

UPDATE ON DEVELOPMENT OF THE CREATION OF A SCOTTISH FOOD CRIME AND INCIDENT UNIT

1 Purpose of the paper

1.1 This paper is for **information and agreement**.

1.2 The purpose is to update the Board on the development of the creation of a Scottish Food Crime and Incident Unit (SFCIU).

1.3 To seek the Board's endorsement of the recommendations on the proposed remit of the SFCIU.

1.4 The Board is asked to:

- **Note** that the proposed remit and organisational structure fully addresses the relevant Scudamore recommendations and will improve our capability and capacity in relation to tackling Food Crime from a preventative, investigative, disruptive and enforcement perspective;
- **Note** that collaboration is key and requires new ways of working which will take some time to embed;
- **Note** that considerable progress has been made, especially with Police Scotland, that improves our capability, particularly in relation to information sharing;
- **Note** that we are taking a phased approach to developing the SFCIU so our decisions are informed by the evidence. This approach also gives FSS more resilience, especially on incident management, as well as improved capability.
- **Agree** the remit of the Scottish Food Crime and Incident Unit as described in Paragraph 3.

2 Background

2.1 Following the Horsemeat incident, which began in the UK on 15 January 2013, the Minister for Public Health commissioned a study to identify the lessons that could be learned and where improvements could be made to food and feed standards in Scotland. The study was conducted by an Expert Advisory Group chaired by Professor Jim Scudamore, who identified short term recommendations that needed to be implemented by Scottish Government, the Food Standards Agency in Scotland and local authorities. The longer term recommendations were for Food Standards Scotland (FSS), as the New Food Body for Scotland, to implement following its creation in April 2015.

2.2 This study is supported by other work carried out, particularly the Troop Report¹ and Elliot Review², published in 2013 and 2014 respectively. All three studies had recommendations that were broadly similar in relation to Food Crime pointing to:

¹ An independent report carried out by Professor Pat Troop (2013) - Review of the Food Standards Agency

Improved effectiveness through;

- Enhanced structures
- Improved intelligence gathering, analysis and dissemination
- Improved collaborative working and,
- Effective enforcement and punishment of offenders

2.3 Following on from this, Scottish Ministers asked FSS Chief Executive Officer to implement the Scudamore recommendations and design, develop and implement food crime and intelligence unit capability within FSS as part of his objectives.

2.4 In May 2015, FSS created the temporary position of Food Crime Investigations Advisor (FCIA) to carry out a programme of work aimed at establishing a Food Crime capability for FSS.

3 Food Crime Remit

3.1 It is recommended that the remit of the Unit's Food Crime capability should be to tackle;

- serious and/or complex fraudulent conduct and,
- serious and/or regulatory non-compliance involving dishonesty

Conduct is considered serious in this context where it is likely to result in:

- significant risks to public safety
- substantial gain to the offender or loss to consumer;
- pan-regional or transnational offending, or
- significant public concern

3.2 The unit will deliver this remit through the prevention, investigation, disruption and, where necessary, enforcement action or supporting enforcement action taken by partners. It should be noted, however, that the primary responsibility for dealing with Food Fraud at a local level will continue to rest with local authorities.

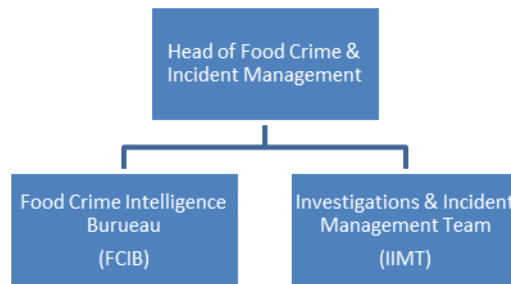
4 Organisational Structure

4.1 Operationally, we have decided to merge the management of Food Crime investigations with the management of Food and Feed incident response, supported by an intelligence capability to create a Scottish Food Crime & Incidents Unit. These discussions, coupled with recommendations made by Scudamore and the Elliot Review in particular and information gathered by the FCIA from partner agencies, form the basis for this paper. It should be noted that the Elliot Review was commissioned by UK Government and whilst the recommendations made were not specifically directed to Scotland, they did hold some relevance.

response to the incident of contamination of beef products with horse and pork meat and DNA.

² A UK Government commissioned Review carried out by Professor Chris Elliot (2014) into the integrity and assurance of food supply networks.

4.2 The diagram below sets out the proposed overarching structure of the SFCIU, reporting to the Director of Operations:



4.3 The FCIB and IIMT will jointly spearhead the FSS response to individuals and groups of individuals involved in the commission of food crime, whilst also having responsibility for the management of food and feed incidents.

4.4 At the heart of the Unit, will be an analytical function which will produce the four intelligence products which will drive the further work of the unit in terms of prevention, investigation, enforcement and disruption, so that the unit focusses on those issues which represent the greatest threat, risk and harm to Scottish consumers.

4.5 **Analytical Capability** will assist in the production of the UK Food Crime Strategic Assessment (FCSA), ensuring that Scottish interests are represented so that issues unique to Scotland are reflected within the published document.

4.6 **Intelligence Development Capability** will use information to produce actionable intelligence packages for intervention by either the investigative arm of the unit or in partnership with key stakeholders.

4.7 Where criminality is found to be organised³, FSS would expect the investigation to be taken over by Police Scotland.

4.8 **Intelligence Desk Capability** will manage the intelligence received by the organisation on a daily basis. Staff will ensure that all intelligence is prioritised according to its urgency and react appropriately in terms of dissemination and collection requirements. This capability will also perform the role of an intelligence cell to support any on-going food safety incidents.

5 Investigations & Incident Management Team

5.1 **Investigative Capability** will produce high quality evidential packages for submission either directly to the Procurator Fiscal with FSS as a specialist reporting agency, or for passing to partner organisations to take enforcement action or make further investigations.

³ Organised Crime – The National Crime Agency has defined this as serious crime planned, coordinated and conducted by people working together on a continuing basis. Their motivation is often, but not always, financial gain.

- 5.2 Financial Investigation, in particular will be extremely important moving forward so that the Unit can make a positive contribution to partnership working under the Proceeds of Crime Act 2000.
- 5.3 In an effort to work more efficiently and provide greater resilience, investigators will be trained so that they can assist the incident response capability. This will give managers greater resilience and flexibility in an area of FSS business which is high risk.
- 5.4 At present, any investigative resource required by FSS for whatever reason, has to be “bought in” from FSA through a Working Level Agreement. However, this places FSS in the position of reliance on FSA resource which might not be available when it is needed, as it’s resource is also devoted to support for England, Wales and Northern Ireland. Following the creation of the SFCIU, all investigations required by FSS will be conducted by our own staff.
- 5.5 **Incident Response Capability** will form part of the unit but there will be very little change regarding FSS response to food safety incidents. It was felt by senior management that crimes and offences often come to light following response to incidents and, as such, it made good business sense to merge the management of these with the management of investigations.
- 5.6 We expect that the SFCIU will:
- have highly skilled staff who have the expertise to carry out operations aimed at reducing Food Crime across Scotland and provide specialist support to partners;
 - deliver a co-ordinated response to food crime through collaborative working with key stakeholders, providing clear leadership in this area for Scotland;
 - contribute to the development of the Food Crime Strategic Assessment being led by the FSA, so as to assist in the provision of an authoritative UK picture of the Food Crime threat to the UK;
 - be outcome focussed in its efforts to tackle Food Crime in Scotland through its prevention, investigation, enforcement and disruption activities in order to protect consumers;
 - work collaboratively to reduce food crime which impacts on Scotland and the wider UK through participation in appropriate EU and third country initiatives;
 - respond to and manage any event where there are concerns about actual or suspected threats to the safety or integrity of food and/or feed that could require intervention to protect consumers
 - ensure that the legitimate interests of consumers are considered in every aspect of the unit’s activity in line with FSS strategic objectives.

6. Monitoring and Evaluation

- 6.1 A key role for the Head of SFCIU will be to develop business monitoring systems and to put in place key reporting indicators to ensure clarity around Unit performance. This will be developed as recruitment progresses and a further update will be made to the Board in this regard in due course.

6.2 Moving forward, it will be crucial to measure the Unit's success through gauging performance. Clearly there will be a suite of key performance indicators which will be outcome focussed and will be aligned to the Food Crime priorities and FSS strategic objectives. Initially, for example, a particular focus could be in relation to measuring improvements in both the quantity and quality of intelligence collected or on improved information/intelligence sharing or on intelligence/investigative packages passed onto partners. In general, however, success will be judged on

- 1) How effectively the Unit is working with partners,
- 2) How comprehensive the Unit's understanding of the threats and
- 3) How effective the Unit's response to these threats is.

7 Key Risks and Issues

7.1 There are a number of risks which have been identified:

- the need to improve the quality and quantity of intelligence being generated through its own staff and through partners, particularly within Local Authorities.
- FSS's inability to control and deploy investigative resource against identified requirements for investigation.
- intelligence handling is currently less than required and needs to be improved

7.2 To mitigate these risks we will be applying the principles of the National Intelligence Model (NIM) with a phased approach to recruitment to the SFCIU. This approach will allow FSS to become familiar with new methods of operation and most importantly operate at comparable levels to its partners and play an active part in collaborative working. It is also the most efficient way to incorporate the NIM, be intelligence led and to lead, co-ordinate or support activities in relation to Food Crime and Food Safety Incidents. It significantly minimises the risks highlighted above. The Unit Head position will also be made permanent.

7.3 Collaborative working with partners is essential if the SFCIU is to be successful in its attempts to combat Food Crime. It is clear that there is a lack of understanding amongst stakeholders of the impact such criminality can have on both the consumer and the Scottish economy. Close working relationships are required with agencies such as Police Scotland, SEPA, Trading Standards Scotland, Local Authorities, as well as the Food and Drink Industry to make a difference. Raising awareness amongst stakeholders as to the extent and impact of Food Crime must be a priority for the Unit if it is to succeed moving forward.

7.4 In order to be effective, FSS recognises the importance of a continued close working relationship with FSA to ensure a consistent approach and make best use of resources. This will ensure that there is a UK awareness of Scottish issues, a Scottish awareness of issues unique to the rest of the UK and will allow the opportunity for work on joint initiatives etc.

7.5 Links have already been formed with Police Scotland and other accredited trainers to ensure that staff within the SFCIU have access to the latest learning in relation to intelligence and investigative standards and processes.

8 Conclusion

8.1 The proposed remit, organisational structure and embedding of the NIM, significantly contributes to addressing a number of the Scudamore recommendations and will improve FSS capability and capacity in managing response to food crime and incidents. Monitoring of performance and evaluation of how we are contributing to tackling food fraud will be important in determining how we move forward and the level of resource that needs to be dedicated to this activity.

8.2 The Board is asked to:

- **Note** that the proposed remit and organisational structure fully address the relevant Scudamore recommendations and will improve our capability and capacity in relation to tackling Food Crime
- **Note** that collaboration is key and requires new ways of working which will take some time to embed;
- **Note** that considerable progress has been made, especially with Police Scotland, that improves our capability, particularly in relation to information sharing enormously;
- **Note** that we are taking a phased approach to recruitment so our decisions are informed by the evidence and success of the unit. This approach gives us more resilience, especially on incident management, as well as improved capability in intelligence management and investigations.
- **Agree** the remit of the Scottish Food Crime and Incident Unit as described in Paragraph 3.

Ron McNaughton

Email ron.mcnaughton@fss.scot

Tel. 07866796827

Date 31/08/2015

ANNEX A – SUPPLEMENTARY DETAIL

1.1 The FSS CEO agreed Terms Of Reference (TOR) for the programme of work to develop the Scottish Food Crime and Incidents Unit (SFCIU) included the following objectives:

1.2 Assess FSS requirements in terms of capability and capacity to fulfil a leading Food Crime role and, in doing so, determine both the current position of FSS and the “road map to success” in terms of short, medium and long term goals required for FSS to be effective in its approach to Food Crime in Scotland;

1.3 Define, develop and implement the organisation, systems, processes and controls to enable FSS to co-ordinate the intelligence gathering and analysis, investigation, enforcement and prevention of Food Crime in Scotland, with regard to relevant legislation and the code of practice;

1.4 Determine the appropriateness of the National Intelligence Model (NIM) with regards to its application to FSS;

1.5 Work with Local Authorities to establish an agreed structure whereby roles and responsibilities are clearly defined in terms of investigative lead/co-ordination of investigations;

1.6 Identify and develop the collaborative relationships and working arrangements with partners/stakeholders that are crucial to achieving a successful Food Crime Strategy, including prevention, detection and, where necessary, prosecution.

1.7 Subject to whether the NIM is appropriate, develop a plan to embed improved processes and procedures in relation to the collection, recording, analysis, risk assessment, protection, auctioning and sharing (i.e. the management) of information and intelligence.

Overview of SFCIU Model

2.1 Information gathering from partner agencies has been crucial to formulating plans aimed at creating a SFCIU. Key to this work has been assessing how partners approach the task of dealing with criminality relevant to their area of responsibility from both an intelligence and investigative perspective. Included in this phase, has been consideration of structures, processes and procedures used, as well as an understanding of lessons learned and possible collaborative working opportunities. The partner agencies involved were:

- Food Standards Agency (FSA)
- Police Scotland
- Scottish Environmental Protection Agency (SEPA)
- National Health Service Counter Fraud Services (NHSCFS)
- Trading Standards Scotland (TSS)
- Marine Scotland

2.2 Information gathering took the form of a series of interviews where all agencies, apart from the FSA and Police Scotland, completed a benchmarking questionnaire. This

was then used as the basis for the interviews and subsequent qualitative analysis. The questionnaire was not used for Police Scotland nor FSA, as the FCIA has an intricate knowledge of Police Scotland's approach to intelligence and investigation due to his previous experience and had access to the FSA's Food Crime Unit Blueprint .

2.3 A consistent approach by all agencies was identified either through the use of or attempts to embed the use of the National Intelligence Model (NIM) within their structure.

2.4 All recognised the importance of using such a process to help inform the strategic direction of their organisation and in targeting resources against identified priorities. It was clear that, in terms of tackling Food Crime, FSS should embed the principles of the NIM within its structure.

2.5 Each organisation interviewed have variations in their resourcing models which are unique to their area of work and appear to be effective in tackling criminality. Most have a defined split however, between intelligence and operational teams, and the one organisation which does not has recognised the importance of this and is making plans to revise their structure accordingly.

2.6 The SFCIU is to be established to provide leadership in the prevention, investigation, enforcement and disruption of Food Crime and in the management of Food Safety incidents, nationally for Scotland. The unit will play a key role in supporting FSS carry out two of its objectives as set out in Part 1 Section 3 of the Food (Scotland) Act 2015, namely to:

- a) protect the public from risks to health which may arise in connection with the consumption of food;
- (b) protect the other interests of consumers in relation to food.

Food Crime

3.1 In the Elliot Review, Food Fraud is defined as:

3.2 "Deliberate and intentional substitution, addition, tampering, or misrepresentation of food, food ingredients, or food packaging, or false or misleading statements made about a product for economic gain."

3.3 The review went on to comment that Food Fraud becomes Food Crime when it no longer involves random acts by "rogues" within the food industry but becomes an organised activity perpetrated by groups who knowingly set out to deceive, and or injure, those purchasing a food product.

3.4 Estimates of the extent of criminality and serious organised crime in food provision vary widely, however, the full extent of the problem in the UK is unknown. It is suggested that evidence of food crime is not sought at the right level or with the necessary expertise.

3.5 The Horsemeat incident and other cases of food crime have demonstrated that criminals infiltrate supply chains of legitimate businesses without their knowledge.

Experience in other countries indicates that wherever there is a systematic approach to look for food crime, evidence has quickly been uncovered.

3.6 It should be noted that the minimal penalties dealt out for involvement in such criminality may present a risk in that food crime could be perceived as an attractive alternative to other types of criminality which attract stiffer sentencing and, as such, it is suggested that there is a high likelihood of there being an organised element involved.

3.7 For reasons of consistency in working with the FSA, it makes sense to use their broader definition as the basis for the remit for tackling Food Crime in Scotland in relation to food, drink and animal feed.

3.8 The SFCIU will provide additional capability by leading investigations into Food Fraud, where its nature and dimensions can be considered serious or complex, by co-ordinating, where required, investigations to be undertaken by the local authority, by supporting local authorities through the provision of expertise in the areas of intelligence and investigation and by supporting partners by providing expertise in the areas of Food law.

3.9 Prioritisation of caseload for the unit will be based on potential threat, risk and harm to consumers. It is anticipated that the Unit will self-generate work through intelligence development, but will also be in a position to accept referrals from local authorities for investigation where the suspected criminality is thought to be serious or complex. Governance over a referral system will be achieved through appropriate tasking structures which will be developed through embedding of the NIM.

3.10 To be effective, the unit requires to have the ability to report cases directly to the Procurator Fiscal as well as the ability to produce evidential or intelligence packages which can be passed to partner agencies for enforcement or further investigation.

Food Safety Incidents

4.1 Detailed discussions have taken place at SMT and Branch level in relation to merging the new investigative capability to be established for food crime with the existing incident management capability that FSS retained following the split from FSA.

4.2 In line with its functions as laid down by the Food (Scotland) Act 2015, the SFCIU will respond to and manage any event where, based on the information available, there are concerns about actual or suspected threats to the safety or integrity of food and/or feed that could require intervention to protect consumers.

4.3 A primary focus, for the Unit as a whole, will be contributing to the strategic aims of the FSS Strategic Plan.

SFCIU Operational Model

5.1 The National Intelligence Model (NIM) has its roots in criminal intelligence but it is a business process model with certain key elements. It provides the organisation with knowledge, informs resource allocation, co-ordinates activity and allows lessons to be learned from that activity.

The term intelligence is now regularly used outside the traditional preserve of the intelligence professionals such as the police service. If FSS and its partners are to be truly intelligence-led in relation to tackling Food Fraud and ultimately Food Crime, there is a need to professionalise the management of intelligence and embed the NIM in everyday operational activity. The full implementation of the NIM and the integration of it with the SFCIU operating model offers opportunities to improve operational performance. Prioritisation of activity and proactive management of resources through the procedures of the NIM will allow the Unit to better target the issues that are of greatest risk to consumers.

5.2 In terms of response to Food Fraud/Crime and allocation of SFCIU resources, the SFCIU will either Lead, Co-ordinate or Support activity. In more detail, its operational model will be:

- **Lead** – where the complexity or seriousness of the criminality merits the Unit taking the lead on the operational response in order to manage the risk. This may include prevention, intelligence development, investigation, enforcement or disruption. This response may also include collaborative working with partners.
- **Co-ordinate** – partner agency activity with SFCIU activity to achieve the most effective response in relation to threat, risk and harm.
- **Support** - by providing direction, guidance and advice to partner agencies through access to subject matter expertise and specialist resources.

5.3 In the police service, NIM operates at three levels:

- Level 1 Area Command – localised crime and problems
- Level 2 Force (or inter-force) level – cross border crime & criminals
- Level 3 National & International – serious & organised crime.

5.4 These levels could be quite easily translated to Food Fraud/Crime. Level 1 is likely to be dealt with by the Local Authority with FSS support; Level 2 could be led by FSS or co-ordinated by FSS; Level 3 is likely to be initially led by FSS and then passed to recognised Law Enforcement partners for further progression with FSS support.

5.5 This demonstrates how the NIM can be easily adapted for use using FSS operational response model.