

HM Government

## Review into the Integrity and Assurance of Food Supply Networks

### Note of meeting with Cabinet Office

**Location:** Cabinet Office, 1 Horse Guards Road, London

**Date:** 7 November 2013

**Attendees:**

Alastair Davies – Sponsorship and Governance, Cabinet Office

Roger Winter – Sponsorship and Governance, Cabinet Office

Ransome Kolaru – Legislation, Cabinet Office

Professor Chris Elliott – Independent Reviewer – Review into the Integrity and Assurance of Food Supply Networks

Michael Walker – Subject Matter Expert - Review into the Integrity and Assurance of Food Supply Networks

Professor Pat Troop – Subject Matter Expert - Review into the Integrity and Assurance of Food Supply Networks

Mary Newman – Secretary - Review into the Integrity and Assurance of Food Supply Networks

David Foot – Assistant Secretary - Review into the Integrity and Assurance of Food Supply Networks

## 1. Introduction

Mary Newman (MN) said that the Review was considering issues relating to the Food Standards Agency, including the impact of the machinery of government changes where responsibilities for authenticity and composition policy had transferred to Defra. The Review was also considering whether FSA's governance arrangements remained fit for purpose and to clarify why it had not been subject to the review of Arms Length Bodies (ALB) in 2010. Views from Cabinet Office would help inform the Review's deliberations.

## 2. Discussion

Professor Chris Elliott (CE) said that the horsemeat incident had demonstrated that FSA did not have the 'clout' to influence industry and to require testing and withdrawal of products. The Defra Secretary of State had had to intervene to get the necessary cooperation from industry. The Review had to come up with recommendations to ensure that that did not happen again. The perception now was that as a result of the machinery

of government changes and other issues FSA was a shadow of its former self. In looking at options for change there was no plan to reduce FSA's independence. Changes would be needed because FSA had to be able to ensure a quicker response to an incident.

Pat Troop (PT) noted parallels with the operations of the Health Protection Agency (HPA). HPA dealt with incidents, it had clear operational responsibility but liaised closely with the Department for Health. HPA's role had been clear to stakeholders and the circumstances where it would not lead, for example Pandemic Flu which was not an operational matter. When FSA had been created a good deal of time had been spent resolving disputes with DH about role and responsibilities. DH Ministers were subsequently frustrated by not being able to influence FSA's business planning. They simply wanted a chance to comment on it without impacting on FSA's independence. PT said that while it was important FSA remained independent, they were weakened as a body because they did not have a Minister to directly support them. As a result FSA had become isolated and inward looking because it only had to account to its own Board. Its effectiveness was too dependent on the effectiveness of its Chair and CEO. On the impact of the machinery of government changes, PT noted that the vast majority of other food safety agencies in Europe and elsewhere were also responsible for policy on food standards. There had been confusion at the start of the horsemeat incident because FSA had thought Defra should lead as it related to authenticity policy and not food safety. Guidance from Cabinet Office issued when the machinery of government changes had taken place had stated that FSA would lead on handling food safety and non-food safety incidents. That message had not reached all key FSA staff which had led to the confusion. Once FSA's responsibilities had become clear they had dealt with the incident effectively. But they had been hampered by not having powers to require industry to undertake testing to identify horsemeat.

Michael Walker (MW) endorsed the view that FSA had to remain independent and that it had to retain the trust of consumers. He highlighted particular problems FSA faced dealing with local authorities. It had to depend on 430 local authorities to enforce food law as its own powers to intervene to take over an incident were limited – essentially FSA had the 'nuclear option' of taking over a local authority's food service on the grounds that it was failing. FSA also needed to engage at a high level with the Local Government Association to ensure that local authorities engaged in food law regulation effectively with FSA and took account of its priorities. PT said that FSA were keen to improve their handling of incidents and had spoken with the National Crime Agency. NCA had agreed to take the lead on any future national incidents from the Police perspective. But there was still a need for FSA to have additional powers to enable it to take over national incidents.

MN noted the recent problems to appoint a new FSA Chair. The perception was that the appointment had become political which had contributed to delay in securing agreement to an appointment. The lack of an appointment had led to uncertainty for FSA's CEO and her engagement with the FSA Board. PT said that it could be argued that FSA was best led by a scientist or someone with significant industry experience who had the respect of a wide range of stakeholders. MN raised concerns that FSA did not have any arrangements to regularly engage with other government departments, in particular Defra and DH.

Returning to the issue of the impact of the machinery of government changes, CE noted that FSA had been an acknowledged leader in authenticity. Authenticity work had been reducing for various reasons before it was transferred to Defra but it now appeared only one staff member was responsible for it in Defra. His view was that authenticity should

return to FSA. Labelling policy, including Country of Origin labelling, could remain in Defra but it had to be clearer that FSA was responsible for enforcement. CE noted that nutrition had been transferred to DH as part of the machinery of government changes, but that he had no plans to recommend the policy was returned to FSA, not least because DH had transferred responsibility to Public Health England. It would take time to determine if the transfer had been a success.

Cabinet Office welcomed the opportunity to comment on issues raised during the Review. Their responsibility for ALBs was shared with HMT. The 2010 review of Public bodies looked at over 900 bodies to test whether their functions were needed and, if so whether they should continue to operate at arm's length from government. Cabinet Office led on the reform of public bodies that fell short of the criteria. Non ministerial government departments such as FSA were outside of the scope which was focussed on non-departmental public bodies and that is why FSA had not been included in the review of ALBs. Cabinet Office had not been given a clear steer about reviewing non-ministerial departments. They acknowledged the weakness FSA had experienced during the horsemeat incident because it had not had a Minister supporting it.

Cabinet Office commented that FSA was a separate statutory entity, unlike for example Public Health England that while independent was very much part of DH. They suggested that in considering governance arrangements it might be helpful to look at other non-ministerial departments such as the National Crime Agency and the Markets and Competition Agency. Cabinet Office undertook to consider whether lessons could be learned from any other non-ministerial departments. In considering the need for change, Cabinet Office would be unable to agree changes which led to FSA becoming an NDPB without a convincing business case which considered all alternative delivery models which led to FSA becoming an NDPB given Government policy to reduce their numbers.

They expressed some surprised that FSA did not have wider powers of entry given it was an enforcement authority.

Cabinet Office undertook to consider what legislative routes were available which might be best suited to changing FSA's functions if the Review decided change was required. The Public Bodies Act might be one option. Cabinet Office noted that the Food Standards Act provided for changes to functions to be made using an Order in Council. They were unfamiliar with all elements of the process and whether it would need to be sponsored by Ministers. They assumed it would.

MW noted that FSA had been subject to a Capability Review but it was not clear if there had been any follow up action. Cabinet Office undertook to clarify whether there had been any follow up, but noted that Capability Reviews had been replaced by Departmental Improvement Plans.

### **3. Conclusion**

CE thanked Cabinet Office for their comments.

12 December 2013