

# National Food Crime Unit – Annual Update

FSA 22-12-16 - The annual report from the FSA's National Food Crime Unit (NFCU) covering the achievements, operational and developmental challenges and the planned activity for the year ahead.

## 1. Summary

1.1 The Board is invited to:

- **Note** the achievements of the NFCU for the 21-22 period;
- **Recognise** operational and developmental challenges impacting on the unit's progression towards optimised capability; and
- **Discuss** their views on NFCU's planned activity for the year ahead and its situation in the FSA's broader operating context.

## 2. The Food Crime Landscape

2.1 Our report in 2021 referred to the impact on food crime of the two significant events of EU Exit and of the COVID-19 pandemic. One year on, while both remain aspects necessary of consideration, the world events most pertinent to the identification of food crime risks are the conflict in Ukraine and the current cost-of-living in the UK. The determination of causality of food crime signals we observe is always challenging.

2.2 The impacts on global supply chains stemming from the Ukraine conflict, whether directly with regards to commodities from the region or from changes in trade patterns as a consequence, have been discernible and a theme for ongoing consideration. The conflict is also a contributor to the cost-of-living crisis, which is presenting risks domestically, both in terms of the potential for budget-constrained consumers to be exploited by food criminals marketing cut-price fraudulent products, and for financial pressure to incentivise illicit practices by businesses across the food chain to make ends meet.

2.3 While alert to the risks manifesting from the Ukraine conflict (supported by insight from industry partners and others), NFCU intelligence has not as yet registered an increase in fraudulent and/or inauthentic product in the UK as a direct consequence. The Unit continues to maintain its situational awareness by informing surveillance sampling and through rolling assessment of incoming intelligence and other signals.

2.4 The impacts of the cost-of-living crisis more broadly, however, is an area where intelligence (including that recorded by local authorities and accessible to the Unit) is pointing to cost-cutting practices by businesses, largely in smaller-scale establishments, which may lead to inauthentic or unsafe products being offered to consumers or other businesses.

2.5 The Unit works with others across the FSA, government and regulatory partners to ensure food fraud risks from these and other scenarios are explored through informed, structured intelligence analysis and that those risks are addressed through activities such as surveillance sampling or strategy development.

2.6 The Unit's growing caseload of investigations has shed further light on the offender profiles of food criminals. While numbers are small, it is becoming increasingly clear that some offenders

subject to NFCU investigations, or their associates, do have connections to other forms of serious and organised crime. This does not necessarily lead to a conclusion that these criminals are moving into food crime from other forms of offending but does indicate the importance of relationships with others in the law enforcement community, for example through the completion and submission of organised crime group mapping.

2.7 This finding sits separate to other offences taking place around food but not impacting upon it - for example where food is stolen for onward sale without its fundamental attributes being later misrepresented, where food businesses are involved in labour exploitation, or where food is used as a cover load for drug importation.

2.8 The NFCU and FSA Analytics Unit have been continuing to work with academic partners to better quantify the economic impacts of food crime. The accuracy of overall estimates remains constrained by the volume and content of data around food fraud offences in the UK, but we will be considering how to proceed from the insights and methodological foundations offered by this research.

### **3. 2022 - Development and Delivery**

#### **Operational Delivery**

3.1 As part of holistic response which is encouraged by the Home Office '4P' plan around tackling serious and organised crime, the Unit continues to complement its investigations (under the P of Pursue) with work under the remaining strands of Prevent, Protect and Prepare. This has been in response to a modestly revised Control Strategy which was agreed in the spring.

3.2 For the NFCU, the aspects of a 4P response are as follows:

- Prepare – ensure the necessary capabilities exist to tackle food crime.
- This can include the development of learning resources for partners and the provision of online tools to consider fraud vulnerability, as well as the completion and publication of intelligence assessments.
- Pursue – confiscate the proceeds of food crime and prosecute offenders.
- Investigations and other activity to develop intelligence towards a point where it can drive interventions, as well as activity to remove the financial benefits of food crime from offenders after conviction.
- Protect – reduce the vulnerability of businesses and consumers to food crime threats and risks.
- Examples of Protect activity include the Unit's industry newsletters, and bespoke sessions with businesses around food fraud prevention advice.
- Prevent – stop individuals/ businesses from committing food crime.
- This can include the introduction of further checks by online platforms to detect and remove listings selling fraudulent or dangerous productions, as well as the deterrent effect which can derive from the publicity surrounding NFCU activities such as prosecutions.

3.3 Throughout the calendar year, the Unit has been continuing to deliver a range of disruptions to food crime, which are registered with the National Crime Agency to form part of the overall response to serious and organised crime.

3.4 During the first three quarters of 2022, the Unit has registered 59 disruptions with the National Crime Agency – an increase of 34% on the comparable period in 2021. The number of outcomes (lower impact results) recorded internally has fallen from 43 to 27. This may be driven both by the impacts of our activity strengthening, but also by procedural improvements in recognising and recording this impact. Figures 2-6 in Annex A present this data from a variety of perspectives and show an increase in the volume of disruptions and outcomes led by NFCU, and

also a modest increase in Pursue disruptions and outcomes, driven by the Unit's broader investigative caseload.

3.5 Website takedowns connected to the sale of the toxic chemical 2,4- dinitrophenol (DNP) for human consumption are a strong contributor to the 40 disruptions registered under the theme of Dangerous Non-Foods in our Control Strategy (Figure 3). While there will be many factors which influence consumer choices and the activity of suppliers with regards to substances like DNP, we note the recorded figures around DNP fatalities have fallen, with one identified fatality in the 18 months to June 2022.

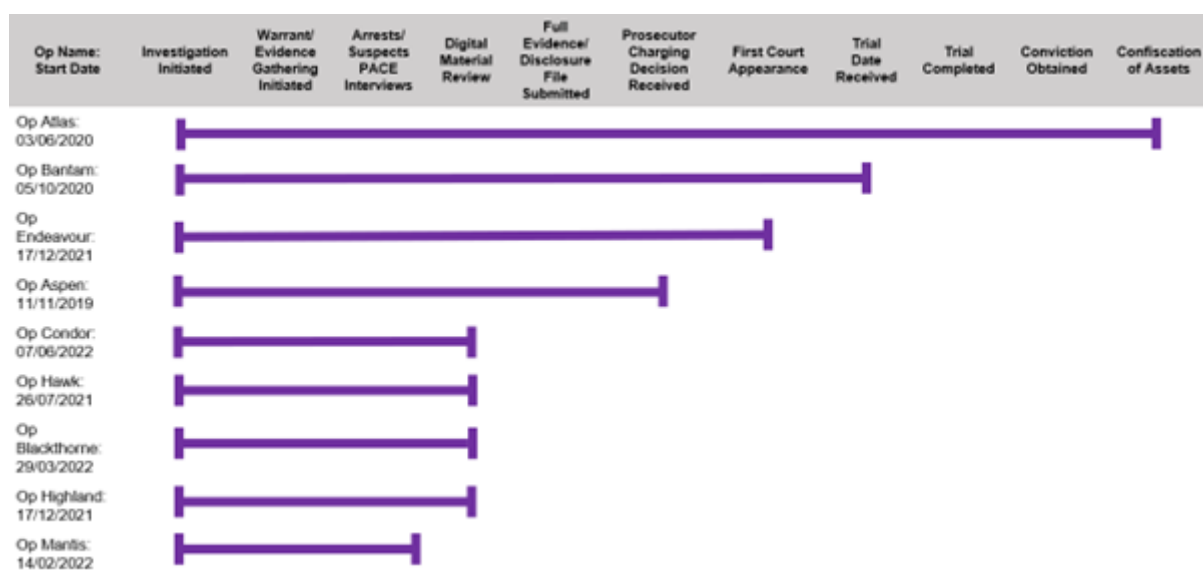
3.6 Other work in this area has included Operations CONDOR and ATLAS. Operation CONDOR is currently in the evidence gathering and reviewing stage to build the case (see Annex B for additional information). Operation ATLAS involved the investigation into the sale of large volumes of DNP and other drugs on the dark web. As a consequence of the investigation, a defendant was jailed for 2 years after pleading guilty to offences related to the sale of DNP and other offences. The NFCU was also successful in asset confiscation, and this has recently also included the realisation and confiscation of a cryptocurrency wallet.

3.7 The Unit continues to engage with partners across government around the legal status of DNP, and a consultation around bringing the substance into the remit of the Poisons Act has now concluded. It has also commissioned further online research into consumer awareness of, and attitudes to, DNP.

3.8 Specific investigative results during this period have included the below (again, with more details on these operations, and others, to be found in Annex B):

A 28 month custodial sentence and asset confiscation following the NFCU's first end-to-end prosecution (Operation ATLAS);

- A positive charging decision for offences including conspiracy to steal in relation to a series of European Distribution Frauds (Operation ASPEN);
- Substantial progress in an ongoing joint investigation with a London local authority exploring conspiracy to defraud offences linked to the re-entry of animal by-products into the food chain. The trial is anticipated to commence in summer 2023 (under Operation BANTAM).



3.9 Figure 1 demonstrates the progression of the principal ongoing investigations. This makes clear the movement of several cases towards securing additional prosecutions.

3.10 Effective partnerships are critical with regards to all aspects of NFCU's work. Under Op PEARL, the NFCU supported Chichester District Council in tackling the harvesting and sale of shellfish from beds that were classified as unsafe for human consumption. This resulted in the seizure and destruction of illegally harvested product and the identification and disruption of businesses involved in illicit receipt of the product. NFCU's contributions were in terms of specialist expertise around more sensitive intelligence and analysis techniques which enriched the overall response in tangible ways.

3.11 NFCU officers have also worked with internal and external partners to build the foundations for an intelligence-based approach to risks related to illicit importations of food. This includes intelligence around activity which could cause the transmission of animal diseases (such as African Swine Fever) into the UK. Enforcement activity linked to this response, led by DEFRA and Border Force, and supported by FSA Imports, recently resulted in large volumes of meat products being seized at the Port of Dover before they could reach UK consumers.

3.12 Operation OPSON continues to provide another forum for collaborative working between local authorities, port health authorities, both of the UK's food crime units and other parts of FSA and FSS. Under this year's activity, OPSON XI, over 400 checks were conducted, principally targeting authenticity risks within the themes of seafood and alcohol.

3.13 Aside from investigation and enforcement activities with partners, NFCU has:

- continued to mature and develop its relationship with the Food Industry Intelligence Network, including through the provision of fraud training;
- launched an e-learning package to local authorities around working within an intelligence cycle. As of October 2022, over 700 officers have signed up to complete the course and nearly 300 have completed it;
- developed videos to promote awareness within specific communities of illicit practices;
- further promoted the Unit's online food fraud resilience self-assessment tool, which has now been completed 500 times since its launch in mid-2021.

## **Developing Capabilities**

3.14 The continued development of NFCU's capabilities takes several forms, whether in terms of professional recognition for the Unit's officers, or the adoption of new systems to strengthen intelligence capture or co-ordination with others across law enforcement.

3.15 This year, the Unit has certified its first staff under the Intelligence Professionalisation Programme (IPP) managed by the College of Policing. The FSA is a relatively early adopter of this programme among smaller, less traditional law enforcement entities. A further four investigators have recently commenced learning activity to become accredited counter fraud specialists.

3.16 NFCU interactions with the National Crime Agency continues, both in terms of the registration of disruptions and also the recording of tactical and thematic risk scoring using the Management of Risk in Law Enforcement (MoRILE) tool.

3.17 An inspection by the Investigatory Powers Commissioner's Office (IPCO) was completed which resulted in a positive report for the Unit in terms of compliance with the requirements of investigatory powers legislation.

3.18 The Unit has also secured enhanced access to the Police National Computer (PNC) and the Police National Database (PND). Further anticipated developments in this area will allow the

Unit to better map and share details of organised crime groups with the broader policing community.

## **International Relationships**

3.19 The UK co-chairs a working group under the Codex Alimentarius Committee on Food Import and Export Inspection and Certification Systems (CCFICS) who are responsible developing an agreed standard around for the control and prevention of food fraud. Both UK food crime units and DEFRA are contributing to the development of this text, which will support consistent conversations and enhanced responses to the food crime threat globally.

3.20 NFCU has withdrawn as joint chair of the European Head of Food Safety Agencies working group on food fraud following the UK's departure from this network.

3.21 NFCU, alongside colleagues in Food Standards Scotland, remains part of the international community which operates under the banner of Operation OPSON each year, and has also participated in work under the European Multidisciplinary Platform Against Criminal Threats (EMPACT) programme.

3.22 Reporting by the National Audit Office in May 2022 highlighted that, since leaving the EU, there is an increased risk that the NFCU has less access to information about food fraud previously shared through EU systems. The NFCU is mitigating this risk by utilising alternative mechanisms to allow the continuation of intelligence exchange with EU member states. These mechanisms enable the Unit to continue to request support in the furtherance of investigative enquiries and also to receive enquiries from abroad relating to activity in the UK.

3.23 Engagement continues with members of the Global Alliance on Food Crime. Further bilateral engagements have included presenting to delegations from South Korea and Ghana on the work of the Unit, its challenges and successes.

## **4. The Year Ahead – Challenges and Opportunities**

4.1 Despite notable progress on this front, there continues to be work to do to equip the Unit with the additional investigative powers it requires.

4.2 The Unit worked hard with others in the FSA and across Governments to deliver the required support during the progress of the Police, Crime, Sentencing and Courts Act 2022 through to Royal Assent. Following the tabling and adoption of an amendment tabled in the House of Lords, this legislation creates a power for the Secretary of State to lay regulations equipping food crime officers with further powers, including under the Police and Criminal Evidence (PACE) Act 1984.

4.3 This is a positive development but there remains work to be done in addressing one final aspect of required primary legislation, around which a bid has been tabled for the fourth session of Parliament via DHSC. Also, the regulations equipping NFCU with these powers – and bringing aspects of its work under the oversight of bodies such as the Independent Office for Police Conduct – are yet to be laid. We will continue to mitigate against this impediment to operational independence through existing partnerships with police forces and local authorities while we work to bring forward the remaining legislation.

4.4 A consultation on these proposals has generated supportive responses as well as reflections on how the Unit should work under these powers, in particular with local authorities, once regulations are laid.

4.5 The Unit has also secured FSA inclusion in an additional section of the Police, Crime, Sentencing and Courts Act. This legislation went live on 8 November 2022 and permits authorised FSA officers to seize digital devices with the consent of the owner in the prevention/detection of crime.

4.6 An application has also been made to the Home Office and National Crime Agency for the FSA to be included in a forthcoming Statutory Instrument to equip public bodies with powers of search and seizure under section 47 of the Proceeds of Crime Act 2002. This would allow the seizure of assets that may later be used to satisfy a court awarded confiscation order.

4.7 The business of investigating complex fraud is, even without shortcomings in available powers, a difficult task. It involves analysing and meticulously reviewing high volumes of documents. The timescales involved have been further extended by delays within the criminal justice system following the pandemic, and prosecutors are requiring six months to issue a charging decision.

4.8 The Unit was pleased to record positive engagement scores in the 2021 Civil Service People Survey, with improved scores across nearly all areas of the Survey when compared to 2020. A notable percentage of the Unit's staff (around 20%) undertook temporary or permanent changes of role in 2022. While numbers of incoming and outgoing staff have been largely balanced overall, this staff attrition has generated challenges to maintaining continuity of delivery and the retention of relevant skills and knowledge in some areas. There is no single determinable reason for this volume of movements during 2022. Over 40% of staff moves were on promotion either inside and outside of the NFCU, but we nevertheless recognise a continued requirement to nurture internal talent, develop career pathways and consider succession planning within the Unit. This is also a theme which has emerged from the NFCU external Review.

4.9 The Unit will, as with other parts of the FSA, have to reflect on prioritisation of its activity in the light of substantial demands on the Agency, for example from the impact of work pertaining to Retained EU Legislation. The principal consequence for NFCU has been the proposal to pause the delivery of the NFCU's next Food Crime Strategic Assessment, produced jointly with FSS, which was due to be published in Spring 2023.

4.10 We will also work with Policy colleagues to ensure that risks and opportunities connected to the prevalence of food crime are considered as part of revisiting this legislation.

4.11 Reflecting on the outcomes of the recent external Review, however, presents NFCU with an opportunity to take stock of successes and strengths, and to focus on areas which require further consideration, development and enhanced delivery. The Unit will await the considerations of the Board on the separate paper addressing this topic with regards to the adoption of the Review's recommendations.

## **5. Priorities for the Year Ahead**

5.1 This review of 2022 emphasises both the operational delivery of the Unit, and the steps taken to improve its capabilities, but also some of the practical and situational challenges which remain.

5.2 We recognise the importance of holding food criminals to account through our investigations (and the deterrent impact which we infer such prosecutions can demonstrate); we also note how critical it is to continue to understand and communicate the food crime threat, and to develop strategies to prevent it from being committed in the first place.

5.3 We remain committed to obtaining of a suitable suite of enforcement powers for NFCU and are ready to consider and respond to the recommendations of the External Review during the

coming year, in line with the Board's direction.

5.4 Consequently, the Unit's key priorities for the year ahead are proposed to be:

- responding to the recommendations of the Review;
- continuing the journey towards additional powers;
- driving forward investigations towards judicial outcomes;
- integrating more effectively across the FSA in areas such as intelligence sharing and outward engagement to improve prevention work;
- increasing the impact, we achieve through our recorded disruptions across all aspects of the 4P response; and
- improving how we communicate about our work and the food crime threat.

## **6. Conclusion**

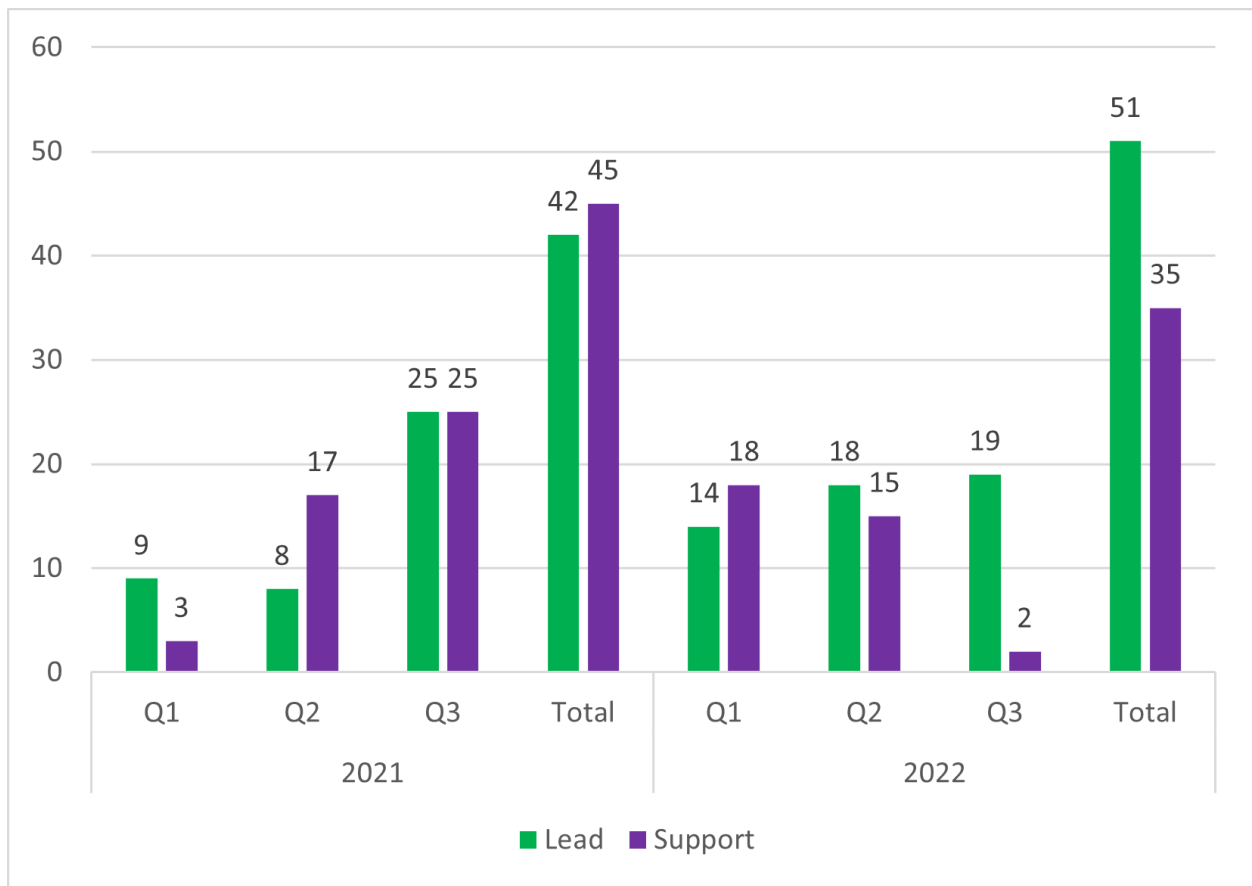
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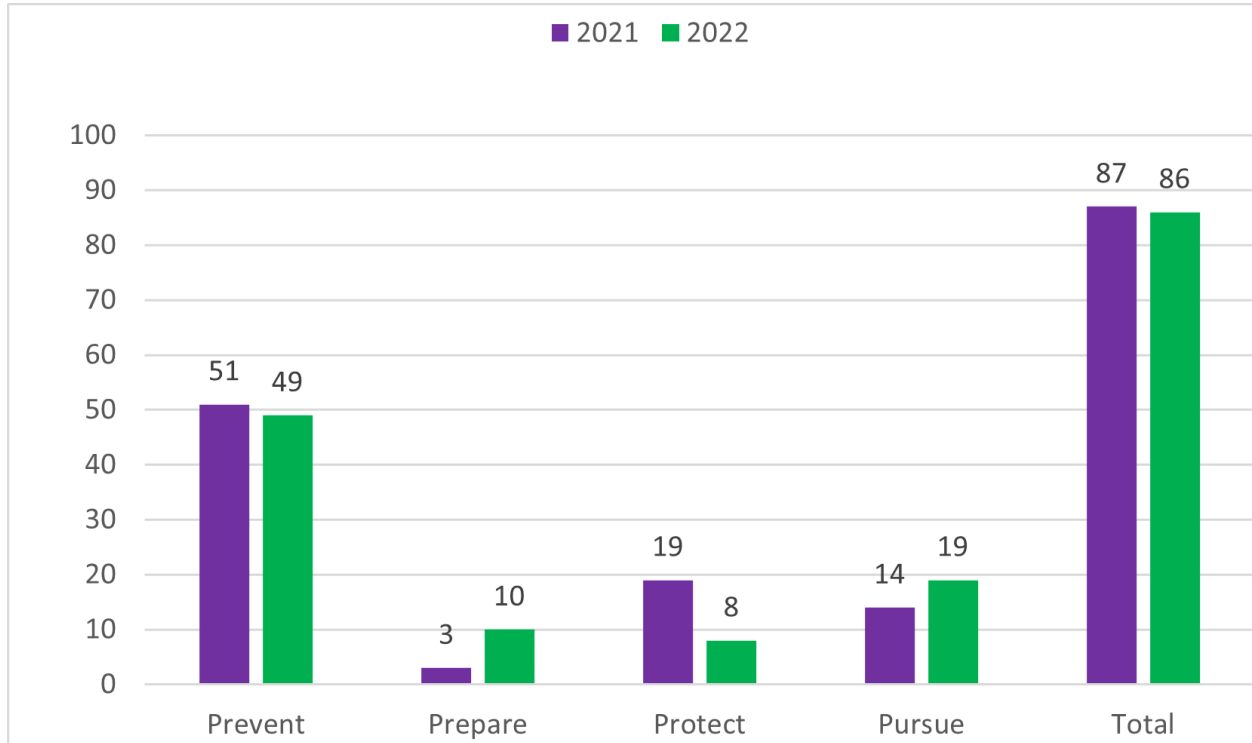
## **Annex**

### **Annex A – Disruptions and outcomes data, calendar year to date 2021 & 2022**

**Figure 2.Total Number of Outcomes and Disruptions by NFCU Role**



**Figure 3. Disruptions and Outcomes by 4P Approach (Data from Q1, Q2 and Q3)**

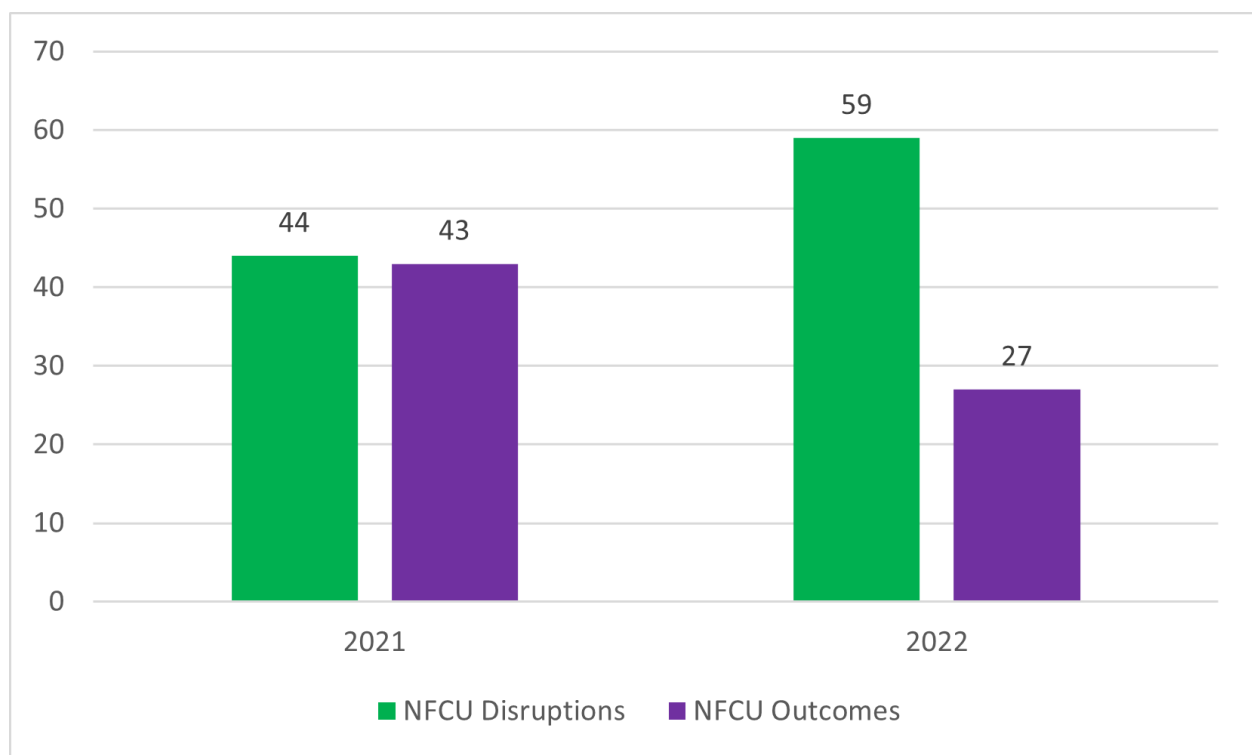


**Figure 4. 2022 Disruptions and Outcomes by Control Strategy Priority Area (Data from Q1, Q2 and Q3)**



\*The theme of red meat was subdivided further in the Control Strategy as of Q2 2022 –for ease of comparison

**Figure 5. Total Number of Disruptions and Outcomes by Type (Data from Q1, Q2 and Q3)**



**Figure 6. 2022 Disruptions and Outcomes by Geographical Impact (Data from Q1, Q2 and Q3)**

	International	United Kingdom	*England	*Wales	*Northern Ireland
National Disruptions	29	10	18	7	3

	International	United Kingdom	*England	*Wales	*Northern Ireland
NFCU outcomes	0	11	12	3	6

\*Overlapping disruptions and outcomes that cover multiple nations within England, Wales and Northern Ireland have been counted for each country involved.

## Annex B – Operational updates

Operation	Update
Operation Atlas	This case was the NFCU's first conviction following a cradle to grave NFCU led investigation. The investigation related to the sale of 2,4-dinitrophenol (DNP) for human consumption, a dangerous chemical which is poisonous to humans and can cause death and serious illness. As a result of the investigation, a defendant was jailed for 2 years after pleading guilty to offences related to the sale of DNP and other offences linked to controlled drugs and prescription only medicines. The Unit was also successful in securing asset confiscation and in partnership with policing partners this has extended to the realisation of funds within a cryptocurrency wallet.
Operation Bantam	Four defendants are currently charged with a variety of offences, including conspiracy to commit fraud by diverting animal by products back into the human food chain. The evidence against two more defendants is currently being reviewed. The scheduled trial date for these offences is July 2023. Although this prosecution is being led by a Local Authority, NFCU have conducted most of the enquiries and provided much of the evidence in the case file. The NFCU are also leading on the financial investigation part of this operation and recently secured Production Orders in furtherance of this case.
Operation Endeavour	This is an FSA Legal prosecution case against an individual for obstructing NFCU staff in the execution of an unannounced inspection. The manager of the Food Business allegedly deliberately delayed the entrance to the business premises, whilst employees could be observed moving items within the business. The NFCU have provided most of the evidence in this case file. The defendant first appeared at Magistrates Court in September 2022 and entered a Not Guilty plea. The next court appearance is scheduled for December 2022.
Operation Aspen	A full case file with a full disclosure package was submitted to the CPS in early April 2022. In October 2022 NFCU received a charging decision, relating to offences of conspiracy to steal and money laundering, against one individual in relation to a conspiracy to commit European Distribution Fraud. The defendant is the director of a cold store to which large volumes of stolen food items valued at several hundred thousands of pounds are known to have been delivered.
Operation Condor	This is an investigation into two suspects that were supplying 2,4-dinitrophenol (DNP). These suspects were not supplying DNP in large volumes; nevertheless, any single DNP pill supplied could prove fatal to the consumer. The evidence for a case file is still being gathered and includes the digital review of mobile phones for evidence and disclosure purposes. One of the suspects has been invited for further interview under caution in October 2022.
Operation Hawk	This is an investigation into the directors of a company responsible for selling large volumes of pre-packed meat products to a UK supermarket retailer, who pride themselves on only selling British products. Our investigation has revealed that the offending company have been selling large volumes of meat products sourced from South America and Europe. The investigation has had to prioritise the review of circa 1.3 million documents. Investigators are compiling a full pre-interview disclosure package to the defence lawyers for December 2022.
Operation Blackthorne	This is an investigation into the directors of a company responsible for smoking fish products. The allegation is that they supplied a large UK supermarket retailer with at least 300,000 packs of what was meant to be fresh, RSPCA assured, Scottish smoked salmon. In fact, the product was frozen Norwegian salmon. The investigation is about to start the review of large volumes of documents for both evidential and disclosure purposes.
Operation Highland	This is an investigation into the directors of a potato supplier. The company are alleged to have been selling premium grades of potatoes, which had been substituted with lower grade potatoes. This evidence comes from laboratory analysis of potatoes purchased from UK supermarket outlets. Investigators are about to commence review of documents seized during the search warrants.
Operation Mantis	This investigation concerns the interception of 'Smokies' which were being supplied to members of the public. The NFCU is supporting the Local Authority in gathering evidence to assist in a prosecution. The operation is exploring a nationwide organised criminal enterprise.

Please note: All operations are experiencing delays due to the CPS backlogs. The CPS are taking over 6 months to review and make charging decisions.