



Llywodraeth Cymru  
Welsh Government

POLICY AND STRATEGY

# Concordat between the Food Standards Agency and the Welsh Government

This concordat sets out a framework for co-operation between the Food Standards Agency and the Welsh Government.

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## 1. Introduction

1. This concordat sets out an agreed framework for co-operation between the Food Standards Agency (“FSA”) and the Welsh Government (“the Welsh Government”). It is not a legally binding agreement, or a contract between the FSA and the Welsh Government, nor is it intended to cover every detailed aspect of the relationship between the two. Rather, it is a statement of the principles which will guide relations between the FSA and the Welsh Government to ensure communication and co-ordination is sufficient for each to discharge their respective responsibilities effectively. This concordat

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replaces all previous versions.

2. This concordat is also intended to promote good working arrangements between the FSA and the Welsh Government. This concordat cannot and does not override the statutory duties and powers of either the FSA or the Welsh Government. It will be published on both FSA and Welsh Government websites. References to the Welsh Government include staff of the Welsh Government.

## 2. General principles

1. The FSA and the Welsh Government jointly affirm their commitment, in the interests of good government, to develop effective working relationships, delivering the best possible service. Officials will maintain regular contact (both formal and informal) to discuss business of mutual interest. Good communication in both directions will be essential to effective working within, and between, the FSA and the Welsh Government.
2. In particular, the FSA and the Welsh Government agree to:
  - adopt a policy of 'no surprises' and to keep each other promptly and regularly informed about all work being undertaken by one department in which the other has an interest
  - give appropriate consideration to the other's views on matters in which each has an interest
  - advise each other as far as possible in advance of any possible announcement by one organisation which may be of interest to the other
  - request advice in good time, and to provide an account of its expected use
  - inform each other without delay of any relevant information which would require their action
  - provide each other with as full and open access as possible, to scientific, technical and policy information, and research and surveillance findings
  - pursue opportunities for joint planning and joint funding of research and surveillance and to co-operate fully where joint programmes are appropriate
  - establish standing mechanisms for co-ordination and information exchange on strategic policy issues of mutual interest, and

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- co-operate fully on public information and education programmes where the FSA and the Welsh Government have shared or have overlapping responsibilities.
3. This concordat supplements the general devolution framework described in the Memorandum of Understanding and Supplementary Agreements between the UK government and the National Assembly for Wales (Cmd 4444).
  4. Either FSA or the Welsh Government may at any time request a joint review of the operation of the principles described at 2.2 above.

### 3. Welsh Food Advisory Committee

1. Section 5 of and Schedule 2 to the Food Standards Act 1999 (“the 1999 Act”) provides for the establishment of an Advisory Committee for Wales (subsequently referred to as the Welsh Food Advisory Committee). The Chairman and other members of the advisory committee are appointed by the Welsh Ministers to advise the FSA. The committee will not be directly accountable to the Welsh Ministers. The function of the committee is to give advice or information to the Board of the FSA about matters connected with its functions including in particular matters affecting or otherwise relating to Wales. The FSA Board will take account of any views of the Committee in putting any policy proposals or proposals regarding legislation to the Welsh Ministers. The FSA will also be required to comply with any request for information or advice made by the Welsh Ministers and will take the Welsh Food Advisory Committee’s views in such cases.

### 4. Financial arrangements

1. The Welsh Government will provide the resources for the functions and running of the Wales Office of the FSA located in Cardiff. The functions of the FSA’s offices in London, York and Belfast, are not funded by Welsh Government. The FSA will have regard to the guidance set out in Managing Public Money and the Welsh Government’s Financial Guidance. In addition, the FSA will meet any procedures required by the Welsh Government in

relation to financial accountability and management of the funds for which the Welsh Government is accountable, and presentation of the annual report and accounts, as set out in the Accounts Direction issued by the Treasury under paragraph 4(2)(b) of Schedule 4 to the Food Standards Act 1999 or section 7 of the Government Resources and Accounts Act 2000.

2. The main funding issued to FSA is Revenue funding and therefore cannot be used for Capital expenditure. Where funding has been hypothecated within the overall budget, virement between budgets is not permitted.

## Capital requests

3. If Capital expenditure is required by the FSA then prior agreement with the Welsh Government will need to be obtained.
4. Cash Management

## 4. In year

1. Public Health Division will make payments to FSA in two-monthly instalments on receipt of a request for funding. This request for funding will be submitted to the Welsh Government by the 20th of the month preceding the first month for which the funding is requested. This will enable it to be processed before the month end and allow funding to be issued to the FSA within the first 3 days of the following month. The request will include an up to date forecast and include the cash and resource expected outturn for the financial year. The timing of each claim will be set out in the funding letter issued to the FSA by Public Health Division at the beginning of the financial year.
2. Cash balances accumulated during the course of the financial year from Welsh Government funding must be kept at a minimal level. The FSA must seek to avoid holding a working balance in excess of the equivalent of 4 per cent of its total annual gross budget at the end of each two-monthly period and prior to its receipt of the following two-month's funding. This will be monitored and, if appropriate raised in the quarterly review meetings. Any funds exceeding that amount held by the FSA as a working balance at the end of a funding period shall be taken into account in determining the

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amount of funding to be paid in the following two-months' funding period.

## 4. End of year

3. The FSA shall be permitted to carry-over from one financial year to the next any drawn but unspent cash balances of up to 2 per cent of its agreed total gross annual budget. Any proposal to carry-over sums in excess of this amount must be agreed in writing in advance with Public Health Division and would be subject to further agreement by the Director of Finance of Health and Social Services on a case by case basis. Any sum carried over in excess of the agreed amount shall be taken into account in the subsequent year's funding.
4. As with similar organisations which the Welsh Government issues funding to, FSA need to declare in March of each year all interest, net of any bank charges earned on its cash and bank balance which arise as a result of funding from the Welsh Government. This money is then returned to Welsh Government to be surrendered to HM Treasury via the Welsh Consolidated Fund.
5. The Accounting Officers of the Welsh Government and the Food Standards Agency previously set out their responsibilities under a separate agreement which now forms part of this concordat. The responsibilities of each accounting officer as set out in the agreement are reproduced at Annex D.

## 5. Division of responsibilities

1. The FSA operates in a field of devolved competence and therefore requires close working relationships with the Welsh Government on matters relating to food safety and food standards. Key issues are set out in the remainder of this concordat. The remit of the FSA is set out in Annex B and reflects machinery of government changes made in 2010.
2. The respective roles and responsibilities of the FSA and the Welsh Government in relation to outbreaks and food emergencies is set out in paragraphs 14.1 to 14.3 and take into account the recommendations of the report of the Public Inquiry into the E.coli outbreak in South Wales in 2005 (the First Minister for Wales commissioned a public inquiry into the outbreak

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and Professor Pennington delivered his report on 19 March 2009).

## 6. Transfer of functions

1. Before reaching a decision on the transfer of executive functions, the Welsh Government and the UK government will identify the administrative, programme and capital costs involved in the exercise of those functions in relation to Wales, taking full account of all relevant factors. Ministerial agreement to the transfer of executive functions will depend on agreement not only that the relevant costs, assets and liabilities have been identified, but also on agreement about which funds, assets and liabilities will transfer with the functions themselves.

## 7. Confidentiality

1. The **Memorandum of Understanding (MoU)** sets out the principles that govern the duty of confidence between the UK government and the devolved administrations. In line with those principles, Public Health Division and the Food Standards Agency will respect the confidentiality of information received from each other, and will indicate the status of, and any restrictions on, the use of information which they provide. In the event of one administration receiving a freedom of information request from a third party for information it has received from the other administration, it will seek the other administration's views on disclosure, and ultimately make a decision about disclosure in accordance with access to information legislation and, in the case of the Welsh Government, the **Code of Practice on Access to Information**.

## 8. Welsh Government business

1. The FSA reports to the National Assembly for Wales through the Minister or Deputy Minister appointed for Health and the Public Health Division, which is the principal point of contact for ministerial business on matters within the remit of the FSA. PS/Minister/Deputy Minister will be responsible for

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managing relevant papers for the Minister/Deputy Minister for Health and for communicating decisions, requests, details of business and other information to the FSA. Where the subject matter dictates, this process also applies to the Minister or Deputy Minister appointed for Farming and Food.

2. Ministerial correspondence, Assembly Questions (AQs), and other enquiries that fall within the remit of the FSA, will be dealt with directly by the FSA. Any such enquiries that are wrongly directed or assigned will be redirected as normal between the FSA and the Welsh Government. The FSA and the Welsh Government will, as necessary, co-operate to ensure that those enquiries raising issues that relate to shared and overlapping responsibilities receive replies which reflect the position of both in respect of their individual areas of responsibility. Where enquiries cover issues which are the responsibility of the Welsh Government and the FSA, the FSA will provide a contribution to the Welsh Government's reply. The FSA will be obliged to respond to Welsh Government business in accordance with the timetables which apply within the Welsh Government itself in relation to AQ's, Welsh Government correspondence and briefing, and the Welsh Government will ensure that the FSA is given reasonable notice of such enquiries.

## 9. Permanent Secretary

1. The Director of FSA Wales attends the annual meetings that the Permanent Secretary of the Welsh Government holds with Accounting Officers, and the twice-yearly meetings held with the Heads of Government Offices in Wales. The purpose of these meetings is to share intelligence on developments in corporate governance and planning, and to ensure a joining up of the Government agenda within and beyond Wales. The Director of FSA Wales may choose to delegate attendance at these meetings to one of his officials.

## 10. Legislation

1. The FSA has lead responsibility for introducing secondary legislation to implement EU or UK food or animal feed law, or to make other provisions to improve food safety protection for consumers. The FSA liaises with Welsh

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Government Legal Services in respect of the enabling provisions and will seek Ministerial agreement to the drafting of secondary legislation, the process to be followed and plans to consult Welsh stakeholders.

2. Where EU or UK deadlines apply, the FSA will endeavour to implement legislation as early as possible and will notify the Welsh Government of EU/UK deadlines, having regard to the general requirements of the Welsh Ministers to make legislation in both English and Welsh.
3. The Welsh Government will endeavour to make secondary legislation within the timetable determined by the EU, or as agreed with the UK and other devolved administrations.
4. Consultations with interested parties in Wales will be carried out by the FSA, and the results of the responses will be included in a final Ministerial submission which will seek approval to sign both the statutory instrument and the accompanying explanatory memorandum, and lay them before the National Assembly for Wales.

## 11. Advisory committees

1. The FSA and the Welsh Government agree to keep each other informed about the establishment and operation of any bodies for which they have responsibility, whose work has implications for each other's activities. In addition, the FSA and the Welsh Government confirm their commitment to ensuring that advisory committees, in which they both have an interest, operate effectively. Arrangements for handling relevant UK committees will be agreed between officials, and may cover issues such as appointments, provision of secretariat, agendas and briefing, and payment of fees and expenses.

## 12. Welsh local government

1. This concordat recognises the close working relationship between the Welsh Government and local government in Wales. The Welsh Government and the FSA will endeavour to keep each other informed of any protocols developed between each of them and local authorities in Wales, and to keep

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each other appraised of relevant matters arising. This will include, for example, proposed formal action by the FSA against any local authority in Wales in respect of failure by the local authority to meet agreed, or acceptable, standards of enforcement activity.

2. The FSA will, by the end of July in each year, identify to the Welsh Government its estimate of any additional costs to local authorities in Wales which are likely to arise in the following financial year from regulations, policies or initiatives it plans to introduce. The FSA will consult the Welsh Local Government Association (WLGA) on such proposals. The Welsh Government will take this resource statement into account in considering the funding it will make available to local authorities in Wales.
3. In 2006, FSA Wales and Directors of Public Protection in Wales agreed a Memorandum of Understanding which sets out a framework for them to co-operate in areas of mutual interest.
4. The FSA is responsible for the audit and monitoring of local authorities in Wales. As part of the Review of Food Law Enforcement in Wales, the FSA in Wales is committed to re-commence a 3-year rolling programme of full audits of Welsh local authority food and feed law enforcement services. The processes used by the FSA for local authority audits
5. are well-established, and no changes are proposed in respect of these arrangements. The local authority audit scheme will, however, give greater focus as to how the information gathered from the audit process is summarized and reported, with the aim of providing consumers with an easy to understand, overall assessment alongside a more detailed narrative report. In addition, from April 2015 a hypothecated budget has been provided to the FSA in Wales to establish and administer a Feed Law Enforcement Programme for Wales in partnership with local authorities, as set out in Annex A (paragraph 7.1).

## 13. European Union and international relations

1. The guidance in the concordat between the UK government and the devolved administrations on co-ordination of EU policy and international relations applies (Cmd 4444). The FSA and the Welsh Government recognise the need to work together constructively in relation to common

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interests in the formulation, negotiation, implementation and enforcement of European Union and international policies, agreements, rules and legislation. Relevant issues are also likely to arise in relation to work in the following: the Codex Alimentarius Commission, the Food and Agricultural Organisation, World Health Organization and other international organisations. The concordat sets out the process for co-ordinating a UK line for international regulations, including how any views of the Welsh Government will be taken into account in determining the UK negotiating position the FSA will follow on European business.

## 14. Arrangements for handling emergencies

1. The FSA and the Welsh Government agree to inform each other immediately in the event of an emergency (or potential emergency), or serious incident/outbreak, which may have an impact on the other's responsibilities. They are also committed to working closely together to ensure that any emergency, or serious incident/outbreak, is dealt with effectively, and agree to co-operate fully on any action required. The FSA and the Welsh Government agree that it is important for them to maintain a close working relationship with other bodies/organisations, including Public Health England (PHE) and Public Health Wales (PHW).
2. The FSA and the Welsh Government will work together in drawing up emergency plans, and in planning and running appropriate major emergency exercises that have food related implications, or where otherwise appropriate.
3. The FSA and the Welsh Government will provide each other with adequate notice of planned emergency exercises, with at least three months' notice if the participation of the other is sought. The FSA will provide officers to attend incident rooms where appropriate in line with the Welsh Government's emergency plan.

## 15. Food and Environmental Protection Act (FEPA)

1. The FSA is responsible for emergencies and food chain safety under the Food and Environmental Protection Act 1985 (FEPA) and the Food Safety Act 1990 (“the 1990 Act”). Under sections 1 and 2 of FEPA the Welsh Ministers have both emergency order and direction making powers where there are circumstances which are likely to create a hazard to human health through the consumption of food. The Welsh Ministers may also make emergency control orders and give directions under section 13 of the 1990 Act where a commercial operation involves, or may involve, imminent risk of injury to health. In addition, the FSA is similarly empowered to give directions under both Acts. The FSA and Welsh Government agree to inform each other immediately if there is the prospect of either of them using its powers under FEPA, or the 1990 Act in relation to food.
2. In January 2012, the Minister for Health and Social Services delegated the following responsibilities to named FSA officials and the Welsh Government will need to revoke any delegations and issue new ones in light of future staff changes in the FSA:
  - to act as an investigation officer under section 3(1) (a) of the FEPA Act 1985 for the purposes of Part 1 of FEPA
  - to act as an enforcement officer under section 3(1)(b) of FEPA for the purposes of Part 1 of FEPA, and
  - to perform the Welsh Ministers’ functions of authorising local authority and Rural Inspectorate Wales staff to be investigation and enforcement officers pursuant to section 3(2) of FEPA and section 83 of the Government of Wales Act 2006 for the purposes of Part 1 of FEPA subject to conditions.
3. The FSA will provide quarterly updates to the Welsh Government on the occasions in which it has utilised these delegated responsibilities to authorise Local Authority Enforcement Officers under FEPA.

## 16. Food Hygiene Rating Wales Statutory Scheme

1. The FSA has duties under the Food Hygiene Rating (Wales) Act 2013 that it must undertake. The FSA and the Welsh Government will continue to work together to deliver a successful statutory scheme in Wales. The FSA has agreed to include a statement of the operation of the statutory scheme in Wales in its annual report to the National Assembly for Wales. In addition, the FSA has a statutory duty to review the operation of the Food Hygiene Rating Scheme and its appeals process at 3 year and 1 year intervals respectively under s14 of the Food Hygiene Rating (Wales) Act 2013.

## 17. Rural Affairs

1. Portfolio responsibility for animal health and welfare, developing the agri-food sector, associated supply chains, and promotion of food from Wales rests with the minister or deputy minister appointed for farming and food. Officials of the FSA and officials in the applicable Welsh Government divisions have made a working agreement to co-ordinate on issues of mutual interest. This working agreement conforms to the principles established by this concordat, and is described in Annex A.

## 18. Charging

1. The FSA and the Welsh Government may make charges for services delivered on behalf of the other, and for which the other is responsible. In the case of charges for any work transferred from one to the other, there will be an initial public expenditure transfer in the usual way. Careful consideration will be given to any identified need for charging. When charging is appropriate, Welsh Government guidance will be followed and payment will normally be made at full cost recovery.

## 19. Legal services

1. The Legal Services Department of the Welsh Government will be responsible (in close liaison with the FSA legal group in London and FSA officials in Cardiff) for the drafting of relevant secondary legislation in the light of proposals brought forward by the FSA, and/or EU requirements, and for the handling of litigation against the Welsh Ministers arising out of such legislation. Welsh Government Legal Services do not, and are not able to, provide legal advice to the FSA, but will, where appropriate, assist the FSA Legal Group on legal issues relating to Welsh legislation.

## 20. Welsh language

1. When discussing the development of legislation, policies and services in Wales, the Welsh Government and the FSA will discuss the impact of the proposed legislation, policy or service on the Welsh language. They will support related activities undertaken in Wales, such as publicity and marketing campaigns, public events, and the creation of Welsh language resources, and the delivery of those activities will be funded in accordance with their respective Welsh Language Schemes, and the forthcoming Welsh Language Standards, which will be enforced by the Welsh Language Commission.
2. The Welsh Government's policy is to promote and facilitate the use of Welsh and to ensure, unless it would be unreasonable or disproportionate to do so, that the Welsh language is treated no less favourably than the English language. In accordance with its Welsh Language Scheme, approved by the former Welsh Language Board on 25 March 2010, and which remains in operation, FSA will continue to give effect to the principle that the English and Welsh languages are treated on the basis of equality in Wales, and in so doing will provide practical support to the Welsh Government's policy in Wales.

## 21. Dealing with issues

1. Avoidance and resolution of differences, disagreements and disputes will take place in accordance with the Protocol on the Avoidance and Resolution of Disputes set out in the [Memorandum of Understanding](#) between the UK government, the Welsh Government, the Scottish Government and the Northern Ireland Executive.
2. Both FSA and the Welsh Government are committed to resolving issues at official level where possible, or if it becomes necessary, at Senior Civil Service level; only exceptionally will matters be referred to ministers or to the Joint Ministerial Committee.

## 22. Operation and review of bilateral concordats

1. Officials of the Welsh Government's Public Health Division and the Food Standards Agency will liaise annually to consider if a review of this concordat is required. Any alterations to this concordat will not take effect unless they are agreed in writing by both parties. As part of the liaison opportunity consideration will be made of relations between the administrations, particular points of issue, if any, will be addressed and a forward look given to respective programmes for legislative and policy proposals.

## Signatories

Mr Irfon Rees

Deputy Director, Public Health Division, Welsh Government

Ms Nina Purcell

Director, FSA in Wales, on behalf of Chief Executive of the Food Standards Agency

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# Annex A: specific services and functions

## 1. Meat hygiene and animal welfare

1. The FSA by delegation is the responsible authority for meat inspection duties and enforcement in approved meat premises (slaughter houses, cutting plants and game establishments). It is the role of the FSA to help ensure that the meat industry safeguards the health of the public, and health and welfare of animals at slaughter. To achieve this, the FSA delivers 'official controls' in approved fresh meat premises. The FSA will also continue to undertake official controls on behalf of the Welsh Government on animal health and welfare to ensure compliance with legislative requirements.
2. Under the tripartite service level agreement (SLA) with Defra and the Welsh Government, FSA delivers a number of services:

Annex	Description	Charging mechanism
1	Verification of BSE Testing including 10% passport verification	Timecode ( <a href="#">Footnote 1</a> ) GBSE and GPAS
2	Cleansing and disinfection checks	Timecode GWAG
3	Animal by products checks	Timecode 44% of GBPS
4	Compulsory Scrapie Flock Scheme sampling	Cost per sample
5	Sheep TSE sampling	Cost per sample
6	Animal welfare reporting of 3 and 4 scores and referrals for investigation	Fixed cost
6a	Broiler directive monitoring and reporting	Fixed cost

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<b>Annex</b>	<b>Description</b>	<b>Charging mechanism</b>
7	Aujeszky's Disease sampling and EBL sampling	Cost per sample
7	Notifiable Disease services	Timecode GDIS
9	Horse Passport checks, return of passports and reporting	Timecode GNED
10	Poultrymeat Marketing checks and reporting	Timecode GPMR – not yet underway

3. During the comprehensive spending review period the following budgets have been devolved and the proportion of (UK/GB) expenditure chargeable to the Welsh Government agreed as set out below:
  - BSE Testing Verification (13.3%)
  - CSFS (13.3%)
  - Sheep TSE (13.3%)
  - Animal Welfare (14%) and Broiler Directive (6%)
4. There is a SLA for cattle passport verification in England and Wales with the British Cattle Movement Service (BCMS). FSA invoice BCMS for 94% of the hours coded to GPAS in England and Wales.
5. There is a SLA for Residues in Meat sampling in England and Wales with the Veterinary Medicines Directorate (VMD). FSA invoice VMD a fixed amount monthly based on the number of samples requested at a cost per sample. VMD is an executive agency of Defra.
6. There is a SLA for TB sampling and submissions in England and Wales with the Animal and Plant Health Agency (APHA). FSA invoice AHVLA directly for the throughput and samples sent for reactors, and samples sent for slaughterhouse cases at agreed unit costs. AHVLA are an executive agency of Defra.
7. There is an SLA for Animal Welfare reporting in England and Wales. The costs have been apportioned England and Wales via a % split, which is charged to Welsh Government.

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## 2. Pesticides safety

1. Arrangements between the FSA and the Pesticides Safety Directorate (PSD) an Agency of the Health and Safety Executive will apply in Wales as they do in England, and the FSA will advise the Welsh Government on any pesticide-related issues within its remit.

## 3. Foodborne Zoonoses and TSEs

1. The FSA has overall responsibility for production of a "farm to fork" strategy for reduction of zoonoses in the food chain. The Welsh Government's Department responsible for rural affairs and food production and marketing retains responsibility, and will take the lead on the animal health and welfare aspects of the strategy. The FSA and the Welsh Government recognise the need for a strong working relationship, particularly in relation to exchange of information and provision of data. This is particularly important when working with other organisations, such as Public Health England and Public Health Wales.
2. There is also a continuing need for a close working relationship between the Welsh Government and the FSA across the whole range of TSE/BSE activity particularly, on research on animal TSEs. This may involve regular meetings, mainly on a UK basis, to discuss common policy and technical issues, supplemented by exchanges of information on an ad hoc basis as necessary.

## 4. Dairy hygiene

1. Since April 2012, dairy hygiene inspections in England and Wales have been carried out by FSA staff. Inspectors enforce aspects of European Commission regulations that apply to all premises used for the production of raw milk for human consumption, and involve the registration of approved production premises, (dairy farms), inspection of milking premises, equipment, and milk producing animals, and enforcing satisfactory standards. The Inspectors also supervise a sampling programme of raw

drinking milk.

## 5. Food standards and labelling

1. The FSA is the Competent Authority in Wales for food standards and food labelling matters and will advise the Welsh Ministers on regulatory and policy matters in consultation, as appropriate, with Welsh Government policy officials.

## 6. GM and novel foods

1. The FSA will advise the Welsh Government on food safety and consumer choice aspects of novel foods policy, including approval procedures and labelling. A novel food is defined as a food that does not have a significant history of consumption within the European Union (EU) before 15 May 1997. Such foods are subject to a pre-market safety assessment before a decision is made on EU-wide authorisation. The Advisory Committee on Novel Foods and Processes (ACNFP) is an independent body of scientific experts that advises the FSA on matters relating to novel foods, which includes GM foods and novel processes.
2. GM food and feed applications are regulated across Europe. The safety assessments of GM food and feed are carried out by the European Food Safety Authority (EFSA). Assessments include a detailed study of potential toxic, nutritional and allergenic effects. Where necessary, the FSA may also seek advice from the ACNFP. The FSA will advise the Welsh Government on the safety of GM food and feed marketing applications.

## 7. Animal feedingstuffs

1. The FSA will advise the Welsh Government on the safety, composition and labelling of animal feeding stuffs. The FSA will operate an effective feed law enforcement programme in Wales, with the ring-fenced additional resources included within their annual funding amount, as set out in the annual funding letter.

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## 8. Health

1. The FSA will take into account, where relevant, the Welsh Government's priorities for health. The FSA will contribute, within its remit, to Welsh Government public health strategies. When developing public health strategies the Welsh Government will seek the advice of the FSA on issues within the FSA's remit.

## 9. Food-borne communicable diseases

1. The FSA and the Welsh Government have a shared interest in communicable diseases, although each has its specific remit. The Welsh Government is responsible for overall communicable disease strategy as part of its wider responsibility for protecting public health. The FSA has responsibility for food-borne disease and is the adviser to the Welsh Ministers on food-borne disease. The FSA and the Welsh Government recognise the need to co-operate on such matters in order to achieve the best possible prevention and control of communicable disease. A close working relationship with other organisations is also important, including Public Health England and Public Health Wales.
2. Detailed arrangements on roles and responsibilities around the investigation of outbreaks are set out in The Communicable Disease Outbreak Plan for Wales. The FSA and the Welsh Government will continue to work together ensuring that the arrangements set out in The Wales Communicable Disease Outbreak Plan are complied with.

## 10. Public Health Wales

1. Where appropriate the FSA's office in Wales will commission work directly from PHW and the costs of this work will be met from the FSA's budget.

## 11. Environment

1. From 1 April 2013, the new Welsh Government Sponsored Body, Natural

Resources Wales (Cyfoeth Naturiol Cymru) took over the functions of the Environment Agency Wales (EAW), the Forestry Commission in Wales and the Countryside Council for Wales. Natural Resources Wales (NRW [Footnote 2](#)). A new single body called Natural Resources Wales or Cyfoeth Naturiol Cymru became operational on 1 April 2013 and has brought together the functions of the Countryside Council for Wales, Environment Agency Wales, and the Forestry Commission Wales.) has assumed responsibility for the EAW activities and functions that were captured in existing Concordats with EAW stakeholder organisations, including the Concordat with the FSA.

2. The Welsh Government has responsibility for environmental policy including environmental protection, radioactivity, waste, water, coastal and flood defence and nature conservation. The Welsh Government sponsors Natural Resources Wales (NRW), which regulates processes and their discharges to the environment. On applications, registrations and authorisations, the Welsh Government can give directions to NRW. The Welsh Government may hear appeals against a refusal of applications, the imposition of conditions, or against the enforcement or prohibition notices, and give directions in consequence of an appeal. The Welsh Government may call in applications and hold local inquiries on such applications. In advising the Welsh Government, the FSA will take into account the Welsh Ministers' sustainable development duty.
3. The FSA will act as statutory consultee to NRW on the food safety aspects of Integrated Pollution Control, or Integrated Pollution Prevention Control Directive applications in Wales.
4. The FSA will also be statutory consultee for proposals for authorisations and discharges under the Radioactive Substances Act 1993. It has responsibility for food safety aspects of radioactive substances.

## 12. Education

1. The FSA and the Welsh Government's Public Health Division recognise the importance of each other's roles in relation to education/educational resources. The FSA will promote UK Campaigns and education programmes in Wales, as well as develop appropriate resources specific to Welsh needs,

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which support Welsh Government policy, utilising existing Welsh networks to ensure maximum coverage. The FSA will also engage the Welsh Government's Department for Education and Skills in such initiatives.

## 1. Welsh Food Fraud Coordination Unit

1. The FSA provides a range of advisory and financial resources to assist local authorities in their investigations into food fraud activity. In particular, the FSA funds a dedicated Food Fraud Coordination Unit (WWFCU) to provide support and assistance to all Welsh local authorities. The WWFCU is hosted by Ceredigion CC and is directed at a strategic level by the Governance Group, who consider and influence the work programme and issues relating to the operation of the WWFCU, and the support provided to Welsh LAs in effectively tackling food fraud.

## Annex B: The remit of the Food Standards Agency (FSA)

The statutory objective of the FSA is to protect public health from risks which may arise in connection with the consumption of food, including risks arising from the way in which it is produced or supplied, and otherwise to protect the interests of consumers in relation to food. Under the Food Standards Act 1999, the FSA has responsibility for the development of food safety and standards and for the provision of advice, information and assistance in respect of matters connected with food safety, or other interests of consumers in relation to food, to public authorities (ministers, Government departments and their equivalents in the devolved authorities, local authorities or agencies of government), and to the general public, or to individuals and bodies who are not public authorities.

The FSA will take account of the views of the FSA's Welsh Food Advisory Committee in giving advice or proposing legislation or other action to the Welsh Government.

The FSA is responsible for food safety and food hygiene across England, Northern Ireland and Wales. The FSA works with local authorities to enforce

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food safety regulations and have staff who work in meat plants to check that the requirements of the regulations are being met. The FSA commissions research related to food safety.

In 2010, the UK government took the decision to transfer responsibility for nutrition and food labelling and standards in England from the FSA to the Department of Health and the Department for Environment, Food and Rural Affairs. The FSA retains responsibility for food safety labelling policy Wales, with responsibility for nutrition policy in Wales lying with the Welsh Government's Public Health Division. Labelling and nutrition policy is retained by the FSA in Northern Ireland. From 1st April 2015, the activities of the FSA in Scotland ceased operating and its functions and staff transferred to Food Standards Scotland, a devolved body within the Scottish Government.

## **Annex C: Food Standards Agency constitution and governance**

### **Key facts**

- The Food Standards Agency is not an “agency”. It is a non-Ministerial Government department separate from the Welsh Government.
- The Minister or Deputy Minister responsible for Health is not “responsible” for the FSA and its operations in Wales - the Chair and Board of the FSA are accountable directly to the National Assembly for Wales.
- By convention, the Minister or Deputy Minister responsible for Health answers Assembly Questions relating to the FSA, in each case making it clear that he is responding on the basis of advice from the FSA.
- The FSA advises the Minister or Deputy Minister responsible for Health on the need for primary or secondary legislation on food safety and standards.

### **Constitution and governance**

The FSA is a non-Ministerial Government Department with UK-wide responsibility for food safety and consumer information. It was established by

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the Food Standards Act 1999 (FSA1999) to: “protect public health from risks which may arise in connection with the consumption of food, and otherwise to protect the interests of consumers in relation to food”. In line with this statutory objective, the FSA puts consumers first and openly publishes its advice to Ministers and other public authorities. Its independent status has enabled it to rebuild and maintain public trust in food safety.

The FSA is governed by a Board, appointed to act in the public interest. In Wales, the Welsh Food Advisory Committee is appointed by Welsh Ministers to provide advice to the Board from a Welsh perspective.

The FSA is an independent regulator and, in terms of EU law relating to food and animal feed, is the central competent authority for England, Northern Ireland and Wales. The FSA, and the regulatory system it oversees, is subject to audit by the Food and Veterinary Office of the European Commission.

## **Working with the Welsh Government**

The Food Standards Agency has an executive team of 32 staff in Wales, based in Cardiff. FSA officials in Wales are accountable, through the UK Chief Executive, to the Food Standards Agency Board.

Formally, it is the role of the FSA Board to advise Ministers. Explanatory notes to the FSA1999 state: “it is intended that the Agency as a UK body will be the primary source of policy advice in relation to food safety and associated areas to the Government as a whole, and to the devolved authorities”, and the FSA has access to expertise unrivalled across the UK.

On a day-to-day basis, the executive team in Wales works within the strategic directions set by the Board, liaising with Welsh Government officials and directly advising Welsh Ministers on the development and implementation of policy relating to food safety and consumers’ other interests in relation to food. The vast majority of food legislation that applies in Wales has its origins in the EU. On average each year, around 35 separate new Statutory Instruments related to food safety and standards are made into law in Wales.

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Welsh Ministers may request advice, information or assistance from the FSA on any matter within its remit, and the Board is bound by the terms of the FSA 1999 to provide this.

## Accountabilities

The FSA is accountable through the Minister or Deputy Minister responsible for Health to the National Assembly for Wales in respect of its activities in Wales. National Assembly Committees can require the FSA to provide evidence and information on issues within the FSA remit.

In practice therefore, any Assembly business relating to the FSA (for example, answering questions in plenary), and input into Ministerial decisions, such as on international negotiations, is dealt with through the Minister or Deputy Minister responsible for Health. This maintains clear separation between the food industry sponsorship role of the Welsh Government, and the FSA's role as food regulator.

## Budget

The activities of the FSA executive team in Wales are funded from within the Welsh Government's Health Major Expenditure Group (MEG).

In addition, the FSA provides support to approved meat premises in Wales, including abattoirs and cutting plants, through recouping less than the full cost of inspection and enforcement in these premises. The cost of this support to approved meat premises in Wales is met from the budget voted by the UK Parliament to the FSA.

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# **Annex D: Welsh Government and Food Standards Agency Accounting Officer responsibilities**

## **Accountabilities and Responsibilities of the Principal Accounting Officer for the Welsh Ministers**

The Principal Accounting Officer for the Welsh Ministers is the Permanent Secretary to the Welsh Government. He/she has responsibilities specified by HM Treasury and is accountable to the National Assembly (through the National Assembly's Public Accounts Committee) and to the UK Parliament (through the House of Commons Committee on Public Accounts) for:

- the regularity and propriety of the Welsh Government's finances
- the keeping of proper accounts of the Welsh Ministers, and
- issuing resources in response to payment requisitions made by the Food Standards Agency, and ensuring that the amounts paid are attributed to the correct Main Expenditure Group within the Welsh Government's budget.

The Principal Accounting Officer is also responsible for ensuring that the financial and other management controls applied across the Welsh Government are appropriate and sufficient to safeguard public funds. He/she is assisted in these duties by the Director General for Health and Social Services whom he/she has designated as an Additional Accounting Officer (AAO) and to whom he/she has delegated responsibility for the Food Standards Agency.

## **Accounting Officer responsibilities of the Chief Executive of the Food Standards Agency**

### **General**

The Chief Executive's specific Accounting Officer responsibilities are set out in HM Treasury's Accounting Officer designation letter, and in Chapter 3 of

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Managing Public Money. As Accounting Officer, the Chief Executive is personally responsible for the proper stewardship of the public funds for which he or she has charge; for the day-to-day operations and management of the Food Standards Agency; and for ensuring compliance with the requirements of Managing Public Money. The Chief Executive may be assisted in the exercise of his or her role by employees of the Food Standards Agency. The Chief Executive may also delegate the day-to-day administration of these responsibilities to those employees, but remains responsible and accountable under this document.

## **Accountabilities to the National Assembly**

As regards the funding provided by the Welsh Government, the Chief Executive is accountable to the National Assembly for the following:

- signing the accounts and ensuring that proper records are kept relating to the accounts
- the effective and efficient use of resources, including the funding provided to the Food Standards Agency by the Welsh Government
- ensuring that the accounts are prepared and presented in accordance with HM Treasury's Accounts Direction
- signing a statement of Accounting Officer's responsibilities for inclusion in the annual report and accounts
- signing a Governance Statement for inclusion in the Annual Report and Accounts
- giving evidence, including attending hearings, on matters relating to the Food Standards Agency which arise before the National Assembly's Public Accounts Committee, other committees of the National Assembly, the House of Commons Committee on Public Accounts, or other Parliamentary Committees, to account for the Food Standards Agency's stewardship of public resources, and
- acting upon any recommendations of those committees that have been accepted by the Welsh Government.

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## Relationship with Public Health Division

The Chief Executive shall look to ensure that Public Health Division is:

- kept informed of the development of the Food Standard Agency's annual Business Plan
- provided with timely forecasts and monitoring information on performance and finance, and is notified promptly if overspends or under spends are likely, and that corrective action is taken
- notified as to any significant problems as quickly as possible, and
- provided with such information about the Food Standard Agency's performance and expenditure as it may reasonably require.

## Footnotes

[1] These are all G codes which stand for Government codes. These codes are used when OGDs are to be charged for the work. GBSE – BSE testing verification code; GPAS – Cattle Passport checking code; GWAG – Cleansing and Disinfection code; GBPS – Animal By Products verification code; GDIS – Notifiable Disease code; GNED – Horse Passport verification code (used to stand for National Equine Database but this is no longer operational); GPMR – Poultry Meat Regulation code

[2] A new single body called Natural Resources Wales or Cyfoeth Naturiol Cymru became operational on 1 April 2013 and has brought together the functions of the Countryside Council for Wales, Environment Agency Wales, and the Forestry Commission Wales.

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