UPDATE ON STRENGTHENING FSA CAPABILITY, SYSTEMS AND RELATIONSHIPS FOLLOWING THE HORSEMEAT INCIDENT

Report by Steve Wearne, Director of Policy

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1 SUMMARY

1.1 The FSA Board received a written update at its open meeting on 21 January 2014 and subsequent oral updates in March, June and September 2014. This paper provides a further update on progress against the following key themes:

- improving intelligence;
- Major Incident Plan;
- prosecution and penalties;
- laboratory services and surveillance; and
- working with others

1.2 The Board is asked to:

- Discuss: progress to date

2 INTRODUCTION

2.1 The Food Standards Agency has been proactive in identifying issues and putting in place arrangements and plans since the horsemeat incident in order to improve our capacity and capability to prevent, identify and respond to similar significant incidents in the future. Much of this work has been developed in parallel with the various reviews and inquiries which have been undertaken by Troop\(^1\), Scudamore\(^2\), Jones\(^3\), Borg\(^4\), the National Audit Office (NAO)\(^5\), Environment, Food and Rural Affairs (EFRA) Committee\(^6\), and

\(^1\) Review of Food Standards Agency response to the incident of contamination of beef products with horse and pork meat and DNA: An Independent Report by Professor Pat Troop, 28 June 2013. Available at: http://www.food.gov.uk/news-updates/news/2013/jul/horse-review


\(^3\) Report of the Expert Food Group (chaired by Ray Jones) to Scottish Government. Available at http://www.scotland.gov.uk/Topics/farmingrural/Agriculture/Livestock/Meat/rayjonesreport

\(^4\) European Commissioner Tonio Borg, 5-point Action plan, 12 March 2013 http://ec.europa.eu/dgs/health_consumer/dyna/consumervoicer/create_cv.cfm?cv_id=891


As a result, a significant proportion of the recommendations from those reviews which fall to the FSA have already been addressed.

2.2 Looking beyond these reviews, we are also working with the new Food Fraud Unit in the European Commission on resilience and co-ordination within the EU and working with the Codex Committee on Import and Export Certification to explore how anti-fraud measures might be built into the control and certification systems that underpin international trade.

2.3 For each of the key themes addressed in this paper, Annex 1 summarises developments since the horsemeat incident, describing the position in January 2013, the current state of play, and the anticipated position at the end of this financial year.

2.4 The FSA work on food integrity and countering food fraud forms part a broader programme being conducted across UK Government. In order to bring together departments with an interest in the integrity of the food chain, consumer protection and confidence and food surveillance, a strategic Food Integrity and Food Crime group has been established. The group will be chaired by the Defra Minister for Food and Farming and membership includes the FSA Chair. This will not be a policy making group. It will share information on areas of joint interest to support co-ordination; horizon scan future issues; and track implementations of the Government response to the Elliott Review.

3 STRATEGIC AIMS

3.1 We are engaging stakeholders on our draft strategy from 2015, which will set the high level direction for the organisation. As part of this work we have sought to articulate the breadth of consumer interests in relation to food, and we believe that food being safe and what it says it is remains a key part of our mission. The Strategic Plan, which will be published in 2015, will be clear on the actions we will take over the next five years to protect consumers from the detriment caused by food fraud.

4 EVIDENCE

4.1 The continuing work to improve our systems and capabilities relating to the collection, handling and management of intelligence will be informed by our future strategy for science, discussed by the Board at its September meeting, in particular:

- better use of futures, intelligence and strategic analysis; and
- working in partnership and taking a systems approach, to reflect the complexity of the food system and peoples’ behaviours

4.2 Social Science Research Committee agreed at its meeting on 30 September to undertake a review of relevant social science evidence to inform the development of the Food Crime Unit and, in particular, the planned review in two years’ time. In order to ensure that there is appropriate breadth of expertise the committee plans to engage others from its Register of Specialists.

5 DISCUSSION

Intelligence Hub

5.1 The FSA established an intelligence hub in December 2013, based on the existing Emerging Risks programme and underpinned by the National Intelligence Model operated by UK law enforcement bodies. To supplement our existing capabilities, we recruited a team of national intelligence analysts to the hub. As of the end of September 2014 the intelligence hub had identified a total of 46 potential issues. Five generic priority areas for further investigation had also been identified, namely;

- company identity theft
- livestock theft and illegal slaughter
- mislabelling - deliberate meat and fish substitution
- counterfeit and illicit alcohol
- sale and supply of food destined for animal feed

5.2 In addition to this, we have also been working closely with trade associations and other industry interests to develop active channels through which intelligence can be fed to the FSA, and through which we can feed back its analysis of intelligence to help food businesses best protect themselves from food fraud threats. The FSA is using existing communication forums such as the Emerging Risks Consultative Forum and the Defra led Food Chain Emergency Liaison Group to exchange intelligence and advice.

5.3 Additional forums for sharing and aggregating intelligence including the development of a network of trade associations and a series of industry owned ‘safe spaces’ are also being explored. We expect the first of these channels to be established by industry by the end of 2014.

The Food Crime Unit

5.4 The Food Crime Unit is a natural extension of the FSA’s earlier work to create an intelligence hub. We have taken the opportunity of recent restructuring to bring together and refocus the FSA’s intelligence capabilities, outlined above and our investigation capabilities provided by 19 Investigators dealing with food fraud and incidents and 6 legal Investigators. These will form the core of the Food Crime Unit, which will be operational by the end of the year, harnessing our existing expertise in intelligence handling, our understanding of the food chain and our criminal law investigation capability. We are recruiting a small number of additional permanent and seconded staff to the
intelligence and investigations teams to support this work. Recruitment includes a specialist Head of Intelligence and a team of 4 regional intelligence analysts.

5.5 The Unit will also be supported by a range of investigation and enforcement partners with whom the FSA has already established links, including the National Fraud Investigation Bureau and the National Trading Standards Board. The FSA will access not only local, regional and national intelligence networks, but also the networks being established across the EU and more widely.

5.6 This is a staged process, with the first phase seeing the Agency build the intelligence and evidence picture of risks and the nature of food fraud and food crime in the UK. We anticipate being able to build and maintain the Food Crime Unit through this first phase of its operation from within our existing resources. This will in itself be a significant achievement as, in common with most other Government Departments, the FSA’s budget has been reducing in recent years. Estimated costs for the Food Crime Unit in financial year 2014-15 are £1.5 million. It is estimated that annual costs thereafter will rise to £2 million for the duration of this first phase.

5.7 As set out in the Government response to the Elliott review, we shall review progress and future needs after two years. If this review were to propose an expanded remit or operations for the Food Crime Unit, moving for example to a unit with the scope and scale of that operated by the NVWA in the Netherlands, very significant additional resource would then be needed. Professor Elliott has estimated the cost of this at £36 million which would be more than a third of the FSA’s current budget.

Incident Management Plan and Crisis Management

5.8 Following the horsemeat incident, the FSA developed a new Incident Management Plan, in consultation with partners from other Government departments and agencies, Local Authority professional bodies and representative industry and consumer organisations. The final version of the plan was agreed by the FSA Board on 11 June 2014. Supporting Standard Operating Procedures (SOPs) are currently being developed with the involvement of colleagues in the Devolved Administrations. The SOPs are being phased in and will be fully in place by December 2014. Continual review of FSA plans and procedures to respond to incidents and overall emergencies preparedness will be overseen by a new Emergency Preparedness, Resilience and Response Board. The responsibilities of the Board will include ensuring lessons are learnt from review of exercises and incidents classed as ‘serious’ and above. The Board will also report annually on the FSA’s capability in this respect.

Incident Response Capability and Emergency Exercise Programme

5.9 The FSA has commissioned the development and delivery of a programme of exercises to rehearse and rigorously test the new Incident Management Plan
working in partnership with stakeholders, including key Government departments and agencies involved in the response to major food incidents. The programme will comprise of several table top exercises this Winter and a large-scale two day emergency exercise in Spring 2015. We will revise the Incident Management Plan and its supporting protocols in the light of the exercises.

Prosecutions and Penalties

5.10 The FSA has seen positive progress in our efforts to ensure that sentencing for food hygiene offences is consistent and properly reflects the level of criminality. We have taken forward discussions with officials from the Office of the Sentencing Council on the preparation of sentencing guidelines for offences under the Food Safety and Hygiene (England) Regulations 2013 and the equivalent provisions in Wales. Draft guidelines for both organisations and individuals have been produced and were considered by the Sentencing Council on 26 September 2014. The draft guidelines seek to categorise offences by identifying the level of culpability and harm and then sets sentencing ranges based, in the case of organisations, on their turnover. The Office of the Sentencing Council is aiming to finalise the draft guidelines and issue them for consultation in November 2014.

5.11 We are also awaiting the implementation of provisions in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 relating to maximum fines which may be imposed on summary conviction. This will remove the existing maximum fine of £5,000 in England and Wales for food hygiene offences on summary conviction, so the magistrates' courts can impose a fine of any amount. The removal of the existing maximum fine in magistrates' courts together with the introduction of clear sentencing guidelines should lead to more consistent and appropriate sentences being handed down by the courts.

Laboratory Services and Surveillance

5.12 FSA is working closely with the Department of Health, Defra and public sector laboratories on a project led by Public Health England (PHE) to ensure that local authorities have access to sustainable, resilient laboratory services that use standardised and validated approaches. Over the past three months we have met senior managers from Local Authorities running official control laboratories in order to consider options for a more integrated laboratory service for food standards, able to service the future needs of both local authorities and the Food Standards Agency. These discussions, led by the Department of Health and Public Health England will inform a costed options paper.

5.13 The FSA continues to provide the joint secretariat together with Defra for the Government’s Food Authenticity Steering Group and contributes scientific expertise to its Authenticity Methods Working Group. Also, the Food Authenticity Programme continues to fund projects looking at analytical method development to support food authenticity checks and commission surveys to check for levels of mis-description of foods.
5.14 We continue to contribute to Defra’s Food Authenticity Programme. FSA is joint-funding the development of a multi-analyte proteomic method for meat speciation determination in heavily processed foods. FSA has also worked closely with Defra and local authorities in a study to validate and pilot a method for detecting undeclared offal in meat products, with a view to the method being made available to public analyst laboratories on completion of the study. The Food Authenticity Programme has also published research to evaluate the uptake of knowledge transfer by Public Analysts, with recent Standard Operating Procedures include methods to detect previously frozen chicken.  

5.15 We are working with Defra colleagues and the Authenticity Methodological Working Group Technical Sub-Committee to develop a response to the Elliott review recommendation relating to method standardisation and centres of excellence, which aims to generate a consistent approach to the selection and use of methods of analysis for food authenticity/fraud testing across the UK. Defra has written to key laboratory stakeholders requesting expressions of interest in being part of a UK-wide network of centres of excellence and also to seek views as to how the network could operate in practice.

5.16 We are continuing to make funding available to Local Authorities to supplement their own programmes of monitoring and surveillance, through a programme that commenced in 2003. In 2013/14, we increased funding under this programme by £700,000, focusing on authenticity related sampling following the horsemeat incident. This increased funding has continued during 2014/15, with £2m being made available to Local Authorities this year. The priorities are set centrally by the FSA based on evidence of risks and available intelligence, in consultation with Defra and the Department of Health. This programme has had some successes in identifying food fraud issues, such as basmati rice, olive oil and fish substitution. The priorities for the 2014/15 programme include: Manuka honey testing; water in chicken; and meat and fish speciation.

5.17 A range of enforcement action has been undertaken by Local Authorities, with respect to unsatisfactory samples where food fraud has been identified, from letters of advice to withdrawn and destroyed consignments. Details of the 2012/13 sampling programme, which includes authenticity sampling, has been published.  

5.18 In May, the FSA initiated additional priority testing of lamb takeaway dishes for substitution with beef from businesses across the UK, based on evidence from local authority sampling. This had shown that 43 of 145 samples of lamb takeaway meals contained meat other than lamb. The FSA asked local authorities to test 300 samples of lamb dishes from takeaway restaurants. Samples will also be tested for undeclared allergens. Over the period May to

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9 See http://www.food.gov.uk/multimedia/worddocs/enf005d.doc
10 See http://www.food.gov.uk/news-updates/news/2014/6031/testing
July 2014, 306 lamb take-away samples were taken by 112 local authorities. The results will be reported later in 2014.

5.19 We are funding work on white fish authenticity (cod and haddock) and labelling of nut powders and are also developing an action plan to investigate other authenticity and standards issues at takeaway outlets in the coming year.

Working with others

5.20 The Food Crime Unit referred to above builds on our work to date with a range of partners including law enforcement agencies, the National Fraud Intelligence Bureau and the National Trading Standards Board. This includes membership of the regional Government Agencies Intelligence Network (GAIN) and the new cross-government Food Crime and Food Integrity Committee. The FSA also has a seat on the National Executive for the GAIN. Work continues with the National Crime Agency to identify the potential actual threat and harm to the UK from food crime.

5.21 We are developing a suite of materials on awareness and prevention, focused at a food business readership. With Defra, we jointly sponsored a review and redraft of Publicly Available Specification ‘PAS 96 Defending Food and Drink from Deliberate Attack’. This provides practical advice on how to assess and mitigate threats to food businesses from malicious attack or fraud. BSI Standards Limited facilitated the document’s development, which will be made freely available, via the FSA’s website, within the next few weeks.

5.22 ‘Action Fraud’ is hosted by National Fraud Intelligence Bureau and is the national reporting framework for all fraud and internet crime reporting. Our guidance for food businesses aims to raise awareness of ‘Action Fraud’ among this group and to facilitate reporting. This will help to build a national picture of activity.

Europe

5.23 The European Commission Food Fraud Unit was set up in 2013 and has established a network of contacts to facilitate sharing of intelligence across Member States. The FSA is fully engaged with this, and have seconded a national expert to the Commission’s team. The EC team’s work programme includes development of an IT system for exchange of information and further co-ordinated control plans to follow the recent horsemeat survey. This is expected to be in place early in 2015.

5.24 The FSA is working with the European Commission and Member States with a view to introducing into EU requirements for imported food anti-fraud measures such as IT systems for the notification of exports, the development of electronic certification and, ultimately, digitally signed health certificates.
5.25 The FSA leads for the UK on the Codex Committee on Import and Export Certification (CCFICS). We have played a leading role on the development and agreement of a paper on the introduction of Food Safety Systems in developing countries. This was agreed by CCFICS in early 2013 and promotes resilience in international trade. This is being followed up with the FSA attending the full meeting of this Committee in October this year where validation of food safety systems in developing countries is on the agenda along with handling of International Emergencies in Food.

6 CONSULTATION/CONSUMER ENGAGEMENT

6.1 Through a programme of both formal and ad hoc discussions, FSA continues to actively engage, consult and communicate with consumers, parliament, and other stakeholders, including the food industry and other regulatory agencies in the UK and overseas. Such consultation provides opportunity to establish best practice, agree operating procedures and provide challenge which is essential to delivering an effective strategy for tackling food fraud and food crime.

7 DEVOLUTION IMPLICATIONS

7.1 The Food Crime Unit will cover the whole of the UK under current arrangements. The participation of Food Standards Scotland (FSS), following that organisation commencing its work in April 2015, would be an issue for early discussion between FSA and FSS.

7.2 The Incident Management Plan is currently effective across the whole of the UK. Both we and Scottish Government understand that the seamless operation of incident management protocols between Scotland and the rest of the UK must be guaranteed from the first day of operation of FSS, and this is the focus of a specific agreement we are drafting between FSA and FSS. The agreement will ensure that both FSA and FSS are clear about their roles and responsibilities during incidents.

8 CONCLUSION AND RECOMMENDATIONS

8.1 The FSA continues work to implement the recommendations of the formal reviews of the horsemeat incident that have been commissioned by Government. We are developing approaches that go beyond the scope of those reviews, including leading and influencing international developments to safeguard the UK food supply.

8.2 The Board is asked to:

- **Discuss:** progress to date
**ANNEX 1**

**DEVELOPMENT IN CAPABILITY, SYSTEMS AND RELATIONSHIPS SINCE JANUARY 2013**

<table>
<thead>
<tr>
<th>Position as at January 2013</th>
<th>Position at November 2014</th>
<th>By March 2015</th>
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<tr>
<td><strong>Improving Intelligence</strong></td>
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<tr>
<td>No police contacts in place.</td>
<td>Intelligence Hub established Autumn 2013. Started to develop regional network to support intelligence gathering.</td>
<td>Phase 1 of Food Crime Unit operational from December 2014. Clear linkages to other enforcement agencies and routes for access to specialist expertise.</td>
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<tr>
<td>Intelligence capability not well developed.</td>
<td>Team of 4 National Intelligence Analysts, 19 Investigators dealing with food fraud and incidents and 6 Legal Investigators. Developing contacts and partnership working with range of intelligence and enforcement agencies, including National Fraud Intelligence Bureau, National Trading Standards Board, police forces, National Crime Agency, Regional Government Agencies Intelligence Network, and Intellectual Property Office.</td>
<td>Head of Intelligence and a team of 4 Regional Intelligence Analysts recruited to support existing team</td>
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<tr>
<td>No organised network of partners.</td>
<td>Funded work by Leatherhead Food RA, to identify current data sources and options for collating and passing intelligence from industry to the FSA and thereby facilitate the work of trade associations and other to establish ‘safe spaces’.</td>
<td>Strategic Intelligence Assessment produced and shared with partner agencies.</td>
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<td></td>
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<td>Ongoing analysis of intelligence and threat assessment in partnership with industry and other agencies</td>
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<td>Further development of regional and local networks and clear interface with industry ‘safe spaces’.</td>
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<tr>
<td>Major Incident Plan</td>
<td>Major Incident Plan</td>
<td>By March 2015</td>
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<tr>
<td>Incident management protocols insufficient to cope with a large scale incident and multi-faceted investigation. Expertise brought in to support investigation.</td>
<td>New Incident Management Plan (IMP) agreed by the FSA Board in June 2014. Recognition that the IMP will be reviewed and updated on a regular basis. Operational partners consulted on IMP January-July 2014 and feedback incorporated into the redraft. Exercise Programme underway, series of table top exercises. Exercise learning being captured and IMP being updated.</td>
<td>Incident Management Plan Exercise Programme underway; table-top exercises completed and full scale control post Exercise (Exercise Prometheus) completed March 2015. Stakeholder Engagement Programme in place as part of the FSA’s incident response capability.</td>
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<td>Draft Guidelines to categorise offences finalised and issued November 2014.</td>
<td>Provisions in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 relating to maximum fines which may be imposed on summary conviction (implementation date unknown).</td>
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**Position as at January 2013**

**Laboratory Services and Surveillance**

FSA made £1.6m available to Local Authorities in 2012/13 for targeted national programme of sampling and analysis.

**Position at November 2014**

**Laboratory Services and Surveillance**

Department of Health, Defra and public sector laboratories project led by Public Health England (PHE) to ensure that local authorities have access to sustainable, resilient laboratory services that use standardised and validated approaches.

Increased resources for targeted national programme of sampling and analysis. In 2013/14 (£2.2m) & 2014/15 (£2m).

**By March 2015**

**Laboratory Services and Surveillance**

Review of short term surveillance strategy complete.

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**Working with Others**

FSA lead for the UK on the Codex Committee on Import and Export Certification (CCFICS), although food fraud and emergency response not on the agenda.

**Working with Others**

European Commission Food Fraud Unit established in 2013. FSA national expert seconded to Commission’s Team.

Redrafted Publicly Available Specification (PAS) 96, *Defending Food and Drink* published and freely available from FSA website.

FSA represented at EU Conference on Food Fraud – A joint effort to ensure the safety and integrity of our food, 23-24 October 2014.

FSA attending the full meeting of CCFICS, October 2014 to discuss validation of food

**Working with Others**

Pilot Food Fraud training course delivered for Local Authority Enforcement staff.
| safety systems in developing countries and handling of International Emergencies in Food. |  |