

## National Food Crime Unit: update on progress

### Report by Colin Sullivan & Darren Davies

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#### 1. Summary

- 1.1 This paper provides an update on the progress of the National Food Crime Unit (NFCU) towards Full Operating Capability (FOC) for April 2020.
- 1.2 The FSA Board/Business Committee is asked to;
  - Consider this update on the implementation of the wider NFCU.
  - Acknowledge the significant progress which has been made, as reflected in the summary of achievements at Annex A.
  - Endorse the FSA and NFCU focus on delivering against the remaining challenges at 5.1 and 5.2.

#### 2. Introduction

- 2.1 The NFCU was formed in 2015, performing a criminal intelligence function ('Phase 1'). Any investigative activity fell to partners within Local Authorities or wider law enforcement.
- 2.2 In June 2018, following approval of additional funding by HM Treasury, the FSA Board approved the development of wider capabilities for the NFCU<sup>1</sup>, including the addition of investigative and prevention functions ('Phase 2') to be delivered in minimum capability by March 2019 and Full Operating Capability (FOC) by April 2020, in order to provide an end-to-end response to combat criminal activity within the food supply chain. The paper securing FSA Board approval also outlined 4 Key Performance Questions against which the performance of the expanded NFCU was to be assessed.
- 2.3 The historic basis for this proposal (the 'Elliott Review'<sup>2</sup> and subsequent 'Kenworthy Review'<sup>3</sup>) have previously been well reported and articulated.
- 2.4 Progress to the delivery of 'Phase 2' has been delivered via an internal project board with cross-cutting representation, chaired by the Chief Operating Officer, Colin Sullivan.

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<sup>1</sup> <https://www.food.gov.uk/sites/default/files/media/document/NFCU%20Business%20Case%20Report%20-%20FSA%2018-06-09.pdf>

<sup>2</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/350726/elliott-review-final-report-july2014.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/350726/elliott-review-final-report-july2014.pdf)

<sup>3</sup> <https://www.reading.ac.uk/foodlaw/pdf/2016-nfcu-review.pdf>

2.5 Recognising the drivers for FOC include a critical element of delivering an operationally competent workforce, it is worth noting that other organisations, including the National Crime Agency and Metropolitan Police, now provide 'direct entry' recruitment of detectives, in a similar fashion as had been required in the development of 'phase 2'. In both these organisations, this entails an intensive 2-year programme.

### **3. Wider Context**

3.1 Across law enforcement, many categories of non-traditional crimes are defined as 'hidden demand'. These are typically crime types that are often not readily apparent, even to victims, or crimes which there is a significant degree of under-reporting.

3.2 Food crime is such a crime type, and therefore the full extent of the scale is unknown, and often will only be discovered by proactive activity and building the trust and confidence of partners.

3.3 One of the methods employed to improve awareness is via a widely shared NFCU bulletin, which highlights key trends, emerging issues or gaps in knowledge in relation to dishonesty impacting on food, drink and feed in England, Wales and Northern Ireland.

3.4 The bulletin also provides a regular reminder of the 7 types of food crime (Annex B) and also a reminder of the ways in which food crime can be reported (including anonymously) via Food Crime Confidential on 0207 276 8787 and [foodcrime@food.gov.uk](mailto:foodcrime@food.gov.uk).

### **4. Notable Progress to Date**

4.1 A summary of operational outputs since the last report to the Board is included at Annex A.

4.2 Key progress towards the delivery of the Full Operating Capability (April 2020) includes;

- Staffing levels/recruitment of 73 fte (of 83 establishment).
- Induction training for all provided – other specialist training ongoing.
- Ongoing review of structure and business processes (hence further recruitment temporarily paused).
- Procurement and implementation of end-to-end intelligence and case management system .
- Implementation of refined and professional tasking and coordination process.
- Creation and agreement of Memorandum of Understanding on joint working with the Association of Chief Trading Standards Officers (ACTSO).

- Protocol for securing of support from all police forces agreed via the National Police Chiefs Council (work is ongoing in this regard with the Police Service of Northern Ireland).
- Engagement with independent QC to define the mandate and reach of the activities of the NFCU as an interim position, pending the delivery of legislation to access powers under the Police and Criminal Evidence Act (PACE) and other changes to the Food Law Codes of Practice.
- Agreement of terms of reference for a revised Strategic Assessment of the threat from food crime, to be conducted jointly with Food Standards Scotland, using a broad data set from multiple sources.
- Securing of Information Sharing Agreement with the Food Industry Intelligence Network.
- Securing access to a number of national systems, considered fundamentals for an intelligence led law enforcement approach, including the Police National Computer (PNC), Police National Database (PND) and the National ANPR Service (NAS).
- Internal protocol on intelligence sharing and process agreed across field ops and incidents.
- Engagement in review of the Incident Management Plan, to ensure processes and responses to incidents are properly supported by and reflect the widened capability and scope of the NFCU.
- Liaison with the Investigatory Powers Commissioners Office (IPCO) to put in place appropriate arrangements for the authorisation and conduct of covert activity.

4.3 In starting to progress investigative cases we have applied a broad set of criteria against which to make decisions on whether to lead, support or coordinate investigative activity (Annex C). This has been incorporated into the MOUs and protocols agreed with partners.

## **5. Remaining Challenges**

5.1 Whilst the Crown Prosecution Service (CPS) have been engaged in providing pre-charge advice on an ongoing large-scale fraud investigation (as is alluded to in Annex A), engagement to secure formal signing of a Memorandum of Understanding is ongoing. A similar approach is required with the Public Prosecution Service in Northern Ireland, and initial meetings have taken place in this regard, with further engagement ongoing.

5.2 The entire justification and construct of the NFCU has been predicated on the delivery of a dedicated law enforcement capability to protect consumers from food crime. Whilst recent Counsel advice has provided positive support for the current activities, securing access to provisions under PACE will be a fundamental requirement to the NFCU achieving its full potential, and enable the unit to be assessed as to its ultimate effectiveness against the Key Performance Questions.

5.3 Interim arrangements will remain sub-optimal for its intended purpose, and most obviously will lead to inevitable delays in securing timely action on occasions. The assistance of colleagues within Local Authorities, Police Forces and wider law enforcement in supporting operational activity in the interim has been invaluable.

## **6. Outputs to Outcomes**

6.1 During 2018/19 we built the Minimum Viable Product (ready for the first anticipated EU Exit date of March 2019) and then the focus moved to achieving Full Operating Capability by April 2020. Progress towards that goal is well advanced, and notwithstanding the remaining areas referenced in section 5, the NFCU team have already generated notable outputs, as listed in Section 4 and Annex A of this paper.

6.2 The next phase for 2020/21 and beyond must be to translate this progress, with many of these outputs being enablers for future impact, to the outcome level by registering progress against the 4 Key Performance Questions (KPQs), for which we have been collecting data for the last 6 months. We are aware of the time-consuming nature of fraud / crime investigations and that it takes time to build a portfolio of successfully prosecuted cases. Nonetheless, progress is being made in each of the 4 KPQ areas. Whilst the data suite informing these judgements continues to evolve (including seeking learning from similar experiences with the National Crime Agency), there are high-level examples of a number of elements in existence contributing to delivery;

- a) How comprehensive is the NFCUs understanding of food crime?
  - Revised Strategic Assessment due for early 2020 – jointly with Food Standards Scotland and with wider data, including Food Industry Intelligence Network and Food Safety Authority of Ireland.
  - Close liaison and key partner in Operation Opson initiatives and the European Food Fraud Network, as well as the Global Alliance of Food Crime.
- b) How effective is the NFCUs response to food crime?
  - Capability and capacity of the unit being built.
  - Systems and processes refined – including end to end case management platform and revised tasking & coordination.
  - Proactive and reactive functions including financial investigation and covert capabilities.
- c) How effective is the NFCU at working with partners?
  - Jointly written MOU with Association of Chief Trading Standards Officers.
  - Protocol for interim support from all England, Wales and Northern Ireland police forces via National Police Chiefs Council.
  - Outreach and engagement with all local authority areas established and increasing.

- Industry liaison continuing, with expert led workshop imminent to further refine engagement approach in this area.
  - d) How effectively (efficiently) does the NFCU manage its resources?
    - Finance and recruitment activities are now moving from project arrangements towards business as usual.
    - HR and finance data, including attrition rates, being captured and compared across wider Civil Service.
    - Staff engagement and wellbeing actively pursued, and ongoing staff survey results will assist in assessing this area.
- 6.3 Attached at Annex D is the KPI dashboard for the first 3 quarters of 2019 (April-September) recognising that FOC for the unit is not scheduled until April 2020.

## 7. Conclusions

- 7.1 The FSA Board is asked to;
- **Note** this update on the implementation of the wider NFCU.
  - **Acknowledge** the significant progress which has been made.
  - **Note** the summary of achievements at Annex A.
  - **Support** the efforts to deliver against the remaining challenges at 5.1 and 5.2.

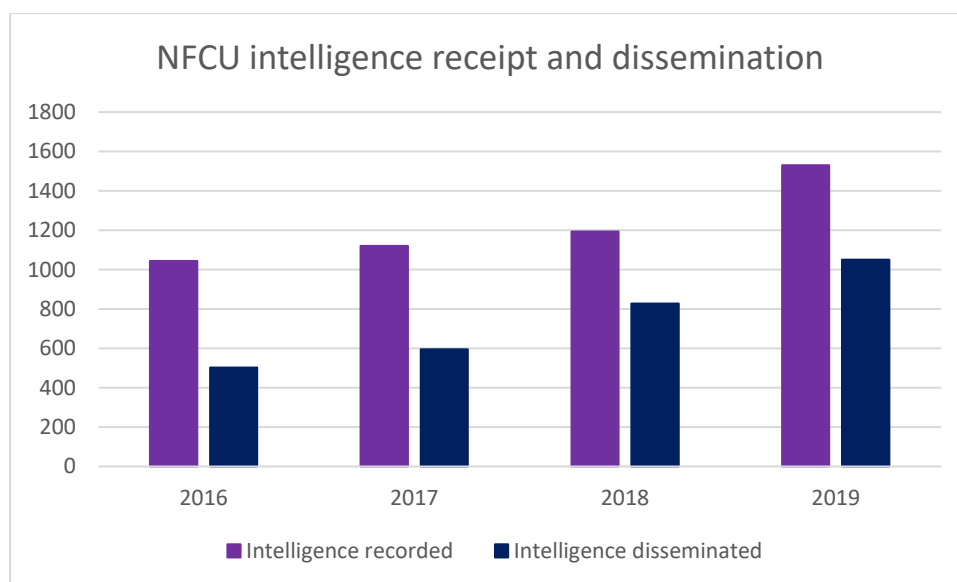
## Annex A

### NFCU operational achievements in 2019

#### Receipt, evaluation and dissemination of intelligence

The volume of intelligence recorded by the Unit has increased year on year since 2015, with a 29% increase noted year-on-year. From January 2019 to January 2020, 1530 new, graded intelligence reports were created.

While the volume of recorded intelligence is not a reliable indicator of quality or relevance in isolation, this increase has been accompanied by an uptick in real and proportional terms with regards to how much of this intelligence is disseminated to our partners internally and externally.



This intelligence will be a mixture of information received from third parties and intelligence generated by NFCU's own intelligence research, outreach, field intelligence work or analytical assessment.

The attrition rate between the calls and messages the Unit receives and those which are relevant remains significant, with only around one in every four contacts being assessed as relevant for recording, from a total of over 6000 contacts in the first nine months of 2019. However, the total number of contacts has increased by over a third when compared to the same period in 2018, and therefore it remains the case that these reporting routes do deliver added value and will have contributed, alongside the intelligence gathering performed by NFCU officers across many of our functions, to the substantial increase in intelligence recording.

Furthermore, the Unit's tasking and co-ordination processes now include the review of intelligence collection against agreed Control Strategy priorities and against a suite of intelligence requirements. This ensures not only that the intelligence is relevant to food crime, but also that we have adequate coverage of the areas which

our intelligence assessment suggests are priorities either to take action around, or for us to understand more about.

The unit also processed a total of 230 referrals received via the Government Agencies Intelligence Network (GAIN) in 2019. This represents an increase of approximately 20% for the preceding year (192 referrals) and typifies the Unit's position as a mature and collaborative intelligence function, working to support partner activity.

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

#### **Disruptions**

Throughout 2019, the Unit's evidenced disruptions have been reported on through tasking and co-ordination processes. The Unit has recorded 77 disruptions, each of which represents a tangible impact upon those involved in the commission of food crime, or a positive effect upon how effectively consumers and businesses are protected from this threat.

These have included:

- A significant number of online interventions intended to impede the sale of unsafe substances such as DNP as food (further referenced below)
- The delivery of a multi-agency day of action targeting shellfish in South West England, leading to subsequent follow-up interventions with partners resulting in the detection of non-compliances
- The delivery of Operation OPSON activity in line with a European Commission focus on organic certification
- Intelligence co-ordination leading to the removal of non-compliant meat products from small independent retailers across several local authority areas
- The identification by an FSA inspection of an individual operating a poultry business in Yorkshire outside of approval
- The co-ordination of multi-agency interventions on meat handlers in the West Midlands
- Partner co-ordination leading to the adoption of an ongoing investigation regarding equine exports
- The dissemination of intelligence leading to the detection and seizure of quantities of non-compliant alcohol products in local authorities across London

#### **2,4-dinitrophenol (DNP)**

The unit's operational intelligence output has continued to feature efforts to address the illegal sale of 2,4 dinitrophenol (DNP) for human consumption. The unit's Control Strategy, refreshed in the spring for the financial year 2019-20, continues to recognise the issue of dangerous non-foods being sold for consumption as a top tier priority. It is however acknowledged that there is a need for greater cross-departmental coordination in combating the threat from DNP – arguably awaiting its sale as a foodstuff rather than an intervention earlier in the supply chain is unnecessarily exposing the public to risk.

We continue to work with other Government departments, including the Home Office, in seeking to address this.

This focus is vindicated by the continued detection of fatalities linked to DNP toxicity in the UK, with four fatalities noted in 2019. This is after six fatalities were noted in 2018.

The following are amongst the outcomes from the unit's multi-dimensional work on DNP since the last Board update in December:

- The NFCU has led a multi-national initiative, as one strand of European work under the annual activity Operation OPSON, to make an impact upon the sale for human consumption of DNP. The benefits of this operation included physical interventions at addresses linked to DNP sale (including in the UK), parcel seizures by customs authorities in Scandinavia and online intelligence gathering and associated interventions by several participants. The operation also led to much broader messaging around the DNP threat being adopted by several EU member states and OPSON participant countries, alongside social media activity in the UK.
- The Unit can point to the continued disruption of the online trade through abuse complaints, website takedowns, social media account closures and the influencing of smaller marketplace sites regarding the listing of DNP, with 49 recorded disruptions in this area, of varying scales and magnitudes, in 2019..
- Overseas, the conviction of the US director of a food supplement business, linked to the encapsulation and sale of DNP for human consumption in the UK, was noted, with a three-year custodial sentence being awarded.
- We also note substantial interventions as part of two further overseas investigations into DNP supply which have resulted, or been strongly supported by, NFCU activity.
- In total, the efforts of the unit in this area has now led to the removal or suspension of at least;
  - 84 websites
  - 12 social media profiles
  - 350 specific marketplace listings, alongside additional activity resulting in the complete delisting of DNP as a product from specific marketplace sites.
- In addition, over 200 individuals within England, Wales & NI who are believed to have purchased DNP for consumption have been warned of the risks by the NFCU via letters or approaches from local police forces since March 2019 alone.

The Unit is continuing to work across Whitehall to determine the best legislation under which to tackle this serious threat *other than under food regulations*; and discussions are ongoing across government to ensure DNP sales and associated safeguarding and public health messaging are addressed from the most appropriate standpoint.



## NFCU Investigations

In February 2018, the FSA Strategic Incident Oversight Group (SIOG) commissioned the NFCU to undertake a criminal investigation into the conduct of a meat processing company, its officers and staff. To date 13 suspects have been interviewed under the Police and Criminal Evidence Act by NFCU officers (4 whilst under arrest) and 182 witness statements taken. It is anticipated that this case will be reported to the Crown Prosecution Service in early 2020. This substantial investigation is on-going and remains a significant focus for the Unit's investigative capabilities.

The unit adopted a further eleven tasked investigations in 2019, relating to a variety of subjects. All of these investigations were adopted for progression with an intention to enrich, co-ordinate or otherwise support the work of partners, although this does not necessarily indicate that NFCU contributions have not been integral or substantial.

The subjects explored by these investigations have been:

- Poultry relabelling
- DNP supply for human consumption
- Shellfish harvesting and distribution
- An authenticity issue within the seasoning and spices sector
- Unauthorised incorporation of animal by-products into food
- The distribution and sale of adulterated and counterfeit spirits
- Potentially deceptive processes involving mechanically separated meat
- The sale for consumption of sodium chlorite-based solutions
- Fraud - misrepresentation of premium status by a meat producer
- Fraud - animal by-product being diverted in to the food chain.
- European Distribution Fraud – whereby food businesses are victims

## Annex B

# THE SEVEN TYPES OF FOOD CRIME

We also pose questions linked to the various types of food criminality which we observe in our assessments. Document fraud, meanwhile, is an enabling activity for many forms of food crime.



**Theft:** The dishonest appropriation of food, drink or feed products from their lawful owner with an intention to benefit economically from their subsequent use or sale.

- How are the products transported? Do you know vehicle details?
- How and where is this product sold on or processed?



**Unlawful processing:** The slaughter or preparation of meat and associated products in unapproved premises or using unauthorised techniques.

- Which persons or businesses are linked to unlawful cutting, slaughter or processing of meat products?
- How do the premises involved in this activity operate undetected?
- How is this product packaged or marketed to make it appear legitimate or to mask the lack of traceability?



**Waste diversion:** The unauthorised diversion of food, drink or feed intended for disposal back into relevant supply chains.

- How are the products (and their origin) made to look genuine?
- How is the product stored, transferred, processed and sold?



**Adulteration:** Reducing the quality of a food product through the inclusion of a foreign substance, with the intention either to make production costs lower, or apparent quality higher.



**Substitution:** Replacing a food product or ingredient with another substance of a similar but inferior kind.

- What are the most commonly used substitutes or adulterants?
- How regularly is this carried out? Are all products linked to the offending company impacted by this?
- How is this activity carried out? What equipment is used?
- Why are the products altered?



**Misrepresentation:** The marketing or labelling of a product so as to inaccurately portray its quality, safety, origin or freshness

- Which food types are most commonly affected by misrepresentation?
- What techniques are used to carry out this activity undetected?
- Who carries out this activity and what is their role in/knowledge of the food industry?
- What techniques are used to make products appear fresher than they are?



**Document fraud:** The use of false or misappropriated documents to sell, market or otherwise vouch for a fraudulent or substandard product.

- How is fraudulent paperwork produced? What equipment and knowledge are required for this activity?
- Are there any key identifiers which may help to identify fraudulent documentation?
- For altered documents, where are the original documents obtained from?

## Annex C



### NFCU – thresholds/definition

February 2019

In order to bring clarity of decision making internally and with partners, it has been necessary to seek to define the threshold/definition of cases which would fall under the remit of the expanded National Food Crime Unit.

This has been agreed as follows.

*The National Food Crime Unit (NFCU) has the remit within the Food Standards Agency for tackling serious fraud and related criminality within food supply chains. It will normally investigate offences appropriate for prosecution under the Fraud Act 2006 or as conspiracy to defraud under Common Law. The unit covers England, Wales and Northern Ireland, but not Scotland.*

*The unit will lead on a small number of the most serious and complex investigations each year and will have some capacity to support and coordinate investigations led by partners.*

*In considering whether to lead, support or coordinate an investigation the Head of the National Food Crime Unit will take into account:*

- *the strategic priorities of the NFCU as set out in its control strategy,*
- *the geographical scope and scale of the suspected offending and,*
- *the nature and extent of the actual, potential or intended harm\* to:*
  - *the public,*
  - *a food business operator,*
  - *confidence in the UK food industry.*

*These factors will inform an assessment of the seriousness of each case and the decision to lead, support or coordinate an investigation. The Head of the National Food Crime Unit will also consider, where appropriate, any representations made by any partner that may be impacted by their decision.*

*(\*physical or economic)*

Annex D

Q3 2019/20 National Food Crime Unit KPI dashboard

**KPQ 1: How comprehensive is the NFCU's understanding of food crime?**

One food crime bulletin for Local Authorities and two alerts in relation to counterfeit alcohol were published in Q3. To date, no feedback has been received on the strategic intelligence products circulated in Q3.

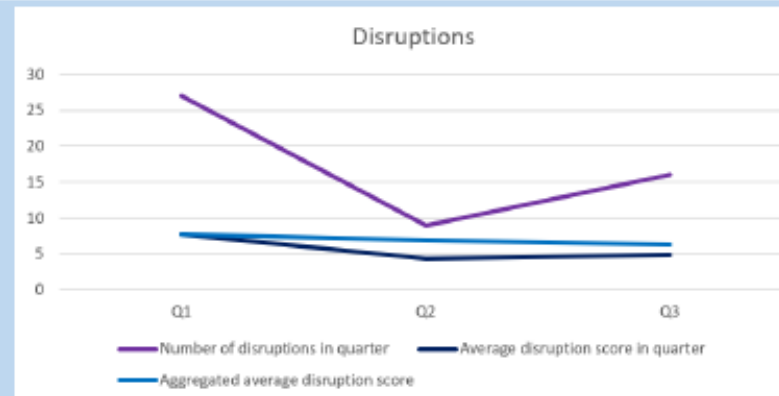
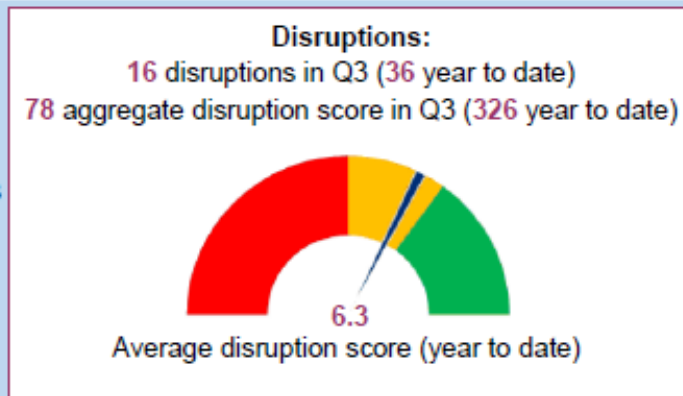
The number of intelligence reports recorded in Q3 increased from Q2, in part due to a backlog being cleared from staff working full-time, for 2 weeks in Q2, on migrating data from the old intelligence management system to the new system (Clue).



**KPQ 2: How effective is the NFCU's response to food crime?**

The number of disruptions recorded in Q3 increased from Q2 although the average disruption score across the two quarters remained similar. The aggregated average disruption score for the year to date is now 6.3 which remains above the midpoint score of 5.

The number of disruptions recorded is expected to rise again in Q4 due to an increase in operational activity and a better understanding across the NFCU of non-traditional law enforcement disruptions (Prepare, Protect and Prevent).



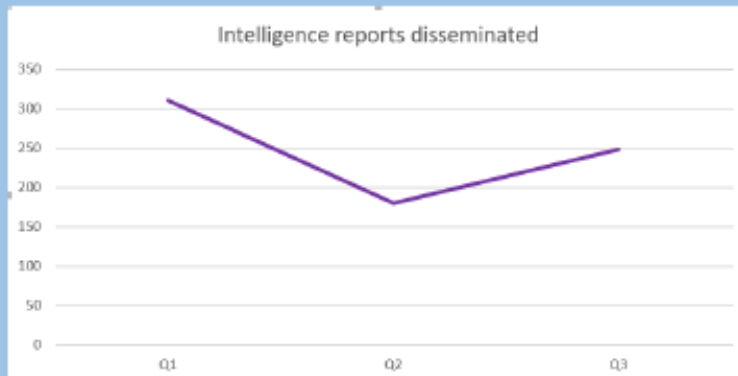
**Criminal justice proceedings:**

- 0 individuals charged (0 in total year to date).
- 0 individuals currently within the criminal justice process.

**KPQ 3: How effective is the NFCU at working with partners?**

The number of actionable intelligence reports sent to partners increased in Q3 in comparison to Q2, in part due to the throughput of information recorded to intelligence disseminated returning to normal levels after reduced staffing in Q2 affected workflow.

The NFCU continues to undertake operational activity in collaboration with partners and adopted a new tasked operation in Q3 which will be conducted under an MoU agreed with the relevant Local Authority.

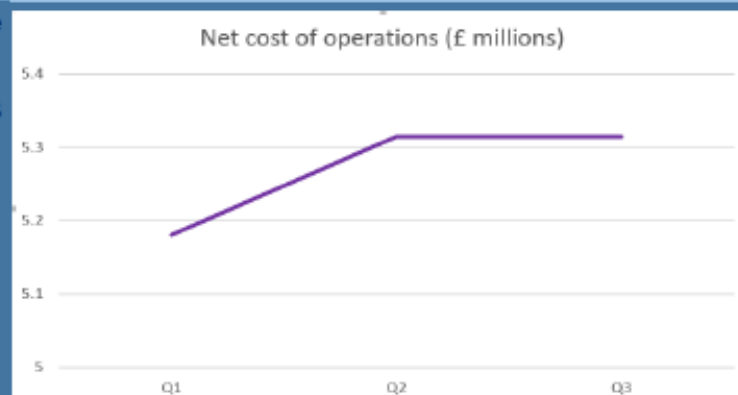


**Strategic partnerships and joint investigations:**

- 2 new joint investigations (10 year to date).
- 0 new partnership agreements with the public sector (2 year to date).

**KPQ 4: How effectively does the NFCU manage resources?**

The forecast net cost of operations has stabilised in Q3 following an increase by 2.7% in Q2. This increase was primarily due to additional funding being approved for IT projects, offset by savings made against staff costs. The NFCU is currently considering whether its current structure and alignment of functional reporting lines is the best fit for the unit. A preliminary staff engagement exercise has been completed, with the senior management team due to consider feedback from staff and select viable options to explore further.



**2018/19 staff engagement score:**  
63%

**NFCU participation in 2019/20 staff survey:**  
94%

