
THE NATIONAL FOOD CRIME UNIT: UPDATE ON PROGRESS AND NEXT STEPS

Report by Andy Morling, Head of Food Crime

1 SUMMARY

1.1. The Board is invited to:

- **Note:** the progress made since the establishment of the National Food Crime Unit (NFCU) in particular its achievements and the challenges it has encountered to date;
- **Discuss:** The best way to approach the conduct and governance of the two year review of the NFCU and
- **Identify** key principles and issues that should be kept in mind as part of that review

2 INTRODUCTION

- 2.1 The National Food Crime Unit (NFCU) was established in response to the Elliott Review of the integrity and assurance of food supply networks. The government response to the review's recommendations said "The government agrees with the principle of a Food Crime Unit to give focus to enforcement efforts against fraud and criminality in the food chain. We are committed to delivering the first stage of the Unit with a review of progress and likely future need after 2 years. ... In setting up a Food Crime Unit we will bring together the FSA's existing expertise and understanding of the food chain with criminal law enforcement capability, making the connections with local authorities, police forces and the National Crime Agency where appropriate and necessary".
- 2.2 The FSA established the beginnings of the NFCU at the end of 2014 to provide, for the first time, a dedicated law enforcement capability to protect consumers and the legitimate food industry from serious dishonesty within food supply chains ('food crime'). Since then we have been recruiting staff with the appropriate skills, and building the relationships with both the local authorities and police forces mentioned in the initial response, but equally as importantly with industry, who are key players in the prevention, identification, and disruption of food crime.
- 2.3 The NFCU published the Food Crime Annual Strategic Assessment (FCASA) at the end of March 2016. The FCASA, the first of its kind anywhere in the world, baselines the unit's understanding of the food crime threat to the UK and is used to prioritise the targeting of resources.

3 STRATEGIC AIMS

3.1 The work of the NFCU impacts on three of the specific outcomes set out in the FSA five year strategic plan which are aligned to the Agency's overall goal of food we can trust.

3.2 These are:

- Food is safe
- Food is what it says it is
- Consumers can make informed choices about what to eat

4 EVIDENCE

4.1 In keeping with the Agency's approach to all aspects of its business, the work of the NFCU is evidence based. In the case of its current core functions, data drawn from a number of sources are subject to a process of analysis to produce both strategic and tactical intelligence.

5 DISCUSSION

NFCU functions and key activity to date

5.1 The NFCU is close to its current target complement of 20 full time staff performing the following functions:

- managing the receipt, evaluation and dissemination of criminal intelligence, acting as a single point of entry into and out of the unit for such information;
- producing strategic intelligence products to drive the business of the unit;
- gathering and developing tactical intelligence to instigate criminal justice and other interventions by and with partners;
- advising, supporting and coordinating national and local law enforcement partners in respect of their criminal justice interventions.

2,4 Dinitrophenol (DNP)

5.2 Following the tragic deaths during 2015 of at least six young people linked to the consumption of DNP as a dietary supplement, the NFCU took the UK lead in tackling the illegal supply of the substance. In addition to an impactful social media deterrence campaign, the unit successfully closed down numerous websites offering DNP for sale. Intelligence developed by the NFCU led to an arrest and the seizure of a significant quantity of DNP. The unit is now supporting a local authority (LA) with the resulting criminal investigation.

Operation Opson

- 5.3 In 2015, the NFCU co-led the UK response to Operation Opson, the long running Interpol and Europol initiative to tackle counterfeit and substandard food. The unit worked with law enforcement, academia and industry partners to raise awareness and encourage participation in the initiative and a specific UK day of action against illicit vodka.

Intelligence management

- 5.4 Between January 2015 and March 2016, NFCU staff analysed in excess of 1000 pieces of information with almost 800 of these resulting in the creation of an intelligence record on its database. In the first three months of 2016, over thirty reports containing actionable food crime intelligence were disseminated to national and local law enforcement partners.

International engagement

- 5.5 The NFCU is the UK single point of contact for the European Commission's Food Fraud Network (FFN) and is working to form closer ties with Europol and Interpol from a policing perspective. The NFCU has also established healthy bilateral engagement with individual EU food crime partners.

Key challenges encountered to date

The characteristics of food crime

- 5.6 Unlike most other forms of fraud and acquisitive crime, and for a variety of reasons, consumer and industry victims of food crime are often not in a position to detect and report this to the NFCU. Getting to grips with any 'new' crime problem is challenging but the structural absence of victim reporting renders a traditional reactive law enforcement approach largely invalid.
- 5.7 The paucity of actionable intelligence impacts on the ability of the NFCU to assess food crime risk with any degree of accuracy. Much is known about the vulnerability of food to fraud and about the harm that such offending may pose. The key knowledge gap is about the threat, i.e. the capabilities and intent of criminals. This matters because 'threat' acts as the proxy for 'likelihood' in the risk assessment equation for any form of crime.

Managing expectations

- 5.9 In respect of any use of public funds, particularly in times of fiscal austerity, there is always, quite correctly, a desire rapidly to see a quantifiable return on that investment. Total running costs for the NFCU between its establishment and the end of March 2016 were in the region of £579,000. Estimated costs for 2016/17 are £1.2 million, subject to final allocations being agreed.
- 5.10 History offers many examples of newly identified crime problems where a significant period of time elapsed between recognition of the need for a

dedicated law enforcement response and that response being deemed adequate. Given the characteristics of food crime and some of the other challenges described elsewhere in this paper, it may take between three and five years to fully develop our understanding of the criminal threat and our ability to respond to it.

Multi-agency working

- 5.11 Throughout its first year, the NFCU had regular engagement with public sector partners on intelligence development and in the operational sphere. This reflects the multi-dimensional nature of food crime and the responses available to counter it.
- 5.12 But it also highlights some of the complexities of the UK food policy and enforcement landscape. Navigating this has been testing at times for the NFCU as multiple local and national partners, sometimes with intricate internal structures, can often have an interest in a particular food crime issue. This can give rise to duplication, confusion and inconsistencies in how individual crime problems are addressed.

Operational leadership

- 5.13 There can be a tendency amongst some partners to view food crime through the twin lenses of regulatory non-compliance and local impact. Although regulatory tools can be a highly efficient disruption tactic, there are risks that serious upstream criminality is not always correctly identified, recorded or addressed as such.
- 5.14 Partners may not always have the skills, remits or statutory powers best suited to the recognition or investigation of serious dishonesty and embarking on a complex fraud investigation would be a significant undertaking for most. Therefore, even where evidence of dishonesty is identified during an inquiry, capacity and capability pressures may steer some partners towards the more straightforward regulatory route.
- 5.15 The challenge for the NFCU has been to provide the necessary operational leadership and influence to partners where fraud is suspected. As the specialist national unit, partners understandably look to the NFCU to give strategic and tactical direction in such circumstances or to either support or own such investigations. Given its current mandate to focus on intelligence development, the NFCU is often unable to meet either demand.

Capabilities and culture

- 5.16 The NFCU built on the earlier work of a small food fraud focal point within the Agency's Consumer Protection Division. The development of the NFCU, however, introduces requirements for capabilities and ways of working that are new to the Agency. Law enforcement infrastructure, access to intelligence databases (such as the Police National Computer and Police

National Database), standard operating procedures, intelligence management protocols and access to specialist resources are each being put in place from the ground up. The unit is working hard with colleagues across the Agency and beyond to overcome the many challenges that accompany the build process.

- 5.17 Throughout the year, multiple sources within the food industry have indicated that perceived tension between the FSA role as a regulator and consumer advocate within government and the NFCU role as criminal investigator is a significant barrier to intelligence sharing. The main concern was that the Agency's culture of openness and transparency might lead to the release of commercially sensitive information shared by them into the public domain. To correct this misperception, the NFCU has invested heavily in building trust with individual market participants and trade bodies. In the summer, the unit will publish a guide for industry setting out, *inter alia*, what it can expect when sharing suspicions.
- 5.18 The FSA's clearly articulated focus on protecting consumer's interests above all other serves as an unambiguous and extremely helpful statement of purpose for the narrower functions of the NFCU. The clarity of this mission guides prioritisation and other decision-making within the unit. To that extent, the NFCU has a strong cultural alignment with the wider Agency.

The two year review of the NFCU

- 5.19 The Elliott review¹ recommended a phased approach to the establishment of the unit with the first phase an evidence gathering and business case development period. Phase two, if taken forward, would put in place the mechanisms required to investigate cases and take action.
- 5.20 The Elliott review recommended (and the government agreed²) that a review should take place after two years to determine the need for such expansion based on development of a business case. The NFCU reaches the two year milestone at the end of December 2016 with the review scheduled to be completed by that time.
- 5.21 In committing to review the form and function of the NFCU the government response was silent on who should conduct the review, what its terms of reference should be and the extent of wider government involvement in the review.
- 5.22 The primary motivation of the FSA is to effectively protect the interests of consumers. It is therefore proposed that the FSA now work in partnership with others across government to lead the commissioning of a Phase One review.

¹ Elliott (2014) *Review of the integrity and assurance of food supply networks*

² DEFRA (2014) *Government response to the Elliott Review of the integrity and assurance of food supply networks*

- 5.23 It is proposed that the following issues should form the basis of the review's terms of reference to be finalised by the end of June 2016:

Introduction	Reasons for the review
	The form and function of the NFCU – learning from experience to date in the UK and overseas
Review	Current and likely future reactive demand from food crime
	Current and likely future proactive opportunities to tackle food crime
	Gaps between reactive/proactive demand and current response
	Local authorities, the police service and other government departments and the wider food crime response landscape
	Funding, hosting and governance arrangements
	Statutory mandate and legal powers
	Effective working across the UK, Europe and internationally
Evaluate	Conclusions
	The need for the NFCU to develop additional capabilities
	Recommendations for future delivery of the counter-food crime response

6 IMPACT

- 6.1 There are a range of potential harms associated with serious fraud within food supply networks that may impact consumers detrimentally. At a very basic level, food crime removes consumers' absolute discretion to choose what they take into their bodies. In the context of the Agency's articulated mission, tackling food crime clearly matters. Studies demonstrate that consumers worry about the safety and authenticity of the food they eat. An appropriate response to the threat posed by serious crime plays an important role in reassuring consumers and preventing and detecting offending.

7 RESOURCE/RISK

- 7.1 Failure to adequately address the threat from food crime could put consumer protection at risk or miss opportunities to increase that protection. In the event of a food crime incident of the profile of horsemeat in 2013, it could also pose significant reputational risks to the Agency and potentially to UK food should the NFCU response fail to meet reasonable public and government expectations of it.
- 7.2 The current form and function of the NFCU is to a great extent the result of the need to manage its funding from within the Agency's existing budget settlement at the same time as competing priorities. The Agency performs many other important functions each focussed towards meeting its strategic objectives. Should the 2 year review identify a need to expand the unit or for it to develop significant additional capabilities it will require material additional funding if it is not to detrimentally affect other consumer interests in relation to food.

- 7.3 Given the potential impact of the review's findings on its wider responsibilities, we should be open-minded about where the NFCU might best sit within government – driven only by a commitment to maximising the benefits to consumers. As part of its work therefore, the review will take into account issues of operational and cultural 'fit' within the Agency.

8 DEVOLUTION IMPLICATIONS

- 8.1 The NFCU operates across England, Wales and Northern Ireland and works closely with colleagues in Scotland. In respect of the devolved nations, the unit provides subject matter expertise and professional leadership to respective Consumer Protection Teams and the Welsh Food Fraud Coordination Unit hosted by Ceredigion Council. The conduct of the review and the implementation of its findings will clearly impact on consumers in Wales and Northern Ireland and it is right for the review to have a three nation's scope and to be carried out in close liaison with FSS. The terms of reference and the scope of the review will therefore take place with full recognition of the interests of the devolved administrations.

9. CONSUMER ENGAGEMENT

- 9.1 In March 2016, the Agency published the FCASA describing to consumers for the first time what the NFCU knows about the food crime threat to their interests. For reasons of operational security, clearly it will not be appropriate for the NFCU to engage with consumers in detail on much of its work. The unit has a 'dare to share' approach, however, with information being made available to the public, through multiple channels, wherever it is feasible and appropriate to do so. Maximising opportunities to engage with consumers is vital to the unit's reassurance agenda. This is particularly so given the sometimes alarmist media discourse of recent times. Meaningful engagement with consumers also demonstrates the Agency's recognition of the importance of public consent to any law enforcement effort.

10 RECOMMENDATIONS

- 10.1 The Board is invited to:
- **Note:** the progress made since the establishment of the National Food Crime Unit (NFCU) in particular its achievements and the challenges it has encountered to date;
 - **Discuss:** The best way to approach the conduct and governance of the two year review of the NFCU and
 - **Identify** key principles and issues that should be kept in mind as part of that review