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Review of the Food Standards Agency function in Wales

A report prepared for Welsh Government

Published: February 2026

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List of Abbreviations

ABC	Achieving Business Compliance
BTOM	Border Target Operating Model
CPD	Continuing Professional Development
DAERA	Department of Agriculture, Environment and Rural Affairs
DHSC	Department for Health and Social Care
DNA	Deoxyribonucleic acid
DPPW	Directors of Public Protection Wales
EHW	Environmental Health Wales
EU	European Union
FACs	Food Advisory Committees
FCSL	Food Compositional Standards and Labelling
FFSH	Food and Feed Safety and Hygiene
FHRS	Food Hygiene Rating Scheme
FSA	Food Standards Agency
FSS	Food Standards Scotland
GMO	Genetically Modified Organism
GoWA	Government of Wales Act
HPAG	Health Protection Advisory Group
LA	Local Authority
LAEMS	Local Authority Enforcement Monitoring System
NFCU	National Food Crime Unit
NHS	National Health Service
NRW	Natural Resources Wales
OCVO	Office of the Chief Veterinary Officer
PBO	Precision Bred Organism
PHW	Public Health Wales
SPS	Sanitary & Phytosanitary
SSAFW	Safe Sustainable Authentic Food Wales
ToR	Terms of Reference
TSW	Trading Standards Wales
UKHSA	United Kingdom Health Security Agency
UN SDG	United Nations Sustainable Development Goals
WFAC	Welsh Food Advisory Committee
WHO	World Health Organisation
WLGA	Welsh Local Government Association

1. Executive Summary

Background and purpose

The Food Standards Agency (FSA) is an independent, non-ministerial Government department operating across England, Wales and Northern Ireland, with the main objective of protecting public health from risks arising from consumption of food, and to protect the interests of consumers in relation to food. Since original establishment, governmental and external changes have affected the role and remit of the FSA, including transfer of nutrition and nutrition-labelling policy, establishment of the Food Standards Scotland public body, and FSA taking on responsibility for additional functions following the UK's exit from the European Union. In recognition of these changes, Cardiff Metropolitan University was commissioned by the Welsh Government to conduct an independent review of the Food Standards Agency (FSA) function in Wales. The review examined the FSA's policy remit, governance arrangements, and its role within the devolved system. The aim was to assess the effectiveness of current systems and offer targeted recommendations for improvement, rather than proposing large-scale changes or altering the overall direction and remit of FSA activity.

Methods

The review adopted a qualitative approach using interviews and focus groups involving 31 stakeholder participants, including FSA staff, Welsh Government officials, and local authority representatives, informed by a desktop review of relevant policy and governance documentation. The desktop study provided the contextual and documentary foundation for the research, while the interviews explored stakeholder perspectives in greater depth. Findings were developed through thematic analysis of participant interview transcripts.

Findings

The FSA shows clear commitment to public health, and strong values of transparency and independence. Stakeholders praised the dedication of its staff, the quality of its advice, and its ability to maintain high standards in food safety and regulation. The organisation is seen as a trusted voice in Wales, with a clear public health mission and a collaborative ethos.

Formal governance structures are generally well-established, and the FSA has developed effective informal mechanisms to support day-to-day coordination with the Welsh Government. These include regular catch-up meetings and strong interpersonal relationships that facilitate responsive decision-making. However, the 2016 concordat between the FSA and Welsh Government is now outdated and requires revision to reflect current realities and ensure clarity in roles and responsibilities. Terms of reference for the Animal Feed Governance Group have been drafted but not yet finalised and agreed.

The UK's exit from the EU has triggered structural change across policy and delivery functions, requiring FSA to establish its own risk assessment mechanisms, expand scientific capacity and take on new regulatory responsibilities (e.g. for market authorisations). FSA has responded proactively by improving and streamlining internal processes. Rapid devolvement of regulatory responsibilities to Welsh Ministers has presented challenges, particularly in areas where there is limited Welsh Government capacity to conduct technically complex processes such as environmental impact assessments. The policy landscape for imported foods is highly complex following EU Exit. A clearer understanding by all partners and stakeholders of defined roles and responsibilities within this landscape would assist policy coherence.

The FSA in Wales operates within a complex devolved landscape and has shown agility in responding to policy divergence. FSA provides consistent science-based advice across all nations, but where Ministers in different jurisdictions adopt different approaches, FSA adapts delivery approach to ensure divergent positions are implemented effectively. Since EU Exit, UK Common Frameworks are being developed to ensure a co-ordinated approach regarding powers returned from the EU that intersect with devolved responsibilities. FSA represent Wales on two provisional common frameworks (Food and Feed Safety & Hygiene, and Food Compositional Standards and Labelling). While FSA is generally seen as responsive to Welsh priorities, there is scope for FSA to enhance its influence within UK-wide frameworks and ensure more timely engagement with Welsh Ministers and policy teams to ensure devolved and constitutional concerns are addressed.

FSA provide independent advice to Welsh Ministers under section 6 of the Food Standards Act 1999. In addition, under functions delegated to FSA under section 83 of the Government of Wales Act 2006, FSA exercise specific functions on behalf of Welsh Ministers. For example, FSA manages market authorisation consultations and provision of risk management advice to Welsh Ministers. Welsh Ministers retain the legal responsibility for the final decision and determination of market authorisations. In such situations, the FSA advice is subject to review by the Welsh Government legal service. These governance arrangements, unique to the devolved situation in Wales, did not appear to be fully understood by all parties and require clarification.

Transparency is a core principle of the FSA, demonstrated through public Board meetings and the publication of Board papers and other key documents. Welsh Government interviewees valued the independent voice of the FSA as a non-Ministerial government department. Some specific concerns were raised by local authority interviewees about the closed meetings of the Welsh Food Advisory Committee (WFAC) (FSA Board preparation meetings), delays in publishing minutes of open themed WFAC meetings, and the lack of transparency around local authority audit outcomes.

The FSA's relationship with local authorities (LAs) is characterised by a shared commitment to food safety. The relationship is inherently complex, shaped by the FSA oversight role and LAs responsibility for delivery. The collaborative agreement between the FSA, local authorities, the Welsh Local Government Association and Welsh Government on policy development for food regulation reform is seen as a useful framework, although its impact on day-to-day engagement has been mixed and there are frustrations from both FSA and LAs around communication and consultation arrangements for policy development. The Safe Sustainable Authentic Food Wales group had been established to enable high-level co-ordinations between FSA in Wales, LAs and other stakeholders on food law policy and practice, but is currently inactive and could be revitalised to support more collaborative working. The relationship between the FSA in Wales and local authorities would benefit from a negotiated reset process to re-establish mutual understanding, trust, and agreed ways of working.

Recommendations

1. Finalise and implement the updated Concordat between the FSA in Wales and Welsh Government.
2. Review, refine and document liaison arrangements between FSA and Welsh Government policy teams.
3. Ensure appropriate Welsh Government representation on, or input into, Common Frameworks and cross-governmental forums to ensure Welsh devolution and constitutional interests are protected.
4. Finalise formal Terms of Reference for the Animal Feed Governance Group.
5. Foster two-way dialogue to reset and improve the relationship between FSA in Wales and local authorities.
6. Reinforce and monitor the implementation of the collaborative agreement between FSA in Wales, Local Authorities in Wales and the Welsh Government.
7. Develop/revise and agree clear protocols for communication and representation between FSA in Wales and local authorities in Wales.
8. Review and reactivate or replace the Safe Sustainable Authentic Food Wales group.
9. Restore and enhance publication of local authority enforcement performance data to support benchmarking and promote collaboration.

2. Conclusions

This review found an overall governance landscape where formal structures are well-articulated and are perceived by those involved to be well-established, though in the case of the 2016 Concordat, now in need of significant update to reflect current responsibilities and arrangements. Terms of reference for the Animal Feed Governance Group have been drafted but not yet finalised and agreed. Beyond these formal structures, many informal arrangements and 'catch-up meetings' are an inevitable part of efficient ways of working and provide flexibility, responsiveness and foster a collaborative environment. However, the informality of these arrangements and reliance on key individuals may present challenges to continuity, strategic follow-up and may impinge on the business of formally established groups or committees.

The UK's exit from the EU has triggered long-term structural change and increased regulatory complexity across the UK's food safety system, requiring a wholesale transformation in remit and internal capability in FSA policy and delivery functions. FSA has responded proactively by improving and streamlining internal processes. Rapid devolvement of regulatory responsibilities to Welsh Ministers has presented challenges, particularly in areas where there is limited Welsh Government capacity to conduct technically complex processes such as environmental impact assessments. The review of the Concordat provides an opportunity to clarify and optimise these arrangements. The policy landscape for imported foods is highly complex following EU Exit, and whilst FSA has oversight in some areas (public health related to food and feed), animal and plant health and biosecurity at borders rest with Defra in England, and Welsh Government in Wales. Other areas, such as international trade policy, are reserved and not devolved. The systems for food and feed import control in Wales would benefit from greater policy coherence, and clearer understanding of defined roles and responsibilities within a complex policy landscape.

Participants recognised the challenges of dual accountability and divergence between nations in a devolved system – how Welsh Ministers' priorities are incorporated into FSA policy development across 3 nations (Wales, England and Northern Ireland), and the capacity of FSA to support divergent policy positions. FSA considers that their teams can function effectively in this manner and are used to

doing so across the 3 nations. Practical issues arise from a limited cross-government understanding of how devolution alters the functions of FSA in Wales compared to England, and consequently policy development not involving the right people at the right time, and potential constitutional or legal implications not being explored in a timely fashion. Strengthening mutual understanding of ministerial priorities might improve early alignment and ensure appropriate Welsh representation in cross-government policy activity.

The policy environment for nutrition and labelling is also complex due to the varying arrangements for responsibility of different aspects between England, Wales and Northern Ireland. Differing priorities of the departments responsible for policy in England (Defra) and Wales (FSA in Wales, informed by priorities of Welsh Ministers) further complicate the situation. Precision-bred organisms (PBOs) policy in England provided an example of this, where there is the potential in the future of products containing PBOs produced and regulated under English policy being sold in Wales and subsequently not meeting Welsh consumer and enforcement expectations (where PBOs would continue to be classed as GMOs). FSA should continue to use their close working relationships with key stakeholders across the UK and engagement in relevant Common Frameworks to ensure that the differences in policy remit between nations are recognised, for example when Defra are considering labelling arrangements in England. Induction and training arrangements for new members of staff emphasise Welsh interests (such as on labelling and composition expectations). There may be opportunities to further strengthen and integrate Welsh Government and FSA involvement in labelling groups and frameworks to ensure that Welsh priorities are considered and reflected in UK-wide policy decisions.

A key FSA role is to provide independent advice to Welsh Ministers under section 6 of the Food Standards Act 1999. However, when FSA provide advice to the Minister under functions delegated under section 83 of the Government of Wales Act 2006, the Agency is acting as the Welsh Minister's policy advisory division, not as an independent regulator. Such communication is first subject to review by the Welsh Government legal service, which whilst an essential part of collaboration can lead to delays and the perception that FSA advice was 'tempered'. These arrangements, unique to the devolved situation in Wales, did not appear to be fully understood by all

parties. Responsibilities in some situations are complex across multiple ministerial briefs and policy teams within Welsh Government. Both FSA and Welsh Government interviewees recognised the need to clearly define statutory responsibilities and advice mechanisms for Ministers, particularly given the likely policy and legislative impacts of changes in the UK's alignment with the EU. Resolving issues of priority alignment and legal resourcing is contingent on achieving further clarity on agreed roles, functions and governance structures. Review of the Concordat provides a timely opportunity to clarify for common understanding, and redefine these arrangements to meet future needs.

FSA view transparency as a core organisational value and defining feature supported by practical mechanisms in day-to-day delivery. Informal arrangements for engagement between FSA and Welsh Government work well from the perspective of those involved, but may challenge the perception of transparency from the viewpoint of others not engaged in the discussions. On the other hand, fully minuting all conversations and meetings would not be practical and might hinder open and honest exchange of views at early stages of policy development. Complexity around transparency in operational communication were recognised, particularly when managing information flow about outbreaks or emerging risks and not wishing to overwhelm partners (e.g. local authorities) with information. Local authority participants highlighted concerns about transparency of decision-making regarding resourcing, closed sessions and unavailability of minutes of WFAC meetings, and approach to audit and performance monitoring of LA enforcement. The FSA has clear commitments to transparent decision-making and communication but there are challenges in ensuring that these commitments are implemented effectively and consistently in practice.

The nature of the relationship between Welsh LAs and the FSA is inherently complex as the organisations work in partnership on delivery of safe food, but FSA also have an oversight, auditing and monitoring role on LA performance as enforcing authorities. Frustrations were voiced by both FSA in Wales and LA interviewees around the arrangements for communication of information and consultation on policy development, suggesting that the current arrangements are not working for any of those involved. The collaborative agreement (Welsh Government, 2023) was seen to have improved the structure of the relationship, but some felt that this had

not led to significant changes in policy development practices. The Safe Sustainable Authentic Food Wales (SSAFW) group had been established to enable high-level coordinations between FSA in Wales, LAs and other stakeholders on food law policy and practice, but had not met for some time – despite the concept of SSAFW as a single structured multi-stakeholder forum being generally regarded as sound and necessary across FSA, Welsh Government and LAs interviewees. Overall, the relationship between FSA in Wales and Welsh LAs would benefit from a ‘negotiated reset’ process to re-establish mutual understanding, trust, and agreed ways of working.

3. Recommendations

Based on the findings of the review, the following recommendations are made:

Recommendation 1: Finalise and implement the updated Concordat between the FSA in Wales and Welsh Government

The current revision of the Concordat should be completed and implemented within the next 12 months. The updated document should clearly define the roles and responsibilities of each party, especially around regulatory and policy functions, and define clear procedures for submitting advice to Welsh Ministers. Procedures for submitting advice to Welsh Ministers should clearly define and distinguish between when the FSA is exercising its own powers under section 6 of the Food Standards Act 1999, and when acting on behalf of Welsh Ministers through arrangements under section 83 of the Government of Wales Act 2006. Roles, responsibilities and arrangements for the provision and sharing of legal advice should be reviewed and streamlined where appropriate. Once finalised, the revised Concordat should be formally communicated across FSA and Welsh Government teams, and its implementation reviewed at the next coordination meeting.

Recommendation 2: Review, refine and document liaison arrangements between FSA and Welsh Government policy teams

FSA in Wales and Welsh Government should jointly review current communication pathways, particularly the role of the FSA sponsor team and how direct and timely engagement between FSA officials and relevant policy teams can be enabled whilst maintaining appropriate oversight. This could take place alongside the review of the Concordat, or as a formal part of the Concordat if considered appropriate. This should reflect the FSA functions being exercised, distinguishing between the Agency's own section 6 powers, where the sponsor team role is minimal, and those delegated by Welsh Ministers (section 83 arrangements) where the sponsor team play a crucial role in ensuring appropriate legal and constitutional advice is sought and reflected. Where responsibilities span multiple ministerial briefs, consideration should be given to joint briefings or co-ordination, where this does not already happen. To reduce reliance on informal networks and institutional memory, simple 'quick reference' process documentation for officials involved in co-ordination should

be created and shared, for example as process maps or memoranda of understanding.

Recommendation 3: Ensure appropriate Welsh Government representation on, or input into, common frameworks and cross-governmental forums to ensure Welsh devolution and constitutional interests are protected

A joint review should be undertaken within the next 6 months to identify any remaining forums and framework groups where Welsh Government is not directly represented. Where FSA holds the policy lead, options should be considered to strengthen reporting and briefing structures between the FSA in Wales and Welsh Government to reinforce Welsh input.

Recommendation 4: Finalise formal Terms of Reference for the Animal Feed Governance Group

Terms of Reference for the Animal Feed Governance Group should be agreed and communicated to relevant stakeholders within the next 6 months. The documentation should define remit, membership, and decision-making authority, and include a mechanism for periodic review to ensure the group remains relevant and effective.

Recommendation 5: Foster two-way dialogue to reset and improve the relationship between FSA in Wales and local authorities

Collaborative spaces for discussion focused on addressing and improving the current challenges to the professional relationship between LAs and FSA in Wales should be developed within the next 6 months. Structured and evidenced mechanisms should be used to realise positive change and restore trust and mutual understanding. Approaches that could be considered include:

- ◆ Facilitated use of partnership review & development tools to re-establish and reinforce a shared vision and common understanding, and appropriate communication processes and mechanisms. For example, the UN Sustainable Development Goals Partnership Guidebook (Stibbe and Prescott, 2020) provides practical guidance and tools that can be used to establish and review multi-stakeholder partnerships.

- ◆ Creating structured digital feedback mechanisms, such as an “engagement portal” where LAs can log concerns and receive tracked, time-bound responses.
- ◆ Developing a light-touch conflict resolution framework, including joint assessments of potential friction points and access to neutral facilitation where disputes arise.

Recommendation 6: Reinforce and monitor the implementation of the collaborative agreement between FSA in Wales, Local Authorities in Wales and the Welsh Government

All partners to the collaborative agreement should ensure that they are operating in ways that ensure the objectives of the agreement can be met. To support this, a system of annual reporting on how joint working principles are being implemented should be introduced, including specific examples and progress updates. Reporting could be to the Welsh Government sponsor team, or to another appropriate partnership forum or oversight group. A light-touch review of the collaborative agreement may be beneficial, to include developments since closure of the Achieving Business Compliance programme, and/or to remove specific reference to this programme.

Recommendation 7: Develop/revise and agree clear protocols for communication and representation between FSA in Wales and local authorities in Wales

To support the effectiveness of the collaborative agreement, FSA in Wales, Directors of Public Protection Wales (DPPW), Welsh Local Government Association (WLGA) and other relevant local government representative panels and organisations should jointly develop/revise and agree clear protocols for communication and representation. This should include open discussion of perceived flaws or difficulties in the current processes used for gathering input from and disseminating feedback to all 22 LAs, and responding to representations made by LA representative panels. A plan of timed actions should be established to restore faith in the communication and representation processes.

Recommendation 8: Review and reactivate or replace the Safe Sustainable Authentic Food Wales group

The Safe Sustainable Authentic Food Wales (SSAFW) forum should be reviewed and either restored or replaced with a clearly documented alternative(s) providing the same benefits within the next 12 months, bringing together regulators, LAs, industry, consumers, and academia. The SSAFW group or its successor(s) should operate with a clear mandate, be clearly supported by the FSA in Wales and other partners through its use as a central resource to inform food law strategy, policy and delivery, in support of the Welsh Food Advisory Committee. FSA in Wales should ensure the group has adequate resources to perform its function including prompt appointment of an appropriate Chair.

Recommendation 9: Restore and enhance publication of local authority enforcement performance data to support benchmarking and promote collaboration

Regular publication of LA food law enforcement data should resume as soon as reasonably practicable. Local authorities should be actively engaged in development and piloting of new audit and performance monitoring systems. Reporting should be detailed enough to enable benchmarking and to promote effective learning and dissemination of high-quality and/or innovative approaches, while ensuring confidentiality where necessary. Local authority contributions on what would be valuable in reporting should be considered to promote effective use of aggregated data and prioritise shared learning.

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