitive and fundamentally impact the operation and/or the scope of the framework.

Implementation

The framework will be implemented via two documents:

- A concordat between the UK Government (UKG), Scottish Government (SG), Welsh Government (WG), and Northern Ireland Executive (NIE) setting out the principles for engagement and joint working where changes to legislation within scope of the Framework are concerned.
- A Framework Outline Agreement setting out the full detail of the framework and its operation at both official and Ministerial levels.

Annex 3 – JMC(EN) Common Framework Principles: October 2017

Common frameworks will be established where they are necessary in order to:

- enable the functioning of the UK internal market, while acknowledging policy divergence;
- ensure compliance with international obligations;
- ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;
- enable the management of common resources;
- administer and provide access to justice in cases with a cross-border element;
- safeguard the security of the UK.

Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:

- be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent;
- Maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory as is afforded by current EU rules;
- lead to a significant increase in decision-making powers for the devolved administrations.

Frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK that shares a land frontier with the EU. They will also adhere to the Belfast Agreement.

