

National Food Crime Unit External Review 2022

FSA 22-12-15, the findings, recommendations and considerations of the FSA's National Food Crime Unit's External Review.

FSA 22-12-15 - Report by Junior Johnson and Darren Davies, joined by Keith Bristow QPM

1. Summary

1.1. The Board is invited to:

- **Note** the findings of the 2022 External Review into the operation of the National Food Crime Unit (NFCU);
- **Adopt** the recommendations of the 2022 External Review; and
- **Discuss** any additional considerations arising from the Review.

2. Introduction

2.1. In June 2018, the FSA Board agreed to expand NFCU activities from having a strategic and tactical intelligence capability to a comprehensive response to criminal threats and vulnerabilities, including investigative capabilities. This expanded capability would be subject to a formal full organisational review after three years.

2.2. The commissioning of such a review was endorsed by the FSA Board in December 2021.

2.3. This review of the NFCU ran from June to October 2022 and was conducted by [Keith Bristow QPM](#), Adam Irwin and [Selvarani Elahi MBE](#).

3. 2022 External Review

3.1. The terms of reference for the Review were:

- To assess the delivery by the NFCU of the Key Performance Questions as laid out in the FSA Board paper of June 2018.
- To assess delivery of the expanded functions of the Unit as set out in the FSA Board paper of June 2018.
- To assess progress against the recommendations of the Savill Review, presented to the FSA Board in December 2020.
- To consider the most suitable governance arrangement for the NFCU which will assist the fight against food crime and food fraud, as well as its contribution to the wider aims of the FSA around food safety and authenticity.

3.2. The Review team were able to garner evidence and insight from 28 focus groups, meetings with 40 external stakeholders, an online survey shared with over 1000 businesses and all local authorities, the review of a large tranche of related documents and extensive engagement with over 80 members of FSA staff, including NFCU officers.

3.3. The findings are contextualised by a number of features of the current operating landscape for the NFCU, including pressures within the FSA and its key partners, the broader economic situation in the UK and also the wider geopolitical context including EU Exit and the conflict in Ukraine.

3.4. The Review is included in this report at Annex A. The Review touches in several places on sensitive law enforcement methodologies and the Board are reminded these activities are, where necessary, subject to a robust authorisation process under the Regulation of Investigatory Powers Act 2000 and to annual review by the Investigatory Powers Commissioner's Office (IPCO).

3.5. The Review centres on 22 key findings which relate to the themes below:

- The evidenced capability of the Unit to handle intelligence and pursue crime reduction, supported by the professional expertise of its staff, the benefit derived from their existing professional networks within law enforcement and the deep commitment and effort of the Unit's officers;
- The impact of increasing strategic cohesion between NFCU and the rest of the FSA with regards to the food crime threat;
- The practical challenges of complex fraud investigation, particularly given the absence of key powers, but also the importance of encouraging a more 'lawfully audacious' approach;
- The critical contributions of the Unit's capabilities around sensitive intelligence collection and financial investigation;
- The importance of food-specific domain expertise in understanding and tackling the food crime threat, the external factors which may increase the risk of food crime and the risk that the threat is underestimated by many;
- Areas of potential improvement to service delivery in terms of internal training, intelligence sharing, online investigation tradecraft and the consideration of offender management opportunities.
- The importance of strengthening the Unit's external influence, relationships and information sharing with the public and private sectors, at home and abroad.

3.6. Notwithstanding the gaps in technical capabilities between NFCU and others in the law enforcement landscape, and the challenges this poses to the Unit, the Review finds that the Food Standards Agency remains the correct agency to house the UK food crime response.

3.7. The paper makes five key recommendations, under the headings of Redefine Purpose, Build Capability, Enhance Impact, Nurture Culture and Project Message. These relate to:

1. Clearer **definition** of the Unit's purpose, with performance indicators aligned to its strategy.
2. Using this enhanced clarity to assess 'as-is' capability and then design and **build** the required 'to-be' position.
3. Ensuring access to the latest tradecraft and capability within law enforcement to **enhance** capabilities.
4. **Nurturing** of internal culture and improvements to internal career pathways.
5. Better **projection** of the Unit, its food crime messaging and its successes.

3.8. The consideration and adoption of these recommendations will have, in some cases, resourcing implications to be mapped and considered. The impact of these implications – and in broader terms, the responsibility for enabling their delivery – will also extend across the Agency rather than being solely the preserve of NFCU and its management.

4. Conclusions

4.1. This Review constitutes the completion of the NFCU's commitment to the Board in 2018 to scrutinise its expanded capabilities.

4.2. It has been enormously valuable to submit to this Review and to understand the NFCU through the perceptions of so many of the Unit's stakeholders, and also through the expertise of our reviewers, whether this is in terms of law enforcement activity or the broader dynamics of food and drink sector.

4.3. Subject to the views of the Board these recommendations, where endorsed, will be incorporated into onward business planning for the Unit for the short, medium and longer term.

4.4. The financial impact of implementing the five recommendations (para 3.7) has not been comprehensively costed at this stage. However, it is the Unit's early view that:

- recommendations 1 and 4 are unlikely to lead to significant increases in cost or resource;
- while mapping 'as-is' and 'to-be' capabilities can be incorporated into Unit business planning, recommendation 2 point towards potential future costs depending on the defined 'to-be' capability;
- the advisory panel and associated extensions of the Unit's specialist capabilities outlined in recommendation 3 would most likely lead to additional resource requirements;
- recommendation 5 may involve modest additional resources but could also be delivered to an extent within existing budgets and headcount.

4.5. The work of the NFCU will continue to be reported upon through standard FSA documents such as the Performance and Resources Report and the Annual Report and Accounts; it has also featured in the last 12 months in the Defra Food Security Report and in FSA and FSS's Annual Report on Food Standards.

4.6. Operational scrutiny over and above internal NFCU management processes remain in place from the Office of Communications Data Authorisations (around applications for and use/retention of, communications data), and IPCO (with regards to activity governed by the Regulation of Investigatory Powers Act 2000).

4.7. If the Unit is able to secure access to the additional investigative powers it is seeking, this will be accompanied by the potential handling of complaints (around the use of these powers) by the Independent Office for Police Conduct. Inspection and oversight, again limited to the use of any newly-acquired powers, by His Majesty's Inspectorate of Constabulary, Fire & Rescue Services is also being planned for.

4.8. Review activity within these core processes should be sufficient to assure the Board, the Agency's Executive Management Team and external bodies overseeing the application of law enforcement powers that the NFCU is operating effectively and lawfully.

4.9. The Board is invited to:

- **Note** the findings of the 2022 External Review into the operation of the National Food Crime Unit;
- **Consider** the adoption of recommendations of the 2022 External Review;
- **Discuss** any additional considerations arising from the review.

Annex A – NFCU External Review 2022

National Food Crime Unit

An independent review into the efficiency and effectiveness of the National Food Crime Unit (NFCU)

October 2022
Conducted by:
Keith Bristow QPM
Selvarani Elahi MBE
Adam Irwin

Summary

Introduction

On a day-to-day basis, the decisions people make unconsciously are informed by their assumptions about the Government's role in protecting them from harm. Quite rightly, the British public expect state-regulated controls and measures to be in place so as to ensure that the products they purchase are safe, genuine and as described. When a consumer purchases the latest smartphone from a trusted retailer, unquestioningly they expect their newly acquired possession to be bona fide. When they are handed medicines from their pharmacist, they do not pause to consider whether the components of the drugs they intend to consume to treat their illness derive from a legitimate source. And when they purchase what is described to be wild, Scottish freshwater salmon from their local supermarket, not for one moment do they suspect it could have been sourced from a Norwegian salmon farm and stored in a freezer for months before making it to the fish counter.

In a developed country, which recognises consumer trust as a critical component of a thriving domestic market, such things are taken for granted. For the British consumer, the range of likely outcomes emanating from a purchasing decision are limited by their confidence in a system of regulation and compliance, largely perceived to be invulnerable. But in 2013, news broke of a criminal scandal that would severely test consumer confidence in the food system and its regulation. Horse meat was first detected in foods labelled as beefburgers. For those that had purchased these tainted products, the possibility of them being derived from, or contaminated by, an equine source was unimaginable. Though the public health implications were largely negligible, as far as the British consumer was concerned, the system had failed them. Their trust in those charged with regulating the food sector seemingly had been misplaced. If horse meat could have found itself into the supply chain, what about meat products not fit for human consumption? The implications were serious and wide-ranging; immediate action was required from Government to restore faith and to demonstrate that these failings would be addressed.

The horse meat issue came to fruition due to criminal actors penetrating the food supply chain. This was not a new phenomenon: from time immemorial bad actors have sought to dupe retailers and consumers for financial gain. For those with knowledge of the vulnerabilities in our food integrity mechanisms, and the intent and capability to exploit them, the prize can be huge profits amidst little risk of detection. On the one hand, such criminality may appear trivial: the purchase of substandard but safe products. But in some circumstances, criminal impropriety can lead to catastrophe. What one person may experience as a stomach bug could be a life-threatening event for another. Much as a dodgy batch of Ecstasy could render a night-clubber hospitalised, so too could unsafe foodstuffs served to an elderly nursing home resident. In each case, the supplier has no knowledge of the vulnerability of the end consumer and the tragic loss of life is a real possibility. But whereas the night-clubber knew they were exposing themselves to risk by their decision, the care home resident was entitled to trust that no such risk was present. And they had no choice but to eat the food provided to them.

In the wake of the 2013 horsemeat issue, the Government needed to act to restore confidence in the integrity of the UK food supply chain. Professor Chris Elliot, a leading food safety academic and Director of the Institute for Global Food Security at Queen's University Belfast, was tasked with conducting an independent review into the assurance of food supply networks. His findings

and recommendations led to a nascent law enforcement unit being established within the national food regulatory body: the Food Standards Agency (FSA). Created in 2015 as the National Food Crime Unit (NFCU), this unit would initially have a criminal intelligence function: collecting and analysing intelligence relevant to the food crime threat. But in May 2018, the NFCU received funding to expand its ability to effect operational outcomes, including by investigating those involved in food crime and presenting evidence to the Crown Prosecution Service (CPS) in anticipation of proceedings in the criminal courts.

The creation of the NFCU was a step change in the way food crime was policed in the UK. The FSA was not new to investigations and prosecutions: as a regulator it has the power to bring punitive actions against those not acting within the laws and standards central to good food governance. But the NFCU would be there to close an identified gap in the system that was allowing those with clear criminal intent?not just those falling foul of statutory standards?to profit with little risk of detection.

Since inception, the NFCU has been subject to several independent reviews (namely, the Kenworthy Review in 2016 and the Savill Review in 2020). In June 2018, when the FSA Board (hereon “the Board”) approved the expansion of NFCU activities, they stated that a formal full organisational review would be conducted after 3 years. This review of the NFCU commenced in June 2022 and builds upon the NFCU’s response to those previous (i.e., 2016 and 2020) reviews. As the Review Team, collectively, we have decades of experience in law enforcement and food integrity; this Report sets out our findings and recommendations.

We wish to acknowledge the Government Chemist programme at LGC, which is funded by the Department of Business, Energy and Industrial Strategy, for funding Selvarani Elahi’s participation in this Review.

Methodology

NFCU operational capability was achieved in April 2020, though efforts continue to secure its officers with Powers under the Police & Criminal Evidence Act 1984 (PACE). In December 2020, the Savill Review, which had been commissioned as an interim review, reported to the Board and articulated several recommendations. This review is the triennium “full operational review” envisaged by the Board in June 2018, though the Terms of Reference (Annex A) convey a far wider scope.

The Board wanted the review to include an assessment of the NFCU’s efficiency and effectiveness, specifically to determine the best governance arrangements and to test whether the current FSA construct remains the most appropriate organisational model for the NFCU to operate within. We were empowered by the Board and NFCU’s senior management team (SMT) to go wherever was required to achieve our objectives.

In approaching our objectives, we have considered the following factors in relation to the Unit,1 as requested by the FSA Board:

- effective strategic planning and performance;
- demand management;
- effective capability and capacity access/utilisation;

- forward planning and resource management;
- financial management, Unit ambitions and funding opportunities and constraints; and
- continuous learning and collaboration.

In addition, we thought it important to gather views from external stakeholders perceptions of the NFCU's effectiveness and so included a stakeholder engagement component to our Review.

In order to gather the information required, we held 28 focus groups with participants from within the various specialist teams of the NFCU, the wider FSA (82 staff included) and external public and private sector partners (47 people included). We also sent an eSurvey to 1,013 food industry stakeholders who are members of the Food Authenticity Network and 2,718 subscribers of the FSA Smarter Comms platform from 330 Local Authorities (LAs), to elicit their views. Finally, we were provided with a large corpus of documents by the NFCU comprised of, inter alia, Board Papers, key strategic policy documents and Tasking and Coordination documents. Thus, we have been able to draw upon a significant amount of information in arriving at our findings and recommendations.

Throughout the review process, we found all participants to be passionate, engaging and forthcoming with honest appraisals and constructive feedback. We wish to acknowledge the administrative and logistical support we received from the NFCU Futures Team— in conducting this Review. Without their unwavering efforts to coordinate meetings, support us with notetaking and by retrieving documents, the progress and comprehensiveness of our work would severely have been hindered.

We understand that the FSA intend to make public our findings and recommendations. We have sought, wherever possible, to use language and terminology that does not require prior knowledge of food regulation or law enforcement to interpret and understand our Report.

Limitations

The Terms of Reference (and associated objectives) underpinning our Review were extremely broad and wide-ranging. Two of our objectives instructed us to examine whether recommendations made by previous Reviews (i.e., the Kenworthy Review and the Savill Review) had been met. In practice, this meant a long list of sub-objectives to the overarching Review objectives. Our work commenced in late June 2022, meaning unavoidable disruption during the summer holiday period. To conduct a forensic investigation of each objective (and therefore, sub-objective) and provide an associated written analysis, was simply not possible in the 4-month timeframe allocated for the review. However, we are confident that in conducting our Review, each objective has been met.

Our Findings

1. From a standing start, the NFCU has developed into a capable criminal intelligence and crime reduction unit.
2. Much of the success can be attributed to the recruitment of career law enforcement officers leveraging their previous professional relationships.
3. NFCU staff are committed, motivated and capable crime-fighters, regularly applying discretionary effort to achieve their mission.

4. Food-specific domain expertise is crucial for NFCU staff to be effective in working with partners to fight and prevent food crime.
5. NFCU is hamstrung by currently not having access to specific aspects of key legislation (most notably PACE, but also POCA) which severely limits investigative tempo and disruptive effect.
6. NFCU investigates complex frauds underpinned by large amounts of seized media and documentary material; they are not appropriately supported to exploit and manage it efficiently.
7. The operating environment has changed significantly since the NFCU's inception; geopolitical factors have created an environment that is likely to increase the scale and impact of food crime, thus increasing demand for NFCU's work.
8. NFCU's approach to access control in respect of intelligence systems can be overly risk-averse and it does not have unfettered access to all information and intelligence held by the FSA; opportunities can be lost as a result.
9. Some NFCU staff have cascaded training to address local training needs; these should be incorporated into the NFCU's strategic training plan and NFCU should work with its Learning & Development partner so that the required training is delivered effectively.
10. The food crime threat is underestimated by the public, partners and wider HMG stakeholders; NFCU and FSA leadership team has a role to play in raising the profile of the threat from food crime.
11. Offender management principles and processes, especially for prolific and priority offenders, are not utilised. In some cases, Lifetime Offender Management may be appropriate (to be considered in line with the requirements of the Food and Feed Law Codes of Practice).
12. Internet Intelligence and Investigation is a well-established capability in the NFCU, but opportunities exist to ensure that the Internet domain is fully exploited for its intelligence and evidence collection value.
13. Online capabilities, suitably equipped and supported to enable the covert engagement of Subjects of Interest operating on the Internet, will be increasingly important to achieving NFCU's operational activities.
14. The Financial Investigation Unit is a vital component of the NFCU; it must be supported by the requisite skills, tools, policies and legislation to deny criminals of their illicit profits.
15. The Sensitive Intelligence Unit routinely provides rich and actionable intelligence and has proven itself to be a major driver of NFCU operations; it is a critical enabler for proactive operations.
16. Increasing strategic cohesion between the NFCU and the FSA will ensure the response to the food crime threat is greater than the sum of its parts, supporting the holistic safeguarding of the UK from all food-related threats.
17. A more 'lawfully audacious' operational ethos, which seeks to ensure the full range of proactive investigation options available to the NFCU in law are leveraged, should be encouraged.
18. There are many actors involved in food law enforcement in the UK; more work must be done domestically to cement working partnerships to establish who will act and when, so that all illegal food related activity is effectively dealt with.
19. NFCU's PREVENT work has landed well, but NFCU is still under-recognised; it must adopt an external communications approach to showcase its world-leading commitment to combating and preventing food crime.
20. Food crime is a global phenomenon; the NFCU must continue to collaborate internationally to establish international information sharing channels and collaboration to combat food crime effectively.
21. NFCU's key performance indicators have to date provided useful insights to stakeholders; now it has developed its full intelligence and investigative capability, it is appropriate to revisit them so that performance metrics are fully connected with FSA strategy.

22. The FSA is the right agency from which to deliver the law enforcement response to food crime—but the NFCU is not equally as supported as law enforcement counterparts to combat an increasingly sophisticated and pervasive threat.

Conclusions and Recommendations

The NFCU has done remarkably well in establishing a dedicated intelligence and crime reduction capability for the FSA. However, to fully achieve its mission, additional support and targeted investment is required.

The operational tempo and investigative pace of the NFCU is constrained by the extent to which the NFCU relies on external (i.e., outside of the NFCU) law enforcement partner support and capabilities.

It is our opinion that the NFCU should largely be a self-sustaining law enforcement function, able to access readily the skills and capabilities it requires to achieve its mission. We make the following recommendations to the FSA Board.

Recommendation 1: Redefine purpose

The FSA Board should adopt an outcomes-focused approach to defining NFCU purpose. This will help to shape a revised approach to the performance assessment of the NFCU.

Recommendation 2: Build Capability

The NFCU SMT should identify the capabilities required to deliver these outcomes. This will necessitate an “AS-IS” capability map, defining what capabilities the NFCU has or has access to, to deliver strategic and operational effect. A separate “TO-BE” capability map should then be produced, articulating what capabilities and processes the NFCU requires to deliver the outcomes in Recommendation 1. A programme of activity should then be implemented to realise these requirements.

Recommendation 3: Enhance Impact

The NFCU should appoint an expert advisory group to ensure it can appropriately exploit the full range of investigation tactics and technology available to it in law. This group should be comprised of experts in law (particularly in relation to covert law enforcement operations), policy (in relation to the management of law enforcement operations) and capability and tactics (including novel/emerging technologies). There should be a focus on proactive operations, but the group should also consider issues relating to data, information and intelligence exploitation and management.

Recommendation 4: Nurture Culture

The outcome of the above recommendations should be supported by a People Strategy that not only seeks to retain staff by defining clear career pathways, but which also seeks to ensure the NFCU develops its own food crime-fighting culture (as distinct from other areas of law enforcement), and in a way that is wholly symbiotic with the rest of the FSA.

Recommendation 5: Project Message

Design and deliver an external communications approach that enables the NFCU to work domestically and internationally with partners and showcase its world-leading commitment to combating and preventing food crime.

IN SUMMARY



Detailed Findings

1. From a standing start, the NFCU has developed into a capable criminal intelligence and crime reduction unit.

There is clear evidence emerging of the NFCU's success and impact in disrupting food crime threat actors. The support the NFCU provides Local Authorities (LAs) can serve as a force multiplier, extending the NFCU's reach and disruptive effect. We heard of many examples of the NFCU working with LA partners to prevent, disrupt and detect food crime.

At the time of publication, there are around 11 active NFCU investigations in progress, at various stages of development, in the last quarter alone.

The "4P" PURSUE, PREPARE, PROTECT & PREVENT doctrine, as used in the management of terrorism and serious and organised crime threats, is increasingly engrained in the NFCU's operating model, though the PURSUE element is most mature. The FSA should consider the role the Agency as a whole has to play in the delivery of the non-PURSUE pillars of the 4P approach to threat management.

We were encouraged to find the NFCU enjoys strong leadership, provided by a passionate, highly-experienced and committed Senior Management Team (SMT) who have exerted their best efforts in developing the Unit from initial concept to full operating capability.

2. Much of the success can be attributed to the recruitment of career law enforcement officers leveraging their previous professional relationships.

The NFCU has amassed a wealth of serious and organised crime-fighting expertise as a result of recruiting former career law enforcement (LE) officers. We found that most of these individuals believed their skills and experience were underutilised, predominantly due to lack of legislative powers and access to specialist capabilities.

It was also clear to us that the NFCU's access to critical IT systems would not have been established without the long-standing relationships former LE officers brought with them when joining the NFCU. These officers were able to use such relationships to ensure formal arrangements were put in place to permit NFCU access—an essential ingredient for effective crime-fighting.

Despite its notable advantages, we found that there was a perception of the existence of a

'police-like' culture as a result of the NFCU's ex-LE recruitment drive. Some staff found such a culture unattractive, characterising it at times as presenting as rigid and too 'command and control' led.

3. NFCU staff are committed, motivated and capable crime-fighters, regularly applying discretionary effort to achieve their mission.

NFCU staff are motivated and passionate about achieving goals and, for the most part, work collaboratively across departments. We found numerous examples of self-directed work to enhance the effectiveness of the NFCU: personal projects and officers developing expertise around emerging crime patterns and themes. We did hear, however, how some officers working in Outreach felt less connected to the core intelligence and investigation teams and perceived that their input wasn't valued during the formulation of key strategy, in particular the Control Strategy and 4P Plans.

Despite being new to the food sector, most former LE officers have been able to acclimatise to this new, specialist area of work—and are able to utilise their experience (to the extent they are permitted in law) to enable operational success.

We found that the positive attributes of 'police culture' were exhibited in a 'can-do' mindset, a commitment to exercise discretionary effort to accomplish tasks and a strong sense of 'esprit de corps'.

We heard from some individuals with food-domain expertise that they perceived themselves to be less valued than colleagues with an LE background. On the contrary, however, we heard from many former LE officers, and NFCU senior managers, that staff with previous food sector experience, such as former meat inspectors, were "worth their weight in gold" and were highly respected for the value they could add to investigations.

4. Food-specific domain expertise is crucial for NFCU staff to be effective in working with partners to fight and prevent food crime.

There can be no doubt that combatting food crime requires access to domain experts with a deep understanding of the food system in which criminal actors operate. Decades of experience in criminal intelligence and/or investigations alone will not be enough to design and execute the best strategic and tactical interventions to detect, disrupt and prevent food crime.

Some LA staff said that a lack of food-domain expertise amongst some NFCU officers made tactical conversations more difficult.

It is our opinion that food domain expertise is currently under-represented in the NFCU. Food sector professionals, including FSA staff outside of the NFCU, can provide such expertise, and with the right training and development, these individuals can be moulded into effective food crime investigators with the NFCU. The NFCU must ensure they can attract and retain those with food domain expertise as they are essential to the Unit's work.

5. NFCU is hamstrung by currently not having access to specific aspects of key legislation (most notably PACE, but also POCA) which severely limits investigative tempo and disruptive effect.

We repeatedly heard how a lack of coercive powers means the Unit routinely relies on its Police Service partners to enable them to operationalise their crime prevention and detection activities.

Even the most basic investigatory functions—applying for search warrants, searching for and seizing evidence and interviewing suspects in custody—all require the NFCU to seek assistance from a Police Constable, who will clearly have competing demands on their time and attention.

This is a source of frustration for NFCU investigators, as the vast majority have for decades been

serving police officers (prior to joining the Unit) and so have proven competence in the lawful use of such powers. A perverse situation exists whereby in reality, a Special Constable, and in some Forces a Police Community Support Officer (PCSO), have more powers to exercise to tackle food crime than NFCU officers. We firmly believe that the public would assume and expect the NFCU's officers to have more 'teeth' with which to combat food crime, not least the necessary powers in law to investigate.

We acknowledge and applaud the considerable and time-consuming work that has been undertaken by the FSA and NFCU SMT to work towards obtaining enhanced investigative powers for the Unit, which predominately relate to PACE.

We were surprised to learn that the FSA have not requested for the NFCU to have powers of arrest. We consider that in time, as the NFCU's work increases, the FSA may well consider that the conferring of powers of arrest on a limited number of NFCU officers may be required. This would of course require further legislative change, but there is precedent elsewhere for such authority, for example in the Gangmasters and Labour Abuse Authority (GLAA). Within the GLAA, specially trained officers can be authorised by a Secretary of State to act as Labour Abuse Prevention Officers (LAPOs). When investigating labour market offences, these GLAA officers acting as LAPOs have the power to make arrests, to obtain search warrants, as well as powers of entry, search and seizure. We believe that it will become increasingly important for the FSA to have specially trained NFCU officers to have similar police-like powers when investigating food crime offences.

Our review has also identified limitations in the FSA's ability to utilise the Proceeds of Crime Act 2002 (POCA). While obtaining PACE powers will increase the extent to which POCA can be utilised by NFCU officers, certain POCA provisions require a change in law before they can be used by the FSA.

In any event, until the NFCU can obtain these enhanced investigatory powers, much of the operational investigative activity they can exercise to counter the food crime threat will be at the behest of its Police Service partners. We are of the clear opinion that this is not in the public interest.

We wish to make one final observation in respect of these enhanced powers: we believe that the designation of officers within the NFCU to hold PACE powers needs to be the responsibility of a senior NFCU officer (i.e., at Deputy Director level or above) experienced in the use of such powers and directly accountable (in this regard) to the FSA's Chief Executive Officer.

6. NFCU investigates complex frauds underpinned by large amounts of seized media and documentary material; they are not appropriately supported to exploit and manage it efficiently.

There may be a perception by those in 'mainstream' law enforcement that the NFCU deal with trivial matters. Nothing could be further from the truth: complex, multi-handed fraud investigations are commonplace in the NFCU.

Digital forensics is a crucial aspect of investigations, the volumes and complexity of which will only continue to increase. We learnt that Defra provide the NFCU with an effective Digital Forensic resource, at least as competent and equipped as those available in mainstream law enforcement. This Defra resource has provided support to multiple operations, including working at pace to ensure investigators had access to evidence ready for suspect interviews.

As NFCU operational (digital forensic) demand increases, the NFCU's SMT need to assure themselves of Defra's ability to provide the same levels of quality of service and responsiveness—not least in the light of Defra's other operational commitments. We do note, however, that the Unit has arrangements with private sector Forensic Service Providers, but to date, they do not appear to have been exercised.

We also found that eDiscovery is a service provided by Defra. Yet for the NFCU at least, this solution is inefficient in the extreme, resulting in officers having to work in shifts to review case material. Given the amount of digital material NFCU cases involve (either electronic media or scanned paper records), and the potential for large volumes of legal professional privilege (LPP) material and Special Procedure Material, we believe the NFCU should have ready access to a suitably configured in-house eDiscovery and Digital Media Management platform. Especially as future cases are likely to include more data in this format.

7. The operating environment has changed significantly since the NFCU's inception; geopolitical factors have created an environment that is likely to increase the scale and impact of food crime, thus increasing the demand for NFCU's work.

The 'cost-of-living crisis' and other geopolitical factors are likely to increase criminal activity as existing offenders spot novel opportunities to exploit and prevailing circumstances lure new entrants into committing food crime.

What's more, increasingly global food supply chains have greater opacity and thus, more vulnerabilities for criminals to exploit. Such vulnerabilities can both increase, and be exacerbated by, extreme events—and industry and consumer responses to them (as seen in the case of Covid-19).

NFCU intelligence collection processes are becoming increasingly refined and will likely lead to higher volumes of leads to develop and actionable intelligence to disseminate. The corollary of the above factors is an increased workload for the NFCU, which will likely require a proportionate increase in resources with which to manage it. With this in mind, we encourage the NFCU to consider whether a case-grading system could be used to better assess the resource commitment and time (reasonably assessed to be) required for each intelligence development operation and tasked investigation. We believe that such a system would provide greater insight into the Unit's caseload and available resources—and importantly, whether and how quickly they need to expand.

We feel it is important to highlight, however, that a number of LAs do not utilise the national LA intelligence database (IDB) meaning the national intelligence picture is fragmented and incomplete. We also heard that where IDB is utilised, the quality of intelligence reporting (by LA officers submitting intelligence logs via IDB) is inconsistent, thus adversely affecting the level of shared confidence between partner agencies. We were encouraged to see the FSA's plans for a new delivery model for Food Standards—and in particular the strong emphasis on intelligence-led working. Food fraud and food crime should be considered as part of this valuable work.

8. NFCU's approach to access control in respect of intelligence systems can be overly risk-averse and it does not have unfettered access to all information and intelligence held by the FSA; opportunities can be lost as a result.

NFCU officers have worked hard to ensure the Unit has access to core law enforcement systems, such as the Police National Computer (PNC). However, we heard that NFCU officers seemingly do not have the same levels of access to some of these core intelligence systems that their (equally trained and vetted) counterparts do in other law enforcement agencies. This may introduce risk and uncertainty and create gaps in which criminals can flourish undetected.

There may be cases where access to systems is unnecessarily restricted due to an overly risk-averse approach to access management. For example, very few people in the NFCU have direct access to PNC, which can only be accessed from one location within FSA HQ. We understand that this (location) restriction is stipulated by the Home Office, though we do not understand the rationale for it being applied. Former law enforcement officers now serving in the NFCU stated that when they performed the same role in a Police Force, such as a Disclosure Officer, they personally had access to PNC. On numerous occasions, the perceived rationale given for this

more restricted access regime was along the lines of: “access [to PNC] was hard won and there’s a fear that we will lose access if we misstep”. The NFCU should consider whether the current approach to access management to intelligence systems is proportionate and whether other assurance mechanisms could be used to empower officers’ decisive action and discretionary authority without the need to seek approval from others. In the case of the PNC, this will require consultation with the Home Office to understand their information security concerns and what else could be done to address them, if anything.

Finally, given the NFCU’s role to lead the response of England, Wales and Northern Ireland to food crime, it is essential that a small number of appropriately vetted NFCU officers have access to all of the FSA’s data holdings, especially where they concern persons, businesses and other entities that may be relevant to a criminal investigation.

9. Some NFCU staff have cascaded training to address local training needs; these should be incorporated into the NFCU’s strategic training plan and NFCU should work with its Learning & Development partner so that the required training is delivered effectively.

Intelligence flow within the NFCU is predicated on the proper use of their core investigation case management and intelligence system. We found that many users lack confidence in its use and in some cases, have slipped into poor intelligence submission discipline.

Super users reported that, despite gripes, this system is an effective solution for intelligence management—and if used to its full capability, can support the NFCU far more effectively.

We did hear, however, of significant limitations in the system’s ability to support case file management. We understand the NFCU is not the only law enforcement unit experiencing issues in this regard, and a number of Police Forces are also working with the software provider to ensure it is more suitable—though we were not presented with any clear roadmap. This issue almost certainly introduces inefficiencies in the way case files are prepared and managed, which will be further exacerbated as the NFCU’s caseload increases.

Committed NFCU Intelligence Bureau staff have sought to address some issues relating to the use of the system, by designing and delivering their own training programme. The feedback we heard from participants was mixed. Though appreciative of their colleagues’ efforts, many participants reported that the training did not meet their learning objectives—though they recognised having it delivered virtually, due to Covid-19 restrictions, was not ideal.

We believe that local training needs should be captured in the NFCU’s strategic training document to ensure the effective management and delivery of all training needs in conjunction with the NFCU’s Learning and Development business partner.

10. The food crime threat is underestimated by the public, partners and wider HMG stakeholders; NFCU and FSA leadership team has a role to play in raising the profile of the threat from food crime.

The work of the NFCU is made all the more challenging by a lack of appreciation of the serious, and sometimes life-threatening, nature of food crime.

As well as the loss of consumer confidence in the food supply and economic disadvantage to the consumer, food fraud costs the global food industry an estimated USD 40 billion annually.

Food crime can and often does overlap with food safety as illustrated by Figure 1: three out of four of the largest recent global food fraud incidents had food safety implications demonstrating that food crime/fraud can kill and is not just a matter of consumer choice.

The NFCU is responsible for leading on food crime for England, Wales and Northern Ireland. The stakeholder engagement exercise we conducted showed overwhelmingly that stakeholders wanted the NFCU to raise its profile and that of food crime more generally. We note that a balance must be struck between raising awareness and not causing undue panic amongst consumers and retailers. But the clear communication of the seriousness of food crime is essential, particularly amongst the stakeholders the NFCU need to influence to do their work effectively. In addition, without an effective communication effort, the contribution of willing but hitherto unaware actors cannot be mustered.

Food Fraud and Food Safety can & often do overlap

www.foodauthenticity.global



11. Offender management principles and processes, especially for prolific and priority offenders, are not utilised. In some cases, Lifetime Offender Management may be appropriate (to be considered in line with the requirements of the Food and Feed Law Codes of Practice).

The concept of offender management has a long history in policing and other areas of law enforcement. More often than not, a small number of offenders are responsible for the majority of offending—and some prolific and other priority offenders will cause disproportionate harm to their local communities.

In the policing of Serious and Organised crime, such is the seriousness of some offenders, a 'lifetime' approach to offender management is employed: designing and implementing a plan over a prolonged period of time to manage criminals and mitigate their impact before, during and after a prison sentence. A range of Court Orders can be sought to assist in this process, such as Financial Reporting Orders and Serious Crime Prevention Orders.

In less serious criminal offending, where there is an anti-social behaviour element to manage (which may be relevant to individuals coming to the FSA/NFCU's attention), Criminal Behaviour Orders can be used to impose prohibitions and positive requirements on a convicted person.

Moreover, the concept of Integrated Offender Management (IOM) is now commonplace in policing: designed to bring a cross-agency response to the crime and reoffending threats faced by local communities, by managing the most persistent and problematic offenders identified jointly by partner agencies working together. We have not had the time to consider how these offender management tools could assist the NFCU's work, but we encourage its senior managers to do so.

On the regulatory enforcement side of the FSA, there is also evidence of repeat offenders—recidivism being a choice informed by a perception that there is little down-side to rule-breaking. This likely inflates 'offender' confidence, thereby increasing the scale and seriousness of offending and the escalation of explicit criminal behaviour.

Where the NFCU does pursue a prosecution, we believe that POCA and ancillary orders should be leveraged to reduce the risk of further offending, in line with the requirements of the Food and Feed Law Codes of Practice.

12. Internet Intelligence and Investigation is a well-established capability in the NFCU, but opportunities exist to ensure that the Internet domain is fully exploited for its intelligence and evidence collection value.

The NFCU has established an impressive Internet Investigation & Intelligence (III) capability. The Unit has access to a commercially available mis-attributable internet access platform that enables suitably trained officers to operate on the internet covertly, thereby ensuring those officers' point of presence on the internet cannot be attributed to a public authority. The Unit has 15 trained officers within its Intelligence Bureau, 3 in the Intelligence Development Team and 1 in the Sensitive Intelligence Unit, each with licenses to access this platform. The platform further enables officers to evidentially capture and preserve online material, empowers them through the use of automated tools and provides safe and secure access to the dark web. What's more, the NFCU has access to a 'dashboard' administrator panel, which monitors each individual user's activity on the platform, thus providing organisational reassurance from an anti-corruption/professional standards perspective and to ensure officers are not drifting into non-compliance with the Regulation of Investigatory Powers Act 2000 (RIPA) (for example, where their activity constitutes directed surveillance and thus requires authorisation under RIPA to continue). We believe this will be of great comfort to IPCO inspectors as they exercise their oversight powers in respect of the Unit's work.

We heard of many successes in the III arena, not least in terms of the takedown of websites advertising for sale DNP and other illicit commodities. We were particularly encouraged to hear of the Unit's strong relationships with overseas law enforcement partners, particularly in the Five Eyes community, where joint working has delivered tangible, time-sensitive disruptions to criminals operating online.

We heard of a perceived sense that there was a lack of 'top cover', preventing III-trained officers from operationalising their knowledge and skills, particularly with regards to the use of covert tradecraft, routinely used by officers with the same levels of training in other law enforcement agencies. This constrains the intelligence and evidence collection yield of online operations, meaning that material of probative value potentially is missed.

The NFCU has the ability in law to confer CHIS authority on members of its own officers to undertake online activity. This is known as 'CHIS online' operations and while we were aware that this tactic had been used on a limited number of occasions, the NFCU may require further investment to increase their operational capacity in this regard. Given criminal actors engaged in advertising and selling DNP and MMS almost exclusively rely on the Internet to commit their crimes, such a capability is particularly important. We heard from one experienced NFCU officer: "The online space is currently a safe environment for criminals concerned in the supply of illicit foodstuffs. I can only foresee the use of online platforms increasing when taking into consideration enhanced border controls following EU exit."

To this end, the NFCU may wish to consider appointing a senior manager as an III Capability Lead, responsible for ensuring the NFCU has access to the tools and training required to fully exploit the online domain (both covertly and overtly), while ensuring online operations are governed by policies and procedures to ensure activity is proportionate, necessary and lawful.

13. Online capabilities, suitably equipped and supported to enable the covert engagement of Subjects of Interest operating on the Internet, will be increasingly important to achieving NFCU's operational activities.

Not least given DNP-related offences are largely internet-enabled, and that the sale of foods via the internet has increased significantly in the last five years, accelerated by the impact of Covid-19 restrictions, the NFCU should be able to fully exploit the Internet domain to the extent they are permitted in law.

Without an ability covertly to access Social Networking Sites and engage with online subjects of intelligence interest, in all circumstances where it is necessary and proportionate to do so, opportunities to investigate are unnecessarily constrained. It is almost certain the public would expect the NFCU to be able to leverage at least as much capability as its mainstream LE partners to target serious offending.

14. The Financial Investigation Unit is a vital component of the NFCU; it must be supported by the requisite skills, tools, policies and legislation to deny criminals of their illicit profits.

The Unit has established a Financial Investigation (FI) capability to enable it to leverage the Proceeds of Crime Act 2000 (POCA) in denying criminals the use of their assets, recovering the proceeds of crime and in disrupting and deterring criminality. In July 2021, the NFCU undertook work to consider the Unit's FI capability in the context of those available to the ROCUs. This work found that, unlike the NFCU, the ROCUs have access to Accredited Financial Investigators (AFIs) who are also Police Constables and so can utilise a wider range of statutory powers to enable asset recovery, most notably in relation to the seizure and detention of cash, high-value assets and (subject to training) listed assets. ROCU AFIs were also found to have direct access to a wider array of financial investigation tools and software, which greatly increased the likelihood of identifying financial accounts relevant to a financial investigation. It was also noted that some

ROCU's have in-house specialist Proceeds of Crime Lawyers, to ensure legislation is used to its full effect in targeting criminal finances, including restraint and confiscation matters, cash seizures and in obtaining Account Freezing Orders (AFOs). In conclusion, to come up to par with the ROCU's, the NFCU's FI capability was in need of investment.

Since this valuable (July 2021) work was completed, NFCU management heeded its findings and significant improvements are noted, particularly with respect to access to systems, training and development, and the implementation of new policies and procedures. A cash seizure and detention policy has been implemented, Home Office approval for Asset Recovery Incentivisation Scheme (ARIS) funding has been secured and outdated Standard Operating Procedures have now been revised.

NFCU AFIs now have direct access to more financial investigation and analysis tools than in July 2021, which has increased efficiency and effectiveness of FI work. We were encouraged by the NFCU's successes in depriving criminals of their illicit profits and assets. To date, NFCU FIs have secured two Confiscation Orders. One Order was a 'Nominal Order' in April 2021 with a benefit of circa £11,000 which has recently been reviewed for an uplift under s22 POCA and will remain under periodic review to identify any newly acquired assets. The second Order was granted in July 2022 where the available amount is assessed at c. £23,000 with a criminal benefit of c. £180,000. We are also aware that confiscation proceedings in partnership with an external agency are underway, with a final hearing scheduled for December 2022 and confiscation is anticipated in due course against individuals currently subject to NFCU criminal investigations.

NFCU FIs have also undertaken formal external training, such as in the use of a financial analysis tool to increase the robustness of FI-related work product produced in court proceedings. We do note, however, that the NFCU lags behind its ROCU partners in the area of cryptocurrencies, most notably ensuring the requisite skills, tools and infrastructure are in place to ensure they are identified, traced and recovered. The criminal use of cryptocurrency has already been a feature of NFCU investigations, principally in the commission of offences relating to the supply of DNP. However, given the lack of tools and training available to NFCU FIs, the use of cryptocurrencies may have been a feature of previous investigations and remain undetected. While we note that, given its cyber-enabled nature, cryptocurrencies are likely to be a feature of DNP-related crime, the criminal use of virtual assets in money laundering is increasing, irrespective of the conventional and 'offline' nature of the predicate offences. It should also be noted that it is increasingly common for individuals of all walks of life to hold cryptocurrencies as part of their personal financial portfolios.

Operational Case Study - Cryptocurrency in DNP Supply

During a search of a residential premises relating to the illicit supply of DNP (together with Class C drugs and Prescription Only Medicines) on the dark web, a Police Constable enlisted to assist NFCU officers identified a string of text affixed to the rear of a wall-hung picture frame, seemingly to conceal its presence. Owing to their training and experience, the Constable suspected this text to be a cryptocurrency wallet. This presented a new line of enquiry for the NFCU investigators, resulting in NFCU FIs working with their counterparts in a Police Force to seize the wallet and later initiate asset confiscation proceedings. In such circumstances, owing to the current provisions of PACE, NFCU FIs are wholly reliant on police service FIs to both seize and retain cryptocurrency and then realise it, should it be subject to a confiscation order.

NFCU FIs are not suitably empowered to utilise POCA legislation in other areas. For example, we note that NFCU FIs are not authorised to use s47 POCA relating to the use of certain search and seizure powers to prevent the dissipation of realisable property, which may be used to satisfy a confiscation order. This is because the definition of 'Financial Investigator' as per Statutory

Instrument 2015/1853 specifically excludes the FSA. We do not know whether this was an oversight when the SI was drafted, or whether Parliament intended to curtail the FSA's operational powers. In any event, we assess that the NFCU FI's inability to utilise s47 powers limits the extent to which it can target effectively the illicit profits of food criminals. We understand that the NFCU's SMT are fully aware of this legislative limitation and are working hard to ensure it is addressed. Indeed, as a result of their work, we note that an application now sits with the Home Office and the NCA requesting the NFCU be included in the provisions of a forthcoming Statutory Instrument to obtain these powers.

Operational Case Study: Offender escapes with valuable asset

The detrimental impact of not having access to s47 powers was demonstrated recently when a convicted offender, subject to POCA confiscation proceedings, absconded from the UK whilst on early release from prison. The NFCU received intelligence that the fugitive had then directed third party criminal associates in the UK to remove a vehicle from the country, worth at least £10,000. In such circumstances, the only option available to prevent the removal of the vehicle would be to utilise s47 powers and then to apply for a restraint order. However, the NFCU had no such powers to intervene. This was frustrating for NFCU FIs working on the case given they were trained and authorised to utilise s47 powers in their work for a law enforcement agency prior to joining the FSA.

It is noted that in relation to matters which constitute unlawful conduct that are not subject of a criminal investigation by the NFCU, the NFCU FIs have POCA Part 5 powers including the ability to conduct Account Freezing and Forfeiture proceedings. This presents a significant opportunity to use civil powers to disrupt food crime-related criminality not investigated by the NFCU (e.g., those being handled by FSA Regulatory Investigations). The wider FSA should be encouraged to work with their NFCU FI colleagues to understand how such powers can be used to complement non-NFCU investigations to maximise disruption and asset recovery opportunities. Not only would this ensure that those committing regulatory offences do not profit from their wrongdoing, but also raise the perceived level of risk associated with getting caught and, thus likely deter people from committing food crime.

15. The Sensitive Intelligence Unit routinely provides rich and actionable intelligence and has proven itself to be a major driver of NFCU operations; it is a critical enabler for proactive operations.

Unlike other areas of law enforcement HUMINT (human intelligence), a significant amount of the efforts of the Sensitive Intelligence Unit (SIU) fall to debriefing Whistleblowers (a time-intensive process it does for the whole of the FSA) and ensuring actionable intelligence can be disseminated thereby. The SIU have made significant contributions to active NFCU investigations, some of which are SIU-derived intelligence led. SIU resource constraints limit the extent to which they can proactively recruit intelligence assets, meaning the majority of its work is directed at sources of opportunity as opposed to sources of choice (i.e., recruited in direct support of key intelligence requirements). Consideration should be given to providing the SIU with additional resources to increase their throughput and the extent to which they can feed the NFCU's intelligence cycle.

16. Increasing strategic cohesion between the NFCU and the FSA will ensure the response to the food crime threat is greater than the sum of its parts, supporting the holistic safeguarding of the UK from all food-related threats.

The NFCU is an asset to the FSA and has already proven its worth in developing a rich intelligence picture of food crime and in successfully disrupting serious offenders. When looking at the NFCU in the context of the wider FSA, there is evidence of similar roles, duplication and/or missed opportunities to collaborate. This weakens the collective response to food crime from being as effective and efficient as it could be. There are skills and expertise in the

FSA that would significantly benefit the NFCU's work, and vice versa.

The stakeholder engagement exercise showed that with the LAs being as resource and time restricted as they are, they would welcome a more holistic approach to food law enforcement by FSA/NFCU. We welcomed sight of the FSA's plans for a new intelligence-led approach to the delivery of food standards, which appears to be a more holistic system for governance of food standards including food fraud/crime that will be risk-based; as part of this process, we would encourage FSA to consider how it will collect intelligence for the ~2/3 of LAs who currently don't use IDB systems to record information.

17. A more 'lawfully audacious' operational ethos, which seeks to ensure the full range of proactive investigation options available to the NFCU in law are leveraged, should be encouraged.

In this context, proactive investigations are those initiated by the NFCU on their own initiative as a result of their information and intelligence gathering efforts. During proactive operations, investigators often leverage covert capabilities, such as those relating to surveillance and human intelligence, in order to acquire evidence without a suspect's knowledge, prior to taking overt actions to arrest or interview them. This is as opposed to a reactive investigation, whereby the NFCU initiate a response as a result of them being notified of a particular incident relevant to their law enforcement remit.

We find the Unit needs greater support to be able to adopt a more proactive operational ethos.

We do note, however, that the Unit has made some progress in this regard. For example, the Unit has established a nascent covert observation capability, enabling them to establish static observation posts to monitor locations, premises or subjects of investigative interest. As with their counterparts in other areas of law enforcement, the NFCU officers that deliver this capability have been suitably trained and the Unit has an established process to ensure compliance with relevant policy and legislation, not least RIPA. We note that these trained officers all have full-time roles as Intelligence Development Officers and thus must be released from managing their caseload in order to enable such operations. While on the one hand this could be considered to maximise resource efficiency, the practice may disrupt other work and limit the Unit's ability to deploy such proactive investigation tactics, even though there may be a pressing operational need to do so.

While static observations are an essential tactical option for proactive law enforcement operations, particularly in rural environments, should Subjects of Interest move away from the location being surveilled (e.g., on foot, or in vehicles), they are no longer monitored. In such circumstances, foot or mobile surveillance is often used to maintain visual control. The NFCU have powers in law to target proactively those suspected to be involved in criminality—and NFCU officers are keen to do so. Though the NFCU is not permitted to use some of the more intrusive tactics available to other law enforcement agencies, they are permitted to conduct other activity, such as to impose covert surveillance and to recruit and handle CHIS. The NFCU has used their powers in this regard, but available capacity, financial resources and access to capabilities can constrain their use—despite it having been necessary and proportionate to do so.?

There are a range of covert tactics that the NFCU can employ proactively to gather penetrating intelligence and probative evidence, subject to RIPA and the relevant Codes of Practice. We consider that the NFCU should further develop its own proactive capability, thereby ensuring it is more self-sufficient in the deployment of proactive assets so as not to lose vital (and often fleeting) intelligence and evidence gathering opportunities. The NFCU may wish to consider whether efficiencies and cost-savings could be realised by outsourcing the provision of some proactive capabilities to suitably trained private-sector providers, while ensuring the appropriate legislative and policy safeguards are in place.

We also believe the NFCU would benefit from legal advice from external counsel with deep and specialist experience in advising on law and practice as it relates to covert law enforcement operations.

We also note that the NFCU has amongst its 'ranks' former law enforcement officers, many of whom have decades of experience in utilising such methods lawfully to target and bring to justice serious and organised criminals. Such officers are an asset to the Unit and more should be done to ensure that they are appropriately empowered (including by law, policy, resources and continuing professional development) to enable the FSA to benefit from their specialist skills and experience.

18. There are many actors involved in food law enforcement in the UK; more work must be done domestically to cement working partnerships to establish who will act and when so that all illegal food related activity is dealt with.

There are many actors involved in food law enforcement in the UK and LAs and LE partners (including Border Force) would welcome formalised contact with the NFCU and clarity on roles: 'who does what and when' as there is some confusion as to whose responsibility it is to act in different circumstances—FSA/ NFCU/Scottish Food Crime and Incidents Unit (SFCIU)/Public Health Agency (PHA)/LAs/ LE etc. In such circumstances, there is a risk that the threat is not captured by any of the organisations, posing a potential risk to human or animal health. We do note, however, that the NFCU do have a Memorandum of Understanding (MOU) with the Association of Chief Trading Standards Officers (ACTSO), which is available to the LAs and makes clear at the outset whether the Unit's role is to lead, support or coordinate an operational response. This MOU and the associated terminology and understanding is frequently used. Food law enforcement in the UK is complex, and the remaining issues associated with EU exit and the impact of Covid-19 has put further pressure on an already extremely stretched service. It is clear that effective food crime prevention requires soft diplomacy and coordination, across sectors and stakeholders, to secure long-term commitments to assist in crime reduction and ensure that all illegal food related activity is dealt with.

In order to assess whether levels of food crime are reducing, we believe it is important for NFCU to benchmark levels of food crime/fraud in the UK.

19. NFCU's PREVENT work has landed well, but it is still under-recognised; it must adopt an external communications approach to showcase its world-leading commitment to combating and preventing food crime.

The stakeholder engagement exercise showed that stakeholders had a good awareness of the NFCU's strategic assessment, but much less awareness of the Control Plan or Priorities.

We found that the NFCU's PREVENT work has landed well, but the NFCU's tools are still not well known to the food industry, LAs and LE. Further enhancing the effectiveness of PREVENT activities will likely contribute disproportionately to the effectiveness of the other pillars of the 4P counter food crime strategy.

Most stakeholders wanted to hear more about the NFCU's activities showing the impact it is having and some industry stakeholders believe NFCU is world-leading. Stakeholders welcomed the NFCU's presence as "no one else would be focussing on food crime otherwise".

The NFCU has many different types of stakeholders, and it must develop an engagement strategy that is appropriate for each stakeholder's needs.

20. Food crime is a global phenomenon; the NFCU must continue to collaborate internationally to establish international information sharing channels and collaboration to combat food crime effectively.

Increasing globalisation and complexity of food supply chains provide opportunities for criminals and present challenges for regulators and law enforcement organisations.

Systems for food crime/fraud are not as well developed globally as those for food safety; as food crime is an international problem affecting all countries, it necessitates cross-border information sharing and collaboration. With this in mind, the NFCU established the Global Alliance on Food Crime (GAFC), which is now being chaired by the Head of the SFCIU; the GAFC is a good opportunity for the UK to demonstrate leadership on food crime and share best practice world-wide to more effectively combat food crime.

The Unit has worked hard to develop industry-partner relations, and has good working relationships with the Food Industry Intelligence Network and the Food Authenticity Network; the NFCU needs to build on working collaboratively both domestically and internationally to establish information sharing channels and to exert influence in line with strategic and tactical objectives.

21. NFCU’s key performance indicators have to date provided useful insights to stakeholders; now it has developed its full intelligence and investigative capability, it is appropriate to revisit them so that performance metrics are fully connected with FSA strategy.

The NFCU’s performance management approach is structured around four Key Performance Questions (KPQs), closely resembling the framework used by the NCA. KPQs differ from performance methodologies that solely rely on collecting data relevant to Key Performance Indicators (KPIs): metrics that can be used to monitor performance as it relates to specific organisational outcomes. KPQs pose broader questions formulated from an analysis of an organisation’s objectives, thereby encouraging performance-driven strategic conversations in context, as opposed to fixating on ‘answers’ provided by KPI data. In determining organisational performance in respect of a KPQ, meaningful KPIs and other quantitative metrics may assist, but should not be the sole source of information in reaching an assessment of performance—and qualitative data is equally as important. This “performance management in context” approach is particularly useful in a law enforcement setting.

The NFCU’s KPQs are based on core information needed to understand how well they are delivering their strategic goals. Against each KPQ, an ‘Indicative Level’ is provided, to define an associated desired state.

Table 1: NFCU key performance questions and associated indicative levels

Key Performance question	Indicative level
How comprehensive is the NFCU's understanding of the food crime threat?	The NFCU has a high confidence, single, comprehensive intelligence picture to lead the law enforcement response to food crime.
How effective is the NFCU's response to the food crime threat?	The NFCU effectively identifies and disrupts offending, including bringing offenders to justice where appropriate.
How effective is the NFCU at working with partners?	The NFCU is effective at leading, supporting and coordinating with partner organisations, including sharing knowledge and capabilities to add value to partners' counter-fraud activities.

Key Performance question	Indicative level
How effectively does the NFCU manage resources?	The NFCU is a flexible unit with highly motivated officers who have access to the capabilities required to identify and disrupt food crime.

We have reviewed the mechanism and processes by which the NFCU assess their position against these KPQ's and it is clear that these have become increasingly more refined over recent years so as to extract and analyse relevant data and to provide clear and concise reporting to stakeholders. However, as we have previously highlighted, it must be acknowledged that while the Unit is adept at measuring performance metrics, the Unit's output and effect is constrained due to issues related to legislation, capacity and capability.

The NFCU's KPQs are logical and relevant in the light of its strategic objectives. The extent to which relevant data and information can be acquired and analysed to provide a high-confidence assessment (as it relates to each KPQ) is less clear. Moreover, we assess that viewing performance only through the lens of the KPQs may not provide the FSA's senior leadership with equally important performance data. For example, the issue of agility, which we define as the NFCU's ability to implement change matched to the pace of change in its operating environment, is not considered by the KPQs. Any successful crime-fighting organisation must be able to transform knowledge into actions for desired effects in the crime space (i.e., the environment in which criminals and crimefighters meet). This requires an ability to cope with and/or exploit changes in circumstances.

It is, therefore, important for the NFCU to be able to assess its resources and capabilities in the light of the adaptive threat (posed by food crime) and its strategic and operational objectives. This process may necessitate the Unit's access to some hitherto unavailable capabilities, require other capabilities to be developed by way of investment, and could determine that others should be decommissioned altogether. This is an essential component to ensure the Unit has the crime-fighting tools and capacity required to achieve its mission, while at the same time ensuring it meets its fiduciary responsibilities to the public purse. We encourage the NFCU to look at overseas partners, such as the Danish Food Crime Unit, with a view to benchmarking.

Now that the NFCU is on a solid footing and supported by mature processes, we propose that it is time to rethink purpose and performance. Fundamentally, we encourage the FSA Board to reflect on the outcomes—the end states and desired effects—the NFCU exists to achieve, in the light of the FSA's mission.

Once determined, the NFCU's SMT should identify the resources (including capabilities and processes) required to achieve them, while identifying critical limitations. As part of this process, metrics to facilitate the assessment of the impact of the NFCU should be considered, with thought being given to third-party audits to further reassure the Board that the Unit is performing as required.

The FSA's performance management approach should recognise that the NFCU has capability that allows it to be a core enabler to deliver the FSA's strategic objectives.

22. The FSA is the right agency from which to deliver the law enforcement response to food crime?—but the NFCU is not equally as supported as law enforcement counterparts to combat an increasingly sophisticated and pervasive threat.

If the NFCU was to be migrated to another Agency—such as the NCA—their ability to counter the food crime threat is unlikely to be enhanced and may be diminished. Although other law

enforcement agencies enjoy more enabling legislation, capabilities and resources, their time and capacity are occupied with dealing with threats that will nearly always outcompete a response to food criminality. What's more, the food sector domain expertise required by the NFCU does not exist in other law enforcement agencies, and being part of the FSA ensures that it has ready access to the required food system knowledge. We therefore assess that the NFCU is appropriately situated, but needs to be further empowered by legislation, specific investment and wider government support to properly achieve its strategic objectives in a way that is wholly symbiotic with the rest of the FSA.

Annex A – Terms of Reference

Introduction

This paper sets out the terms of reference for an external review of the National Food Crime Unit as directed by the FSA Board in their meeting in June 2018¹. It also lists the preferred candidates for leading this review, and following agreement with the CEO, approval is sought from the FSA Chair to proceed on this basis.

Background

The National Food Crime Unit (NFCU) was established in 2015 as intelligence function by the Food Standards Agency in response to the recommendations of the Elliot Review. A subsequent review of the NFCU in 2016 (the 'Kenworthy Review') precipitated a funding bid to HM Treasury to finance the expansion of the unit to create an end-to-end counter fraud capability, including an investigative capability and prevention function.

In agreeing to the expansion of NFCU in June 2018, the Board stated that they wished to receive a full operational review of the unit in 3 years, specifically to determine the best governance arrangements and to test whether the current FSA construct remains the most appropriate organisational model for the NFCU to operate within. Operational capability was achieved in April 2020 although efforts continue to secure specific PACE (Police & Criminal Act 1984) Powers for the FSA/NFCU. An interim review (Savill Review) reported to the Board in December 2020 detailing several recommendations.

Progress of NFCU to date?

The NFCU continues to evolve at pace, and demonstrates its delivery by presenting an annual report to the FSA Board, the most recent of which was in December 2021.

Highlights from this report included;

- Progress against the recommendations within the Savill Review?
- Disruptions?
- Performance?
- Arrests/warrants?
- Caseload?

The FSA Board also provided a number of observations on the draft terms of reference for the review.??

Objectives of the External Review?

1. ?To assess delivery by the NFCU of the Key Performance Questions as laid out in the FSA Board paper of June 2018. (Annex A).?

2. ?To assess delivery of the expanded functions of the Unit as set out in the FSA Board paper of June 2018 (Annex B).?
3. ?To assess progress against the recommendations of the Savill Review, presented to the FSA Board in December 2020 (Annex C)??
4. ?To consider the most suitable governance arrangements for NFCU which will assist the fight against food crime and food fraud, as well as its contribution to the wider aims of the FSA around food safety and authenticity.

Methodology?

The review is sponsored by the Director of Operations with coordination and support provided by the NFCU Futures Team.

Interviews will be facilitated with NFCU and wider FSA staff, as well as with external stakeholders, where required by the review team.

The review team will have access to all documents, data and records held by the NFCU, apart from those relating to Sensitive Intelligence Unit operations and any specific operational data on IT systems assessed to be sensitive by the relevant NFCU G6.

The review will be led by a person of significant standing in either law enforcement or the food sector. S/he will be supported by at least two other individuals with complementary expertise.

The methodology will be agreed with the review team but would include considering;

- The effective strategic planning and performance of the unit.?
- How well the NFCU manages demand.?
- How the unit makes sure it has the capability and capacity it needs to meet and manage current demands in the most effective manner.?
- How the NFCU understands future challenges and is planning to make sure it has the right resources in place to meet foreseeable needs.?
- Whether the NFCU makes best use of the finance it has available, and its future plans are both ambitious and sustainable, in particular, what more could the NFCU achieve if it had additional funding or what constraints is it under because of current funding
- The degree to which the NFCU seeks opportunities to improve its activities through organisational learning and collaboration.??

?Reporting?

The review team will provide a highlight report to the Director of Operations every 4 weeks. The report will highlight progress, any deviation from the work plan and flag any risks to the delivery of the review, including assurance that remedial actions have been identified where necessary.

The final report including conclusions and any recommendations will be submitted to the CEO no later than 30 September 2022 for consideration by the FSA Board in its December meeting.

Review Team?

The recommendation to lead the review is;?

- Keith Bristow (ex DG NCA) lead?
- Adam Irwin, (ex-NCA Senior Manager) support
- Selvarani Elahi (Head of Food Authenticity Network)? - support?

?The rationale for recommending the above is Keith Bristow has already supported the FSA in its decision making over Operation Orchid and therefore already has a degree of understanding of the NFCU. He also has the requisite law enforcement background and is a previous Chief Constable and former Director General of the National Crime Agency.?

?

Jerry Savill provides a degree of continuity having already reviewed the NFCU in 2020, furthermore, this review will report on progress against his recommendations.??

?

Finally, Selvarani Elahi will provide an additional food industry perspective and as currently the Deputy Government Chemist and also the head of a global network that connects people with an interest in preventing food fraud.??

The standard procurement processes will be followed to facilitate this review and agreed with both finance and the procurement team.

?

It should be noted that the individuals proposed have not been secured at this juncture, pending the support of the Chair, and of course subject to the appropriate procurement arrangements as alluded to.

Annex A?(to Report Annex A)

From the Food Standards Agency Board meeting – 20 June 2018?

NFCU Key Performance Questions ?

Key Performance Question	Indicative Level
How comprehensive is the NFCU's understanding of the food crime threat?	The NFCU has a high confidence, single, comprehensive intelligence picture to lead the law enforcement response to food crime.??
How effective is the NFCU's response to the food crime threat?	The NFCU effectively identifies and disrupts offending, including bringing offenders to justice where appropriate.
How effective is the NFCU at working with partners?	The NFCU is effective at leading, supporting and coordinating with partner organisations, including sharing knowledge and capabilities to add value to partners' counter fraud activities.
How effectively does the NFCU manage resources?	The NFCU is a flexible Unit with highly motivated officers who have access to the capabilities required to identify and disrupt food crime.

Annex B?(to Report Annex A)

From the Food Standards Agency Board meeting – 20 June 2018?

?

NFCU Phase 2 Functions?

Investigation and Threat Reduction (ITR) command?

Criminal Investigation

Conducting complex fraud investigations (drawing on skills such as?interviewing, case preparation, witness management and exhibits? handling) across England, Wales and Northern Ireland.

Disclosure

A dedicated team to ensure full compliance with obligations under the? Criminal Procedure and Investigations Act 1996. Ensuring a? consistent and professional approach to the unit's disclosure?obligations.

Financial investigation

A specialist team of accredited financial investigators focusing on?confiscation, asset recovery and/or money laundering enquiries in?support of NFCU investigations.?

Prevent

Identifying, developing and implementing non-criminal justice?prevention interventions to reduce the food crime threat by targeting?the capability and intent of offenders.?

Intelligence and Vulnerability Reduction (IVR) command

Intelligence development

Gathering information and developing intelligence to identify specific?instances of offending.?

Source Management

Responsible for recruiting and handling human sources of information?including covert human intelligence sources.?

Intelligence analysis

Responsible for recruiting and handling human sources of information?including covert human intelligence sources.?

Specialist intelligence analysts responsible for serving the strategic and tactical intelligence analysis needs of the wider unit.?

Protect

Identifying, developing and implementing non-criminal justice prevention interventions to reduce vulnerability to food crime by targeting the enablers and situational opportunities for offending.

Food Crime Bureau

The effective front door for information and intelligence entering and leaving the NFCU and the single operational point of contact for UK and overseas law enforcement agencies and other partners. The Bureau will also perform wider administrative support across the unit, including briefing, governance and reporting in line with existing FSA processes.

Outreach

Responsible for managing the unit's domestic and international relationships and building capability with cross-sector partners. This includes local authority and police liaison, industry engagement and the secretariat for the Global Alliance.

Annex C (to Report Annex A): Savill Review?

Recommendations

Recommendation 1: -The NFCU should revisit the 'assumptions' made in 2018 about its operational capacity.??

The original report assumed 10 investigations per annum and a greater certainty on caseload is evolving with the maturing of the unit.??

Recommendation 2: -The NFCU should identify a blue-print for its future staffing structure.?

The staffing ratio to functions, and the spans of supervision to staff were each designed without any operational activity having taken place and require finessing.???

Recommendation 3: -The pro-active pursuit of criminals should become more prominent in the NFCU's operating model.?

Pro-active work has been a more recent aspect of the unit to be fully operational, and currently involves relatively few staff. Reactive investigative capacity is currently the dominant feature.?

Recommendation 4: -Part of the NFCU's longer term plans should include benchmarking its capabilities against Regional Organised Crime Units.??

ROCUs are well established and deliver 19 'capabilities' –these have clear definitions and standards and include a fraud function, as well as significant pro-active functions.??

Recommendation 5: -The NFCU should establish career pathways as part of staff development.?

Other areas of law enforcement have well established accreditation and CPD for staff –the NFCU is still seeking out the best vehicle to replicate these concepts given its niche undertaking.??

Recommendation 6: -The NFCU, with support from other stakeholders, should continue to seek to cement its remit and mandate by securing;?

1. amendments to the Code of Practice for Food and Feed Law,?
2. amendments to the FSA's Statement of General Objectives and??

3. the powers under the Police and Criminal Evidence Act to strengthen the unit's operational capability.??

The mandate and powers of the unit were not established fully at its genesis, and these 3 aspects are each required for the NFCU to become fully embedded to fulfil its remit.??

Recommendation 7: -The NFCU, alongside the FSA, should test its crisis management response in a programme of exercises. This should initially focus on the NFCU and the wider FSA arrangements. The programme should then widen to include Local Authorities and other law enforcement organisations.?

?Exercising would ensure joint preparedness, awareness and common understanding of challenges.?

Recommendation 8: -The NFCU, alongside the wider FSA, should consider developing a 'whole system approach' to eliminate weaknesses in food supply chains that have the potential to be exploited by criminals.???

Taking the example of wider fraud initiatives within law enforcement, a cohesive approach to tightening opportunities for criminality would further enhance the hostile environment for food crime, coordinating activities and knowledge across the FSA, Local Authorities and beyond.

Recommendation 9: -The NFCU should redefine its operating model on a periodic basis. This will ensure that it evolves in line with demands on its services, its financial requirements are clear and workforce plans support its objectives.

This links to several earlier recommendations, and proffers a continued reflection of the demands, future challenges and capabilities and capacity required to meet the threats and emerging landscape (e.g. technology, dark kitchens, novel foods, EU exit etc).

Annex B - Definitions and Interpretations

Term	Definition
Account Freezing Orders (AFOs)	Since February 2018, following the enactment of powers contained v court for Account Freezing Orders (AFOs). AFOs can be used to fre originate from Suspicious Activity Reports (SARs), banking intelligen
Accredited Financial Investigators (AFIs)	Section 3 of the Proceeds of Crime Act 2002 (c. 29) (POCA) provide powers within POCA. These are known as accredited financial inves
Asset Recovery Incentivisation Scheme (ARIS)	Managed by the Home Office, the Asset Recovery Incentivisation S pursue asset recovery as a contribution to the overall aims of cutting operational partners.

Term	Definition
ARIS funds	ARIS funds are allocated to operational partners based on their relative contribution to the seizure, detain and apply for forfeiture of the cash, that agency retains the funds. ARIS funds are used for investigating (for example, the police or National Crime Agency) and prosecuting (usually the Crown Prosecution Service (HMCTS) as the enforcement authority. This split of the allocation of funds in recovery cases, funds are shared between the referring agency and the operational partner.
Covert Human Intelligence Source (CHIS)	As per Section 29 of the Regulation of Investigatory Powers Act 2000, a CHIS is a person acting in a covert purpose of obtaining information, or to provide access to any information, or to influence the consequence of the existence of such a relationship.
Covert Surveillance	Surveillance is covert if it is carried out in a manner that ensures the person being surveilled is unaware of the observing or listening to people, their movements, conversations or other activities, and includes the recording of any information obtained.
Criminal Behaviour Order (CBO)	A CBO is available on conviction for any criminal offence in any criminal proceedings. It is used to tackle the most serious and persistent offenders where their behaviour is a significant factor connected to the criminal behaviour, or activity which led to the conviction. The aim is aimed at getting a person to deal with the underlying cause of his/her behaviour.
Cryptocurrency	A cryptocurrency, sometimes called a 'virtual currency', only exists on a digital ledger that records transactions and manage the issuance of new units. In short, it is a digital asset with a pseudonymous nature, however, cryptocurrency is often exploited by criminals for the purchase of illicit tools or services sold online in criminal marketplaces. The powers of Section 74 of the Proceeds of Crime Act 2002 (POCA) allow the police to seize, restrain, confiscate and forfeit cryptocurrency.
Dark Web	Part of the world wide web that can only be accessed using special software, not traditional search engines and provides anonymity for users and websites.
Digital forensics	Identifying, collecting, examining and analysing electronic data. This includes data from computers, mobile phones, tablets, servers, cloud storage, etc.
Directed surveillance	Covert surveillance carried out by police and other law enforcement agencies to monitor a person of interest's movements, conversations and other activities. Defined fully in the Regulation of Investigatory Powers Act 2000.
DNP (2,4-dinitrophenol)	A highly toxic industrial chemical, illegally sold as a diet pill for weight loss.
Enhanced investigatory powers	Powers the NFCU are seeking to obtain to exercise their crime prevention powers (PACE), for example powers to obtain entry, search and seizure warrants, etc. and others contained within the Criminal Justice and Public Order Act 1994 (e.g. powers of silence in certain circumstances). At this time, these enhanced investigatory powers are not yet available.

Term	Definition
Financial Reporting Order (FRO)	A civil order made post-conviction that can only be imposed if the conviction is for corruption or bribery etc. An FRO can oblige a person to make regular reports for the law enforcement to identify if the person is re-offending against the law.
Five Eyes	A security partnership consisting of Australia, Canada, New Zealand, the United Kingdom and the United States.
Intelligence	Information that has been evaluated to assess its relevance and reliability for law enforcement purposes.
Internet Intelligence and Investigation (commonly abbreviated to "I3" or "3i")	Using the Internet for investigative or intelligence purposes, other than for law enforcement purposes.
Intrusive surveillance	Covert surveillance carried out by police and other law enforcement agencies in the presence of an individual on the premises or in the vehicle or is carried out by means of a listening device.
Investigatory powers Commissioner's Office (IPCO)	Formerly known as the Office of Surveillance Commissioners (OSC), the IPCO is a law and in the public interest, as outlined in the Investigatory Powers Act 2000.
Listed assets	Section 303B of the Proceeds of Crime Act 2002 provides the definition of listed assets: a) gold; b) precious metals; c) watches; d) artistic works; e) any other objects of artistic, historical or scientific interest.
Miracle Mineral Solution (MMS)	MMS typically describes a solution containing the chemical sodium chlorate. It is marketed as a cure for a range of conditions, including cancer, HIV, autism, acne, malaria, flu, and AIDS.
National Crime Agency (NCA)	A non-ministerial department, the NCA is the UK's lead law enforcement agency. The NCA concentrates its work on the most serious criminals and on the most serious organised crime, and has national technical or specialist capability to support other law enforcement agencies.
Organised Crime Group (OCG)	A group of people working together on a continual basis to plan and carry out criminal activities.
Police Community Support Officer (PCSO)	Uniformed members of Police Staff in the Police Forces of England and Wales who are employed to reduce crime and in providing reassurance to local communities. They are employed in various instances, as authorised by a Chief Officer (of their given Police Force).
Police National Computer (PNC)	A computer system used extensively by the police and other UK law enforcement agencies. It is used to conduct checks on, for example, a person's criminal record or to identify individuals who are subject to the PNC, Warning Markers are placed against violent persons and individuals with previous convictions or violence.
Property interference	The entry onto or interference with property or wireless telegraphy by a person acting in the course of an investigation under the Investigatory Powers Act 2000, Part II.

Term	Definition
Regional Asset Recovery Team (RART)	A multi-agency partnership set up to tackle serious and organised crime, money laundering investigations and maximise asset recovery opportunities.
Regional Organised Crime Units (ROCU)	Units which give forces access to a standardised range of capabilities including surveillance and cyber-crime investigation. Regional provision of these units is expensive and only required relatively rarely. ROCUs investigate and coordinate the flow of connection between Police Forces and the NCA.
Regulation of Investigatory Powers Act 2000 (RIPA)	Governs the use of covert techniques by public authorities, including intelligence gathering.
Relevant Source	A type of CHIS (see above), but one holding an office, rank or position. (See: Sources: Relevant Sources) Order 2013 and Annex B to the Covert Operations Order 2013 to as 'Undercover Officers' or 'UCOs'.
Suspicious Activity Report (SAR)	A SAR is a Suspicious Activity Report, a piece of information which may indicate money laundering or terrorist financing. SARs are not evidence of criminal conduct but may assist investigations or help uncover potential criminality that could be investigated. A SAR is an intelligence source. Under the Money Laundering Regulations 2007, failure to submit a SAR to money laundering. A failure to submit such a report is an offence.
Scottish Food Crime and Incidents Unit (SFCIU)	The dedicated incidents, investigations and intelligence gathering unit for food crime in Scotland.
Senior Investigating Officer (SIO)	The senior investigator on specified criminal investigations. They manage the investigation and implement strategies, procedures and systems that underpin the investigation. Senior investigators must have requisite investigation experience, undergo training and be approved by the relevant authority.
Serious and organised crime (SOC)	Serious crime that is planned, co-ordinated and conducted by people or groups of people. Examples include drug trafficking and supply, organised illegal immigration, counter-terrorism and other law enforcement and criminal justice partners as a broad range of serious and organised crime.
Serious Crime Prevention Order (SCPO)	A civil order made by the Crown Court that can be used to impose a range of restrictions on movement or association with others. A breach constitutes a criminal offence.
Special Constable	The Special Constabulary is a force of warranted, volunteer police officers. Special Constables are warranted constables, with all the powers of a regular Police Constable.
Undercover Online (UCOL)	Covert operations involving nationally accredited law enforcement officers using the use of the Internet with the covert purpose of obtaining information about individuals or organisations.

