



Barriers to and Enablers of the Reporting of Intelligence Regarding Food Crime

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Executive summary

Objectives

This is the final report for the “Study on Barriers to and Enablers of the Reporting of Intelligence Regarding Food Crime” as contracted by the Food Standards Agency (FSA).

The primary objective of this study was to guide the development of future interventions and governance arrangements capable of increasing the volume and/or improving the quality of intelligence reported to the National Food Crime Unit (NFCU).

The reporting of intelligence to law enforcement authorities (i.e. also referred to as ‘external reporting’) has been poorly studied in contrast to intelligence reporting within organisations (i.e. ‘internal reporting’). This report discusses trade-offs between these two types of reporting processes and their relationship with food crime. It also explores the various options available to whistleblowers or bellringers to report intelligence within and outside organisations, for example through the use of ‘safe spaces’ and other formal and informal reporting channels.

Methodology

A desktop review of academic and policy literatures relating to intelligence reporting behaviour was conducted as part of this study. 165 sources have been reviewed. In parallel, a structured desktop analysis of documentation relating to initiatives and institutional arrangements implemented by UK and overseas law enforcement agencies to encourage the reporting of intelligence regarding illicit practice and economic crime was performed. Semi-structured interviews were conducted with 11 representatives of law enforcement agencies, food operators or other business insiders and independent intelligence intermediaries, industry ‘safe spaces’ or formal intelligence sharing networks.

Findings

The national landscape

The study found that the national landscape in which intelligence reporting decisions are made may have a significant impact on whether individuals choose to report, and if so, how they choose to report. Social attitudes towards reporters can impact on motives, and shape the manner reporting behaviour is treated by others in a reporter’s social environment, either to praise them or on the contrary ostracise them.

The evidence on social attitudes towards whistleblowing in the UK is mixed. While there is a backdrop of social attitudes favourable to reporting, this appears to be biased against external reporting. Therefore, harnessing social attitudes to encourage further external reporting may have limited impact in the UK. Furthermore, whistleblower protection legislation can have a measurable impact on the quantity and quality of reporting, however that depends significantly on the specific design of the legislation and whether it can provide decisive support to those who report intelligence externally.

The evidence on the effect of the UK legislation in this regard is underwhelming. FOI legislation can be an additional hurdle if it prevents law enforcement authorities from guaranteeing confidentiality to reporters. In a context where social attitudes and legislation is not providing strong levers to encourage external reporting, informal paths may be a more promising route, although some informal paths – reporting to the media and safe spaces – have limited potential.

The industry's landscape

Industry-wide characteristics may help explain why businesses may report intelligence externally, or not. Long supply chains with closer relations between intermediaries may deter reporting by contrast to highly competitive and fragmented markets. In the food industry, the high number of chain actors tends to dilute the ownership of commodities. Shared norms may also be at play. Fraudulent practices in the food industry can be tolerated, so that acknowledgement that a behaviour should be reported may be missing.

Organisational factors

Both organisational culture and structure are highlighted as factors that may impact intelligence reporting. Motivations for reporting and non-reporting may differ by organisational culture. Both bureaucratic and hierarchical organisations and loosely structured organisations where contact points are unclear inhibit internal intelligence reporting. They may, however, involuntarily contribute to external reporting, yet only for those who would have the courage to overcome the risks of retaliation.

The importance of good leadership is highlighted. Good leadership may reduce wrongdoing and encourage reporting by helping to establish a positive organisational culture, while poor leadership can have the opposite impact. Leadership may support intelligence reporting by: helping to foster a culture of open communication; explicitly supporting whistleblowing; providing support to employees; acting as role models; being responsive to wrongdoing and reporting; and providing sufficient training and education. While this is primarily associated with internal reporting, the impact of good leadership on external reporting is less clearly understood.

Staff training and education may include raising awareness about legal protection, reporting channels, and organisation policy, and clarifying what constitutes wrongdoing or fraud. Arguably this may contribute both to internal and external reporting, although this would depend extensively on the content of the training and the manner it addresses the trade-offs between both types of reporting.

The manner and effectiveness of internal and external reporting may be influenced by the employee's power within the organisation and the level of power of the wrongdoer. Whistleblowing may be conceptualised in terms of a power struggle between individual and organisation. To address the inherent power imbalance between individuals and organisations, whistleblowers may draw on collective sources of power, such as trade unions.

The literature has much to say on the benefits of internal intelligence reporting for organisations. The literature on reporting that takes the point of view of the organisation has, understandably, not much to say about the benefits of external intelligence reporting. Various internal whistleblowing procedures are discussed in that literature. These can be categorised by: medium, level of anonymity, and recipient. The implementation of multiple internal reporting channels, including the options of reporting anonymously and to a third party, is recommended.

Characteristics and motivations of reporters

Various profiles and motivations may be associated with (non-)reporting decisions by (1) individuals and (2) organisations reporting intelligence.

For individuals, there is interplay between morality, material gain and emotion that contributes to decisions around reporting, whereas organisational concerns are primarily economic. It was found that the makeup of the food industry's workforce is not conducive to reporting. It is characterised by migrant workers on zero-hour or temporary employment contracts, earning low wages and regularly moving from between jobs. They are more easily replaced by employers and could struggle to find additional work if they lost their job. As a result they lack the power or confidence to speak out compared to those in well-paid and highly senior roles.

The decision to report is influenced by individual perceptions of a wrongdoing: morality and ethical viewpoint can drive reporting, but they depend on perceived seriousness of wrongdoing. Evidence suggests this can be ambiguous within the food industry, where it is difficult to evaluate the extent to which safety breaches or fraud are considered serious. Likewise, moral motives can be brought into conflict due to organisational loyalties, highlighting a need for absolute clarity on issues of food fraud and food crime.

Such industry-specific ambiguities also support the need to consider the potential gains (and losses) faced by individuals in the decision to report. Retaliatory action has both a material and emotional impact, therefore the provision of financial rewards could go some way towards reducing fears and compensating for expected losses following retaliation.

It is not only individuals who consider financial costs in the decision to report. The chief motive for organisations who report on others is economic, believing that their competitors are operating illegally or against regulations for monetary gain. On the other hand, organisations have little motive to report on their internal activity – reporting could result in legal, economic or symbolic damage.

Organisational structure can similarly contribute to non-reporting among businesses. It is therefore key that management are held to account for internal activities to discourage organisations from tolerating wrongdoing on the basis that they can plead ignorance in the event it is discovered.

Regulatory tools and practices

The tools and practices of regulators and law enforcement authorities can encourage external reporting or rather discourage it. The relevant evidence in this regard indicates that a variety of strategies and tools are available, and sheds light on their relative effectiveness.

It would be too ambitious to assume that the practices of law enforcement authorities may suffice to counteract negative social attitudes towards whistleblowing, or the manner individuals in a sector make sense of wrongdoing. However, through their attitude towards reporters, and through campaigns of information, public authorities may contribute to addressing such barriers to reporting. The evidence points in particular to the value of taking a non-discriminatory approach to those who report intelligence, irrespective of their motives to do so.

There is strong evidence indicating that providing monetary rewards in exchange of reports can enhance the quality of intelligence. It can provide a strong motivator for reporting intelligence when there is a low sense of the immoral character of

wrongdoing, and when monetary incentives not to report are provided by businesses. The evidence on the impact of duties to report is less decisive, and the feasibility of implementing such a duty is uncertain.

Various ways of making reporting easier have been documented. Hotlines, while extensively used, have limits highlighted in the literature and by the law enforcement authorities that have used them: they lead to a high volume of reports, but most of those reports are of low quality. Reporting tools tailored specifically for businesses have been used by some authorities, with good results. Finally, there is extensive evidence that regulatory presence in the field can make reporting easier: potential reporters have a sense of who is the person they can speak to. Much depends on how accessible and trustworthy that person has appeared during their visits in the field.

Reporters, whether individual employees, businesses or third parties, have concerns that can be addressed by making reporting safer for them. Offering guarantees to reporters in this regard has much to do with formal means of anonymising data. Yet these have limitations. When it comes to reassuring businesses in particular, arrangements such as safe spaces have structural limitations that cannot be resolved through formal means. Developing relationships of trust is equally important to encourage reporting.

Intelligence reporting can be enhanced by 'recruiting' individuals ready to report information to regulators, especially from within the workforce of relevant businesses. This can be challenging and depends much on a network of field inspectors. A possible alternative is to work with unions, which has been recommended in a UK context by whistleblowing scholars, and has been observed in various countries.

The flow of intelligence is enhanced if authorities provide feedback to reporters of the manner the information they shared was used, and if the manner they are dealt with by authorities is perceived as being fair.

Relying on some sources or channels can create tensions with other sources and channels. Relying on businesses to voluntarily share intelligence requires building relationships of trust. Relying on aggrieved competitors or disloyal/disgruntled employees would, on the contrary, signal distrust.

Conclusions and recommendations

Policy-makers need to be mindful of the various constraints and possibilities they are facing when designing new policy interventions that aim to encourage reporting of intelligence to law enforcement agencies. These include:

- The current national culture that remains largely unfavourable to external and informal reporting;
- The existence of a range of informal options for reporting intelligence externally, some of which – reporting to the media and industry safe spaces – present more limited potential than others;
- An industry structure, culture and contracting practices that discourage external reporting, by diluting responsibilities across long supply chains,

keeping participants in interdependent relationships, and normalising wrongdoing as ‘sharp practice’¹; and

- A workforce that is, in large part, characterised by low income, mixed cultural backgrounds, and job insecurity, and therefore is relatively less likely to report intelligence than the workforce one may find in other sectors.

On that basis, the study team has made a number of recommendations for future policy interventions.

- Campaigns can usefully be conducted to address perceptions within the food sector regarding (i) the harmful and illegal character of wrongdoing and (ii) the benefits and appropriateness of reporting externally;
- Communicating towards potential reporters that all reports are welcome irrespective of what has motivated them can enhance the quality and quantity of reports received;
- Developing relationships with businesses through both formal means (such as guarantees of anonymity and safe handling of information) and informal means (such as the development of relationships of trust between public authorities and trade bodies);
- Explore ways of relying on representatives and unions to drive greater reporting from within the food industry’s workforce.
- Consider providing training to field officers performing regulatory duties through field visits in food businesses, so that they raise their profile as contact points for potential reporters.

The study team has proposed options for future research. They were chosen in order to address gaps identified in the literature review and to generate findings that could be relied on by the NFCU to inform future interventions. These options are presented in detail at the end of this report. The study team has developed in more detail the research design for one of those options, which would test the relative effectiveness of alternative messages to increase awareness and willingness to report economic crime. The research design for such a study is annexed to this report.

¹ ‘Sharp practice’ refers to dishonest or unethical behaviour that is typically still within the confines of the law

1 Introduction

This is the final report for the “Study on Barriers to and Enablers of the Reporting of Intelligence Regarding Food Crime” as contracted by the Food Standards Agency (project reference: (FS301051).

The primary objective of this study is to guide the development of future interventions and governance arrangements capable of increasing the volume and/or improving the quality of intelligence reported to the National Food Crime Unit (NFCU). The NFCU was established in 2014 following the Elliott Review into the horsemeat scandal, and focusses on identifying, analysing and bringing about an effective response to serious dishonesty relating to the safety or authenticity of food, drink and animal feed in England, Wales and Northern Ireland.

The study has included a literature review and interviews with various stakeholders. The objectives of the literature review and interviews have been to:

- Assess the current state of evidence regarding the characteristics and motivations of individuals and organisations that report criminal activity (especially regarding illicit practice and economic crime) to law enforcement agencies;
- Identify social, behavioural and institutional factors which impede or conversely encourage the reporting of intelligence regarding criminal activity to law enforcement agencies;
- Identify best practice in facilitating the reporting of criminal intelligence to law enforcement agencies, and in the processing, governance and protection of sensitive information within intelligence reporting arrangements; and
- Examine and evaluate the implications, advantages and disadvantages of involving external intermediaries and brokers in facilitating the reporting of criminal intelligence to law enforcement agencies.

At the end of the study, the study team has explored options for behavioural interventions to test ways of encouraging potential reporters to report intelligence to the NFCU and its partner agencies, and ways through which any barriers to intelligence sharing might be overcome. The team has developed further the research design for one of those options, which it then attempted to implement, unsuccessfully.

This report presents the findings of the study, proposals on behavioural interventions with the potential to increase the quality and quantity of criminal intelligence received by the NFCU, and the research design for a quasi-experimental test of the relative effectiveness of alternative messages to increase awareness and willingness to report economic crime.

0 provides an overview of the main components of this report.

Table 1 - Overview of this report

Section	Details
2. The meanings and circumstances of intelligence reporting	Framework and key concepts having informed the literature review and interviews
3. Methodology and work plan	Brief summary of the methodology for the literature review and interviews
4. The national landscape	National-level factors that may influence reporting: social attitudes towards whistleblowers, legislation, and non-legislative paths for reporting
5. The industry's landscape	Industry-level factors that may influence reporting: norms shared within the industry, supply chain characteristics
6. Organisational factors	Organisation-level factors that may influence reporting: organisational culture, organisational structure and power, and organisational procedures for reporting intelligence internally.
7. Characteristics and motivations of reporters	Individual-level factors that may influence reporting: motives of individuals and businesses for and against reporting intelligence to public authorities
8. Regulatory tools and practices	Regulatory tools and practices that may encourage or discourage reporting to public authorities
9. Conclusions and recommendations	Summary of the main findings from the literature review, policy and research recommendations

2 The different meanings and contexts of intelligence reporting

The reporting of intelligence to law enforcement authorities has not been extensively explored in relation to food crime (Smith et al. 2017). However, a broad literature provides guidance on the different meanings and contexts of intelligence reporting. Intelligence reporting can have numerous meanings and is discussed in various ways in the literature, not all of which are relevant to this assignment. The following concepts have been retained as they appeared to be the most relevant for the context of this study.

Intelligence reporting to law enforcement authorities such as the NFCU is called '**external reporting**' to distinguish it from reporting within an organisation, from an employee to another (e.g. a manager). The latter is called '**internal reporting**' (e.g. Feldman and Lobel 2008). Internal reporting is extensively discussed in the literature, while external reporting less so (Miceli and Near 1985). In general, alternative channels of reporting are poorly studied (ibid.) While extensively promoted, for example through the provision of whistleblowing procedures and hotlines within organisations, internal reporting can be an obstacle to external reporting (to public authorities, other third parties or the media), and thus to the acquisition of intelligence by law enforcement organisations.

For instance, Feldman and Lobel's study indicates that employees are receptive when organisations encourage internal reporting as external reports decrease accordingly. However, this can present a challenge for government law enforcement agencies as organisations may not pass the information on in the interest of self-preservation, particularly if illegal behaviour benefits the organisation. This report discusses trade-offs between internal reporting and external reporting.

A second distinction is that between **formal** and **informal reporting** (e.g. Park et al. 2008). Intelligence reporting has increasingly been formalised into laws and procedures, both public and private. As such, a formal path for reporting is often available. This formal path may be linked to certain requirements that the individual who intends to report should comply with. Taking such a path may lead the reporter to obtain certain benefits, such as protection from retaliation, anonymity, and sometimes monetary rewards. Informal reporting, by contrast, entails no specifically prescribed path for reporting intelligence, and no formally granted benefit or protection.

Options for informal reporting may include contacting a journalist, having an informal conversation with a representative from a public authority, or sending an anonymous letter to the police. Informal reporting also includes the little studied '**safe spaces**', namely "forums or channels of communication set to shield business organisations from the risks of sharing potentially sensitive information with their peers and/or with regulators" (Etienne 2015a). 'Safe spaces' are generally informal in nature, although some have been institutionalised to a certain extent. They may enable sharing information with peers or law enforcement authorities in a manner that protects the entity that shares it from accountability, transparency and accusations of collusion.

Such protections are fundamentally distinct from those provided by the law, and to some extent are protections *against* the law (e.g. Freedom of Information legislation). Safe spaces may involve the intervention of an intermediary, tasked with moderating the safe space and 'sanitising' any sensitive information before it can be shared with other business organisations or law enforcement authorities (Elliott 2014).

A third important distinction is that between **insider reporting** and **outsider reporting**. Law enforcement authorities may receive intelligence from insiders, namely individuals from within an organisation who report intelligence about that particular organisation. These individuals are those most scholars and other commentators outside academia call '**whistleblowers**' (e.g. Soon and Manning 2017).

However, outsiders may also share intelligence about an organisation or individuals working at that organisation. These may include members of the public or individuals from competing businesses. To distinguish those outsider reporters from insider reporters, some scholars have proposed to call the former '**bellringers**' (e.g. van Erp and Loyens 2018). Insider reporting/whistleblowing has been extensively studied, but outsider reporting much less so.

One of the few distinctions leading to a detailed discussion of why individuals may *not* report intelligence is that between '**employee voice**' and '**employee silence**' building on the categories of 'exit', 'voice' and 'loyalty' that were initially proposed by Hirschman (1970). Although these terms are used in a broader literature about human relations within organisations (e.g. Morrison and Milliken 2000), one that does not fundamentally focus on the reporting of wrongdoing, they are entry points into scholarly debates on non-reporting that provide a very helpful counterpoint to the rest of the literature relevant for this assignment.

In fact, the latter, as one may expect, suffers from biases and limitations as a result of its focus on known cases of whistleblowing. A few contributions from the whistleblowing literature discuss the case of non-reporters (e.g. De Graaf, 2010; Dungan et al., 2015), or "**inactive observers**" (Miceli et al., 2013), which it ought to be noted do not necessarily have features that are simply the inverse of features associated with reporters. (Loyens and Maesschalck, 2014).

Linked to these concepts are a variety of circumstances in which intelligence reporting may take place. Reporting is generally discussed as a reactive response to learning about wrongdoing in the working environment, either within an organisation (when the reporting is about the organisation one works in) or within a sector (when the reporting is about another organisation, such as a competitor). This assumes that **the act of wrongdoing is the impetus for reporting**.

Although that may be frequently the case, there is also extensive evidence that wrongdoing happens for very long periods of time and with full knowledge of the reporter before it is eventually reported. **Reporting is therefore also driven by other factors than becoming aware of the wrongful behaviour**. Rather, reporting may happen because the perception of the moral acceptability of the behaviour may have changed, which could likely be triggered by external events.² Or the individual may be motivated to report the wrongdoing by an employment/industrial dispute, in which circumstances reporting may be a way of upsetting the balance of power within the organisation, or retaliating against the employer after the employee's role may have been terminated.

The literature has shown that reporting is determined by a complex combination of factors, which exist at different levels and interact with one another (Feldman and

² The widespread condemnation of the financial industry in the aftermath of the 2008 financial crash led to a surge of whistleblowing from employees of financial industry firms.

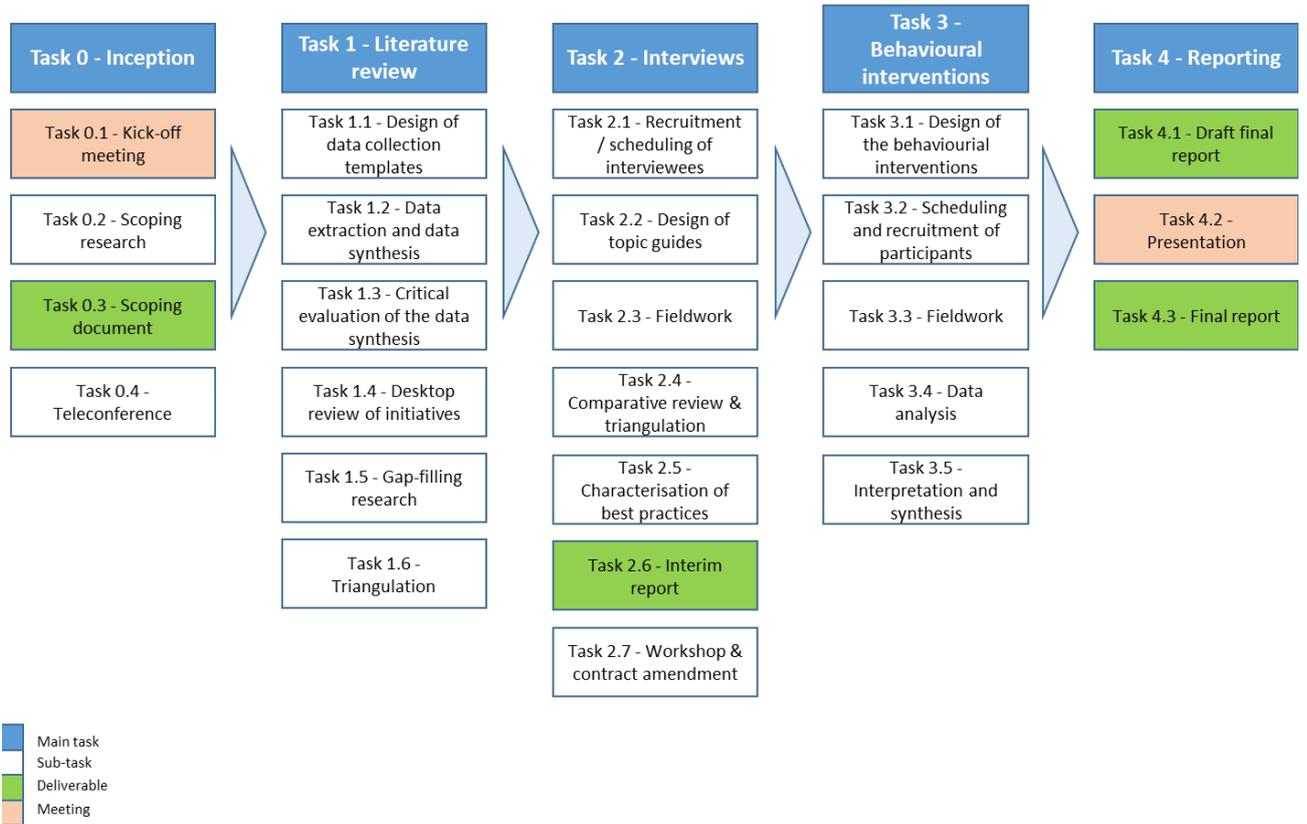
Lobel 2008). Some of these factors can be found at the *national* level, *industry* or *sectoral* level, *organisational* level, and *individual* level.

These elements constitute the broad framework of reference for the study, to conceptualise intelligence reporting to law enforcement authorities, and to link intelligence reporting to the sources in which evidence on barriers to and drivers of intelligence reporting is discussed. It has been the basis on which the methodology for collecting information was developed. The methodology is outlined in the next section.

3 Methodology

Figure 1 presents the study workflow.

Figure 1 -Overview of the work



3.1 Literature review

The study team carried out a desktop review of academic and policy literatures relating to intelligence reporting behaviour. The review aimed to collect evidence on the following topics:

- Characteristics and motivations of individuals and organisations which report criminal activity (particularly illicit practice and economic crime) to law enforcement agencies;
- Institutional and contextual factors within organisations which encourage or deter the reporting of criminal behaviour by their employees and affiliates;
- The role of different models for the structure and governance of intelligence reporting arrangements in encouraging or discouraging the reporting of criminal intelligence to law enforcement agencies. The implications, advantages and disadvantages of arrangements involving independent intermediaries and brokers of intelligence were also looked at;
- Governance arrangements regulating the processing, anonymization protection and sharing of information within intelligence reporting processes, and their role in either deterring or encouraging the reporting of criminal intelligence.
- Theoretical frameworks from behavioural science, psychology, criminology, and other relevant fields, which might be applied to identify barriers to and/or enablers of the reporting of intelligence regarding food crime, and to design possible future interventions to promote intelligence reporting.
- Examples of existing interventions used with the intention of encouraging the reporting of criminal intelligence both within organisations and to enforcement agencies.

The **literature review** started with a scoping phase, during which initial sources were identified and rapidly reviewed. The goal of the scoping phase was to determine what concepts of reporting would be used in the search and what sub-questions would be addressed as part of the study. Another objective was to clarify what literature was relevant and how the study team's resources should be allocated across different sources. This scoping phase led the team to further specify the research questions of the study and to narrow down the list of key search terms that were then relied on to identify additional sources for review. The research questions and search terms thus defined can be found at Annex 1.

Following the scoping stage, a systematic search was conducted on EBSCO and Google Scholar using a list of search terms identified in the scoping phase. Based on the sources identified during the initial review, a snowballing approach was used to identify sources cited within the identified literature, as well as sources that cited the identified literature. This way, the study team collected additional relevant sources aiming for a broad, albeit not exhaustive coverage of the relevant literature. Overall, 165 sources were reviewed for this study. The full list of references can be found at Annex 2.

Sources were reviewed and assessed for how their conclusions addressed each of the main questions of the study, considering both their relevance and their quality. Sources from peer-reviewed journals were prioritised over sources in other formats (books, reports), although the latter were not discounted. The review of the

information found involved triangulation between different sources, and consideration for the concepts, methods, and data used in each of the sources. The evidence collected was then organised into themes and sub-themes as they emerged from the literature and communicated back in the form of the present report.

In parallel to the review of the academic literature, the team conducted a **structured desktop analysis of documentation relating to initiatives and institutional arrangements** implemented by UK and overseas law enforcement agencies to encourage the reporting of intelligence regarding illicit practice and economic crime by parties including whistleblowers, aggrieved competitors or public-spirited parties.

Intelligence reporting initiatives within five organisations were selected for review. These organisations were selected due to their experience with intelligence reporting initiatives within the UK across a range of sectors, including financial services, environment, and food, in agreement with the NFCU.

The organisations covered by the desktop review include:

- The Food Safety Authority of Ireland (FSAI)
- Action Fraud / the National Fraud Intelligence Bureau (NFIB)
- The Financial Conduct Authority (FCA)
- The UK's Environment Agency
- Her Majesty's Revenue and Customs (HMRC)

For each initiative identified, the following key aspects were described:

- Context, scope and goals of the initiative;
- Types of arrangement involved; and
- The effectiveness of the initiative.

Information on these intelligence reporting initiatives was collected from publicly available data, including publications from within the organisation, publications from other authorities or government bodies, and academic research. This information was complemented by gap filling research in the form of email correspondence and a few interviews (as discussed also under Task 2) with representatives from these organisations.

3.2 Interviews

Semi-structured interviews were conducted with representatives of law enforcement agencies, food operators or other business insiders (consultants and experts) and independent intelligence intermediaries, industry 'safe spaces' or formal intelligence sharing networks. These interviews task aimed to:

- Gain a better understanding of the types of tampering with food affecting the industry, how does one learn about such practices, whether staff report suspicions of fraudulent behaviour and how, and what elements influence reporting;
- Explore the roles of the different organisations participating in various intelligence reporting initiatives, and especially to understand whether (and if so why) the involvement of neutral intermediaries might encourage or impede the reporting of intelligence;

- Examine any challenges (at organisational, as well as individual level) that these initiatives have faced in persuading potential partners to report intelligence;
- Investigate whether these initiatives have overcome any such challenges and barriers, if so, explore how they achieved this and how their success in doing so was evaluated.

Topics guides were drawn and implemented. Interviewees were identified through various means, and notably through ICF's and the NFCU's own networks. Anonymity was granted to all interviewees. Interviews were recorded and transcribed. Recordings and transcripts were safely secured on an encrypted folder on ICF's servers. 11 interviews were conducted in total:

- 4 law enforcement organisations whose initiatives were scrutinised as part of the desk review;
- 3 independent intelligence intermediaries, industry 'safe spaces' or formal intelligence sharing networks; and
- 4 business insiders.

While such a sample was too small for the purpose of drawing any representative findings, interviews have helped to:

- Document in more detail initiatives to encourage information sharing within the industry or at law enforcement organisations;
- Provide indications on whether findings from the literature review may be applicable to the UK food and drink sector;
- Provide information on issues for which the literature provides very little evidence, such as some of the motives of reporters.

3.3 Analysis and reporting

This report combines the insights that have been gained from the literature review, the desktop review of law enforcement authorities' initiatives, and the interviews. The evidence has been triangulated and weighted based on the level of consensus found between authors, the methodology and the quality of the evidence underpinning claims. When the evidence is anecdotal, particularly when it comes from interviews, that has been highlighted clearly in the text.

The study team has aimed to articulate the findings to documented features of the food industry and food fraud, to assess and, when relevant, make the argument for the transferability of these findings to that sector.

4 The national landscape

The national landscape in which intelligence reporting decisions are made may have a significant impact on whether individuals choose to report, and if so, how they choose to report. National culture and public perceptions may influence attitudes towards intelligence reporting generally, and specifically whether whistleblowing is viewed as a viable option. The legislative backdrop is also influential.

Where potential intelligence reporters feel that the law will provide adequate protection, they may be encouraged to proceed via formal reporting channels, while those who believe the law will not protect them will likely be deterred. Where this is the case, intelligence reporting would depend on whether credible, accessible and trustworthy non-legislative paths for reporting intelligence could also be relied on.

Synthesis

This section explores factors that may influence reporting at the national level: social attitudes towards reporters, legislation, and additional organisations or institutions that may contribute to informal or anonymous reporting (regulatory presence on the shop floor, reporting hotlines, whistleblowing charities, safe spaces, and the media), as well as attitudes to the reporting process itself. This overview highlights the following factors:

- Social attitudes towards both reporters and the reporting process matter. While attitudes towards reporters are concerned with individuals, the reporting process is viewed more broadly in relation to systems and cultures. Both can impact on motives, influence reporting decisions and shape the manner reporting behaviour is treated by others in a reporter's social environment, either to praise them or on the contrary ostracise them.
- Evidence on social attitudes towards whistleblowing and individual whistleblowers in the UK is mixed. While there is a backdrop of social attitudes favourable to reporting, this appears to be biased against external reporting with support for whistleblowers somewhat dependent on the reporting process they have utilised. Therefore, harnessing social attitudes to encourage further external reporting may have limited impact in the UK.
- Whistleblower protection legislation can have a measurable impact on the quantity and quality of reporting, however that depends significantly on the specific design of the legislation and whether it can provide decisive support to those who report intelligence externally. The evidence on the effect of the UK legislation in this regard is underwhelming.
- FOI legislation can be an additional hurdle if it prevents law enforcement authorities from guaranteeing confidentiality to their informants.

In a context where social attitudes and legislation is not providing strong levers to encourage external reporting, informal paths may be a more promising route, although some informal paths – reporting to the media and safe spaces – have limited potential.

4.1 The social status of whistleblowers

To the extent that it shapes the social status of whistleblowers, national culture may impact perceptions of and likelihood to blow the whistle. Indeed, previous research

has shown that a prime motivator of non-reporting is the fear of being rejected by others and labelled a troublemaker (Milliken et al. 2003). Culture has also been found to be one of the most robust predictors of dispositions to report wrongdoing, either internally or externally (Feldman and Lobel 2008).

There is disagreement in the literature about the manner national culture relates to reporting behaviour (Cheung et al., 2015). A frequent approach to this issue in the literature is to categorise countries as either having an 'individualistic' culture or a 'collectivistic' culture, following Hofstede's typology (1991). This aims to translate a presumptive difference between cultures in terms of the relative importance of loyalty and fairness, and their impact on the decision to blow the whistle.

It has been argued that, in collectivistic cultures, there is an emphasis on shared beliefs and norms, and individuals tend to feel a greater sense of obligation / loyalty to the group, which may take precedence over fairness. In comparison, within individualistic cultures there would be greater support for individuals acting independently from groups, and therefore less deference.

The empirical evidence in this regard is mixed. Some studies find that individuals from individualistic cultures are more likely to blow the whistle than those in collectivistic cultures (e.g. Keenan 2007 for a study comparing American and Chinese managers, where the former were found to be more likely to blow the whistle than the latter; also Dungan et al. 2015; Cheung et al. 2015). However, that is contradicted by studies which have found that individuals identified as coming from collectivistic cultures may be more likely to report than those from individualistic cultures (e.g. Zhuang 2003).

The value of the above mentioned typology for capturing cultural factors may therefore be questioned. Furthermore, Cheung et al. (2015) have also found that, where the perceived personal cost of reporting is high, no significant differences between reporting tendencies can be found between individuals from individualistic cultures and those from collectivistic cultures. This suggests that other factors may overcome the influence of national culture on reporting behaviour.

In a review of the literature, Vandekerckhove (2011) finds that while earlier research has tended to focus on the individualistic/collectivistic distinction, more recent research has looked more widely at the interplay between nationality and culture and attitudes towards whistleblowing. This suggests less straightforward relationships between nationality or culture and perceptions of or likelihood to report. Park et al. thus conclude that 'attitudes are influenced by nationality and cultural orientation, but not in a predictable fashion' (2008: 936).

A limitation of much of the research conducted to date is that relatively small sample sizes are used, and the participants have frequently been students, which may limit generalisability to the rest of the population. A further limitation is that, due to a reliance on Hofstede's typology, there is little literature which compares variances in attitudes between two countries of the same cultural type. For instance, there are no sources comparing attitudes between the US and the UK (more generally, on the lack of comparative studies, see Pemberton et al. 2012). Feldman and Lobel (2008) find significant differences between reporting intents by Americans and Israelis (the former being more likely to report than the latter), although differences may disappear depending on the type of crime to report (e.g. theft).

As far as the UK is concerned, the evidence on social attitudes towards whistleblowing, and whistleblowers themselves, is mixed.

On the one hand, survey data provides indications that most Britons hold positive attitudes towards whistleblowers. A study of whistleblower depictions in the UK media between January 1997 and December 2009 found that 54% portrayed whistleblowers in a positive light, 41% were neutral, and only 5% were negative (PCAW, 2010, as found in Lewis, 2010).

Further, a survey of 1178 working adults in the UK found that 72% of respondents viewed the term “whistleblower” as positive or neutral (PCAW, 2013).

Vandekerckhove (2012) similarly found that 81% of respondents (in a study of 2000 adults in Britain) felt people should be supported for revealing serious wrongdoing, even where this reveals inside information and 75% stated that they would feel obliged to report observed wrongdoing in their organisation.

However, this study also found that 47% viewed whistleblowing as not accepted in the UK, suggesting that while individuals are supportive of whistleblowing, they believe that others may not be. Feldman and Lobel (2010) report that survey respondents tend to be overly optimistic regarding their own attitudes towards whistleblowing and reporting, whereas they tend to be more accurate in terms of their assessment of others’ attitude.

On the other hand, survey data collected by Park et al. (2008) suggests that attitudes in the UK are in favour of ‘formal’ rather than ‘informal’ whistleblowing, and ‘internal’ rather than ‘external’ whistleblowing. This is consistent with the ideas underpinning the UK’s legal framework on whistleblowing, as evidenced in the debates leading to the Public Interest Disclosure Act 1998 (Etienne 2015b), in which external and informal whistleblowing were discussed negatively.

This is also consistent with the legislation itself, as discussed later, which effectively discourages informal and external reporting, and contrasts in this respect with that of other countries like the US or France, in which external reporting is favoured over internal reporting (Mendelsohn 2009; also Evans 2008).

Further evidence suggesting that attitudes towards whistleblowers in the UK may tend to be negative comes from a qualitative study within nursing, which has found that the term whistleblowing was generally construed negatively, with most participants conflating the term with “grassing” or “telling tales” (Jones and Kelly, 2014) and a personal account of whistleblowing in the UK (Motarjemi, 2014). A notable case which highlights negative perceptions towards whistleblowers is that of Julie Bailey, the key whistleblower in the Mid Staffs hospital scandal.

An Observer article describes how Julie felt she had no choice but to move away following retribution in her local area, including hate mail and vandalism. This retribution appeared to be largely economically motivated, as the hospital was the main employer in the local area, and this was shut down following the scandal (Adams, 2015). Other UK scandals, including the Saville scandal and the Gosport scandal, share characteristics of extensive disregard and denial of complaints and warnings over very long periods of time, suggesting further that whistleblowers may tend to be perceived in a negative way, either by their organisation, their local environment, or public authorities.

The evidence on the social status of whistleblowers in the UK is therefore mixed. On the one hand, surveys suggest that Britons support whistleblowing. Indeed, it is fair to assume that the UK has been moving towards greater acceptability of whistleblowing and away from ‘deference’ (Newby 1975; Suttcliffe-Braithwaite 2018). On the other hand, there are indications that whistleblowers are seen negatively when they are reporting information externally and in an informal

manner. **This suggests that harnessing social attitudes to encourage external reporting is not likely to yield significant returns in terms of increased reporting.**

4.2 The legal framework

Besides culture, the legal framework of a country can encourage or stifle reporting. Legislation will at least determine whether individuals that report intelligence can be granted protection under the law or can be granted anonymity. However, legislation can also shape reporting by granting organisations powers to retaliate against individuals that transfer information about them to third parties (Schipani et al. 2017), although that aspect is not discussed in this section.

4.2.1 Protection

Studies of laws designed to protect and encourage whistleblowers are most prevalent in the United States (e.g. Miceli et al., 1999; Dworkin, 2006; Ramirez, 2007; Feldman and Lobel 2010), Australia (e.g. Martin, 2002) the UK (e.g. Lewis) and include international comparisons (e.g. de Maria, 2006; Callahan et al., 2003). Whistleblower protection legislation has been considered not only in terms of its material impact, but also in terms of its symbolic impact: indeed, even where whistleblowing legislation is not wholly effective for protecting whistleblowers, it may have a symbolic role, communicating support for whistleblowing and thus encouraging whistleblowing and improving the social status of whistleblowers within society (Martin, 2002; Feldman and Lobel 2010).

The impact of legal protection for whistleblowers appears to be mixed. The literature has reported mixed results. There have been reductions in observations of wrongdoing and increases in reporting of observed wrongdoing (Miceli et al., 1999), but also increases in retaliation (Miceli et al., 1999) and lack of success when pursuing remedies following retaliation (Dworkin, 2006). The widespread evidence on informal and anonymous reporting demonstrates that whistleblower protection legislation is not a necessary condition for reporting to take place (e.g. Callahan and Dworkin 1994; Savage 2017). It shows also that other factors, such as culture, regulatory practices, or institutions of industrial relations can be more significant than whistleblower protection legislation in encouraging or discouraging intelligence reporting (Etienne 2015a).

Ramirez (2007) argues that whistleblower protection laws are poorly designed and therefore ineffective. In the context of common law jurisdictions, including Australia, the UK and South Africa, de Maria (2006) concludes that there are “serious structural deficiencies” in respect to the scope of protection provided. Some authors suggest that whistleblower protection laws give the appearance of protection, but this is merely illusory (Dworkin, 2006; Martin, 2002; Ramirez, 2007). Particular issues highlighted are that laws may only offer protection after reprisals occur following a disclosure, which a whistleblower may not be prepared for and thus may not document, and that there are ways for employers to retaliate against employees which are difficult to document, such as ostracism and spreading rumours (Martin, 2002). Further, these laws may have the effect of positioning individuals against organisations, where the former has few resources while the latter likely has vastly more (Martin, 2002; Motarjemi, 2015a). Such observations apply to the UK legislation (Savage and Hyde 2015). For these reasons, Martin (2002) suggests that

whistleblower legislation is primarily symbolic, although other authors are more optimistic about the possible efficacy of such laws (e.g. Ramirez, 2007).

In the UK, the Public Interest Disclosure Act 1998 (PIDA) aims to protect workers for reprisals because they have raised a concern about malpractice. The Enterprise and Regulatory Reform Act 2013 (ERRA) altered the scope of PIDA, to encompass disclosures regardless of whether they are made in “good faith”³, to protect employees from retaliation from colleagues as well as employers, and extends protection to “workers” as well as “employees”, but limits protected disclosures to those that are made in the public interest (Ashton, 2015). Remarkably, it does not encourage external reporting. Rather, it grants protection only in the context where reporting is first done internally,⁴ in contrast to what may be observed in other countries, and particularly the United States (Evans 2008; Lewis, 2010; Mendelsohn 2009).

The effectiveness of the legislation in encouraging external reporting is disputed.

- Savage and Hyde (2015) highlight that “protection” under PIDA is something of a misnomer, as the legislation only covers those who have already experienced retaliation. Besides, individuals are protected where they make a disclosure to a “prescribed person”, which are specific regulatory bodies who have been granted competence for receiving reports in particular areas, as identified in the schedule to the Public Interest Disclosure (Prescribed Persons) Order 1999. Savage and Hyde (2015) note that there are a number of regulatory bodies which are not prescribed persons, which may lead to cases where whistleblowers inadvertently lose their legal protection where they are unaware of this requirement.
- This legislation has been hailed as an example of good practice and has been used as a model for similar legislation in other jurisdictions (Lewis, 2008; Ashton, 2015). Compared to other whistleblower protection legislation in Europe, it is one of the most advanced, in terms of the sectors which are covered, the categories of whistleblower that are protected, the clarity and breadth of the definition of “protected disclosure”, the range of disclosure channels available, and the nature and extent of protection (ICF, 2017). However, A Thomson Reuters Foundation (2016) report claims that “PIDA is broken and no longer able to adequately protect whistleblowers”. Drawing on principles from international whistleblower protection laws, the authors of this report found that PIDA only includes 37% of international standards for whistleblower protection legislation. It has been more generally argued that PIDA still does not provide adequate protection for whistleblowers (Lewis, 2008).
- Since the implementation of PIDA, there has been an increase in the number of whistleblowing claims (from 157 in 1999-2000 to 2500 in 2011-2012). Success rates of claims for protection under the legislation at hearing stage have been very low, however (2.8% in 1999-2000, 8.5% in 2004-2005, and between 3% and 5% more recently; Ashton 2015). This strongly suggests that

³ Although compensation may be reduced where reports were found to not be in “good faith”

⁴ Lewis (2008) notes that this condition does not apply where employees believe they will face retaliation as a result of reporting internally, or that evidence of the wrongdoing would be concealed or destroyed.

other factors than the legislation itself may explain this increase in whistleblowing claims: one could hypothesize that the impact of the global financial crisis, widespread calls for the moralisation of the financial industry, and seeing large-scale wrongdoing (Mid Staffs, mis-selling of products, Saville) being discussed in the open in recent years may have encouraged more people to come forward and blow the whistle.

- Sunstein (1996) argues the law itself has an ‘expressive’ function, in that it can influence and shape social norms as it is used as a reference by citizens to inform their behaviour. This theory can be viewed in the context of reporting, where laws protecting or rewarding whistleblowers signal the importance of reporting, and therefore encourage this behaviour (Feldman and Lobel, 2010). Additional analysis conducted by Savage (2016) suggests that the legislation is also complex at implementation stage in terms of its interpretation by the courts, and as such may be failing in its ‘expressive’ function of communicating a strong and clear message of protection that whistleblowers who are not legal experts could perceive and understand. A further limitation of the legislation is the extent to which the public is aware of it. A survey of 2017 adults found that 55% were unaware that legislation protecting whistleblowers exists in the UK (PCAW, 2013).

Anecdotal evidence collected in interview with a representative of Food Safety Authority of Ireland (FSAI) indicates that the whistleblower protection legislation in force in Ireland since 2014 has been relied on by many disgruntled current and former employees of the food industry to report specific and detailed information about food fraud to the FSAI. This may be linked to the design of whistleblower protection legislation in Ireland, which explicitly disregards the motive of the reporter as relevant to determining whether they can be protected under the legislation, and the fact that it puts on the employer the burden of demonstrating that the disclosure should not be protected. Interactions between the Irish whistleblower protection legislation and its unfair dismissal legislation (i.e. an employee could receive a much higher compensation for dismissal under the former legislation than under the latter) also appear to be determinant (Halpin and Dundon 2017). This suggests not only that the design of whistleblower protection legislation matters a great deal to determine whether it is effective or not, but also that its impact may be dependent on other legislation and broader institutions, such as those that characterise employment relationships (Etienne 2015b), and legislation that provides employment security in particular (ibid.; Feldman and Lobel 2008), or that which determines transparency, as discussed in the next section.

In sum, given the challenges presented by the UK’s PIDA legislation and especially the limited protection it brings to external reporters, there is clear argument to strengthen this alongside other, linked legislation.

4.2.2 Anonymity

While legislation may determine the extent of the protections that whistleblowers may obtain through reporting intelligence in a formal way, it may also determine what anonymity they may be granted. Anonymity is often desired by whistleblowers, and particularly those who lack power and resources, as a way of protecting themselves against retaliation, although it poses various challenges for law enforcement authorities. The extent to which law enforcement authorities can grant anonymity to their informants depends largely on the legal requirements imposed on them to be transparent about their activities.

In many countries, this is shaped by Freedom of Information legislation. In the UK, public authorities are obliged to provide public access to information they hold under the Freedom of Information Act 2000, granted various conditions do not apply⁵. While exemptions are granted where information includes personal data or may cause harm, this requires the public authority to consider whether the information is in the public interest. Discussions with stakeholders highlight that these requests may be time consuming, due to the quantity of requests received, and due to the individual judgement required to determine whether a piece of information should be exempt, there may be disputes over whether exemptions apply.

This constitutes a potential barrier, as public authorities may not be able to grant the level of confidentiality they would otherwise like to as a result of this legislation. That may then deter potential reporters from coming forward. As a result, it has happened that regulators sought exemptions from FOI, particularly for information they had received from businesses through 'safe spaces' (Etienne 2015b, see also additional literature referenced in the same paper at note 6). One interview with a UK law enforcement authority clearly identified the requirements from FOI legislation as a distinct challenge when it comes to encouraging intelligence reporting.

Regulators have sought ways around FOI legislation largely in response to the concerns expressed by those businesses, such as reported, for example, in the Elliott report (2014:26-7):

Industry is very keen to work with regulators, but is cautious about the legal implications of providing information and intelligence unless information has previously been anonymised from any direct attribution to a particular source. This flow of intelligence from industry to Government is a vital part of the systems that must be developed. ... Given the concerns about sharing even sanitised information with regulators, industry will need further reassurances.

Interviews with business insiders similarly highlighted that the opportunity to report on condition of confidentiality without fear and recrimination is important.

This suggests that any guarantees the authority receiving the reports may offer in terms of ensuring confidentiality and anonymity would facilitate reporting.

4.2.3 Duty to report

While the legislation may encourage whistleblowing by providing protections for individuals reporting wrongdoing, or hinder it by demanding transparency from law enforcement authorities, it may also seek to compel those who know about wrongdoing to report it or else face punishment. This notion of a 'duty to report' is generally restricted to certain categories of professionals (see Feldman and Lobel 2010 for overview).⁶

⁵ Requests may be refused on the grounds of cost or time required to deal with the request, if the request is "vexatious" or if it repeats a previous request. Further, certain types of information, such as information relating to government policy or ongoing criminal investigations, are automatically exempt.

⁶ Such a duty to report applies to certain professions. In the UK, this includes certain professionals within the financial services industry, such as Advisors (FCA, 2015); the aviation industry, such as Accountable Persons under the Air Travel Organisers' Licensing (CAA, 2014); and the health sector, including mandatory reporting

There is disagreement within the literature on whether imposing a duty to report on organisations or individuals is beneficial, and whether this is effective in increasing reporting rates. Experimental research suggests that a duty to report is likely to increase reporting behaviour more than other ways of incentivizing reporting, and that it has also the effect of signalling to all the social value of whistleblowing, thus improving the social status of whistleblowers in society (Feldman and Lobel 2010).

This effect is reinforced when combining the duty to report with a penalty for non-reporting. Smith (2008) draws on relevant Australian legislation, suggesting that an obligation to report wrongdoing at individual level (among other things) would increase reporting rates. He highlights that non-reporting may be motivated by a belief that there is insufficient proof to report, or a belief that the issue is not sufficiently serious to raise it with a law enforcement agency, which mandatory reporting may help to address.

Smith (2008) also highlights that such legislation would require a central agency to deal with reports in a uniform way, as well as a legal definition of fraud, to make clear what should be reported. A study of US police officers found that a policy that mandates the reporting of misconduct enhances willingness to report (Rothwell and Baldwin, 2007). However, Vandekerckhove and Tsahuridu (2010) highlight a number of issues which may make imposing such a legal duty impracticable. The authors argue that whistleblowing is best conceptualised as a “positive duty”.⁷

Following this, they highlight three criteria that they argue would need to be met to legislate whistleblowing as a positive duty. Firstly, it must be possible to identify who should know about each case of organisational wrongdoing, in order to determine who the legal duty applies to. Secondly, whistleblower protection needs to be effective (as individuals are only compelled to fulfil a positive duty if it is not detrimental for them to do so). Thirdly, there must be effective mechanisms for preventing erroneous reporting. This is because it is expected that, where individuals may face legal penalties for non-reporting, they are more likely to report even where their evidence is relatively weak, leading to many low-quality reports.

As the authors argue that these conditions have not been met, they conclude that it is not appropriate to make whistleblowing a legal duty. Furthermore, there is some concern that requirements for employees to blow the whistle may undermine or fail to support a culture of open communication and accountability within organisations (FAP, 2010).

In sum the evidence suggests that introducing a duty to report may increase reporting rates, although the implementation of such a duty presents various challenges.

4.3 Non-legal paths to reporting

While legislation may provide a (more or less) difficult path to reporting of intelligence, other paths to reporting intelligence to law enforcement authorities exist,

requirements that apply to all health professionals regarding female genital mutilation (FGM). Where these duties are not met, the employee may be found not fit to practice their profession.

⁷ This may also be called a “normative duty”, and is approximate to societal ideals. A positive duty is a *duty to* do something good, rather than a *duty not to* do something harmful or morally wrong (Vandekerckhove and Tsahuridu, 2010).

which may prove preferable to would-be whistleblowers if the legal path proves too complex or difficult (Savage 2018), or if social attitudes towards whistleblowers are predominantly hostile. These non-legal, 'unauthorised' (ibid.) informal paths include:

- **Direct contact with representatives from the law enforcement authority** – There is an extensive literature on regulatory encounters 'on the shop floor', which explores how information may be shared by individuals from regulated organisations thanks to a routine of more or less regular visits by regulatory inspectors (Van Erp & Loyens, 2018; Etienne, 2015b; Hawkins, 1984; Macher et al., 2011). This generally happens during inspections, as this provides opportunities for employees to share information that they may not otherwise have considered sharing or do not wish to disclose formally. Such visits are also opportunities to sometimes develop relationships of trust between employees and individuals they could go to in case of need. The literature reports how employees may take advantage of an inspector's visit on the shop floor to share intelligence at that time (e.g. Hawkins 1984), or how that provides a point of contact that an employee may then use to communicate information (e.g. by email or by phone) outside the framework of an inspection (e.g. Etienne 2015b). Such paths for reporting are inherently dependent upon a programme of visits, a 'fleet' of regulatory inspectors that is sufficient to cover a large number of relevant organisations through such visits, and the manner those inspectors approach employees and respond to the latter's attempt at communicating with them. Regarding the latter, inspectors may sometimes be perceived as untrustworthy, or lacking credibility (independence), which may undermine their status in the eyes of would-be reporters. Overall, this set up is presumed upon what might be called a 'traditional' inspectorate, the likes of which have been in place for the monitoring of environmental or food safety controls in the UK in the past few decades (Hawkins 1984; Hutter 1988).
- **Anonymous reporting through law enforcement whistleblowing initiatives (e.g. hotlines or online forms/ applications) or intermediaries (e.g. whistleblowing charities)** – Anonymous reporting may occur through channels provided by regulators or through third parties, such as whistleblowing channels. Many regulators in the UK can facilitate anonymous reporting through their information reporting channels, as is discussed in greater detail in section 8.4. Anonymous reports may also be made to third parties, such as whistleblowing charities, who may then pass on the contents of the report to law enforcement. This option may be preferable for those who are unsure about whether to report what they have observed, for example if they are uncertain whether it constitutes a crime, or are unsure about how to proceed with reporting. While anonymous reporting may appear preferable to potential reporters as it ensures they will not have to have any further involvement in the issue, it may limit the extent to which it is possible to follow up the report if it is later found that additional information is required, as highlighted by a stakeholder.
- **Reporting to the media** – Intelligence may be reported directly to the media. As a result, law enforcement authorities would learn about the intelligence through media reports (Callahan & Dworkin 1994; Dyck et al. 2010; Etienne 2015b). Instances when this may happen include when the entire organisation or senior management is implicated in the wrongdoing (Feldman and Lobel 2008), where internal reports have not received an effective response (Callahan and Dworkin 1994), or when the reporter is seeking to attract the

attention of powerful others, at the organisation or public authorities, by blowing the whistle as loudly as possible (Etienne 2015b). One of the challenges of such reports, from a law enforcement authority's perspective, is that they impose a rapid and demonstrative response or else the authority would be publicly criticized (Etienne 2014; Hawkins 1984). This may mean that a careful investigation, which may include the use of covert intelligence, to uncover the extent of the wrongdoing and collect evidence, may not be feasible.

- **Reporting through 'safe spaces'** – Another informal path to reporting intelligence to public authorities is what has been called 'safe spaces' or 'safe havens', referring to "forums or channels of communication set to shield business organisations from the risks of sharing potentially sensitive information with their peers and/or with regulators" (Etienne, 2015a; see also Elliot, 2014; ENISA, 2018). Safe spaces are generally designed for businesses and they are often organised at sector level. Their existence is often premised upon the active role of sector-level organisations, and principally trade bodies, to organise and/or moderate the activities of the safe space. Safe spaces face significant coordination problems in the sense that they are premised upon the voluntary participation of a sufficient number of businesses operating within the sector, while they must also avoid turning into a forum for collusion between businesses that should otherwise compete with one another. There are also significant concerns that, when law enforcement authorities participate to such events, they may rely on the evidence collected to immediately enforce, which may not be in the interest of the businesses involved (Etienne 2015a). Hence, safe spaces have rarely worked well as sources of intelligence for regulators (e.g. Rees 1994).

5 The industry's landscape

Besides social attitudes and institutions observable at national level, sector or industry specific norms, institutions, and patterns of relations between organizations – what van Erp and Loyens (2018) call the “organisational field” – may also shape reporting behaviour. Individuals who would witness wrongdoing are embedded within such an organizational field. Therefore, understanding some parameters of the sector considered can help identify barriers to and drivers of external reporting.

Although the literature provides a wealth of insights on the influence of organisational factors on intelligence reporting (as discussed in chapter 6), there is limited evidence on how industry-wide aspects encourage or deter reporting. Therefore, this section draws also from interviews with business insiders from the food industry. We discuss successively the role of supply chain characteristics (5.1), and social norms and attitudes shared within the business sector (5.2).

Synthesis

Industry-wide characteristics may help explain why businesses report intelligence externally, or not. Long supply chains with closer relations between intermediaries may deter reporting by contrast to highly competitive and fragmented markets. In the food industry, the high number of chain actors tends to dilute the ownership of commodities. Shared norms may also be at play. Fraudulent practices in the food industry can be tolerated, so that acknowledgement that a behaviour should be reported may be missing.

5.1 Supply chain characteristics

While there is limited evidence on why some businesses may report observed offences and others would not, it is understood that this may differ as a function of “sector characteristics, such as the extent of cooperation and strength of social ties within the sector” (van Erp and Loyens 2018: 21). van Erp and Loyens (2018) have highlighted that when relationships between businesses are regular and there is interdependence, such as among partners in a supply chain who interact regularly with one another (as discussed famously in the work of Uzzi 1997), external reporting to others is unlikely. By contrast, external reporting is likely in sectors in which interactions between businesses are aggressive or intrusive (for instance because the market is open to external entrants, or because margins are inherently very small), or there are explicit transgressions of the law within the sector, or differences in nationality or perceived professionalism are prevalent.

This is illustrated in the Netherlands by Dutch owners of transport or construction businesses facing competition from Eastern and Southern European competitors, and taxi drivers from Uberpop (van Erp and Loyens, 2018). Interviews with business insiders also indicated that highly competitive and fragmented markets, such as the waste management industry, appears correlated with external reporting of intelligence by operators.

Some of these features are relevant for the food industry, in which globalized yet highly integrated and highly coordinated supply chains and business networks can be found. The level of coordination imposed on large parts of the UK's food industry by a limited number of very large operators means that it does not necessarily have qualities that are conducive to external reporting. However, that is not true for all food

sub-sectors. Some are less integrated, or even significantly fragmented and highly competitive (such as in the market for food supplements).

Manning, Smith and Soon (2015) have further argued that lengthy and globalised supply chains in the food sector make it easier to defer responsibility for food crime to other areas of a chain, which may discourage reporting. The limited traceability requirements in the UK support this – businesses are only obliged to provide records that link their products ‘one step back and one step forward’ (FSA) which provides little incentive to investigate, or subsequently report, on activities happening further down the chain unless they are economically damaging.

The corollary of long supply chains within one sector is that evidence of wrongdoing is often diluted across the value chain and intermediaries are thus less likely to report partners’ wrongdoing. This was illustrated by the Horsemeat Scandal which involved numerous operators across various European countries. As this incident suggested, it is not only suppliers or buyers within a chain who can be complicit in food crime, but also firms that provide logistics such as transportation or storage (The Guardian, 2017). Furthermore, while there may be knowledge of ‘something going on’, there may also be a lack of concern given the conditions which make various instances of food crime a ‘low risk’ crime for consumers. This issue was also raised in the Elliott review (Elliott, 2014).

Supply chains in the food industry are accommodating to low levels of reporting, with such chains creating interdependency between organisations and providing opportunity for both organisation and individuals to defer responsibility or blame for any detected wrongdoing to others.

5.2 Norms and values

Sector level norms can influence reporting behaviour (van Erp and Loyens, 2018). They may discourage reporting if they promote mutual support and secrecy (Gorta & Forell, 1995; Van De Bunt, 2010). They may also discourage reporting if they contribute to making wrongdoing tolerable or normal. Interviews with business insiders, for example, highlighted that ‘malpractices are often tolerated’ in certain sub-sectors of the food industry. The shared understanding among members of the sector of what is acceptable and what is not may thus mean that fraudulent activities could be widespread and yet go unreported. Lord et al. have argued further: ‘A key issue in food frauds is that such behaviours appear to become normalised across food sectors and markets’ (Lord et al. 2017a). This aspect was hinted at by one business insider interviewed *“the use of the word “fraudulent” is a very strong and correct classification and although it’s semantics the activity is seen as ‘sharp practice’ by the perpetrator to justify the actions”*.

This refers to the dishonest or unethical behaviour that perpetrators will argue is still within the confines of the law. Also highlighted were methods utilised by businesses to keep employees unaware of their involvement in fraudulent activity, such as ensuring it reflects their everyday practices. For example, an organisation who legitimately mixes food products may label a product differently or use different ingredients, but only once in every few hundred products or shipments. Employees consequently do not realise they are doing anything criminal, instead believing they are simply carrying out their usual daily, mundane tasks.

Furthermore, there is an element of ‘caveat emptor’ in operation throughout the food chain according to which the one who buys the product (e.g. the consumer) takes the ultimate responsibility for the quality and suitability of a good. One interviewee

suggested that the lack of moral ethics in the food industry tended to drive out individuals with higher ethical values, which continues to feed a vicious circle of malpractices and non-reporting.

While food fraud is not a new issue it has reached a more prominent status at policy and industry level in the aftermath of the horsemeat scandal in 2013. The wake-up call generated by the horsemeat scandal and the recent regulatory responses that followed suggest that the issue of food mis-description and adulteration across markets has only recently been taken seriously by regulatory authorities. For example, the establishment of the Food Industry Intelligence Network was a direct response to recommendations in the Elliot Review published in the wake of the horsemeat scandal. According to one representative of the network, “we know much more than they have ever done and more aware of what is happening in [the food] industry... we are probing and challenging in ways we weren’t doing before”.

Taking into account the norms and values of the food industry, which evidence suggests can be immoral or unethical in some cases, must therefore be a key consideration in the development of interventions to encourage reporting.

5.3 Contracts

Contracting practices can be observed at sector-level, some of which may have a determinant influence on reporting behaviours. Thus, the practice of non-disclosure agreements or “gagging clauses” can be found across organisations, and is explicitly aimed at limiting reporting of any confidential, and potentially negative information to a third party during or after the termination of someone’s employment relationship with an organisation.

While it is noted that PIDA explicitly renders gagging clauses void (Ashton, 2015), including employment contracts or compromise agreements (James, 2009), in practice this may be circumvented, as has been seen in the context of the NHS (Ashton, 2015). It also noted that, while PIDA renders gagging clauses void, this only applies in relation to certain types of disclosures, as outlined in section 43B(1) ERA, 1996⁸. As such, some disclosures may not be protected by PIDA, and employees could still find themselves subject to the terms of the gagging clause (Lewis, 2008).

One interviewee, who is a business insider, indicated that such non-disclosure agreements are widespread for managers leaving their employment in the meat industry, and are linked to pay-outs that further incentivise those who benefit from them to remain silent on the practices they may have witnessed, or participated in during their employment in the sector.

In the context of reporting behaviour, it is important to factor in such contracts and the role they can play in discouraging those working within the food industry from reporting.

⁸ The malpractices covered by PIDA are: actual or likely past, present or future criminal offences; failure to comply with a legal obligation; miscarriages of justice; endangerment of the health and safety of an individual; actual or likely damage to the environment; and deliberate or likely concealment of the aforementioned malpractices.

6 Organisational factors

The previous sections have explored factors enabling or hampering reporting at national and sector level. This section explores factors that can be observed at the organisation's level. Would-be external reporters may be supported or, on the contrary, hindered by features of the organisation they are a part of. In other words, organisational factors may contribute to 'employee silence' or 'employee voice'. An increasing recognition of the influence of organisational factors on individual behaviours has led to a shift in focus within organisational studies from 'rotten apples' to 'rotten barrels' when aiming to understand corporate crime (van Erp, 2018; Feldman, 2018).

In the same manner that legislation or social attitudes may encourage internal reporting at the expense of external reporting, organisational factors too may positively influence internal reporting at the expense of external reporting. Therefore, where internal intelligence reporting increases, external intelligence reporting may decrease (Feldman and Lobel, 2008). Conversely, external reporting is more likely where internal reporting is difficult or ineffective (Bjørkelo, 2008; Dworkin and Baucus, 1998; Miceli and Near, 1992).

Synthesis

This section explores factors that may influence reporting at the organisational level: organisational culture; organisational structure; power relations; internal intelligence reporting mechanisms; and the role of "gagging clauses". The following factors are highlighted:

- Both organisational culture and structure may impact intelligence reporting. Motivations for reporting and non-reporting may differ by organisational culture. Both bureaucratic and hierarchical organisations and loosely structured organisations where contact points are unclear inhibit internal intelligence reporting. They may, however, involuntarily contribute to external reporting, yet only for those who would have the courage to overcome the risks of retaliation.
- The importance of good leadership is highlighted. Good leadership may reduce wrongdoing and encourage reporting by helping to establish a positive organisational culture, while poor leadership can have the opposite impact. Leadership may support intelligence reporting by: helping to foster a culture of open communication; explicitly supporting whistleblowing; providing support to employees; acting as role models; being responsive to wrongdoing and reporting; and providing sufficient training and education. While this is primarily associated with internal reporting, the impact of good leadership on external reporting is less clearly understood.
- Staff training and education may include raising awareness about legal protection, reporting channels, and organisation policy, and clarifying what constitutes wrongdoing or fraud. Arguably this may contribute both to internal and external reporting, although this would depend extensively on the content of the training and the manner it addresses the trade-offs between both types of reporting.
- The manner and effectiveness of internal and external reporting may be influenced by the employee's power within the organisation and the level of power of the wrongdoer. Whistleblowing may be conceptualised in terms of a

power struggle between individual and organisation. To address the inherent power imbalance between individuals and organisations, whistleblowers may draw on collective sources of power, such as trade unions.

The literature has much to say on the benefits of internal intelligence reporting for organisations. The literature on reporting that takes the point of view of the organisation has, understandably, not much to say about the benefits of external intelligence reporting. Various internal whistleblowing procedures are discussed in that literature. These can be categorised by: medium, level of anonymity, and recipient. The implementation of multiple internal reporting channels, including the options of reporting anonymously and to a third party, is recommended.

6.1 Culture

'Organisational culture' is a broad concept that has been used in the social science literature to refer to 'taken-for-granted, shared, tacit ways of perceiving, thinking, and reacting' that can be observed within one organisation (Schein, 1996)

Organisational culture has been linked to behaviours within the organisation (and to fraud), and to the likelihood of it being reported internally or externally. For example, Berry (2004) argues that 'the collective culture influences employee reflections that ultimately result in a decision to speak out, or not.' This viewpoint is particularly supported by New Governance approaches, which highlight the impact of organisational culture on the behaviour of its workers (Feldman and Lobel 2008).

The literature provides a variety of insights, not all of which can be reconciled. Two broad arguments can be distinguished. The first argument refers to perceptions of deviant behaviour within the organisation, and how a normalisation of deviance means wrongdoing is not clearly identified as such and is therefore not reported. The second argument refers to the signals that the culture of the organisation provides regarding the act of reporting. We explore both in turn.

6.1.1 Organisational culture and sensemaking

An extensive literature discusses the manner wrongdoing is perceived within an organization, particularly to address the possibility that wrongdoing is normalized and tolerated. This phenomenon is captured by the sociological theory of the "normalisation of deviance". This theory describes the process by which deviant behaviour becomes standard practice (Jobson, 2009), and originates from the analysis of the events leading to the US Challenger disaster (Vaughan, 1996). The normalisation of deviance concept has been used extensively to understand medical misconduct, wrongdoing in the financial services industry (e.g. Ranadive, 2016) and in the oil and gas industry (e.g. Bogard et al., 2015). A related concept is Chikudate's 'collective myopia' (Chikudate 2002): corruption can go unreported for decades when wrongdoing is commonplace and therefore is not seen as morally questionable. In this instance, employees who had spent their lives working within the same organisation no longer perceived their actions as problematic, exemplified in their outrage at being treated as criminals.

Such concepts help to explain how wrongdoing can become widespread and ingrained within an organisation. Where wrongdoing is normalised, this inhibits reporting, as the behaviour may no longer be recognised as wrongdoing by employees and management.

The process of normalization of deviance can be unpacked as follows. The first step is an initial act of misconduct or wrongdoing. This is followed by a process of institutionalising this behaviour, which is then rationalised by individuals within the institution. This rationalisation may be supported by the verification of the behaviour by others within the organisation. This process is facilitated by a lack of immediate negative impacts as a result of the deviant behaviour (Bogard et al. 2015; Ludwig, 2016). For example, a medical student noted an act of misconduct during surgery (a surgeon touched an instrument to his face and then resumed surgery without getting a clean instrument), but no negative impact occurred as the patient was given antibiotics to counteract this misconduct, and was “fine” (Banja, 2010).

Following this, others are socialised into the process. This involves communicating to newcomers what values, beliefs or skills are expected of them in order to be successful within the organisation, and rewarding newcomers when they change their attitude towards the illicit practice. The process then repeats. The initial act may not be a particularly serious incident of wrongdoing, but as the normalisation process develops, the severity and frequency of misconduct may increase. This is also recognised by Schein and Schein (2016) who discuss how norms, values and underlying assumptions are institutionalised (e.g. formal business policies), socialised (e.g. interactions with peers) and rationalised (e.g. justifications for ways of behaving such as ‘everyone else is doing it’). It highlights the importance of tackling low-level wrongdoing, to prevent the normalisation process from occurring (e.g. Tenbrunsel and Messick, 2004; Gino and Bazerman, 2009).

Poor leadership is a key factor that facilitates the normalisation of deviance (FSB 2018). The initial act of wrongdoing that begins the process may be motivated by unrealistically high expectations among leadership and a dominant leadership style (FSB, 2018; Bogard et al., 2015). The process of institutionalising misconduct is also facilitated by leadership and may be formally or informally (e.g. by acting as a poor role model) authorised by leaders. Conversely, strong leadership is needed to positively change behavioural norms. Bogard et al. (2015) highlight the need for well-designed management systems, including adequate training and efficient work processes.

Jones and Kelly (2014) also find that “the everyday workplace norms can work as countervailing forces” that facilitate the normalisation of deviance even where managers attempt to promote a positive work culture. As individual behaviour can be influenced by associations with those in their direct network (such as conformity pressure brought about by peers, e.g. Clayton and Staden, 2015), strong leadership must be interpreted and actioned appropriately at both middle and lower levels to be effective.

Other key factors include group loyalty, which may play a significant role in the rationalisation process (FSB, 2018), and the (financial and time) costs involved with following proper procedure compared to the savings made by the deviant, but initially harmless, behaviour (Prielipp et al., 2010). Leadership may simply be “deaf” to issues highlighted by staff, ignoring reports of wrongdoing or superficially investigating them internally, to no effect.

This is known as the “deaf effect” (Jones and Kelly, 2014). As an example of this effect, Jones and Kelly (2014) highlight a Royal College of Nursing survey (2013), which found that 45% of 8000 respondents reported that no action was taken following raising concerns with their employer. Jones and Kelly (2014) suggest that the “deaf effect” is particularly significant within industries that have a hierarchical culture. Similarly, it is noted that workers become oblivious to issues in their work

environments. For example, Jones and Berry (2014) find reports of nurses working in a dementia ward becoming used to unsanitary conditions, while Bogard et al. (2015) note how workers in the oil and gas industry quickly become accustomed to the hazardous conditions they work in, for example, no longer responding to alarms that signal a potential issue due to the frequency of the alarms.

With the exception of Lord et al. (2017a, b), there is a lack of research exploring the normalisation of wrongdoing and crime in the context of the food industry. Bogard et al. (2015) suggest research that incorporates a behavioural science perspective would be particularly beneficial.

Creating a culture in which the normalisation of deviance is prevented requires low-level misdeeds to be tackled as they arise. To do so, however, such misdeeds need to be recognised and reported. Promoting strong, ethical leadership that filters effectively throughout an organisation and providing clarity on pertinent issues (e.g. what constitutes fraudulent behaviour) can work in tandem to facilitate the recognition of wrongdoing and foster a culture that encourages reporting when it occurs.

6.1.2 Organisational culture and reporting

At a broad level, the literature labels organisational cultures as being either 'open' or 'closed'. The former encourage internal reporting while the latter discourage it (De Graaf, 2015; Bjørkelo et al., 2008). Culture is cultivated through tools, practices and discourses, and Keil (2010) suggests that an open culture depends on the costs and rewards to reporting that the organisation provides. For example, in the context of the food industry, Motarjemi (2014) provides an example of the impact of a closed culture on reporting behaviour, noting that a 'well-known food company' incentivised employees to avoid reporting any food safety breaches by linking pay and bonuses to the number of product recalls or incidents. Loyens (2013) and Evans (2008) draw on grid-group cultural theory (GGCT) to argue that, depending on the organization's culture, reporting will be encouraged by different incentives.

In a 'hierarchical' culture⁹, whether employees feel responsible for reporting based on their position within the organisation may be the most significant factor; in an 'egalitarian' culture¹⁰, reporting decisions may be influenced more by whether wrongdoing is perceived as harmful to the group or not; in an 'individualistic' culture¹¹, reporting behaviour may be influenced by perceived personal gains and costs; while in a 'fatalistic' culture¹² perceived personal costs may be the most salient factor.

Leadership is mentioned extensively in the literature as playing an important role in shaping the organisational culture and reporting behaviour within the organisation. For instance, Near and Miceli (1996) and Mesmer-Magnus and Viswesvaran (2005) find that supervisor support positively correlates with whistleblowing (although it is not clear whether this relates to internal or external reporting, or both), while Sims and Keenan (1998) find that supervisory support encourages external reporting. De Graaf (2015) found that reporting mechanisms are much more effective when

⁹ Prescribed roles and responsibilities within a clearly defined group

¹⁰ The idea that everyone within an organisation is equal and should therefore cooperate for the good of the group

¹¹ A competitive environment in which individuals are 'entrepreneurs'

¹² Individuals are bound by a system of rules which are beyond their control

organisational leaders place a high value on integrity (also Berry 2004). Dilek et al. (2016) argue that managers should act as ethical role models, suggesting this is crucial for encouraging reporting even within organisational cultures that support whistleblowing.

The level of trust that employees have in organisational leaders may also impact reporting decisions. Employees who trust their supervisors are more likely to share information internally than those who do not (Keil et al., 2010; Gaines, 1980, as in Keil et al., 2010; Taylor, 2018). This need for high levels of trust can be explained by the high potential personal costs of whistleblowing (Taylor, 2018).

There is some disagreement in the literature whether it is more important to have trustworthy supervisors or senior management, with Taylor (2018) finding that trustworthy senior management is more important in the context of the Australian public sector, in contrast to findings of studies in the US private sector. It is suggested that the differences in context may explain the variation in findings. Distrust in management, however, will encourage external reporting.

The responsiveness of management to wrongdoing and reporting is another factor that may influence reporting decisions. Berry (2004) suggests that managerial responsiveness may help to develop the courage needed to express concerns or report wrongdoing. Keil et al. (2010) find in an US study that management responsiveness helps to reduce the perceived personal costs, whilst increasing the perceived personal benefits of potential reporters. Feldman and Lobel (2008) found that positive reactions from management encourages employees to report more wrongdoing, although this is only the case for internal reporting, while external reporting is actually reduced (also Callier 2016; Trevino et al. 2001).

The decision to report is strongly influenced by organisational culture, which can provide varying incentives (or disincentives) for doing so. An open culture is most desirable for facilitating reporting, which can be supported through effective leadership that values integrity, inspires trust in its employees and responds to expressions of concern. Notably however, this can serve in increasing internal reporting at the detriment of external reporting.

6.2 Organisational structure

Organisational structure may be broadly defined in terms of the formal arrangements that constitute an organisation, or more specifically defined in terms of an organisation's tasks; internal relationships (including formal reporting relationships); internal communications; the levels of hierarchy and the reach of managers' control (King, 1999). King (1999) categorises organisational structure into six categories: centralised, decentralised, matrix, horizontal, hybrid, and divisional.

King (1999) suggests that internal intelligence reporting behaviour is influenced by organisational structure. Centralised organisations – in which decisions are made by those at the top and are disseminated down through the organisation – may inhibit reporting, as employees may feel they do not have much power to effect change, and views that differ from those held by management may not be well tolerated. This is supported by Miceli and Near's (1992, in King, 1999) findings that whistleblowing is less frequent in hierarchical, bureaucratic, or authoritarian organisations. Less hierarchical and bureaucratic organisational structures may help to support internal reporting. This coheres with Evans' (2008) view that reporting is only incentivised within egalitarian cultures. However, intelligence reporting may be inhibited where reporting channels are unclear, which may happen within more flexible organisational

structures where chains of command and contact points are less clear (King, 1999). This is supported by Loyens' (2013) findings that, in the context of Western European police and labour inspectors, a culture of non-reporting was often facilitated by an individualistic organisational culture, which occurs when employees have high levels of autonomy.

An organisation's size may also impact on whether and how employees report intelligence. Employees within smaller organisations may be more likely to report intelligence internally, as they may feel able to effect change (Miceli and Near, 1992, as in King, 1999). Barnett (1992) highlights that larger organisations are likely to be more bureaucratic and complex, which further explains the relationship between organisation size and internal intelligence reporting likelihood. Conversely, employees within larger organisations may be more likely to report externally, due to difficulties reporting internally (Barnett, 1992).

Evidence indicates that employees are more likely to report if they feel they can effect change – be it because they are part of an organisation with less bureaucracy or defined hierarchy, or because their organisation is of a smaller size. However, those working outside of such organisations may refer to external reporting channels due to the challenges of internal reporting.

6.3 Power within organizations

The role of power in intelligence reporting decisions is considered in the literature; Loyens and Maesschalck (2014) describe whistleblowing as “inextricably linked to power relations within organisations”, while Lewis et al. (2015) argue that power resources are “critical” to the process of whistleblowing. The whistleblowing process can be viewed in terms of a power struggle between whistleblower and the organisation. Whistleblowing might be considered an attempt by dependent actors within an organisation to “reverse their dependency”, while retaliation following whistleblowing can be construed as an attempt to conserve the power imbalance (Loyens and Maesschalck, 2014).

This is consistent with circumstances in which external reporting is part of a broader employment dispute. Power relates closely to organisational structure, as both perceived individual power and power relations between potential reporter and potential wrongdoer have significance for reporting behaviours, which are heavily influenced by organisational structure.

Power position is highlighted as a factor that influences the effectiveness of intelligence reporting. Miceli and Near (2002) find that where individuals report due to a formal professional requirement to do so, this increases the effectiveness of reporting. This is explained in reference to minority influence theory, which theorises that individuals who deviate from the majority have more influence where they are more credible, as the authority that the reporting requirement bestows on the individual increases their credibility.

Furthermore, in the US, studies have found that employees are less likely to intend to report wrongdoing internally where the wrongdoer is a supervisor compared to reporting intentions where the wrongdoer is a peer, suggesting the influence of relative power status on reporting decisions (Gao et al., 2015; Taylor and Curtis, 2013). In relation to external reporting channels, Gao et al. (2015) found that this difference in reporting intention does not persist. Loyens and Maesschalck (2014) highlight that, where formal power is lacking, employees may instead draw upon

informal sources of power to challenge wrongdoing, such as “gossiping, making jokes, using sarcasm or cynicism, reprimanding and openly discussing wrongdoing”.

Individuals may also draw on collective sources of power to attempt to redress this imbalance. Skivenes and Trygstad (2015) argue that trade unions can act as a counterbalancing mechanism, reducing the impact of power imbalances between organisations and individuals. Lewis and Vanderckhove (2016) similarly highlight the role unions can play in shifting the power balance in the workplace. For example, they may be used to provide alternatives to management within internal reporting mechanisms, to represent individual employees who have made reports, or provide support for employees who are reporting publicly (for illustrations of such a role, see Etienne 2015b).

Lewis et al. (2015) notes the impact of contextual factors on the success of involving trade unions in internal reporting mechanisms, including management attitudes, sector, trade union membership levels, and resources, and highlights the possibility that trade unions and employers could collude to silence a reporter, where the report was potentially damaging to the organisation and other members of the trade union.

The power dynamic between organisation and individual can impact reporting behaviour. This dynamic is influenced by organisational structure, professional reporting obligations, the status of the wrongdoer and the existence of trade unions. Such dynamics can similarly influence decisions over internal versus external reporting.

6.4 Organisational procedures for reporting intelligence internally

The literature generally claims that organisations benefit from encouraging internal intelligence reporting, as this ensures that management is made aware of issues that may be potentially damaging to the business, providing an opportunity to address these. Encouraging internal reporting helps prevent external reporting too. The latter may damage the organisation’s reputation. Finally, internal reporting may help to encourage a more positive organisational culture (e.g. Miceli, Near and Dworkin, 2009; Lewis et al. 2015).

Intelligence may be shared in a variety of mediums, may be reported in a way in which the identity of the reporter is known, known but kept confidential, or anonymous, and may be reported to a range of recipients. Intelligence may be shared verbally, in person or by telephone, or in writing, on paper, by email or through an online reporting form. Intelligence may be shared anonymously, confidentially, or with knowledge of the reporter’s identity. Intelligence may be reported to a line manager, senior management, an employee with specific competence for receiving intelligence reports (e.g. a “speak up guardian” or, in the Dutch context, a confidential integrity advisor), or through a third party (e.g. through anonymous reporting hotlines that are run by external parties such as whistleblowing NGOs).

There is a lack of research on the types of intelligence reporting mechanisms and procedures used within organisations (De Graaf, 2015; Feldman and Lobel, 2008) and their effectiveness (De Graaf, 2015). However, there is some support in the literature for implementing multiple reporting channels, including an anonymous reporting option (e.g. De Graaf, 2010; Elliott, 2014; Berry, 2004). Dworkin and Baucus (1998) highlight that reporting to an immediate superior may not always be a viable option, finding that, in 9 out of 13 cases studied, individuals who complained to

their managers about wrongdoing that their manager was involved in were fired as a result. In such circumstances, a policy mandating reporting to line managers may mean that individuals face retaliation or choose not to report, while anonymous reporting mechanisms may be viewed as an alternative with lower potential personal costs. The Elliott Report (2014) similarly supports providing reporting channels that do not involve the employee's line manager.

Within the food industry, whistleblowing policies often recommend reporting to management in the first instance, recommending reporting to an alternative internal contact if this is not possible, and suggest reporting through external whistleblowing hotlines if neither of these options are possible (Soon and Manning, 2017). Evans (2008) recommends the use of egalitarian reporting channels rather than hierarchical channels, drawing on his finding that reporting is only incentivised within egalitarian cultures. This provides further support to implement reporting channels other than direct reporting to management.

Intermediaries can be found in some industries to facilitate internal reporting. Some organisations have a designated internal point of contact that people can raise concerns with beyond their manager or supervisor. One such example is the role of "Freedom to Speak Up Guardians" in the health sector, which was highlighted in a business insider interview. Confidential Integrity Advisors (CIAs) in the Netherlands provide a similar function. CIAs are mandatory within Dutch public bodies, and their role is to identify integrity issues, support staff to address these, and provide advice on subsequent steps (Huberts and Hoekstra, 2016). De Graaf (2015) finds that CIAs enhance the effectiveness of internal reporting systems, highlighting that organisations that attach the least importance to CIAs and reporting systems have the fewest reports.

As highlighted in 6.1, the organisational culture may have a significant impact on the effectiveness of reporting mechanisms. Even where organisations have multiple reporting channels in place, these need to be supported by the organisational culture in order to be effective (Berry, 2004).

Internal reporting is often preferred by organisations as it provides control and prevents bad publicity. Internal reporting can also contribute to a positive working culture. Different methods to encourage such reporting are utilised across organisations, with procedures ranging from approaching a supervisor directly to referring to an intermediary.

6.5 Staff training

The literature finds that staff training on whistleblowing improves reporting rates, improves satisfaction with outcomes, and reduces retaliation. It is worth noting that this focuses on internal whistleblowing rather than external whistleblowing through legal channels. While there may also be some improvements in the use of external disclosures due to better awareness of legal protections, and increased use of confidential or anonymous external reporting channels due to improved awareness of these channels, there is little evidence on the relationship between education and external reporting.

Caillier (2016) finds that introducing whistleblowing education, which includes informing employees of internal and external reporting tools available to them, the pros and cons of these tools, and the legal rights of whistleblowers, increases willingness to report wrongdoing. This is because it 'sends the signal the organisation cares about and values its employees' (Caillier, 2016). Similarly, Dungan (2015) finds

that making employees aware of the channels available to report is a strong predictor of whether an individual will choose to report. Berry (2004) emphasises the importance of ongoing training and education for ensuring that employees are able to recognise and appreciate the potential impacts of wrongdoing if they witness it. He argues that education and training is vital to facilitate vigilance among employees, and suggests a number of strategies including informal discussions, coaching, newsletters, e-mail alerts, in-service training, townhall meetings, e-learning, and formal training programs (Berry, 2004).

Greenberger et al. (1987) suggest that by emphasising the “moral correctness” of whistleblowing, this may make whistleblowing more attractive to employees, offsetting some of the perceived personal costs of reporting. Perhaps unsurprisingly, whistleblowing education correlates negatively with retaliation, either because the organisation sends a message of protecting whistleblowers, or because there is an increased awareness among staff of how to report wrongdoing anonymously. Increasing awareness of reporting procedures is beneficial to reporters.

De Graaf (2015) finds a significant correlation between satisfaction and awareness of internal reporting procedures, with around 30% more of the satisfied reporters compared to the unsatisfied reporters aware of internal reporting procedures in a large-scale Dutch survey (De Graaf, 2015). There is support for greater education and awareness raising in the context of the food industry (e.g. Moy, 2018, Elliott, 2014). The Elliott Review (2014) endorses whistleblower education, recommending that organisations ensure staff are aware and trust avenues for whistleblowing, and that these are regularly communicated.

Evidence suggests that introducing staff education on reporting and whistleblowing can encourage employees to speak out about wrongdoing they observe. However, as this results in increased utilisation of internal reporting channels over external ones it still presents a challenge for regulators, particularly as organisations themselves can be unwilling to pass on information – this is explored in 7.2.

7 Characteristics and motivations of reporters

This section presents salient findings from the literature on what profiles and motivations may be associated with (non-)reporting decisions by (1) individuals and (2) organisations reporting intelligence.

When it comes to motivations, the literature more often than not discusses intelligence reporting or whistleblowing as being principally motivated by the gravity of the act and one's view that it should therefore be addressed. More rarely, the literature discusses intelligence reporting as an action driven by ulterior motives that pre-empt concern about the wrongdoing. Those ulterior motives may relate to an industrial dispute, or to a commercial one. In this section we explore the range of motives that have been discussed in the literature with regard to both types of reporting.

Synthesis

This section explores the characteristics of individuals and organisations who report and their motivations for doing so, alongside comparisons with the food industry. For individuals, there is interplay between morality, material gain and emotion that contributes to decisions around reporting, whereas organisational concerns are primarily economic. This section shows:

- The makeup of the food industry's workforce is not conducive to reporting. It is characterised by migrant workers on zero-hour or temporary employment contracts, earning low wages and regularly moving from between jobs. They are more easily replaced by employers and could struggle to find additional work if they lost their job. As a result, they lack the power or confidence to speak out compared to those in well-paid and highly senior roles.
- The decision to report is influenced by individual perceptions of a wrongdoing: morality and ethical viewpoint can drive reporting, but they depend on perceived seriousness of wrongdoing. Evidence suggests this can be ambiguous within the food industry, where it is difficult to evaluate the extent to which safety breaches or fraud are considered serious or, in some cases, employees may be unaware they are partaking in fraudulent activity. Likewise, moral motives can be brought into conflict due to organisational loyalties, highlighting a need for absolute clarity on issues of food fraud and food crime.
- Such industry-specific ambiguities also support the need to consider the potential gains (and losses) faced by individuals in the decision to report. Retaliatory action has both a material and emotional impact, therefore the provision of financial rewards could go some way towards reducing fears and compensating for expected losses following retaliation.
- It is not only individuals who consider financial costs in the decision to report. The chief motive for organisations who report on others is economic, believing that their competitors are operating illegally or against regulations for monetary gain. On the other hand, this is considered against the potential economic damage of reporting on another organisation, which could result in others being unwilling to do business with them. Likewise, organisations have little motive to report on their internal activity, which could similarly result in legal, economic or symbolic damage.

Organisational structure can similarly contribute to non-reporting among businesses. It is therefore key that management are held to account for internal activities to discourage organisations from tolerating wrongdoing on the basis that they can plead ignorance in the event it is discovered.

7.1 Characteristics and motivations of individuals reporting intelligence to public authorities

7.1.1 Profiles of individual reporters

The literature provides extensive information about individuals reporting wrongdoing, but generally does not distinguish between those that report information internally, and those that report information externally, i.e. to a public authority, the media, or a third party.

Demographic predictors of reporting vary across the literature. Rothschild and Miethé (1999) find no significant differences between reporters and non-reporters on measures of gender, marital status, educational attainment, religion or number of promotions and, while the sample is not internationally representative, it covers a large number of employees in different roles and organisations. Conversely, Mesmer-Magnus and Viswesvaran (2005) and Feldman and Lobel (2008) find women more likely to blow the whistle than men, while Near and Miceli (1995) suggest it is usually men that blow the whistle. This may be a consequence of methodological limitations: Mesmer-Magnus and Viswesvaran acknowledge the total number of studies used in their meta-analysis was small, with possible sample overlap. Near and Miceli also used a small number of studies, with the findings on gender taken from just three.

However, common characteristics among individuals willing to report have been more consistently observed, helping to provide some explanation for the disparity in the number of whistleblowers within different industries. Reporters are more likely to have greater tenure as employees, with high job satisfaction and a high level of performance (Mesmer-Magnus and Viswesvaran, 2005). They tend to be well-paid, better educated and often hold more senior positions (Near and Miceli, 1995). In a review of 1,000 whistleblowing cases, just one-fifth of reporters were described as being in unskilled or administrative roles, while the majority (68 per cent) were in skilled, professional or managerial positions (PAWC, 2013).

This is similarly observed by Soon and Manning (2017) – whistleblowers are generally older, more experienced and working in supervisory positions – as well as by Fieger and Rice (2017). In particular, seniority appears to have a considerable impact on whether an individual reports internally or externally, with Caillier (2016) finding supervisors 40.4 per cent more likely to blow the whistle externally. This is consistent with resource dependence theory, which suggests that individuals with more experience are most valuable to the organisation, giving the employee leverage to report wrongdoings as well as giving the organisation an interest in addressing the occurrence to minimise the risk of losing the employee (Mesmer-Magnus and Viswesvaran, 2005). Similarly, Feldman and Lobel (2008) found that income and job security were strong predictors of reporting, whether internal or external.

There are stark differences between these identified characteristics and the make-up of the workforce in the food industry. Workers in the food industry are often unskilled with low economic status (Moy, 2018). They may be unaware of reporting mechanisms or legal protections in place to prevent retribution, with minimal incentive to report any wrongdoings they observe. Work can be precarious, with unclear career

paths, 'significant numbers' of employees on minimum wage and temporary or zero-hour contracts that offer little protection (Heasman and Morley, 2017). The food and accommodation industry in the UK has the largest proportion of employees on 'zero-hour' contracts, at 11.8 per cent of the workforce. Comparatively, the second largest proportion is within transport, arts and other services at just 4.4 per cent (ONS, 2018). The Fraud Advisory Panel (2017) suggest they indicate 'poor corporate culture' and are therefore 'guaranteed' to increase risks of fraud as a result.

Furthermore, transient agency work is prevalent within the food industry. Swedish Derogation (SD) contracts that forfeit workers' rights to equal pay and conditions after a 12-week qualifying period are used by corporations in the food industry to avoid having to treat agency workers equal to permanent employees regardless of how long they are assigned to work for them (Maroukis, 2015). This is likely to impact rates of reporting wrongdoing, with food industry worker contracts offering less protection than permanent contracts and leaving employees more vulnerable to retaliation. However, employees who conduct their whole career in a single firm may also fail to report wrongdoing, as Chikudate's study of corruption in Japanese organisations demonstrates (Chikudate 2002), therefore this is not in any way a sufficient condition for non-reporting.

Evidence also suggests that ethnic minorities are less likely to report wrongdoing than those from the dominant ethnic or racial group – they lack power in the workplace, often with less favourable relationships with management and of lower rank, and tend to remain silent rather than voice concerns or choose to leave an organisation (Behtoui et al. 2017). Caillier (2017) similarly finds minorities 20.2 per cent less likely to blow the whistle than non-minorities. While research in this area is very scarce, Fieger and Rice (2017) put forward two possible explanations for this disparity – an employee's lack of assuredness around what is considered 'acceptable practice' due to variations in cultural norms, and power dynamics utilised by wrongdoers to marginalise potential reporters which, in line with the findings of Morrison and Milliken (2000), can be exaggerated if an individual is from a different cultural background.

Likewise, there are cultural differences in what is or is not perceived as wrongdoing, and therefore potentially differing views on whether something should or should not be reported (Blenkinsopp and Edwards, 2015). This is an important finding in relation to the food industry given that workers from the EU make up almost a third of the UK's food and drink manufacturing sector (FDF, 2017) and specific industry areas such as meat production and butchery are 'heavily reliant' on migrant labour (Heasman and Morley, 2017). The British Meat Processors Association (BMPA) estimates 69 per cent of those employed in meat processing are EU nationals.¹³

The trade body for agencies that supply labour to the food industry, the Association of Labour Providers (ALP), estimates the national average of EU migrant workers supplied by labour providers to be between 90-95%, (ALP, 2016). In other words, workers in the food industry do not fit the profile of the typically well-paid, well-educated, skilled and experienced reporter. This indicates a reduced likelihood for those in the industry to speak out and therefore an increased need to encourage reporting.

While the above focuses on employees or ex-employees of the organisation on which a report may be made, third parties to the organisation, such as other

¹³ <http://britishmeatindustry.org/industry/workforce/> ; accessed July 2018.

professionals or members of the public (e.g. Dyck et al. 2010; Hawkins 1984 on bystander complaints) are also potential reporters, but they are much less studied than the former. Van Erp and Loyens (2018) find that, in the agricultural sector veterinarians and suppliers sometimes blow the whistle on wrongdoing, such as poor animal welfare. Regulatory inspectors themselves may 'blow the whistle' when they feel their reports are not being acted upon (Davies and Wasley, 2017; Eisenhammer, 2017).

The characteristics of non-reporters or 'inactive observers' from within or outside the organisation broadly reflect the above findings in that they are more likely to receive lower levels of pay and be of lower seniority than those who report (Miceli and Near, 1984). However, they also tend to have a high level of education, and include young, high-potential but low status employees.

As such they may be reluctant to report because they could be easily replaced by their employer and they fear reputational damage that could impact their career prospects. That said, the disparity between a whistleblower and an inactive observer is not necessarily a wide one. Both can spend time deliberating whether or not they should report, consulting with colleagues on the matter and worrying about the potential impacts reporting could have. Those that go on to report do not necessarily make the choice to do so based on this evaluation of events – instead, it is exposure to additional information or a particular incident that can result in feeling that reporting is the only option remaining (Blenkinsopp and Edwards, 2015).

Studied characteristics of those who report on wrongdoing do not reflect the characteristics of the food industry's workforce. Reporters tend to be skilled, senior, well-paid employees while food industry workers are often on minimum wage, zero-hour contracts, more closely resembling traits of an 'inactive observer'. A large proportion are from migrant backgrounds and the work itself is often transient, resulting in both monetary and cultural barriers to reporting.

7.1.2 Individual motivations for and against reporting

There is much variation in what is thought to motivate individuals to report wrongdoing, or on the contrary to stay silent. The evidence illustrates interplay between different motivations (Feldman and Lobel 2008). Morality and ethical views, emotions and the potential gains or losses to be made in speaking out have been mentioned as contributing to decisions to report. The relative importance of these different factors will differ between individual circumstances and characteristics of the wrongdoing, suggesting that ways of motivating reporting may need to be adapted (ibid.).

In order to organise the presentation of the rich literature available, we have structured this section into three broad types of motives: morality, gain, and emotions. This distinction broadly overlaps with distinctions widely used in the literature on whistleblowing (such as that between altruism and self-interest), and is also consistent with the broader literature on motivations underpinning behaviours that are *not* routine or automatic (e.g. Lindenberg and Steg 2007). These broad categories notwithstanding, in practice motives are known to interact with one another. For example, barriers such as the fear of retaliation for breaching a norm of loyalty may entail motives that are of a moral nature (one's feeling of duty to the group) and emotions of fear and shame at the same time.

7.1.2.1 Morality

The literature on the role of morality as a driver of reporting is conflicted (see review in Feldman and Lobel 2008). Soon and Manning argue that moral development, ethical judgment and loyalty have a strong bearing on an individual's motivation to report, but these closely interlink with other factors such as professional integrity, courage, perceived control of a situation and proactivity (Soon and Manning, 2017) which ultimately influence the decision to speak out. Whistleblowers are often thought to have high levels of 'moral development' and 'universal standards of justice' (Hersh, 2001), although another study has found that reporters had lower levels of 'moral development' than non-reporters (Miceli et al. 1991).

Mesmer-Magnus and Viswesvan's meta-analysis (2005) finds that ethical judgment 'moderately' relates to reporting intent but bears no relation to actual reporting. This is contradicted somewhat by De Graaf (2010), who finds that an individual's belief that a violation is worthy of reporting and their 'sense of justice' provides the greatest motivation to raise an issue (also Bjørkelo et al., 2008; Greaves and McGlone 2012; Bolsin 2003; Chiu 2003).

Conflict can arise between two moral values in the decision to report – fairness and loyalty (Dungan et al. 2015). The decision to blow the whistle has been theorised as a 'trade off' between the perceived fairness of a wrongdoing and loyalty to an organisation or wrongdoer, with greater intentions to report among individuals that prioritise fairness. This view is supported by Varelius (2009) who adds that there is no reason to believe loyal employees will speak out about wrongdoing within their organisation if their employer has not specifically requested them to do so. Loyens (2013) discusses this issue in the context of the police, in which there is a 'blue code of silence' – unwillingness among police officers to report on the wrongdoings of their colleagues. Loyalty is key to this, with peer loyalty outweighing that between officers and management and peer reporting subsequently being perceived as betrayal. When asked to which extent the negative views of others matter to their reporting behaviour, subjects in behavioural experiments tend to indicate that the latter matter more when it comes to reporting internally, rather than externally (Feldman and Lobel 2008). This suggests that loyalty to the organisation may have less importance as a barrier to external reporting than as a barrier to internal reporting.

A feeling of moral duty to act may be linked to the seriousness of a wrongdoing and the propensity to report it externally. Thus, Feldman and Lobel (2008) argue that the greater propensity of experimental subjects to report environmental damage externally cannot be explained by self-interest, but by feelings of social responsibility. However, the literature reports that the perception of what is a serious wrongdoing is highly subjective: a study of military personnel found reporting on legal violations, mismanagement and sexual harassment was significantly more likely than for waste, stealing or safety problems (Neal et al., 2004) while Dworkin and Baucus (1998) describe wrongdoing involving physical harm such as endangering safety or health as being the most serious – therefore most morally compelling to report – and psychological harm such as sexual harassment the least serious. Blenkinsopp and Edwards (2015) also note that observers may be unsure about the degree to which an incident constitutes wrongdoing, often questioning whether their views on the situation are warranted. Feldman and Lobel (2008) have added to that literature by demonstrating that, the more global the wrongdoing (it concerns the whole organisation and has externalities beyond the organisation) the more likely the individual will feel compelled to report it externally.

Within the food industry in particular, there are few resources to indicate the extent to which employees consider a breach of food safety or fraud serious enough to report. However, the literature and interviews with business insiders suggest that such issues are 'normalised' and therefore do not trigger a moral response from workers (Lord et al., 2017; Lotta and Bogue, 2015).

7.1.2.2 Gain

Besides morality, the literature also addresses to some extent the self-interested, material motives for reporting and not reporting. One's career and financial prospects can be a key motive for not reporting wrongdoing, either internally or externally (e.g. Chikudate 2002). The literature discusses extensively the substantial personal costs to reporting. (Rothschild and Miethe, 1999; Bjørkelo et al., (2008; Greaves and McGlone, 2012; Soon and Manning, 2017; McDonald and Ahern, 2000). For example, in a 2017 survey of 2,500 business managers across the US, Asia and Europe, 55 per cent stated they and their co-workers would be deterred from whistleblowing by concerns that it would damage their career prospects or reputation, rising to 58 per cent among those in the UK (Freshfields, 2017).¹⁴ Curtis's study of 220 accountants (2006) similarly finds a significant negative relationship between perceived personal cost and the reporting of wrongdoing, suggesting fear of reprisal action discourages potential whistleblowers from speaking out. This is also observed by De Graaf (2010), where fear of negative consequences is the main deterrent to reporting.

Various types of benefits have been also considered as drivers. Some of those are monetary. The assumption that reporters could be motivated by monetary rewards in exchange of intelligence (which can be in the form of a share of the penalty paid later on by the offending organisation) has been put forward in theoretical studies from the law & economics field (e.g. Stiegler 2012). This is supported by experimental research (e.g. Feldman and Lobel 2010; Rose et al. 2016; Nyrreröd and Spagnolo

¹⁴ This is a documented problem within the food industry, with Soon and Manning (2017) identifying depression and poor mental health, altered responsibilities, refusal of pay increments, lack of peer support, removal from usual duties, loss of employment, labelling as a troublemaker and associated stigma, revenge and isolation as just some of the challenges faced by reporters. Motarjemi (2014), who has personal experience of whistleblowing as an employee of a multinational food company, describes how individuals are often required to report wrongdoings internally, in some cases to the person responsible for the wrongdoing, and subsequently face psychological harassment, transfer or dismissal. In circumstances where their colleagues are aware but do not speak out, reporters may feel they have misunderstood the situation or overestimated the gravity of the issue. Retaliation is not only an issue within the food industry. McDonald and Ahern (2000) found health workers who reported wrongdoing were subject to demotion, reprimand and referral to a psychiatrist, as well as incidences of threats, pressure to resign and being treated as a 'traitor', while the 2016 Business Ethics Survey (ECI, 2016) with 1,000 UK employees lists 'the silent treatment, verbal harassment, demotions, undesirable assignments and even violence'. Of the 29 per cent surveyed who observed misconduct, 71 per cent say they reported it and over half (63 per cent) say they subsequently experienced some form of retaliation. For those choosing not to report, 59 per cent cited fear of retaliation as a reason for this decision.

2017) and by the experience of law enforcement authorities, particularly in the United States (Dyck et al. 2010; Call et al. 2017; Nyrreröd and Spagnolo 2017).

This bears particular relevance to the food industry, which is structured in such a way that wrongdoing can be 'normalised' and therefore goes unquestioned by workers. If they are unlikely to come forward on moral grounds, self-interest could offer a more effective driver. Further to this, there are often material incentives for keeping quiet – Mortarjemi (2014) describes how a 'well-known food company' linked pay and bonuses to minimal product recalls or incidents, incentivising employees to avoid reporting any food safety breaches. Managers leaving the food industry tend also to be offered payouts linked to Non-Disclosure Agreements (business insider interview), which further reinforces material motives not to report. One may consider whether material incentives could counteract the material benefits of not reporting.

Besides monetary considerations, other forms of self-interest may also drive the external reporting of wrongdoing, including reporting to the media or to public authorities. Indeed, such behaviour can correspond to a strategy to advance an individual's position in a dispute. While there is scant evidence of such instances of reporting in the UK, it has been reported by several authors in other contexts, and particularly in France (Gallie 1979; Maurice et al. 1986; Wagner 2009; Etienne 2015b). The notion that workers and their representatives may be informants has also been entertained and practiced in other settings, including the UK and the US (e.g. Hawkins 1984; Weil and Pyles 2005). In such contexts reporting is bound to interact with material considerations. Information shared by a representative from the FSAI has indicated that such motives have also led to multiple reports of food fraud to the FSAI.

7.1.2.3 Emotions

Emotional reactions to a wrongdoing often interlink with moral and ethical views, and can have a powerful influence on an individual's decision to report a wrongdoing. Curtis (2006) shows that one's negative mood reduces the likelihood of reporting wrongdoing, but that this is mediated by the seriousness of the issue and an individual's sense of responsibility: negative mood reduces these perceptions and subsequently reduces reporting intent.

The effects that negative mood can have on an individual's intention to report a wrongdoing are also illustrated in Milliken, Morrison and Hewlin's study (2003). There is increased likelihood to recall information consistent with a strong emotional state, so if an individual is fearful of reporting they are more likely to recall information which validates this fear and exaggerates possible negative outcomes. This points to the conflict between silence and voice described by Morrison and Milliken (2000) with regard to internal reporting. In circumstances where an employee appears to suffer from retaliatory action for voicing concerns, fear can quickly spread among colleagues and become exaggerated. This results in silence and reluctance among employees to use their 'voice' to report any wrongdoings they have encountered. This 'culture of silence' is considered more likely if there are demographic differences between 'top managers' and employees below this level. That is pertinent in relation to the food industry given the makeup of its workforce described at 7.1.1.

Blenkinsopp and Edwards (2015) further argue that employee silence is fundamentally driven by emotions. Employee silence can be categorised into quiescence, in which an employee is in an uncomfortable emotional state and 'suffers in silence', fearful of speaking up, and acquiescence, in which an employee 'submits' to organisational circumstances, resigned to the belief that nothing can

change the situation (Pinder and Harlos, 2001). Quiescent silence is described by Blenkinsopp and Edwards (2015) as highly emotional for employees, who may attempt to make sense of the wrongdoing they observe to 'persist with the status quo', but expressing regret in not speaking up sooner with the benefit of hindsight. For example, the perception of close relationships between a perpetrator and management can result in employees feeling their silence is justified, regardless of widespread knowledge of wrongdoing.

Fear, and in particular fear of retaliatory action, plays a significant role in upholding silence among employees and discouraging the reporting of wrongdoing (Callahan and Collins, 1992; De Graaf, 2010). In some cases, organisations and individuals will actively use intimidation tactics to this end (Gundlach et al., 2003).¹⁵ Interestingly, Mesmer-Magnus and Viswesvaran (2005) find that while fear of retaliation impacts intention to report, when the intention to report a wrongdoing is formed it 'does not serve to de-motivate action'. Gundlach et al. (2003) also highlight that intimidation can result in heightened fear that reduces whistleblowing but also cause anger and resentment which can act as motivators, making it challenging to predict the impact it will have on witnesses of wrongdoing. Nonetheless, it is important to recognise that research with those who witness wrongdoing but do not report it is minimal – they are hard to identify and, by definition, less willing to discuss their experiences, whereas those who do blow the whistle are self-selecting.

While fear of retaliation can act as a deterrent, individuals can also be motivated by a desire to retaliate against their employer because of anger or a desire to 'get even' with them (Furnham and Taylor, 2004), potentially overpowering their sense of fear (Gundlach et al., 2003). Gundlach, Martinko and Douglas's study (2008) with non-managerial employees supports this, finding that feelings of anger were significantly related to whistleblowing decisions. The study also notes that anger can stem from an employee's perceptions of an incident even if they are mistaken, highlighting a need for mechanisms that allow employees to discuss concerns before anger can develop.

An individual's decision to report on wrongdoing is influenced by their moral outlook, emotional response and the perceived gains (or losses) to be made.

Morally, experiences of wrongdoing can give rise to internal conflict between loyalty and fairness. Feelings of moral duty can provide a motive to report, but this can be moderated by the perceived seriousness of a wrongdoing. As there is some indication that wrongdoing within the food industry is 'normalised' by workers, harnessing their self-interests (through monetary or other means) could go some way to encouraging reporting. This may also reduce employee concerns about retaliation.

¹⁵ Retaliation can have substantial emotional costs. Rothschild and Miethe's study with whistleblowers (1999) found the majority of those in their sample 'suffered intensely', with the emotional impacts being most frequently mentioned. These included depression or anxiety (84 per cent), feelings of isolation or powerlessness (84 per cent) and distrust of others (78 per cent). Similar outcomes are described in the case study by Bjørkelo et al. (2008), in which the whistleblower suffered from psychological impairment and symptoms of post-traumatic stress akin to those who experience workplace bullying. Greaves and McGlone (2012) found that all of the participants in their study experienced damaging effects to their mental health and well-being after reporting a wrongdoing.

Negative mood, such as fears about retaliation, is a strong emotional deterrent to reporting and can contribute to a culture of silence among employees. However, resulting anger can also provide a motive to report for those seeking to retaliate against their employer.

7.2 Characteristics and motivations of organisations reporting intelligence to public authorities

7.2.1 Profiles of reporting organisations

Literature profiling the characteristics of organisations that report to law enforcement agencies or regulators is minimal and considerably more research is needed to more fully understand the types of organisations who *do* report. As noted by van Erp and Loyens (2018), the focus of research has primarily been on social norms deterring businesses from reporting and their study is the first looking at the motives of external witnesses who report business offences to authorities.

Van Ern and Loyens (2018) study does provide some insight into the organisations who report: they tend to be competitors of the alleged wrongdoer and most are small businesses. Rather than exposing large scale or systematic issues or fraud, the wrongdoings themselves tended to be small in scale – breaches of safety regulations on construction sites, working-hour violations of bus driver and the transportation of overweight loads being some of the examples. Perhaps most tellingly in relation to the food industry, it was only in the agriculture sector that third parties (as mentioned in 7.1.1) were responsible for more reports than competing businesses.

De Bunt (2010) explores a case within the Dutch construction industry, in which there were wide-ranging cartel activities between almost 400 businesses. When their price- and market-fixing agreements came to light after an individual spoke out, allegations were ignored – it was hard for prosecutors to believe so many reputable companies could be involved. Beyond the economic benefits to businesses, De Bunt points to organisational characteristics that lend themselves to non-reporting. When the truth is inconvenient, an ‘institutional schizophrenia’ can be created: a conspiracy of silence in which there is organisational knowledge of *something* going on but no incentive to question it. By structuring an organisation in such a way that management can claim ignorance to wrongdoing, risks can be minimised and potential benefits maximised.

There is little research into the profiles of organisations who report. However, there is some indication that they tend to be small businesses reporting on competitors, often about minor wrongdoings rather than large scale fraud.

7.2.2 Business motivations for and against reporting

The literature on organisations and their relationships towards their environment strongly suggests that **business organisations have a strong, default preference for secrecy**. Organisations, social theorists argue, strive for internal control and autonomy (Pfeffer and Salancik 1978; Vaughan 1990). Sharing information with their external environment threatens their autonomy and ability to maintain control. They may be concerned about criticism, exposing weak management, damaging their reputation, discouraging investors, or by inaction on the part of the law enforcement authorities (Fraud Advisory Panel, 2010). Thus, Katz argues that organisations maintain internal authority (from managers over staff) at the expense of external

authority and its norms, including laws (Katz 1977). As a consequence, organisations can be expected to engage into cover-up (Katz 1977, 1979), hypocrisy (Brunsson 2002) and more generally highly strategic forms of communication with their external environment.

These theories are echoed by the robust literature on self-reporting of information by business organisations to regulators and law enforcement authorities (e.g. Short and Toffel, 2011; Short and Toffel, 2010; Harford, 1987; Gray et al., 1995; Helland 1998; Kraft et al. 2011; Hoang et al., 2014). Theoretically, that literature has argued that business organisations face many disincentives to report any sensitive information externally, because of the potential response from public authorities and other stakeholders. Organisations may fear the legal, economic, and symbolic (i.e., reputational) negative consequences that may ensue, and therefore can be expected not to self-report any information that may be harmful to them, or only in a manner that shows a distinct regard for the need to appear transparent without being so (e.g. Helland 1998). Those claims are largely verified in the above cited literature. Furthermore, the criminological literature further argues that businesses may be concerned that, if they report another business from the sector to public authorities, this may have a detrimental effect on their reputation and economic prospects of working with others within the sector. Such concerns can persuade even those uninvolved in any malpractice to cooperate in a 'cover-up' (van de Bunt, 2010).

Survey data provides additional support for those claims. In the US the proportion of fraud cases passed on to law enforcement has been declining. Just 58 per cent of cases were referred to law enforcement in 2018 compared with 69 per cent in 2008, with fears of bad publicity (38 per cent), belief that internal discipline is sufficient (33 per cent) and costliness (24 per cent) cited by businesses as deterrents to reporting (ACFE, 2018). In a survey of businesses in Australia and New Zealand, organisations chose not to involve law enforcement in 39 per cent of major fraud incidents (Smith, 2008).

In the context of food crime, although the organisation that may report information would report another organisation or an individual from another organisation to law enforcement authorities, rather than itself, the act of reporting may nonetheless have a direct detrimental effect if the law enforcement authority seizes the food affected. Since food industry operators trade in large quantities, a business that has acquired food it later realises to be fraudulent may incur a large loss as a result of it being seized by public authorities. Economic motives, particularly for food operators operating with small margins of profit – as is the case in several sectors of the food industry – may therefore lead businesses not to report the issue but rather deal with it alone, including by passing on the fraudulent product to others in the chain or consumers (business insider interview).

This said, fears of economic damage can also work to encourage businesses to report on the wrongdoings of others. Van Erp and Loyens (2018) find competitive disadvantage to be the chief motive for businesses to report, who stress that they value fairness and justice in markets. Reporting wrongdoers can be a way for those businesses to ensure that their own investments in compliance pay off and that others do not gain an unfair competitive advantage by flouting the rules (see also Etienne 2015a for examples of participants reporting problems within the sector within safe spaces as a way of achieving a level playing field).

The literature suggests that businesses have little motive to report sensitive information externally, as this may result in legal, economic or symbolic damage and may reduce their level of autonomy and control. When businesses report others to

law enforcement authorities that tends to be motivated by economic reasons, and a concern that wrongdoing leads to unfair competition on the market.

8 Regulatory tools and practices

The previous sections in this report have explored the drivers of and barriers to reporting that the literature and interviewees have discussed at multiple levels, from the national level to the individual level. This section discusses the various strategies and tools that regulators / law enforcement organisations may develop and implement to activate these drivers, address barriers, or compound them by adding further barriers to external reporting. The literature discusses regulatory and quasi-regulatory (such as relying on private parties to achieve public goals) tools and practices more or else extensively, depending on which options are considered. Some of the literature is normative in that it aims to prescribe solutions, and some of it is empirical and examines the various ways that law enforcement agencies or regulators have operated in practice. This section presents that literature as well as information collected through the desk review of initiatives from law enforcement authorities to encourage reporting.

Synthesis

The tools and practices of regulators and law enforcement authorities can encourage external reporting or rather discourage it. The relevant evidence in this regard indicates that a variety of strategies and tools are available, and sheds light on their relative effectiveness.

- It would be too ambitious to assume that the practices of law enforcement authorities may suffice to counteract negative social attitudes towards whistleblowing, or the manner individuals in a sector make sense of wrongdoing. However, through their attitude towards reporters, and through campaigns of information, public authorities may contribute to addressing such barriers to reporting. The evidence points in particular to the value of taking a non-discriminatory approach to those who report intelligence, irrespective of their motives to do so.
- There is strong evidence indicating that providing monetary rewards in exchange of reports can enhance the quality of intelligence. It can provide a strong motivator for reporting intelligence when there is a low sense of the immoral character of wrongdoing, and when monetary incentives not to report are provided by businesses. The evidence on the impact of duties to report is less decisive, and the feasibility of implementing such a duty is uncertain.
- Various ways of making reporting easier have been documented. Hotlines, while extensively used, have limits highlighted in the literature and by the law enforcement authorities that have used them: they lead to a high volume of reports, but most of those reports are of low quality. Reporting tools tailored specifically for businesses have been used by some authorities, with good results. Finally, there is extensive evidence that regulatory presence in the field can make reporting easier: potential reporters have a sense of who is the person they can speak to. Much depends on how accessible and trustworthy that person has appeared during their visits in the field.
- Reporters, whether individual employees, businesses or third parties, have concerns that can be addressed by making reporting safer for them. Offering guarantees to reporters in this regard has much to do with formal means of anonymising data. Yet these have limitations – if knowledge about a fraud is

restricted to a small group of employees, for example, it may be clear who has reported it. When it comes to reassuring businesses in particular, arrangements such as safe spaces have structural limitations that cannot be resolved through formal means. Developing relationships of trust is equally important to encourage reporting.

- Intelligence reporting can be enhanced by ‘recruiting’ informants, especially from within the workforce of relevant businesses. This can be challenging and depends much on a network of field inspectors. A possible alternative is to work with unions, which has been recommended in a UK context by whistleblowing scholars, and has been observed in various countries.
- The flow of intelligence is enhanced if authorities provide feedback to reporters of the manner the information they shared was used, and if the manner they are dealt with by authorities is perceived as being fair.

Relying on some sources or channels can create tensions with other sources and channels. Relying on businesses to voluntarily share intelligence requires building relationships of trust. Relying on aggrieved competitors or disloyal/disgruntled employees would, on the contrary, signal distrust.

8.1 Changing perceptions about wrongdoing and reporting

8.1.1 Projecting positive attitudes towards reporters

As discussed in sections 4, 5 and 6, perceptions about wrongdoing and intelligence reporting have a potentially significant impact on encouraging, or rather, discouraging reporting behaviour. Wrongdoing may not be reported at all when it is tolerated and normalised, within organisations, or across whole sectors. Intelligence reporting, particularly when it is of the informal and external kind, may also be actively discouraged by social attitudes, whether diffused in the media and everyday conversations, or embedded into high profile institutions such as the law (as discussed in section 4).

How regulators address these perceptions can contribute to facilitating or on the contrary further stifling reporting behaviour.

The literature discusses diverse attitudes towards reporters from the part of public authorities. The empirical literature suggests that not all reporters and not all kinds of reporting are welcome by all public authorities. Reichmann (2010) argues that public authorities tend to distrust third party informants. Likewise, Hawkins (1984) has found that inspectors did not welcome complaints raised by members of the public. Etienne (2014) describes how some inspectors are highly reluctant to take into account, let alone encourage reporting that comes from disgruntled employees or competitors. Underlying those debates on regulator-regulatee relationships is the notion of regulatory capture, but also the idea that there might be trade-offs in accepting intelligence from one source or another, rather than from all of them. The literature mentions that, sometimes it is of particular interest to a public body to project neutrality towards stakeholder groups in the area it regulates, which may involve discouraging, for instance, employees from reporting intelligence, or else the regulator may seem too close to one constituency and hostile to another. Such a strategy may be particularly needed for public agencies that are weakened and lack political support (Huber 2007). More broadly, it may be that regulators may replicate in their work the social attitudes that are pervasive in the country or sector.

Other law enforcement authorities disregard the motives of those reporting information to them, in the sense that they will not discount or discourage reporting on the basis of the reporter's motives. Several of the public agencies reviewed for this assignment (e.g. Environment Agency, FSAI, and Action Fraud) highlighted that they do not consider the motivations of reporters when judging the quality of the intelligence they shared. This was particularly emphasised by FSAI, which makes determinations based on data received once it has been independently verified, and not based on who is reporting. These agencies instead use a risk assessment framework to assess the intelligence reported. It takes into account the degree of harm which may be caused to the individuals/businesses reporting and the proportional impact the wrongdoing has already had on an individual/businesses. Using a risk assessment framework helps to promote fair scoring, regardless of who the intelligence is coming from.

This is broadly consistent with numerous appeals within the literature for inclusive approaches to reporting from the part of public authorities (e.g. Schipani et al. 2017; Callahan and Dworkin 1994; Nyrreröd and Spagnolo 2017; Mendelsohn 2017).

Arguably, projecting an inclusive approach from the part of regulators or law enforcement authorities towards reporting is likely to provide a counterpoint to attitudes that may otherwise discourage reporting, whether those are cultivated within organisations, the industry, or society more broadly.

8.1.2 Raising awareness

The evidence reviewed has also underlined how the manner individuals make sense of wrongdoing, and particularly how they may normalise it may undermine reporting. The ambiguity of wrongdoing plays an important role in discouraging reporting (e.g. Blenkinsopp and Edwards 2008). In that regard, law enforcement authorities may organise campaigns to raise awareness about specific crimes or frauds and encourage reporting.

Some law enforcement authorities have carried out such campaigns, for example on computer malware, Christmas scams, fraudulent investments and waste crimes.¹⁶ Campaigns were publicised through flyers or online, e.g. through social media and the agencies' websites, to raise awareness about wrongdoings of a particular relevance and provide information about the proper means to report intelligence. Campaigns are generally limited in time and there is lack of evidence about their impact on the effectiveness of reports received by agencies, but they are widely used for targeted issues.

Some commentators have called for law enforcement authorities to recognize publicly the contribution of whistleblowers so as to heighten positive perceptions of external reporting. For example, Moy (2018) has made such a recommendation to encourage whistleblowing on food fraud, suggesting that cultural perceptions could be enhanced by 'recognizing whistleblowers for their civic responsibility, professionalism and personal courage'. Moy adds that those who report should be viewed in respect of their support for safety and integrity in the food supply, which benefits businesses and government as well as consumers. This is not exclusive to the food industry, with The Economist (2002) highlighting how one whistleblower in

¹⁶ These include campaigns by the National Fraud Intelligence Bureau (NFIB) and Action Fraud, the Financial Conduct Authority (FCA), and the Environment Agency (EA)

the finance sector received congratulations from friends in private, but in public they “would not lift a finger of support” due to the negative connotations with speaking out.

By praising individuals who choose to report publicly, law enforcement can help to promote the positive image of a reporter, and the act of reporting itself.

8.2 Rewarding reporters and penalizing non-reporters

Law enforcement authorities may have to rely on the self-interest of individuals to report. Literature discusses both rewarding reporters and penalising those who do not report as possible means of driving reporting behaviour.

8.2.1 Monetary rewards

As discussed in section 7.2.2, **there is strong evidence that material rewards may motivate reporting and lead to increases in the quantity and quality of reporting**. This is supported by experimental research (e.g. Feldman and Lobel 2010; Rose et al. 2016; Nyrreröd and Spagnolo 2017) and by the experience of law enforcement authorities, particularly in the United States (Dyck et al. 2010; Call et al. 2017; Nyrreröd and Spagnolo 2017). Financial rewards have been offered in the US to encourage whistleblowing in relation to tax evasion and procurement/financial fraud: the average penalty for firms where whistleblowers are involved is \$74.21 million, while without whistleblowers the average is \$5.09 million. This suggests that rewards contribute to reporting of high quality and serious wrongdoing (Call et al., 2017). Furthermore, experimental evidence strongly suggests that monetary rewards can contribute to external reporting especially in circumstances in which company compensation structures are established to discourage it (Rose et al. 2016), which is the case in some sectors of the food industry.

Building on experimental evidence, Feldman and Lobel (2010) warn that financial rewards could contribute to lowering reporting of certain forms of wrongdoing, because they may reinforce material motives and crowd out moral motives: in cases where a wrongdoing is not considered ethically significant by a potential reporter, low rewards can result in even less motivation to report than if there was no reward available at all. That said, high rewards can have the opposite effect, increasing the likelihood of reporting when wrongdoing is not perceived as ‘morally offensive’. Furthermore, more recent experimental studies suggest that such a crowding out effect is minimal (see discussion in Nyrreröd and Spagnolo 2017).

Various agencies in the UK have expressed doubts about the positive impact of monetary rewards (e.g. FCA and PRA 2014), including concerns that this may also lead to adverse effects. Most of these concerns appear unfounded, however, considering the evidence reported in the scientific literature (Nyrreröd and Spagnolo 2017).

To the extent that it encourages external reporting, it is fair to assume that incentivising external reports with financial rewards may have an adverse impact on internal reporting. Yet, since rewards heighten the risks of external reports, they could also lead businesses to address fraudulent behaviours internally and thus contribute to reducing fraud overall.

8.2.2 Penalising non-reporters

As highlighted in section 4.2, those with duties to report may be penalised where it is found that they had knowledge of a wrongdoing and did not disclose this. The penalty

tends to take the form of being found no longer fit to practice their professional role following an instance of non-reporting. **Imposing legal penalties on non-reporters generally is likely to be challenging, as discussed by Vandekerkhove and Tsahuridu (2010), as this would require establishing what knowledge was held by various individuals at various points in time.**

8.3 Making reporting easier

The behavioural economics literature has argued that behaviours can be influenced by making the desirable course of action easier from a practical, emotional, or normative point of view (e.g. Ariely 2008; Thaler and Sunstein 2009). In that regard, the relative simplicity or complexity of reporting channels matters. There are options regulators may explore.

8.3.1 Hotlines

Hotlines may be designed for use by any individuals with knowledge or by agency staff, such as field officers who have received intelligence in the course of their activities and wish to pass it on. A review of the evidence indicates that hotlines tend to have limited effectiveness, and less than the organisations who use them claim they have (Waldron 2012). It has also been argued that externally managed hotlines for blowing the whistle tend to be more effective than internally managed hotlines, especially for organisations with a history (one could say a 'reputation') of poor responsiveness to whistleblowing (Zhang et al. 2013).

The desk review and interviews performed across various law enforcement agencies¹⁷ in the UK and Ireland revealed that hotlines are often used by agencies. However, these agencies' experience does not indicate that such tools lead to the collection of intelligence of the requisite quality. Rather, reports may often relate to unrelated or minor issues. In the food domain, reports made to hotlines may be more about food safety issues than food fraud (consumers might recognise issues throughout the food chain but not be aware of food fraud). In the environmental domain, they tend to relate to fly tipping rather than to more serious environmental crimes. Therefore, even though the number of reports received through such channels can be high¹⁸, most cannot be followed up.

The Environment Agency also has a phone hotline for its field officers and internal staff, which is manned by a select group of trained intelligence officers to ensure high quality standards. Prior to this, EA staff who wanted to report intelligence had to follow a more complicated and time-consuming path, which potentially discouraged some from reporting. The ability to report intelligence via the phone hotline has meant that information has been collected in a more efficient manner than before. This has helped to filter out poor intelligence at an early stage and ensured contact is only made with those reporting where intelligence is sufficient to pursue.

¹⁷ These include the Food Safety Authority of Ireland (FSAI), the National Fraud Intelligence Bureau (NFIB) and Action Fraud, the Financial Conduct Authority (FCA), the Environment Agency (EA), and Her Majesty's Revenue and Customs (HMRC)

¹⁸ The FSAI received 3,202 complaints in 2016 and the EA receives about one report per day.

Evidence for the success of hotlines in gathering information is therefore mixed – they can enable more efficient collection of information and may increase reporting. However, reports are not always followed up or may relate to less significant issues.

8.3.2 Business tailored channels

Reporting may also be done using an online form. Some agencies¹⁹ have provided specific reporting online forms tailored for businesses. Such tools have been associated with high levels of quality of intelligence reported²⁰. **Business reporting tools have been found to be particularly effective when they make reporting easier, for instance by streamlining reporting processes.** For example, Action Fraud’s business tool for reporting crime includes a ‘bulk reporting’ function which enables businesses to report multiple criminal activities which may be linked (such as several fraudulent transactions made to different bank accounts). This prevents the reporting business from having to fill in a different form for each incident, which may put them off reporting altogether.

8.3.3 Crowdsourcing websites

Some examples exist of new technological channels where crowdsourcing is used to gather reports of instances of wrongdoing, in particular bribery and corruption. The leading case study for this is the ‘I Paid a Bribe’ website, which started in India in 2010 and has since spread to several other countries with varying levels of success. A similar concept has been used in Latin America to address electoral corruption and campaign financing (Klitgaard 2012). The Indian case has been studied in the literature and there is evidence to suggest that the use of such platforms can help reduce the instance and extent of bribery (Ryvkin et al. 2017).

The intent of such platforms is not to call out and enforce against individual instances of corruption, although there are isolated examples of the platform being used in this way (Kannaiah 2016). Rather, the purpose of such platforms is to raise public awareness about the extent of the issue and to create a quantified picture of where bribery occurs and at what levels. The reports of bribery are anonymous, not providing the identity of those demanding or paying the bribe, only their location and sector. This is used to create a high-level picture of where bribery is occurring. This information can then be used to develop and push through policies that address specific problem areas at a system-level. The ‘I Paid a Bribe’ case in India has already succeeded in this respect, helping one Indian state push through reforms in motor vehicle licencing (Klitgaard 2012).

Determining the effectiveness of such technological channels is difficult and no comprehensive evaluation has been conducted. The existence of such a platform itself does not necessarily increase the quantity of reporting over time. The website’s own data indicates that the level of use has not been consistent over the years, with peaks and drops in the quantity of reports that likely are not related to actual instance of bribing (I Paid a Bribe 2018). There is some evidence from an experimental study

¹⁹ These include the Food Safety Authority of Ireland (FSAI), the National Fraud Intelligence Bureau (NFIB) and Action Fraud, and the Financial Conduct Agency (FCA) (which provides a whistleblowing service to report misconducts within firms)

²⁰ The whistleblowing tools from the FCA has instead registered a decrease in reports over years, but this might have happened because an increasing number of firms is implementing internal whistleblowing systems.

to suggest that the use of such technology (if adoption is widespread) can contribute to reducing bribe demands, even when all information related to the identity of the briber remained anonymous. Revoking that anonymity and including information in the reports about the specific location of the office/official who demanded the bribe led to further reduced demands. In such a scenario, however, it was also important to restrict the ability to post reports to service recipients, otherwise the incidence of false reporting increased (Ryvkin et al. 2017). Concerns about false reporting are common in criticisms of such reporting systems (such as by the Chinese government, see Ang 2014). Additionally, there are some concerns that crowdsourcing this type of reporting could in fact hamper the reduction of corruption and bribery, by normalising the behaviour to both the demander and payer and by offering a sort of price-setting, whereby those who demand bribes know how much they can get away with (Zinnbauer 2015).

Crowdsourcing information on wrongdoing can help form a picture of the areas in which it is taking place, but there is little evidence on how effective they are. There are concerns that reports can be false, and the level of reporting can fluctuate over time. This said, there is some evidence that they can help to reduce occurrences of wrongdoing.

8.3.4 Physical presence

As discussed in section 4, a network of inspectors in the field, that potential reporters can be made aware of, even meet and speak to, can be one of the conditions that make reporting of intelligence easy. For example, studies of inspectors monitoring compliance of health and safety (Hutter, 1997; Etienne 2015b) and environmental compliance (Hawkins 1984) have documented how repeated interactions between inspectors and workers or their representatives provide channels for easy, quiet and effective information sharing. This was further confirmed in an interview with a representative from the Environment Agency. The relevant literature suggests that a regular, physical presence on the ground can contribute not only to reporting by employees, but also by the business owner/manager, through the development of relationships of trust between inspector and inspectee.

8.4 Making reporting safer for individuals and businesses

A salient issue for would be reporters, and particularly for businesses on the one hand, and employees with limited stability and low income on the other, is the risk that reporting intelligence will cause further harm to them: loss of reputation, revenue, opportunities, career, ostracism, retaliation, etc. Law enforcement authorities may have opportunities for addressing this barrier to reporting by making reporting safer for individuals and businesses.

There are mixed findings on ways of protecting the identity of reporters, and limited evidence on their relative effectiveness.

Business needs for confidentiality has led a number of contributors to the literature on self-reporting to recommend that law enforcement authorities provide guarantees of immunity and/or anonymity to businesses (Innes 2001; Parker 2002; Stafford 2007). The empirical literature on self-reporting shows, however, that even when protection is granted, businesses report in a very strategic manner, sharing only partial and carefully managed information (Helland 1998; Pfaff and Sanchirico 2004; Stafford 2007). The socio-legal literature, in parallel, emphasises that informal guarantees of immunity or anonymity, such as those that an inspector can give to an

inspectee within the framework of a relationship of trust, can sometimes yield extensive information sharing (e.g. Haines 1997; Etienne 2013). In that regard, formal procedures to make reporting safer may be less effective than the long-term efforts to develop relationships of trust between law enforcement authorities and the industry.

Trust building is also a key condition for the success of safe spaces, which have meant to provide guarantees of confidentiality and anonymity to businesses. They are also meant to address concerns that any commercially sensitive information they might share could become accessible to other businesses. The evidence on safe spaces is small and underwhelming (with the notable exception of Rees 1994; see more generally Etienne 2015a). The success of safe spaces appears to rely not only on formal steps and procedures, but also, and perhaps more critically, on the quality of the interactions between participants, and on the quality of leadership within the safe space.

Case study 1 - FISPs

Financial information-sharing partnerships (FISPs) exist worldwide, set up with the purpose of identifying and disrupting financial crime. Engagement is voluntary and therefore beyond minimum regulatory requirements, but an assessment of their effectiveness in disrupting crime found that they have enhanced the quality, timeliness and impact of financial crime reporting. However, they are limited by the lack of a technological base, the speed with which they can process cases and develop risk indicators, and maintaining a real-time information flow (RUSI, 2017).

The FISP in the UK is the Joint Money Laundering Intelligence Taskforce (JMLIT), set up by the National Crime Agency (NCA) in conjunction with the finance sector in 2015. Its function is to understand and disrupt criminal funding flows such as money laundering, bribery, human trafficking and the financing of terrorism and aims to fill intelligence gaps to assist both banks and law enforcement agencies. The taskforce is structured into the following groups:

- Operational Group: representatives from large retail and investment banks, and public sector bodies such as the NCA, HMRC and law enforcement agencies who share intelligence in a co-located hub
- Expert Working Groups: Wider industry representatives including smaller banks looking at priority/future threats and threat typologies
- Alerts function: British Bankers Association (BBA) members, circulating assessments, trend reports and non-sensitive intelligence

Results of a 2016 assessment of the initial JMLIT pilot were extremely positive: 98 per cent of JMLIT participants surveyed rated the initiative as being very or slightly successful, despite the obstacles encountered in realising the partnership (NCA, 2016). Challenges identified reflect the limitations experienced by FISPs more generally: a lack of technological systems and processes to support their work, legal impediments to sharing information, communication issues between groups and a lack of clarity on governance structure.

The 2017 RUSI report on FISPs identifies key characteristics which have aided in their success, many of which could be applied outside of the

financial context in the setting up of intelligence-sharing partnerships. These include building trust, confidence and understanding in the partnerships through engagement of both industry and the public, high level support from leaders in both public and private sectors, clear information security guidelines and a well-maintained information flow, effective use of technology and international engagement.

The many obstacles to information sharing within safe spaces are such that, if information is shared with other businesses and with law enforcement authorities, it is likely to be sanitised information (as is the case for information shared within the Food Industry Intelligence Network), and therefore information about a problem rather than information about an individual, or a specific business. It could be useful information, but not necessarily information that could lead to a targeted intervention. Besides, it is not unusual for safe spaces to be used as a tool to standardise business approaches to managing sensitive information, helping businesses achieve greater internal control, and therefore autonomy, and reducing the potential for external reporting at the same time.

Case study 2 - Cyber threats – ISACs and CiSP

Information Sharing and Analysis Centres (ISACs) are non-profit organisations that coordinate information sharing on cyber threats, often involving both public and private sector bodies. They are generally driven by industry but there is often expectation of governmental support through facilitation and providing specialist knowledge. Although law enforcement agencies generally do not have direct involvement or membership of ISACs, they are usually linked through participation in dedicated information sharing sessions (ENISA, 2018).

Key to the effective operation of ISACs is the willingness to share information beyond that which is legally required. For reasons including lack of trust, competition and work prioritisation, members do not always share information which could potentially prove valuable (WEF, 2016). To minimise this, fostering personal relationships between members is considered integral and it is recommended members to meet in person frequently. ENISA suggest formalised trust building through the signing of a Non-Disclosure Agreement or Code of Conduct, and most ISACs also use a web portal or platform that allows members to share information anonymously.

In the UK, the Cyber Security Information Sharing Partnership (CiSP) was set up in 2013. While not labelled an ISAC, it shares similar characteristics in its function of sharing information about cyber threats through a public-private sector partnership. A secure social networking platform is used, enabling members to exchange information on threats in real time. It is a publicly funded free service aimed at organisations who manage IT networks and government stakeholders.

The preference for anonymity of individual reporters is also well documented in the literature and was mentioned by interviewees. One business insider highlighted that the opportunity to report on condition of confidentiality without fear and recrimination was very important. In some companies the opportunity to report intelligence in confidence to a third party (an external provider) may address this need for anonymity. Law enforcement authorities can usefully accept anonymous reports rather than discount them. In an interview, a representative from the FSAI noted that

there was no obvious difference in the quality of the intelligence reported depending on whether it had been reported anonymously or not.

The desk review and interviews highlighted that all agencies reviewed²¹ had mechanisms in place to protect the identity of informants and hold personal data securely. Agencies generally encouraged people reporting crimes to disclose their identity, or to make the disclosure of their identity mandatory. Data is generally held in separate databases with restricted access (e.g., only the agency unit working with intelligence has the possibility to access them). Agencies also typically have a procedure in place for destroying any intelligence after a certain period of time has elapsed, in line with data protection legislation. For example, the Environment Agency has a retention schedule on any intelligence log. Once this log has been recorded, it will remain securely on the system for six years. After this period, it is reviewed. If the intelligence log is still required, steps are taken to keep it active, otherwise it is deleted.

Third parties such as whistleblowing charities may act as a conduit to further ensure that whistleblowers are protected. In such instances, they will collect the information provided by the whistleblower, remove any identifiable information, and then pass this on to law enforcement. A drawback of this approach is that if additional information is required, this cannot be gathered, which hinders the effectiveness of reporting in this way. Similarly, within regulatory bodies, information may also be sanitised before it is passed on, to preserve confidentiality. For instance, within the FCA, information reporting that may fall under whistleblowing (in that the individual may require some degree of protection) will be dealt with by one part of the organisation, which then sanitises the information to disguise the source in order to produce an intelligence report that can be used in other parts of the organisation, for enforcement purposes.

Overall, intermediaries and brokers – such as whistleblowing charities, or trade bodies when those are involved in organising and moderating safe spaces – have been relied on in various settings to make reporting safer. However, the qualitative evidence suggests that much depends on the quality of the interactions between all parties. Put differently, it is important for good collaboration and information sharing that reasons for *distrust* are addressed: that is the function of procedures and intermediaries protecting the identity of the reporter, or to remove commercially sensitive details from reports. However, it is also important that a level of *trust* is established, particularly when it comes to businesses sharing information voluntarily with law enforcement authorities.

8.5 Enrolling reporters

The literature on information gathering by regulators and law enforcement authorities has increasingly recognised that the detection of wrongdoing and noncompliance depends increasingly on a ‘web of monitors’, which may include employees, managers, rival businesses, unions, journalists, bystanders, consumers, NGOs, etc. (Dyck, Morse and Zingales, 2010; Etienne 2014; Hawkins 1984; Macher et al. 2010; van Erp and Loyens, 2018). The importance of a web of monitors can be seen in the US, where no single reporter type accounts for more than 20 per cent of detected

²¹ These include the Food Safety Authority of Ireland (FSAI), the National Fraud Intelligence Bureau (NFIB) and Action Fraud, the Financial Conduct Authority (FCA), the Environment Agency (EA), and Her Majesty’s Revenue and Customs (HMRC)

corporate fraud cases and, in the majority (64.1 per cent) of cases, those detecting the fraud do not have an official mandate to do so (Dyck, Morse and Zingales, 2010). Hence, in order to improve the quantity and quality of reporting, it may be useful for law enforcement authorities to cultivate such a 'web of monitors'.

Intelligence reporting may be improved by engaging workers and their representatives in the intelligence reporting process. This was discussed already by Hawkins (1984) in his study of inspectors monitoring environmental pollution in the UK:

"Informants are recruited on routine sampling visits and encouraged by field staff to report any untoward incident or abnormal effluent: 'You build up a series of contacts or spies who aren't particularly loyal to the factory who... when you go into a factory will run over to you and say "You know what they were doing last night? They were emptying their acid baths."' Since many pollutions carry with them few signs about their origins, such reliance on inside information is an effective way of producing knowledge about offenders." (Hawkins 1984: 99)

This involves a level of engagement with employees and their representatives that not all law enforcement authorities are resourced to achieve. Trade unions are discussed in the literature as an intermediary that regulators can rely on, to benefit from their network of worker representatives within the industry. Thus, Lewis and Vanderckhove (2016) suggest roles for trade unions in internal intelligence reporting, intelligence reporting to law enforcement agencies, and intelligence reporting to the media. At the level of internal intelligence reporting, trade union officials may be designated as contact points, which may encourage a higher quantity of reports (Lewis et al., 2015). They may also act as representatives for individual reporters (Lewis and Vanderckhove, 2016). They highlight the potential benefit of designating trade unions as appropriate external recipients of intelligence: this may reduce wider disclosures (e.g. to the media) which are more likely to be damaging to the organisation, although that may not be the case when union representatives are radicalised (e.g. Etienne 2015b). Where whistleblowers do consider making disclosures to the media, trade unions may take an advisory role on whether the individual will be protected by PIDA, and if so, can support the individual (e.g. by advising which media outlets to contact, or by representing the whistleblower to protect their identity.

A more formal approach is to rely on covert informants to increase the amount of intelligence law enforcement can gather. Under the Regulation of Investigatory Powers Act 2000 (RIPA), the FSA has powers to conduct surveillance and information gathering for the prevention and detection of crime. Covert Human Intelligence Sources (CHIS) may be used to increase intelligence. This describes the situation where an officer is permitted to maintain a personal or other close relationship with someone for the covert purpose of obtaining information or providing access to information for law enforcement authorities. Not all agencies (e.g. Environment Agency) may choose or have the powers to use this.

Creating a 'web of monitors' through engaging organisations, employees and trade unions enables law enforcement to collect information on wrongdoing through different channels. Covert methods could also be utilised to gather intelligence.

8.6 Taking intelligence seriously

The importance of taking intelligence seriously is highlighted in the literature and was also mentioned in interviews. At an individual level, this means ensuring intelligence is dealt with appropriately and the reporter receives feedback on the process. Van Erp and Loyens (2018) note that perceived procedural justice and expressions of gratitude from organisations receiving intelligence have positive impacts on future reporting. Among external reporters, there is limited evidence that those who do not receive feedback feel frustrated, while those who do feel appreciated and taken seriously, even where this report does not lead to enforcement or investigation measures (ibid.) Lewis and Vanderckhove (2016) suggest that trade unions can play a role in ensuring that authorities deal with intelligence properly (e.g. ensuring that allegations of wrongdoing are investigated).

This applies also to safe spaces: intelligence should be processed and shared in ways that are of use to its members, to promote further intelligence sharing. Within the food industry, FIIN produce reports for the network based on the data that members provide. This serves two purposes. Firstly, following the aggregation of data, it is possible to see industry-wide issues and challenges. When focusing on isolated cases, it may often be the case they are caused by mistake – but when you compile all the data and find a pattern, this proves that something is wrong. Secondly, the intelligence drawn from the reports allows FIIN members to adopt a more strategic approach to supply chain assurance; the network gives recommendations rather than advice on how to use resources more effectively and to enable this strategic approach. By following this approach, the network also builds trust among all members – as they can see exactly how their data is being used and what implications it will have.

Addressing reports and providing feedback to reporters can help demonstrate that any allegations of wrongdoing are taken seriously, and thus encourage further reports. Likewise, in safe spaces information must be shared with members to build trust and encourage continued intelligence sharing.

8.7 Combined approaches and trade-offs

Law enforcement authorities may contribute to intelligence reporting by relying on a 'toolkit' of strategies and instruments. The literature provides some insights on the strengths and weaknesses of those, and how they may combine or rather be alternatives.

The general message from the literature is that intelligence can be collected through multiple channels simultaneously (a 'web of monitors'; Dyck et al. 2010), although some channels can conflict with others. A well-understood trade-off is that between reporting that is visible to all, for example because it is made to the media or to elected officials, and that which is not, because it is made through channels – either discreet intermediaries or to the law enforcement authority directly – that enable information to be received and processed discreetly and quietly. The literature discusses how 'loud' reporting drives resources and the necessity of a public response, which may not be in the interest of the investigation or the achievement of policy goals more generally (e.g. Hawkins 1984; Etienne 2015b).

Another trade-off can be observed between efforts that consist in encouraging businesses to voluntarily share data through coordinated structures, such as safe spaces, on the one hand, and efforts that on the contrary rely on aggrieved competitors and 'disloyal' (Hawkins 1984) or disgruntled employees to report their

peers, their colleagues or their employers, on the other. The former strategy is fundamentally reliant on the ability of the industry to coordinate and on a relationship of trust with the regulator. Its success therefore depends not only on a bedrock of habitual conversations between law enforcement and industry, but also on the public authority's consistent signals to the industry that it can be trusted to handle sensitive information in a manner that will not harm the interests of businesses. The latter strategy, however, signals to businesses distrust. When it is implemented in a manner that does not discriminate between reporters on the basis of their motives, then it can be perceived as a breach of trust by the industry. Such tensions have been documented in earlier studies, and can even appear within law enforcement authorities, between those who invest heavily on the former strategy and those who rely on the latter.

Overall, Feldman and Lobel (2010) argue that there is no one size fits all response to incentivising reporting. Rather, different approaches are warranted for different publics, depending on their motives.

9 Conclusions and recommendations

This report has explored barriers to and drivers of intelligence reporting to law enforcement authorities. The report has explored these factors at various levels: national, industrial, organisational, and individual level. It has also explored what tools and practices law enforcement authorities contribute to encourage or discourage reporting.

The literature overall is characterised by an overemphasis on internal rather than external reporting, on actual reporters rather than inactive observers, and on reporting by employees rather than by competitors and third parties. There is therefore comparatively less knowledge on the (non-)reporting of economic crime to law enforcement authorities than there is on reporting of other types of wrongdoing within organisations.

The literature shows that these different categories of factors interact with one another. Their relative importance is not fully understood, however, and may vary from one context to another. Studies that have explicitly investigated the relative importance of different factors, such as Feldman and Lobel's (2008), show that national culture, gender and income are influential. Likewise, there is robust evidence to show that organisations' approach to wrongdoing and reporting has a very strong influence on actual reporting behaviours. In a nutshell, if organisations interpret wrongdoing as 'sharp' or 'normal' practice, then wrongdoing is less likely to be recognized as such and reported. Furthermore, if organisations actively monitor wrongdoing and encourage internal reporting – which can be an indicator of a virtuous organisational culture – then external reporting is less likely.

There is therefore an inverse relationship between internal and external reporting that is found throughout the literature. In the policy discourse on whistleblowing, a relatively similar trade-off is presented often, whereby encouraging external reporting may go against the longer-term objective of cultivating a virtuous culture within the sector. There is no evidence in the literature, however, to support this view, or to completely reject it. There is very strong evidence, however, that policies that discourage external reporting, including through whistleblower protection legislation that protects only those who report internally first, are failing potential reporters, and lead the most strong-willed (or frustrated) reporters to blow the whistle anonymously and informally.

Another key trade-off revealed in the study is that between investing in relationships with industry or relying on employees and competitors instead. The former and the latter do not work well together in the sense that the former depends on the industry's trust in public authorities and the latter signals distrust towards the industry. One possible way of dealing with this trade-off is to keep separate the staff that carries out the first type of activities and that which is involved in the second, and thus maintain barriers between the two. However, that may not be sufficient to project an image of neutrality towards the industry.

This trade-off is also relevant in terms of the nature of the intelligence collected. The evidence, although partial, suggests that relying on forums with the industry, such as safe spaces, leads to the collection of intelligence on issues, rather than intelligence on individuals or businesses that are explicitly identified. Intelligence on a problem may be used principally for sector-wide interventions, or would require extensive investigation capabilities in order to identify fraudsters. Intelligence on individual or businesses that are involved in crime rather enables targeted intervention, such as product seizure, prosecution, or disruption.

The information collected provides an understanding of what constraints and possibilities the NFCU is facing when it comes to encouraging reporting:

- An evolving national culture that has progressed towards greater support for whistleblowing, yet remains unfavourable to external and informal reporting;
- A legislative framework that strongly signals support for internal reporting, and provides no protection to those who would report externally at first because they may (rightly) feel that reporting internally would lead to no resolution of the wrongdoing and would rather lead to retaliation;
- A range of informal options for reporting intelligence externally, some of which – reporting to the media and industry safe spaces – present more limited potential than others, such as anonymous reporting through hotlines, online forms, or intermediaries, and reporting to representatives of the authority in the field;
- An industry structure, culture and contracting practices that discourage external reporting, by diluting responsibilities across long supply chains, keeping participants in interdependent relationships, and normalising wrongdoing as ‘sharp practice’; and
- A workforce that is, in large part, characterised by low income, mixed cultural backgrounds, and job insecurity, and therefore is relatively less likely to report intelligence than the workforce one may find in other sectors.

On that basis, the study team has drawn a number of recommendations for future policy interventions and future experimental research, presented below.

9.1 Policy recommendations

Based on the evidence collected, the following areas for intervention/policy change have been identified.

- **Address perceptions through campaigns:** As discussed in section 8, campaigns can usefully be conducted to address perceptions within the food sector regarding (i) the harmful and illegal character of wrongdoing and (ii) the benefits and appropriateness of reporting externally.
- **Project a neutral approach towards reporters:** Communicating towards potential reporters (and demonstrating in practice) that all reports are welcome irrespective of what has motivated them can enhance the quality and quantity of reports received.
- **Explore ways of improving relationships between private and public authorities:** Reports from businesses might increase if combined efforts are made to make reporting safer through both formal means (such as guarantees of anonymity and safe handling of information) and informal means (such as the development of relationships of trust between public authorities and trade bodies).
- **Explore the possibility of relying on worker representatives and unions as informants:** There is a tradition of worker representation in the UK, and one of positive interactions between them and regulators, particularly in the health and safety domain, that could be tapped into in order to drive greater reporting from within the food industry’s workforce.

- **Train public employees to raise their profile as contact points for potential reporters:** NFCU officers do not routinely visit food businesses as part of core business but local authority officers and FSA staff involved in the delivery of official controls in some types of establishments will be more commonly present. Recent cuts in the workforce of Local Authorities and lack of financial resources mean that LAs have limited capacity. Food fraud also tends not to rank high among the LAs' many delegated regulatory objectives (which also include food safety, housing, care, health and safety). However, the fact that LA officers conduct inspections of food premises for other purposes means that they could act as contact points for potential reporters also for food crime issues. It might be possible to train LA officers so that they have a better understanding of the sort of reports they could encourage staff to make in relation to food crime.

9.2 Research recommendations

The evidence summarized in this report, has informed an assessment of which further studies could be carried out. The aim of such studies is to assist the NFCU in eliciting “either a larger quantity or an improved quality of intelligence from potential sources within the food industry”.

The purpose of this section is to present options for the NFCU to consider.

9.2.1 Study design

The study could be aimed at testing means of influencing behaviours (messages, incentives), or investigating further issues of interest for which there is little evidence at this stage (such as perceptions of different types of crimes, or social attitudes towards food crime and those who report it). Irrespective of the topic on which the study would focus, several options in terms of study design could be considered.

9.2.1.1 Laboratory study / experimental study

This allows for significant levels of control by the study team; alternative hypotheses, messages or incentives can be tested one against another. This would provide a high level of *internal* validity (meaning that the results would be robust within the framework of the study) to the research findings;

It is difficult to mimic the context of a real-life situation into a laboratory setting. The results that may come from a laboratory study would therefore likely have limited *external* validity (meaning that the results would not hold in a real-life context);

Participants to laboratory studies are often from a completely different social group than those actually involved in the practice of interest.

9.2.1.2 Field study / behavioural intervention

A field study would provide external validity;

There are significant uncertainties on the extent of reportable intelligence and contextual factors that may influence the flow of reporting or attitudes towards food fraud, thus greatly limiting the ability to measure reliably the impact of an intervention on *actual behaviour* or *perceptions/attitudes*. This could be mitigated if the field study ran for a sufficiently long period of time (e.g. one year)

A field study would provide limited scope for manipulating key factors of interest, and would also be open to influence from external factors beyond the control of the study team;

Making participants to a field study aware of the study's topic or obtain their approval to participate may undermine participation. Not making them aware and not seeking their approval to participate raises ethical issues;

It would not be possible to systematically record information about whistleblowers, such as information on gender, length of tenure, income; it is likely that a number of them would be deterred by the prospect of having personal information recorded by the study team.

A **compromise between these two options**, in the form of a quasi-experimental survey that would use vignettes and would recruit its participants within the food industry workforce provides significant guarantees that the study would achieve a satisfactory degree of internal and external validity. The recruitment of participants from the food industry could be achieved by relying on FSA access to some categories of food establishments (approved establishments). It could also be achieved by relying on the services of market research companies that provide access to participants from panels recruited on the basis of residence, profession, industry sector and sub-sector. Additional options for recruiting participants may include reliance on third-sector organisations (e.g. the National Farmers Union), or the professional media.

Sampling strategy for our target population

Our research into different service providers suggests that recruiting participants among UK residents that work in the food manufacturing and processing industry may be challenging. Despite the large database owned by providers of panels for various studies, one should expect an incidence rate (IR) (i.e. percentage of respondents that qualify for a survey after answering the screening questions) of around 1%, which represents 75 to 125 completes. This figure can be increased to N = 350 by loosening the target and screeners so that more people qualify to the survey (providing an IR of 3%), however that would imply recruiting participants from other sectors such as retail or food service. Alternative solutions may be explored to increase the sample size, such as seeking access to the registry of subscribers to professional media (e.g. Food Navigator), recruiting participants through trade journals, industry bodies, trade unions, etc.

The experimental survey would rely on vignettes describing scenarios of situations that may trigger a decision to report to the authorities (as used in other, similar studies, such as Feldman & Lobel 2008; Paternoster and Simpson 1996; Taylor 2006). The scenarios would be written to be as realistic as possible, and they would therefore include a certain level of detail. They would focus on the more mundane instances of food crime, such as misrepresentation of origin, quality, provenance or benefits. This is to avoid 'taught' responses as may be expected in response to scenarios of well-known fraud, such as the adulteration of red meat. It is also our understanding that scenarios of more mundane fraud – the 'ordinary unethicity' – likely correspond better to the reality of most instances of food fraud in the UK.

One variant would see each participant review a single scenario, and another see each participant review several scenarios. The first variant would be easier on the

participants, but would require that the scenarios are allocated to different groups. This would require a larger sample of respondents than in the second set-up.

Participants would not be asked to indicate whether they themselves would report the crime. They would instead be asked to assess the proportion of employees that would report such a thing to the public authorities. This is to reflect findings from the literature, that reports on one's own behaviour tend to be less reliable than reports on others' behaviour.

Various survey questions would aim to gather additional information on the context of the participant. Among other factors, the questionnaire would aim to ascertain the economic context of the employee and its organisation: what would be the position in the market of the organisation that the respondent is from, and how well are they doing. Survey questions would also aim to explore what the desired outcome of the report would be from the point of the view of the person blowing the whistle.

A quasi-experimental study could combine the collection of quantitative information (in the form of a survey conducted with participants) and qualitative information (through debriefing interviews). It could also be part of a two-step process, whereby the quasi-experimental study would first collect evidence in a controlled setting, before that could then be rolled out in the field, in the form of a pilot.

While the quasi-experimental study could be completed within 4 months – depending also on the path chosen to recruit participants and the implications this may have – a pilot would happen afterwards. Its implementation and then evaluation would likely take place after the current assignment will have ended.

9.2.2 Study focus

9.2.2.1 Option A: Relative effectiveness of alternative messages for raising awareness and encouraging reporting

Perceptions of economic crime may be a key obstacle to reporting, as reportable behaviour may not be recognised as such by those who are engaged in it or witness it. The evidence collected in the literature review and interviews suggests that this may be an issue not only at organisational level but across a whole sector.

This option would aim to (i) better understand how operators from the food industry understand what is morally acceptable or unacceptable, and (ii) test whether alternative modes of communicating messages may contribute to altering their perceptions and willingness to report certain practices to regulators.

In order to address perceptions of wrongdoing the study would vary the scenarios presented in the vignettes in terms of various features of the economic crime, such as:

- crime with or without victim;
- crime for or against the organisation.

Sufficient granularity in the definition of the variants would be needed in order to achieve a better understanding, through the study, of where operators from the food industry draw the line between acceptable and unacceptable behaviour.

The study could explore different types of messages aimed at altering perceptions of economic crime, such as:

- messages bringing attention to the social consequences of the crime;

- messages bringing attention to the personal consequences of the crime;
- messages appealing to social norms / shared expectations.

A more detailed research design for the implementation of Option A has been developed by the study team and can be consulted in Annex 3.

9.2.2.2 Option B: Relative effectiveness of alternative incentives for reporting food crime

While the literature makes clear that a variety of factors can influence reporting behaviours, the relative importance of those factors may vary based on country, sector, and other circumstances. We therefore advise that research is conducted on which incentives are most likely to increase reporting. Such a study could explore the influence of monetary rewards, duty to report, penalties attached to a duty to report, levels of protection or anonymity granted to the reporting individual, additional support (e.g. training) that could be provided to the reporting individual. This would build on past studies that have explored the relative impact of various incentives in other settings than the food industry (e.g. Abbink and Wu 2017; Feldman & Lobel 2010).

9.2.2.3 Option C: Test of alternative channels for communicating reporting

A third option would consist in testing willingness to report food crime through alternative channels. The design would be broadly similar to that of Option A. However, rather than variants on the conditions of the reporting, the study would vary channels for reporting, including:

- Reporting to a hotline, an online form, or a mobile application
- Reporting to the NFCU, an LA officer, or an intermediary

9.2.3 Additional research options

Besides the study options mentioned above, the study team has also examined the possibility of carrying out additional studies, which may provide further evidence to the NFCU and help address some of the evidence gaps highlighted in the literature review.

9.2.3.1 Validating factors contributing to (non-)reporting of food crime in the UK food industry

Such a study would very much aim to clarify and validate the findings from the literature review and assess their relevance for the food industry in the UK. This could rely on a deliberative methodology such as the policy Delphi method (e.g. Edwards et al. 2013), and involve informed actors from the industry participating in an anonymous manner to a series of qualitative surveys hosted on a digital platform, over a period of time. The surveys could be designed so as to progressively extract more detailed information and cross-check views from informed actors so as to achieve a robust, consensus-based view on what may or may not matter for understanding and tackling the issue of non-reporting of food crime in the UK food industry.

Such a study would need to be run over a sufficient period of time (e.g. about 6 months) to enable all participants to contribute and to complete enough successive qualitative surveys to achieve consensus.

9.2.3.2 Exploring the social meaning of food crime with food industry workers

Such a study would investigate the social meaning of food crime with food industry workers, relying on qualitative data collection methods, such as semi-structured interviews and / or focus groups. This could be more or less extensive and focus on one or several sectors of the food industry. It could also aim to explore views from different categories of staff, from operators to managers. Such a qualitative study could help explore the actual meaning given to a variety of behaviours by those who witness or practice them. This would have the advantage of eliciting comments from staff members in their own words, and thus provide a clearer understanding of what type of messaging would be more likely to be heard and have effect on their perception of what is and is not morally acceptable.

Depending on the challenges that may be encountered in recruiting participants, such a study could be completed over a period of 4 to 6 months.

9.2.3.3 Exploring social attitudes towards food crime and those who report it

The evidence on social attitudes towards food crime and individuals who report food crime is almost non-existent. This could be documented through an investigation of comments made on social media in relation to cases of food fraud. This could also be combined to a social network analysis to understand who are the influencers that contribute to shaping perceptions and views of others on this issue.

This could be carried out rapidly, using existing tools for the analysis of social media content.

Annex 1 - Additional details on the methodology for the literature review

Research questions

The following table provides further breakdown of the research questions into sub-questions, which has served as guide to the team’s review of the literature.

Topic	Proposed questions
<p>[Topic 1] Characteristics and motivations of individuals and organisations which report criminal activity</p>	<ul style="list-style-type: none"> ▪ What are the profiles of whistle-blowers? To which extent are they motivated by values, norms, emotions, power and/or material interests? ▪ What are individual motivations (e.g. fear of retribution, distrust of authorities, etc.) for not reporting criminal activity? ▪ How do characteristics of organisations (e.g. organisation size) impact whether they report criminal activity, and who they report criminal activity to (e.g. third parties or authorities)? ▪ Do organisations tend to report criminal activity about individuals or rather about other organisations? Do they tend to report about those who sell products to them, those they sell products to, or those who compete with them? ▪ Are organisations that report criminal activity motivated by fairness, or by a desire to gain an advantage over their competitors, or by other things altogether?
<p>[Topic 2] Institutional and contextual factors within organisations which encourage or deter the reporting of criminal behaviour by their employees and affiliates</p>	<ul style="list-style-type: none"> ▪ To what extent does national, industry and business culture to the extent it is embedded within organisations) influence the prevalence and type of intelligence reporting? ▪ Is there a link between the distribution of power – in terms of hierarchical rules as well as position (e.g. unionized employees at a critical point in the production process may hold a strong position of power) - within organisations (such as the (dis)empowerment of employees, the role of middle management) and the nature and quality of reporting of criminal activity? ▪ To what extent does the transient nature of employment in certain sectors and organisations (e.g. use of seasonal, by-the-hour contracts) as opposed to permanent contracts, contribute to the reporting of criminal behaviour within those organisations?

	<ul style="list-style-type: none"> ▪ To what extent do physical working arrangements (remote, multiple locations, etc.) contribute to reporting? ▪ How do dedicated reporting procedures and staff, including internal hotlines or confidential integrity advisors, contribute to reporting? ▪ How do non-dedicated institutional factors, such as worker representation (or the absence thereof) arrangements, contribute to reporting? ▪ To what extent does organisational discourse, and particularly that of top management, contribute to the reporting of criminal behaviour by employees? ▪ To what extent does reputation and reputational concerns influence the prevalence and type of intelligence reporting within organisations? ▪ To what extent can learnings from other non-food organisations be transferred to the food industry? ▪ To what extent do multiple subcultures within an organisation influence the prevalence and type of internal and external intelligence reporting within organisations?
<p>[Topic 3] The role of different models for the structure and governance of intelligence reporting arrangements in encouraging or discouraging the reporting of criminal intelligence to law enforcement agencies</p>	<ul style="list-style-type: none"> ▪ To what extent do law enforcement agencies rely on arrangements others than those dedicated to intelligence reporting (e.g. routine monitoring and proactive and reactive inspection) for collecting intelligence on criminal activity, including private contributions to monitoring, surveillance & verification? ▪ To what extent does the integration of intelligence reporting arrangements with other regulatory activities and functions of law enforcement agencies contribute or hamper the collection of intelligence? Does separating out intelligence reporting and enforcement functions (for example) contribute or constrain intelligence reporting? ▪ To what extent are law enforcement agencies able to organise freely to optimise intelligence reporting functions? ▪ To what extent do intermediaries / brokers contribute to the reporting of criminal activity to law enforcement agencies? What arrangements can be identified in this regard that appear to help or, on the contrary, hamper reporting? ▪ To what extent does centralised vs decentralised structures for intelligence reporting contribute to the reporting of criminal activity?

	<ul style="list-style-type: none"> ▪ To what extent may successful governance arrangements (including public, private, and hybrid governance arrangements) outside of the food industry be applicable to the food industry?
<p>[Topic 4] Governance arrangements regulating the processing, anonymisation protection and sharing of information within intelligence reporting processes, and their role in either deterring or encouraging the reporting of criminal intelligence</p>	<ul style="list-style-type: none"> ▪ What governance arrangements (including public, private, and hybrid governance arrangements) are in place currently for processing, anonymising and sharing information within various industries and countries? ▪ To what extent does FOI legislation, and more generally transparency principles and policies, hamper processing/anonymisation, and therefore discourage the reporting of criminal intelligence? ▪ Which protocols for sharing intelligence across organisations (private-private, public-public, private-public) are there and can one identify links between them and the quantity and quality of criminal intelligence that is reported?

Search terms for the literature review

The following search terms have been used to identify relevant sources for the literature review.

- Whistleblowing
- Bellringing
- Information sharing
- Reporting
- Self-reporting
- Internal reporting
- External reporting
- Formal reporting
- Informal reporting
- Protected disclosure
- Authorised disclosure
- Information disclosure
- Private enforcement

- Decentralised enforcement
- Employee voice
- Employee silence
- Adulteration
- Counterfeiting
- Integrity
- Safe spaces
- Confidential advisors
- Hotlines
- Ethical culture
- Anonymisation
- Sanitisation
- Informants

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Annex 3 - Research design for a test of the relative effectiveness of alternative messages to increase awareness and willingness to report economic crime

This Annex presents the detailed research design for a study to test the relative effectiveness of alternative messages to increase awareness and willingness to report economic crime.

Research question

The **research question** is as follows:

How would receiving information on the **illegality** of an act and on the **harm** that might result from the act impact on cutting plant staff's **perception** that the act is **serious**, **immoral**, and **likely to be reported**?

Variables

The **dependent variables** are therefore:

- The perceived seriousness of the act
- The perceived morality of the act
- The perceived likelihood that the act would be reported

The **independent variables** are:

- Knowledge that the act is illegal
- Knowledge of the harm that might result from the act (more people doing it, most distanced from)

Rationale for selecting independent variables

Those independent variables have been selected on the basis of theoretical and policy considerations.

Key to many reporting decisions is an individual's perception of a wrongdoing, and in particular the degree to which they consider it serious (Feldman and Lobel, 2008). However, we know seriousness is highly subjective and can vary considerably between different groups (Near et al., 2004; Dworkin and Baucus, 1998). Morality and ethical viewpoint are shown to interlink with perceptions of seriousness; encouraging reporting in cases where the seriousness of a wrongdoing is considered higher than loyalty to an organisation or colleagues (Dungan et al., 2015; Feldman and Lobel, 2008; De Graaf, 2010). Both perceived seriousness and morality are shown to be influenced by knowledge of illegality and harm. For example, Blenkinsopp and Edwards (2015) find that observers of incidents can be unsure about the degree to which it constitutes a wrongdoing, and Dworkin and Baucus (1998) find physical harm to be more morally compelling to report than psychological harm.

Given that both harm and illegality are shown to impact reporting, understanding this in the context of the food industry is important in the design of interventions to further encourage reporting. Currently, however, there is very little evidence that explores how these factors interlink within this context.

From a theoretical perspective, the literature in socio-legal and law and economics studies highlights that fraudulent behaviours may be linked to people's lack of awareness or consciousness of the law. There is a large literature on 'legal consciousness' (as discussed, for example, in the work of Susan Silbey at MIT; see review in Silbey 2005). Classic studies in the field of non-compliance also explore the extent to which non-compliance comes down to lack of awareness or rather ill intent (e.g. Brehm 1996). Therefore, the question the study would want to explore is whether raising awareness on the illegal character of the act – which also means re-framing the act – is likely to have an impact on perceptions of seriousness, morality and likelihood of reporting.

The study will also explore whether knowledge of the harm (or lack of) that may result from the act can shape the manner individuals consider the act to be acceptable and/or reportable. This is demonstrated in the literature: Feldman (2018) discusses how one's perception that an act may be without victim may be associated with greater tolerance, making it more likely to be committed and less likely to be reported, for example, while food business insiders suggest wrongdoings can be 'normalised', with a lack of immediate negative impacts resulting from a wrongdoing (Bogard et al., 2015; Ludwig, 2016) causing increased detachment between workers and their perceptions of the harm caused (Lord et al., 2017; Lotta and Bogue, 2015).

From a policy perspective, both the dimension of illegality and the level of harm are elements that could be included in future campaigns that the NFCU could develop and implement, to raise awareness and bring attention from industry staff onto these dimensions. Furthermore, although of secondary importance in the context of the study, it would be useful for the NFCU's enforcement prioritisation to gain better knowledge of what behaviours are perceived as victimless since those behaviours are those more likely to be enacted and least likely to be reported (Manning, Smith and Soon, 2015; Elliott, 2014).

Proposed method of implementation

The proposed method of implementation is a mixed between/within design.

In a mixed design, the experiment is 'between' for one factor while 'within' for another.

For the between factor, all respondents in the achieved sample will be randomly allocated into a treatment and control group. At the same time, in the within design, the responses of the same subject are tested repeatedly.

There is some prioritisation between the independent variables/factors selected for the between part of design and the within part of the design. The factor that is expected to have more importance is the one selected for the between design: it is one that participants are not aware is being tested. The secondary one is left for the within design: in that design, since participants are exposed to all the conditions, they are aware of the manipulation.

The experiment consists in testing the correlation between outcome of a decision (dependent variable) and input factors (independent variables).

A mixed 'between/within' design is the best strategy to take advantage of both methods (Lavrakas, 2008). The main advantages of a **between design** is that:

- we can control for any external factor by manipulating the main factor of interest isolating any other confounder;

- we can reduce or eliminate the learning and transfer effects across conditions, because the response is not influenced by a previous question;
- the boredom and burden on respondents are minimised;
 - At the same time, a **within design** offers some advantages:
- there are fewer respondent required for a given effect size;
- they are cheaper to run;
- they minimise the random noise;
- greater effect can be observed.

As stressed by Taylor (2005), a factorial survey with a mixed design allows to better test the effect of multiple factors in a complex decision-making process, compared to the most common factorial experiment.

Factorial design

In this experimental survey, the main factor of interest is the legality/illegality perception of the scenario. Therefore, the entire achieved sample would be randomly allocated into two mutually exclusive groups (between design):

- in the ‘treatment’ group, respondents would see vignettes describing certain situations without any mention of them being illegal;
- in the ‘comparison’ group, respondents would see the same vignettes but with their illegal character being mentioned in the vignette

At the same time, the entire achieved sample would see three different vignettes that would vary in terms of harm: the first version would not mention any harm, the second would mention economic/monetary harm and the last bodily/health harm (within design).

The design is summarised in the table below.

	Illegality (<i>between treatment</i>)	Illegality (<i>between treatment</i>)
Harm caused by the act (<i>within treatment</i>)	Illegality mentioned (Treatment)	Illegality not mentioned (Comparison)
No harm mentioned	A	A'
Economic harm	B	B'
Bodily harm	C	C'

This design therefore includes 6 “cells”.

Vignettes

The following vignettes have been designed.

Main model

James Smith recently started working at the local meat packaging plant, which is owned by Callington Foods.

James sees operators opening packages of meat that have been returned from a supermarket. The old meat is being mixed together with fresh meat and repackaged, with new use-by dates. The packaged meat will soon be distributed to be sold to consumers at other supermarkets as agreed by the management. **<This breaches regulations governing food production and might also be considered fraud>. < Supermarkets and consumers are losing out by paying the same price for a lower quality product >. < There is a risk that consumers may fall ill by consuming meat that is not safe >.**

Cell A

James Smith recently started working at the local meat packaging plant, which is owned by Callington Foods.

James sees operators opening packages of meat that have been returned from a supermarket. The old meat is being mixed together with fresh meat and repackaged, with new use-by dates. The packaged meat will soon be distributed to be sold to consumers at other supermarkets as agreed by the management. This breaches regulations governing food production and might also be considered fraud.

Cell B

James Smith recently started working at the local meat packaging plant, which is owned by Callington Foods.

James sees operators opening packages of meat that have been returned from a supermarket. The old meat is being mixed together with fresh meat and repackaged, with new use-by dates. The packaged meat will soon be distributed to be sold to consumers at other supermarkets as agreed by the management. This breaches regulations governing food production and might also be considered fraud. Supermarkets and consumers are losing out by paying the same price for a lower quality product.

Cell C

James Smith recently started working at the local meat packaging plant, which is owned by Callington Foods.

James sees operators opening packages of meat that have been returned from a supermarket. The old meat is being mixed together with fresh meat and repackaged, with new use-by dates. The packaged meat will soon be distributed to be sold to consumers at other supermarkets as agreed by the management. This breaches regulations governing food production and might also be considered fraud. There is a risk that consumers may fall ill by consuming meat that is not safe.

Cell A'

James Smith recently started working at the local meat packaging plant, which is owned by Callington Foods.

James sees operators opening packages of meat that have been returned from a supermarket. The old meat is being mixed together with fresh meat and repackaged, with new use-by dates. The packaged meat will soon be distributed to be sold to consumers at other supermarkets as agreed by the management.

Cell B'

James Smith recently started working at the local meat packaging plant, which is owned by Callington Foods.

James sees operators opening packages of meat that have been returned from a supermarket. The old meat is being mixed together with fresh meat and repackaged, with new use-by dates. The packaged meat will soon be distributed to be sold to consumers at other supermarkets as agreed by the management. Supermarkets and consumers are losing out by paying the same price for a lower quality product.

Cell C'

James Smith recently started working at the local meat packaging plant, which is owned by Callington Foods.

James sees operators opening packages of meat that have been returned from a supermarket. The old meat is being mixed together with fresh meat and repackaged, with new use-by dates. The packaged meat will soon be distributed to be sold to consumers at other supermarkets as agreed by the management. There is a risk that consumers may fall ill by consuming meat that is not safe.

Questionnaire

Each vignette would be followed by a structured questionnaire to measure participant views along the three dependent variables. To prevent biases the order of the questions relating to the dependent variables would be randomised. A draft questionnaire is provided below.

Scenario questions

[Vignettes to be shown in a randomised order]

You will now be asked to read a few lines describing a situation which might take place in a meat packaging plant. Please read this situation carefully – you can take as long as you want. You will then be asked some questions on the situation.

<Randomised situation A/B/C>

James sees operators opening packages of meat that have been returned from a supermarket. The old meat is being mixed together with fresh meat and repackaged, with new use-by dates. The packaged meat will soon be distributed to be sold to consumers at other supermarkets as agreed by the management. <This breaches regulations governing food production and might also be considered fraud>. <

Supermarkets and consumers are losing out by paying the same price for a lower quality product >. < There is a risk that consumers may fall ill by consuming meat that is not safe >.

Please answer the following questions thinking about the situation you have just read.

Q1. To what extent do you agree or disagree that:

a) This situation raises a moral problem.

- 1 Strongly agree
- 2 Slightly agree
- 3 Neither agree nor disagree
- 4 Slightly disagree
- 5 Strongly disagree
- 6 Don't know

b) This situation involves a crime being committed by the company.

- 1 Strongly agree
- 2 Slightly agree
- 3 Neither agree nor disagree
- 4 Slightly disagree
- 5 Strongly disagree

c) This situation involves a crime being committed by the operators.

- 1 Strongly agree
- 2 Slightly agree
- 3 Neither agree nor disagree
- 4 Slightly disagree
- 5 Strongly disagree

Q2. How serious do you think this situation is on a scale of 1 to 6, where 1 is not at all serious and 6 is extremely serious?

- 1 – Not at all serious
- 2
- 3
- 4
- 5
- 6 – Extremely serious

Q3. How likely do you think it is that James would report this situation to a manager?

- 1 – Not at all likely
- 2
- 3
- 4
- 5
- 6 – Extremely likely

Q4. How likely do you think it is that James would report this situation to someone outside the company (e.g. a telephone hotline)?

- 1 – Not at all likely
- 2
- 3
- 4
- 5
- 6 – Extremely likely

Q5. How likely is it that you would report this situation to a manager?

- 1 – Not at all likely
- 2
- 3
- 4
- 5
- 6 – Extremely likely

Q6. How likely is it that you would report this situation to someone outside the company (e.g. a food hygiene inspector, a telephone hotline)?

- 1 – Not at all likely
- 2
- 3
- 4
- 5
- 6– Extremely likely

You will now be asked to read about another situation which might take place in a meat packaging plant. Please read this situation carefully – you can take as long as you want. You will then be asked some questions on the situation.

<Randomised - situation A/B/C>

[Repeat questions Q1 to Q6]

There's one more situation which we would like you to read. Please read this situation carefully – you can take as long as you want. You will then be asked another set of questions on the situation.

<Randomised - situation A/B/C>

[Repeat questions Q1 to Q4]

Additional control questions would be asked, including gender and age.

Survey deployment

The survey would be shared with food business operators (FBO) selected by the FSA. FBOs would be responsible for facilitating contact with employees and encouraging them to participate in this study. In practice, each FBO would receive a number of leaflets to distribute to employees. To take part, employees would be asked to contact the study team by a specified deadline.

The survey would take approximately 10 minutes to complete and would be sent to participants electronically. It could be completed on any electronic device, such as a laptop or a mobile phone.

All answers would be kept confidential, and the identity of all participants will be kept anonymous. The results of the survey and the follow-up conversations would be analysed, and key findings presented in a report. No information that could identify anyone personally, such as their name, or details about their job, would appear in the report, and nothing would be directly attributable to any given employee or organisation.

Participants would be asked to take part in the survey and interview outside of their working hours, so as to not interfere with their work duties. They would have the possibility to complete the survey from any electronic device, such as a laptop or a mobile phone.

Incentives

Incentives would be used to increase response rates²². These would be distributed through vouchers.

Follow-up interviews

The study would involve a follow up interview that will aim to explore in more detail the underpinning rationale for the responses collected. For the purpose of testing internal validity, the interview would include questions on whether participants consider that the statements in the vignettes, particularly on the harmful impact of the act, are true or not.

The interview would also aim to collect additional qualitative information on other factors that may also be relevant to understand what is shaping perceptions of wrongdoing (seriousness, morality, likelihood of reporting). This is likely to include factors that could influence views on what is acceptable and is not, such as:

- The perception of economic pressure on the business
- The expected benefits of the act for the company
- The expected costs of the act for the company

Furthermore, these follow up interviews are likely to shed light on responses to questionnaire questions on factors which could influence the likelihood of reporting.

- The expected personal costs of reporting the act;

²² Methodological references related to the use of vouchers in surveys include: Simmons, E. and Wilmot, A., 2004; Deutskens, E., De Ruyter, K., Wetzels, M. and Oosterveld, P., 2004.

- The expected social evaluation of the person reporting;
- Any knowledge and understanding of internal reporting mechanisms;
- Any knowledge and understanding of external reporting mechanisms.

Analysis plan

Considering that the experimental survey is a mixed between/within subject factorial design, the most suitable multivariate method is the **mixed ANOVA design**. The analysis combines repeated-measures (type of harm) with between-group (legality of act).

All the estimation and graphs would be made in SPSS ©.

The outputs would be made of:

- Table with within subjects' factors
- Table with descriptive statistics
- Results for the Mauchly's test of sphericity
- Table with ANOVA for the repeated-measures effects
- Test of homogeneity of variance (Levene's test)
- Table with ANOVA for the between-group effects
- Table with test of contrast for repeated-measures effects
- Plots for the interaction effects

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