

## THE NATIONAL FOOD CRIME UNIT – UPDATE ON PROGRESS

Report by Andy Morling – Head of NFCU and Colin Sullivan – Chief Operating Officer

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### Summary

1. This paper provides an annual business update on the progress of the National Food Crime Unit (NFCU). Following the Board's decision in June to proceed with Phase 2, it also highlights progress towards building an end to end counter-fraud capability.
2. Specifically, the Business Committee is invited to:
  - **consider** the achievements of the NFCU in 2018 (Annexe A and B).
  - **note** the progress of work to implement Phase 2 of the unit's build.

### Background

3. In November 2016, the Kenworthy Review recommended *inter alia* that the NFCU should expand from its current intelligence analysis and development functions ('Phase 1') to provide an end to end counter fraud response including preventative and investigative capabilities ('Phase 2').
4. In response to a business case, on 25th May 2018 the Chief Secretary to the Treasury approved £2.084m of additional funding for 2018/19 for the development of the NFCU. Work to implement Phase 2 began in the summer of 2018.

### Form and function

5. Since its formation in 2015, the NFCU has performed the role of a criminal intelligence unit. Its primary functions being to collect, develop and analyse information and to disseminate the resulting intelligence to inform and instigate strategic and operational decision-making.
6. In addition to this core function, the NFCU plays a key leadership role internationally. The unit plays a leading role in the development of a response to food crime both within the European Union and beyond. The unit has an influential role in EU counter-fraud initiatives and in 2018 established the Global Alliance on Food Crime to build capability and understanding in third countries.
7. With the move into Phase 2, the unit's staffing complement has increased to 82 FTE. Following a major recruitment campaign over the summer, some staff are already in post and almost all of these posts will be filled and on-boarding completed by the end of January 2019. The net cost of NFCU operations for 2018/19 is forecast to be £3.28m. By the end of this financial year, the total investment in the NFCU since 2015 will stand at £5.73m.

**NFCU Achievements in 2018.**

8. The NFCU has continued to develop its original function to collect, develop and analyse information and to disseminate the resulting intelligence through a range of strategic and tactical products. As the unit began its transition to Phase 2, it has also developed a modest operational support and reactive investigative caseload. More detailed contextual commentary on the unit's 2018 achievements is included at **Annexe A.**
9. Headlines from the unit's work between 1 January 2018 and 30 September 2018 include:
  - the dissemination to other law enforcement agencies and local authority partners of approximately 550 intelligence logs;
  - the receipt and evaluation of approximately 4500 individual pieces of information through its public and industry reporting mechanisms;
  - a series of meaningful interventions and outcomes to reduce the threat to consumers from 2,4-dinitrophenol (DNP) including the removal of a large number of online sales routes, influential engagement with overseas partners and two successful local authority prosecutions including one for manslaughter;
  - the effective and on-going discharge of the unit's first criminal fraud investigation as part of the Agency's broader response to serious concerns identified at small number of meat processing plants;
  - the successful delivery, with colleagues from Food Standards Scotland and in liaison with local and port health authorities, of the UK's contribution to the annual international initiative Operation OPSON; and
  - the enhancement of the unit's position internationally as a thought leader through the establishment and chairmanship of the Global Alliance on Food Crime (GAFC). Further details on the progress of the GAFC can be found at **Annexe B.**

**Industry engagement**

10. Securing access to a reliable pipeline of probative and detailed information from the legitimate food industry remained a challenge in 2018. Despite informal and anecdotal assurances from business leaders, there is still a reluctance to share suspicions in confidence with the NFCU.
11. In November 2018, the FSA signed a formal information sharing agreement with the Food Industry Intelligence Network. This is a welcome step in the development of a meaningful relationship with the legitimate food industry which will doubtless help to enhance collective understanding of food crime at a strategic level. Access to more specific, detailed, bilateral reporting of suspicions by the wider industry remains notable by its continued absence.

12. On one occasion in 2018, sensitive information was passed to the NFCU by senior figures within the meat industry. The unit was then able to work alongside industry partners to address issues in a truly joined up and mutually respectful manner. This bold, public-spirited approach is to be highly applauded and will hopefully serve as a model for how true cross-sectoral collaboration could and should work to the benefit of all. The information led to an operational intervention involving staff from across the FSA and supported by officers from a police Regional Organised Crime Unit. A structured debrief will take place to inform and refine the unit's future work in this area.

## **Phase 2**

13. Following Board approval in June, work has been underway to implement Phase 2 of the NFCU build. When completed, the implementation project will provide the NFCU with full end-to-end counter fraud capabilities, to be reached in stages. The present focus is on achieving minimum viable preventative, investigative and outreach capabilities by the end of March 2019.
14. Minimum viability will enable the FSA, for the first time, to respond effectively and holistically to a critical food related incident suspected to involve dishonesty. The risks associated with the absence of such a capability were brought into sharp focus by the horsemeat incident in 2013 and highlighted in subsequent reviews by Professor Elliott and David Kenworthy. Although there remains significant uncertainty as to the terms under which the UK will exit the European Union, it is possible that regulatory changes, new border arrangements and shifts in the cost models for food business may serve to further increase both criminal opportunity and motivation. In an expanded NFCU, the UK will have a robust world leading capability to respond to and prevent new and existing threats providing confidence to consumers and international partners on the integrity of UK food supply chains.
15. The first stage of the implementation project identified approximately 40 new posts seen as critical to establishing minimum viability in each of the expanded unit's business areas. As a result, recruitment into these posts has been prioritised and the posts required for minimum viability should be filled and on-boarded by the end of January 2019. Indeed, we have also made notable inroads onto the remaining 20 vacancies.
16. To ensure NFCU staff perform their duties to the very highest professional standards and are equipped with knowledge of current good practice, a bespoke, modular training programme has been developed for all new recruits. The initial common element of the training introduces all staff to both the concept and context of serious fraud within global food supply chains. Once that aspect is completed, intelligence and investigation staff embark on a series of discrete modules to meet the needs of their individual profession. At the end of the second series of modules, staff will have the requisite knowledge and skills to fulfil their roles competently, confidently and in accordance with the law. The programme, which commenced for its first cohort in November, is delivered by recognised external providers to specifications set by the NFCU.

17. The FSA IT Digital and Procurement teams are overseeing the process to identify, select and implement systems and specialist equipment to support the generation of intelligence, develop criminal cases and manage covert human intelligence sources.

#### **Accommodation and governance**

18. By the end of March 2019, each of the four current FSA offices and a newly established fifth office in Birmingham will host counter-food crime capability. To accord with local requirements, a Regional Liaison Officer based in Belfast reports into and is tasked through the FSA's Director Northern Ireland. Staff at the other FSA office locations will report into and be tasked by the NFCU. Following the Agency's wider organisational re-design, the Chief Operating Officer will continue to have accountability to the Chief Executive for the performance of the unit.

#### **Legal powers and mandate**

19. It was recognised both in the supporting business case to HM Treasury and in the paper put to the Board in June that achieving full operating capability is dependent upon the Agency securing the mandate and powers necessary to enable the NFCU to effectively deliver its expanded remit.

Specifically, the NFCU requires:

- An unequivocal statutory mandate to prevent, detect and investigate food crime in England, Wales and Northern Ireland;
  - The requisite statutory investigative powers to discharge that mandate – specifically the power to apply for an evidential search warrant and the power to gain access to special procedure material<sup>1</sup>.
20. This will require amendments to primary legislation and given the length of time associated with securing such amendments, the implementation team has identified a non-legislative mechanism to ensure the unit has access to a suite of interim powers.
  21. The business-critical nature of the required powers has been emphasised in correspondence between the Chair and the Secretary of State for Health and Social Care, in October 2018. The Chair has also engaged with local government leaders to assure them about our commitment to further consultation with local government bodies, and to alleviate any concerns regarding the intent and impact of the potential mechanism for securing interim powers.

#### **Conclusions**

The Board is invited to:

- **consider** the achievements of the NFCU in 2018 (Annexe A and B).
- **Note** the progress of work to implement Phase 2 of the unit's build.

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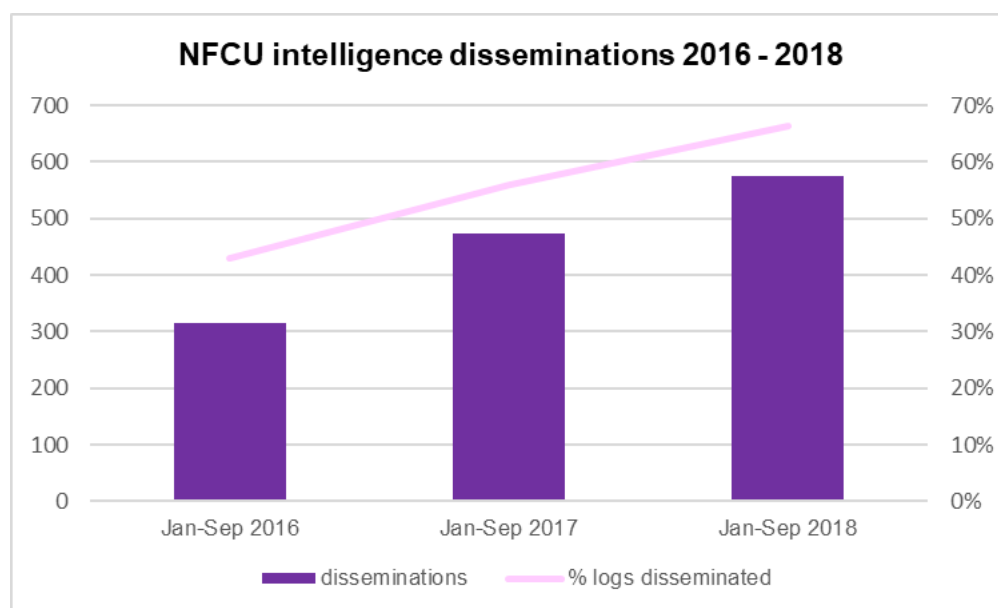
<sup>1</sup> Material acquired or created in the course of a trade, business, profession, occupation, or office that is held subject to an express or implied undertaking to hold it in confidence, or subject to a statutory restriction on disclosure or obligation of secrecy.

**Annexe A.**

**NFCU achievements in 2018**

**Receipt, evaluation and dissemination of intelligence**

It is noteworthy that both the quantity and proportion of intelligence disseminated to partners for action has increased over the past three years. This is likely to have been driven to some extent by improved triage around what information is suitable for recording on our intelligence systems, but a more profound impact may be in the recording of intelligence resulting from targeted NFCU intelligence development, the majority of which is (owing to the targeted nature of its collection) likely to be suitable for dissemination or for internal operational progression.



In 2018, the NFCU has noted a high level of qualitative attrition between the receipt of raw data and the dissemination of actionable intelligence. Whilst it is certainly the case that multiple pieces of raw data can often aggregate into a single dissemination, the percentage of calls and online reports leading to actionable intelligence is currently low.

The unit can point to positive operational outcomes and other discernible benefits from operating an open reporting facility to receive information from public-spirited people and industry alike. In the context of this wider value to the unit, the very modest demand handling less relevant contacts places on the unit's resources is currently considered acceptable. The unit is currently exploring technological and marketing solutions to pre-screen information to reduce further the burden of less relevant reporting.

The NFCU received 153 intelligence reports from other government departments and agencies during this period. Unsurprisingly, these originated principally from those public bodies with whom the NFCU has some degree of peripheral overlap in relation to food crime such as the Medicines and Healthcare Products Regulatory Agency (MHRA), the Marine Management Organisation and the Animal and Plant Health Agency. The unit also

processed a total of 129 referrals received via the Government Agencies Intelligence Network (GAIN) in the first nine months of 2018.

### **Intelligence development and operational support**

In 2018, the unit's operational intelligence output continued to be dominated by efforts to address the illegal sale of 2,4 dinitrophenol (DNP) for human consumption. This is very much in line with the unit's 2018/19 control strategy<sup>2</sup> which includes 'dangerous non-foods sold for consumption' as a top tier priority. The unit's assessment of the severity of the on-going risk posed to the public by the proliferation of DNP as a dietary supplement has been validated by a sharp increase in the number of deaths known to be associated with its consumption in 2018. To some extent, identification, recording and reporting inconsistencies militate against a comprehensive picture of the number of DNP related hospitalisations and fatalities.







The following are amongst the outcomes from the unit's multi-dimensional work on DNP during 2018:

- NFCU intelligence led to the identification, arrest and subsequent conviction on manslaughter charges of Bernard Rebelo in June 2018. Rebelo received a 7-year custodial sentence.
- NFCU intelligence in Operation Albany led to a collaborative investigation between the unit, three local authorities and the MHRA leading to the seizure of 15 kilos of DNP along with presses and mixing machines. The main suspect pleaded guilty on the 28th September 2018.
- Take-down action was initiated against a total of 39 websites, 116 sales listings on online marketplaces and 9 social media accounts all identified by the NFCU as advertising DNP for sale as a supplement.
- Engagement through the British Embassy in Beijing with a China based web portal led to the removal of hundreds of other sites selling DNP for consumption. It is anticipated that forthcoming engagement with the Chinese government will lead to stronger controls of DNP production and export.
- A total of 24 intelligence reports were shared with partners overseas identifying DNP sellers in their jurisdiction. A recent operation in Poland resulting from NFCU intelligence led to two arrests and the seizure of a quantity of DNP.
- Vital proactive safeguarding activity was instigated by the NFCU with authorities in Canada, Australia, New Zealand, Italy, Sweden, Romania, Ireland and Finland in relation to identified DNP users in those jurisdictions. This led directly to both Health Canada and the Finnish National Food Agency issuing public advisory notices and the Canadian authority initiating extra vigilance at borders.

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<sup>2</sup> The Control Strategy sets out and communicates the NFCU's operational priorities and provides the unit's senior management with a framework to inform decisions on allocating resources. This does not mean that issues not captured cannot be dealt with, but control strategy issues should be given priority when resources are allocated.

- The NFCU has secured agreement at the European Commission for a co-ordinated EU wide operation to tackle DNP. This operation is now being coordinated by the Unit and Europol. In its role as chair of the Global Alliance on Food Crime, the NFCU is currently planning to lead a similar operation with Five Eyes<sup>3</sup> partners.

-  39 websites identified selling DNP
-  9 social media profiles shut down
-  116 product listings disabled
-  Safeguarding initiated in **seven** countries
-  Successful **overseas engagement** with joint operational work in planning phase
-  Support to landmark **manslaughter** conviction

Intelligence development by the Unit in Operation Moth led in October 2018 to a guilty plea to fraud by a company director, found to be misrepresenting the origin of meat. The value of the fraud was estimated to have been in the region of £1million. This was as a direct result of a joint proactive operation between the NFCU and the local authority.

In February, the FSA Strategic Incident Oversight Group (SIOG) commissioned the NFCU to undertake a criminal investigation into the conduct of a meat processing company, its officers and staff. This substantial investigation is on-going.

NFCU Operation Osprey is an on-going investigation into the widespread supply of suspected adulterated Extra Virgin Olive Oil. In the course of this investigation, the NFCU made the first use of its powers under the Proceeds of Crime Act 2002 to secure financial evidence.

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<sup>3</sup> The Five Eyes is an intelligence alliance comprising Australia, Canada, New Zealand, the UK and the United States.

## **Annexe B**

### **The Global Alliance on Food Crime**

In recognition of its leadership obligations as the world's first and only dedicated counter food crime capability, in 2018 the NFCU established the Global Alliance on Food Crime (GAFC). Membership comprises representatives of food regulatory/law enforcement bodies from the UK, New Zealand, Australia, the United States and Canada. At the inaugural meeting in the USA in May 2018, the aims and objectives of the group were discussed at length and agreed. The NFCU will chair the GAFC for its first three years.

The GAFC is a coalition of international thought leaders on the prevention, detection and disruption of food crime. Members collaborate as enforcement colleagues dedicated to the belief that consumers deserve to be protected from dishonesty, wherever this takes place, within global food supply chains. Members believe that this protection can best be afforded through coordinated international action and the sharing of information and good practice across borders and between sectors.

It is not the aim of the GAFC to replace existing multi-lateral forums and mechanisms but rather to bring together the very best knowledge of individual organisations into one single issue group with both strategic and tactical capabilities. It is an enforcement led initiative with a focus on treating food crime as a crime problem like any other. The primary value added by the GAFC is in the application of a mainstream enforcement approach to economically motivated crimes. Using law enforcement strategies, techniques and tactics, the GAFC, with support from industry, academia and non-profit organisations, aims to coordinate and strengthen international activity to prevent, detect and disrupt serious crimes of dishonesty in food supply chains.

The GAFC met for the second time in Dubai in November and agreed a set of medium and long-term deliverables with member agencies signing a formal Statement of Intent.