

EU EXIT: UPDATE

For further information Catherine.bowles@food.gov.uk or theo.hawkins@food.gov.uk

1. Summary

- 1.1 This paper updates the Board on the FSA's preparations for EU exit and outlines how we plan to deliver, through a managed programme of work, the next phase of exit activity and responding to the challenges and opportunities of the post-exit environment, as it affects the FSA's statutory remit.

2. Introduction

- 2.1 In September 2017, the Board discussed the FSA's approach to planning for EU Exit and agreed the principles against which the FSA should assess whether the future regulatory regime for food safety will meet the FSA's statutory objective of protecting public health and consumers' other interests in relation to food. As set out in the September 2017 Board paper, the current regulatory regime for achieving food safety within the UK relies substantially on the EU framework and so a significant programme of work has been required to prepare the food and feed safety regulatory regime to be as effective as it is now outside of the EU.
- 2.2 In 2018 and 2019, the Board received several updates on the FSA's preparation for EU Exit including on the FSA's post exit approach to incident management and our arrangements for risk analysis.
- 2.3 In June 2019, the FSA Board's Business Committee Meeting received a report setting out how each of the main no deal projects within the FSA's EU Exit Programme had delivered the core outcomes required to ensure that there would be an effective food safety regime in place for the protection of consumers when the UK exits the EU. Work across the FSA has subsequently continued to review, test, pilot and continue the preparations for operating post EU Exit.
- 2.4 On the 31 January 2020 the UK will exit the EU under the terms set out in the Withdrawal Agreement, this means that the UK will enter into a transition period that will run until the end of December 2020. The FSA is ready to ensure that the high food and feed safety standards consumers enjoy in the UK will be maintained.

3. Strategic Aims

- 3.1 Leaving the EU doesn't change our top priority which is to ensure that food remains safe and what it says it is. The high standard of food safety and consumer protection we enjoy in this country will be maintained and the FSA will ensure the regulatory regime remains effective at protecting public health in

England, Wales and Northern Ireland. Delivering an effective EU Exit programme is a priority aim of the FSA and underpins the FSA's mission of developing and operating the regulatory system to incentivise the organisations responsible for food production and sale, to create food that can be trusted.

3.2 The FSA Board agreed that the FSA should assess whether the post exit regulatory regime for food safety will meet the FSA's statutory objective of protecting consumers' interests in relation to food against the following principles:

- Effectiveness in protecting public health.
- Maintaining confidence in food safety and the regulatory regime.
- Minimising disruption for consumers and industry.
- Alignment with the principles of the FSA's Regulatory Strategy.

4. Update on The Withdrawal Agreement

4.1 In October 2019, the UK Government and the European Commission reached an agreement at European Council on the United Kingdom of Great Britain and Northern Ireland's withdrawal from the European Union.

4.2 The Withdrawal Agreement contains provisions for a Transition Period that currently runs from when we exit the EU on 31 January 2020 until the end of December 2020. During this period Union food and feed safety law would continue to apply in the UK. The FSA will continue to have the same statutory objectives that we have now which are to protect public health from risks which may arise in connection with the consumption of food (including risks caused by the way food is produced or supplied), and to protect the interests of consumers in relation to food.

4.3 During (and after) a Transition Period, the FSA will continue to ensure it meets its statutory objective of protecting consumers by ensuring that there is a robust and effective regulatory regime which maintains the safety and authenticity of food, for the benefit of our consumers and our industry. This will include bringing online some of the work that the FSA has delivered to prepare for EU Exit across surveillance, risk analysis, incidents and the compliance regime. We will continue to monitor for new and emerging food and feed safety risks as we do now and advise others on these risks. Finally, we will continue to work closely with our counterparts in FSS, the EU Union, Member States and Third Countries to further the protection of UK Consumers through our work both domestically and internationally.

4.4 The Withdrawal Agreement also includes the Northern Ireland Protocol, which sets out arrangements to address the unique circumstances on the island of Ireland. The Northern Ireland Protocol does not change the FSA's statutory purpose or role in NI, but it will have consequences for the FSA and how it organises and arranges its work across three countries to ensure an effective food and feed safety regime. To ensure that the future regulatory regime for

food safety remains effective for protecting public health in NI, the FSA will be working closely with other Government departments and colleagues in NI as discussions are taken forward around the implementation of the Northern Ireland Protocol.

5. Update on The FSA's EU Exit Preparations

- 5.1 As reported to the FSA's Business Committee in June 2019, the FSA had completed the core work required under its EU Exit programme to be ready for EU Exit ahead of the UK's potential exit dates from the EU in April and October 2019. However, the FSA's EU Exit work did not stop because it had achieved its core outcomes for EU Exit. The extensions to the UK's departure date have provided the FSA additional time to review, refine and pilot the creation or enhancement of systems and processes and embed the recruitment of new FSA officials to increase our capacity in key areas. Much of the work that the FSA has undertaken to prepare for previously for a no deal EU exit departure is required under the terms of the Withdrawal Agreement.
- 5.2 Since the Board was last updated, the FSA has revisited plans based on the new date for EU Exit to ensure that we remain ready. The most recent extension also allowed us time to take forward work not seen as critical for day one delivery but still necessary to ensure that food safety and authenticity are not compromised. In summary:
1. We have continued to work with FSS to refine and embed the UK wide food and feed safety risk analysis mechanism which we have developed. The additional time has been used to refine the detailed operational procedures underpinning the process and adapt ways of working so that it is embedded and functions effectively within the organisation. We have developed a new IT programme for tracking issues through the risk analysis process allowing the FSA to have oversight of all issues in the risk analysis process at any one time. It has also allowed new recruits such as the experts working on the FSA's three new Scientific Advisory Committee joint expert groups to become familiar with both their new roles and the Governance within which they operate.
 2. An effective import/exports regime that provides assurance as to the safety and authenticity of food imports is a key part of our EU Exit programme. During the extension periods the FSA has continued to work with Defra to test development of the UK's new import control systems for the Import of Animals, Food and Feed System (IPAFFS). It provides traceability of movements, speeds up necessary administrative procedures and facilitates the exchange of information between traders and competent authorities. The FSA has a high dependency on the Defra system due to our remit to protect the public health of consumers in relation to food and feed. The additional time provided by the transition period will allow the FSA to progress its plans for pre-notification of high-

risk food and feed through IPAFFS enabling us to have a higher degree of confidence that this could be delivered.

3. FSA Statutory Instruments (SIs) have been laid and made to ensure operability of retained EU law. The programme of no deal Statutory Instruments (SIs) is an example of an area where all necessary work had been completed to ensure the operability of food and feed law on day one, but where additional work will be required due to changes that have subsequently taken effect or will be undertaken during the transition period. Further work may also be needed depending on the outcome of the UK-EU negotiations during the transition period.
4. The FSA has enhanced its capacity and ongoing resilience to respond effectively to food incidents and food crime through delivery of a significantly enhanced National Food Crime Unit, new surveillance systems, increased incident response capacity, a new system for managing food and feed safety alerts, and a stronger relationship management system.

6. Update on Common Frameworks

- 6.1 As part of the UK Government - Devolved Administrations (UKG-DA) Common Frameworks Programme, the FSA has been engaged in the development of three common frameworks:
 - Food and feed safety (FSA lead);
 - Food compositional standards and labelling¹; and
 - Nutrition health claims, composition and labelling.
- 6.2 The Frameworks have been developed in line with guidance from constitutional teams in UKG and the DAs and strategic oversight of the frameworks programme has been provided by JMC(EN) at Ministerial level. As Frameworks form part of the broader landscape of intergovernmental relations, all frameworks governance structures are informed by the overarching MoU on Devolution.
- 6.3 The three Frameworks of interest to the FSA are progressing to slightly different critical pathways dependent on the cohort they are part of in the overall Framework Programme. The Nutrition framework is reaching the conclusion of phase 3 and is approaching the point where provisional agreement /endorsement will be sought to the Framework from Health Ministers / JMC(EN); that is why the Board is reviewing this Framework in January. The Food and Feed Safety Framework is on track to conclude phase 3 in late spring of 2020, and the Food compositional standards and labelling Framework is in phase 2 and running to a slower schedule.

¹ Two separate frameworks on food compositional standards and food labelling which are always considered in tandem.

7. Next Steps – EU Exit Programme

- 7.1 The Withdrawal Agreement provides clarity on the arrangements during the transition period during which time the FSA will need to input into the UK Government work on the future relationship with the EU, manage the food and feed safety regulatory regime under the terms set out in the Withdrawal Agreement and prepare for the end of transition period arrangements.
- 7.2 In light of the changed context in which the FSA is delivering its EU Exit preparations and the stage at which our preparations have reached, a revised EU Exit Programme is being established that will encompass both ongoing development and service delivery across our EU Exit work as we transition from the EU. This will ensure that the EU Exit Programme Board is able to look holistically across the work that the FSA is taking forward to manage delivery of an effective post exit regulatory regime under different scenarios at the end of December 2020 and enable the outcomes of future negotiations to be accounted for in the FSA's planning.
- 7.3 The new EU Exit Programme is a different type of programme to the previous programme. Unlike the previous programme which predominantly focused on no deal and consisted of projects building a minimum viable project, the new programme will consist of design, cross cutting and delivery/service workstreams that will have to adapt and respond to changes emanating from other workstreams and external factors. At the end of this programme of work the changes emanating from the programme will become the business as usual of the FSA so the programme must ensure that changes are fully embedded into the wider business.
- 7.4 The changes that will need to be designed and implemented by FSA's EU Exit Programme are not yet all known and will not be known for certain until negotiations are complete with the EU. Depending on negotiations, we may need to be prepared for no negotiated outcome having been agreed on the future relationship with the EU by the end of December 2020. The work may also be impacted by any concurrent trade negotiations with other countries. Much of the work that will lead to design changes that impact across the FSA's work to prepare for the end of the transition period will be driven by the cross-cutting projects (where often the FSA will not be the overall lead).
- 7.5 In line with previous practice, it is our intention to bring back to the FSA Board the aims, objectives and tests of the new EU Exit Programme. The FSA will continue to report to HMT on the additional ring-fenced funding (£19m in 19/20 and £14.6m in 20/21) that we have for the FSA's EU Exit programme of work in 19/20 and 20/21.

8. Conclusions

- 8.1 The FSA is ready to maintain the food and feed safety regime and our high-standards of food and feed safety as we exit the EU and will continue to do so

by continuously improving and reviewing our arrangements. We are taking forward work to refresh the EU Exit programme in the FSA to ensure an agile approach can be taken to the EU Exit transition period.

8.2 The Board is asked to:

- Note the FSA's ongoing preparations for EU Exit; and
- Comment on plans for the EU Exit programme.