

# National Food Crime Whistleblowing: Time to Review Safeguards Against Supply Chain Threats?

## The Launch

On 28 November 2016, the National Food Crime Unit (NFCU) launched [Food Crime Confidential](#), a phone and email reporting or “whistleblowing” facility. Anyone can use the service, but it is targeted mainly at those working in or around the food industry, to allow them to report suspicions in confidence. Food Crime is defined by the Food Standards Agency (FSA) as “Financially motivated dishonesty relating to food production or supply, which is either complex or results in serious detriment to consumers, businesses or the overall public”. In particular, NFCU wants to hear about suspicions in relation to:

- Food or drink that has potentially been adulterated or substituted
- Methods used in workplaces for producing, processing, storing, labelling or transporting food that appears illegal or substandard
- Companies or businesses that are selling items of food or drink that purport to be of a certain quality, suggest health benefits or claim to be from a specific place or region, but do not appear genuine or are suspected to be fake

Given the continuing focus on food integrity and prevention of food crime, this should act as a reminder to a wide range of food businesses to ensure they have “reasonable precautions” in place to help prevent “food fraud” or “food crime” by themselves or others within the food chain, now and in future. What will amount to “reasonable precautions” will depend on the facts. What will be reasonable will depend on a number of variables, such as the commodity/type of food, the nature and resources of the particular business, the details and geography of the supply chain and the potential for harm (for example, number of customers or type of product or risk). Whether the food is own-branded may also have an impact. For example, under the EU Food Information for Consumers Regulation, the primary responsibility for information rests with the person under whose name the food is marketed. Businesses should not rely **only** upon certification or documentation received from their suppliers.

## Background

The Food Standards Agency set up the NFCU in December 2014 as part of the government response to recommendations made in the Elliott Review into the Integrity and Assurance of Food Supply Networks. Its role is to help protect consumers from serious criminal activity that impacts on the safety or authenticity of the food and drink they consume.

However, the [Food Crime Annual Strategic Assessment 2016](#) published by the FSA and Food Standards Scotland (the 2016 Assessment) reminds us that: “The primary responsibility for tackling regulatory non-compliance at a local level **continues to rest with local authorities**. Once fully operational, the units will provide additional capability where dishonesty is involved, particularly where the nature and dimensions are demonstrably serious or complex. Activity which best protects consumers from harm will be prioritised, taking into account the threat posed, as well as unit capacity and capability and that of partners.”

## Supply Chain Threats

Food businesses should ensure they monitor and act on known and emerging threats in their supply chain to ensure that the precautions and safeguards they have in place continue to be “reasonable” and proportionate to the level of risk.

The 2016 Assessment assesses a number of threats by commodity, including: **red meat** (the FSA notes that the misdescription and diversion of red meat are areas of considerable concern and livestock theft; illegal slaughter and meat species substitution are other issues of note); **eggs** (assessed as an area of heightened vulnerability particularly in relation to the classification and re-dating of fresh eggs, by packing centres and farmers); **diversion of waste products** (a “substantial concern” because of the significant price differential between grades of animal by-product that are permitted to remain in the human food chain and that which is suitable only for non-food use generates clear incentives for fraudulent misdescription); **fish** (misrepresentation of fish origin is of greater concern than fish substitution); **shellfish** (where reports of criminal activity relate predominantly to illegal harvesting or misdescription of origin); **dairy** (substitution of goat milk with cow or sheep milk within dairy products such as cheese has been noted, but in general, the dairy industry is under pressure to conform); **alcohol** (lucrative to produce and sell in substandard and counterfeit forms, with intelligence suggesting that counterfeit and substandard alcohol products are primarily sold through small retailers, by private individuals to associates and through licensed premises such as pubs, with spirits being a substantial area of concern); and **herbs, spices and nut and seed powders** (substitution judged to be a prominent area of concern and an oregano sampling exercise earlier this year revealed that of 78 samples, 19 were also found to contain olive or myrtle leaves).

Food businesses would be wise to review the details of threats in the 2016 Assessment for any commodities they supply to ensure that they are focusing on similar issues to the regulators and enforcement agencies.

The 2016 Assessment also noted that indirectly, activity by overseas criminals who facilitate the illicit movement of people across borders can contribute to the threat landscape for food crime. The report contends that “the illegal flow of migrants into the UK can delay trade and presents the risk of contamination of incoming food loads, owing to the presence of clandestine migrants within freight vehicles. This issue, which was in particular focus during the summer 2015, will continue to have an impact on the UK’s food businesses and ultimately the UK’s food system”.

We have produced [guidance](#) for businesses on the Modern Slavery Act, which also deals with a variety of matters relating to slavery and human trafficking, under which large businesses are required to produce and disclose a slavery and human trafficking statement. However, given the focus on this issue in the 2016 Assessment for food businesses, considerations of these issues should perhaps be part of the precautions to prevent “food crime”, regardless of whether they are obliged under the Modern Slavery Act to produce a statement.

## Conclusion

We anticipate that the launch of the NFCU will create both challenges and opportunities for all food business operators, from manufacturers to caterers to retailers. The challenges will include:

1. Ensuring that you have reasonable precautions/due diligence procedures in place to ensure that a product is “what it says on the box”. This might involve:
  - a. A review of your supply chains to assess the risks, with a particular focus on threats which have been identified by enforcement agencies, such as those highlighted in the 2016 Assessment and/or other operators.
  - b. Implementation and/or maintenance/review of your safeguards to protect against those risks and to ensure recognition of new and emerging, as well as existing, threats.
  - c. Documenting all agreed systems and audits to check ongoing compliance in practice.
2. Ensuring food information, including any packaging, marketing information and point of sale displays are accurate. This will include ensuring that they are compliant with labelling and advertising rules, including in relation to allergen information (even for loose, non-prepacked foods).

However, in addition to these challenges, there is a real opportunity. Ongoing media interest in food integrity issues may very well influence customer focus on the importance of food integrity on an ongoing basis. As such, any food business which can successfully negotiate the challenges and offer transparency to consumers may well improve customer loyalty, as well as ensure that their business is prepared for any future “food crime” crisis.

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