

**CONCORDAT BETWEEN
THE FOOD STANDARDS AGENCY AND
THE WELSH ASSEMBLY GOVERNMENT**

Introduction

1. This concordat sets out an agreed framework for co-operation between the Food Standards Agency ("FSA") and the Welsh Assembly Government ("the Assembly Government"). It is not a legally binding agreement or a contract between the FSA and the Assembly 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 Assembly Government to ensure communication and co-ordination is sufficient for each to discharge their respective responsibilities effectively. The concordat is also intended to promote good working arrangements between the FSA and the Assembly Government. The concordat cannot and does not override the statutory duties and powers of either the FSA or the Assembly Government. It will be published. References to the Assembly Government include staff of the Assembly Government.

General Principles

2. The FSA and the Assembly 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 Assembly Government.

3. In particular, the FSA and the Assembly Government agree:
to keep each other promptly and regularly informed about all work being undertaken by one department in which the other has an interest; to give appropriate consideration to the other's views on matters in which each has an interest;
to request advice in good time, and to provide an account of its expected use;
to inform the other without delay of any relevant information which would require their action;
to provide each other with as full and open access as possible, to scientific, technical and policy information, and research and surveillance findings;
to pursue opportunities for joint planning and joint funding of research and surveillance and to co-operate fully where joint programmes are appropriate, and to co-operate fully on public information and education programmes where the FSA and the Assembly Government have shared or overlapping responsibilities.

4. 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).

Welsh Food Advisory Committee

5. 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 which are appointed by the Welsh Ministers, to advise the FSA (but the Committee will not be directly accountable to the Welsh Ministers). The function of the Committee is to give advice or information to the Agency about matters connected with its functions including in particular matters affecting or otherwise relating to Wales. FSA 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.

Financial Arrangements

6. The Accounting Officer of the FSA and the Principal Accounting Officer for the Welsh Ministers have put in place an Accounting Officers Agreement which sets out their relationship in respect of the funding provided by the Welsh Ministers under section 39(3)(a) of the Food Standards Act 1999. The Assembly Government will provide the resources for the functions and running of the Welsh Executive of the FSA located in Cardiff. The FSA will have regard to the guidance set out in Managing Public Money and the Assembly Government's Financial Guidance. In addition, the FSA will meet any procedures required by the Assembly Government in relation to financial accountability and management of the funds for which the Assembly Government is accountable, and presentation of the annual report and accounts, as set out in the Accounts Direction issued under Section 39(7) of and Schedule 4 to the Food Standards Act 1999.

Division of Responsibilities

7. The FSA is a UK body and therefore requires close working relationships with the Assembly Government on food safety and standards related matters. Key issues are set out in the remainder of this concordat. The remit of the FSA is set out in Annex A. The roles and responsibilities of FSA and the Assembly Government with respect to outbreaks and food emergencies will be set out at Annex B in light of the outcome of the Public Inquiry into the E.coli outbreak in south Wales when that has reported.

8. The FSA is a member of the Permanent Secretary's Inspectorates' Forum, along with other Regulation, Audit and Inspection bodies / organisations operating in Wales. The Forum brings together the Chief Inspectors and Chief Executives of these bodies / organisations to discuss how to make regulation and inspection more effective in supporting public service improvement, more accessible to service users, and better co-ordinated for service providers.

Parliamentary and Assembly Government Business

9. Correspondence, Assembly Questions (AQs), Parliamentary Questions and other enquiries, which are wrongly directed or assigned, will be redirected as normal between the FSA and the Assembly Government. The FSA and the Assembly

Government will, as necessary, co-operate to ensure that those enquiries raising issues that relate to shared 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 both the Assembly Government and the FSA, the FSA will provide a contribution to the Assembly Government's reply. The FSA will be obliged to respond to Assembly Government business in accordance with the timetables which apply within the Assembly Government itself in relation to AQ's, Assembly Government correspondence and briefing and the Assembly Government will ensure that the FSA is given reasonable notice of such enquiries.

Legislation

10. The FSA will provide the Assembly Government with proposals as to secondary legislation; any views of the Welsh Food Advisory Committee ; regulatory assessment and the proposed timetable for the legislation to be made. Where EU deadlines apply, the FSA will endeavour to make its legislative proposals as early as possible and will notify the Assembly Government of deadlines and proposed amendments to draft legislation, having regard to the general requirements of the Welsh Ministers to make legislation in both English and Welsh. The Assembly Government will endeavour to make secondary legislation within the timetable determined by the EU or as agreed with England, Scotland and Northern Ireland. Consultations with interested parties in Wales will be carried out by the FSA and summaries of responses, together with the FSA's advice under section 48 (4A) of the Food Safety Act 1990 (the 1990 Act") will be provided to the Assembly Government reasonably soon after the end of consultation.

Public Bodies

11. The FSA and the Assembly Government agree to keep each other informed about the establishment and operation of any such bodies, for which they have responsibility, whose work has implications for each other's activities. In addition, the FSA and the Assembly 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 include issues such as appointments, provision of secretariat, agendas and briefing and payment of fees and expenses.

Local Government

12. This concordat recognises the close working relationship between the Assembly Government and local government in Wales in areas such as the Partnership Council and the Wales Programme for Improvement. The Assembly Government and the FSA will endeavour to keep each other informed of any protocols developed between themselves and local authorities in Wales and to keep each other apprised of relevant matters arising.

13. 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.

14. The FSA will, by the end of July in each year, identify to the Assembly 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 Assembly Government will take this resource statement into account in considering the funding it will make available to local authorities in Wales.

European Union and International Arrangements

15. 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 Assembly Government recognise the need to work together constructively in relation to common 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 Organisation, the World Trade Organisation and other international organisations. Any views of the Assembly Government or the Welsh Food Advisory Committee will be taken into account in determining the UK negotiating position the FSA will follow on European business. On occasion, this may involve staff of the Welsh Executive of the FSA attending working level meetings in Brussels.

Arrangements for Handling Emergencies

16. The FSA and the Assembly 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. A close working relationship with other bodies / organisations is also important including the Health Protection Agency (HPA) and the National Public Health Service for Wales (NPHS)

17. The FSA and the Assembly 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.

18. The FSA and the Assembly 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 Assembly Government's emergency plan. Annex B when finalised will set out outbreak response arrangements.

FEPA

19. The FSA is responsible for emergencies and food chain safety under the Food and Environmental Protection Act 1985 (FEPA) and the 1990 Act. Under section 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. 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.

Agriculture

20. FSA Wales and officials in the Assembly Government Department for Rural Affairs and Heritage have developed a working agreement to set out a co-ordinated way of working together on issues of joint interest.

Meat Hygiene Service

21. The Meat Hygiene Service (MHS) is an Executive Agency of the FSA. As such, reporting of meat hygiene and relevant enforcement activity to the Assembly Government will be through the FSA. The MHS has a Service Level Agreement with the FSA in respect of the audit, inspection and enforcement of meat hygiene and related services in GB, including Transmissible Spongiform Encephalopathy (TSE) controls on specified risk material, checks on imports and animal by-products identification rules. The MHS is a GB service and, as such, it will not have a separate reporting structure in respect of activity or expenditure conducted in Wales except insofar as the Assembly Government may commission such reports.

22. MHS will therefore continue to enforce legislation on animal health and welfare at slaughter on behalf of the Assembly Government under a Service Level Agreement between MHS and the GB rural affairs departments. Areas covered by this Service Level Agreement include TSE testing, cleansing and disinfection of livestock vehicles, exports (meat and meat products), animal by-products and taking samples for Brucellosis and TB purposes. There are also GB-wide Service Level Agreements between the MHS and the Rural Payments Agency (RPA) covering work relating to the Older Cattle Disposal Scheme and cattle identification checks.

23. The Chief Executive of the MHS is the Accounting Officer for expenditure in respect of the activities of the MHS undertaken on behalf of the Assembly Government. Reporting of and accounting for the activities of the MHS in respect of activities undertaken on behalf of the Assembly Government shall be in accordance with the provisions of the Service Level Agreement between the MHS and the GB rural affairs departments. The MHS is accountable through the FSA to the Assembly Government for the operation of the MHS in Wales (i.e. operation in respect of work for the FSA as opposed to activities undertaken on behalf of the Assembly Government under the SLA.)

24. The MHS is funded at the UK level and as such will have no claim on the Assembly Government in respect of any fees, charges or financial contributions other than for matters specified in Service Level Agreements or as may be jointly agreed. The Service Level Agreements provide for invoices for MHS charges to be sent to the FSA, DEFRA and RPA on a monthly basis for payment.

Pesticides Safety

25. 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 Assembly Government on any pesticide-related issues within its remit.

Foodborne Zoonoses and TSEs

26. The FSA has overall responsibility for production of a "farm to fork" strategy for reduction of zoonoses in the foodchain. However the Assembly's Department for Rural Affairs and Heritage retains responsibility, and will take the lead, on the animal health and welfare aspects of the strategy. The FSA and the Assembly 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 the HPA and the NPHS.

27. There is also a continuing need for a close working relationship between the Assembly 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.

Radioactivity Monitoring

28. Following the Chernobyl nuclear accident in 1986, restrictions on the movement and slaughter of sheep are still in place in north Wales. The FSA will provide funding to the Rural Inspectorate for Wales under a Service Level Agreement, to monitor the levels of radioactivity in sheep leaving a restricted area. In accordance with the Service Level Agreement, the Assembly's Department for Rural Affairs and Heritage will provide a written assurance each year as to the adequacy of the control and monitoring systems in place to ensure these resources are used effectively and efficiently and in a manner that safeguards regularity and propriety.

Dairy Hygiene

29. The FSA will advise the Assembly Government on dairy hygiene matters. The Dairy Hygiene Inspectorate is part of DEFRA and it will continue to provide a dairy hygiene inspection service for the FSA under a separate Service Level Agreement.

Labelling

30. The FSA will advise the Assembly Government on food compositional issues and on labelling where this relates to hygiene, nutrition or consumer choice, but will not be responsible for schemes aimed at marketing food products.

Novel Foods

31. The FSA will advise the Assembly Government on food safety and consumer choice aspects of novel foods policy, including approval procedures and labelling.

All novel foods (including GM foods) are subject to pre-market safety assessment. In the UK the FSA is the Competent Authority for receipt of applications. The independent Advisory Committee on Novel Foods and Processes (ACNFP) carries out all novel food assessments. In relation to GM food and feed applications the scientific risk assessment will be undertaken by the European Food Safety Authority.

Animal Feedingstuffs

32. The FSA will advise the Assembly Government on the safety, composition and labelling of animal feeding stuffs, including GM issues.

Health

33. The FSA will take into account the Assembly Government's priorities for health and will contribute, within its remit, to achieving the goals of the Assembly Government's public health strategies. In formulating public health strategies the Assembly Government will seek the advice of the FSA on issues within the Agency's remit.

Food-borne Communicable Diseases

34. The FSA and the Assembly Government have a shared interest in communicable diseases, although each has its specific remit. The Assembly 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 matters and is the adviser to the Welsh Ministers on food-borne disease. The FSA and the Assembly 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 the HPA and NPHS.

Nutrition

35. The FSA and the Assembly Government both have important roles and will co-operate closely on nutrition issues. This may include joint events and public education initiatives. Officials of the FSA and the Assembly Government's Health Improvement Division will meet regularly to facilitate effective joint working and avoid duplication.

The FSA will:

Be responsible for monitoring and surveillance of the nutrient content of foods and the diet.

Formulate policy advice as regards the nutrient content of individual foods and the diet as a whole, ensuring that the people of Wales benefit from the evidence base developed by the FSA on this and other issues.

Work with the Assembly Government in the development and delivery of food and health policy in Wales and, in particular support the Assembly Government in its commitment to integrate nutrition and physical activity policy and programmes.

Ensure that UK wide campaigns are delivered effectively and bilingually in Wales. Engage the NPBS, utilising its relationship with local partners and the resulting local delivery mechanisms in the dissemination. and

Inform and support Health Challenge Wales.

This framework will be underpinned by the development of an annual agreement between the Assembly Government Health Improvement Division, FSA Wales and the NPBS detailing specific deliverables.

National Public Health Service Wales

36. The Public Health Laboratory Service (PHLS) in Wales transferred to the National Public Health Service (NPBS) on 1 April 2003. The NPBS will work closely with the FSA, and the Assembly Government is facilitating this relationship and ensuring that through business planning and NPBS commissioning arrangements, the work of the NPBS and FSA in Wales will be complementary. Where appropriate the FSA's Welsh Executive will commission work directly from NPBS and the costs of this work will be met from the FSA's budget.

Environment

37. The Assembly Government has responsibility for environmental policy including environmental protection, radioactivity, waste, water, coastal and flood defence and nature conservation. The Assembly Government sponsors Environment Agency Wales (EAW), which regulates processes and their discharges to the environment. On applications, registrations and authorisations, the Assembly Government can give directions to the EAW. The Assembly 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 Assembly Government may call in applications and hold local inquiries on such applications. In advising the Assembly Government the FSA will take into account the Welsh Ministers sustainable development duty.

38. The FSA will act as statutory consultee to the EAW on the food safety aspects of Integrated Pollution Control or Integrated Pollution Prevention Control Directive applications in Wales.

39. 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.

Education

40. The FSA and the Assembly Government's Health Improvement Division recognise the importance of each others roles in relation to education/ educational resources. The FSA will promote UK Campaigns and education programmes in Wales as well as developing appropriate resources specific to Welsh needs which support Assembly Government policy on the food and physical activity agenda utilising existing Welsh networks to ensure maximum coverage. The FSA will also engage the Assembly's Department for Children, Education, Lifelong Learning and Skills in such initiatives.

Charging

41. The FSA and the Assembly 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, Assembly Government guidance will be followed and payment will normally be made at full cost recovery.

Legal Services

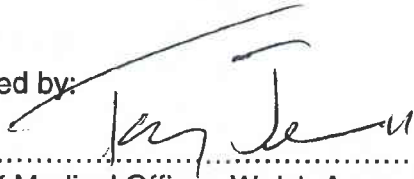
42. The Legal Services Department of the Assembly Government will be responsible (in close liaison with the FSA legal group in London and FSA officials in Cardiff) for the drafting of relevant secondary legislation in the light of proposals brought forward by the FSA and/or EU requirements, and for the handling of litigation against the Welsh Ministers arising out of such legislation. Assembly 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.

Operation and Review of Bilateral Concordats

43. The FSA and the Assembly Government are committed, wherever possible, to resolving any disagreements under this concordat, through normal administrative channels. If necessary and appropriate, matters will be pursued through the normal government machinery.

44. Amendments to this concordat may be made at any time by agreement between the FSA and the Assembly Government. In addition, this concordat will be reviewed at intervals to be agreed between the FSA and the Assembly Government, and be updated as necessary in the light of experience of its operation in practice.

Signed by:



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Chief Medical Officer, Welsh Assembly Government



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

Date: 4 September 2008.....

THE REMIT OF THE FOOD STANDARDS AGENCY

The main 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 nutrition policy 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 Assembly Government.

ANNEX B

OUTBREAKS AND FOOD EMERGENCIES

(To be drafted)