

## CHIEF EXECUTIVE'S REPORT TO THE BUSINESS COMMITTEE

1. It continues to be a busy time for the FSA since the last Business Committee Meeting, with impacts from the pandemic and changes from EU Exit continuing to generate work. There have also been a range of other issues that we have been dealing with which I have set out in this report.
2. Firstly, an update on the FSA's response to **COVID-19**. Throughout the pandemic, Field Operations have maintained 100% service delivery for those meat plants which have been open. There have been no service failures in terms of deployment of Official Veterinarians and Meat Hygiene Inspectors to deliver official control activity at FSA approved establishments.
3. Those staff who needed to take time away from the workplace due to COVID-19 have been able to return to their usual working patterns. As of 7 June 2021, there were no staff absent from work due to COVID-19 related reasons. On 1 April 2021, in line with Government guidance, those operational staff who were shielding returned to work. In addition, with the return to schools and early years settings in the UK by the end of the Easter holidays, the 5-day annual cap for emergency special leave for dependents, which was temporarily lifted to support staff with childcare, was reinstated.
4. All staff have been advised on how to access asymptomatic COVID-19 rapid lateral flow testing and encouraged to get into the routine of regular testing, even if they are working from home. A home-testing programme, administered by the FSA, has been in place since March 2021 for frontline or operational staff who are required to go into the workplace, allowing them to register to have test kits conveniently posted to their home. We now have agreement to extend this to operational staff in Wales. Kits have been received from the Department of Health and Social Care (DHSC) and dispatched to those staff who have registered. Civil Service approved testing sites (ATS) are also available for those staff who, through a business need or personal safety reasons, need to attend either of the Foss House, York or Clive House, London offices. All staff have also received information through two Digital Workplace articles, published 21 May and 9 June 2021, on areas where surge testing is taking place and encouraged to take part.
5. The FSA continues to make the case to Government to **secure appropriate legal powers from the Police and Crime Evidence Act** for the NFCU. These are critical if the Unit is to investigate food crime effectively, with autonomy and independence, and to reduce the dependency of support on partners such as local authorities and police forces. As a non-ministerial department, we need to work with others to enact the primary legislation.
6. The Unit has made notable progress in two NFCU-led operations: **Op Atlas** is an investigation concerning the supply of 2.4 Dinitrophenol (DNP), controlled drugs (steroids) and prescription only medicines. Following the arrest of the suspect and subsequent investigation, faced with overwhelming evidence, the suspect made full admissions to all offences during an interview under caution.

We are working to present a full file for CPS to consider charging decisions soon. **Op Aspen** is an investigation into a series of European Distribution Frauds which resulted in approximately 18 tonnes of fraudulently obtained Portuguese chicken being recovered. Following further investigation, the NFCU is now preparing a file for CPS seeking to prosecute for conspiracy to commit fraud.

7. The NFCU has the power to apply for access to communications data under the Investigatory Powers Act (IPA) 2016 for the prevention and detection of crime. The **Investigatory Powers Commissioner's Office (IPCO)** which is responsible for oversight of the use of these powers inspected the NFCU in April 2021. The inspection report demonstrates the FSA complies with the IPA, acquiring communications data lawfully and that made applications were well written with no formal recommendations arising. Minor observations to further develop processes and share best practice have been noted and an action plan to adopt these suggestions produced.
8. **Op Orchid** is a NFCU-led investigation concerning fraud offences by Russell Hume (RH). It commenced in January 2018 when 400 tonnes of meat were disposed of due to safety concerns about out-of-date meat being re-labelled. RH went into liquidation shortly afterwards. The FSA acted appropriately at the time to protect consumer health and trust in the food system. In October 2020, the NFCU conducted a review of the investigation and raised legal concerns due to a technical legal error in the way that the NFCU investigation was conducted in its early stages in 2018. Following legal advice, we have now decided not to pursue any further action against the directors of Russell Hume. The Business Committee will recall that in early 2018, the NFCU was still, largely, an intelligence gathering capability rather than a crime-investigation unit. The FSA has, since mid-2018, been progressively enhancing investigative capabilities through recruitment and training and improved our internal systems and processes to mitigate any similar situations arising. Progress in this area was recognised by the November 2020 review that Board members endorsed at the Business Committee last December. The remaining need is for the NFCU to have access to powers under the Police and Criminal Evidence Act as this would simplify the NFCU's ability to collect evidence and so increase its chances of success.
9. On **FSA prosecutions and litigation** in the period since the last report, convictions were secured against the operators of two meat cutting plants at Highbury Corner Magistrates' Court on 9 April 2021. **Efes Group Limited** pleaded guilty to three offences under food hygiene regulations, after failing to ensure that the steriliser for disinfecting tools in their cutting room was supplying water at the required temperature. The company was fined £8,000 and ordered to pay £4,852.60 in prosecution costs. **MIB United Meat Limited** pleaded guilty to two offences under food hygiene regulations relating to the use of a mincer head that was rusty. They were fined £1,600 and ordered to pay £3,000 in prosecution costs.
10. Following on from my update to the May Board on **shellfish and classification of harvesting areas**, I want to report that the FSA has completed its initial

analysis of changes to the classification process for Live Bivalve Mollusc harvesting areas. You will recall that the end of the Transition Period heralded a change in the way the EU viewed the import of shellfish, and so the UK shellfish industry was no longer able to export shellfish to the EU from Class B waters. The FSA has therefore been working to refine our approach to distinguishing between Class A and B waters to ensure we are classifying waters as accurately as possible. Previously the distinction between A and B waters had not been material to whether shellfish were exported to the EU.

11. Our focus in the short term has been on proposals that are workable within the existing legal framework, evidence-based and that could impact on A/B classified harvesting areas within a reasonably short time-frame. These are technical changes in detailed protocols, which would not normally be reported to the FSA Business Committee, but I wanted to put this on the public record given this matter has been raised in Parliament and in the media.
12. As a first step, our protocols will be updated to include two additional criteria for consideration of anomalous results from Class A harvesting areas. These will allow us to exclude uncharacteristically high results (those 3 standard deviations above the mean contamination levels) and take a proportionate response to occasional results slightly above the threshold for Class A harvesting areas where monitoring data otherwise shows that the area is on-track to remain within the Class A criteria. This approach is in keeping with Retained EU Law which allows anomalous results from Class A harvesting areas to be disregarded on the basis of a risk assessment<sup>1</sup> based on an investigation. We believe that there is no additional public health risk from the revisions since anomalous results can already be disregarded, and the changes are evidence-based.
13. These changes will be implemented in respect of England, Wales and Northern Ireland with effect from this year's annual review of classifications applicable from September 2021. This timing will allow the additional criteria to be applied to historical anomalous results in the 3-year dataset to be taken into account. We are working at pace to consider how these will impact individual harvesting areas and ensure that the protocols are updated to provide the appropriate framework to apply the changes. In Northern Ireland, the changes will be implemented at the time of the annual review of shellfish classifications in January 2022. I have attached an Annex which sets out a little more of the detailed analysis, again for the sake of the public record.
14. **Incidents.** The FSA and PHE are currently investigating an outbreak of Salmonella Braenderup in the UK linked to melons. Since April 2021 there have been 97 cases reported (as of 9 June). Adults aged over 70 years and children aged under 9 years are the age groups mostly affected. Current investigations are focusing on the supply chain of three melon types: galia, cantaloupe and

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<sup>1</sup> In this context, "risk assessment" is considered to mean an assessment of the risk of the cause for an anomalous result recurring within a certain period of time, rather than meaning an assessment of risk to the consumer.

honeydew, to the UK. These came from three countries supplying the UK at the time of case exposure: Honduras, Costa Rica and Brazil.

15. The FSA is working with trade associations and retail businesses to help gather information relevant to the incident. Implicated UK retailers have undertaken a voluntary product withdrawal of galia, honeydew and cantaloupe melons from Honduras, Costa Rica and Brazil. A quick rise in confirmed cases occurred during week commencing 24 May, which led to the need for rapid action. The FSA subsequently took a precautionary approach, publishing proactive communication on 29 May 2021 to alert consumers of the outbreak, reminding them on the safe hygiene and handling of melons and advising them to avoid consumption of the specific melons under investigation. The FSA has been working with the emergency contact points for other countries known to be affected via the World Health Organization and the International Food Safety Network, INFOSAN, to share information about our respective food chain investigations. As of 22 May 2021, 11 EU/EEA and rest of the world countries, including the UK are reported to also be affected by the same outbreak strain.
16. A shortage of vets, due to increased demand and restrictions on overseas recruitment, means that we continue to have some concerns around our **veterinary capacity**. The FSA funding to the Service Delivery Partner (SDP) has made a positive impact and there are reduced attrition levels, but recruitment of new OVs remains challenging. The SDP will not be back to optimum resourcing levels for some time. The temporary registration measure was formally triggered with the Royal College of Veterinary Surgeons (RCVS) on 1 June 2021 and this will support the recruitment of new OVs. The SDP has also reported challenges with Contract Meat Inspector (CMHI) recruitment. Although they now have a healthy recruitment pipeline for CMHIs from overseas, there are delays in bringing these personnel into the UK which will present resource challenges through the summer period. The FSA is developing summer resourcing contingencies to ensure service delivery is maintained.
17. The delivery of the **veterinary audit programme** has resumed, and audit numbers are increasing month on month. The backlog of audits resulting from deferment due to COVID-19 is on track to be cleared by the end of Q2 (30 June 2021). From the outcomes data to date, there has been no statistically significant increase in the number of premises in the poorer performing outcome categories (Improvement Necessary/Urgent Improvement Necessary) since the audit programme resumption. The implementation of remote and semi-remote audits has been successful with very positive feedback from both industry and FSA staff. Efforts are being made to increase the percentage of audits undertaken remotely and semi-remotely, where it is appropriate. Since resumption, 16% of Food Business Operator (FBO) audits were carried out remotely or semi-remotely and these have provided outcomes consistent with those of on-site audits. Export audits have continued at their normal frequency over the period to protect the export trade, and with agreement from Defra, these were conducted almost entirely as semi-remote audits.

18. For the financial year ending 31 March 2021 the **FSA RDEL & CDEL outturn** (subject to NAO audit) for Westminster, Northern Ireland and Wales is £115.1m. Westminster underspend was £7.9m, Northern Ireland £0.8m and Wales £0.5m. The pandemic added net direct costs to the FSA during 20-21 through additional front-line staffing and contractor costs in field operations ensuring the FSA provided official controls to all food business operations who needed them. However, these operational costs were more than offset by the constraints caused by COVID-19. In particular, reduced staff costs equating to a staff shortage averaging 40 FTEs due to onboarding difficulties, and reduced travel and training. There were also underspends in Science R&D and in our key change programmes which were all impacted by the pandemic, in part due to its impact on our partners, including science institutions and Local Authorities.
19. The FSA nevertheless gave financial support totalling £6.4m to Local Authorities during 2020-21 in relation to their work on food and feed. Whilst last financial year saw extraordinary circumstances, the FSA has undertaken a lessons learned exercise of its financial forecasting, which aligns to the Board's increased risk appetite on finance. This includes the generation of a pipeline of priority spend, forecasting increased levels of staff attrition and removing all contingencies. As approximately £4m of the underspend became apparent in the last half of the year we have also introduced additional scrutiny to ensure our business plans and forecast are deliverable.
20. For 2021-22, we have budgeted a return to full inspections and control, monitoring and enforcement. Our research and recruitment profile is also more ambitious, in accordance with the Board's wishes for an increased risk appetite, to ensure we use all our budget to deliver our priorities. The ongoing restrictions, until we fully emerge from lockdown, will continue to generate underspends at the start of the year. We have plans in place to quickly utilise these by increasing recruitment and the generation of a pipeline of value for money business cases. We will continue to monitor our forecast throughout the year and respond to any financial risks materialising which are currently not built into the budget.
21. The FSA **reward and recognition scheme** enables us to reward excellent and exceptional one-off achievements relating to work done over a limited time. Between 1 April 2020 and 31 March 2021, a total of 1441 cash awards totalling £317,874 were made to staff up to and including Grade 6.
22. The Senior Civil Service 2 (SCS2) Director Strategy, Legal, Governance and Communications recruitment has concluded with the successful appointment of Katie Pettifer, who is due to start in July. The opening for the SCS1 Head of Incidents and Resilience Unit closed on 28 May 2021, with 49 applications received. Recruitment for the SCS1 Deputy Director for Northern Ireland went live on the 9th of June 2021.
23. Recruitment volumes remain high. For campaigns closing between 7 Feb (last Business Committee Meeting reported figures) and 2 June there were 97 campaigns in total, for 137 roles. These included:

- 49 external campaigns for 81 roles
- 28 internal campaigns for 31 roles
- 20 cross government campaigns for 25 roles

Across all roles, we received a total of 3463 applications.

24. We have also been active around **Health, Safety, and Wellbeing**. The People and Organisational Change and Field Operations management teams continued to maintain and adapt the health and safety arrangements put in place to support the COVID-19 response. We continued to engage with FBOs about workplace ventilation in slaughterhouses. Through a combination of industry engagement and observations undertaken by the HSW Unit and Field Operations, we noted a general high level of assurance.
25. Following on from our report to the March Business Committee on people, all teams across the FSA have been asked to consider three priority areas in their local action planning activity for the **2020 People Survey results**. These are 'Discrimination, Bullying and Harassment', 'Inclusion and Fair Treatment', and 'Learning and Development'. Teams have been asked to consider not only improvements in those areas, but where appropriate, how they can sustain high scores and celebrate successes in these and other areas of the survey. Feedback will be sought on progress in these areas in July and August and shared across the business in September, ahead of the 2021 survey which runs from Tuesday 28 September to Wednesday 3 November.
26. On **learning and development**, 'Spotlight on Learning' week took place between 17 and 21 May 2021 with 'Lunch and Learn' activities delivered by the Capability and Development Team, blogs from a range of staff from across the Agency, and materials to support a culture of learning in FSA. These were very well received (132 at one Lunch and Learn session) with positive feedback from staff. All sessions were recorded and made available on the new Learning and Development Hub.