

**Minutes of a Meeting of the Cross Party Group on Food held in Committee Room 4 of the Scottish Parliament on 29<sup>th</sup> January 2014**

Present

John Scott	MSP (Chair)
Patrick Harvie	MSP
Rob Gibson	MSP
Charles Milne	FSAS
Andrea Martinez-Inchausti	BRC
David Lonsdale	SRC
David Martin	SRC
Mary Lawton	SFDF
Colette Backwell	SFDF
Leaghann Watson	SFDF
Chris Peace	SFDF
Ian Shankland	Lanarkshire CFH
Lindsay Dambrosio	Lanarkshire CFH
Graham Walker	REHIS
Christine Fraser	Food Training (Scotland)
Jonathon Wilkin	University of Abertay
Wendy Barrie	Scottish Food Guide
Bosse Dahlgren	Consultant
Stephen Hutt	RHASS
David Whiteford	SFQC
Polly Jones	Asda
Charlotte Maberly	QMU
Ana Tominc	QMU
Pat Abel	Nourish
Douglas Scott	SFMTA
Alison Hardaker	Scot Gov
Kylie Barclay	NFUS
Uel Morton	QMS
Tony Dumbreck	Innovate Foods
Kirk Hunter	Dairy UK
Robbie Beattie	Edinburgh Scientific & Env Services
Fiona Wright	Seafish
Wendy Wrieden	Robert Gordon University
Jim Wildgoose	Scottish Food Advisory Committee
Scott Fraser	Dawnfresh
Ian Shearer	PRGS
Michelle Cullis	Pinsent Manson
Bill Gray	CFHS
Jackie McCabe	REHIS
Moyra Burns	NHS Lothian
Rose Munenura	Scottish Government
Ewan MacDonald-Russell	Morrisons

Apologies

These were received from Graham Findlay, Pieter van der Graaf, Jennifer Bryson, Sarah Deas, Viv Collie, Fiona Bird, Lorna Murray, Jenny Simpson,

Eve Keepax, Nancy Robson, Susan Pryde, Martin Meteyard, James Graham, Alison Clews, Jim Fox, Alison Sampson, Norma Murray, Tony McElroy, Mary Cursiter,  
Linda Mcpherson, Brian Radcliffe, Jane Cullingworth, Douglas Thomson, Archie Gibson, James Withers and Pam Rodway.

### 1. Minutes of the Last Meeting

The minutes were approved.

### 2. Matters Arising

There were no matters arising.

### 3. Food Authenticity

*Prof Charles Milne, (CM) Director Food Standards Agency Scotland*

CM stated that food authenticity wasn't a new issue; FSAS had a programme of surveillance work for some time but the horsemeat incident in January 2013 had focused everyone's thoughts. He was looking forward to the debate later for feedback on work in this area.

Some areas the FSAS were working on were:

- Lamb curry-where 15-20% of samples showed the meat was beef;
- Manuka Honey - more is sold in the UK than New Zealand produces and many other countries also sell the product. FSAS were working with the New Zealand authorities on a product definition;
- Olive Oil- UK sells more Extra Virgin Olive Oil than is produced;
- Fish species- there are issues with substitution of species for example haddock/whiting and vice versa. Also, there is a market for products that are sustainably produced which have a high premium –sometimes fish from non-sustainable sources was substituted.

CM said there were other examples, including added water in prawns and noted that food authenticity was not a new problem, therefore FSAS had surveillance in place but obviously more could always be done.

CM stressed that the horsemeat incident was not a food safety issue. It was important because it fundamentally undermined the trust between the consumer and the food supply chain. Since the reality is that every food cannot be tested for every type of contamination; trust is really important.

The detection of the horsemeat sample was actually a success of the surveillance programme as it detected a problem. It was important to note that

of all the samples taken initially, only one was positive, with some samples having traces.

This led to an investigation which had implications across the whole of the UK and indeed the whole of Europe. Issues that came out of the event were:

- Knee-jerk legislation is not the answer; when you introduce a set of new rules, you provide an opportunity for fraud;
- Food businesses have a responsibility that what they produce is correct and labelled accordingly. FSAS work with industry to help with this;
- Trade has changed in food and it has become incredibly complex. Some traders never physically touch the food they trade as a commodity across the world. The food can sit in cold stores and then be sold on and there needs to be consideration as to how this is monitored given that there can't be testing at every stage;
- There is big money to be made in food fraud, organised crime has an interest in food because of the returns and current penalties are less severe than drugs or other examples of organised crime;
- There was a different public reaction to a burger supplied by a retailer, as opposed to food supplied in a public institution, with the latter being seen as a much more serious issue;
- The practicality of testing;
- Faith groups needing to know about possible cross contamination;
- Allergens.

In terms of the response at the time, risk assessment was the key. The volumes meant that the meat had come from approved premises and FSAS had to assess how that had happened. There was the health issue of traces of a veterinary drug, phenylbutazone. However this was present at such low levels any risk was deemed to be insignificant.

FSA commissioned a round of sampling that industry is still taking forward. In Scotland ministers were very proactive from the start, a round of inspections of all premises in Scotland that were producing meat was initiated and fortunately no Scottish business was implicated in substitution.

There had been a number of reviews of the incident both in UK and Scotland and FSAS are working on implementing recommendations.

Going forward, the key things were as follows:

- **Intelligence gathering** -this includes testing, surveillance and sharing of data. Other measures need to be considered for example, the Dutch have had success with forensic accountancy –finding a company committing fraud as they were selling 5000 kg more than they bought;
- **Trade patterns and pricing**, looking for fluctuations and understanding why these might be and picking up clues;

- FSA have recently commissioned an **authenticity study** of vegetables, meat, honey and fruit that will be published shortly;
- In Scotland **isotope testing** has been commissioned to enable the identification of Scotch branded beef;
- FSAS has also been asked by ministers to provide advice on what a **world leading surveillance system** looks like;
- FSAS are working very closely with **public procurement** across government to ensure that contracts are robust and sufficient checks are put in place in the public procurement chain;
- As part of the New Food Body legislation there will be **new powers to tackle food fraud** mirroring those for food safety.

*Andrea Martinez-Inchausti (AM) Deputy Director Food Policy of the British Retail Consortium (BRC)*

AM noted the interesting similarities between what the government was doing and retail industry's actions where there had also been some authenticity programmes for some time. Companies have internal programmes depending on their products and where they sell. The BRC have a number of technical groups including one that deals with authenticity –the surveillance working group.

This group has a mixed group of people with expertise and access to information in areas such as chemistry, toxicology and food law enforcement. Intelligence is shared, and there is work on horizon scanning and methodology. The group runs surveys, similar to FSA. Often these run in parallel to FSA work meaning an increase in data and amplifying of scope. It was good sometimes to compare results and often similar results were yielded.

Focus in recent years has been;

- Olive Oil verses Extra Virgin Olive Oil;
- Basmati rice, which led to the development of a code;
- Cross species work particularly pork in poultry products and beef products;
- Additives and flavourings being produced in China., This was especially important because a lot of the retailers have moved to sell products that only contain natural colourings and preservatives, so it is important to understand that the products claims are genuine;
- Fruit juice, given that this is a commodity that is very heavily affected by the weather. For example the Philippines had a typhoon so the level of pineapples produced was very low. However there was not a reduced level of pineapple juice coming out of the Philippines and it was discovered that it was being watered down by some other types of juice.
- Pricing of foods

Recently work has been done on verification of pack claims such as sustainability, country of origin and animal welfare standards.

The horsemeat incident whilst not being a big safety issue was of importance in scale as it questioned a lot of existing systems and the confidence consumers had in brands. Trust is one of the pillars that the retailers build their businesses on; it was one that certainly provoked a lot of internal research and thinking. There was an internal exercise that ran parallel with other reviews and came up with a broadly similar analysis to FSA.

Current work was as follows;

- There had been an increase in the products that are being tested, in part provoked by the requirement to verify that products were free of horsemeat. This has been maintained and expanded to other commodities. The caveat with testing is the need to understand what it is being looked for and the fact that you cannot test for everything. There has been a big increase in testing being done by BRC members;
- Intelligence gathering and information sharing has been an important and key element that BRC continues to do, competition law allowing. BRC are part of a number of forums where information can be shared such as the FSA UK Emerging Risk Forum and the European Food Safety Authority's platform;
- Supply chains are being studied. The law at the moment requires a one-up-one-down traceability system but this stops at retail level. However retailers are now looking further down the chain to have a better understanding of where the food comes from and the level of complexity of some supply chains. BRC recognises that for some products it is inevitable that the supply chain is going to be complicated; for example a spice mix which has spices coming from different countries and different productive processes. There has been a rethink of some of the chains, for example some BRC members decided to shorten their chains, and a lot of the primary sourcing is almost exclusively sourced nationally or locally;
- BRC is working in Brussels on the EU proposal on official controls to get this right. It is important to get agreement between Member States that is intelligence and risk based, with appropriate penalty processes and earned recognition;
- BRC owns the biggest global safety standard. The 7<sup>th</sup> version of this standard will be finalised in July 2014 and launched in January 2015 and BRC is looking to see if it needs strengthening anywhere;
- BRC aims to launch a new standard which is aimed at agents and brokers to cover the side of the supply chain that was mentioned in the first presentation.

## Open Debate

**Robbie Beattie Edinburgh Scientific & Environment Services** asked about bean sprouts, FSA has a standard but it doesn't have the capability and capacity to deliver it in Scotland yet.

**CM** said that there were new emerging strains of organisms all the time and tests were developed as a consequence and they needed to be validated. It would be impossible for every laboratory to have testing for every strain. If this couldn't be done "at home" then the testing would have to go to another country.

**Colette Backwell SFDF** stated food and drink manufacturers had similar issues to those presented particularly regarding trust. The incident had been taken seriously by industry and processes and high level committees similar to those mentioned were in operation. Copies of a recent publication for members –Food Authenticity –Five Steps to Help Protect Your Business from Food Fraud were circulated. <http://www.fdf.org.uk/food-authenticity.aspx>. This guide was a live document that would be updated.

This showed the risk assessment that manufacturers were being encouraged to undertake to mitigate this happening again in the future. The episode had given everyone a platform where our combined efforts on addressing this issue can be focussed.

**CM** noted there were pressures on suppliers and manufacturers to reduce costs and that he would caution that if a deal was too good to be true, then it probably was.

**Uel Morton QMS** asked where the greatest amount of fraud was happening in retail. He also noted that the Scotch Whisky Association employed 6 lawyers looking at fraud and covering many legal cases.

**AM** said fraud was not specific to one category. For the last few years meat has certainly been a category that has been affected, but fraud was seen in any high value product, classic examples being parmesan cheese, saffron, and olive oil. She suspected that snacks and confectionary products were less affected, possibly due to affordability.

**CM** thanked QMS for the work they had done on the Isotope study on beef. With regard to whisky, he said they had reflected that there were not many cases of food fraud being taken forward by the Procurator Fiscals and wondered if this was an area where they were outside their comfort zone. The Health and Safety Executive has an arrangement where there is a lead Procurator Fiscal in Scotland and this was a model that could be explored.

**Patrick Harvie MSP** stated with relation to personal choice there is an expectation that cheap products just keep getting cheaper. There will be one set of responses to the horsemeat incident about trust.

However there will be another set of responses about challenging the food culture that has developed. The long term question was how we use the next crisis to stimulate a discussion about food culture including the choices that people make.

**CM** agreed that there will always be issues with food safety and authenticity and as an enforcement agency FSAS were wrestling with the balance of recourse between these two issues. Consumer detriment was an issue; when you become ill there is an obvious detriment, but when you buy honey at £50 a jar and do not get what you pay for that is a detriment also, and the question was how to balance the two. He hoped this work would lead to the development of better systems.

In terms of consumer choice it should be understood that if you choose a low value product, it should be safe but the meat will not be the quality of the more expensive products.

He also reiterated his point that there was a need to educate the public that detection is not a bad thing, and that a lot of time and effort was going into improving detection. He noted that as other issues such as climate change put pressures on the food system would unfortunately drive people to take short cuts.

**AM** thought it was a complicated issue. She explained that although there consumer confidence took a knock, actually sales of burgers or lasagnes were hardly affected. Work on other topics such as front of pack labelling showed her that the consumer response could be surprising. In terms of educating or changing consumer habits there was a big challenge.

**Patrick Harvie MSP** responded that for many people it was simply down to economics and this limited their choices, they didn't have the money to buy the food they wanted.

**John Scott MSP** remarked that he thought it was either a health issue or organised crime and asked if FSAS worked with trading standards.

**CM** responded that in England this would be dealt with by trading standards but in Scotland it was Environmental Health Officers (EHOs). FSAS engaged closely with EHOs across Scotland and there was a Code of Practice currently out for review. FSA provided funding for surveillance, training and audited Local Authorities. There was also the Scottish Food Enforcement Liaison Committee (SFELC) which brings together all the important players in food. In particular this group helped agree on an annual basis a surveillance programme in Scotland. This meant looking at the resources available and determining what samples will be taken; allowing for a co-ordinated approach.

FSAS asked Local Authorities for help on horsemeat and noted they had been magnificent in their response, in terms of visiting all meat premises and auditing them to check systems were robust.

**AM** said that BRC had a close relationship with trading standards and explained the prime authority principle was used. AM stressed the need to contextualise testing results, often further engagement and information was needed.

**Jim Wildgoose Scottish Food Advisory Committee** asked about the reviews that had shown that a bigger food fraud unit was needed, which of course would need resources. He also asked about traceability and whether enough was being done to ensure that we were not relying just on trust.

**CM** said regarding food fraud, one model was the Dutch FSA equivalent which had an investigation team of 104 officers with different skills including forensic accounting. Here, there was liaison with local authorities, serious crime bodies, custom and excise police and various law enforcement agencies all over the UK. The question was whether it was robust enough. The Elliot Review is due for final publication in April and there would be a lot of discussion about the recommendations.

He pointed out that FSA currently have around 1800 staff across the UK, many of which are based in abattoirs so decisions had to be made whether to use resources of 100 staff on food fraud investigations or whether to refine the existing system.

**CM** said no traceability system could be fraud proof; the issue was how to catch criminals and stop them. The broader question was how to put in place a programme with a number of strands that will allow you to assess whether there are problems in the system. FSA was working on developing an intelligence hub working with other organisations. For example, the police reported if someone is involved in fraud against their tax returns the likelihood was they are committing crimes in other areas. Therefore engagement with other enforcement authorities was really important to try and identify individuals, look at market trends, price fluctuations and emerging issues to focus activities. That sort of intelligence was important, combined with other strands such as traceability and assurance

**Jim Wildgoose Scottish Food Advisory Committee** responded he was concerned that there was a lot of work going on with circumstantial data but wondered if more enforcement action was needed that was more audit based. There may be a need for specific legislation at specific points in the chain for example cold stores or agents etc.

**AM** answered that legislation has already been brought forward for cold stores, the question was whether it had made a difference. AM felt that those that breached the law before, breached now and that the issue was more enforcing existing legislation.

**CM** reiterated his earlier point that knee jerk legalisation was not helpful. Existing legislation was robust, powers need to be strengthened and these would be introduced in the New Food Body for Scotland legislation where it was proposed to bring rules for authenticity in line with food safety.

**Fiona Wright Seafish** asked about the EU official controls legislation currently being negotiated. FW wondered if given the planned domestic legislation, FSAS would now oppose the draft EU legislation on the basis that there are already controls in place just not enforced properly.

**CM** said the additional powers in Scotland will be hugely helpful. The planned EU legislation was useful as there was the suggestion that the penalties should reflect the crime and he thought this would be a huge deterrent.

**AM** noted that there had been a first reading of the legislation in Europe where there had been no agreement between the three parties. The Greek's presidency which runs until June had said that this is not one of their top priorities. There was then an election so the parliament will dissolve from April and will be in recess until June/July. Therefore, AM thought it unlikely that the legislation would be published in 2014.

**Wendy Barrie Scottish Food Guide** thought the horsemeat scandal highlighted the fact the public has become more distant from their food. She asked whether there was a trend to use lower quality ingredients in ready meals for example substituting basmati rice when served with a curry.

**AM** replied that in the specific case of the basmati rice where the harvest in India and Pakistan had been lower than usual, they had found issues with bagged rice as well as composite goods.

**Christine Fraser Food Training (Scotland)** asked how they knew which ingredients to focus on and the policy on whistle-blowers.

**CM** replied the study of 100 samples was looking specifically at beef, pork, lamb, tomatoes, apple juice and honey because a specific method of testing using isotope analysis existed. Other tests were being developed.

There was a system encouraging whistle blowers to report and details were on the website. FSA has a large number of whistle blowers. There were mechanisms in place to ensure that documentation was robust and anonymity assured. As part of the intelligence hub FSA were looking at how to enhance and promote the system as whistle blowers had turned up some interesting incidents over the last few years.

**AM** added they didn't have whistle blowers as such, but the manner in which information was coming in was changing dramatically with the increase of social media. There was the case of hazelnut yoghurt with aflatoxins in the USA where the company got to know that they had an issue because there had been many comments on social media about the product not quite tasting

right. There was an increasing quantity of information that had to be sifted through to be able to understand whether there was a problem.

**Douglas Scott SFMTA** asked about testing and sampling. There shouldn't be a situation where EHOs were testing huge amounts of steak mince to see if they had a trace of pork.

**CM** replied that this was an area that the FSA had given considerable thought. There are a number of questions to think about:

- What was practically possible in terms of cleaning? Testing was now so sensitive so FSA had commissioned research to determine what reasonable cleaning could achieve;
- Public acceptability for example for different faith groups –what levels were acceptable and whether religious standards (which are not legal standards) had been set. General labelling rules still applied- if halal was claimed, then appropriate standards had to be met;
- Practicality of enforcement- there was often a degree of uncertainty with testing and decisions had to be taken on resampling or putting other checks in place. CM was conscious of the practicalities in a small butchery shop where one piece of equipment could be used for 50 different products. FSA was trying to come up with a system that protects the different interests involved but did not pose huge additional costs on industry;
- At the time of the incident FSA took a very pragmatic view of a limit of 1% because of confidence at the time that this was the level detectable by a laboratory and that contamination in a product of 1% was unlikely to be there by mistake. Work was now ongoing to refine this by research and clearly industry and consumers would be involved in taking forward any decisions.

**AM** added one of the things BRC did was “confession time” where members talked about the enforcement challenges they had over the period, a trend analysis of the type of testing and challenges was done and results discussed. Information was passed to the FSA if necessary.

Recently members had received 18 letters from some enforcement authorities saying that the following the food information regulation on 1<sup>st</sup> January 2014, they were intending to challenge fat levels in mincemeat because they had been tested and were thought to be noncompliant. Since the fat levels are based on a daily average, the testing was irrelevant and the FSA had written to all the enforcement agencies through their knowledge hub explaining why that approach was not appropriate. AM said that most issues identified by BRC had been successfully addressed by the agency.

**Robbie Beattie Edinburgh Scientific & Environmental Services (RB)** pointed out that the majority of the testing and sampling done in Scotland is

done by the local authorities who feed the information into a database. Audit Scotland discovered last year that local authority resources were diminishing, the number of EHOs was going to down and the amount spent on testing was going down, so that the amount of testing being done was being reduced when the risk was increasing.

The Scudamore report picked up that point and recommended investigating scientific and the laboratory capability and the public services laboratories. The separate four laboratories wanted to provide a joint Scottish service but are finding it very difficult to get support.

**RB** also noted that the FSA in Wales had set a level of 0.1% for contamination of processed meat products with undeclared meat species. He asked what was happening in Scotland.

**CM** responded:

- There had been a Board a discussion around the trigger levels and whilst they were confident with the methodology for 0.1% they still needed to think through the implication for businesses;
- He noted that 51% of the public analysts work in Scotland was analysis of food, so FSAS had a strong interest. CM had given evidence to the review on how to streamline and move forward into a sustainable future for public analyst services in Scotland and given FSAS support, providing that the outcomes are suitable for FSAS business;
- Audit Scotland had looked at local authorities' relationships with trading standards and EHOs. The report was quite critical of trading standards and relatively supportive of the EHOs. One of the recommendations of was that the FSA should work with COSLA to develop a work plan for environmental health going forward. CM had met with the Chief Executive of COSLA to discuss this based on resources;
- In terms of the testing; less testing didn't necessarily mean less effective intelligence, focussed testing was important and this was being coordinated through SFELC. CM said Scottish Ministers has asked FSAS for advice on what a world leading food surveillance system looks like. This would be completed shortly and also cover costs.

**John Scott MSP** asked about isotope testing to establishing provenance.

**CM** said by looking at isotopes of specific elements for example calcium, hydrogen and oxygen it was possible to determine where the animals were reared, and therefore what they ate, what grew from the soil etc. This was important as an animal might have been born in Cornwall, reared in Caithness and slaughtered in Dumfries. The method gave 95% accuracy of provenance. It was a screening test that could flag up if there was concern and if necessary other work could then be done. For Scottish Beef there was very

good data for animals grown in the Borders and animals grown in Shetland. FSA were working with QMS to get data for the rest of Scotland. Isotopic analyses of these animals would be used to map the whole of Scotland providing a very powerful tool to look at the label "Scotch Beef" because anything labelled "Scotch Beef" has to of been born ,reared and slaughtered in Scotland.

**Uel Morton QMS (UM)** said the method also worked well with pigs even though they ate cereals, not grass.

UM thought it was important to remember the bigger picture. There was a huge opportunity with the New Food Body (NFB) in Scotland to join up the processes much more closely and put Scotland in a very good place to demonstrate its authenticity and food integrity credentials and enhance an already strong reputation for Scottish food.

**AM** said BRC had some concerns. Many BRC members worked at a multinational level across borders and potential barriers to trade and the possibility of different responses during incident management were issues they had raised.

**CM** replied that it was in no one's interests across the UK for the NFB to impact negatively on the handling of food safety incidents. There was a model on animal health that was similar to the one proposed for food that worked well. He reminded the audience of the Lloyd Grossman Sauce that contained botulism that caused illness in Glasgow. The product was made in England, was sold in Scotland and across the UK, therefore needing UK approach with collaborative working.

He said it was not in Scotland's interests to produce unnecessary rules and constraints on trade and Scotland did not have a history of doing so. The Calman Commission flagged up a concern around labelling and suggested that labelling should not be devolved to Scotland, where the reality was that labelling was already devolved to Scotland and there had been no problem.

There was definitely an opportunity for Scotland; we had a history for being progressive for example in farm assurance. Scotland could not compete on a commodity basis, but could on quality and reputation which needed an effective enforcement system that mitigated risk.

**David Lonsdale SRC** asked about the food service sector, which included some multinational corporations. Scotland imported food to supply this sector both in private and public domains and asked about surveillance. He also agreed that punishment it should be much stronger because incidents on one sector had the ability to ruin another industry so collateral damage should be taken into account.

**CM** responded that within the EU there was free trade. For non-EU products there were border inspections and checks could be undertaken in terms of identity, quality and microbiology of food which were put on a database. One

of the issues FSA identified was microbiological contamination of pan leaf which was used in ethnic food but FSA regularly saw salmonella contamination so took appropriate action. FSA also had arrangements with trading partners within the EU where there was a system of notification (RASSF) and other worldwide arrangements.

**AM** said as BRC represented some of the large catering multinational retailers, and they had similar systems to those previously described. The catering industry also had to deliver allergen information to the consumer.

**Robbie Beattie Edinburgh Scientific & Environmental Services**, asked about charging for official controls.

**AM** replied it was one of the areas that has created more controversy in the regulation and currently there was no agreement.

**CM** said there was a debate to be had in Europe with huge implications. He expected that legislation in 2016 with implementation in 2018.

**John Scott MSP** asked whether Audit Scotland, would be looking at the NFB.

**CM** advised that the NFB would be audited and he felt that would be an extremely useful exercise to allay some of the fears that have been expressed as to how NFB would operate together in incidents and how NFB would make sure that industry was not disadvantaged by unreasonable regulations and requirements.

John Scott thanked Charles and Andrea for their interesting presentations.

4. Any Other Business

There was no other business.

5. Date of Next Meeting

Wednesday, 19 March 2014 18.00 CR5 (Please note this is now cancelled)

Wednesday, 18 June 2014 18.00 CR5 (This will be the AGM)